Food Law

Practice Guidance (Northern Ireland)

(Issued October 2016)

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Chapter 1 - Preface

This Practice Guidance is issued by the Food Standards Agency in Northern Ireland (FSA in NI) to assist competent authorities with the discharge of their statutory duty to enforce relevant food law in Northern Ireland. It is non-statutory, complements the statutory Food Law Code of Practice, and provides general advice on approach to enforcement of the law where its intention might be unclear.

Competent authorities should be aware that law relating to food is not necessarily made under the Food Safety (Northern Ireland) Order 1991[1]. Law that applies to food is also contained in and/or made for example under, the Diseases of Animals (Northern Ireland) Order 1981[2], the European Communities Act 1972, the Consumer Protection (Northern Ireland) Order 1987, the Trade Descriptions Act 1968, and directly under EC Regulations.

Competent authority officers authorised under Article 2(2) of the Food Safety Northern Ireland Order 1991 to carry out duties under that Order and regulations made under it are not automatically authorised to deal with food law under other legislation. Separate authorisation in respect of other legislation is also required e.g. legislation made under the European Communities Act 1972, including the Food Hygiene Regulations (Northern Ireland) 2006[3] and the Official Feed and Food Controls Regulations (Northern Ireland) 2009, under which officers may be generally or specially authorised.

This guidance updates all previous guidance issued with the Food Law Code of Practice (Northern Ireland) (the Code).

Material in the previous guidance has been reviewed and updated.

This Practice Guidance also takes account of recommendations made by the European Commission's Directorate on Health and Food Audit Analysis following their inspections of the UK's food control services.

Competent authorities should be aware that Article 8(5) of Regulation (EC) No 852/2004 stipulates that guides to good practice (known in the UK as "Industry Guides to Good Hygiene Practice") drawn up under Directive 93/43/EEC shall continue to apply after the entry into force of this Regulation, provided that they are compatible with its objectives. The general spirit of the Regulation anticipates that guides to good practice be followed.

Attention is drawn to the guidance on the scope and conduct of official checks on establishments subject to approval under Regulation (EC) No 853/2004.

References to legislation in this guidance are to the most recent version incorporating amendments unless otherwise specified.

[1] SI 1991 No. 762
[2] SI 1981 No. 1115
[3] S.R. 2006 No. 3

The guidance contained in this document is given in good faith, and accords with the FSA's understanding of relevant legal requirements.

It should not, however, be taken as an authoritative statement or interpretation of the law as only the Courts have that power. Any examples given are illustrative and not comprehensive.

Competent authorities are strongly advised to consult their own legal departments when considering formal enforcement action.

Chapter 2 – Communications

2.1. Managing incidents and alerts

This section provides supplementary information concerning the management of incidents and alerts. All other relevant information on managing incidents and alerts is found at section 2.3 of the Code.

A schematic representation of the process that competent authorities should follow when dealing with a food incident is found at Annex 5. This form is also available online at www.food.gov.uk/enforcement/enforcework/report.

2.1.1 Information received locally which may indicate a wider problem

Competent authorities are responsible for investigating and dealing with food that fails to comply with food safety requirements in their areas. Competent authorities may identify potential problems in a number of ways such as:

- Following microbiological examination or chemical analysis of samples submitted to a Food Examiner or Public Analyst;
- As a result of complaints from members of the public, either directly or through a third party, for example, the police, citizens' advice bureaux, etc.
- Through notifications from a manufacturing company, trade association, wholesaler, retailer, importer or caterer;
- Information from enforcement agencies in other countries;
- As a result of a notification from a GP of one or more cases of communicable diseases, including food borne illness, or from the Public Health Agency (PHA).

The illustrations above are not intended to be comprehensive.

Following consultation with the Food Examiner and/or Public Analyst, samples of relevant foods or ingredients and appropriate samples (vomit, stool) from any persons affected should be obtained where possible and sent for examination/analysis. These items may be critically important in identifying the cause of the illness and may even save lives.

2.1.2 Guidance on food complaints

As a general rule anybody who may be prosecuted as a result of a consumer complaint should be notified that the complaint has been made as soon as reasonably practicable.

The competent authority should notify anybody who has an interest as soon as preliminary investigations indicate that a complaint may be well founded. Other potential defendants should be notified as they emerge.

Notification may be by any means, but should be confirmed in writing as soon as reasonably practicable. The written notification should include the date and nature of the complaint.

There might be exceptional circumstances in which notification might impede an investigation. In such circumstances notification should take place once it would no longer prejudice further investigation.

2.1.3 Involvement of other competent authorities

If an investigation of a complaint brings to light a problem or potential problem outside the area of the enforcing competent authority, the other competent authorities affected should be informed as soon as possible and, if appropriate, in accordance with the Home Authority Principle and the Primary Authority Scheme.

2.1.4 Scientific investigation of food complaint samples

The authorised officer will need to consider whether food that is the subject of a complaint needs to undergo any scientific investigation. If the authorised officer is in any doubt, advice should be sought from the Public Analyst and/or Food Examiner who will be able to advise on the form of scientific investigation which may be appropriate, particularly where a combination of analysis and examination is required.

If the authorised officer considers that a food complaint sample requires analysis, it should be sent to the Public Analyst. If it requires microbiological examination, it should be sent to a Food Examiner. If any other investigation is necessary, the food should be sent to a suitably qualified expert who is able to give evidence in the event of a prosecution.

The subject of a complaint or other interested party might ask for a food complaint sample to be made available to help with an internal investigation. The competent authority should try to comply with any reasonable request provided that it does not compromise the proper storage, analysis, examination or evidential value of the sample.

2.2 Food fraud and food crime

Food fraud is committed when food is deliberately placed on the market, for financial gain, with the intention of deceiving the consumer. Types of fraud include the sale of food which is unfit and potentially harmful, and the deliberate misdescription of food. Fraud may also be linked to the sale of meat from animals that have been stolen and/or illegally slaughtered, as well as wild game animals like deer that may have been poached.

The FSA defines food fraud as a dishonest act or omission, relating to the production or supply of food, which is intended for personal gain or to cause loss to another party.
Food fraud is a crime.

References to “food crime” are used when the scale and potential impact of criminal activity is considered to be serious. This might mean that the criminal activity has cross-regional, national or international reach, that there is significant risk to public safety, or that there is a substantial financial loss to consumers or businesses or the public interest. Clearly the full extent and impact of food criminality may not be immediately apparent when information is first received. The FSA’s National Food Crime Unit (NFCU) works with partners to protect

consumers from serious criminal activity that impacts on the safety or authenticity of the food and drink they consume.

2.2.1 Reporting suspicions

The NFCU maintains an intelligence database which is used to store and interrogate all of the information shared with the NFCU in relation to food criminality.

Intelligence is received from a variety of sources, including consumers, industry, government departments and other enforcement bodies, but particularly from local authorities. It is important that competent authorities share with the NFCU all of the intelligence they become aware of in relation to known or suspected cases of food fraud, including historic cases. The NFCU also welcomes requests for database searches from competent authorities, as it might already hold an important piece of information that might be relevant to the requesting competent authority.

Suspicions or information about food fraud or food crime in Northern Ireland should be reported to FSA in NI by emailing incidents.ni@foodstandards.gsi.gov.uk referencing 'for the attention of the Food Fraud Liaison Officer', or by contacting FSA on 028 9041 7700 and asking to speak with the Food Fraud Liaison Officer. Requests for searches of the intelligence database should also be submitted through these avenues.

2.2.2 Major Investigations and FSA support

In relation to food fraud criminality, competent authorities will be investigating fraud type issues, for example, misleading claims or substitution of ingredients under food legislative provisions. It should be noted however that fraud offences can also be investigated under the Fraud Act 2006. Investigations involving offences under The Fraud Act 2006 are to be referred to the PSNI for them to investigate.

The resources required may impact on a competent authority's ability to carry out its planned intervention programme. If such circumstances arise, it is important that the competent authority contacts FSA as soon as is practicable. The FSA and the competent authority will then be able to discuss options, including whether support might be available, or whether the competent authority's planned intervention programme must be re-prioritised to ensure that inspections of higher-risk establishments are maintained.

2.2.3 The FSA fighting fund

The FSA has a process which sets out criteria for competent authorities who wish to apply for FSA support for their enforcement work, and for the FSA to consider such applications. Decisions on the nature and extent of financial support from the FSA will be made on a case by case basis and will take account of the limited FSA resources available. Details of how to apply and the criteria against which applications are considered can be found on the FSA's website at http://www.food.gov.uk/enforcement/the-national-food-crime-unit/foodfraud/fightingfund

2.3 Communication between competent authorities

2.3.1 Information supplied to the FSA

All relevant material on information to be supplied to the FSA is contained in section 2.4 of the Code.

2.3.1.1 Approved establishment details

In addition to the information contained in the Code and this Practice Guidance (section 3.3), the competent authority should provide the FSA in NI (at Executive.Support@foodstandards.gsi.gov.uk) with the name and address of the food business operator's (FBO), details of establishment to include name and address, approval activities and establishment approval number. This information will then be used to update the lists of approved food establishments published on the FSA's website.

2.3.2 Liaison with other Member States

2.3.2.1 Introduction

This section deals with the administration of and the approach to the European liaison arrangements that are to be operated by the FSA from 1 April 2006. Detailed provisions on administrative assistance and co-operation with other Member States are set out in Articles 34 to 38 of Regulation (EC) No 882/2004.

2.3.2.2 The role of the FSA

The FSA is responsible for ensuring that official controls in the UK are carried out in accordance with Regulation (EC) No 882/2004.

The FSA is the designated liaison body for the purposes of Article 35 of Regulation (EC) No 882/2004 and, as such, is responsible for assisting and co-ordinating communication between competent authorities and the transmission and reception of requests for assistance. However, this does not preclude direct contacts, exchange of information or co-operation between the staff of competent authorities in different Member States.

In respect of requests for assistance from other Member States, the FSA is responsible for ensuring that all the necessary information concerning compliance, or otherwise, with UK food law is provided without delay, except for information which cannot be released because it is the subject of legal proceedings.

2.3.2.3 The role of competent authorities

The "European Principle of the Home Authority" adopted by the European Forum of Food Law Enforcement Practitioners (FLEP) forms the basis for the arrangements for information exchanges involving the UK. The role of the competent authority in the provision of administrative assistance will depend on whether it is acting as a "Home Authority", "Enforcing Authority", "Originating Authority" or "Primary Authority". These terms are defined as follows:

"Home Authority" means the food law enforcement authority in the Member State which has geographical responsibility for the area in which the responsible decision-making base of the food enterprise is located (e.g. this may be the factory, the head office or address on the product label). In this context the Home Authority may be a Primary Authority. Where a Primary Authority partnership exists, this is the authority the other Member States should be liaising with. Member States may not be aware of the Primary Authority scheme and the partnerships in place. Contact may therefore be made directly to a Home Authority where Member States have enforcement queries. In these cases the Home Authority should pass any information to the Primary Authority, advising the Member State that this has been done;

"Enforcing Authority" means the food law enforcement authority in a Member State which is investigating infringements or queries relating to food products received from other Member States;

"Originating Authority" means the food law enforcement authority in a Member State in whose area a decentralised enterprise produces or packages goods or services. The Originating Authority has special responsibility for ensuring that goods and services produced within its area conform to legal requirements. The functions of the Home Authority and Originating Authority may be combined in some areas; and

"Primary Authority" means an authority which has entered into a formal agreement in relation to specified legislative controls, to be the principal source of advice on compliance with these requirements and to coordinate enforcement action.

The Better Regulation Delivery Office (BRDO) administers the Primary Authority scheme for England and Wales (its remit does not extend to Northern Ireland), including approving and registering all Primary Authority partnerships. Where a Primary Authority is registered, any other competent authority (known as an 'enforcing authority' for the purposes of the scheme) proposing to take enforcement action against a food business within the scheme must contact the Primary Authority first.

In Northern Ireland and Scotland the Primary Authority scheme does not extend to the devolved functions of food or feed law enforcement. Although the Primary Authority Scheme does not extend to Northern Ireland on a statutory basis, competent authorities in Northern Ireland have agreed to apply the principles of the scheme when discharging their food law functions. See section 6.1.6 of this Practice Guidance for more information.

2.3.2.4 Enquiries from Member States

Requests for information or administrative assistance received by the FSA will be passed to the appropriate Primary/Home Authority for action. The subsequent response may be made either via the FSA or direct to the Enforcing Authority in the Member State concerned, if appropriate.

2.3.2.5 Documentation

In accordance with Article 36(2) of Regulation (EC) No 882/2004, competent authorities must ensure that documents are forwarded without undue delay. Article 36(2) permits documents to be transmitted in their original form, or for copies to be provided.

2.3.2.6 Disclosure of information

Article 7 of Regulation (EC) No 882/2004 sets out the general requirements in respect of transparency and confidentiality. Article 34 stipulates that Articles 35 – 40 of that Regulation, which deal with administrative assistance and co-operation between Member States "shall not prejudice national rules applicable to the release of documents which are the object of, or are related to, court proceedings, or rules aimed at the protection of natural or legal persons' commercial interests".

Competent authorities should therefore ensure that any release of information is compatible with national legislation including that relating to Data Protection and Freedom of Information (see also 3.4 of this Practice Guidance).

2.3.2.7 Use of overseas evidence in criminal proceedings

Overseas evidence may only be used in criminal proceedings with the prior consent of the sending Member State. Where a Member State is party to an international agreement or convention on mutual assistance, the procedures laid down in such instruments must be followed.

EU Member States are parties to The European Convention on Mutual Assistance in Criminal Matters. This Convention requires that requests for information to be used as evidence in criminal proceedings be transmitted through the relevant authority.

The relevant authority in the UK is the "United Kingdom Central Authority", which is part of the International Criminality Unit of the Home Office. The Central Authority liaises with the judicial authorities in Scotland.

All requests via the Central Authority must be notified to the FSA so that it can fulfil its role as the UK single liaison body.

The UK Central Authority address is:

UK Central Authority
International Criminality Unit
Home Office
3rd Floor, Seacole Building,
2 Marsham Street,
London
SW1P 4DF
Tel: 0207 035 4040
Fax: 0 207 035 6985

Competent authorities should ensure that any overseas evidence known, at the time of the request, to be required for use in criminal proceedings is obtained from the Member State by means of a letter of request under Section 3 of the Criminal Justice (International Co-operation) Act 1990.

Competent authorities are not “designated prosecuting authorities” for the purposes of the above-mentioned Act and letters of request must therefore be sought from a Justice of the Peace or a Judge.

Where competent authorities wish to use information that has already been supplied by another Member State, a letter of request should similarly be sought from a Justice of the Peace or a Judge.

The request must formally seek the consent of the Home Authority (or equivalent) in the Member State concerned to use the information in the proceedings.

2.3.2.8 Non-compliance with legislation

When, during the exchange of information, it is apparent that a food business operator has not complied with EU rules or national legislation, the Member State where the alleged non-compliance has taken place is required to report to the other Member State on action taken and steps to prevent a recurrence. Either Member State may then decide whether the report should also be copied to the European Commission. Competent authorities should copy all reports to the FSA. The FSA will decide whether the Commission should be notified.

Chapter 3 – Administration

3.1 Requirements to deliver official controls

3.1.1 Conflicts of interest

All relevant information on conflicts of interest is contained in the Code.

3.1.2 Powers of entry

3.1.2.1 Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE): Code of Practice B

PACE Codes of Practice including PACE Code of Practice B can be found on the Home Office Police website at the following address:
https://www.justice-ni.gov.uk/articles/pace-codes-practice

3.1.3 Crown and police establishments

This section deals with the approach to enforcement in Crown establishments and in establishments that are occupied by the police; it does not apply to establishments that are occupied by the Health and Social Care Board or Health and Social Care Trusts since these are not Crown establishments The Code of Practice contains statutory guidance, which competent authorities must follow, regarding the enforcement of food law in such establishments.

3.1.3.1 Scope of application – The Food Safety (Northern Ireland) Order 1991

The scope of the Food Safety (Northern Ireland) Order 1991 extends to police establishments, most Crown establishments (subject to the exemptions detailed below), and to people in the public service of the Crown. Authorised officers therefore have the power to enter police establishments and most Crown establishments to investigate complaints and to carry out interventions in the same way as they do in any other food business.

The provisions of the Food Safety (Northern Ireland) Order 1991 do not, however, apply to Her Majesty the Queen or His Royal Highness the Prince of Wales personally, nor to establishments occupied by them in their private capacities such as their private residences at Hillsborough Castle.

