

2016 No. 313

FOOD

The Food Hygiene Rating Regulations (Northern Ireland) 2016

Made - - - - *13th September 2016*

Coming into operation- - *7th October 2016*

The Department of Health^(a) makes the following Regulations in exercise of the powers conferred by sections 1(6), 2(7), 7(1), 12(2), 19(1) and paragraph 14(b) and (c) of the Schedule to the Food Hygiene Rating Act (Northern Ireland) 2016^(b).

Citation and commencement

1. These Regulations may be cited as the Food Hygiene Rating Regulations (Northern Ireland) 2016 and come into operation on 7th October 2016.

Interpretation

2. In these Regulations—

“the Act” means the Food Hygiene Rating Act (Northern Ireland) 2016; and

“a Food Hygiene Rating Sticker” means a sticker provided in accordance with section 2(3)(a) of the Act, in the form prescribed by Regulation 4.

Exempt establishments

3.—(1) Food business establishments specified in paragraphs (2), (3) and (4) are exempt from rating under the Act.

(2) Food business establishments where—

(a) the sale of food is not the primary activity; and

(b) the only food made available to consumers is food that is—

(i) shelf stable at ambient temperature; and

(ii) wrapped or packaged before it is brought to the establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers.

(3) Food business establishments where a licence is held under the Licensing (Northern Ireland) Order 1996^(c) and where—

(a) intoxicating liquor is sold for consumption off the premises; and

(b) the only food made available to consumers is food that is—

(i) shelf stable at ambient temperature; and

(a) Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I.), section 1

(b) 2016 c.3 (N.I.)

(c) S.I. 1996/3158 (N.I.22)

- (ii) wrapped or packaged before it is brought to the food business establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers.

(4) Food business establishments used by any of the following persons for the purpose of providing caring services where the food business establishment is also used as domestic premises—

- (a) a child minder required to be registered in accordance with Article 118 of the Children (Northern Ireland) Order 1995(a);or
- (b) an adult placement carer as defined by regulation 2 of the Adult Placement Agencies Regulations (Northern Ireland) 2007(b);or
- (c) a person employed by a Domiciliary Care Agency registered with the Health and Social Care Regulation and Quality Improvement Authority as required by the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(c).

(5) For the purposes of paragraph 3 “intoxicating liquor” bears the same meaning as in Article 2(2) of the Licensing (Northern Ireland) Order 1996.

Form of Food Hygiene Rating Sticker

4.—(1) A Food Hygiene Rating Sticker must be in one of the forms specified in Schedule 1.

(2) The cost of producing the Food Hygiene Rating Sticker in any of the forms specified in Part 1 of Schedule 1 will be borne by the Food Standards Agency.

(3) The cost of producing the Food Hygiene Rating Sticker in any of the forms set out in Part 2 of Schedule 1 will be borne by the District Council.

Food Hygiene Rating Sticker – location and manner of display

5.—(1) This regulation applies when the operator of a food business establishment is required to display a valid Food Hygiene Rating Sticker in accordance with section 7(1) of the Act.

(2) A Food Hygiene Rating Sticker must be displayed—

- (a) at or near each entrance to a food business establishment; and
- (b) where it can be readily seen and easily read by customers before they enter the establishment when it is open for business.

(3) If the operator of a food business establishment is required to display a Food Hygiene Rating Sticker in accordance with paragraph (2) at or near an entrance where other food business operators are required to display a Food Hygiene Rating Sticker, the operator must identify the food business establishment to which that sticker relates.

(4) If the food business establishment is one where food is provided to customers but customers are not permitted to enter the establishment or it is incapable for practical purposes of being entered by customers, the Food Hygiene Rating Sticker must be displayed at that establishment where it can be readily seen and easily read by customers when it is open for business.

