



Statutory Document No. 163/06

FOOD ACT 1996

THE GENERAL FOOD REGULATIONS 2006

Approved by Tynwald

26th April 2006

Coming into operation in accordance with Regulation 1

In exercise of the powers conferred on the Department of Local Government and the Environment by sections 4, and 41(3) of the Food Act 1996¹, and of all other enabling powers, and after consultation as required by Article 9 of Regulation (EC) No. 178/2002² 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 of food safety, the following Regulations are hereby made:-

1. Citation and commencement

These Regulations may be cited as the General Food Regulations 2006 and, subject to section 41(7), shall come into operation on the day they are approved by Tynwald.

2 Interpretation

(1) In these Regulations —

"the Act" means the Food Act 1996;

"the Department" means the Department of Local Government and the Environment;

"Regulation (EC) No. 178/2002" means 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 of food safety.

(2) Expressions used both in these Regulations and in Regulation (EC) No. 178/2002 have the same meaning in these Regulations as they have in that Regulation.

¹ 1996 c.8

² OJL L31, 1.2.2002, p.1

Price: £1 Band: A

3 Competent authority for the purposes of Regulation (EC) No. 178/2002

(1) The Department is designated as the competent authority for the purposes of the provisions of Regulation (EC) No. 178/2002 specified in paragraph (2) —

- (2) Those provisions of Regulation (EC) No. 178/2002 are —
 - (a) Article 14(8) (power of competent authorities to take appropriate measures to impose restrictions on the placing of food on the market or to require its withdrawal from the market in certain circumstances);
 - (b) Article 18(2) and (3) (competent authorities to whom food business operators must make information available on demand as to the traceability of food);
 - (c) Article 19 (food business operators to inform and collaborate with competent authorities to avoid or reduce risks posed by a food).

4. Requirements under Regulation (EC) No. 178/2002 : offences

Any person who contravenes or fails to comply with any of the following provisions of Regulation (EC) No. 178/2002 shall be guilty of an offence —

- (a) Article 14(1) (food safety requirements);
- (b) Article 16 (presentation) in so far as it relates to food;
- (c) Article 18(2) or (3) (traceability) in so far as it relates to food business operators;
- (d) Article 19 (responsibilities for food : food business operators).

5. Offences and penalties

- (1) A person guilty of an offence under regulation 4(a) shall be liable —
 - (a) on summary conviction, to a fine not exceeding £20,000 or to custody for a term not exceeding six months or to both;
 - (b) on conviction on information, to a fine or to custody for a term not exceeding two years or to both.
- (2) A person guilty of an offence under Regulation 4 (b), (c) or (d) shall be liable —
 - (a) on summary conviction, to a fine not exceeding £5,000 or to custody for a term not exceeding six months or to both;
 - (b) on conviction on information, to a fine or to custody for a term not exceeding two years or to both.

6. Enforcement

The Department shall enforce and execute these Regulations.

7. Application of various provisions of the Act

(1) The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed as a reference to these Regulations —

- (a) section 24(7) (documentary evidence);
- (b) section 29(1) (punishment of offences) in so far as it relates to offences under section 27(1) as applied by paragraph (3);
- (c) section 29(2) and (3) in so far as it relates to offences under section 27(2) as applied by paragraph (3);
- (d) section 30 (offences by bodies corporate);
- (e) section 31 (offences due to fault of another person);
- (f) section 32 (defence of due diligence) with the modifications that subsections (2) to (4) shall apply in relation to an offence under regulation 4(a) or (b) as they apply in relation to an offence under section 14 or 15, and in subsection (4) the references to "sale" shall be deemed to include references to "placing on the market"; and
- (g) section 33 (defence of publication in the course of a business) with the modification that the words "for sale" shall be omitted.

(2) In the application of section 26 of the Act (powers of entry), for the purposes of these Regulations, the references in subsection (1) of that section shall be construed as including references to Regulation (EC) No. 178/2002.

