

## **Explanatory Memorandum to The Food Hygiene Ratings (Wales) Regulations 2013**

This Explanatory Memorandum has been prepared by the Department for Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Food Hygiene Ratings (Wales) Regulations 2013. I am satisfied that the benefits outweigh any costs.

**Mark Drakeford AM**  
**Minister for Health and Social Services**

**11 October 2013**

## **1. Description**

The Food Hygiene Rating (Wales) Regulations 2013 (“the Regulations”) provide much of the detail of how the new food hygiene rating scheme established in Wales by the Food Hygiene Rating (Wales) Act 2013 (“the Act”) will operate in Wales; details such as what the food hygiene rating sticker looks like and how it must be displayed at different types of food businesses are set out in the Regulations.

The Act imposes a requirement for food businesses to display food hygiene ratings based on their compliance with food hygiene standards. This will help consumers to make informed choices about where to eat or shop for food. Food businesses will be required to display their hygiene rating and food authorities will enforce this requirement. The Regulations make provision for the effective operation of the new statutory food hygiene rating scheme.

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

On 28 October 2013, the sections of the Act under which the Regulations will be made will be commenced for that purpose. On 28 November 2013, those sections will be commenced for all remaining purposes. The other sections of the Act will also be commenced on 28 November 2013 – except for section 2(5)(b), which extends the meaning of “food business establishment” to include an establishment that supplies food to another business.

## **3. Legislative background**

The Welsh Ministers have power to make the Regulations under sections 3(2), (3)(c) and (d) and(5), 5(4) and (10)(d), 6(2) and (3), 7(3) and (4), 12(2) and (9)(d), and 15(1) of the Act.

## **4. Purpose & intended effect of the legislation**

The Regulations are needed so as to give full effect to the new statutory food hygiene rating scheme established by the Act. They make provision largely in relation to technical administrative matters, such as the form of the sticker and the forms to be used to make appeals or request re-ratings, but they also deal with more substantive matters, such as providing for ratings to be based on inspections carried out before the Act commences, and prescribing categories of establishment that are exempt from rating (see below).

The Regulations:

- Provide for the transition from ratings given under the Food Standard Agency’s non-statutory scheme to new statutory ratings. This will be done by allowing new statutory food hygiene ratings to be based on assessments of

food hygiene standards of an establishment carried out prior to the commencement of the Act.

- Prescribe categories of establishment that are exempt from rating.
- Prescribe the form of the food hygiene rating sticker and the location and manner in which the sticker is displayed.
- Prescribe the forms that must be used by a food business operator when appealing against a food hygiene rating, or requesting a re-rating inspection.
- Prescribe information that a food authority must send to the operator of an establishment following a food hygiene rating inspection.
- Prescribe information that a food authority must send to the operator of an establishment following a change to a food hygiene rating resulting from an appeal.
- Prescribe information that a food authority must send to the operator of an establishment following a change to a food hygiene rating after a re-rating inspection.
- Prescribe information that a food authority must send to operators of a new food business establishment within 14 days of registration.
- Prescribe information that a food authority must send to the FSA.
- Prescribe information that the FSA must publish on its website.

## **5. Consultation**

A Consultation on the draft Regulations took place between 27 March 2013 and 21 June 2013 with key stakeholders, including local authorities, food businesses, and representative trade organisations. 51 consultation responses were received. Food businesses raised concerns about the breadth of the requirement to promote food hygiene ratings on websites and publicity material. This requirement was not intended to come into force until November 2014. Therefore, it has been omitted from the Regulations to allow further work and engagement to be undertaken with food businesses in Wales, with a view to introducing a new set of regulations in 2014 to deal with this matter.

