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STATUTORY INSTRUMENTS

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**1990 No. 1431**

**FOOD**

**Food Hygiene (Amendment) Regulations 1990**

<i>Made</i>	- - - -	<i>16th July 1990</i>
<i>Laid before Parliament</i>		<i>18th July 1990</i>
<i>Coming into force</i>		
<i>in accordance with regulation 1(1)</i>		
<i>All provisions (except regulation 3(b) and Schedule 1 for certain purposes</i>		<i>1st April 1991</i>
<i>Regulation 3(b) and Schedule 1 for certain purposes</i>		<i>1st April 1992</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by sections 13, and 132(1) of the Food Act 1984(1) and now vested in them and all other powers enabling them in that behalf, after consultation in accordance with section 118(6) of that Act with such organisations as appear to them to be representative of interests substantially affected by the Regulations, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Food Hygiene (Amendment) Regulations 1990 and shall come into force on 1st April 1991, except that regulation 3(b) and Schedule 1 to the extent that they have effect for the purposes of a new paragraph (6) of regulation 12 of the 1966 Regulations shall come into force on 1st April 1992.

(2) In these Regulations, unless the context otherwise requires—

“the 1960 Regulations” means the Food Hygiene (Docks, Carriers etc.) Regulations 1960(2);

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(1) 1984 c. 30; section 132(1) as amended by the Transfer of Functions (Health and Social Security) Order 1988 (S.I.1988/1843) is cited for the definition of “the Ministers” relevant to the exercise of the statutory powers under which the Regulations are made.

(2) S.I. 1960/1602, to which there are amendments not relevant to these Regulations.

“the 1966 Regulations” means the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966(3);

“the 1970 Regulations” means the Food Hygiene (General) Regulations 1970(4).

### **Amendment of the 1960 Regulations**

2. The 1960 Regulations shall be amended as follows—
  - (a) in regulation 18 (first-aid materials to be provided) after the word “bandages” there shall be inserted the word “and”, and the words “and antiseptic” shall be omitted;
  - (b) in regulation 22(1) (cleanliness and repair, etc. of food buildings) for sub-paragraph (b) there shall be substituted the following—
    - “(b) prevent, so far as is reasonably practicable, the entry of birds and any risk of infestation by rats, mice, insects or other pests”.

### **Amendment of the 1966 Regulations**

3. The 1966 Regulations shall be amended as follows—
  - (a) in regulation 2(1) (interpretation)—
    - (i) after the definition of “Docks and Carriers Regulations” there shall be inserted the words ““egg” includes whole egg, yolk or albumen whether or not the egg, yolk or albumen is dried, frozen or otherwise preserved”;
    - (ii) after the definition of “meat” there shall be inserted the words ““milk” includes separated or skimmed milk, dried milk, condensed milk and cream”;
    - (iii) the definition of “permitted temperature ranges” shall be omitted;
    - (iv) after the definition of “open food” there shall be inserted ““pH value” means the negative decimal logarithm of the concentration of hydrogen ions expressed in moles per litre.”;
  - (b) for regulation 12 (temperature at which certain foods are to be kept) there shall be substituted the regulation set out in Schedule 1 to these Regulations;
  - (c) in regulation 17 (first-aid and materials to be provided) after the word “bandages” there shall be inserted the word “and” and the words “and antiseptic” shall be omitted.

### **Amendment of the 1970 Regulations**

4. The 1970 Regulations shall be amended as follows—
  - (a) in regulation 2 (interpretation)—
    - (i) after the definition of “container” there shall be inserted the words ““egg” includes whole egg, yolk or albumen whether or not the egg, yolk or albumen is dried, frozen or otherwise preserved”;
    - (ii) for the definition of “milk” there shall be substituted ““milk” includes separated or skimmed milk, dried milk, condensed milk and cream”;
    - (iii) after the definition of “open food” there still be inserted ““pH value” means the negative decimal logarithm of the concentration of hydrogen ions expressed in moles per litre”;

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(3) S.I. 1966/791, to which there are amendments not relevant to these Regulations.

(4) S.I. 1970/1172, to which there are amendments not relevant to these Regulations.

- (b) in regulation 19 (first-aid materials to be provided) after the word “bandages” there shall be inserted the word “and” and the words “and antiseptic” shall be omitted;
- (c) in regulation 25 (cleanliness and repair of food rooms) for paragraph (b) there shall be substituted the following—
  - “(b) prevent, so far as reasonably practicable, the entry of birds, and any risk of infestation by rats, mice, insects or other pests”;
- (d) for regulation 27 (temperature at which certain foods are to be kept) there shall be substituted the regulation set out in Schedule 2 to these Regulations.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 16th July 1990.

