



The Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023

Launch date: 17 June 2022

Respond by: 9 September 2022

This consultation will be of most interest to

- District councils in Northern Ireland and their representative and professional bodies
- Food businesses and their representative bodies
- Online platforms facilitating food ordering
- Public health organisations
- Organisations using the FSA's open data on food hygiene ratings
- Consumers and consumer organisations

Consultation subject

This consultation is about the introduction of secondary legislation needed to implement the online display provision within the statutory food hygiene rating scheme established by the Food Hygiene Rating Act (Northern Ireland) 2016.

Purpose of the consultation

The FSA is seeking views and comments from stakeholders on the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 (Annex A) and the potential impact on food businesses and district councils.

Our assessment of the impact of the proposed regulations is also provided - see Annex B of the consultation package. This sets out the expected impacts of the proposed regulations and the associated costs and benefits for different stakeholders. We are seeking your feedback on this assessment and any further evidence you may have on the impacts (costs and benefits) that we should take account of.

How to respond

Responses to this consultation should be sent to executive.support@food.gov.uk

Details of consultation

This consultation has been produced by the Food Standards Agency to get your views on the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023, and the potential impact on food businesses and district councils.

Who is the Food Standards Agency?

The Food Standards Agency (FSA) is a non-ministerial government department of the Government of the United Kingdom responsible for protecting public health and protecting consumer interests in relation to food in England, Wales, and Northern Ireland.

Introduction

The Food Hygiene Rating Scheme (the Scheme), which is a Food Standards Agency (FSA) and district council (DC) partnership initiative, is a key public health measure and an important commercial driver for businesses to achieve and maintain compliance with existing food hygiene law. It provides transparency to consumers about the hygiene standards in food outlets at the time of inspection by DC food safety officers. This allows consumers to make informed choices about where they eat out or shop for food. The aim is to give recognition to businesses that meet the requirements of food hygiene law and provide an incentive to improve to those that do not. FSA research findings provide evidence that the scheme is working and driving up food hygiene standards.

In October 2016, the Food Hygiene Rating Act (NI) 2016 (the Act) made operation of the Scheme in NI statutory (prior to this the scheme had operated on a voluntary basis for both DC and Food Business Operator (FBO) participation since 2011). Food Hygiene Ratings (FHR) are determined by DCs following inspections carried out to verify food business compliance with food hygiene laws. Food businesses are given a rating from 0 (urgent improvement necessary) to 5 (very good) which reflects the food hygiene standards found at the time of inspection. More detailed information about the Scheme can be found on the [FSA's website](#).

With an increasing trend for consumers to purchase food online, a key provision within the Act is for online display of food business FHRs to further increase the accessibility of this information. We maintain that the significant increase in online food ordering in recent years has further boosted the need to extend the transparency about hygiene standards in food outlets, made available to consumers through FHRS, to the online food ordering market. We consider a statutory approach that makes it mandatory for businesses to display their rating online in a prominent position would strengthen the scheme. Making ratings more accessible in this way will provide a more integrated approach to ensuring the information is widely available and this would increase the scheme's potential to improve public health and help drive competition in the market and business growth more quickly and effectively.

Main proposals:

The introduction of the Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 will:

- Require an operator of a food business establishment, which supplies a consumer with food ordered via an online facility, to ensure that the facility displays an online icon (the form of the online FHR) representing the valid FHR in respect of that establishment.
- Prescribe the form of a valid Food Hygiene Rating icon.

Detailed Proposals

The [Food Hygiene Rating Act \(Northern Ireland\) 2016](#) received Royal Assent on 29 January 2016. The main provisions within the Act came into force on 7 October 2016 with the implementation of the [Food Hygiene Rating Regulations \(Northern Ireland\) 2016](#) and [associated Orders](#). The Act establishes a statutory food hygiene rating scheme in Northern Ireland. It requires DCs, following an inspection of a business, within scope of the scheme, to produce a food hygiene rating, using criteria as set out in FSA's statutory guidance for DCs - ([Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district councils](#)). Businesses that have been rated are provided with a sticker(s) showing their food hygiene rating which they are required to display in one or more designated positions at their establishment. In addition, the business is required to ensure that anyone who asks for verbal confirmation of a rating is given that information.