Concerns were also raised by food authorities and food businesses on the requirement to publish food hygiene inspection reports. Of the 51 responses received only two were completely in favour of the proposal as drafted “to publish inspection reports”, 17 were neutral on the issue and 32 were opposed. However, a number of the responses received supported the general principle of publishing additional information for the consumer, short of publication of full inspection reports. Therefore, it could be said that although there is some support for some summary

information for consumers to be publicised, the specific proposal of publishing full inspection reports is not supported. The Regulations now include a requirement to publish a descriptor e.g. good, poor, etc and a corresponding narrative on the findings against the three components that make up the overall food hygiene rating below:-

- The food hygiene and safety procedures (including food handling practices and procedures, and temperature control).
- The structure of the establishment (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.).
- Confidence in management/control procedures.

The following changes have also been agreed as part of the consultation exercise:

- An increase in the period to migrate ratings from the FSA's non-statutory food hygiene rating scheme to the new statutory scheme from 12 months to 18 months.
- To exempt childminders from the scheme, but not sensitive establishments such as Police, prisons, Crown and military establishments.

An analysis of the consultation responses will be available shortly at <http://wales.gov.uk/consultations/healthsocialcare/food-hygiene-regulations/?status=closed&lang=en>

# **FOOD HYGIENE RATING (WALES) REGULATIONS 2013**

## **REGULATORY IMPACT ASSESSMENT**

### **1. Introduction**

1. This Regulatory Impact Assessment aims to assess the impact of The Food Hygiene Rating (Wales) Regulations 2013 (“the Regulations”). The Food Hygiene Rating (Wales) Act 2013 (“the Act”) imposes a requirement for food businesses to display food hygiene ratings based on their compliance with food hygiene standards. This will help consumers to make informed choices about where to eat or shop for food. Food businesses will be required to display their hygiene rating and food authorities will enforce this requirement.
2. The powers that the Welsh Ministers will use to make the Regulations are listed in Annex A.
3. The Regulations are needed in order to give full effect to the new statutory food hygiene rating scheme in Wales. They make provision largely in relation to technical administrative matters, such as the form of the sticker and the forms to be used to make appeals or request re-ratings, but they also deal with more substantive matters, such as providing for ratings to be based on inspections carried out before the Act commences, and prescribing categories of establishment that are exempt from rating.

### **2. The Food Hygiene Rating (Wales) Regulations 2013**

#### **Background**

4. The Regulations:
  - Provide for the transition from ratings given under the Food Standard Agency’s non-statutory scheme to new statutory ratings. This will be done by allowing new statutory food hygiene ratings to be based on assessments of food hygiene standards of an establishment carried out prior to the commencement of the Act.
  - Prescribe categories of establishment that are exempt from rating.
  - Prescribe the form of the food hygiene rating sticker and the location and manner in which the sticker is displayed.
  - Prescribe the forms that must be used by a food business operator when appealing against a food hygiene rating, or requesting a re-rating inspection.
  - Prescribe information that a food authority must send to the operator of an establishment following a food hygiene rating inspection.

- Prescribe information that a food authority must send to the operator of an establishment following a change to a food hygiene rating resulting from an appeal.
- Prescribe information that a food authority must send to the operator of an establishment following a change to a food hygiene rating after a re-rating inspection.
- Prescribe information that a food authority must send to operators of a new food business establishments within 14 days of registration.
- Prescribe information that a food authority must send to the FSA.
- Prescribe information that the FSA must publish on its website.

### **Reason for Intervention**

5. The Regulations introduce powers that will provide for the effective operation of the new statutory food hygiene rating scheme in Wales. The Regulations will provide Welsh Ministers with the flexibility to introduce and deliver the mandatory scheme including allowing changes to be made to the scope of the scheme.

### **Policy Objectives**

6. The objectives are to ensure:
  - the statutory scheme is flexible and can be changed in good time as appropriate to ensure its effective operation; and,
  - the introduction and implementation of the statutory scheme is effective.

### **Options**

7. Option 1 - do nothing.
8. Option 2 - regulate only on essential matters to commence the statutory food hygiene rating scheme in Wales.