L.S.

*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

16th July 1990

*K. Clarke*  
Secretary of State for Health

16th July 1990

*David Hunt*  
Secretary of State for Wales

SCHEDULE 1

Regulation 3(b)

NEW REGULATION 12 OF THE 1966 REGULATIONS

**Temperatures at which certain foods are to be kept**

**12.**—(1) The food to which this regulation applies (“relevant food”) is food intended for human consumption which is not excluded by paragraph (2) of this regulation but is any of the following descriptions—

- (a) soft cheeses (whether whole or cut) which have been ripened by the action of moulds or other micro-organisms;
- (b) cooked products (whether prepared ready for consumption or intended to be subjected to reheating or further cooking prior to consumption) comprising or containing—
  - (i) meat,
  - (ii) fish,
  - (iii) eggs,
  - (iv) substances used as a substitute for meat, fish, or eggs,
  - (v) cheese,
  - (vi) cereals,
  - (vii) pulses, or
  - (viii) vegetables;

whether or not the food also includes other raw or partially cooked ingredients;

- (c) smoked or cured fish;
- (d) smoked or cured meat which has been cut or sliced after smoking or curing;
- (e) desserts, an ingredient of which is milk or anything used as a substitute for milk, and which have a pH value of 4.5 or more;
- (f) prepared vegetable salads, including those containing fruit;
- (g) cooked pies and pasties containing meat, fish and any substitute for meat or fish or vegetables encased in pastry, except (in each case) those into which nothing has been introduced after cooking and which are intended to be sold on the day of their production or the day after that day;
- (h) cooked sausage rolls, other than those intended to be sold on the day of their production or the day after that day;
- (i) uncooked or partly cooked pastry and dough products containing meat, fish or any substance used as a substitute for meat or fish;
- (j) sandwiches, filled rolls and other similar bread products containing—
  - (i) meat,
  - (ii) fish,
  - (iii) eggs,
  - (iv) substances used as a substitute for meat, fish, or eggs,
  - (v) soft cheese to which this regulation applies, or
  - (vi) vegetables; or
- (k) cream cakes.

(2) This regulation does not apply to food of any of the following descriptions—

- (a) bread, biscuits, cakes or pastry which are of a description specified in paragraph (1) of this regulation by reason only of the use of egg or milk as an ingredient introduced into the products before they are baked;
  - (b) ice cream to which the Ice Cream (Heat Treatment etc) Regulations 1959(5) apply;
  - (c) food which has been subjected to dehydration or other process the purpose of which is to prevent the growth of pathogenic micro-organisms at ambient temperatures;
  - (d) food contained in hermetically sealed containers and which has been preserved by a process of heating, the purpose of which is to prevent the growth of pathogenic micro-organisms at ambient temperatures;
  - (e) uncooked bacon, uncooked ham, dry pasta, dry pudding mixes or dry mixes for the preparation of beverages;
  - (f) chocolate or sugar confectionery; or
  - (g) milk or cream which is not combined with other ingredients.
- (3) Subject to paragraphs (4), (7) and (8) of this regulation relevant food which is in any stall or market premises—
- (a) if it is not either at or below the specified temperature or at or above 63°C shall be cooled to a temperature not exceeding the specified temperature or heated to at least 63°C, as appropriate, without any avoidable delay, after arrival, or after any process of preparation has been completed, and
  - (b) thereafter shall be kept at or below the specified temperature or at or above 63°C until it is sold except where it is being heated without any avoidable delay from the specified temperature to 63°C or being cooled without any avoidable delay from 63°C to the specified temperature.
- (4) Where relevant food at any stall or market premises is placed without avoidable delay in equipment which is capable of cooling it to, and keeping it at, the specified temperature, any delay in cooling it to that temperature shall not be regarded as avoidable for the purposes of paragraph (3) of this regulation merely because other equipment not at the stall or premises could have cooled the food more quickly.
- (5) Relevant food which is in a delivery vehicle, other than a goods vehicle not exceeding 7.5 tonnes gross weight which is used for the purpose of making local deliveries, shall be kept at or below the specified temperature or at or above 63°C.
- (6) Relevant food which is in a goods vehicle not exceeding 7.5 tonnes gross weight used for the purpose of making local deliveries shall be kept at or below the specified temperature or at or above 63°C, except that where the specified temperature is 5°C, the food may be kept in that vehicle for a period of not more than twelve hours at a higher temperature not exceeding 8°C.
- (7) The provisions of paragraph (3), (5) and (6) of this regulation do not apply to relevant food which is intended to be sold—
- (a) within 2 hours of the conclusion of its preparation and at a temperature of 63°C or above, or
  - (b) within 4 hours of the conclusion of its preparation and at a temperature below 63°C.
- (8) The specified temperature and the temperature of 8°C may be exceeded for a period of not more than two hours by up to 2°C where the variation is due to—
- (a) a process of preparation;
  - (b) defrosting of equipment;
  - (c) temporary breakdown of equipment;

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(5) S.I. 1959/734.

