

## Healthyliving Award Schedule of Regulations



The Healthyliving Award is a Scottish Government funded initiative, delivered by Consumer Focus Scotland.

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### 1. Definitions

1.1. In this Schedule of Regulations (these 'Scheme Regulations') the following words will have the following meanings:-

'Scheme' – means the 'Healthyliving Award scheme', administered by Consumer Focus Scotland on behalf of the Scottish Government;

'Applicant' – means any Operator that applies for an Award in respect of a particular Establishment;

'Application' – means an application for an Award made in accordance with these Scheme Regulations;

'Awarding Body' – means the Healthyliving Award project team, managed by Consumer Focus Scotland;

'Establishment' – means the relevant food service outlet premises situated in Scotland that is named in either:-

- (i) an Application; or
- (ii) an Award;

'Operator' – means the living individual responsible for managing the day to day operations of the Establishment;

'Appeal' means the appeals procedure set out in Paragraphs 9.3 to 9.5 of these Scheme Regulations;

'Assessment Timeframe' – means the timetable that the Applicant is encouraged to work to, as determined by the Awarding Body from time to time;

'Award Conditions' – means the criteria that the Applicant must demonstrate that the Establishment meets in order to be eligible to be granted an Award, as determined by the Awarding Body from time to time;

‘Assessment’ – means the assessment of whether an Establishment meets the Award Conditions, carried out by the Awarding Body in accordance with the Award Conditions following any inspection of the Establishment;

‘Assessment Report’ means the written record of an inspection carried out by the Awarding Body or its agents in relation to any Assessment of the Establishment;

‘Award’ – means any award (which may be granted in one or more categories) granted to an Operator in respect of an Establishment by the Awarding Body, following completion of Assessment against the Award Conditions;

‘Award Duration’ – means the period of two (2) years from the date of notification to the Operator by the Awarding Body that an Establishment has been granted an Award unless an Award is withdrawn earlier in accordance with Paragraph 7 of these Scheme Regulations, or the Operator voluntarily surrenders the Award by giving notice in writing to the Awarding Body;

‘Review’ means the review procedure set out in Paragraph 9.1 and 9.2 of the Scheme Regulations;

‘Self Assessment Questionnaire’ means the list of self assessment questions provided by the Awarding Body to the Applicant in order to permit the Applicant to self-assess its compliance with the Award Conditions and potential eligibility for an Award;

‘Statement of Commitment’ means the statement by the Applicant to be displayed at the Establishment, in the form prescribed by the Awarding Body, outlining the Applicant’s commitment to implementing the Award Conditions in order to achieve an Award.

## 2. Registration

- 2.1. To apply for an Award, an Applicant must complete and submit a Registration Form to the Awarding Body.
- 2.2. A pre-requisite for being considered for an Award is that the Establishment must meet the food hygiene standards of the Awarding Body, as stipulated by the Awarding Body from time to time. The Applicant consents to the Awarding Body or its agents to obtain information relating to the food hygiene standards of the Establishment from any person, including but not limited to any relevant Local Authority Environmental Health Services Department.

- 2.3. Within a reasonable time after receiving the Registration Form the Awarding Body will notify the Applicant whether the Establishment meets the food hygiene requirements of the Awarding Body.
- 2.4. Applicants that meet the food hygiene requirements of the Awarding Body will receive a 'Guidance for Applicants' starter pack, which contains a Statement of Commitment. The Applicant must clearly display the Statement of Commitment in the Establishment until such time as:-
  - 2.4.1. the Operator has received an Award in relation to the Establishment;
  - 2.4.2. the Applicant voluntarily withdraws the Application;
  - 2.4.3. the Awarding Body believes that insufficient progress has been made in relation to the Application within the Assessment Timeframe.
- 2.5. The Applicant must complete and submit:-
  - 2.5.1. the Self Assessment Questionnaire; and
  - 2.5.2. the Application;to the Awarding Body in the format specified by the Awarding Body within the Assessment Timeframe.
- 2.6. An Award can only be granted in respect of one Establishment. Separate Applications for an Award must be made for each Establishment. Where an Operator is granted Awards in respect of more than one Establishment, these shall be construed as separate Awards and the Operator must comply with these Scheme Regulations and the Award Conditions in relation to each Establishment.