### **Option 1 - do nothing**

9. The primary legislation (the Food Hygiene Rating (Wales) Act 2013) would be ineffective without specific secondary legislation to make the new statutory scheme fully operational, for example by the Welsh Ministers prescribing the form of the food hygiene rating sticker including the location and manner in which the sticker is displayed. This is a key element of the new statutory scheme. This, and other such requirements, are being dealt with by secondary

legislation because they are matters that might be subject to change from time to time. The secondary legislation must be made in order to make the statutory scheme effective. Therefore, the option to do nothing is not viable.

### **Option 2 – introduce regulations to facilitate the introduction of the new statutory food hygiene rating scheme in Wales**

10. The new statutory scheme must operate as effectively as the previous non statutory one that it replaces in Wales. We have identified the regulation-making powers required for the successful operation of the statutory scheme in Wales, and wish to use the powers identified at Annex A. A regulation-making power to promote food hygiene ratings on food businesses' websites and publicity material is planned to be used in November 2014. There are other regulation-making powers that future-proof the Bill. These will be used as and when required.

## **3. Costs**

This chapter contains the costs of the options detailed in Section 2.

### **Costs**

#### **Option 1 - do nothing**

11. As this option proposes no change, and it would be impossible to introduce a mandatory scheme without the supporting Regulations, it is considered that there are no additional costs associated with this option. The estimated annual cost of operating the Food Standards Agency's non statutory scheme in Wales, including one-off start up costs, is £244,000 based on a UK figure of £4,247,996. This option is not viable as it would render the mandatory scheme ineffective.

#### **Option 2 - introduce regulations to facilitate the introduction of the new statutory food hygiene rating scheme in Wales**

12. The Welsh Government considers that there would be costs associated with this option that would fall to:
  - (a) food authorities;
  - (b) the FSA; and
  - (c) the Welsh Government.
13. This option ensures the viability of the new statutory food hygiene rating scheme in Wales established by the Act. This is the preferred option as it provides a robust food hygiene rating scheme for Wales. The additional costs are associated with the introduction of Regulations 2, 3, and 8. The overall estimated costs associated with the implementation of this option in year one is £137,000, and £140,000 in year two. A table of the costs associated with

the introduction of these Regulations can be found at page 10. A detailed breakdown of these costs and the benefits are set out below.

### **Costs to Food Authorities**

14. The introduction of the Regulations is expected to generate additional costs to food authorities.
15. The transition period to migrate establishments with non statutory ratings to the new statutory scheme has been extended from the 12 months originally proposed to 18 months. This will reduce the number of food businesses subject to migration to approximately 5,000 businesses. Bringing such establishments that were rated under the non statutory scheme within the scope of the new statutory scheme will result in food authorities having to invest time in calculating new ratings based on an assessment of the food hygiene standards of an establishment carried out prior to the commencement of the Act. In certain cases, the food authority will also need to consider appeals lodged in respect of these new ratings.
16. On the basis that this exercise will take around 15 minutes per food business at a staff cost of £2.50 and a further cost of £1.00 to cover postage and stationery, the cost of this additional work is estimated at £3.50 per food business. There are approximately 5,000 businesses that may be subject to the migration exercise giving a total cost of around £17,500.
17. It is also estimated that the operation of this regulation could give rise to 100 appeals. The RIA on the introduction of the Bill estimated an appeal on average would cost £120. The cost of administering appeals in respect of this Regulation is estimated at £12,000. In a small number of cases, food authority enforcement officers might have to undertake inspections to food businesses at an average cost of £150 per inspection. Such cases are estimated to be as low as 1 percent but this would result in an additional 50 inspections at a cost of £7,500. The overall estimated cost associated with the introduction of this Regulation is £37,000 (£25,000 to be met by the Welsh Government and £12,000 by the FSA).
18. The requirement to publish further information for consumers in the form of a descriptor and corresponding narrative, giving a breakdown of a rating against the three components that make up a rating, was identified during the consultation exercise. The components are:
  - The food hygiene and safety procedures (including food handling practices and procedures, and temperature control).
  - The structure of the establishment (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.).
  - Confidence in management/control procedures.