3.1.3.2 Enforcement - Food Safety (Northern Ireland) Order 1991 Liability

Article 49 (2) of the Food Safety (Northern Ireland) Order 1991 says that the Crown is not criminally liable if it contravenes the Order or Regulations or Orders made

under it. This means that the Crown cannot be prosecuted if it contravenes the Order etc.

A competent authority may, however, apply, in the High Court, for a declaration that any act or omission of the Crown, which amounts to a contravention of the Food Safety (Northern Ireland) Order 1991 or regulations or orders made under the Order, is unlawful.

The identity of the proprietor of the food business concerned should be carefully considered if the question of action under food law arises.

Contract caterers operating on Crown establishments may be prosecuted as they are not subject to this exemption. Careful consideration also needs to be given to the question as to whose failure gave rise to the contravention.

Although contract caterers operating on Crown establishments may be prosecuted, structural failures might be the responsibility of the Crown itself.

Any application under Article 49 (2) of the Food Safety (Northern Ireland) Order 1991 should be addressed to the relevant Head of Department and sent to the Crown Solicitor for NI, Royal Courts of Justice, Chichester Street, Belfast, BT1 3JY.

In the case of a non-Departmental Government body the application should be addressed to the principal officer and copied to the Crown solicitor.

3.1.3.3 Position of individual civil or government servants

Although the Crown is immune from prosecution under the Food Safety (Northern Ireland) Order 1991, individuals in the public service of the Crown may still be prosecuted in the same way as any other person. Failure to comply with the provisions of food law might therefore expose an individual civil or government servant to the risk of prosecution.

Competent authorities should not consider prosecuting an individual civil or government servant as a substitute for action against the Crown. Such action should only be considered if the circumstances would have resulted in the prosecution of an individual in the case of any other business.

3.1.3.4 Statutory notices

The service of a statutory notice does not itself make the recipient criminally liable. Such notices may therefore be served on the Crown where it is the FBO concerned.

Emergency Prohibition Notices (EPNs) should be served on the appropriate Head of Department and copied to the solicitor as described above.

In order that such notices may be acted upon without undue delay, they should also be copied to the person in charge of the establishments concerned, e.g. the Governor of a prison, or the Commanding Officer of a military establishment.

Competent authorities should apply in the normal way to a court of summary jurisdiction for an emergency prohibition order on the whole or part of Crown establishments, or to prevent the operation of a process or treatment, or use of a piece of equipment in a business run by the Crown.

It should be remembered, however, that although a court may impose an emergency prohibition order, it cannot impose a prohibition order, since a prohibition order may only be made when there has been a conviction under relevant food law.

The FBO in Crown establishments may appeal in the normal way to a court against an improvement notice and may also appear to argue against the imposition of an emergency prohibition order.

The Crown may also appeal against a refusal to issue a certificate lifting an emergency prohibition order.

A competent authority may apply for a declaration in the High Court if a business run by the Crown fails to comply with an emergency prohibition order.

3.1.3.5 Scope of application – The Food Hygiene Regulations (Northern Ireland) 2006

The scope of the Food Hygiene Regulations (Northern Ireland) 2006 extends to police establishments, Crown establishments and to people in the public service of the Crown. Authorised officers therefore have power to enter police establishments and Crown establishments to investigate complaints and to carry out interventions in the same way as they do in any other food business.

3.1.3.6 Enforcement – The Food Hygiene Regulations (Northern Ireland) 2006

Unlike the Food Safety (Northern Ireland) Order 1991, the Food Hygiene Regulations (Northern Ireland) 2006 do not exempt the Crown if it contravenes the Regulations. This means that the Crown may be prosecuted if it contravenes the Regulations. However, competent authorities should use discretion when exercising their powers in respect of Crown establishments and, in practice, should adopt the same approach to the enforcement of the Food Hygiene Regulations (Northern Ireland) 2006 in respect of Crown establishments as they do in respect of the Food Safety (Northern Ireland) Order 1991.

3.1.3.7 Conduct and frequency of interventions

Food businesses in Crown and police establishments, other than temporary or field catering facilities at military training camps, should be included in the competent authority's planned intervention programme in accordance with the Code.

Permanent kitchens serving military training camps should be subjected to interventions at times they are in use, within the bounds of security restrictions that will be dependent on the organisation using the facility at the time.

Mobile field kitchens should not be subject to interventions by the competent authority.

3.1.3.8 Photographs

Before taking any photographs, making sketches or taking measurements on Group 3 establishments (see section 3.1.2.8 of the Code), the authorised officer should discuss such matters with the escorting officer[4] and take account of any requirements. Unless absolutely necessary to illustrate a possible contravention of the legislation, photographs on Group 3 establishments should not include individuals. It should not be possible to identify any individual from any photograph taken within a prison or remand establishment.

3.1.3.9 Liaison with the Home Authority/ the Primary Authority/ FSA in NI

Competent authorities should report any difficulties encountered in the enforcement of food law in establishments to which this chapter applies to the appropriate Home Authority or Primary Authority, or, if there is no Home Authority or Primary Authority to FSA in NI.

3.2 Registration of food establishments

3.2.1 What is a food establishment?

Under Article 2(c) of Regulation (EC) No 852/2004, 'establishment' means any unit of a food business. A 'food business' as defined in Regulation (EC) No 178/2002 on general food law means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing and distribution of food. EU rules apply only to such 'undertakings', which involve a certain degree of organisation and a certain continuity of food activities.

Registration is not required for establishments undertaking the following food activities:

- Occasional handling of food: the European Commission 'guidance document on the implementation of certain provisions of Regulation (EC) No 852/2004 on the hygiene of foodstuffs'[5] states that "somebody who handles, prepares, stores or serves food occasionally and on a small scale cannot be considered as an "undertaking" (i.e. those operations deemed not to have a "certain degree of organisation" and "a continuity of activities") and is therefore not subject to the EU hygiene legislation[6]." The FSA's guidance on the application of EU, food hygiene law to community and charity food provision[7], has been published to provide clarity both for competent authorities and those running

[4] The person/member of staff who accompanies the authorised officer during an inspection at a Group 3 premises who ensures visitor control procedures are fulfilled.
[5] http://ec.europa.eu/food/safety/docs/biosafety_food-hygiene_legis_guidance_reg-2004-852_en.pdf
[6] However, such establishments remain subject to the provisions of The Food Safety Order (Northern Ireland) 1991 and the general requirements of Regulation (EC) No.178/2002
[7] https://www.food.gov.uk/sites/default/files/hall-provision-guidance.pdf

community and charity operations on which charity and community food provision might need registration;

- Primary production for private domestic use or the domestic preparation, handling or storage of food for private domestic consumption;

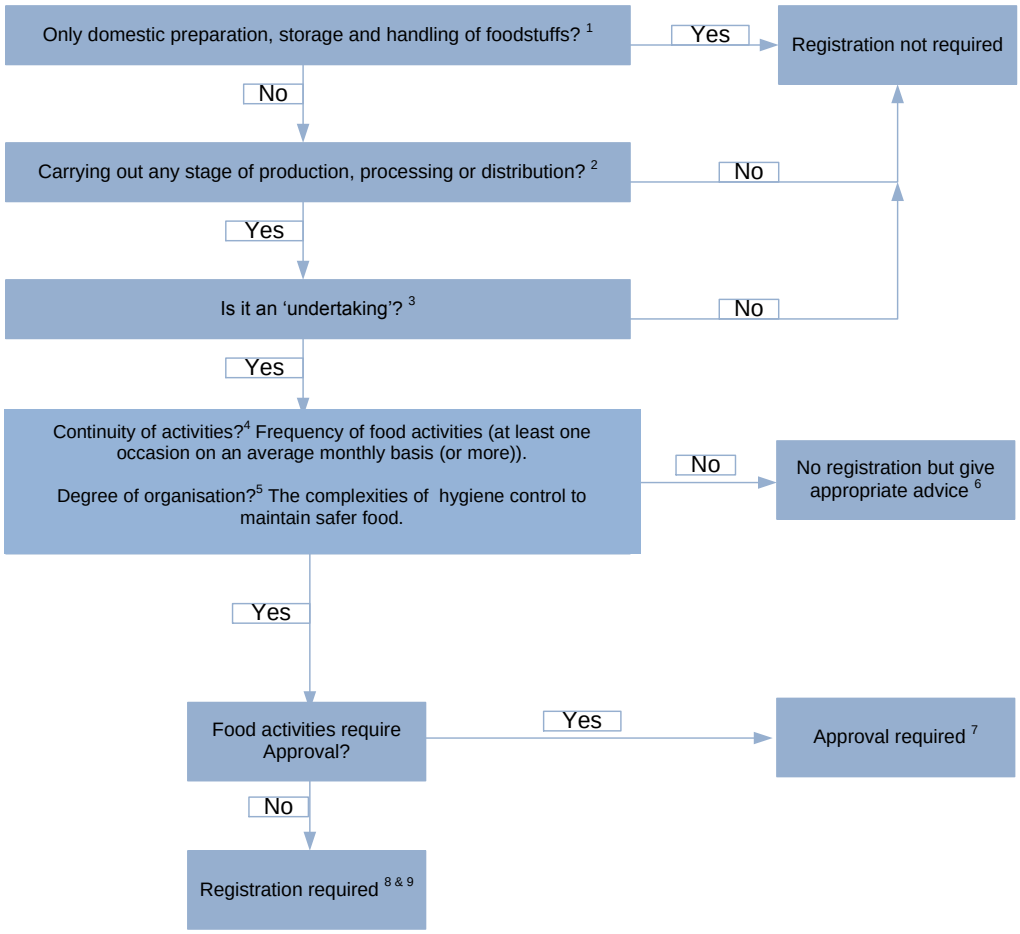
- Small quantities of primary products supplied directly by the producer to the final consumer or to local retail establishments directly supplying the final consumer;

- Food establishments handling products of animal origin that are subject to approval under Regulation (EC) No 853/2004[8]; and

- Collection centres and tanneries which fall within the definition of food business only because they handle raw material for the production of gelatine or collagen.

Fig 1 provides a consideration tree to help determine which food activities require registration with the competent authority.

[8]Link to guidance on the approval of food establishments:
http://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/approvalsguidance.pdf



Explanatory notes:

1. Community Regulations do not apply to primary production for private domestic use or to the domestic preparation, handling or storage of food for private domestic consumption (Regulation (EC) No 178/2002, Chapter 1, Article 1.3 and Regulation (EC) No 852/2004, Article 1.2(b)).

2. This means any stage, including import, from and including the primary production of a food, up to and including its storage, transport, sale or supply to the final consumer (Regulation (EC) No 178/2002, Chapter 1, Article 3.16).

3. 'Undertaking' is not defined in food law but the EC commission document suggests that an undertaking is not somebody who handles, prepares, stores or serves food occasionally and on a small scale.

4. Continuity of activities (Recital 9, Regulation (EC) No. 852/2004) – the FSA suggest that the provision of food on at least one occasion on an average monthly basis is deemed to have a certain continuity of activities. However if the food supply is less frequent guidance users should still weigh this against the provisions degree of organisation.

5. Degree of organisation (Recital 9, Regulation (EC) No. 852/2004) – the FSA's view is that the following issues should be considered when deciding how much any given operation can be said to be organised: foodstuffs and risk, and nature of event. This is set out in more detail in the FSA's Guidance on the application of EU food hygiene law to community and charity food provision.

6. Competent authorities should advise that if food operations change, they should contact the relevant competent authority to check whether registration is subsequently required.

7. Approval guidance available at:
https://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/approvalsguidance.pdf

8. Template registration form available in the Code of Practice and online registration at:
https://www.gov.uk/food-business-registration.

3.2.2 Who is a food business operator?

Regulation (EC) No 178/2002 defines a food business operator (FBO) as the natural or legal persons responsible for ensuring the requirements of food law are met within the food business under their control.

A **natural person** is a human being, as opposed to an artificial, legal or juristic person, i.e. an organisation that the law treats for some purposes as if it were a person distinct from its members or owner.

A **legal person** has a legal name and has rights, protections, privileges, responsibilities, and liabilities under law, just as natural persons (humans) do. Legal personality allows one or more natural persons to act as a single entity (such as a limited company - considered under law separately from its individual members or shareholders) for legal purposes.

When considering who to register as the FBO under Article 6(2) of Regulation (EC) No 852/2004, competent authorities should request that the FBO identifies themselves, including the name of the operator in the case of legal persons, address and type of business entity on the registration form.

The types of business entitled are defined according to the legal system for an individual country but may include incorporated bodies, partnerships, sole traders and other specialised types of organisation.

3.2.3 Registration procedure

3.2.3.1 Requirement to register a food establishment under Article 6(2) of Regulation (EC) No 852/2004

FBOs should be encouraged to register their establishment 28 days before they begin operating. Competent authorities are encouraged to make information available to businesses on the requirements relating to registration.

There may be situations when an FBO registers as a food business in advance of 28 days before they intend to start operations. The FSA's view is that in such circumstances, competent authorities may find it useful to avoid inputting registrations onto their databases until they have confirmation that those businesses have started or have an imminent date to start operations. This could mean keeping a temporary record of such businesses with some periodic checks to verify if they have commenced food operations.

3.2.3.2 Change of ownership following registration

Competent authorities may come across changes of ownership during interventions at food establishments. The FBO by virtue of Article 6(2) of Regulation (EC) No 852/2004 is required to notify the competent authority of any significant changes, which includes change of ownership. Not complying with this requirement may be an offence under the Food Hygiene Regulations (Northern Ireland) 2006.

Table 1 outlines circumstances in which changes of ownership have been identified and therefore a new registration form should be completed by the FBO.

Table 1 – Change of FBO scenarios – when a new registration is required.

Existing FBO (as stated on food establishment registration document	Change of FBO (assuming no other changes to the business)	Registration status	Comments	New registration required?
Sole trader, partnership or incorporated company (e.g. Ltd, PLC, etc.)	Different sole trader, partnership or incorporated company takes over ownership.	Expires	Discontinuation of operator/s	Yes
Sole trader or Partnership	Company incorporated (and registered), sole trader or partner/s become Director/s.	Expires	Creation of a company changes the legal matrix of FBOs	Yes
Sole trader	Creation of a partnership where the sole traders is one of the partners.	Retained*	Continuation of operator	No
Partnership	Dissolved and one of the partners takes over sole ownership and becomes a sole trader.	Retained*	Continuation of operator	No
Partnership	New partner joins or a partner leaves (also refer to dissolved partnerships) as long as there is a continuation of at least one partner.	Retained*	Continuation of operator	No
Incorporated company	Company goes into administration and is being run as a going concern by the administrators.	Retained*	Discontinuation of operator/s	No
Incorporated company in administration	Company taken over from administrators by a different sole trader, partnership or incorporated company.	Expires	Discontinuation of operator/s, registration expires	Yes
Sole trader, Partnership or Incorporated Company	Bankruptcy, insolvency or in liquidation (wound up/dissolved).	Expires		Not applicable

*Although the registration status is 'retained', the FBO should notify the change to the competent authority, and a record of this noted.

Other business types such as cooperatives, registered charities and other specialised types of organisation (e.g. establishments under the control of a board/committee) should be treated on a case-by-case basis to identify the natural person or legal person required to be compliant with food law within the food business under their control.

3.2.4 Moveable establishments

3.2.4.1 Trains and coaches

Individual trains and coaches are not subject to separate registration but the FBO should register any other establishment or static unit undertaking activities of the food business. Registering competent authorities for the main establishment should inspect a representative number of train cars providing foodstuffs (such as buffets and dining cars) where the food service units across the stock are of similar design and operate to common food safety management procedures. Where main establishments and train victualing operations are co-located the registering competent authority itself may undertake these inspections.

3.2.4.2 Mobile food establishments

A mobile food establishment is required to register with the competent authority (i.e. the registering competent authority) in which it is ordinarily kept overnight (e.g. this could be at the private residence house of the owner of a van).

Market stalls:

See the Food Law Code of Practice (Northern Ireland) 2016, section 3.2.5.4.

Where a market stall is considered an extension of an existing food business i.e. an additional activity of the existing food business, separate registration of the market stall may not be necessary.

It is the responsibility of the registering competent authority to ascertain and assess the full extent of a food business's activities which fall under registration when undertaking interventions and determination of their intervention rating.

This may require liaison with the inspecting competent authority where these activities (i.e. operation of market stall) take place.

Following registration of a food business establishment, the FBO should not be asked to register the same food business with any other competent authority in whose area it trades.