(3) The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act shall be construed as including a reference to Regulation (EC) No. 178/2002 and these Regulations —

- (a) section 3 (presumptions that food intended for human consumption) with the modifications that the references to "sold" and "sale" shall be deemed to include references to "placed on the market" and "placing on the market" respectively;
- (b) section 27(1) (obstruction etc. of officers);
- (c) section 27(2), with the modification that the reference to "any such requirement as is mentioned in subsection (1)(b)" shall be deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (b);

- (d) Section 28 of the Act (time limit for prosecutions) shall apply to offences under Regulation 4 as it applies to offences punishable under section 29(2) of the Act.

8. Amendment of the Act

- (1) In section 5 (rendering food injurious to health) —

- (a) there shall be substituted for subsection (2) the following subsection —

“(2) In determining for the purposes of this section whether any food is injurious to health, regard shall be had to the matters specified in subparagraphs (a) to (c) of Article 14(4) of Regulation (EC) No. 178/2002.”;

- (b) subsection (3) shall be repealed.

- (2) In section 6 (selling food not complying with food safety requirements) —

- (a) subsection (1) shall be repealed;

- (b) for subsections (2) and (3) there shall be substituted —

“(2) For the purposes of this Part food fails to comply with food safety requirements if it is unsafe within the meaning of Article 14 of Regulation (EC) No. 178/2002 and references to food safety requirements or to food complying with such requirements shall be construed accordingly.”.

- (3) In section 7 (inspection and seizure of suspected food) —

- (a) in subsection (1) —

- (i) after paragraph (a) the word “or” shall be omitted; and

- (ii) after paragraph (b) the following paragraph shall be inserted —

“ or

- (c) is otherwise placed on the market within the meaning of Regulation (EC) No. 178/2002.”;

- (b) in subsection (5) there shall be substituted for the words “or 6” the words “or Regulation 4(a) of the General Food Regulations 2006”.

- (4) Section 10 shall become subsection 10(1) and there shall be inserted a new subsection (2) —

“(2) In subsection (1) and in section 13(1), “injury” includes any impairment, whether permanent or temporary.”.

- (5) In section 32(2) (defence of due diligence) there shall be substituted for the words “section 6, 15 or 16” the words “section 15 or 16”.

- (6) In section 29(3)(a) (punishment of offences) there shall be substituted for the words “section 5, 6 or 15” the words “section 6 or 15”.

- (7) In section 46(2) (interpretation) —
- (a) there shall be substituted for the entry for "food safety requirements and related expressions" the following entry —
- "food safety requirements section 6";
- (b) the entry for "injury to health and injurious to health" shall be deleted.

9. Consequential amendment of Regulations

This Regulation applies to any provision of any regulations by virtue of which, immediately before the coming into force of these Regulations, section 6(3) of the Act applies, where the requirements of those regulations or any requirements referred to in those regulations are contravened in respect of any food.

Made 7th March 2006

John Rimington
Minister for Local Government and the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the enforcement of certain provisions of Regulation (EC) No. 178/2002 of the European Parliament and of the Council (OJ No. L31, 1.2.2002, p.1) 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.

The provisions concerned are as follows —

- (a) Article 14 which prohibits the placing of unsafe food on the market;
- (b) Article 16 in so far as it prohibits labelling, advertising or presentation of food from misleading consumers;
- (c) Article 18 on traceability in so far as it imposes obligations on food business operators;
- (d) Article 19 which imposes obligations on food business operators to act where food is not in compliance with food safety requirements.

In the EC Regulation, "food", "food business operator" and associated expressions are defined in Articles 2 and 3.

These Regulations —

- (a) designate the Department as the competent authority for the purposes of the provisions of those Articles of the EC Regulation;
- (b) make provision for offences and penalties (regulation 5);
- (c) apply certain provisions of the Food Act 1996 (regulation 7);
- (d) make some consequential amendments to the Food Act 1996 (regulation 8) and to regulations referring to section 6(3) of that Act (regulation 9).