

Consultation on The Food Hygiene Rating Act (Amendment) Regulations (Northern Ireland) 2020

Launch date: 16 October 2020

Respond by: 30 October 2020

This consultation will be of most interest to

All Northern Ireland district councils, food businesses, and other stakeholders with an interest in food hygiene law.

Consultation subject

This consultation concerns the operation of the statutory food hygiene rating scheme in Northern Ireland. When Regulation (EU) 2017/625 repealed and replaced Regulation (EC) No 882/2004 on 14 December 2019 it impacted the operation of the statutory food hygiene rating scheme in Northern Ireland (NI) insofar as statutory food hygiene ratings could no longer be issued. A statutory rule is therefore required to amend the Food Hygiene Rating Act (Northern Ireland) 2016 to allow all references to Regulation (EC) No 882/2004 to be replaced with Regulation (EU) 2017/625. Once in operation, this amendment will allow statutory food hygiene ratings to be issued to food businesses following inspections.

It is proposed that the statutory rule will come into operation before the expiry of the implementation period, 31 December 2020.

Purpose of the consultation

To seek the comments of district councils, food businesses, and other stakeholders on the proposed Food Hygiene Rating Act (Amendment) Regulations (Northern Ireland) 2020.

How to respond

Responses are required by: **30 October 2020**

Responses to this consultation should be sent to:

Email: executive.support@food.gov.uk Name: Hayley Atcheson Division/Branch: Executive Support Unit

Details of consultation

1. The statutory food hygiene rating scheme (the Scheme), currently implemented by the Food Hygiene Rating Act (Northern Ireland) 2016 (the Act), helps consumers to choose where to eat out or shop for food in Northern Ireland (NI) by giving them clear information about the businesses' hygiene standards. The scheme gives businesses a rating from 5 to 0 which is displayed at their premises and online so consumers can make more informed choices about where to buy and eat food. Further information on the scheme is contained in Annex B.
2. Regulation (EU) 2017/625 on official controls (OCR 2017/625) repealed and replaced Regulation (EC) No 882/2004 on official controls from 14 December 2019, which has had an impact on the operation of the statutory food hygiene rating scheme in NI.
3. The Act provides that an inspection of a food business establishment, on the basis of which a statutory rating must be produced, is a reference to carrying out an activity in relation to the establishment as part of official controls (i.e. inspections) under Regulation (EC) No 882/2004.
4. Until the Act is amended, there is no mechanism for new statutory food hygiene ratings to be produced for existing or new food business establishments following an inspection.
5. The amendments to the Act by the proposed statutory rule will be minor and technical in nature and will not make any policy or operational changes to the statutory food hygiene rating scheme. The changes proposed are to replace references to Regulation (EC) No 882/2004 in the Act with Regulation (EU) 2017/625.
6. The purpose of this consultation is to provide stakeholders with an opportunity to comment on the proposed statutory rule.

Impacts

N/A

Responses

Responses are required by close of play on **30 October 2020**. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Please send responses to executive.support@food.gov.uk.

Thank you on behalf of the Food Standards Agency in NI for participating in this public consultation.

Yours sincerely,



Una Campbell
Local Authority, Policy and Delivery Team
Food Standards Agency in NI

Annex A	Standard Consultation Information
Annex B	Further information on the statutory food hygiene rating scheme
Annex C	The Food Hygiene Rating Act (Amendment) Regulations (Northern Ireland) 2020
Annex D	Interested Parties List

Annex A: Standard Consultation Information

Disclosure of the information you provide

Information provided in response to this consultation may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004).

If you want information you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

Any automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding. The Food Standards Agency will be what is known as the 'Controller' of the personal data provided to us.

Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

The Data Protection Act 2018 states that, as a government department, the Food Standards Agency may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

What we do with it

All the personal data we process is located on servers within the European Union. Our cloud based services have been procured through the government framework agreements and these services have been assessed against the national cyber security centre cloud security principles. No third parties have access to your personal data unless the law allows them to do so. The Food Standards Agency will sometimes share data with other government departments, public bodies, and organisations which perform public functions to assist them in the performance of their statutory duties or when it is in the public interest.

What are your rights?

