
WELSH STATUTORY INSTRUMENTS

2013 No. 2903

The Food Hygiene Rating (Wales) Regulations 2013

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Food Hygiene Rating (Wales) Regulations 2013.

(2) Except as provided in paragraph (3), these Regulations come into force at 00:01 hours on 28 November 2013.

(3) Regulation 8 comes into force on 28 November 2014.

(4) These Regulations apply in relation to Wales.

(5) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Food Hygiene Rating (Wales) Act 2013;

“establishment” (“*sefydliad*”) means a food business establishment;

“the highest rating” (“*y sgiŷ ½r uchaf*”) means a rating of “5 - Very Good”;

“including” (“*gan gynnwys*”) and “includes” (“*yn cynnwys*”) are to be construed without limitation;

“inspection report” (“*adroddiad arolygu*”) means a written report giving details of matters found by an authorised officer when carrying out a food hygiene rating inspection of an establishment in order to assess its food hygiene standards in accordance with section 3(1) of the Act;

“rating” (“*sgiŷ ½r*”) means a food hygiene rating given under the Act but not a non-statutory rating as defined in regulation 2(4);

“rating breakdown” (“*dadansoddiad sgiŷ ½r*”) in relation to a food business establishment means a breakdown of the rating given to that establishment into its component scores for each of the rating criteria; and

“sticker” (“*sticer*”) means a food hygiene rating sticker.

Food hygiene ratings for establishments assessed prior to the commencement of the Act

2.—(1) This regulation applies to an establishment that has been given a non-statutory rating prior to 28 November 2013 and has not been assessed for rating purposes after that date.

(2) The food authority for the area in which the establishment is registered or approved must give the establishment a rating by no later than 28 May 2015.

(3) In giving the establishment a rating under this regulation, the food authority must apply the rating criteria to the non-statutory assessment.

(4) In this regulation—

“non-statutory assessment” means an assessment of the food hygiene standards at an establishment produced by a food authority that contains all of the information that was used to calculate a non-statutory rating for the establishment; and

“non-statutory rating” means a food hygiene rating given to an establishment under the FSA’s non-statutory food hygiene rating scheme that was launched in Wales in October 2010^{M1}.

Marginal Citations

- M1** “The Food Hygiene Rating Scheme for England, Wales and Northern Ireland” available at <http://ratings.food.gov.uk/>.

Form of sticker

3. Schedule 1 (Food Hygiene Rating Sticker) has effect.

Other information to accompany notification of food hygiene rating

4. The following information is prescribed under section 3(3)(d) of the Act (other information that the food authority must send to the operator when giving notification of a rating)—

- (a) where the highest rating has not been given to the establishment, details of the action that would need to be taken with reference to each of the rating criteria before the highest rating can be given;
- (b) details of when, where and how the rating is intended to be published;
- (c) a statement drawing attention to the provisions of regulation 9 (food hygiene rating stickers—location and manner of display);
- (d) a copy of the inspection report that was used to calculate the rating;
- (e) details of the procedure for appealing against the rating, which must include information about—
 - (i) the name and contact details of the officer who carried out the inspection;
 - (ii) the period within which an appeal must be made;
 - (iii) how to obtain the prescribed form for making an appeal;
 - (iv) the name and contact details of the person to whom the form must be sent after it has been completed; and
 - (v) the process by which an appeal will be decided and the result notified to the operator who made the appeal;
- (f) information about the operator's right under section 11 of the Act (right to reply) to comment in writing on the establishment's rating, which must include—
 - (i) the name and contact details of the person to whom the comments must be sent;
 - (ii) details of the process by which the comments will be forwarded to the FSA; and
 - (iii) an explanation that the FSA may publish the comments on its website in accordance with section 6(3) of the Act;
- (g) information about the operator's right under section 12 of the Act (food hygiene re-ratings) to request a further inspection and assessment of the food hygiene standards of the establishment for the purpose of enabling the food authority to decide whether to change the rating, which information must include—
 - (i) a statement that such a request may be made at any time and that the food authority must comply with it if the conditions set out in section 12(4) and, where applicable, section 12(5) of the Act are met;
 - (ii) details of those conditions;
 - (iii) a statement that, under the Act, the food authority may recover the reasonable costs of the re-rating;
 - (iv) details of those costs and how and when the operator must pay them;

- (v) details of how to obtain the prescribed form for making the request;
 - (vi) the name and contact details of the person to whom the form must be sent after it has been completed;
 - (vii) details of the process for dealing with the request and notifying the result to the operator; and
- (h) a statement drawing attention to the provisions of sections 3(4) and 7(5) of the Act (which provide for the circumstances in which ratings and stickers respectively cease to be valid).