19. This will not be introduced until November 2014. The extra cost of this work is considered minimal for food authorities and can be met from within existing resources once the system for publication has been set up by the FSA. The FSA costs are set out below.

### **Costs to Food Businesses**

20. The introduction of the Regulations does not create any significant burdens or costs for food businesses. The main responsibility on the food business is to ensure that the valid food hygiene rating is displayed at their establishment in accordance with the Regulations.

### **Costs to the FSA**

21. The format of the food hygiene sticker used as part of the non statutory scheme has been redesigned to incorporate the Welsh Government logo. The Act allows the use of multiple stickers where necessary and this has been accounted for in the estimated cost. The cost to the FSA of producing and storing a supply of food hygiene stickers for the new statutory food hygiene rating scheme is estimated at £30,000.
22. The FSA is also preparing a leaflet for distribution to food businesses when the new statutory scheme takes effect in November 2013. The leaflet summarises the important changes, introduced by the legislation. The estimated cost of the provision of these leaflets is £60,000.
23. The FSA also need to make IT adjustments to their Food Hygiene Rating Scheme website to account for changes to be introduced by the legislation particularly in relation to the new time periods established for the appeals process. This cost is estimated at £10,000. The FSA is also meeting the estimated cost of £12,000 for any appeals made as part of the migration of food hygiene ratings from the FSA's non statutory scheme to the new statutory scheme.
24. The requirement to publish further information for consumers in the form of a descriptor and corresponding narrative, giving a breakdown of a rating against the three components that make up a rating, was identified during the consultation exercise, and referenced at paragraph 18 of this RIA and has cost implications. The cost of introducing this new process, including consumer research, IT developments, communications and evaluation is estimated at £140,000. These costs will fall in 2014-15 and have been attributed to the FSA for the purposes of this impact assessment, although formal agreement for the FSA to meet this cost is still awaited.

## Costs to the Welsh Government

25. The Welsh Government provides the FSA with a budget to undertake its work in Wales. The total cost to the Welsh Government associated with introducing these Regulations is estimated at £25,000.

	2013/14	2014/15	2015/16	2016/17	Total	Present Value
<b>Food Authorities</b>						
Transition costs						
Migration of ratings from the non statutory scheme. (To be met by Welsh Government)	25,000				25,000	25,000
Appeals against migrated ratings (to be met by FSA)	12,000				12,000	12,000
<b>FSA</b>						
Rating sticker	30,000				30,000	30,000
Provision of a Leaflet for food businesses	60,000				60,000	60,000
IT costs for the FHRs ratings website	10,000				10,000	10,000
Cost for the production of scheme descriptors, narratives, translation, system requirements including consumer research, IT changes and Communications		140,000			140,000	135,266
<b>Total Costs</b>	<b>137,000</b>	<b>140,000</b>			<b>277,000</b>	<b>272,266</b>

## 4. Benefits

26. This chapter summarises the benefits associated with each of the Regulations identified in Section 2.

*4.1 Regulation 1 - Provision in relation to the title, commencement, application and interpretation of these Regulations.*

27. This regulation includes provision for Regulation 8 (a rating breakdown) to have a different commencement date. A commencement date of November 2014 is planned for Regulation 8 to allow food authorities time to adapt to the new requirements.

*4.2 Regulation 2 - Bringing establishments that were rated under the voluntary scheme within the scope of the new mandatory scheme.*

28. This regulation provides flexibility and for food hygiene ratings produced under the new mandatory scheme to be based on assessments of the food hygiene standards of an establishment carried out prior to the commencement of the Act. The intention is that the findings of a previous inspection (under the non statutory scheme) could be relied upon to produce a new statutory rating after the Act comes into force. This would avoid the need for a new inspection taking place and allow faster migration of food businesses rated under the non statutory scheme to the new scheme.
29. Food businesses would be able to appeal against their new statutory rating as with any other rating given under the statutory scheme. The absence of such a regulation would effectively render all inspections and ratings awarded under the non statutory scheme void. This would impact negatively on the introduction of the statutory scheme. Food authorities will be required to undertake this assessment within 18 months of the coming into force of the Regulations.

