

FOOD SAFETY (TEMPERATURE CONTROL) REGULATIONS 1995

Introduction

The main objective of these Regulations is to ensure that, subject to certain exemptions, food which is likely to support the growth of pathogenic microorganisms or the formation of toxins is kept at a temperature below 8°C or above 63°C. This requirement applies to foods, including raw materials and ingredients, at all stages of transport, preparation, processing, storage and display for sale during manufacture, retail and catering.

Chill Holding Requirements

Subject to certain exemptions, food which is likely to support the growth of pathogenic microorganisms or the formation of toxins must not be kept at a temperature above 8°C.

N.B. The requirement is for the temperature of the food not the air in the storage facility.

Types of food which require chilled storage include:

Dairy products

- soft or semi-hard cheeses ripened by moulds and/or bacteria. [This is because the important safety factors for cheese primarily relate to its acidity and its water activity (a_w). Ripening reduces acidity, which can result in pathogens, such as Listeria, no longer being inhibited.]
- dairy-based desserts (e.g. fromage frais, mousses) N.B. Where the pH (acidity) of these products would prevent the growth of pathogenic microorganisms or toxins (e.g. below pH 4.5), or other effective preservative mechanisms are present, the food would not need to be subjected to temperature control.

Cooked products

Foods containing or comprising meat, fish, eggs (or substitutes), milk, hard and soft cheese, cereals, pulses and vegetables, whether or not they are intended to be eaten without further reheating. It will also include ready-to-eat (RTE) products such as sandwiches containing the above.

Smoked or cured fish

This is because, in the case of fresh fish, spoilage microorganisms would render the product unfit for consumption before it became unsafe. As smoking or curing inhibits spoilage, chill control becomes necessary.

Smoked or cured RTE meat which is not ambient shelf-stable

This includes, for example, sliced, cured cooked meats such as hams, some salamis and other fermented sausages depending on the method of curing. [Fermentation increases acidity and serves to inhibit/prevent microbial growth.]

Prepared RTE foods

These include:

- prepared vegetables
- vegetable salads containing fruit
- prepared salads (such as coleslaw) containing other products
- prepared products such as mayonnaise

Uncooked or partly cooked pastry and dough products

Typical examples include pizzas, sausage rolls and fresh pasta that contain meat, fish or vegetables (or substitutes for meat or fish). Fresh pasta should normally be temperature controlled whether or not it contains these products.

Note

1. Foods which are not likely to support the growth of pathogenic microorganisms or toxins are not covered by this requirement. However, there may be other (quality) reasons to keep such foods cool (e.g. yoghurts, hard cheese, butter).
2. In any legal proceedings where food had not been kept at or below 8°C, it would be necessary for the food authority to prove that the food is likely to support the growth of pathogenic microorganisms or the formation of toxins.

EXEMPTIONS From Chill Control Requirements

The Regulations provide exemptions:

- which recognise that a limited period of time outside of chill control would not have adverse consequences for human health. This is a recognition of the link between TIME AND TEMPERATURE in the growth of microorganisms.
- for foods which are intended to be processed in a way that should eliminate pathogenic microorganisms or toxins.

It is for the food business to prove, in any legal proceedings, that the food should qualify for one of the listed exemptions.

The exemptions are:

Food which, for the duration of its shelf-life, may be kept at ambient temperatures with no risk to health

- pickles, jams (provided packing remains intact and they are within their shelf-life)
- some cured or smoked products (with low water activity)
- other foods normally sold within a short shelf-life (e.g. certain bakery products and sandwiches). For the food types described under 'chill holding requirements' above (i.e. dairy products, dairy-based desserts, cooked products, smoked/cured fish or RTE meat, RTE foods, uncooked or partly cooked pastry and dough products), the exemption should NOT BE LONGER THAN 4 HOURS AFTER PREPARATION, unless scientific evidence as part of a hazard analysis justifies a longer period.

- certain types of cake, and products that have already undergone treatments, such as pasteurised milk (which, however, is usually kept chilled, but for quality reasons)
- food which is being or has been subjected to a process (e.g. dehydration, canning) intended to prevent the growth of pathogenic microorganisms at ambient temperatures.

Food which must be ripened or matured at ambient temperatures

A typical example here is the ripening or maturing of certain cheeses, but note that the exemption does not apply once the ripening or maturation is completed.

Raw food intended for further processing (including cooking) where that processing will ensure that the food is fit for human consumption

Typical examples include fresh meat and fish, unless it is intended to be eaten raw, in which case it would not be exempt from the 8°C requirement.