You have a right to see the information we hold on you by making a request in writing to the email address below. If at any point you believe the information we process on you is incorrect you can request to have it corrected. If you wish to raise a complaint on how we have handled your personal data, you can contact our Data Protection Officer who will investigate the matter. If you are not satisfied with our response or believe we are processing your personal data not in accordance with the law you can complain to the Information Commissioner's Office (ICO) at <https://ico.org.uk>, or telephone 0303 123 1113. Our Data Protection Officer in the FSA is the Information Management and Security Team Leader who can be contacted at the following email address: informationmanagement@food.gov.uk

Further information

If you require a more accessible format of this document please send details to the named contact for responses to this consultation and your request will be considered. This consultation has been prepared in accordance with [HM Government consultation principles](#).

Annex B: Further information on the statutory food hygiene rating scheme

1. Following an inspection by the district council, a food business is provided with a statutory rating, which can range from 5 to 0, for display at the food business (via a food hygiene rating sticker) or online.

Rating definitions are:

5 – hygiene standards are very good,
4 – hygiene standards are good,
3 – hygiene standards are generally satisfactory,
2 – some improvement is necessary,
1 – major improvement is necessary,
0 – urgent improvement is required.

2. The statutory food hygiene rating scheme in NI is run in partnership with the 11 district councils. When the Food Hygiene Rating Act (Northern Ireland) 2016 came into operation it made the food hygiene rating scheme statutory in NI. Prior to this, the FSA in partnership with district councils had been operating a voluntary scheme in NI. Since the introduction of the the statutory scheme in 2016 there has been a steady increase in food businesses' compliance with hygiene requirements.
3. The Act made it a legal requirement for a food business operator to display a valid sticker showing the establishment's food hygiene rating is displayed at or near each customer entrance where it can easily be seen and read. The Act also requires the FSA to publish the valid rating online.

Annex C: The Food Hygiene Rating Act (Amendment) Regulations (Northern Ireland) 2020

STATUTORY RULES OF NORTHERN IRELAND

2020 No. 0000

FOOD

The Food Hygiene Rating Act (Amendment) Regulations (Northern Ireland) 2020

Made - - - - 0th Month 2020

Coming into operation - 0th Month 2020

The Department of Health⁽¹⁾, being a department designated⁽²⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽³⁾ in relation to measures relating to food (including drink) including the primary production of food, makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, that Act.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters

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

(²) S.I. 2003/2901

(³) 1972 c.68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1)). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7). [Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.]

of food safety⁽⁴⁾, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation, commencement and interpretation

1. These Regulations may be cited as the Food Hygiene Rating Act (Amendment) Regulations (Northern Ireland) 2020 and come into operation on ** Month 20**.

Amendment to the Food Hygiene Rating Act (Northern Ireland) 2016

2. —(1) The Food Hygiene Rating Act (Northern Ireland) 2016(e) is amended in accordance with paragraphs (2) to (4).
 - (2) In section 1(5) (food hygiene rating) for “Regulation (EC) 882/2004” substitute “Regulation (EU) 2017/625”.
 - (3) In section 2(2) (notification and publication) for “Regulation (EC) 882/2004” substitute “Regulation (EC) 178/2002”.
 - (4) In section 17(1) (interpretation etc.)—
 - (a) in the definition of “food”—

for “Regulation (EC) 882/2004” substitute “Regulation (EC) 178/2002”;
 - (b) after the definition of “operator” insert—

““Regulation (EC) 178/2002” means Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (as amended from time to time),”;
 - (c) for the definition of “Regulation (EC) 882/2004” substitute—

““Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC,

(⁴) O.J. No. L 31, 1.2.2002, p.1, as last amended by Regulation (EU) 2019/1243 of the European Parliament and of the Council (O.J. No. L 198, 25.07.2019, p.241)

1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (as amended from time to time).”.

Sealed with the official seal of the Department of Health on ** Month 20**.



EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Food Hygiene Rating Act (Northern Ireland) 2016 (“the Act”) by updating references to the repealed Regulation (EC) 882/2004 in the Act with references to Regulation (EU) 2017/625 (rules that replaced Regulation (EC) 882/2004) or Regulation (EC) 178/2002 (for definitions of “operator” and “food”).

Annex D: Interested Parties List

- NI District Councils
- Chartered Institute of Environmental Health
- NI Food Advisory Committee
- NI Food and Drink Association
- NI Independent Retail Association
- NI Hotels Association
- NI Retailers Consortium
- Institute of Hospitality
- The Education Authority
- Federation for Small Businesses
- Retail NI