#### *4.3 Regulation 3 - The form that a food hygiene rating sticker must take.*

30. This is an important provision, in that the whole ethos of the scheme relies on the publication of the food hygiene rating sticker for consumers to easily see and understand. The sticker publicises the hygiene rating given to an establishment by a food authority. The sticker for the new statutory scheme will be very similar to that used under the non statutory scheme, ensuring continuity and clarity for the consumer. The key change to the sticker is that it will incorporate the Welsh Government logo which signifies that the hygiene rating has been given under the new statutory scheme.

#### *4.4 Regulation 4 - Other information to accompany notification of the food hygiene rating.*

31. To ensure that the scheme operates effectively, this regulation sets out what information a food authority must send to a food business with the notification of the rating. This includes how the food business operator might achieve a higher rating if a '5' (very good) was not awarded. In terms of fairness, the Regulation sets out the procedure for making an appeal against the rating and the operator's right to reply and comment on the rating awarded. The right to request a re-rating inspection is also explained to the operator and an explanation of circumstances when a rating ceases to be valid. The Regulation future-proofs the operation of the scheme to ensure that further information can be provided to food business operators if required.

#### *4.5 Regulation 5 - Exempt food business establishments.*

32. There will be circumstances where it might not be appropriate for a business to display a hygiene rating and the reasons for doing so are outweighed by other factors. For example:

- i. where the sale of food is not the primary activity of the establishment; and the only food made available to consumers is food that is shelf stable at ambient temperature; and wrapped or packaged before it is brought to the establishment and the wrapping or packaging remains sealed at all times before the food is supplied to consumers;
  - ii. an establishment used for the purpose of providing certain caring services where the establishment is also used as a private dwelling.
33. The ability to exempt certain establishments will assist the smooth operation of the scheme and ensure that it is being targeted fairly and effectively. .

#### *4.6 Regulation 6 – Form for Appeal.*

34. The form for appeal ensures consistency in approach in that every food authority is using the same form. It also future-proofs the scheme in case there are changes to the appeal procedure as provided for in the Act.

#### *4.7 Regulation 7 – Other information to accompany notification of decision on appeal.*

35. To ensure that the scheme operates effectively, this regulation sets out what information a food authority must send to a food business with the notification of the decision on appeal. This includes how the food business operator might achieve a higher rating if a '5' (Very Good) was not awarded. In terms of fairness, the Regulation sets out the procedure for making an appeal against the rating and the operator's right to reply and comment on the rating awarded. The right to request a re-rating inspection is also explained to the operator, and an explanation of circumstances when a rating ceases to be valid. The Regulation future proofs the operation of the scheme to ensure that further information can be provided to food business operators if required.

#### *4.8 Regulation 8 – Publication of additional information*

36. The publication of a breakdown of the three component scores that make up the rating, a descriptor and corresponding narrative on the score awarded by the food authority for each component will provide more transparency for the consumer without placing unnecessary burdens on food authorities. The additional information will be clear, concise and is considered to be a pragmatic way forward to making further information available to the consumer at this time.

#### *4.9 Regulation 9 – Location and manner of display of food hygiene rating stickers.*

37. The sticker or stickers must be displayed in a conspicuous place where they can easily be seen by consumers before they enter a food business establishment. Mobile trader and market stalls must display the sticker where it is capable of being easily read. Locations for the display of the sticker are set

out in the Regulations to ensure there is a common approach to where a hygiene rating sticker appears for example on a window that forms part of the relevant entrance.

*4.10 Regulation 10 – Form for requesting a food hygiene re-rating inspection.*

38. The form for requesting a food hygiene re-rating ensures consistency in approach in that every food authority is using the same form. It is also future-proofs the scheme in case there are changes to the re-rating request procedures.