This does not limit other inspecting competent authorities carrying out official controls of the activities undertaken by a food business operator of establishments such as, mobile food businesses/stalls etc. that operate in their area. However, inspecting competent authorities should contact the registering competent authority before any intervention to determine whether an inspection is due and if so, the type of intervention that may be appropriate in the circumstances. The registering

competent authority has the discretion to decide whether it needs to undertake any specific intervention, e.g. in circumstances, where full inspection has been carried out by the inspecting competent authority in whose area the mobile food business/stall operates. To ensure consistency and to avoid 'over inspection', the inspecting competent authority must provide the registering competent authority with information relating to interventions undertaken of mobiles operating their area.

Details of interventions and enforcement action should be passed to the registering competent authority as soon as possible, following an intervention. The registering competent authority should take account of information supplied in determining the Intervention Rating, and when this should be revised in accordance with section 5.6 of the Code and recorded on the competent authority's database of food establishments.

3.2.4.3 Sources of information on mobile food establishments

The Nationwide Caterers Association (NCASS) have developed NCASS Connect, an online database that allows FBOs to store documents such as registration documents, staff training records and HACCP-based procedures for the establishment. The database includes records for a range of catering establishments and mobile food businesses.
NCASS Connect: http://www.ncass.org.uk/eho-area/home

Free access to this service is available to competent authorities to view uploaded documents by NCASS members as well as any non-NCASS members using the service. The database may also help in obtaining information on a mobile trader scheduled to attend a local event and identify any that have not registered. NCASS currently have a Primary Authority Partnership with Cherwell District Council. See: https://primaryauthorityregister.info/par/index.php/home for further details, including details of any inspections plans.

3.2.4.4 Food hygiene rating scheme mobile trader's resources

Template letters and other materials are available to help local authorities apply the guidance on mobile traders that is set out in the Food Hygiene Rating Scheme (FHRS) 'Brand Standard'. The materials include a template letter and form for an inspecting authority to forward intervention.
http://www.food.gov.uk/enforcement/enforcework/hygienescoresresources/fhrs-mobile-traders

3.2.5 Other types of establishments

3.2.5.1 Food businesses operating out of domestic establishments such as home caterers and B&Bs

The domestic preparation, handling or storage of food which is to be placed on the market (whether free of charge or not) and which meets the definition of a 'food business', is subject to registration requirements and should be registered with the competent authority where the undertaking takes place.

3.2.5.2 Domiciliary care / assisted living care

Food business registration will apply where it is considered that the care service operations fall within the legal definition of a 'food business'. If registration is required then the establishment itself should be registered even if some operations carried out by the establishment do not need to form part of the registration. For more information refer to the FSA's guidance on "The application of food hygiene legislation to domiciliary care, assisted living and care homes'.[9]

3.2.5.3 Food banks

Food banks run by community volunteers, if they meet the definition of a food business, will require registration and will need to comply with food law proportionately. Some food banks will be exempt from registration if they do not meet the food business definition (i.e. Recital 9 of Regulation (EC) No 852/2004). The FSA's Guidance on the application of EU food hygiene law to community and charity food provision ''[10], should help you determine this.

3.2.5.4 Food brokers

Certain businesses are specialised in trading food (food brokers). While they may arrange for the movement of food between suppliers or to retailers, they do not necessarily handle the food or even store it on their establishment (which may effectively be an office). Provided they meet the definition of "food business" and "food business operator", then the registration requirement applies, and they must be registered with the competent authority in which they undertake the work.

In respect of product of animal origin (POAO), Article 18 of Regulation (EC) No 178/2002, as amplified by Regulation (EC) No 931/2011[11] on traceability requirements for food of animal origin, places a duty on the FBO, including food brokers, to be able to identify and provide specific traceability information to the competent authority.

3.2.5.5 Internet sales

Certain businesses offer their goods for sale via the internet. Although such trade is not specifically referred to in Regulation (EC) No 852/2004, such businesses fall within the definition of a food business and the relevant requirements of food law are applicable to them. Such businesses must register with the most appropriate competent authority. This may be where they live, where their office is located or where the food stocks are stored.

3.2.5.6 Temporary establishments

Temporary food businesses which 'pop up' in different locations should be treated in the same way as mobile food establishments for the purposes of registration.

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[9] http://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/guidance-domiciliary-care.pdf
[10] http://www.food.gov.uk/sites/default/files/multimedia/pdfs/hall-provision.pdf
[11] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:242:0002:0003:EN:PDF

3.2.5.7 Vending machines

Vending machines are subject to the relevant provisions of Regulation (EC) No 852/2004. The FSA does not see practical value in the registration of individual vending machines or the establishment on which they are sited if the only food related activity on those establishments relates solely to vending machines. However, distribution centres where food for stocking vending machines is stored and/or from which food is transported to vending machines for stocking should be registered with the relevant competent authority. The delivery vehicles used for the transport of food for stocking vending machines should be covered in the interventions at such establishments.

3.3 Food business establishments subject to approval under Regulation (EC) No 853/2004

Regulation (EC) No 853/2004 sets out specific requirements for FBOs handling certain products of animal origin (POAO) including the need for approval of establishments by the competent authority

Guidance in relation to the approval of food business establishments that handle POAO can be found at the following link:
https://www.food.gov.uk/enforcement/sectorrules/approvalsguidance

3.3.1 Approval of product-specific establishments subject to approval under Regulation (EC) No 853/2004

3.3.1.1 Competent authority files

The following guidance will support competent authorities in order to ensure consistency in the content and structure of files produced for establishments which require formal approval.

A properly structured file containing all the relevant information is important to the competent authority. It provides a history of the establishment concerned and how it has developed; it provides continuity for new officers; it facilitates monitoring exercises and will assist the competent authority in demonstrating its competence.

Each file should contain:

- The application form;
- a plan or plans of the establishment indicating:
    i. The layout of the establishment;
    ii. The location of equipment;
    iii. Work flows for each product line;
    iv. Water distribution system within the establishment including all outlets and sampling points;
    v. Drainage layout;

vi. Pest control - baiting and/or trapping points within the establishment and external areas;

- a synopsis of the establishment which briefly describes what type of establishment it is, products produced, volume of product, type of trade, number of employees, approval number and what it is approved for. This synopsis should be no more than one side of an A4 sheet;

- pre-approval inspection report;

- planned programme of works to achieve approval;

- approval notification document specifying:

  i. Details of activities to which the approval relates;
  ii. Approval number;
  iii. Classification;
  iv. Special hygiene direction(s);
  v. Any establishment-specific derogations that have been granted;
  vi. Any other conditions or limitations specified by the competent authority;
  vii. Any arrangements acceptable to the Authority; competent authority;

Note: All relevant information and documentation to be included in file;

- labels and commercial documents bearing the identification mark;

- letter indicating the competent authority's involvement in the planning and implementation of the establishment's hygiene training of staff;

- inspection reports on establishments in chronological order;

- correspondence with establishment in chronological order;

- copies of notices or other formal action taken in chronological order;

- copy of company's emergency withdrawal plan and traceability system including names, telephone numbers, etc., of key personnel within the company;

- copy of any other documents that have been provided by, or copied at, the approved establishment, including:

  i. HACCP documentation - refer to section 3.5.1.1 of this Practice Guidance - establishment record files
  ii. supplier information;
  iii. product list;
  iv. raw material, product and water sampling plans and test results*;
  v. other sampling plans and results e.g. environmental sampling*;
  vi. process records;
  vii. management and key contact names and contact details;

viii. photographs and digital images;
ix. product recall procedures;

*where FBOs are using alternative sampling plans or methods in accordance with Regulation (EC) No 2073/2005 on the microbiological criteria for foodstuffs, the competent authority's verification of the proposed alternative approach should be held on file.

- results of all samples taken by the competent authority;
- location of any off-site facilities

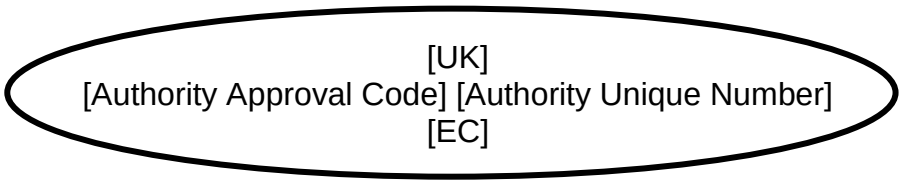
3.3.2 Approval number / identification marks

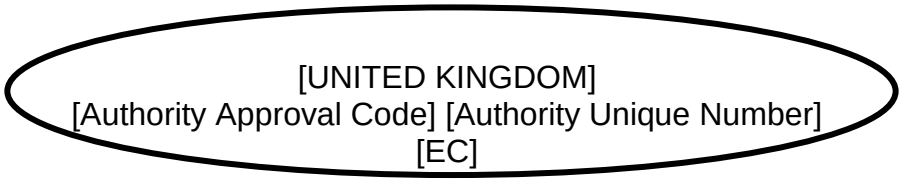
See section 3.3.14 of the Code.

The requirements for the form of the identification mark which establishments subject to approval under Regulation (EC) No 853/2004 must apply to their products as appropriate are set out in Annex II, Section I B of that Regulation. The competent authority must agree an identification mark with each establishment it approves which (a) incorporates the approval code it has allocated and (b) meets the requirements of Annex II, Section I B of Regulation (EC) No 853/2004 including the need for the mark to be within an oval shape.

3.3.2.1 Approval identification marks

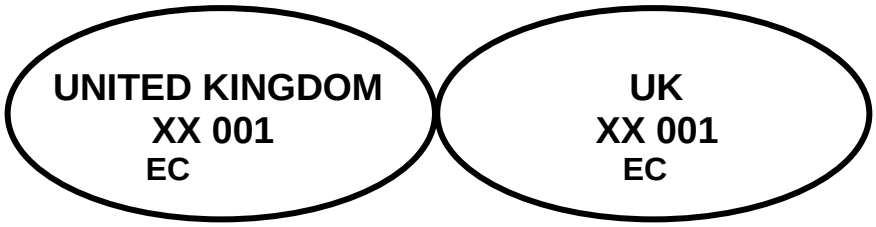
Example identification mark formats





Note: Other formats are acceptable provided they comply with the requirements of Annex II, Section I B of Regulation (EC) No 853/2004.

Example identification marks



3.3.3 Enforcement in approved establishments

All relevant material on enforcement options in approved establishments is contained in the Code.

3.3.4 Documentation

Approval of product-specific establishments subject to approval under Regulation (EC) No 853/2004 - template forms

Template forms which can be used by competent authorities in connection with the approval of product-specific establishments are provided as detailed the following table:

Practice Guidance Reference	Documentation (template forms & guidance)
3.3.4.1	Application for Approval
3.3.4.2	Notification of Grant of Full Approval / Conditional Approval
3.3.4.3	Notice of Decision Not to Grant Approval
3.3.4.4	Notice of Decision to Withdraw Approval / Conditional Approval
3.3.4.5	Notice of Decision to Suspend Approval / Conditional Approval
3.3.4.6	Notification of Refusal to Grant Full Approval to an Establishment which is Conditionally Approved
See link provided	Guidance in relation to the approval of food business establishments that handle POAO can be found at the following link: https://www.food.gov.uk/enforcement/sectorrules/approvalsguidance An overview of the approval process set out in a flow chart is also included

As stated in section 3.3.4 of the Code, although the content of these documents is regarded as the minimum required, competent authorities may adapt them as necessary to meet local requirements.

3.4 Food business establishment records

3.4.1 Data protection / freedom of information

This section contains information about the Data Protection Act 1998 and the Freedom of Information Act 2000 as they relate to food business records.

Competent authorities should ensure that their data protection registration encompasses all their reasons for holding data, including its supply to other agencies for the purposes of ensuring public health and the effective enforcement of food law.

If competent authorities have any doubts about the release of data or information they should seek legal advice and/or contact the Information Commissioner's Office whose website can be found at https://ico.org.uk/.

3.5 Reports following intervention

See section 3.5 of the Code.

3.5.1 Information requirement

3.5.1.1 Establishment record files

The FSA has produced the following guidance document that highlights the recommendation made by the Public Inquiry into the 2005 Outbreak of E. coli O157 in South Wales to assist competent authorities in effectively managing their establishment records

http://www.food.gov.uk/multimedia/pdfs/enforcement/everyinspection.pdf

In addition to the recommendations contained within the report of the public inquiry, Professor Pennington has subsequently clarified the following recommendation:

Recommendation 10: *'Environmental Health Officers should obtain a copy of a business's HACCP/food safety management plan at each inspection, which should be held on the business's inspection file'*

With regard to the retention of HACCP plans by competent authorities, the primary concern was for retention of the core elements of the plan. Retention of the critical control points from a business's HACCP plan, rather than the entire plan is considered to be sufficient to ensure that authorised officers looked at the performance of a business over time and did not miss danger signs from previous inspections.

3.5.2 Retention of establishment record files

The retention of records in relation to food business establishments for six years does not apply to those establishments that no longer exist or those that have relocated outside the competent authority. In these circumstances it is advisable to

retain these records for a period on no less than 18 months. However, this does not apply to business that have relocated within the local authorities own boundaries.

This does not affect the requirement within section 3.5.2 of the Code to retain records of existing establishments.

3.5.3 Retention of import documentation

See section 3.5.3 of the Code

3.5.4 Model intervention report form

See section 3.5.4 of the Code

3.5.5 Internal monitoring

See section 3.5.6 of the Code

3.5.6 Competent authority management information systems (MIS)

See section 3.6.1 of the Code

Chapter 4 - Qualifications and experience

4.1 Introduction – qualifications and experience

This chapter provides advice on the qualifications and experience required for officers undertaking official controls (food hygiene and food standards), including advice on assessing an officer's competency for delivering official controls.

Competent authorities need to satisfy themselves through appraisal and assessment procedures that an officer can provide demonstrable evidence that they meet the competency (knowledge and skills) requirements set out in Chapter 4 of the Code.

The competencies in the Code recognise that an officer's authorisation can be broadened as the person gains experience and develops new competencies.

4.2 Authorisations

Competent authorities should implement a documented procedure for the authorisation of officers carrying out official controls.

4.3 New members of staff

New members of staff must have a formal induction process and familiarise themselves with the competent authority's enforcement policy and internal procedures. As part of the induction, the lead officer should consider the officer's qualifications, experience, practical training and embedded competencies, along with their ongoing CPD and carry out a competency assessment to determine the officer's level of authorisation.

4.4 Qualifications equivalent to the baseline qualification

Section 4.4 of the Code sets out the baseline qualifications for food hygiene and food standards official controls.

Table 1: Baseline qualifications

Baseline qualification for food hygiene (other than official fish inspection at Border Inspection Posts)[12].	**Baseline qualifications for food standards** [13]
Higher Certificate in Food Control This qualification currently comprises the Higher Certificate in Food establishments Inspection with two additional 'modules' - the Food Inspection Endorsement and the Food Standards Endorsement.	Higher Certificate in Food Control, or from the Trading Standards Qualifications Framework, the Diploma in Consumer Affairs and Trading Standards (DCATS) with Food Standards Service Delivery module, or the Higher Diploma in Consumer Affairs and Trading Standards (HDCATS) with Food Standards Service Delivery Module.

The qualifications in Table 2 are currently considered to be equivalent to those set out in section 4.4 of the Code:

Table 2: Equivalent qualifications

Official controls - hygiene	**Official controls – standards** [14]
• A Certificate of Registration issued by the Environmental Health Registration Board EHRB (or one of its antecedents) to practice as an Environmental Health Officer/Practitioner; or • A Diploma in Environmental Health (or its antecedents) awarded by the EHRB or SFSORB.	• A Certificate of Registration issued by the Environmental Health Registration Board EHRB (or one of its antecedents) to practice as an Environmental Health Officer/Practitioner; • A Diploma in Environmental Health (or its antecedents) awarded by the EHRB or REHIS. • Diploma in Trading Standards (or its antecedents); • Diploma in Consumer Affairs (DCA Part II) provided it includes the Food and Agriculture Paper or it antecedents; • A Higher Certificate in Food establishments Inspection issued by EHRB or IFST with Food Standards Endorsement; • The Higher Certificate in Food Standards Inspection issued by the Scottish Food Safety Officers Registration Board (SFSORB).

4.5 Known qualifications with restrictions

There are some qualifications that are not considered equivalent to those listed above, as they do not incorporate the underpinning knowledge required to undertake the **full** range of official controls (for food hygiene and food standards).