Exempt food business establishments

5.—(1) The following categories of establishment are exempt from rating under the Act—

- (a) an establishment where—
 - (i) the sale of food is not the primary activity of the establishment; and
 - (ii) the only food made available to consumers is food that is—
 - (aa) shelf stable at ambient temperature; and
 - (bb) 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;
- (b) an establishment used by any of the following persons for the purpose of providing caring services where the establishment is also used as a private dwelling —
 - (i) childminders;
 - ^[F1](ii) persons who are adult placement carers within the meaning of regulation 1(3) of the Adult Placement Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019;]but not including an establishment used to provide catering services by which food is supplied from a private dwelling.

(2) In paragraph (1)(b)(i), “childminders” includes—

- (a) childminders who are registered under Part 2 of the Children and Families (Wales) Measure 2010 ^{M2} or registered under equivalent alternative provisions for registering child minders; and
- (b) childminders who would be required to be registered as mentioned in sub-paragraph (a) but for the fact that the children for whom they provide child care are over eight years of age.

Textual Amendments

- F1** Reg. 5(1)(b)(ii) substituted (29.4.2019) by [The Regulation and Inspection of Social Care \(Wales\) Act 2016 \(Consequential Amendments to Secondary Legislation\) Regulations 2019 \(S.I. 2019/237\)](#), reg. 1(2), [Sch. 1 para. 22\(2\)](#)

Marginal Citations

- M2** [2010 nawm 1.](#)

Form for making an appeal

6. Schedule 2 (Form for making an appeal) has effect.

Other information to accompany notification of decision on an appeal

7. The following information is prescribed under section 5(10)(d) of the Act (other information that the food authority must send to the operator when giving notification of its decision on an appeal)—

- (a) where the highest rating has not been given to the establishment, details of the action that would need to be taken with reference to each of the rating criteria before the highest rating can be given;
- (b) details of when, where and how the rating is intended to be published;
- (c) a statement drawing attention to the provisions of regulation 9 (food hygiene rating stickers—location and manner of display);
- (d) the name and contact details of the person who determined the appeal;
- (e) if an inspection of the establishment has been carried out for the purpose of considering matters raised by the appeal, a copy of the inspection report relating to that inspection;
- (f) information about the operator's right under section 11 of the Act (right to reply) to comment in writing on the establishment's rating, which must include—
 - (i) the name and contact details of the person to whom the comments must be sent;
 - (ii) details of the process by which the comments will be forwarded to the FSA; and
 - (iii) an explanation that the FSA may publish the comments on its website in accordance with section 6(3) of the Act;
- (g) information about the operator's right under section 12 of the Act (food hygiene re-ratings) to request a further inspection and assessment of the food hygiene standards of the establishment for the purpose of enabling the food authority to decide whether to change the rating, which information must include—
 - (i) a statement that such a request may be made at any time and that the food authority must comply with it if the conditions set out in section 12(4) and (if applicable) section 12(5) of the Act are met;
 - (ii) details of those conditions;
 - (iii) a statement that, under the Act, the food authority may recover the reasonable costs of the re-rating;
 - (iv) details of those costs and how and when the operator must pay them;
 - (v) details of how to obtain the prescribed form for making the request;
 - (vi) the name and contact details of the person to whom the form must be sent after it has been completed;
 - (vii) details of the process for dealing with the request and notifying the result notified to the operator; and
- (h) a statement drawing attention to the provisions of sections 3(4) and 7(5) of the Act (which provide for the circumstances in which ratings and stickers respectively cease to be valid).

Publication of additional information

8.—(1) When informing the FSA of an establishment's rating in accordance with section 6(1) of the Act, the food authority must also send to the FSA a copy of the rating breakdown relating to that rating.

(2) The other information prescribed under section 6(3) of the Act (other information that the FSA must publish) is—

- (a) the rating breakdown referred to in paragraph (1);

- (b) a statement explaining what the rating breakdown means; and
- (c) a statement to the effect that anyone may request a copy of the inspection report used to calculate the rating for an establishment from the food authority in whose area the establishment is located, and that it will be for the food authority to determine whether the inspection report is to be disclosed.

Food hygiene rating stickers – location and manner of display

9.—(1) This regulation applies when the operator of an establishment is required to display a sticker at the establishment in accordance with section 7(1) of the Act.

(2) A sticker showing an establishment's valid rating must be displayed at or near each entrance to the establishment that is available for use by customers in a conspicuous place where it is capable of being easily read by customers before they enter the establishment when it is open for business.