*4.13 Regulation 11 - Other information to accompany notification of re-rating.*

39. To ensure that the scheme operates effectively, this regulation sets out what information a food authority must send to a food business with the notification of a re-rating. This includes how the food business operator might achieve a higher rating if a '5' (Very Good) was not awarded. In terms of fairness, the Regulation sets out the procedure for making an appeal against the rating and the operator's right to reply and comment on the rating awarded. The right to request a further re-rating inspection is also explained to the operator and an explanation of circumstances when a rating ceases to be valid. The Regulation future-proofs the operation of the scheme to ensure that further information can be provided to food business operators if required.

*4.14 Regulation 12 - Information that a food authority must send to operators of new food business establishments in its area.*

40. To ensure that the scheme operates effectively, this regulation sets out what information a food authority must send to operators of a new food business establishment. This will describe the ratings, how they are calculated, when a sticker must be displayed, and the right of appeal. The Regulation future-proofs the operation of the scheme to ensure that further information can be provided to food business operators if required.

## **5. Specific Impact Assessments**

### **Impact on small business**

41. The estimated financial costs to the food business operators are detailed above. The Regulations will apply to all food businesses that are 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.
42. There have been concerns expressed from small food businesses, such as guesthouses, of the impact that the introduction of a statutory scheme will have on their businesses. The impact on small businesses is not considered to be greater than it would be for larger ones or for food chain businesses. Small businesses with good food hygiene ratings are likely to see a positive impact.

### **Impact on voluntary sector**

43. Voluntary sector organisations that operate as a food business within the new statutory scheme will therefore, where relevant, incur costs similar to other food business operators. There will be little or no other impact on the voluntary sector from introducing these regulations.

### **Equality impact assessment**

44. The non statutory scheme has been in operation in Wales since October 2010 and the FSA published a regulatory impact assessment (RIA) on that scheme (for the UK) in November 2010<sup>1</sup>. This reported that there was no evidence to indicate a differential impact on race, gender or disability with the operation of the scheme.
45. The duties and responsibilities of Welsh Ministers, the FSA, and Food Authorities are contained within the Act. The Welsh Government will encourage the FSA and food authorities to take into account equality impacts as part of their duties and responsibilities.
46. The RIA on the Act reports that the statutory scheme is not considered to have a significant impact on disability; however, the display and positioning of a food hygiene rating sticker will impact on those visually impaired. The Act provides that a food business operator must verbally inform a customer of their food hygiene rating if requested and it is an offence for failure to do so.
47. The Human Rights Act 1998 was considered as part of the screening equality assessment for the Act and is compatible with Convention Rights. The Regulations do not propose anything to change this assessment. There is no evidence to indicate a differential impact for Gender and Gender Reassignment, Religion and Belief and Non-Belief, Sexual Orientation, Pregnancy and Maternity or Civil Partnerships.

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<sup>1</sup> <http://www.food.gov.uk/foodindustry/regulation/betregs/ria/ria2010/fhrs>

## **Sustainable development impact**

48. The policy objectives of the Act were considered in terms of potential impact against the indicators for a sustainable economy and society. The mandatory scheme is expected to increase competitiveness between food businesses as good ratings are likely to attract more business. The desire for higher ratings by food businesses will drive up food law compliance, creating a high and consistent level of food safety across Wales. The scheme is sustainable in that all food businesses in Wales have information on the actions they need to undertake for their food business to achieve the highest food hygiene rating under the scheme. There is also an appeal process against the rating and the flexibility to adapt this process. There is also a 'right of reply' for food businesses that will be published alongside the rating. There is considered to be a low risk to increased unemployment where Food Business Operators do not meet hygiene standards and close their business.
49. Supporting a sustainable society is at the heart of the policy intent for the statutory scheme. It addresses both health inequality and access to information by introducing easily accessible hygiene ratings and allowing consumers to make a more informed choice about where to eat or shop. The introduction of the statutory scheme is expected to lead to an improvement of food hygiene standards that will help protect the health and the interests of consumers. The Regulations do not change this assessment as they add the detail for the effective operation of the scheme.