[12] Please refer to section 4.6 of the Code in relation to import controls at Border Inspection Posts.

[13] For premises where quality assurance systems are to be assessed, officers should possess a Quality Assurance qualification e.g. Lead Auditor or the Higher Diploma in Consumer Affairs and Trading Standards, **or** equivalent professional experience and competency to enable them to assess quality assurance systems.

[14] For premises where quality assurance systems are to be assessed, officers should possess a Quality Assurance qualification e.g. Lead Auditor or the Higher Diploma in Consumer Affairs and Trading Standards, or equivalent professional experience and competency to enable them to assess quality assurance systems.

Therefore, holders of the qualifications in Table 3 should have the following restrictions applied to their authorisation:

Table 3: Qualifications with restrictions

<table>
<tr><th colspan="3">Food Hygiene Qualifications</th><th>Food Standards Qualifications</th></tr>
<tr><th>Higher Certificate in Food Premises Inspection issued by EHRB, IFST or SFSORB</th><th>Higher Certificate in Food Premises Inspection (issued by EHRB, IFST or SFSORB) with Food Standards Endorsement</th><th>Ordinary Certificate in Food Premises Inspection issued by EHRB, IFST or SFSORB</th><td rowspan="2">Trading Standards Qualification Framework (TSQF) Awards which includes:
Certificate of Competence in Food Standards service delivery module;
Core Skills Certificate in Consumer Affairs and Trading Standards with Food Standards service delivery module (CSCATS with Module Certificate in Food Standards); and
Diploma in Consumer Affairs (DCA): Certificate of Competence in Food and Agriculture</td></tr>
<tr><td>Holders of this qualification should not be authorised to:
undertake inspection of food to determine fitness;
seize and detain food;
undertake food standards functions; and
undertake some Import Controls functions, as this requires the officer to be either an Environmental Health Practitioner or an Official Veterinary Surgeon[15].</td><td>Holders of this qualification should not be authorised to:
undertake inspection of food to determine fitness;
seize and detain food; and
undertake some Import Controls functions, as this requires the officer to be either an Environmental Health Practitioner or an Official Veterinary Surgeon.</td><td>Holders of this qualification should only be authorised to inspect establishments with a Hygiene Intervention Rating C-E. They should not be authorised to:
undertake inspection of food to determine fitness;
seize and detain food;
undertake food standards work; and
undertake some Import Controls functions, as this requires the officer to be either an Environmental Health Practitioner or an Official Veterinary Surgeon.
serve Remedial Action Notices
service Hygiene Emergency Prohibition Notices (HEPNs)</td><td>Officers holding one of these qualifications should only be authorised to inspect establishments with a Food Standards Intervention Rating of B and C.</td></tr>
</table>

4.6 Equivalency of qualifications

Those who do not hold the baseline qualification, but consider that their qualifications, training and experience are suitable to undertake specific enforcement activities outlined in the Code, should contact the relevant professional and awarding bodies for an equivalency assessment (fees may be applicable). The FSA should be consulted and informed of any determination in relation to the assessment of

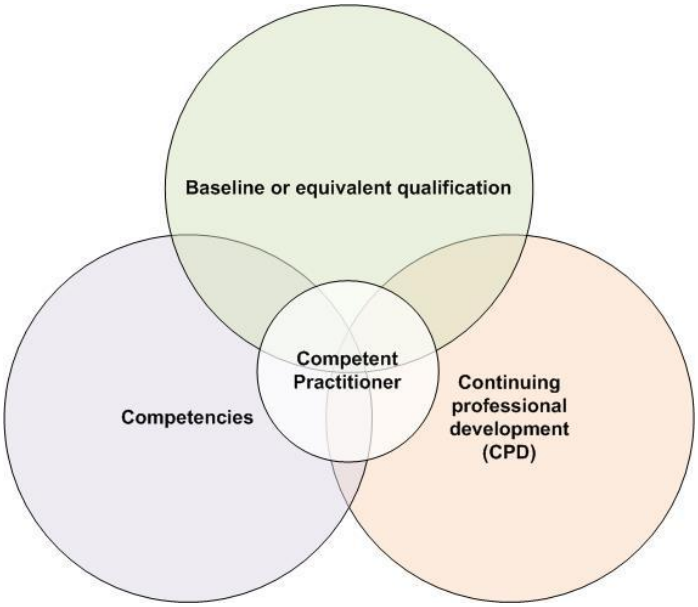
[15] Please refer to section 4.6 of the Code in relation to import controls at Border Inspection Posts.

qualifications. The relevant bodies are the Chartered Institute of Environmental Health (CIEH), and the Chartered Institute of Trading Standards (CTSI).

4.7 Competency framework

The competency framework is designed to assist competent authorities in determining the competency of their officers, including lead officers. Competency in this context is a combination of qualifications, technical and professional skills, knowledge and experience that enable an officer to be appropriately authorised to deliver official controls. The competency framework will allow those delivering official controls to demonstrate their competency to current and future employers, and the CPD requirements will ensure continued professional development.

Figure 1. Competent practitioner model *(source: FSA, 2015)*



Competent authorities are best placed to determine the competency of their officers delivering official controls. Many competent authorities have existing competency-assessment tools that may meet the requirements laid down in the Code. These may continue to be used provided they meet the objectives of the competency framework outlined in the Code. [16]

The key points are:

- appropriate qualifications, in conjunction with on-the-job experience and training, are required to develop and achieve competency and display proficiency.

[16] The FSA worked with the Better Regulation Delivery Office (BRDO) to map the relevant RDNA Modules to the competency framework in the Code. Competent authorities may wish to use the RDNA tool to assess officer competencies. The RDNA tool can be found at the following link: http://rdna-tool.bis.gov.uk/.

- competency *may* be demonstrated in other ways, so long as the desired outcome is achieved.

- competency should be reviewed on an ongoing basis, i.e. as part of a competent authority's appraisal process.

Each of the specified competencies has the following components:

- statement of competence; and
- a description of what this might look like in practice.

Please note that the description of how the competencies might look in practice (i.e. could be demonstrated) is not an exhaustive list.

The framework outlines 13 competencies for **lead food officers**, grouped under 3 broad categories; and 19 competencies for **authorised officers**, grouped under 5 broad categories.

Lead food officers should also be able to demonstrate the relevant competencies for authorised officers, as a matter of course, amounting to 32 competencies in total.

4.7.1 Competency assessment structure and case studies

Table 4: competency assessment structure

Step 1	**Step 2**	**Step 3**
Ensure that the officer has the baseline qualification (or equivalent), or one of the qualifications which will require restrictions to be placed on the authorisation (see **known qualifications with restrictions** in Table 3). These qualifications will give the underpinning knowledge required to undertake official controls as well as providing a start on the development of competencies.	Determine the relevant competencies for the role and consider whether the officer can satisfy the authority that he/she meets those competencies. If an officer does not have the necessary competencies, there should be a discussion with the lead food officer about how the development needs can be addressed. Until such gaps have been filled, the officer's authorisation to deliver official controls should be appropriately restricted. An officer would be able to demonstrate the relevant competencies by various means, alone or in combination, but not exclusively restricted to the following: holding appropriate qualifications – both academic and professional having undertaken assessed practical training that requires application of academic and professional knowledge successful completion of training courses, including short courses and e-learning, e.g. on matters related to official controls, specialised processes, enforcement sanctions etc. having carried out accompanied	Officers should be able to provide evidence that they have met the CPD requirements detailed in the Code. Following the assessment, the lead food officer, in consultation with the individual officer, should be able to identify development needs which can be used to inform an officer's personal development plan and their CPD priorities. To assist officers in determining the most appropriate way to address development needs and undertake appropriate CPD, the Guidance for Regulators Information Point (GRIP) may be consulted. This can be accessed via the following link: http://www.regulatorsdevelopment.info/grip/.[17] Officers should also consider

[17] The FSA worked with BRDO to review and update material on GRIP site so that it supports the competencies required by the Code.

Step 1	Step 2	Step 3
	inspections/visits under the supervision of an appropriately authorised (competent) officer having carried out a specific piece of work, e.g. drafting of notices, production of witness statements, gathering evidence, building elements of a prosecution file, carrying out sampling to specified protocol etc. Officers are encouraged to maintain a record of evidence containing details of qualifications, training, and details of specific food safety experience which helps to demonstrate that they have met the relevant competencies laid down in the Code. Where necessary, appropriate redaction should be carried out to ensure confidentiality and compliance with data protection requirements.	appropriate training courses, for example those provided by the FSA, BTSF and professional bodies and organisations including CIEH and TSI.

The following case studies have been provided as **examples**. They are not intended to be prescriptive or exhaustive.

Case study 1 - assessing and authorising a newly qualified officer who holds the baseline qualification or equivalent (or a qualification to which a restriction must be applied)

A copy of the officer's qualification is endorsed by the lead food officer and placed in the officer's file. In order to properly develop relevant experience post-qualification, a structured training programme is developed. This includes elements such as shadow visits, accompanied inspections, notice and letter drafting, food poisoning investigations, complaints investigation, sampling etc. Specialist training, for example provided by FSA courses, also provides key elements of the officer's professional development. Ongoing assessment of developing competence allows the lead officer to monitor progress and determine suitability for authorisation. A newly qualified officer would need to gain sufficient experience and be able to demonstrate understanding and competency before they are authorised to inspect complex processes (i.e. approved establishments) or take certain enforcement action. It is the lead food officer's responsibility to determine when this is appropriate on a case by case basis.

Case study 2 – assessing and authorising an experienced qualified officer who holds the baseline qualification or equivalent (or a qualification to which a restriction must be applied)

A copy of the qualification is endorsed by the lead food officer and placed in the officer's file. The officer provides evidence of their CPD record and has met the CPD requirements. Previous assessments will have been carried out to determine specific authorisations. An experienced officer will be asked to assess themselves against the competencies in the Code framework. The officer will be expected to indicate which competencies they meet and provide a brief description of how they have been met. The officer will need to consider how this might be evidenced. The lead officer then discusses this self-assessment with the officer and seeks evidence to confirm that the competencies have been met. The record of competency assessment is documented and the lead food officer appropriately authorises the officer, who is then subject to the Authority's monitoring and verification processes. Please note that if an experienced officer is assessed and does not meet the competencies, the lead food officer and the officer should work together to identify any gaps in knowledge, experience etc., and how this can be addressed, e.g. through formal courses, online resources, gaining practical experience etc. The officer's authorisation would need to be appropriately restricted until competency is demonstrated.

Case study 3 – an officer returning to food work after an extended break
An officer returning to food work must have the baseline qualification or equivalent (or a qualification to which a restriction must be applied). A copy of this qualification is endorsed by the lead food officer

and placed in the officer's file. The lead food officer will ask the officer to assess themselves against the competencies in the Code framework. The returning officer indicates that they do not meet all of the competencies as they have been out of food related work for some time. The lead food officer and the returning officer work together to identify any gaps in knowledge, and how this can be addressed, e.g. through formal courses, online resources etc. Reference is made to RDNA and GRIP. A structured training and development programme is produced to assist the returning officer build up experience and develop the necessary competencies. The returning officer would need to gain sufficient experience and be able to demonstrate that they have developed the required competencies before they can be fully authorised to carry out official controls and carry out certain enforcement actions. It is the lead food officer's responsibility to determine when this is appropriate on a case by case basis.

4.7.2 Lead food officer competencies

An appropriate line manager (such as the manager with responsibility for the competent authority's food service) should work with the lead food officer to assess their competency. This is expected to involve the lead food officer carrying out a self-assessment against the competency framework, providing evidence of how they meet/ can meet the competencies, and discussing any development needs with their line manager.

There is likely to be a difference in how competencies are demonstrated between an existing lead food officer and a recently promoted/appointed lead food officer. This is because there is an expectation within the Code that a lead officer will have full knowledge of the area, and will have carried out the relevant management tasks previously.

However, newly appointed or promoted lead food officers should be able to describe and explain how they are *capable* of satisfying the competencies. It is expected that this will have been tested at the recruitment and/or job interview stage.
As a newly promoted/appointed officer develops, they should be able to provide examples of how competencies have been demonstrated. Competent authorities might choose to carry out in-year assessments to satisfy themselves that the relevant competencies have been developed.

Lead food officers moving from other competent authorities should be able to provide real life examples of how they have demonstrated the necessary competencies in their previous employment.

To provide further assurances, lead food officers are encouraged to participate in inter-authority audit and peer review of lead food officer competencies. This will help with the development of consistent approaches to competency assessment.

The lead food officer framework is made up of 3 clusters with 13 competencies. However, lead food officers should hold the baseline or equivalent qualification and also be able to demonstrate the relevant competencies for authorised officers as a matter of course. Below is a list of all the competencies with a high-level summary of each one.

The Code recognises that the lead food officer role may be performed by more than one person. Competencies relevant to an individual's role should be taken into

account when carrying out assessments. Lead officer competencies could be demonstrated *between* the officers fulfilling the lead officer role.

4.7.3 Lead officer competency assessment guidance

Cluster No.	Statement of competence
1	Local and specialist knowledge
2	Legislation and centrally issued guidance
3	Planning of an official control programme

Local and specialist knowledge:

Cluster No. 1	Statement of competence – lead officer	What this could look like in practice
1.1	Knowledge and understanding of the area for which he/she is acting as the lead food officer.	Able to describe the area for which he/she is acting in terms of the type of food businesses, specific risks, demographic/ profile, business churn, etc. Able to explain how they keep abreast of local changes, maintaining databases, links to other departments etc.
1.2	Knowledge and understanding of the hazards that can occur in establishments within the authority's area and risk management techniques.	Able to describe the types of businesses and the potential risks they pose. Able to explain how to implement a risk-based approach to inspections and interventions in accordance with the Code. Able to explain inherent hazards and appropriate controls within specialist processes which are relevant to establishments in that authority. Able to explain how to respond to food incidents, recalls, RASFF, etc. *Note: The officer may have experience in delivering official controls in the types of establishments that occur in the authority's area, and/or have attended training for example in HACCP for specialist cheese making, sous-vide, inland imported food controls, etc. And/or involvement in specialist groups/forums.*
1.3	Knowledge and understanding of when specialist auditing and quality assurance skills are needed to deliver official controls.	Able to explain what specialist auditing and quality assurance skills are. Able to describe establishments where specialist auditing skills are required, for example in some manufacturing establishments and/or approved establishments.

Legislation and centrally issued guidance:

Cluster No. 2	Statement of competence – lead officer	What this could look like in practice
2.1	Understands relevant EU and national food hygiene or standards legislation and can advise on their application.	Can explain what EU and national food hygiene and/or standards legislation is in place in Northern Ireland. Can supply specific examples of when they have advised on the application of EU and national food legislation. Able to describe how the legislation is applied in different types of food businesses, for example, establishments where Regulation (EC) No 853/2004 is applicable. Able to explain how they will keep up to date with changes in legislation and guidance, for example, attending update training, reading FSA communications, attending relevant regional meetings etc. Able to describe how update information will be cascaded to members of the food team, for example, via CPD sessions within the competent authority.
2.2	Understands, interprets and applies the Framework Agreement on Food Law Enforcement with Local Authorities, the Food Law Code of Practice (Northern Ireland) and associated Practice Guidance appropriately.	Able to explain what the Framework Agreement on Food Law Enforcement, the Code and associated Practice Guidance are. Can interpret how the Framework Agreement on Food Law Enforcement, the Code and associated Practice Guidance should be applied in their competent authority. Able to describe how to implement appropriate procedures that will support effective decisions on enforcement, intervention ratings etc. Able to explain an appropriate system of checking that procedures are complied with, for example internal monitoring.
2.3	Understands and can advise on the application of the full range of enforcement sanctions available and proportionate application of food law.	Able to describe the full range of enforcement options available. Able to explain when each of these could be used, providing real life or practical examples.

Planning of an official control programme:

Cluster No. 3	Statement of competence – lead officer	What this could look like in practice
3.1	Can appropriately apply national and local priorities to the profile of food business establishments and points of entry in the authorities' area when planning a programme of official food controls.	Able to explain how to develop a risk based service plan for delivering the authority's food safety functions. As for 1.1, 1.2, and 1.3 above.