### 3. Assessment

- 3.1. After receiving an Application, the Awarding Body will carry out a full Assessment inspection at a time to be mutually agreed with the Applicant.
- 3.2. The Awarding Body shall carry out an Assessment following such inspection and shall provide a copy of its Assessment Report to the Applicant.
- 3.3. Should the Awarding Body conclude from the Assessment that an Establishment does not meet the Award Conditions, the Awarding Body shall provide guidance and advice as to what steps the Applicant

requires to take in order to meet the Award Conditions. Such guidance and advice will be included in the Assessment Report. To re-apply for an Award following a failed Assessment the Applicant should complete and submit a supplementary Self Assessment Questionnaire and a supplementary Application to the Awarding Body once the Operator has implemented such steps as are specified in the Assessment Report in respect of the Establishment.

- 3.4. An Applicant may only make two further Applications in respect of an Establishment following the first failed Assessment. If an Establishment fails to meet the Award Conditions on three occasions, no further Applications may be made in respect of that Establishment for a period of 18 months, (notwithstanding any change of Operator) unless the Awarding Body, in its absolute discretion, decides to review the Application and to permit the Applicant to make further Applications.

#### 4. Awards

- 4.1. An Award is subject to the Award Conditions, and the Applicant shall comply with them in full in the operation of the Establishment throughout the Award Duration.
- 4.2. The Awarding Body reserves the right to refuse to grant or withdraw an Award where any Establishment fails to meet the Award Conditions at any time.
- 4.3. If the Applicant is not satisfied with the Awarding Body's decision in relation to the Award, it may exercise the rights of Review and Appeal set out in Paragraph 9 of the Scheme Regulations below.
- 4.4. The Awarding Body or its agents may carry out inspections or re-Assessments of the Establishment during normal working hours and on reasonable notice to ensure that the Award Conditions continue to be met by the Establishment at all times during the period of the Award Duration.

#### 5. Promotional Materials

- 5.1. The Operator of an Establishment that has received an Award shall be entitled to display:-
  - 5.1.1. the Award Certificate; and
  - 5.1.2. the Award window sticker;in the Establishment for the period of the Award Duration.

5.2. As soon as practicable after the Award is granted the Operator must display:-

5.2.1. the Award Charter and:-

5.2.2. a selection of promotional material items provided by the Awarding Body in relation to the relevant Establishment:-

in the Establishment for the period of the Award Duration .

5.3. The Awarding Body will list all Establishments that have received an Award on the Healthyliving Award website [www.healthylivingaward.co.uk](http://www.healthylivingaward.co.uk) for the period of the Award Duration.

5.4. At the end of the period of the Award Duration the Operator must remove from the Establishment all promotional material relating to the Award, with the exception of the Award Certificate, which can remain on display.

5.5. If an Award is withdrawn by the Awarding Body, the Operator must remove from the Establishment all promotional material relating to the Award, including the Award Certificate.

5.6. At the end of the Award Duration, or if an Award is withdrawn at any time by the Awarding Body, the Operator must delete or cause to be deleted any reference to the Award which appears in any advertising or business material relating to the Establishment.

## 6. Change of Operator

6.1. Should the identity of the Operator of an Establishment change for any reason during the Award Duration, the Awarding Body reserves the right to withdraw the Award from the Establishment.

6.2. The owner of the Establishment must inform the Awarding Body of any change in the identity of the Operator of an Establishment in writing.

6.3. Any new Operator shall inform the Awarding Body in writing of their intent to ensure that the Establishment will continue to meet the Award Conditions for the Award Duration. The Awarding Body may, in its absolute discretion, require the new Operator to submit a new Registration Form and Application for a new Award in respect of any Establishment pursuant to Condition 2 and if the new Operator fails to do so within any timeframe stipulated by the Awarding Body, or its Application fails for any reason, the Awarding Body may withdraw the Award pending a new and successful Application.

