

# Food Hygiene Rating Scheme Regulations 2021 – Consultation Outcomes

## WE ASKED:

The purpose of the recent consultation was to seek views on the 'Food Hygiene Ratings Regulations 2021'. These Regulations, if approved by Tynwald, will enable the introduction of a food hygiene rating scheme in the Isle of Man. Such a scheme would use existing statutory criteria and inspections to allocate a rating from 0 – 5 which food businesses would need to display at their premises. Similar schemes have been in effect around the UK for many years and have proven effective in increasing customer confidence and driving up industry food hygiene standards.

Prior to drafting these Regulations the Department ran two consultations on the principals of introducing a food hygiene rating scheme in the Island; one for those in the food industry and one for the general public. 244 members of the public and 82 individuals working within the food industry completed those consultations.

Summary reports for all three consultations are available here:

- Pre-drafting consultation on principals – Food Industry
- Pre-drafting consultation on principals – Public
- Consultation on regulations

## YOU SAID:

In general, respondents to the pre-drafting consultations supported the introduction of a food hygiene rating scheme:

- 72% of the public stated that the hygiene rating of a business would definitely affect their decision on whether or not to purchase food from a business, this supports the Department's view that a rating system will improve consumers' ability to make informed choices and
- 84% of the public and 67% of businesses thought that display of rating should be mandatory, which is reflected in the Regulations.

47 responses were received in response to the consultation on the regulations; 24 from food business operators and 23 from members of the public.

When asked 'Do you have any issues with...' or 'Do you agree with...' in relation to the regulations:

- Food business operators:
  - 60% of responses indicated that they had no issues/agreed with the provisions.
  - 22% disagreed or foresaw issues.
  - 18% did not know/did not answer.
- Members of the public<sup>1</sup>:
  - 94% of responses indicated that they had no issues/agreed with the provisions.
  - 5% disagreed or foresaw issues.
  - 1% did not know/did not answer.
- Over-all
  - 75% of all responses indicated that they had no issues/ agreed with the provisions.
  - 14.5% foresaw issues.
  - 10.5% did not know/did not answer.

## WE DID:

The issues raised by the consultation and that Department's responses are set out below in the 'Detailed breakdown of comments' section.

Notably, changes were made to the provisions relating to the register of information. The relevant regulation was redrafted to address respondents' concerns and is now entitled '9. Publication of rating by the Department'.

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<sup>1</sup> Note: Some questions only applied to food business operators.

Some concerns will be addressed by the Department outside of the Regulations, such as requests for guidance and the need for rating stickers which do not damage surfaces.

The Regulations are to be laid before Tynwald at the May 2021 sitting. If they are approved, further information will be provided regarding the rollout of the scheme, intended to commence mid to late 2022, to assist businesses to prepare.

The Department is mindful that all businesses cannot be inspected and rated immediately. This will likely necessitate a phased rollout which the Department is committed to managing carefully and ensuring that ratings are published in a way which does not unfairly disadvantage any business.

## DETAILED BREAKDOWN OF COMMENTS

### 1. COST

#### **No changes made – not considered appropriate / necessary / concerns can be addressed outside of regulations**

9 responses indicated concern about increased costs for businesses.

7 of those responses were concerned about increased costs in general. Ratings will be based on achieving compliance with existing hygiene standards, using the same criteria assessed during the same routine inspections. It is therefore not clear what extra costs in general are expected to be incurred by businesses.

1 of those responses mentioned the cost of removing the sticker from premises. This was considered by the Department and stickers which do not damage surfaces will be sourced.

1 of those responses was concerned about the increase in costs relating to obtaining printed materials, currently purchased in bulk from the UK for use by multiple sites. The Regulations permit printed materials to be used for multiple sites as long as the rating for each site is clearly indicated and provide 3 months from receipt of a new rating for businesses to use up old stock of promotional materials.

1 response suggested 100% grants be provided by the Department for Enterprise to cover required works. This would not be appropriate as businesses are only required to attain legal compliance with existing legislation in order to achieve the top rating (5). It is the food business operators' responsibility to ensure their business meets statutory hygiene requirements. [A range of business development grants and schemes](#) are currently available from DfE.

### 2. PASS/FAIL

#### **No changes made – not considered appropriate**

10 responses from a single respondent requested a 'pass/fail' system rather than a 0 – 5 rating. This was considered by the Department but was not felt to be appropriate as it would be very difficult to determine, due to the range of criteria being assessed, at which point a business should pass or fail.