(5) Where food is provided to customers by or on behalf of an operator at outlets (such as market stalls and vehicles) that are away from the operator’s main premises but nonetheless part of the operator’s food business establishment, and those outlets are not eligible for a rating in their own right, a Food Hygiene Rating Sticker for that establishment must be displayed at each outlet where can be readily seen and easily read by customers when the outlet is open for business.

(a) S.I. 1995/755 (N.I.2)
(b) S.R. 2007 No. 221
(c) S.I. 2003/431 (N.I.9)

Provision of information for new businesses

6. The information that a district council must send to operators of new food business establishments in its area in accordance with section 12(2) of the Act is an explanation of—

- (a) the food hygiene rating that may be given to a food business establishment;
- (b) how food hygiene ratings are calculated, including what levels of achievement are required for each rating;
- (c) who produces the food hygiene rating and when that will first be done;
- (d) when, where and how a Food Hygiene Rating Sticker must be displayed;
- (e) the fact that the operator of a food business establishment will be notified of the rating for the food business establishment before it is published;
- (f) any requirements for food business establishments supplying consumers with food ordered by means of an online facility;
- (g) the operator's right to—
 - (i) appeal against a rating;
 - (ii) request a re-rating; and
 - (iii) comment on a rating; and
- (h) how the operator can obtain further information.

Form and method of payment of fixed penalty notice

7. A fixed penalty notice must be in the form set out in Schedule 2 and payment must be by one of the methods set out in part C of that form.

Sealed with the official seal of the Department of Health on 13th September 2016.



Anne Kilgallen
A senior officer of the Department of Health

SCHEDULE 1

Regulation 4

Food Hygiene Rating Sticker

PART 1



1. A Food Hygiene Rating Sticker must be in one of the forms depicted above.
2. The appropriate form of Food Hygiene Rating Sticker is whichever form displays the current rating for that food business establishment.
3. Each Food Hygiene Rating Sticker must conform to the following specifications—
 - (a) colour references: Green Pantone 376 and Black; and
 - (b) the dimensions are 195 mm (wide) x 136 mm (tall).

PART 2

1. The Food Hygiene Rating Sticker must comply with the requirements of Part 1 save that it may display, in accordance with the requirements of paragraphs 2 to 4, the name and logo of the district council for the food business establishment in place of the words “This scheme is operated in partnership with your local authority”.
2. The name and logo of the district council must be located in the top right hand corner of the Food Hygiene Rating Sticker 5mm from the top edge and 10 mm from the right side edge of the sticker.
3. The dimensions of the area in which the name and logo of the district council must be located are 55mm (wide) x 35 mm tall.

SCHEDULE 2

Regulation 7

The Food Hygiene Rating Act (Northern Ireland) 2016

FIXED PENALTY NOTICE

[Name of District Council]

PART A

Penalty Notice Number.....

To:.....[Food Business Operator]

Address:.....

I, an authorised officer of [Name of Council] under section 9(4) of the Food Hygiene Rating Act (Northern Ireland) 2016 (“the Act”), have reason to believe that you committed (an) offence(s) on (enter date) at (enter location) contrary to the Act.

Alleged offence:

* Without reasonable excuse you, as operator of [enter name and address of food business establishment], a food business establishment, failed to display a valid food hygiene rating sticker as required by Section 7(1) of the Act in the location and manner as required contrary to section 10(1) of the Act.

(Insert details of offence and specify relevant provision of regulations e.g. regulation 5(3)).....

* Without reasonable excuse you, as operator of [enter name and address of food business establishment], a food business establishment supplying consumers with food by way of an online ordering facility, failed to display an online link to the food hygiene rating of the food business establishment as required contrary to section 10(1) of the Act.

(Insert details of offence and specify relevant provision of the relevant regulations).....

*Without reasonable excuse you, as operator of [enter name and address of food business establishment], a food business establishment, displayed at that food business establishment a food hygiene rating sticker which purports to show that food business establishment’s food hygiene rating but which is not a valid rating contrary to section 10(2) of the Act.

(Insert details of offence).....