6.4. An Award is non-transferable and applies only to the Establishment named on the Award Certificate.

7. Withdrawal of Award

7.1. At the discretion of the Awarding Body an Award can be withdrawn with immediate effect in the event that any of the following occur:-

7.1.1. the Operator fails to comply with the Scheme Regulations or Award Conditions within the Establishment; or

7.1.2. the Establishment is found to breach the food safety or hygiene requirements of the Awarding Body; or

7.1.3. the Awarding Body has received one or more complaints about the Establishment, which, after investigation of such complaint(s), the Awarding Body believes to be sufficiently serious to merit withdrawal of the Award; or

7.1.4. the Operator fails to co-operate with the Awarding Body in relation to any Assessment or any quality assurance processes, for example where entry to the Establishment for the purpose of inspecting the Establishment under Paragraph 4.4 has been refused or denied by the Operator and, in the reasonable opinion of the Awarding Body such refusal or denial of access is being used to frustrate the efforts of the Awarding Body to assess or re-assess the Establishment; or

7.1.5. there is a change in ownership or management of the Establishment, which, in the reasonable opinion of the Awarding Body results or is likely to result in a failure by the Establishment to comply with the Scheme Regulations or Award Conditions; or

7.1.6. any information given to the Awarding Body by or on behalf of the Operator for the purpose of the Award is found to be false or misleading, or if it is found that there has been a failure to disclose any material fact which would have had bearing on grant of an Award; or

7.1.7. the Operator displays, or allows to be displayed, any category of the Award at the Establishment other than the category or categories of the Award that has been granted in respect of the Establishment during the period of the Award Duration; or

7.1.8. the Awarding Body reasonably considers that the Operator has caused damage to the interests, reputation and/or standing of the Awarding Body and/or the reputation of the Scheme.

## 8. Effect of Withdrawal or Non-Renewal

Except as may be prohibited by any applicable law, the Awarding Body will not be held responsible for any direct or indirect financial losses of the Establishment arising out of or in connection with the withdrawal or non-renewal of an Award in accordance with these Scheme Regulations.

## 9. Right to Review and Appeal

9.1. The Applicant has the right to request a Review of any decision taken by the Awarding Body in relation to an Award by submitting a request for Review in writing stating appropriate grounds for Review within 14 days of being notified of the decision against which the Review is being made.

9.2. The Awarding Body will consider the request for Review and may, at its discretion, inspect and/or re-assess the Establishment.

9.3. If the Applicant is not satisfied with the outcome of any Review, the Applicant has the right to appeal the Review decision by submitting a written notice of appeal to the Appeals Board, Healthyiving Award, Consumer Focus Scotland, Royal Exchange House, 100 Queen Street, Glasgow, G1 3DN within 14 days of receipt of the Review decision.

9.4. The Appeals Board shall conduct the Appeal, including where appropriate, an inspection and/or a re-Assessment of the Establishment, and shall inform the Applicant of the outcome of the Appeal within 30 days of receipt of notice of Appeal.

9.5. The Appeals Board's decision is final. During the continuance of any Appeal the Awarding Body's original decision in relation to the Award will stand.

## 10. Confidentiality

10.1. The Awarding Body will use reasonable endeavours to keep confidential any information relating to an Applicant or Establishment that is:-

10.1.1. marked as confidential or where the Applicant reasonably requests that the Awarding Body keep such information confidential; and/or

10.1.2. the Awarding Body reasonably believes to be confidential;

10.2. The Applicant acknowledges that any information (whether the same may be confidential information or not) submitted to the Awarding Body may require to be disclosed by the Awarding Body in accordance with

its obligations under the Freedom of Information (Scotland) Act 2002 (the “Act”), save that the Awarding Body shall use its reasonable endeavours to inform the Operator or the owner of the relevant Establishment of any confidential information of the Operator or the owner of the Establishment it may be required to disclose under the Act in order to give the Operator or the owner of the Establishment the opportunity to make submissions to the Awarding Body in respect of why disclosure of such confidential information may be withheld under the Act, within the time periods set out in the Act.

- 10.3. The Awarding Body may in its absolute discretion alter, amend, replace or vary the Award Conditions and Scheme Regulations from time to time.