(3) If the establishment is one where food is provided to customers but customers are not permitted or invited to enter the establishment or it is incapable for all practical purposes of being entered by customers, the sticker showing the establishment's valid rating must be displayed in a conspicuous place at the establishment where it is capable of being easily read by customers when the establishment is open for business.

(4) Where food is provided to customers by or on behalf of an operator at outlets away from the operator's establishment (such as market stalls and vehicles) that are part of the operator's business, and those outlets are not eligible for a rating in their own right, a sticker showing the valid rating for the establishment must be displayed in a conspicuous place at each outlet where it is capable of being easily read by customers when the outlet is open for business.

(5) Each sticker referred to in paragraph (2) must be displayed—

- (a) on a window that forms part of the relevant entrance; or
- (b) on an exterior window that is adjacent to the relevant entrance; or
- (c) inside the establishment but capable of being read through such a window; or
- (d) if there is no such window, at some other place at or near the relevant entrance; or
- (e) where there is no surface available that is suitable for displaying the sticker in accordance with sub-paragraphs (a) to (d), on a wall or other surface where it is capable of being easily read by customers.

(6) In paragraph (5) “the relevant entrance” (“*y fynedfa berthnasol*”) means each entrance at or near to which a sticker showing an establishment's valid rating must be displayed in accordance with paragraph (2).

Form for requesting food hygiene re-rating inspection

10. Schedule 3 (Form for requesting a re-rating inspection) has effect.

Other information to accompany notification of re-rating

11. The following information is prescribed under section 12(9)(d) of the Act (other information that the food authority must send to the operator when giving notification of a change of rating (“the new rating”) (“*y sgi 1/2r newydd*”) following a re-rating request)—

- (a) where the highest rating has not been given to the establishment, details of the action that would need to be taken with reference to each of the rating criteria before the highest rating can be given;
- (b) details of when, where and how the new rating is intended to be published;
- (c) a copy of the inspection report that was used to calculate the new rating;

- (d) a statement drawing attention to the requirements of regulation 9 (food hygiene rating stickers—location and manner of display);
- (e) details of the procedure for appealing against the new rating, which must include information about—
 - (i) the name and contact details of the officer who carried out the inspection;
 - (ii) the period within which an appeal must be made;
 - (iii) how to obtain the prescribed form for making an appeal;
 - (iv) the name and contact details of the person to whom the form must be sent after it has been completed; and
 - (v) the process by which an appeal will be decided and the result notified to the operator who made the appeal;
- (f) information about the operator's right under section 11 of the Act (right to reply) to comment in writing on the establishment's rating, which must include—
 - (i) the name and contact details of the person to whom the comments must be sent;
 - (ii) details of the process by which the comments will be forwarded to the FSA; and
 - (iii) an explanation that the FSA may publish the comments on its website in accordance with section 6(3) of the Act;
- (g) information about the operator's right under section 12 of the Act (food hygiene re-ratings) to request a further inspection and assessment of the food hygiene standards of the establishment for the purpose of enabling the food authority to decide whether to change its rating, which information must include—
 - (i) a statement that such a request may be made at any time and that the food authority must comply with it if the conditions set out in section 12(4) and, where applicable, 12(5) of the Act are met;
 - (ii) details of those conditions;
 - (iii) a statement that, under the Act, the food authority may recover the reasonable costs of the re-rating;
 - (iv) details of those costs and how and when the operator must pay them;
 - (v) details of how to obtain the prescribed form for making the request;
 - (vi) the name and contact details of the person to whom the form must be sent after it has been completed;
 - (vii) details of the process for dealing with the request and notifying the result to the operator; and
- (h) a statement drawing attention to the requirements of sections 3(4) and 7(5) of the Act (which provide for the circumstances in which ratings and stickers respectively cease to be valid).

Information that a food authority must send to operators of new food business establishments in its area

12. The information that a food authority must send to operators of new food business establishments in its area in accordance with section 15(1) and (2) of the Act is an explanation of the following matters —

- (a) the ratings that may be given to an establishment;
- (b) how ratings are calculated, including what levels of achievement are required for each rating;

- (c) who produces the rating for an establishment and when that will first be done;
- (d) when, where and how a food hygiene rating sticker for an establishment must be displayed;
- (e) the fact that the operator of an establishment will be notified of the rating for the establishment before it is published;
- (f) the operator's right to —
 - (i) appeal against a rating,
 - (ii) request a re-rating,
 - (iii) comment on a rating; and
- (g) how to obtain further information about the matters referred to above.

Mark Drakeford
Minister for Health and Social Services, one of
the Welsh Ministers

Changes to legislation:

There are currently no known outstanding effects for the The Food Hygiene Rating (Wales) Regulations 2013.