Cluster No. 3	Statement of competence – lead officer	What this could look like in practice
3.2	Can identify skill or knowledge gaps in officers delivering official food controls.	Can explain how they (will) assess officers who are responsible for delivering official controls using the competency framework. Can explain how they draw up personal development plans and monitor progress. Can explain how they link assessed competencies to officer authorisations. *Note: This may involve use of RDNA, 1-1s, appraisals, and/or an in-house system that the competent authority has developed.*
3.4	Understands the process of raising and managing food incidents as set out in the Code of Practice (NI), including responses to infectious disease outbreak(s).	Able to explain necessary notification for different types of incident. Able to explain when it would be appropriate to generate a RASFF notification, liaison with necessary parties, including the FSA etc. Able to explain appropriate response to infectious disease outbreak notifications.
3.5	Understands how local contingency arrangements apply to the management of serious food related incidents e.g. infectious disease outbreak.	Able to describe the local arrangements for managing serious food-related incidents *Note: This may include training in incident management and contingency planning and use of local emergency plans.*
3.6	Understands the role of Home Authorities and Primary Authority Partnerships in co-ordinating the delivery of official controls and ensures it is applied by the authority.	Able to explain what is meant by Home Authority and Primary Authority partnerships. Able to describe the procedures in place for dealing with businesses that are part of a Primary Authority partnership. Able to explain how monitoring will ensure that the competent authority complied with the requirements of the Regulatory Enforcement and Sanctions Act. *Note: This may include attendance at BRDO training.*
3.7	Understands how to comply with local and national data gathering and reporting requirements.	Able to describe what LAEMS is and how to use it. Able to describe what UKFSS is and how to use it.
3.8	Co-ordinates consistent delivery of official controls within the authority and between other competent authorities.	Able to explain how consistency will be monitored in the authority between officers, for example, overseeing a programme of accompanied official controls as part of internal performance appraisal/monitoring procedure. Able to describe ways in which delivery of official controls is consistent with other authorities. *Note: This may include consistency training, participation in inter-authority audit, participation in sector or countywide meetings/forums etc.*

4.7.4 Authorised officer competency assessment guidance

Lead food officers will need to ensure that authorised officers achieve the necessary training and experience to enable them to achieve the relevant competencies and that their authorisation is appropriate for their level of competency.

The authorised officer framework is made up of 5 clusters with 19 competencies.

Cluster No.	Official control / type of role
4	Inspection of food establishments
5	Use of enforcement sanctions
6	Sampling
7	Import and export controls
8	Reactive investigations

Inspection of Food Establishments:

Cluster No. 4	Statement of competence - authorised officer	What this could look like in practice
4.1	Comprehensive understanding of HACCP-based procedures. Has the ability to apply that knowledge taking account of flexibility principles contained within Article 5 of Regulation (EC) No 852/2004.	Able to describe their experience of assessing, influencing the development of, and/or developing HACCP based systems, providing examples. Satisfactory performance during accompanied official controls as part of internal performance appraisal/monitoring procedure. *Note: this may include suitable specific HACCP qualifications/training.*
4.2	Can determine and identify hazards and risks that occur in establishments and products. Understands the principles of risk assessment related to food types; and processing methods and products.	Able to describe their experience in delivering relevant interventions in a range of establishments types where hazards have been identified and risks assessed, providing examples. Satisfactory performance during accompanied official controls as part of internal performance appraisal/monitoring procedure. Satisfactory inspection paperwork when assessed/monitored by the competent authority. *Note: This may include attendance at appropriate training e.g. sous vide, pasteurisation, vacuum packing etc.*
4.3	Understands relevant EU and national food hygiene or standards legislation and can advise on their application. Understands how to assess compliance with the requirements of EC and national	Able to explain the requirements of EU and National food hygiene and/or standards legislation. Able to explain the requirements of establishments that could fall under Regulation (EC) No 853/2004 and how the requirements of Regulation (EC) No 853/2004 are applied within that competent authority. Able to describe experience of assessing business compliance in a range of business types. Satisfactory performance during accompanied official controls as part of internal performance appraisal/monitoring procedure.

Cluster No. 4	Statement of competence - authorised officer	What this could look like in practice
	food hygiene and standards legislation with further reference to the Code and the Food Law Practice Guidance (NI)	*Note: Inspections for the purposes of the approval of establishments that are subject to approval under Regulation (EC) No 853/2004 should only be undertaken by officers who have a detailed knowledge of enforcement and experience in regulating approved establishments.*
4.4	Able to determine the appropriate course of action to remedy non-compliance, including when it is appropriate to escalate enforcement action.	Able to describe experience in determining the most appropriate course of action in a range of establishments types, including examples of when the action was taken to achieve a suitable outcome. Satisfactory performance during accompanied official controls as part of internal performance appraisal/monitoring procedure. *Note: The FSA provides enforcement sanction training for officers.*
4.5	Can make a food hygiene/standards intervention rating assessment of risk using section 5.6 of the Food Law Code of Practice (NI).	Able to describe experience of delivering official controls and intervention ratings in a range of business types. Satisfactory performance during accompanied official controls as part of internal performance appraisal/monitoring procedure. Satisfactory inspection paperwork when assessed/monitored by the competent authority.
4.6	Understanding of the common food types and understanding of hazards associated with their use.	Able to describe experience of food inspection and determination of fitness, providing examples. Able to describe the common types of food present in establishments in the authority's area, and the hazards associated with their use.

Use of Enforcement Sanctions:

Cluster No. 5	Statement of competence - authorised officer	What this could look like in practice
5.1	Can clearly differentiate between legal requirements and recommendations of good practice by avoiding 'gold plating' and 'regulatory creep'. Can provide advice and enforce based on levels of compliance with regard to consistency and proportionality based on the hierarchy of risk.	Able to describe examples of legal requirements and recommendations relevant to a range of businesses. Able to explain how they would provide advice to FBOs, including advice given to those starting new food businesses. Demonstrates understanding of a graduated approach to enforcing food law during accompanied inspections and visits. Satisfactory inspection paperwork when assessed/monitored at by the competent authority. *Note: The FSA provides enforcement sanction training for officers.* *Officers should only be authorised to serve HEPN/HEPOs and RANs if they have demonstrated the ability to make sound judgements with regards to these actions.*
5.2	Understands levels of	Able to explain any limitations on their authorisation.

Cluster No. 5	Statement of competence - authorised officer	What this could look like in practice
	authorisation, enforcement policies and procedures for appeal.	Able to describe what an enforcement policy is and how they can access the competent authority's policy. Able to explain procedures for appeal, for example in respect of improvement notices and FHRS scores (as appropriate).
5.3	Understands the legal framework with regard to the use of enforcement powers including the role of Primary Authorities and Home Authorities.	Able to explain the various enforcement powers available to use and when it is appropriate to use each. Able to explain Primary Authority principles, including how to access the Primary Authority Register. *Note: This may include attendance at BRDO training.*
5.4	Can demonstrate an understanding of how to serve notices; gather evidence; prepare cases for prosecution and apply knowledge to comply with the requirements of PACE and RIPA, where appropriate.	Able to describe understanding of serving notices, providing examples. *Note: The officer should be able to describe their understanding for each of the enforcement notices that they are to be authorised for, e.g. service of improvement notices, use of RANs, use of HEPNs, use of Compliance Notices under Additive Regulations. The officer must be able to demonstrate that they are capable of making sound judgements for each of the notice types.* Able to describe understanding of evidence gathering, statement taking, case preparation and involvement in interviews under PACE. Able to explain RIPA and its application. Able to describe the authority's procedures in preparing files for legal proceedings. *Note: This may involve successful participation in relevant courses – i.e. gathering evidence, investigative techniques, use of enforcement sanctions, drafting of notices etc.*

Sampling:

Cluster No. 6	Statement of competence - authorised Officer	What this could look like in practice
6.1	Understands formal /informal sampling methodologies and the role of the Public Analyst and Food Examiner.	Able to describe how informal and formal sampling should be competed. Able to explain the role of the Public Analyst and Food Examiner.
6.2	Is aware of national and local sampling priorities. Can use UKFSS and searchable database,	Able to describe national and local sampling priorities. Able to describe how to use UKFSS.

Cluster No. 6	Statement of competence - authorised Officer	What this could look like in practice
	where appropriate.	
6.3	Can interpret sampling results and make a judgement on appropriate action based on risk.	Able to describe examples of food sampling and taking appropriate risk-based follow up action.

Import and export controls:

Cluster No. 7	Statement of competence - authorised officer	What this could look like in practice
7.1	Understands the legal framework with regard to imported / exported food and how to assess compliance.	Able to describe the legal framework with regard to imported/exported food. Able to describe how to access the current list of restricted food items, country-specific requirements, and border control requirements. Able to explain how to assess compliance with the imported/exported food legal framework in the context of the competent authority where the officer is working. *Note: This may include completion of FSA Imported Food or other appropriate training, and familiarisation with the FSA's Resource Pack - Inland Enforcement of Imported Feed and Food Controls.*
7.2	Can determine the most appropriate course of action and the range of enforcement sanctions available.	Able to describe the range of enforcement sanctions relevant to imported/exported food. Able to explain how they would determine the most appropriate course action, for example in some typical scenarios relevant to that competent authority. Satisfactory performance during accompanied official controls as part of internal performance appraisal/monitoring procedure. *Note: This may include completion of FSA Imported Food or other appropriate training, and familiarisation with the FSA's Resource Pack - Inland Enforcement of Imported Feed and Food Controls.*
7.3	Can identify food species and comment on fitness at Border Inspection Posts (BIP) (also see section 4.6)	Must be a qualified Environmental Health Practitioner or Official Veterinary Surgeon to carry out official fish inspection. Satisfactory performance when carrying out accompanied food species identification and fitness determination at BIP. *Note: This may also include completion of FSA official fish inspection training or other appropriate training*
7.4	Can demonstrate an understanding of controls at points of entry include carrying out systematic documentary checks, random identity checks and	Able to describe the controls in place at points of entry. Able to describe how systematic documentary checks are carried out. Able to describe how random identify checks are carried out. Able to explain when sampling for analysis may be appropriate, providing examples. Able to explain how to use TRACES, providing examples.

Cluster No. 7	Statement of competence - authorised officer	What this could look like in practice
	sampling for analysis, as appropriate.	Satisfactory performance when carrying out controls at point of entry. *Note: This may include completion of FSA Imported Food or other appropriate training.*

Reactive investigations:

Cluster No. 8	Statement of competence - authorised officer	What this could look like in practice
8.1	Understands how to conduct an investigation and gather evidence in accordance with PACE and RIPA, where appropriate. Is then able to analyse information and determine an appropriate course of action.	Able to describe experience of conducting investigations, providing examples. Able to describe understanding/experience of evidence gathering, statement taking, case preparation and involvement in interviews under PACE. Accompanied investigations and/or satisfactory monitoring as part of internal performance appraisal/monitoring procedure. Able to describe understanding/experience in determining the most appropriate course of action in a range of establishment types and scenarios. *Note: This may include attendance on an FSA Evidence and Investigation Skills/Local Authority Investigation Skills training or similar training course.*
8.2	Can identify when it is appropriate to engage with other agencies and stakeholders in particular when investigating food incidents and or infectious disease outbreaks.	Able to explain when it is appropriate to work with other agencies on food incidents. For example, liaising with the Public Health Agency; other competent authorities, including the FSA in NI. Able to explain when it is appropriate to work with other agencies on infectious disease outbreaks. For example, liaising with the Public Health Agency; other competent authorities, including the FSA in NI.

4.8 Continuing Professional Development (CPD)

4.8.1 Introduction

One of the key components in ensuring competence is ongoing CPD. Whilst qualifications can be the starting point to achieving and demonstrating competency, practical experience, reflective practice, continual learning and continual professional development are required to develop and maintain the necessary skills for competent practice.

Professional bodies such as the CIEH and the CTSI operate their own CPD requirements for their respective membership, which includes providing CPD evidence as part of membership or Chartered Status. The professional bodies should be contacted directly if there are any questions on their respective CPD requirements.

Officers who are not members of professional bodies should still maintain a record of their CPD, which should be countersigned by the lead food officer.

4.8.2 CPD requirements

Those carrying out official controls should undertake a minimum of 20 hours CPD each year. The Code requires that at least 10 hours CPD or more must be spent on 'core' food areas. 'Core' is defined as CPD that will directly assist an officer in their professional/working capacity (i.e. training on the delivery of official controls). The remainder can be made up from learning related to '*other professional matters'* i.e. *CPD that will support an officer's profession, which does not have to be linked to official controls or be food related, but supports professional development*.

4.8.3 'Core' CPD

Annex II of Regulation (EC) No 882/2004 outlines the subject matters for the training of staff performing official controls. Attending training courses and/or undertaking relevant distance learning/e-learning activities in the following subject areas are considered as 'core food matters' training and should make up the 10 hours 'core' CPD:

- Different control techniques, such as auditing, sampling and inspection;
- Control procedures;
- Feed law
- Different stages of production, processing and distribution
- Assessment of non-compliance;
- Hazards in food production;

- The evaluation of the application of HACCP procedures;

- Management systems such as quality assurance programmes that the food business operate and their assessment insofar as these are relevant for food law requirements;

- Official certification systems;

- Contingency arrangements for emergencies, including communication between Member States and the Commission;

- Legal proceedings and the implication of official controls;

- Examination of written, documentary material and other records, including those related to proficiency testing, accreditation and risk assessment, which may be relevant to the assessment of compliance with food law; this may include financial and commercial aspects;

4.8.4 FSA competent authority training

The FSA has a continuing programme of quality update training for competent authority officers.

4.8.4.1 FSA online training

The FSA has made available a number of training tools to help officers with their work. These include an interactive tool on food allergy, videos on food sampling and food hygiene, and online imported food training.

https://www.food.gov.uk/enforcement/enforcetrainfund

4.8.4.2 Better Training for Safer Food (BTSF)

Better Training for Safer Food is a European Commission training initiative covering food and feed law, animal health and welfare and plant health rules. It trains European Union member state and candidate country national authority staff involved in official controls in these areas.

https://www.food.gov.uk/enforcement/enforcetrainfund/btsf

4.8.5 'Other professional matters' CPD

Examples of 'other professional matters' CPD may include, but is not limited to:

- attending training courses/conferences/seminars not necessarily linked to official controls, but supporting professional development;

- shadowing experienced (internal or external) colleagues to develop knowledge of a specialist process, such as cheese making; meat products; shellfish/fishery products etc.;

- attendance at court to review/observe food-related cases;

- participation in scenario-based case studies (e.g., notice drafting, Intervention Rating, etc.);

- writing relevant articles for peer-reviewed journals/papers;

- undertaking relevant distance learning or e-learning activities;

- making presentations to colleagues on relevant food subjects, particularly new/changes to legislation or food-related developments.

4.8.6 Evidence of CPD attainment

Most 'Core' CPD is likely to be evidenced by the established practice of certification from a training provider. 'Other professional matters' may be demonstrated by another means of supportive evidence, e.g. publication in a peer-reviewed journal.

If shadowing experience or participation in scenario-based case studies includes reflective practice that is documented by the officer, and countersigned by the lead officer, this may count as core CPD. The lead officer will need to assess this on a case by case basis.

4.8.7 Recording CPD

Officers should maintain a record of their CPD, which can be recorded electronically. The record should include the following information as a minimum:

- Date/s of activity;
- Type of activity (including specification e.g. core or 'other professional matters');
- Hours spent on activity;
- Copy of certification or counter signature from a manager or colleague that the stated activity took place.

4.8.8 Use of online training courses

The FSA recognise that competent authorities may wish to consider the use of online training providers for the training of their officers. Competent authorities will need to assess these courses on a case-by-case basis to determine suitability, and may wish to consider the following:

- external accreditation – has the course been accredited by an external body

- course content

- course administration

- training provider communication – does the course clearly outline how communication between the course provider and student will be facilitated?

- course design – is the course material up-to-date and based on the latest information? Has the course material been piloted? Has the course been peer-reviewed?

- assessment to prove officer competency – are there assessments/assignments that the student undertakes throughout the course? Does the course provide feedback on assessments/assignments? Do the assessments count towards recognised academic awards?

- I.T support – what support is provided? What IT requirements are needed to undertake the course? Are specialist programmes/software required to complete the course?

- course evaluation – how does the course provider monitor the effectiveness of the course? How often is the course material checked for accuracy?

- governance of student identity – how does the course provider ensure that the person enrolled on the online course is the person completing the course? What evidence will be provided to demonstrate that the person has completed the course and met the required outcomes?

Chapter 5 – Organisation of official controls

5.1 Food service plans

5.1.1 Requirement for a written service plan

See section 5.1 of the Code.