## **Rural proofing checklist**

50. The statutory scheme will see a small increase in the amount of travel within rural areas where food authority inspectors meet demand for an anticipated increase in food hygiene rating re-rating inspections. Food authority inspections of food businesses might take longer in rural areas because of increased travelling time, but this is likely to be offset by the officers working from food authority area offices. The Act includes a mandatory cost recovery from food business operators for re-rating inspections. Food authorities are required to inform the food business in advance of the re-rating inspection, the charge to be levied in such a way that the food business operator is reasonably informed of the amount.
51. Raising food hygiene standards and increased access to information about food hygiene compliance of food business operators is expected to have a positive impact on tourism in Wales including in rural areas. The Regulations do not change this assessment as they add the detail for the effective operation of the scheme.

## **Impact on Welsh Language**

52. The FSA has a Welsh Language Policy, and all material related to the delivery of the voluntary scheme complies with the FSA's Welsh Language Scheme.

53. There is no risk that the statutory scheme will have a negative impact on the Welsh Language. The proposed move from a non statutory scheme to the statutory scheme in Wales will need to comply with the Welsh Government's Welsh Language Scheme. The Welsh Government will encourage food authorities to incorporate changes to their individual Welsh Language policies to take into account the delivery of the statutory scheme. The inclusion of a power to provide for the publication of food hygiene inspection reports will need to be considered in light of the FSA's Welsh Language scheme and the Welsh Language Act.



## 6. Competition assessment

54. The competition filter is required to be completed if the legislation affects business, charities and/or the voluntary sector. The policy will have an impact on food businesses in Wales in that they will have to display their food hygiene rating. The requirement to display will affect the vast majority of food business operators.
55. The table below summarises the competition filter results:

Question	Response
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10 percent market share?	Yes
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20 percent market share?	Yes
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50 percent market share?	Yes
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	No
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q8:</b> Is the sector characterised by rapid technological change?	No
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

Note: The market affected in Questions 1 to 3 is the supermarket sector.

## **7. Post implementation review**

56. Section 14 of the Act requires the FSA, at the end of the first year of the operation of the mandatory scheme and each subsequent period of three years, to conduct a formal review of the scheme and make recommendations to the Welsh Ministers. A similar review will be undertaken of the appeals system but this will be done annually. These evaluations will consider the effectiveness of the statutory scheme/appeals process and whether the scheme is delivering improvements for the people of Wales, taking account of the delivering results principles.

**Regulation-making powers in the Food Hygiene Rating (Wales) Act 2013 that are being used to make the Regulations**

1. Providing 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 the Act. (Section 3(2)).
2. Prescribing the form a food hygiene rating sticker must take. (Section 3(3) (c)).
3. Prescribing other information that a food authority must send to an operator of a food business establishment when notifying the operator of the food hygiene rating given to the establishment following a food hygiene rating inspection (Section 3(3) (d)).
4. Prescribing that certain categories of establishment may be exempt from rating. (Section 3(5)).
5. Prescribing the form in which an appeal against a food hygiene rating must be made. (Section 5(4)).
6. Prescribing other information to be sent to the operator of an establishment when a food authority notifies the establishment of its decision to change a food hygiene rating following:
  - a. an appeal. (Section 5(10)(d)).
  - b. a food hygiene re-rating inspection. (Section 12(9)(d)).
7. Prescribing further information that must be provided to the Food Standards Agency (FSA) when a food authority informs the FSA of the food hygiene rating of a food business establishment. (Section 6(2)).
8. Prescribing further information the FSA must publish on its website. (Section 6 (3)).
9. Prescribing the proper location and manner in which a food hygiene rating sticker must be displayed by a food business establishment. (Section 7(3)) and making different provision for different types of establishment. (Section 7(4)).
10. Prescribing the form in which the operator of a food business establishment must make a request for a re-rating inspection. (Section 12(2)).
11. Prescribing information that a food authority must send to the operator of a new food business establishment after the establishment is either

registered under Article 6 of Regulation (EC) No 852/2004 or approved under Article 4 of Regulation (EC) 853/2004. (Section15(1)).