Secondary legislation was required to underpin the provisions of the Act, the majority of which came into effect on the 7th of October 2016. The last remaining provision of the Act which requires underpinning secondary legislation is the FHR online display requirement.

The Act includes a regulation making power regarding the publication of ratings online by food business operators who supply consumers with food that they order using an online facility. The requirement was introduced at the Committee stage of the Food Hygiene Rating Bill (precursor to the Act) at the request of the members¹.

How will consistency of operation of the Scheme by district councils be achieved?

¹ Northern Ireland Assembly. Committee for Health, Social Services and Public Safety. Official Report (HANSARD) Food Hygiene Rating Bill: Food Standards Agency NI. 26 November 2014

Consistency of implementation and operation of the statutory scheme by DCs in Northern Ireland is underpinned by FSA statutory guidance – [Implementation and operation of the statutory Food Hygiene Rating Scheme in Northern Ireland. Guidance for district councils](#) and reinforced by DC participation in annual FSA coordinated National Food Hygiene Rating Scheme Consistency Exercises across England, Wales and Northern Ireland. Due to the technical nature of the online display provision, the Scheme’s statutory guidance in NI will need to be amended to include a specific section regarding online display. The statutory guidance will be reviewed in consultation with DCs and the revised guidance will be issued in line with the commencement of the proposed Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023.

To support the proposed legislative requirements FSA are developing a range of digital icons which will take the form of an FHR and will align with style and branding of the FHR sticker visible at food business establishments. The new icons will be freely available on the FSA’s ratings website (www.food.gov.uk/ratings), will deliver improved digital imagery that supports the FHRS ‘brand’ and meet new accessibility requirements (making sure a website or mobile app can be used by as many people as possible). The aim is to provide food businesses flexibility in choosing designs that are more responsive to their own online platform. [Guidance](#) has also been produced by FSA to assist food businesses in adding the FSA FHRS icons to their online platform. This will enable businesses to make the most of this new resource and aid compliance with proposed legislative requirements.

Impacts

A Regulatory Impact Assessment (RIA) is provided (Annex B) which seeks to assess the impact of the proposed regulations. The RIA outlines the costs and benefits for different stakeholders associated with the introduction and operation of the statutory online display provision. We are seeking your feedback on this assessment and any further evidence you may have on the impacts – both the costs and the benefits - that we should take account of.

Engagement and Consultation Process

A [consultation on the draft Food Hygiene Rating \(Online Display\) Regulations \(NI\) 2017](#) was previously undertaken by the FSA from 21 April 2017 to 14 July 2017.

There were nine responses from Northern Ireland stakeholders. These consisted of five DCs, three businesses and one trade association. Although responses indicated broad support for the proposed regulations there were several comments from DCs relating to an underestimation of the costings allocated to DCs in the costs and benefits analysis. The FSA has updated its costs in line with this, and more recent, feedback in the impact assessment (Annex B). DCs also provided comment regarding the absence of a regulation prescribing the format of the Food Hygiene Rating online icon. The draft Food

Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 prescribes the form of the online icon but this is restricted to a description to futureproof the regulations in the context of a changing online environment. One respondent (business) highlighted their concerns regarding the proposed display position of the icon due to it potentially interfering with the customer user experience online. FSA's response at the time was that the legislation had been constructed to ensure the consumer had access to the Food Hygiene Rating information in a location where it can be readily identified and utilised in their decision-making process. This approach was informed by research focus groups which highlighted that they felt suspicion when ratings were placed out of immediate sight².

In view of the developments in the online food ordering market in recent years and the time that has passed since the last consultation, stakeholder views are now being sought on the Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 consultation and the associated Impact Assessment. The FSA would particularly welcome any evidence that stakeholders may be able to provide towards this and as such we have provided a list of questions below.

Once the public consultation period has ended, the FSA will analyse responses, consider any relevant amendments to the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 and within three months of the consultation ending aim to publish a summary of responses received on our website. Relevant and contributing stakeholders will be issued a link to this page when the responses are published.

You can find information on how we handle data provided in response to consultations in our [Consultations privacy notice](#).