5.2 Interventions and the delivery of official controls

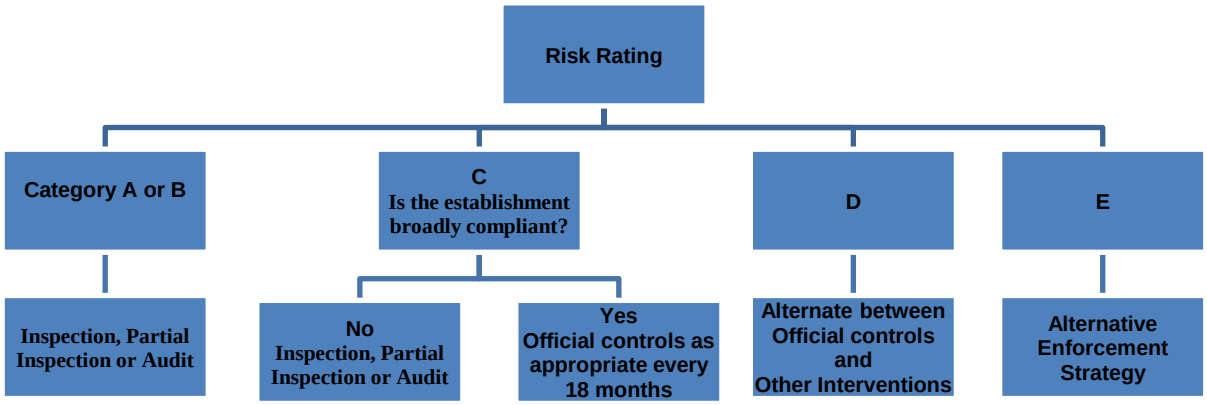
5.2.1 Interventions and official control delivery

This section deals with delivery of interventions at food establishments. Interventions are activities that are designed to monitor, support and increase food law compliance within a food establishment. Interventions are activities that include, but are not restricted to, 'Official Controls'.

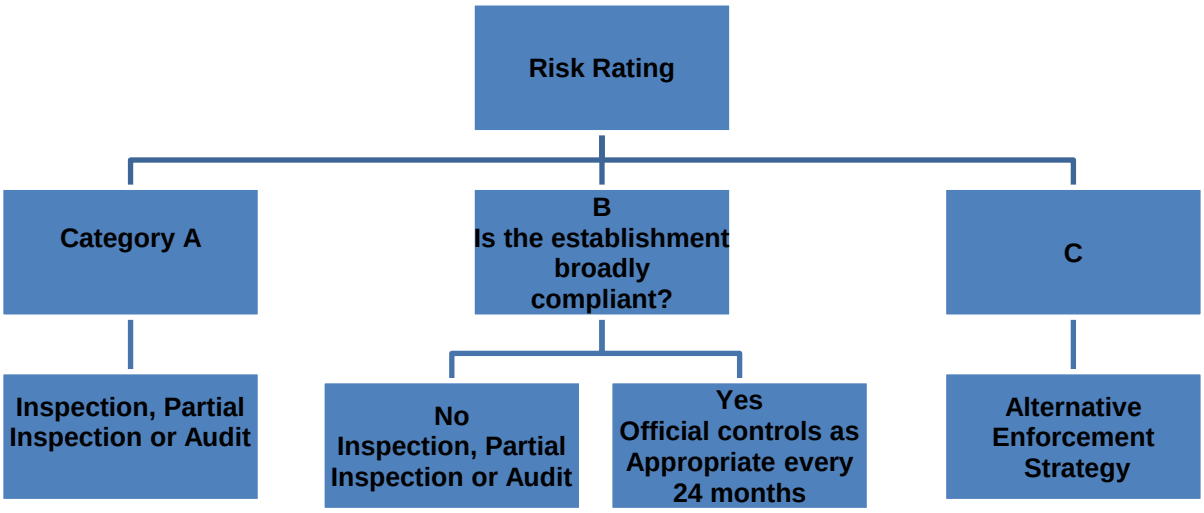
When selecting the type of intervention to use at an establishment, the authorised officer must have regard to the limitations as laid down with section 5.2.1 of the Code and the competent authority's own enforcement policy. The officer, when selecting from the available intervention types, should choose the intervention that will be most effective in maintaining or improving business compliance with food law.

The flow charts set out below indicate the types of intervention that can be undertaken to meet the minimum intervention frequency required by section 5.6 of the Code. When required, other controls or interventions can be carried out in addition to those which meet the minimum frequency.

5.2.1.1 Intervention types for hygiene



5.2.1.2 Intervention types for Standards



The flexibility in the type of intervention used is intended to allow the competent authority to adopt the most effective use of resources to achieve compliance. However, it also recognises that there are certain EU restrictions to official controls.

The number of official controls undertaken by competent authorities is collected by the FSA through LAEMS returns to satisfy the reporting requirements of EU Regulation (EC) No 882/2004. The UK data, including individual competent returns, are also published on the FSA website and reported to the FSA Board.

5.2.1.3 Intervention types

The range of intervention types available are designed to allow the enforcing officer to select the most suitable type of intervention to undertake during the visit to the establishment (see section 5.2.1 of the Code for the different types of interventions competent authorities may use).

The type of intervention undertaken by the officer should, in addition to being based on the intervention risk rating score, be based on the conditions found at the establishment at the time of the visit.

However, at the subsequent visit the type of intervention undertaken should be based on the conditions found at the establishment, and should not be confined to the intervention suggested at the time of the last scheduled visit. Should the officer, in the process of undertaking an intervention other than an inspection, partial inspection or audit gather sufficient information in the course of the visit by considering some or all of the elements listed in section 5.2.2 of the Code, they should consider revising the risk rating. The intervention would then be considered an inspection, partial inspection or audit and should be recorded as such.

The following intervention types are classed as official controls:

- Inspections
- Audits
- Sampling visits (where the analysis/examination is to be carried out by an official lab)
- Monitoring visits
- Surveillance visits
- Verification visits

5.2.1.4 Interventions at product-specific establishments subject to approval under Regulation 853/2004

The minimum number of food hygiene interventions at establishments subject to approval under Regulation 853/2004 must be conducted as necessary in accordance with section 5.6 of the Code. The competent authority must keep the approval of establishments under review when carrying out official controls.

5.2.2 Inspections/Audits

See section 5.2.2 of the Code.

5.2.2.1 Carrying out an inspection or audit - Inspections, partial inspections and audit

The circumstances below are examples of when the intervention must be recorded as an inspection, partial inspection or audit. These include:

- programmed inspections or audits, including initial inspections to risk rate new food establishments
- investigation of complaints about food or a food establishment which require inspection of some aspect of the food business
- where a scheduled intervention of another type is no longer appropriate due to a change in conditions at the establishment that become apparent when the officer is on site and more intensive action is required.

When carrying out inspections competent authorities have discretion based on their professional judgement and file history, to cover only certain parts of the establishment's inspection. Circumstances that may warrant a partial inspection of the food establishments may include:-

- partial inspection or audit of a large/complex establishment, where the inspection would look in detail at a particular process or operational area within the business.

- partial inspection as part of a focused food hygiene or food standards campaign.

The authorised officer must only consider revising the risk rating following an inspection, partial inspection or audit. The other interventions detailed at section 5.2.6 - 5.2.9 should not be followed by a change in the risk rating.

5.2.2.2 Initial inspection of a new establishment

The Code requires that all food establishments must receive an initial inspection. This should take place within 28 days of registration or from when the competent authority becomes aware that the establishment is in operation. This reflects the importance of ensuring new food establishments are complying with food law. This applies to both hygiene and standards inspections.

Prioritisation of initial inspections within the competent authority's intervention programme must be risk based. The requirement to undertake initial inspections within 28 days might in some circumstances present a conflict for resources to complete other higher priority activities or where businesses might register well in advance of opening.

5.2.2.3 Determining when to undertake the initial inspection

The following factors should be considered by the competent authority when determining when to undertake an initial inspection:

Where the new establishment is believed to be undertaking high risk food activities the competent authority should undertake an initial inspection within 28 days of commencement of operations;

Where the establishment is believed to be low-risk from the available information, consideration can be given to postponing the initial inspection in circumstances where it would delay planned interventions to establishments involved in, or believed to be involved in, high-risk activities as defined in section 5.6 of the Code; and

Where an establishment is registered 28 days before commencement of operations, the inspection can be delayed until operations within the establishment have begun.

Where a decision has been taken to postpone an initial inspection this should be recorded on the appropriate establishments file record.

5.2.2.4 Factory and fishing vessels - hygiene inspections

In addition to the planned intervention programme of land based establishments, coastal competent authorities will need to consider the inspections of factory, freezer

and fishing vessels. Such inspections will normally be carried out whilst vessels are in port.

Inspections of factory, freezer or fishing vessels should not be carried out whilst at sea. In the case of factory vessels, there might be circumstances when inspections can only be carried out when the factory vessels are moored offshore.

The frequency of inspections of fishing vessels must be set out in the competent authority's food service plan or enforcement policy.

While a vessel can be approved or registered by another competent authority, there is nothing to prevent an authorised officer of another competent authority from inspecting the vessel, as long as they have the appropriate legal authority to inspect the vessel and the competent authority that has approved/registered the vessel, consider it necessary.

Where, during an inspection, contravention of the regulations is identified, the authorised officer must notify the competent authority, with responsibility for the vessel of the contravention. The competent authority receiving details of contravention must liaise with the notifying competent authority and take whatever follow-up action is necessary.

5.2.3 Planning and notification of interventions

See section 5.2.3 of the Code

5.2.4 Enforcement action and revisits – food hygiene and food standards

Food businesses that fail to comply with significant statutory requirements must be subject to appropriate enforcement action and revisit inspection(s). See section 5.2.4 of the Code.

Failure to comply with significant statutory requirements includes failure to comply with:

- a single requirement that compromises food safety, compromises public health, or prejudices consumers;
- a number of requirements that, taken together, indicate ineffective management;
- the requirements of a statutory notice or order

Revisit inspections should be based on the relevant inspection form, where one has been developed, for the business concerned, although the inspection may focus on the significant statutory requirements that were found to be contravened at the previous intervention.

5.2.5 Co-ordination of intervention

Where authorised officers of the various enforcement functions need to inspect the same establishments, there can be advantages for food businesses, competent authorities and consumers in co-ordinating the inspections. This is particularly true of inspection of manufacturing establishments, where co-ordination can make the whole inspection process more effective and efficient. However, there can often be practical difficulties in co-ordinating inspections. For example, establishments might need to be inspected more frequently for some purposes than for others. There might be particular advantages in co-ordinating visits to consider a new process or product, or where there have been significant changes in quality control procedures.

Wherever it is practicable and appropriate to do so, competent authorities should co-ordinate inspections of food establishments. The inspection team should include all the expertise necessary to inspect the establishments in question and where appropriate further experts in particular fields of food technology[18].

5.2.6 Verification

The circumstances below are examples of when an intervention should be recorded as verification for that visit to the food establishment. These include:

- a visit to verify compliance with specific issue(s) identified at an earlier intervention, investigation of a complaint and/or serving of notices;

- investigation at a food establishment in response to a food poisoning incident where it is necessary to verify key aspects of the food business operation;

- verification visits to confirm that the procedures for HACCP have been implemented; and

- one-to-one follow-up visit to verify compliance after participation of food business in a training seminar or completion of a business survey

5.2.7 Monitoring and surveillance

The circumstances below are examples of when an intervention should be recorded as monitoring or surveillance for that visit to the food establishment. These include:

- information gathering visit if they include verification of information collected on site by an authorised officer;

- surveillance of an establishment, for instance, the undeclared purchase of food items for verification of compliance with food law, undeclared visits to verify hygienic practices; and

[18] The Institute of Food Science and Technology maintains a list of experts in particular fields.

- visit to check the information supplied as part of an alternative enforcement strategy.

5.2.8 Sampling visits

A visit to an establishment for the purpose of obtaining a sample does not constitute a planned intervention unless the sampling activity forms a component part of a wider reaching official control that overall provides sufficient information to allow the officer to determine the level of compliance.

The circumstances below are examples of when an intervention should be recorded as sampling for that visit to the food establishment. These include:

- a visit solely to take formal sample(s) to be analysed/examined at an official laboratory. NB if samples are taken during another sort of intervention for instance, an inspection, then the visit must be recorded as an inspection not a sampling visit; and

- visits to take samples as part of a national, regional or local sampling programme can be included in this category, as long as the samples are analysed / examined by an official laboratory.

Also see Chapter 8 of the Code.

5.2.9 Other Interventions

The following intervention types are classed as other interventions (not official controls):

- education

- advice

- coaching

- information and intelligence gathering (including sampling where analysis or examination is not to be carried out by an official laboratory)

5.2.9.1 Education and advisory work

Providing education, advice and training delivered at the business establishment can be a key part of a competent authority's strategy to change behaviour and increase compliance in food businesses and should be encouraged whenever resources allow.

The circumstances below are examples of when the intervention should be recorded as advice and education for that visit to the food establishment. These include:

- visit to establishments to give advice and/or training;

- visit to give advice on Safer Food Better Business (SFBB), Safe Catering guide or equivalent schemes; and

- a visit to give advice on structure/layout of new food establishments in relation to planning applications/building control applications.

Educational and advisory work can also be delivered away from the food establishments, for instance, through a business forum or seminar. It can be targeted at specific types of food businesses or around specific food safety topics. Details of such education and advisory work should be recorded in the free text box of the annual monitoring return sent to the FSA in NI.

5.2.9.2 Information and intelligence gathering visits

These are visits to confirm key information relating to the food establishment. The information or intelligence gathered should be reviewed by a competent authorised officer (see Chapter 4 of this Practice Guidance) who will assess whether further action is appropriate.

The circumstances below are *examples* of when the intervention should be recorded as information and intelligence gathering for that visit to the food establishment. These include:

- visit to take sample(s) that will not be analysed/examined at an official laboratory but that do provide information on some aspect of the food business; and

- a visit by a regulator other than the competent authority to gather intelligence/information on a food establishment.

5.2.9.3 Record(s) keeping

The rationale, focus and use of alternative official controls to inspections should be documented in relevant files.

5.3 Frequency of official controls and requirements of a risk based approach

5.3.1 Approach to enforcement – requirement for food safety management procedures based on HACCP principles

Article 5 of Regulation (EC) No 852/2004 requires all food businesses (except primary producers) to develop food safety management procedures based on HACCP principles. Recital 15 of the Regulation allows for a degree of flexibility in the application of these principles and implementation of such procedures, particularly in small, businesses, where traditional HACCP might be difficult to apply.

5.3.1.1 Enforcement approach

Enforcement should be graduated and educative.

Regulation (EC) No 852/2004

Regulation (EC) No 852/2004 requires food businesses to put in place, implement and maintain food safety management procedures based on HACCP principles. The FSA has produced guidance materials to help businesses comply with this legislation, which will be available through FSA's web site and competent authorities.

Food establishments that present significant health risk conditions or an imminent risk of injury to public health should be subject to formal enforcement action to secure compliance and protect public health.

Where food establishments do not present significant risks to public health, the aim must be to help the business improve standards of food safety and hygiene. In practice this means:

Ensuring that significant hazards are understood and controlled, and where understanding and control is lacking – provide advice and guidance to FBOs on how to adopt good practice to improve compliance with food law.

In following an educative approach enforcers should concentrate on significant hazards to public health, ensuring that those responsible for food safety understand these hazards and know how to control and manage them.

A graduated approach should be based on the expectation that businesses improve their standards over time, taking account of the understanding they gain from the enforcement officer and other sources. Where a business does not improve – given reasonable time, after being offered guidance, HINs and other formal enforcement measures can be used.

5.3.1.2 Flexibility

Regulation (EC) No 852/2004 is flexible, and requires food businesses to establish procedures in the business that control food safety hazards, and integrate these procedures with documentation and record keeping appropriate to the size and nature of the business.

Whilst larger, more complex businesses and businesses that have a high level of understanding of food safety management may choose to demonstrate compliance with the legislation by putting in place a traditional HACCP system, others may do so with simpler approaches that take account of this flexibility. This section describes this flexibility for small businesses.

Whilst some businesses will wish to follow the traditional 7-principle HACCP framework this may not be easily understood or implemented by others – particularly small businesses. There is no requirement to use this 7-principle approach as long as the same outcome is achieved – safe food being produced.

For enforcement, in practice, compliance means:

- obtaining assurance that the person responsible for food safety understands significant hazards and has them under control e.g. by questioning;

- seeing that there are some written procedures that demonstrate how the business controls these hazards at all times;

- seeing some evidence that these procedures are followed, and that they are reviewed and kept up to date.