The 0 – 5 rating provides more clarity for customers about the levels of hygiene at which a business is operating. A rating of 4, for example, indicates that reasonably small changes are required to attain the top rating of 5, while a business rated 2 would need to make more significant changes.

A breakdown of the rating using the main criteria will be available on the website. This will enable consumers to determine why a business was given a particular rating and make an informed choice accordingly – for example, a business may have acceptable levels of on-site cleanliness but poor record keeping and hygiene training programme or vice-versa.

### 3. NOTICE OF INSPECTIONS

#### **No changes made – not considered appropriate**

4 responses indicated a preference for pre-booked/pre-notified inspections. While unexpected inspections may be inconvenient it is essential that businesses are not pre-notified to ensure that inspections accurately reflect the hygiene standards routinely upheld by the business.

#### 4. GUIDANCE

##### **No changes made – not considered necessary / concerns can be addressed outside regulations**

7 responses requested that the Department provide guidance, advice or information:

- Currently food businesses that register with the Department under the requirements of the Food Hygiene Regulations 2007 are provided with guidance relating to the requirements of the legislation and best practice with regards to operating a food business. The criteria assessed to produce the rating are the same as those assessed under the Food Hygiene Regulations 2007.
- Regulation 18 creates a duty for the Department to provide new food businesses with information relating to the requirements of the regulations.
- The Department intends to –
  - provide specific guidance in relation to the rating criteria for the scheme and information about re-rating, appeals and the right to reply.
  - meet with food business operators, industry bodies and other Government Departments in order to ensure that businesses have the necessary guidance and support, ahead of the scheme rollout.
  - provide support and guidance to businesses with specific concerns on request.

#### 5. DISPLAY OF RATINGS ON FOOD STANDARDS AGENCY (FSA) WEBSITE

##### **No changes made – not considered necessary**

11 responses indicated that they do not support Isle of Man ratings being displayed on the UK FSA's website. The majority of responses felt this was not appropriate as the Isle of Man is not part of the UK.

The Department's website showing the ratings will be accessible worldwide; however, a large proportion of the Island's tourism comes from the UK where food hygiene rating schemes have been in place for many years and consumers are accustomed to using the FSA website. The Department believes that making access to ratings as easy as possible will maximise the benefit of the scheme to businesses and consumers.

Discussions regarding whether or not information will be displayed on the FSA website are ongoing and no decision has been made with regards to this issue. The Department has also met with other jurisdictions who operate schemes outside the FSA, via their own websites and this may still be an option for the Isle of Man scheme.

#### 6. EXEMPTIONS

##### **No changes made – not considered appropriate / necessary**

6 responses requested that businesses such as pubs, home caterers, food manufacturers and cinemas should be subject to rating. These types of food business **are subject to rating** under the regulations – with the exception of cinemas that only sell shelf stable, prewrapped foods but cinemas selling any foods prepared on the premises would be subject to rating.

1 response indicated that school canteens should be excluded. The Department believes that school canteens should be rated to ensure that students and parents can make informed choices.

#### 7. PUBLICATION OF RATING AND ASSOCIATED INFORMATION

##### **Changes made**

At the time of consultation the regulations included provision for a register. Based on the responses from the consultation and advice from the Attorney General's Chambers this provision was re-drafted and is now entitled 'Publication of rating by the Department'.

2 responses indicated concern about the scope of information the Department could collect, in particular the regulations initially included “*Other such information as the Department considers appropriate*”. This wording has been removed from the final regulations.

1 response indicated concern around the business address for those operating from private dwellings being available to the public. The regulations were amended to permit such businesses to either agree a partial address for publication or for their address not to be published.

3 responses indicated concern about a provision which allowed the public to request sight of the full inspection report. 1 response said that the report should be available in all cases. This provision was removed; however, the report would be accessible to the public via a Freedom of Information request.

## **8. RE-RATING CHARGES**

### **No changes made – not considered appropriate**

5 responses did not agree that the Department should charge a fee for re-ratings. 3 of those responses suggested that at least 1 re-visit should be provided free of charge.

Businesses are made aware of the required standards upon registration with the Department and can therefore avoid the need for a re-rating by maintaining compliance those standards – as is required by law. Re-ratings will require officer time to complete and it is seen as appropriate for the cost to be covered by the business. Applying a fee is also likely to encourage businesses to ensure they are very confident that all of the issues leading to their rating have been resolved before applying for re-rating. This will save the Department time which otherwise may be spent undertaking re-rating inspections that do not result in higher ratings and will minimise disruption to providing routine inspections in a timely manner.