Any food which is being sent as part of a mail order transaction to a consumer

Note that such food would still be subject to a general requirement that it must be supplied at a temperature that is not likely to give rise to a risk to health.

VARIATION Upwards from the 8°C Max. Chill Temperature

A food business may offer a defence against failure to observe the chill requirement by proving that:

- the food business manufacturing, preparing or processing the food has recommended that it is kept:
 - i) at a temperature between 8°C and ambient, and
 - ii) for a specified shelf-life.
- That recommendation (unless the business has itself varied the temperature) has been communicated by the food label or by another appropriate form of written instruction, AND
- The food has not been kept above the recommended temperature, AND
- The specified shelf-life has not been exceeded.

Any food business manufacturing, preparing, or processing food must not recommend any upward variation on the chill requirements **unless it is supported by a well-founded scientific assessment of the safety of the food at the specified temperature and shelf-life.**

CHILL HOLDING TOLERANCE PERIODS

Reg. 7(1) - a food business may offer a defence against a failure to observe the requirement for foods to be kept at or below 8°C by proving that **the food was displayed for a single period of up to 4 hours to allow for service or display.**

This allows, for example, for display outside chill control in catering premises (self-service, buffet, cheese boards, etc.) and in retail premises (service and display)

Foods so displayed should be placed under chill control until they are served, sold or discarded.

Reg. 7(2)

A defence against failure to observe the chill requirement may also be offered by proving that:

- the food was kept for a limited period only (consistent with food safety) at a temperature above 8°C or above a recommended higher temperature, AND
- the food was being loaded or unloaded from a vehicle for transfer to or from food premises, OR
- there were unavoidable circumstances, such as:
 - the practicalities of handling during and after processing and preparation
 - defrosting of equipment
 - temporary breakdown of equipment

The 'limited periods' and permitted rises in food temperature are not specified in the Regulations, but must be consistent with food safety. In normal circumstances, a single limited period of up to 2 hours outside temperature control may not prove problematical.

Note: The burden of proof rests with the food business to show that it can use these defences.

HOT HOLDING CONTROLS

Reg. 8

- Food which has been cooked or reheated,
 - is for service or on display for sale, and
 - needs to be kept hot to control the growth of pathogenic microorganisms or the formation of toxins
- must be kept at a temperature at or above 63°C.

Such foods include many that are broadly similar to those which require chilled temperature control (detailed above).

Reg. 9 – HOT HOLDING DEFENCES

A food business may offer a defence against a failure to observe the Reg. 8 requirement by proving:

- that a well founded scientific assessment of the safety of the food at a lower temperature shows that the food can be kept safely at that temperature for a period not exceeding a specified period; and
- that the food was held in a manner in accordance with the scientific assessment.

The burden of proof to use this defence lies with the food business.

A defence is also available by proving that the food had been kept for service or on display for sale to consumers for a single period of less than 2 hours. This tolerance would also apply to a recommended temperature for hot holding lower than 63°C.

At the end of the period of up to 2 hours, the food should be cooled as quickly as possible to 8°C or below, or discarded.

THE GENERAL REQUIREMENT (for food which is a risk to health)

Reg. 10(1)

No person shall keep

- raw materials
- ingredients
- intermediate products
- finished products

that are likely to support the growth of pathogenic microorganisms or the formation of toxins at temperatures which would result in a risk to health.

Reg. 10(2)

Consistent with food safety, limited periods outside temperature control are permitted where necessary to accommodate the practicalities of handling during preparation, transport, storage, display and service of food.

Reg. 10(3)

The general requirement at Reg. 10(1) may in some instances be breached, even though the chilled/hot holding temperatures have been observed. This may occur, for example, if keeping perishable foods above a maximum storage temperature recommended in any special storage conditions.

Note: Observance of temperature recommendations in any special storage conditions on food labels, including recommendations for chill temperatures lower than 8°C, is not automatically mandatory, as many such recommendations are made for food quality rather than food safety reasons. For there to be any breach of Reg 10(1), even where food is

kept at or below 8°C, a maximum chill temperature lower than 8°C would need to be critical to food safety.

COOLING OF FOOD

Req. 11

A food business, responsible for cooling food which must be kept at chill temperatures, shall cool that food as quickly as possible to the required chill temperature following:

- a) the final heat processing stage, or
- b) if no heat process is applied, the final preparation stage

The cooling period for any food would not be regarded as unacceptable, merely because other equipment, not present at the business, could have cooled the food more quickly. The time taken to achieve cooling must be consistent with food safety. Cooling will often be a step which is critical to food safety.