Where a business is especially low-risk (e.g. sweet shop, greengrocer, market stall etc.) presenting only basic hygiene hazards, it may be sufficient that the business has a guide to good hygiene practice and understands and applies it. Documentation and record keeping may not be necessary.

The key points are:

- flexibility applies to all food businesses

- the FBO or manager of a business should have the skills necessary to maintain a food safety management system proportionate to their business, and not simply be trained in HACCP principles. These skills can be gained in many ways; formal training is not the only route.

- staff in a business should have the skills needed to undertake their duties and follow the food safety procedures in the business. Training for staff should be proportionate and reflect the flexibility guidance. Formal training may not be necessary to achieve the objective of having the required competencies. In practical terms, on the job training might be appropriate, attendance at a formal training event is not necessary.

- monitoring key activities in the business (critical control points) need not be numeric and can be based on sensory observation, craft skills and supervision.

- incident recording is an appropriate and proportionate form of record keeping in many businesses

- corrective actions must supplement incident recording.

In order to help businesses develop appropriate procedures and to adopt a graduated approach to its enforcement, it is important to understand how to judge progress. The table below describes the components of the legislation and how an enforcement officer might judge progress towards complying with it in small businesses.

The table breaks down the components of the legislation into the standard 7 principles of HACCP, with some of the flexibility in the legislation identified. Although guidance materials may use this 7-principle framework, it is not necessary for this

approach to be used. Provided the same outcome is achieved, safe food being produced, this can be achieved by substituting, in a simplified but effective way, some or more of the seven principles. This is clarified in Annex II of the Commission guidance on flexibility:

http://ec.europa.eu/food/safety/docs/biosafety_food-hygiene_legis_guidance_haccp_en.pdf

Similarly, the terminology or 'jargon' of HACCP need not be used, and may be confusing to some businesses

This breakdown is based on the FSA approach 'Safer food, better business', but should be useable to identify compliance in a business using other similarly flexible tools, or where the business has devised its own procedures.

1.	**Identify any hazards that must be prevented eliminated or reduced;** Mapping Hazard Analysis with tools such as flow-charts might not be suitable for all businesses. It is sufficient that the business has thought about its activities in a structured way. The effect of the analysis and the procedures produced should be to ensure that safe food is always produced. The traditional HACCP approach of controlling some hazards through pre-requisite programmes of Good Hygienic Practice and others through the HACCP system might not be appropriate, particularly in small businesses where it is not readily understood. Whatever the format of the guidance, the business must be managing all significant hazards including those traditionally controlled through Good Hygienic Practice. **For enforcement, in practice, this means:** *Being provided with sufficient evidence that the person responsible for food safety has thought about their business and identified significant hazards and knows how to control them – for some businesses it may be appropriate to follow standard advice from the FSA, industry guides, advice from trade bodies etc.*
2. 3.	**Identify the critical control points (CCPs) at the steps at which control is essential;** **and Establish critical limits at CCPs;** **Critical control points and their limits might not always be helpful ways of thinking about food safety for small businesses and they can instead identify generic controls - like thorough cooking, together with the ways of ensuring they know this has happened.** The legislation is flexible in stating the requirement that establishing a critical limit does not always imply that a numerical value must be fixed.

	This is in particular the case where monitoring procedures are based on visual observation, for example a business might rely on sensory information such as colour change, juices running clear, stews bubbling etc. Businesses must understand how these methods control hazards and be sure they are effective. This validation can be done by the business themselves (on the basis of experience), or it might be appropriate to use pre-validated procedures that follow established best practice, produced by the FSA, trade bodies or others. **For enforcement, in practice, this means:** *Being provided with sufficient evidence that the business is following procedures that include steps where the significant hazards are controlled – for many businesses it may be appropriate to follow standard advice.*
4.	**Establish procedures to monitor the CCPs;** Management of food safety through the procedures detailed above will need to be demonstrated. This can be shown in many ways. In some larger businesses this may be achieved by monitoring protocols and record keeping. In other businesses – particularly where the person responsible spends significant time in the food preparation areas, this can be demonstrated by their ability to supervise their operation – that their procedures are being followed. It will be important to establish that if the procedures are followed, safe food will result. Monitoring might in many cases be a purely sensory exercise, for example a regular visual verification of the temperature of cooked food by a colour change. **For enforcement, in practice, this means:** *Being provided with sufficient evidence that the business is monitoring their procedures, either using physical checks such as noting temperatures or via sensory checks such as noting that a stew or sauce is bubbling. The person(s) responsible for food safety should be able to explain the chosen method of monitoring.*
5.	**Establish corrective actions to be taken if a CCP is not under control;** It is also important that the business knows what to do when things go wrong – the corrective action that needs to be taken. **For enforcement, in practice, this means:** *Verifying that the person responsible for food safety management ensures that there is adequate supervision of staff and equipment so as to assure that procedures are being followed and safe food produced, and also questioning staff working in the area where the CCP exists, to provide assurance that HACCP based controls are understood, implemented and*

	that when things go wrong appropriate action is taken.
6.	**Establish procedures to verify whether the above procedures are working effectively;** The business will need to demonstrate that its procedures are verified and reviewed and kept up to date, and that changes to menus, types of foods and cooking methods, and new equipment are reflected. In larger businesses, verification may be achieved by third parties, but for smaller businesses it is sufficient that the business carries out periodic reviews of its procedures and methods, and takes account of good practice and safe methods. **For enforcement, in practice, this means:** *Seeing sufficient evidence that the procedures in a business are reviewed to ensure they continue to be appropriate and reflect changes in the business.*
7.	**Establish documents and records to demonstrate the effective application of the above measures;** Documentation and record keeping are particularly onerous for smaller businesses and the legislation is clear that this should be well balanced and limited to what is essential with regard to food safety. **For enforcement, in practice, this means:** *Seeing documentation that is up to date and describes the main procedures or methods used in the business to control the most important hazards;* *Seeing periodic records that represent evidence that these procedures were followed and that corrective action has been taken. This does not have to record every monitoring and supervisory activity and in small caterers, exception reporting will be acceptable.* *However for simple small businesses following good hygienic practice guides, documentation and record keeping might not be necessary.*

5.3.1.3 Role of competent authorities

The flexibility means that all food businesses should be able to comply with the requirements of the legislation.

In accordance with the legislation, businesses are required to implement appropriate food safety management procedures. Different support models are appropriate for different types of business. Larger businesses and manufacturers may continue to develop and use traditional HACCP systems. The approach developed by the FSA, Safer food, better business (SFBB) is one approach considered suitable for use by

small caterers. The 'Safe Catering' and 'Cook Safe' support models developed in Northern Ireland and Scotland respectively are also suitable for a wide range of caterers.

Small food manufacturers represent a specific banding of businesses falling between those businesses where a SFBB/Safe Catering type approach is suitable and those larger manufacturing business that have in-house technical competence on the traditional 7- principle HACCP approach.

In order to support small food manufacturing businesses, the FSA has developed MyHACCP, (www.food.gov.uk/myhaccp) a free interactive web tool, that guides food businesses through the process of identifying food safety hazards and controls and the production of a documented food safety management system based on HACCP principles.

Guidance for authorised officers on MyHACCP can be accessed at: http://www.food.gov.uk/enforcement/enforcework/food-law/guidance-enforcement/myhaccp-guidance

Proper implementation of the appropriate support model constitutes compliance with Article 5 of Regulation (EC) No 852/2004.

Businesses should either have in place or be seen to be making progress toward having effective food safety management systems. Enforcement officers should try to educate and give businesses an understanding about what is required. For businesses that are not a threat to public health, it is expected that formal enforcement action should only be taken where the business has been:

- given reasonable opportunity to implement food safety management;
- directed to appropriate training, if needed; and
- provided with appropriate guidance

The graduated approach should seek to educate businesses and improve their standards in realisable steps. Guidance material should be broken down in such a way that the enforcer and business can agree that by their next visit, so much progress should have been made. The FSA's advice, SFBB, is broken down into the 4Cs (cooking, cleaning, chilling and cross-contamination) and it may be appropriate to set a business one of these 'Cs' at a time. Other guidance material can also be divided into 'chunks' like this. Where fundamental skills are missing, enforcers should point businesses at sources of the competencies – guidance materials, books, courses etc. Enforcers should look to the business to make reasonable progress through the material and make appropriate changes in their practices before the graduated approach progresses from education to more formal infraction methods.

A food safety management system should give assurance that the business knows how to produce safe food, has procedures in place that assure this, repeatedly does produce safe food and is capable of taking appropriate corrective actions when

things go wrong. Whether a business has an effective food safety management system in place is a judgement for enforcement officers.

For enforcement, in practice, this means:

Judging whether the business has appropriate procedures in place so that it would continue to produce food safely if things went wrong – staff absences, unexpected demand etc., and seeing some evidence that this is the case.

5.3.2 Alternative enforcement strategies

Alternative enforcement strategies are methods by which low risk (hygiene category E and standards category C in accordance with the Code risk rating mechanism) establishments are monitored to ensure their continued compliance with food law. Alternative enforcement strategies are not appropriate for higher risk establishments or those subject to Regulation (EC) No 853/2004.

Competent authorities that decide to subject low-risk establishments to alternative enforcement strategies must set out their strategies for maintaining surveillance of such establishments in their Food Service Plan and Enforcement Policy. It is not intended to preclude inspection, partial inspection or audit at such establishments where any of these are the competent authority's preferred official control option, in which case the minimum frequency of intervention must be determined by the intervention rating.

An establishment must have been subject to an initial formal inspection, and have been subsequently risk rated in accordance with section 5.6 of the Code, before it can be determined to be a low risk establishment and therefore appropriate for it to be included in the alternative enforcement strategy.

Low-risk establishments must be subject to an alternative enforcement strategy or other intervention, at least once during any three year period for hygiene or five year period for standards. Visits to check the information supplied, by an appropriately qualified officer, can be recorded as a verification visit.

Alternative enforcement strategies typically use questionnaires, with a sample of businesses receiving a follow up visit to verify the information provided.

Interventions might need to be carried out to establishments within the alternative enforcement strategies for various reasons. Triggers for an alternative intervention may be:

- consumer complaint;
- planning or building regulation applications;
- infectious disease notification;
- changes in activities or management; and

- non-return of questionnaire

5.3.2.1 Elements of an alternative enforcement strategy

An alternative enforcement strategy may consist of any, all or a combination of the following options:-

- questionnaires;
- surveys;
- project based inspections;
- customer complaint response;
- intelligence gathering visits; and/or
- random percentage of establishments subject to inspection

5.3.3 Food hygiene intervention frequency

5.3.3.1 Impact of The Food Information Regulations (Northern Ireland) 2014 on the Food Law Code of Practice (Northern Ireland) food hygiene scoring system (and FHRS ratings)

The purpose of the food hygiene scoring system in Chapter 5 of the Code is to determine planned intervention frequencies at all food establishments on the basis of assessment of compliance with food hygiene law. The provisions on allergens in the Food Information Regulations (Northern Ireland) 2014 relate to food labelling and information so should not form part of this assessment since these are food standards requirements.

Consideration of the control of cross-contamination, including any allergen-related contamination identified in preparing food specifically for consumers with a food allergy or intolerance, should be part of the general assessment of hygiene procedures during a food hygiene inspection. These controls should be part of a business's food safety management system and should be taken into account when giving the confidence in management score. Such consideration should not be the overriding factor but rather should contribute to the overall assessment of confidence in management.

5.3.4 Food standards intervention frequency

5.3.4.1 Additional advice for risk rating food standards establishments to take into account potential risk of chemical contamination of food

Section 5.6.2 of the Code contains the food establishment intervention rating scheme for food standards. Competent authorities that are responsible for enforcing food standards law should determine the food standards intervention frequencies of food businesses within their areas using the risk assessment criteria in this

intervention rating scheme, in order to determine their planned food standards intervention programmes.

At present under the food standards intervention rating scheme there is no scope for determining the risk from potentially hazardous chemical contamination in particular with respect to imported foods and food ingredients.

Therefore when considering under the food standards scoring scheme Part 1 “The Potential Risk” Table A “Risk to Consumers and/or Other Businesses”, authorised officers should consider allocating a top score of 30 points for:

“Food businesses including manufacturers and importers which handle imported foods or food ingredients which might be subject to increased risk of chemical contamination”.

5.4 Inspection of ships and aircraft

5.4.1 Introduction

This section supplements the information supplied in the corresponding section in the Code to enable authorised officers to consider additional aspects relating to the inspection of ships and aircraft. An inspection template for aircraft, which may be adapted, where appropriate, provided that the procedures outlined in the Code are not overlooked, this can be found on the Knowledge Hub (https://khub.net/).

5.4.2 General

The types of hazards that may be present in the shipboard/aircraft environment are vastly different to those that might be found in fixed establishments.

Examples include:

- hazards resulting from the various sources of water and its storage in on-board tanks;
- the 24 hour nature of operations on-board ships and aircraft;
- the multi-cultural and international nature of crews;
- the availability of provisions only when the vessel/aircraft is in port;
- the restricted storage space available for provisions (dry, chilled and frozen);
- the age and conditions on board; and
- the fixed layout of food production facilities which cannot be expanded or changed due to structural and safety issues.

The shipboard environment is essentially a closed community for long periods of time during voyages, which presents particular problems in relation to the hazards

associated with food production and the potential results of contamination. In large passenger ships, for example, the presence of food contaminated by food poisoning bacteria or toxins could be devastating, amongst both passengers and crew. Even on smaller vessels, or vessels with smaller crews, an outbreak of food poisoning could have a significant impact on the ability to sail the vessel safely because critical members of the crew may be incapacitated.

The scale of food production on board vessels varies greatly, from large passenger vessels and cargo vessels with large crew and passenger numbers (e.g. some cruise liners over 3,000 passengers and 1,200 crew) to smaller vessels crewed by 10 to 15 personnel.

Aircraft meals are mainly, but not exclusively, prepared prior to departure, some of which might be for return flights.

During any inspection of a ship or an aircraft, authorised officers must be aware of their own health and safety and have regard to any requirements of the port authority and the shipping operator or airline.

In many cases it would not be necessary to inspect aircraft on a regular basis, if sufficient information has been obtained from the airline and/or relevant Home Authority has been verified.

When the service of notices is considered, it should be borne in mind that through case law, “proprietor” does not necessarily mean “owner”, as it is the person who carries on the food business. It might be the company running a shipping operator or it could be a company hired to operate the food business. Authorised officers will need to establish who the FBO / food business proprietor is in each case.
Inspection reports should be copied to any food safety advisers employed by the shipping operator or airline.

5.4.3 Catering waste

The disposal of international catering waste from third countries to landfill is regulated by the Animal By-Products (Enforcement) Regulations (Northern Ireland) 2015. DEFRA has identified significant risks to animal health if this waste is not dealt with effectively at landfill. Specific measures are needed to ensure that disease is not introduced into the UK from landfill sites, which receive this waste. A mechanism for suspending or amending the conditions of a landfill site approved to deal with such waste is in place, in the event that the conditions of approval are not observed.

5.4.4 Other issues – aircraft

Airlines should be encouraged to adopt, where necessary, approved codes of practice, for example, the ITCA[19]/IFSA World Food Safety Guidelines, and to develop in-house supplier audits and aircraft audits and to make any reports available to the authorised officer.

[19] The International Flight Caterers’ Association (IFCA) became The International Travel Catering Association (ITCA) in 2005

Such reports, where available, should form part of the authorised officer's initial checks. Authorised officers should also give consideration, where appropriate, to these Guidelines, which can be found at the following link: http://www.ifsanet.com/Default.aspx?tabid=236.

Flight caterers or secondary food suppliers should be requested to make details of meal ingredients available to their airline customers. Relevant cabin crew should have access to this information and be able to pass it on for the benefit of passengers who have allergies or food intolerances.

Authorised officers should be aware that there have been reported outbreaks of foodborne illness affecting the crew of aircraft, and airline policies might include the requirement for crew members to eat at different times to the passengers and from different menus.

Inspections of aircraft may be undertaken at the maintenance base, taking account of any documentation on, for example, food supply specifications, cabin crew training and food temperature control that is supplied by the airline or the Home Authority.

When it is necessary to board an aircraft, the actual time spent on board should be as short as possible, as most of the above issues should be standard operating procedures included in the airline's documentation. However, if there are any causes of concern relating to the above, the authorised officer should notify the relevant company and the Home Authority, if designated, that increased surveillance may be undertaken, e.g. assessment of galley cleanliness, increased water sampling for analysis/examination, etc.

