



Food Hygiene Rating (Wales) Act 2013

2013 anaw 2

An Act of the National Assembly for Wales to make provision for the production of food hygiene ratings of food business establishments; the display of information about food hygiene ratings; the enforcement of requirements to display information; and for connected purposes. [4 March 2013]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

Introduction

1 Overview

- (1) This Act establishes a food hygiene rating scheme for Wales.
- (2) The scheme provides for food authorities in Wales to inspect (section 2), and produce food hygiene ratings of (section 3), food business establishments in their areas.
- (3) A food hygiene rating is to be produced by scoring the food hygiene standards of an establishment against criteria published by the Food Standards Agency (“FSA”) (sections 3 and 4).
- (4) A food business establishment may appeal against its food hygiene rating and comment on it (sections 5 and 11).
- (5) A food authority must inform the FSA of the food hygiene rating of an establishment in its area, and the FSA must publish the rating (section 6).
- (6) A food business establishment must inform the public of its food hygiene rating (sections 7 and 8).
- (7) Failure to inform the public is a criminal offence, punishable by a fine or fixed penalty (section 9, sections 19 to 22 and the Schedule).
- (8) A food business establishment may in certain circumstances request a re-rating (section 12).

Changes to legislation: There are currently no known outstanding effects for the Food Hygiene Rating (Wales) Act 2013. (See end of Document for details)

- (9) Powers and responsibilities of food authorities and the FSA, and responsibilities of operators of food business establishments are set out in sections 14 to 16.

Commencement Information

II S. 1 in force at 28.11.2013 by S.I. 2013/2617, art. 3(a)

Food hygiene inspections and ratings

2 Programme of food hygiene inspections

- (1) A food authority must prepare, and keep under review, a programme which sets out—
- (a) whether a food business establishment in its area must be inspected, and
 - (b) if an inspection is required, the frequency of inspections.
- (2) A food authority must inspect food business establishments in its area in accordance with the programme.
- (3) When preparing and reviewing the programme a food authority must have regard to matters specified by the FSA and approved by the Welsh Ministers.
- (4) The matters specified by the FSA must include an assessment of the levels of risk to public health—
- (a) associated with the type of food handled by an establishment,
 - (b) associated with the method of handling the food, and
 - (c) arising from the record of compliance with food hygiene law at the establishment.
- (5) In this Act—
- a “food authority” (*“awdurdod bwyd”*) means the county council or county borough council of the area in Wales in which the establishment is located (or a port health authority in the circumstances prescribed by section 5(3) of the Food Safety Act 1990);
- a “food business establishment” (*“sefydliad busnes bwyd”*) is any unit of a business registered with a food authority by virtue of Article 6 of Regulation (EC) No 852/2004 or approved by a food authority under Article 4 of Regulation (EC) No 853/2004 (or registered or approved under equivalent alternative provisions for registering or approving food business establishments), which—
- (a) supplies food direct to consumers, or
 - (b) supplies food to another business;
- an “operator” (*“gweithredwr”*) of a food business establishment means a person concerned with the management of the establishment.
- (6) The Welsh Ministers may by regulations—
- (a) amend the definition of a food business establishment, including to expand the category of establishment that may be inspected;
 - (b) amend the definition of a food authority (for example, to include other bodies).

Changes to legislation: There are currently no known outstanding effects for the Food Hygiene Rating (Wales) Act 2013. (See end of Document for details)

Commencement Information

- I2** S. 2(1)-(4)(6) in force at 28.11.2013 by [S.I. 2013/2617](#), **art. 3(b)**
I3 S. 2(5) in force for specified purposes at 28.11.2013 by [S.I. 2013/2617](#), **art. 3(b)**
I4 [S. 2\(5\)](#) in force in so far as not already in force at 28.11.2014 by [S.I. 2014/3089](#), **art. 2**

3 Food hygiene ratings

- (1) Where a food business establishment has been inspected in accordance with section 2, a food authority must assess the food hygiene standards of the establishment and produce a rating (a “food hygiene rating”) for that establishment scored against criteria set out by the FSA (the “rating criteria”).
- (2) The Welsh Ministers may by regulations provide for a food hygiene rating to be based on an assessment of the food hygiene standards of an establishment carried out prior to the commencement of this Act.
- (3) Within 14 days of an inspection, a food authority must send to the operator of the establishment—
 - (a) written notification of its food hygiene rating;
 - (b) a written statement of the reasons for the rating;
 - (c) a food hygiene rating sticker in a form prescribed;
 - (d) such other information as may be prescribed.
- (4) A food hygiene rating ceases to be valid in the following cases—
 - (a) when an operator of an establishment has received notification of a new food hygiene rating and—
 - (i) the period of 21 days for an appeal against the new food hygiene rating has expired, or
 - (ii) if an appeal has been made, the appeal has been determined and the operator has received notification of the outcome;
 - (b) when there has been a transfer of ownership of an establishment or an establishment has ceased trading.
- (5) The Welsh Ministers may prescribe that certain categories of establishment may be exempt from rating.