Proposals for the draft Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023

This part of the consultation paper gives details of the proposed Regulations and asks questions about them. This information should be read in conjunction with the [Act](#), the [Food Hygiene Rating Regulations \(Northern Ireland\) 2016](#) and [associated Orders](#), and the draft Regulations (Annex A).

Regulation 1: Citation and commencement

This regulation states that the Regulations may be cited as The Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023. The Regulations are made pursuant to [Section 7\(3\)](#) of [the Act](#) which creates a power for the Department to make Regulations in relation to the requirement to display an establishment's food hygiene

² <https://www.food.gov.uk/research/research-projects/understanding-northern-ireland-consumer-needs-around-food-hygiene-rating-scheme-fhrs-information-in-online-retail-environments>

rating on an online food ordering facility. Section 10 of the Act created an offence for a failure to comply with the duty as set out in Section 7(3) of the Regulations. Section 11 of the Act creates a penalty for a breach of Section 10 in the form of a Fixed Penalty Notice. Both Section 10 and 11 of the Act have already been enacted, therefore the offences and penalty aspect of the 2023 Regulations are effective immediately following completion of the draft affirmative legislative process in the Northern Ireland Assembly. However, as with the introduction of the Act and implementing regulations, we propose that DCs adopt a graduated approach towards requiring businesses to comply with the proposed regulations. Due to the nature of this legislative process, it is difficult to specify the period of time required for its completion however based on best estimations it is anticipated that the draft affirmative process will be completed by April 2023.

Question 1:

Do you agree with the proposed commencement date which will be immediately following the legislative process (est. April 2023)? If you consider an alternative date appropriate, please specify this and provide a rationale.

Regulation 2: Interpretation

This regulation presents a number of definitions including a definition of:

- an “online facility” meaning a website, social media service, computer programme or software application that has a facility to enable an order for food to be placed online. This includes social media websites that provide a messaging service which enables consumers to place orders or provides a link to another facility which enables consumers to place an order.
- the “relevant period” refers to a timescale of 7 days by which a food business must display their valid food hygiene rating online. The 7 days begins with the day that the rating is first published on the FSA’s ratings website.
- the “relevant point” refers to the location where the food hygiene rating icon must be displayed. This must be “prior to” the point where food is selected and/or ordered, depending on whichever comes first in the ordering process.
- a “social media service” meaning an online service which promotes interactions between users and makes user-generated content available to other users.

Question 2:

Do you have any comments regarding the definition of an “online facility” which will bring certain businesses within scope of this requirement? If you think this definition has included or excluded certain business in the scheme that should or should not be, please provide details and a rationale of why they should be included or excluded.

Question 3:

Do you agree with the proposed specified relevant period of 7 days (beginning on the day the rating is published on www.food.gov.uk/ratings) for online display? If not, please state why and provide a rationale for an alternative period.

Question 4:

Do you have any comments regarding the definition of the “relevant point” which defines the location of where the food hygiene rating icon must be displayed?

Question 5:

Do you have any comments regarding the definition of a “social media service?”

Regulation 3: Food supplied to order via an online facility

Regulation 3 (2) (a) and (b) identifies and brings into scope the various operating models of online food ordering facility.

Regulation 3 (2) (a)(i) refers to facilities that are operated by, or on behalf of, a single operator, for example, a food business with a Facebook page which has a message facility which enables consumers to place an order, or a business with its own website through which consumers can place an order. The regulation is worded in such a way that it also includes operators who have more than one food business establishment, for example, franchised businesses.

Regulation 3 (2) (a)(ii) refers to facilities which host several businesses, for example, social media websites such as Facebook Marketplace, and food businesses who accept orders via third party facility such as Deliveroo, Just Eat or Uber Eats.

Regulation 3 (2) (b) refers to how online facilities within scope of the regulations will display the name of the business, an indication of the food the business supplies and the business’s valid food hygiene rating online icon.

Question 6:

- a) Does the wording in regulation 3 (2)(a) make it clear who the regulations apply to?
- b) Do you have any comments regarding regulation 3 (2)(a)?

Question 7:

- a) Does the wording in regulation 3 (2)(b) make it clear who the regulations apply to?
- b) Do you have any comments regarding regulation 3 (2)(b)?