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- (d) movement of the food from one part of the premises, stall or vehicle to another;
  - (e) some other unavoidable reason.
- (9) In regulation “the specified temperature” means—
- (a) before 1st April 1993, 8°C for all relevant food;
  - (b) on or after 1st April 1993—
    - (i) for the relevant food of a description specified in paragraph (10) of this regulation 5°C,
    - (ii) for all other relevant food 8°C.
- (10) The relevant food referred to in paragraph (9)(b)(i) of this regulation is food of any of the following descriptions—
- (a) cheeses which have been cut or otherwise separated from the whole cheese from which they were removed;
  - (b) relevant food which is of the description specified in paragraph (1)(b) of this regulation and which has been prepared for consumption without the necessity for further cooking or reheating;
  - (c) smoked or cured fish;
  - (d) smoked or cured meat which has been cut or sliced after smoking or curing; or
  - (e) sandwiches, filled rolls and similar bread products containing any of the foods mentioned in this paragraph, unless they are intended to be sold within twenty-four hours of their preparation.

## SCHEDULE 2

Regulation 4(d)

### NEW REGULATION 27 OF THE 1970 REGULATIONS

#### **Temperature at which certain foods are to be kept**

**27.—(1)** The food to which this regulation applies (“relevant food”) is food intended for human consumption which is not excluded by paragraph (2) of this regulation but is of any of the following descriptions—

- (a) soft cheeses (whether whole or cut) which have been ripened by the action of moulds or other micro-organisms;
- (b) cooked products (whether prepared ready for consumption or intended to be subjected to reheating or further cooking prior to consumption) containing—
  - (i) meat,
  - (ii) fish,
  - (iii) eggs,
  - (iv) substances used as a substitute for meat, fish or eggs,
  - (v) cheese,
  - (vi) cereals,
  - (vii) pulses, or
  - (viii) vegetables,

whether or not the food also includes other raw or partially cooked ingredients;

- (c) smoked or cured fish;
  - (d) smoked or cured meat which has been cut or sliced after smoking or curing;
  - (e) desserts, an ingredient of which is milk or anything used as a substitute for milk and which have a pH value of 4.5 or more;
  - (f) prepared vegetable salads, including those containing fruit;
  - (g) cooked pies and pasties containing meat, fish, any substitute for meat or fish, or vegetables, encased in pastry except (in each case) those into which nothing has been introduced after cooking and which are intended to be consumed on the day of preparation or the day following that day;
  - (h) cooked sausage rolls except those which are intended to be consumed on the day of preparation or the day following that day;
  - (i) uncooked or partly cooked pastry and dough products containing meat, fish or any substance used as a substitute for meat or fish;
  - (j) sandwiches, filled rolls and similar bread products containing—
    - (i) meat,
    - (ii) fish,
    - (iii) eggs,
    - (iv) substances used as a substitute for meat, fish or eggs,
    - (v) soft cheeses to which this regulation applies,
    - (vi) vegetables or
  - (k) cream cakes.
- (2) This regulation does not apply to food of any of the following descriptions—
- (a) bread, biscuits, cakes or pastry which are of a description specified in paragraph (1) of this regulation by reason only of the use of egg or milk as an ingredient introduced into the products before they are baked;
  - (b) ice-cream to which the Ice-Cream (Heat Treatment etc) Regulations 1959(6) apply;
  - (c) food which has been subjected to dehydration or other process the purpose of which is to prevent the growth of pathogenic micro-organisms at ambient temperatures;
  - (d) food contained in hermetically sealed containers and which has been preserved by a process of heating, the purpose of which is to prevent the growth of pathogenic micro-organisms at ambient temperatures;
  - (e) uncooked bacon, uncooked ham, dry pasta, dry pudding mixes or dry mixes for the preparation of beverages;
  - (f) chocolate or sugar confectionery; or
  - (g) milk which is not combined with other ingredients.
- (3) Subject to paragraph (4) of this regulation, the provisions of this regulation shall not apply to relevant food—
- (a) in any food room and which is intended to be sold within 2 hours of the conclusion of its preparation and at a temperature of 63°C or above,
  - (b) in any food room and which is intended to be sold within 4 hours of the conclusion of its preparation and at a temperature below 63°C; or