Commencement Information

- I5** S. 3(1)(3)(a)(b)(4) in force at 28.11.2013 by [S.I. 2013/2617](#), **art. 3(c)**
I6 S. 3(2)(3)(c)(d)(5) in force in so far as not already in force at 28.11.2013 by [S.I. 2013/2617](#), **art. 3(c)**
I7 S. 3(2)(3)(c)(d)(5) in force for specified purposes at 28.10.2013 by [S.I. 2013/2617](#), **art. 2(a)**

4 Rating criteria

- (1) The rating criteria must include a system to score a food business establishment's hygiene standards.
- (2) The scoring system must include provisions based on an establishment's—
 - (a) food handling practices (including temperature control);

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- (b) physical environment (including its layout, cleanliness and condition);
- (c) management;
- (d) control procedures.

Commencement Information

18 S. 4 in force at 28.11.2013 by S.I. 2013/2617, art. 3(d)

Appeals

5 Right of appeal

- (1) An operator of a food business establishment may appeal to the food authority against a food hygiene rating given to the establishment.
- (2) An appeal may be made on either or both of the following grounds—
 - (a) that the rating does not properly reflect the food hygiene standards at the establishment at the time of the inspection;
 - (b) that the rating criteria were not applied correctly when producing the food hygiene rating.
- (3) An appeal must be made within 21 days from the date of receipt of notification of the food hygiene rating.
- (4) An appeal must be made in writing in the prescribed form.
- (5) A food authority may conduct a further inspection of the establishment for the purpose of considering matters raised in an appeal.
- (6) A food authority must determine the appeal and notify the operator of the establishment and the FSA of its decision within 21 days from the date the appeal was received.
- (7) The appeal must be conducted by an authorised officer who was not involved in the assessment of the food hygiene rating that is being appealed.
- (8) The Welsh Ministers may, by regulations, provide for an appeal under this section to be determined by a person other than the food authority.
- (9) The power to make regulations includes power to—
 - (a) make provision about the procedure to be followed for appeals;
 - (b) make such amendments to this section in consequence of another person becoming responsible for the determination as the Welsh Ministers consider appropriate.
- (10) If a food authority decides to revise a food hygiene rating, when notifying the establishment of its decision it must send to the operator of the establishment—
 - (a) written notification of its revised food hygiene rating;
 - (b) a written statement of the reasons for the rating;
 - (c) a new food hygiene rating sticker;
 - (d) such other information as may be prescribed.

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- (11) Where a food authority decides to revise a food hygiene rating, when notifying the FSA of its decision it must send to the FSA a copy of the notification and statement referred to in subsection (10).
- (12) There is no further right of appeal against a determination made under subsection (6).

Commencement Information

- I9** S. 5(1)-(3)(5)-(9)(10)(a)-(c)(11)(12) in force at 28.11.2013 by [S.I. 2013/2617, art. 3\(e\)](#)
I10 S. 5(4)(10)(d) in force in so far as not already in force at 28.11.2013 by [S.I. 2013/2617, art. 3\(e\)](#)
I11 S. 5(4)(10)(d) in force for specified purposes at 28.10.2013 by [S.I. 2013/2617, art. 2\(b\)](#)

Publication and display arrangements

6 Notification and publication of food hygiene ratings

- (1) A food authority must inform the FSA of the food hygiene rating of a food business establishment within the relevant period.
- (2) When informing the FSA a food authority must also provide the FSA with any further information that may be prescribed.
- (3) The FSA must publish the food hygiene rating and such other information as may be prescribed on its website within 7 days of being informed under subsection (1).
- (4) In this section, “relevant period” means—
 - (a) if there is no appeal against the food hygiene rating, 49 days from the receipt by an operator of a food business establishment of notification of the food hygiene rating;
 - (b) if an appeal is made, 28 days from the determination of the appeal.

Commencement Information

- I12** S. 6(1)(4) in force at 28.11.2013 by [S.I. 2013/2617, art. 3\(e\)](#)
I13 S. 6(2)(3) in force in so far as not already in force at 28.11.2013 by [S.I. 2013/2617, art. 3\(e\)](#)
I14 S. 6(2)(3) in force for specified purposes at 28.10.2013 by [S.I. 2013/2617, art. 2\(c\)](#)

Informing the public about food hygiene ratings

7 Requirement to display food hygiene rating stickers

- (1) When the operator of a food business establishment has received notification of its food hygiene rating, the operator must display the food hygiene rating sticker provided.
- (2) This requirement does not apply until—
 - (a) the period of 21 days for an appeal has expired, or
 - (b) if an appeal has been made, the appeal has been determined and the operator has received notification of the outcome.