Regulation 3 (3) refers to facilities that operate in respect of a chain of establishments such as a supermarket chain. Our understanding is that it is not always feasible for certain businesses to know exactly what establishments food will be supplied from at the point where food is ordered online (i.e. online shopping from a large chain supermarket which may be supplied by several establishments), therefore the draft regulations have made a separate provision for such businesses to display a readily seen and easily read hyperlink to a list of their establishments with the corresponding food hygiene rating.

Question 8:

Do you have any comments regarding regulation 3 (3)?

Regulation 4 prescribes the form of a valid food hygiene rating online icon to ensure that the displayed icon is keeping with the Scheme's branding and physical sticker that consumers see on display at food business establishments. In order to futureproof the Scheme in a changing online environment the description of the online icon is limited to a number of key branding parameters, it must include:

- The phrase "FOOD HYGIENE RATING" in capitals;
- The rating awarded to the food business establishment in question by the relevant district council in the form of a white numeral in a black circle on a Green Pantone 376 background; and
- A descriptor associated with the numerical rating as shown on the sticker issued to the food business e.g. 5 – Very good, 4 – good etc

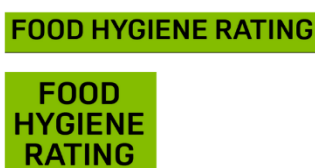
To support the proposed legislative requirements the FSA has developed a range of digital icons which will deliver improved digital imagery that support the FHRS brand and meet current accessibility requirements (see Figure 1, Figure 2 and Figure 3). To coincide with the introduction of the Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2023 a business will be able to access the javascript code for the new

digital rating icons for their business on the FSA’s ratings website. This is a one-off implementation as once the code is embedded in a food business’s website, the rating will automatically update if it changes. FSA have produced the freely available [new digital images and guidance](#) to assist businesses in displaying their ratings online however businesses will not be required to use the new digital icons and can use any icon provided it meets the requirements of Regulation 4.

Examples of draft digital Food Hygiene Rating online icons³

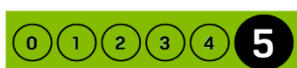
Displaying the phrase “FOOD HYGIENE RATING” in capital letters. Examples shown in Figure 1:

Figure 1.



Displaying the rating awarded to the food business establishment in question by the relevant district council in the form of a white numerical in a black circle on a Green Pantone 376 background, within the context of the rating scale. Example shown in Figure 2:

Figure 2.



Displaying the wording associated with the numerical rating as shown on the sticker issued to the food business establishment. E.g. 5 – Very good, 4 – Good etc. Examples shown in Figure 3. Example images of the new digital icons are outlined in Figure 4.

Figure 3.



³ Examples of draft digital Food Hygiene Rating online icons to be made available on the FSA’s ratings website (ratings.food.gov.uk) prior to the commencement of the Food Hygiene Rating (Online Display) Regulations (Northern Ireland) 2022.

Figure 4.



The location and manner of the icon is also prescribed in Regulation 4 insofar as it must be 'readily seen and easily read'. This wording is in keeping with the requirements for the location and manner of display of the physical sticker at food business outlets which is prescribed in the Food Hygiene Rating Regulations (Northern Ireland) 2016.

Question 9:

- a) Do you foresee issues with any of the proposed prescribed key branding parameters in Regulation 4? In particular, do you have any issues with the specification of the colour Green Pantone 376?
- b) Do you foresee any issues with the rating being within the rating scale (0 to 5), to provide some context to consumers, as shown in the FHR images in Figure 2 and Figure 4?
- c) Do you have any other comments on Regulation 4?

Responses

Responses are required by close 8 September 2022. Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Please send response to executive.support@food.gov.uk

For information on how the FSA handles your personal data, please refer to the Consultation privacy notice at <https://www.food.gov.uk/about-us/privacy-notice-consultations>'.

Further information

If you require a more accessible format of this document please send details to the named contact for responses to this consultation and your request will be considered.

This consultation has been prepared in accordance with [HM Government consultation principles](#).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours,

Una Campbell

Local Authority, Policy and Delivery