This Fixed Penalty Notice (“the Notice”), offers you the opportunity of discharging any liability for conviction for that offence by the payment of a fixed penalty, (“the penalty”) of.....(*insert amount of penalty*) .

No proceedings will be taken for this offence before the expiration of 28 days beginning.....(*insert date on which this notice is given*).

You will not be liable to conviction for the offence if you pay the penalty within that period (“the 28 day period”). No further action will be taken in respect of the alleged offence and payment involves no admission of guilt and will not result in a record of criminal conviction being made against you.

If payment is made within the first 14 days of the 28 day period the amount payable is reduced by 25%.

*Delete as appropriate.

Signed.....(Authorised Officer) Date.....

PART B

IMPORTANT INFORMATION

You must within the 28 day period either pay the penalty or request that the matter be heard by a court. You may not do both.

If you fail to do either [name of District Council] as the enforcement authority by virtue of section 9(1) of the Act, may pursue this matter in court. A person found guilty of the offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

If you choose to request a court hearing, you must write to [name of DC] at [address of DC] giving the penalty notice number, your name and an address at which a summons can be served on you. The summons will tell you where and when to attend court. Only the recipient of this penalty notice (the person named at Part 1) may request a court hearing.

If you pay the fixed penalty but continue to carry on the offence alleged in this notice further proceedings may be taken.

PART C

INSTRUCTIONS ON METHOD OF PAYMENT

Instructions on Methods of Payment

Electronically – by the Bankers Automated Clearing Services (BACS), Payment should be made to _____, sort code, Account Number _____. Payment must be supported by the timely submission of a list of the fixed penalty notice number(s) covered by the payment and the amount being paid in relation to each.

By Post – by making your cheque payable to _____ and sending it to _____. Payment must be accompanied by details of the fixed penalty notice number(s) covered and the amount paid in respect of each. A receipt will be sent on request.

In Person – to _____ at _____ between _____ am and _____ pm on any day the office is open for business. Payment may be made by any debit/credit card normally accepted by _____ Council in accordance with their standard procedures. You must provide details of the fixed penalty notice number(s) covered and the amount paid in respect of each. A receipt will be issued on request.

By Telephone- by contacting at _____ between _____ am and _____ pm on any day the office is open for business. Payment may be made by any debit/credit card normally accepted by _____ Council in accordance with their standard procedures. You must provide details of the fixed penalty notice number(s) covered and the amount paid in respect of each. A receipt will be sent on request.

“On Line” – please visit our website at _____

Other Method/s- insert as appropriate. If you chose to pay this penalty in cash by post, this must be sent registered post and proof of posting must be retained. If you require a receipt you must ask for one at the time of payment. If you are paying by post and require a receipt, you must provide a stamped addressed envelope.

WARNING: IF YOU PAY LATE OR IF A BANK REFUSES A CHEQUE YOU WILL BE TREATED AS NOT HAVING PAID THE FIXED PENALTY.

A cheque dated after the expiry of the 28 day period is late payment and will not be accepted even if received before the end of the 28 day period.

If you have any questions or representations about this notice please contact *[name and contact details]*

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to food hygiene ratings under the Food Hygiene Rating Act (Northern Ireland) 2016 (“the Act”).

The Regulations—

- (a) exempt specified food business establishments from rating under the Act (Regulation 3);
- (b) prescribe the form of a Food Hygiene Rating Sticker to be issued under section 2(2) of the Act and responsibility for the cost of producing the sticker (regulation 4 and Schedule 1);
- (c) specify the location and manner of display of a Food Hygiene Rating Sticker by the operator of a food business establishment required to display by section 7(1) of the Act;
- (d) specify the information that district councils must send to operators of new food business establishments under section 12(2) of the Act explaining the requirements of the Act and regulations made under it, as well as the operators rights under the Act, for example to appeal or request re-rating (regulation 6); and
- (e) specify the form and method of payment of a fixed penalty notice issued under section 11(1) of the Act (regulation 7).

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