

SUBSIDIARY LEGISLATION 449.55**FOOD SAFETY (TEMPERATURE CONTROL)
REGULATIONS**

13th June, 2008

LEGAL NOTICE 146 of 2008.

1. The title of these regulations is the Food Safety (Temperature Control) Regulations. Citation.

2. (1) In these regulations, unless the context otherwise requires - Interpretation.

"the Act" means the Food Safety Act; Cap. 449.

"display" means any food intended for immediate consumption and kept in a cabinet or similar equipment and includes meals intended as buffets;

"primary production" includes harvesting, slaughtering and milking;

"processing" includes cooking;

"recommended temperature" means a specified temperature which has been recommended in accordance with regulation 6;

"shelf life" means the period from production up to the end of the date of minimum durability, whether intended as a "best before" date or "use by" date in terms of the Labelling, Presentation and Advertising of Foodstuffs Regulations: S.L. 449.46

Provided that in relation to a food which is not required to indicate a date of minimum durability, the period for which the food can be expected to remain wholesome;

"temperature danger zone" means the range of temperature from 8°C to 63°C;

"ultimate consumer" means any person who buys other than for the purpose of resale, or for a catering establishment or for the purposes of a manufacturing business;

"wholesome" means food which is fit for human consumption and if consumed as intended by the manufacturer, it does not pose a risk to health. Unwholesome shall be construed accordingly.

(2) In determining whether any matter involves a risk to food safety, regard shall be made to the nature of the food, the manner in which it is handled and packed, any process to which the food is subjected before supply to the consumer, and the conditions under which it is displayed or stored.

3. (1) No person shall keep in any premises, as part of a commercial operation, any food which is likely to support the growth of pathogenic micro-organisms or the formation of toxins at a temperature above 8°C: Chill holding requirements.

Provided that this shall not apply to any food which is being conveyed by post or by a carrier to an ultimate consumer.

(2) No person shall supply by mail order or convey by post or by a carrier to an ultimate consumer, any food which is likely to support the growth of pathogenic micro-organisms or the formation of toxins, at a temperature which is likely to render the food unwholesome.

General
exemptions from
regulation 3.

4. The provisions of regulation 3 shall not apply to:

- (a) food which has been cooked or reheated, is on display for sale or needs to be kept hot in order to control the growth of pathogenic micro-organisms or the formation of toxins;
- (b) food which, for the duration of its shelf life, may be kept at ambient temperatures without rendering it unwholesome;
- (c) food which is being or has been subjected to a process intended to prevent the growth of pathogenic micro-organisms at ambient temperatures:

Provided that the provisions of paragraphs (a), (b) and (c) shall not apply if the food was contained in a hermetically sealed container and that container has been opened;

- (d) food which must be ripened or matured at ambient temperatures:

Provided that this paragraph shall not apply once the process of ripening or maturation is completed;

- (e) raw food intended for further processing, before human consumption, but only if that processing will render that food wholesome.

Upward variation
of the 8°C
temperature by
manufacturers, etc.

5. (1) It shall be a defence for any person charged with an offence against regulation 3(1) if he proves that:

- (a) it had been recommended that the food is to be kept at a specified temperature and for a period not exceeding its shelf life;
- (b) such recommendation has been communicated to him either by means of a label on the packaging of the food or by means of written instructions;
- (c) the food was not kept, at any time, at a temperature above the specified temperature;
- (d) the food was kept at a temperature above 8°C or at the recommended temperature, for a limited period only which would not render the food unwholesome.

(2) No one shall recommend that any food is kept at or below a specified temperature and for a period not exceeding its shelf-life, unless that recommendation is supported by a sound scientific assessment of the safety of the food at that specified temperature.

6. (1) No person shall in the course of the activities of a food business keep any food at a temperature below 63°C at any food premises.

Hot holding requirements.

(2) It shall be a defence for a person charged with an offence against sub-regulation (1) to prove that a sound scientific assessment of that food at temperatures below 63°C had concluded that the food will remain wholesome, after cooking or reheating or if the food is held on display for sale at a holding temperature which is below 63°C, and for a period not exceeding a specified period of time and that at the time of the commission of the alleged offence, the food was held in a manner which is justified in the light of that scientific assessment.

(3) It shall be a defence for a person charged with an offence against sub-regulation (1) to prove that the food had been kept on display for sale for a period of less than two hours and had not previously been kept on display for sale by that person.

7. (1) No person shall in the course of the activities of a food business keep food which is either in the raw state, used as an ingredient or which will not undergo any further process and which is likely to support the growth of pathogenic micro-organisms or the formation of toxins, at temperatures which would result in rendering such food unwholesome.

General requirement for food which is a risk to health.

(2) Notwithstanding the preceding sub-regulation and consistent with food safety, it is permitted to keep any food within the temperature danger zone for limited periods where necessary to accommodate the practicalities of handling during preparation, transport, storage and display of food, provided that such periods would not render the food unwholesome.

8. A food handler responsible for cooling any food, shall cool that food as quickly as possible following the final heat processing stage or the final preparation stage, to the temperature at which it must be kept.

Cooling of food.

9. For the purposes of regulations 5(2) and 8(1), the presence of a scientific assessment of the safety of any food in a guide to good hygiene practice which has been approved under the provisions of the Act shall, until the contrary is proven, be considered sufficient evidence that the scientific assessment is sound.

Guides to good hygiene practice.

10. (1) Food which in the course of a commercial operation has been heated and which is thereafter reheated before being served for immediate consumption or being exposed for sale shall, on being reheated, be raised to a core temperature of not less than 70°C:

Reheating of food.

Provided that if a particular food requires reheating to a core temperature above 70°C, said food is to be reheated up to this higher temperature.

(2) It shall be a defence for a person charged with an offence of contravening the preceding sub-regulation, to prove that he could not have raised the food to a temperature above 70°C without a

deterioration of the qualities of that food.