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- (c) which is displayed on catering premises for a period not exceeding four hours, where such display is for the purpose of either—
- (i) indicating to prospective purchasers the nature of food which is for sale for consumption on those premises, or
  - (ii) service to a purchaser for consumption on those premises,
- provided that, in either case no more food is displayed than is reasonably necessary for that purpose.
- (4) In relation to food which is in any catering premises and intended for consumption on those premises the references in paragraph (3)(a) and (b) of this regulation to the time of intended sale shall be read as references to the time when the process of service of such food is intended to be commenced.
- (5) Subject to paragraphs (6) and (7) of this regulation relevant food which is in any food room—
- (a) if it is not either at or below the specified temperature or at or above 63°C shall be cooled to a temperature not exceeding the specified temperature or heated to at least 63°C, as appropriate, without any avoidable delay after arrival or after any process of preparation has been completed;
  - (b) thereafter shall be kept at or below the specified temperature or at or above 63°C until it is sold except where—
    - (i) it is being heated, without any avoidable delay from the specified temperature to 63°C or is being cooled without any avoidable delay from 63°C to the specified temperature, or
    - (ii) having previously been cooled to a temperature at or below the specified temperature, or heated to a temperature at or above 63°C, it is in the course of being served on catering premises.
- (6) Where relevant food in any room is placed, without avoidable delay in equipment which is capable of cooling it to, and keeping it at, the specified temperature, any delay in cooling it to that temperature shall not be regarded as avoidable for the purposes of paragraph (5) of this regulation merely because other equipment not in the food room could have cooled the food more quickly.
- (7) The specified temperature may be exceeded for a period of not more than two hours by up to 2°C where the variation is due to—
- (a) a process of preparation;
  - (b) defrosting of equipment;
  - (c) temporary breakdown of equipment;
  - (d) movement of the food from one part of the premises to another; or
  - (e) some other unavoidable reason.
- (8) In this regulation “the specified temperature” means—
- (a) before 1st April 1993, 8°C for all relevant food;
  - (b) on or after 1st April 1993—
    - (i) for the relevant food of the description specified in paragraph (9) of this regulation 5°C,
    - (ii) for all other relevant food 8°C.
- (9) The relevant food referred to in paragraph (8)(b)(i) of this regulation is food of any of the following descriptions:—
- (a) cheeses which have been cut or otherwise separated from the whole cheese from which they were removed;



- (b) relevant food which is of the description specified in paragraph (1)(b) of this regulation and which has been prepared for consumption without the necessity for further cooking or reheating;
- (c) smoked or cured fish;
- (d) smoked or cured meat which has been sliced or cut after smoking or curing; or
- (e) sandwiches, filled rolls and similar bread products containing any of the foods mentioned in this paragraph, unless they are intended to be sold within twenty-four hours of their preparation.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Food Hygiene (Docks, Carriers etc.) Regulations 1960 and the Food Hygiene (General) Regulations 1970 by modifying the duty imposed by those Regulations to prevent infestation of areas where food is kept, by pests (*regulations 2(b) and 4(c)*).

The Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966 and the 1970 Regulations are amended by the insertion of new regulations on storage temperatures for food (*regulation 3(b) and Schedule 1* inserting a new regulation 12 in the case of the 1966 Regulations and *regulation 4(d) and Schedule 2* inserting a new regulation 27 in the case of the 1970 Regulations). These amendments provide a more comprehensive scheme of temperature controls than those which apply at present, and introduce a requirement that relevant food be kept either below 8°C or above 63°C. With effect from 1st April 1993 certain foods will be required to be kept below 5°C instead of 8°C (the new regulation 12(9) of the 1966 Regulations, and the new regulation 27(8) of the 1970 Regulations impose the lower temperature).

The requirements imposed in relation to premises subject to the 1966 Regulations will also apply to delivery vehicles, but will not apply to small delivery vehicles until 1st April 1992 (*regulation 1(1)*), and food in those vehicles will not be subject to the lower temperature requirements if it is in the vehicle for not longer than twelve hours, (*regulation 3(b) and Schedule 1*, in so far as they insert the new regulation 12(5) and (6) into the 1966 Regulations).

The new regulation 12 of the 1966 Regulations and the new regulation 27 of the 1970 Regulations do not apply to certain classes of food, notably fresh, uncooked foods and cooked foods which have been subjected to processes intended to prevent the growth of pathogenic micro-organisms at ambient temperatures (regulation 12(2) of the 1966 Regulations, and regulation 27(2) of the 1970 Regulations).

The 1960, 1966 and 1970 Regulations are all modified by the removal of the requirement to keep antiseptic among the first-aid equipment on premises to which they apply (*regulation 2(a), 3(c) and 4(b)*). Certain basic terms used in the 1966 and 1970 Regulations are defined (*regulation 3(a) and 4(a)*).