Delays to aircraft are costly. Aircraft operations should therefore not be interrupted unless there is an imminent risk to the health of passengers or crew. If flights are in transit, inspections should be undertaken only if absolutely necessary, based on background information relating to the specific type of aircraft, company policy, flight caterer, temperature control, etc. Authorised officers should also consider the practicalities of their inspection schedule and endeavour to work with the relevant crew/ground staff to avoid unnecessary difficulties, and bear in mind the primary objective of an airline is the safety of the aircraft, passengers and crew.

The Association of Port Health Authorities has published "*Airline Catering Guidance for Inspectors"*.

5.4.5 Other issues – ships

If appointed, the Home Authority for the shipping operator should ensure that all relevant documentation is made available to it, (see below for examples of relevant documentation), for liaison with and the information of other relevant competent authorities. For military ships see section 5.5.4 in the Code.
Recipient competent authorities should use the previous inspection report to ensure that:

(a) if necessary, follow-up inspections are undertaken at that time; and/or

(b) inspections are not carried out at a frequency of greater than annually, unless there is clear justification for doing so.

It is also good practice to send a copy of the report to the UK competent authority which had carried out any previous inspection, in order that they may see what action, if any, had taken place as a result of their previous inspection of the vessel.
Ships may be inspected for training purposes so long as the purpose of the inspection is made clear to the Master and they agree to such an inspection taking place.

Examples of relevant documentation:

- food specifications/suppliers;
- water sample results;
- hazard analysis (HACCP);
- food temperature records; and
- Food Handler Training Records.

5.5 Import controls

5.5.1 Guidance for competent authorities on import of food from third countries

Significant volumes of food are routinely imported into the UK and it is important that effective arrangements are in place in competent authorities to check imported food both at points of entry and inland. Competent authorities must have regard to the general guidance on enforcement contained in the Code in relation to their imported food enforcement control arrangements.

All competent authorities have responsibilities for imported food controls. The purpose of this guidance is to set out and assist competent authorities on the level and type of activity to achieve effective and consistent enforcement on imported food.

The guidance also focuses on the principal legislation relating to the import of food not of animal origin (FNAO). FNAO import controls were harmonised at EU level by Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. The provisions of this Regulation are directly applicable but are given effect at national level by the Official Feed and Food Control Regulations (Northern Ireland) 2009, and parallel legislation in Scotland, Wales, and England.

5.5.1.1 Scope

The scope of this guidance extends to imported FNAO and illegally imported products of animal origin (POAO). However this guidance does not cover control activities for POAO at Border Inspection Posts (BIPs), where central guidance produced by DEFRA is available in the BIP manual at:

https://www.gov.uk/government/publications/border-inspection-post-bip-manual

Please note: Border Inspection Posts (BIPs) may be situated at seaports, airports or international rail links, and are designated points of entry for POAO from third countries (those outside the EU).

The guidance does however provide enforcement advice for competent authorities relating to illegally introduced POAO. The guidance covers imported food control only.

Except where a specific distinction is made this guidance applies to all competent authorities, both inland and at points of entry, including Port Health Authorities (PHAs). For the purpose of this guidance “imported food” means food imported into the UK from outside the European Union (“third countries”); and “point of entry” means a seaport, airport or international rail link at which imported food is introduced into the UK.

Competent authorities (including PHAs) with a point of entry provide the first line of control on imported food to ensure it is safe and complies with EU and UK requirements. However, it is important that controls are also in place at External Temporary Storage Facilities (ETSF), ships suppliers, international rail terminals, and other establishments inland, as significant amounts of FNAO are not required to undergo checks at points of entry (specifically non-restricted FNAO as all restricted FNAO would be subject to controls) and there is also the possibility that POAO may have entered the UK illegally.

Please note: External Temporary Storage Facilities (ETSFs) are Customs approved warehouse facilities whereby imported goods are held in temporary storage under Customs control. They are intended to facilitate entry of goods for Customs purposes and may be some distance from the seaport/airport, and so may therefore fall under the jurisdiction of another competent authority.

Further details of the roles and responsibilities of PHAs, competent authorities and other Government Agencies and Departments can be found in the FSA’s Resource Pack for Inland Enforcement of Imported Feed and Food Controls which can be accessed using the link:

http://www.food.gov.uk/foodindustry/imports/enforce_authorities/resourcepack

This resource pack also provides guidance for inland authorities on the effective monitoring of imported food.

Guidance is also available for those authorities with points of entry through which occasional and/or low levels of imports of feed and food of non-animal origin are received. This guidance can be accessed at:

http://www.food.gov.uk/business-industry/imports/enforce_authorities/smaller-seaports-and-airports/

Guidance on effective imported food control for competent authority food services, which draws on experience gained from FSA audits, is available at:

http://www.food.gov.uk/business-industry/imports/enforce_authorities/

5.5.2 Status of this guidance

This document should be considered as centrally issued guidance for the purpose of the Framework Agreement on Official Feed and Food Controls by competent authorities which can be found at:

http://www.food.gov.uk/enforcement/enforcework/frameagree/

Amendments have been made to the Standard in the Framework Agreement to clarify its application to imported food control.

This guidance should also be read in conjunction with the Code which provides direction and guidance on the competent authority approach to enforcement generally.

5.5.3 Imported food legislation – food not of animal origin (FNAO)

5.5.3.1 Regulation (EC) No 882/2004

This provides EU-wide harmonised rules for import controls of food from third countries not already covered by Directive 97/78/EC (Product of animal origin (POAO) Veterinary Checks regime).

5.5.3.2 The Official Feed and Food Controls Regulations (Northern Ireland) 2009

The Official Feed and Food Controls Regulations (Northern Ireland) 2009 give effect to the import provisions of Regulation (EC) No 882/2004 in NI only. Parallel legislation is in place in England, Scotland and Wales.

The Official Feed and Food Controls Regulations (Northern Ireland) 2009 include a mechanism (regulation 33) for ensuring that where there is a serious risk to animal or public health, control measures may be put in place. In particular, it may be used to ensure that Emergency Decisions made at EU level are implemented without delay. It does so by giving the FSA in NI powers to make declarations regarding import conditions for particular products. These conditions can apply with immediate effect.

5.5.3.3 Other legislation

For certain areas, for example, contaminants, there are specific EU harmonised requirements for foods which can be applied at points of entry as well as inland. These EU requirements are implemented in the UK by separate legislation but the powers to deal with non-conforming food at import are those contained in the Official Feed and Food Controls Regulations (Northern Ireland) 2009. Separate and detailed European Commission guidance on the contaminants legislation is available at:

http://ec.europa.eu/food/food/chemicalsafety/contaminants/index_en.htm

5.5.3.4 Food of 'known or emerging risk'

Regulation (EC) No 882/2004 (Article 15(5)) provides that the Commission may issue a list of FNAO of 'known or emerging risk'. This has occurred with the implementation of Regulation (EC) No 669/2009 (regarding the increased level of official controls on imports of certain feed and food of non-animal origin. These products are identified on the basis of 'known or emerging risk', and are subject to increased import controls at designated points of entry (DPEs). A list of current FNAO identified as being of 'known or emerging risk' and therefore subject to checks, can be found at:

http://www.food.gov.uk/foodindustry/imports/banned_restricted/restricted_foodstuffs

The frequency and nature of such checks are specified by the European Commission when products with a risk from particular third countries are identified. The enhanced controls provided for by this Regulation include; prior notification by means of a Common Entry Document (CED), import through DPEs (that must have particular facilities available and be approved by the FSA), and specified documentary, identity and physical checks (which are undertaken at these points of entry).

Separate guidance documents on this Regulation have been produced for enforcement officers and FBOs. They are available on the FSA's website at:

http://www.food.gov.uk/sites/default/files/multimedia/pdfs/1005enfguide6692009.pdf
(Advice for enforcement officers)

http://www.food.gov.uk/business-industry/imports/banned_restricted/highrisknonpoao

(Advice for FBOs)

The Commission has also produced guidance at:

http://ec.europa.eu/food/safety/official_controls/legislation/imports/non-animal/docs/food_official_control_guidance_document_669-2009_en.pdf

5.5.3.5 EU emergency measures

The European Commission imposes special conditions governing the import of certain FNAO from particular third countries where specific hazards are a risk to food safety. These special conditions can differ depending on the measure but may include that specified products can only enter the UK through specific ports or airports following prior notification and may require that they must be accompanied by a health certificate and results of sampling and analysis.

Further information on such measures can be found on the FSA's website at:

http://www.food.gov.uk/business-industry/imports/banned_restricted

5.5.3.6 Third country pre-export checks

Regulation (EC) No 882/2004 includes provisions for the Commission to grant third countries reduced import checks on imported FNAO. Such arrangements will be restricted to those countries where the Commission is satisfied that effective official controls are in place to carry out the appropriate pre-export checks immediately prior to export to the EU. Details of relevant products and third countries will be notified to competent authorities, as appropriate.

This status can be repealed by the Commission in the light of information or experience. Where such arrangements are in place competent authorities at points of entry should check relevant certification to validate such assurances. Particular consideration must be given to consignments accompanied by certification from non-accredited laboratories. Where competent authorities have concerns relating to any such arrangements based on checks carried out they must notify the FSA in NI as soon as possible.

5.5.4 Service planning

The Framework Agreement on Official Feed and Food Controls by Local Authorities includes service planning guidance[20].

http://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/frameworkagreementno5.pdf

Section 2.3 ("Scope of the feed and food service") and Section 2.4 ("Demands on the feed and food service") provide for competent authorities to set out the scope of the responsibilities and service provided and to describe any external factors that might impact on their service. Competent authorities should include in these sections imported food responsibilities and the control arrangements in place.

Competent authorities with a point of entry should include details of resources allocated for imported food control work in their service plans.

[20] http://food.gov.uk/multimedia/pdfs/enforcement/frameworkagreementno5.pdf

5.5.5 Documented policies and procedures

All competent authorities should ensure that their written policies and procedures cover imported food having regard to the work that might reasonably be anticipated within the council area

Procedures relating to examination of imported food including deferred examinations under the Official Feed and Food Controls Regulations (Northern Ireland) 2009 should cover both food safety and food standards issues, where applicable.

Such procedures might be audited by the FSA or the Directorate on Health and Food Audits and Analysis of the European Commissions and should be suitable and sufficient for these purposes. They should make public, information on their control activities and their effectiveness.

5.5.6 Authorisation

All competent authorities should ensure that at least one officer is properly authorised to undertake imported food control work and related enforcement action. One of the key issues to be considered in any review of authorisations is the identification of the specific legislation where enforcement powers originate. This will affect the content and wording of authorisation documentation.

For food safety and food standards matters this should include authorisation under the Food Safety (Northern Ireland) Order 1991 and under hygiene and processing regulations or orders issued under it, including any relevant legislation such as the Official Feed and Food Controls Regulations (Northern Ireland) 2009.

Officers should also be authorised to enforce relevant regulations made using the powers in the European Communities Act 1972 (e.g. the Food Hygiene Regulations (Northern Ireland) 2006). However, the European Communities Act 1972 does not contain specific enforcement powers, its primary function is to provide a mechanism by which regulations can be enacted to implement and enforce EU Law. Powers of enforcement for regulations made under the Act are usually contained in the regulations themselves. Therefore, the FSA's view is that all regulations relevant to imported food controls should be specifically referred to in authorisation documents, including officers' credentials. For example (note this list is not exhaustive), include:

- The Trade in Animals and Related Products Regulations (Northern Ireland) 2011(TARP Regulations); and

- The Official Feed and Food Controls Regulations (Northern Ireland) 2009

The FSA's view is that officers do not need to be specifically authorised to enforce declarations made under Regulation 33 of the Official Feed and Food Controls Regulations (Northern Ireland) 2009 if already authorised under these Regulations.

Competent authorities might also wish to consult their own legal advisors on this matter. See Chapter 4 of the Code.

5.5.7 Qualifications/experience of authorised officers

Officers authorised to undertake imported food controls work and enforcement action must be appropriately qualified and competent to carry out the range of tasks and duties they are authorised to perform, in line with the relevant requirements of the Code.

For competency requirements, please see the relevant section in Chapter 4 of the Code, and Chapter 4 of this Practice Guidance.

5.5.8 Information

Competent authorities with a point of entry in their territory should maintain up to date information on:

- the port operator;
- access to port/customs areas, including External Temporary Storage Facilities (ETSF);
- stakeholders, including import agents and airlines/shipping operators;
- trade type (volume, nature, and trade routes);
- facilities where imported food inspection can be carried out and arrangements for storage of detained/seized goods. DEFRA have issued further specific advice on operating procedures for sharing facilities at BIPs in their BIP Manual which can be found at: https://www.gov.uk/government/publications/border-inspection-post-bip-manual;
- equipment available for carrying out inspections and sampling of imported food;
- details of appointed and specialist laboratories for analysis and/or examination of samples who are able to provide an appropriate service in particular, in relation to the time-scale of analysis / examination and issuing of the results;
- health and safety requirements; and
- security requirements

See section 2.4.1.3 of the Code for information on the communication between competent authorities for competent authorities at points of entry or ETSF.

Contact details and information on the roles and responsibilities of relevant central government departments and other organisations can be found in the FSA in NI's Resource Pack for Inland Enforcement of Imported Feed and Food Controls

Where relevant, competent authorities should ensure that their officers have access to secure areas under the Aviation and Maritime Security Act 1990. Information on this can be obtained from the port operator.

5.5.9 Records

5.5.9.1 Identifying and recording food importers

All competent authorities should ensure that food establishments and traders in their district which import food are identified and recorded in establishments/trader databases and included in intervention programmes as appropriate.

Completed food establishments registration forms can be used to assist identification of food establishments as being used for imports.

For the purposes of identifying and recording food businesses and systems falling under the official controls, competent authorities / Port Health Authorities (PHAs) should refer to the scope of Regulation (EC) No 882/2004 as detailed in Articles 14 and 15. Relevant activities should be identified on the appropriate files together with an indication of the type and origin of foods being imported.

To help identify food importers, competent authorities may conduct desktop exercises using such information sources as local knowledge, telephone directories or internet searches. Information from PHAs might also assist this process. Records can be refined further after visits to food establishments and/or communications with FBOs and other local government departments as part of outline programmed activities.

5.5.9.2 Records of consignments and examinations

Competent authorities with a point of entry should ensure that, where available, information relating to the number and type of food consignments is maintained together with relevant information on the checks made to determine compliance with legal requirements. Where information is recorded, the level of information about food examinations (including examinations undertaken at ETSF and deferred examinations should provide consignment traceability and permit effective internal monitoring. This information should include any identifying reference for the consignment examined, country of origin, information on the nature of the food and the checks carried out and, where any enforcement action or sampling has been undertaken, the details of the agent and/or consignor/consignee. Records of sampling checks and records relating to emergency controls should be held for up to three years.

Please note: A ‘consignment’ is a quantity of food or feed of the same type, class or description covered by the same document(s), conveyed by the same means of transport and coming from the same third country.

5.5.9.3 Arrangements for points of entry without permanent competent authority presence

The import controls at smaller seaports and airport' guidance provides further advice on imported food control at points of entry through which occasional and/or low levels of consignments of FNAO are received. This guidance can be accessed at:

http://www.food.gov.uk/business-industry/imports/enforce_authorities/smaller-seaports-and-airports/

Also see section 5.4.2 of the Code.

5.5.10 Reporting and notification arrangements

5.5.10.1 Nominated officer for imported food controls

See section 2.4.1.6 of the Code. The details of the nominated officer or changes to the nominated officer should be notified to the FSA in NI, who can be contacted by e-mail: executive.support@foodstandards.gsi.gov.uk.

5.5.10.2 Monitoring returns

All competent authorities should provide data on imported food enforcement activity via the Local Authority Enforcement Monitoring System (LAEMS). This includes both councils with a point of entry, and all inland councils. Where samples are taken of imported food, even at catering or retail level, a record should be made in the samples section of the imported food part of LAEMS. Guidance on the completion of imported food returns on LAEMS is available on the FSA website at:

http://www.food.gov.uk/enforcement/auditandmonitoring/laems/laemsimportguide

Competent authorities should also supply any other information reasonably requested by the FSA in NI. This may relate to information about the import of specific food or food products from certain countries. It might relate to information required by the European Commission in connection with emerging animal/public health issues or for inclusion in the National Control Plan or annual reports that the UK produces in accordance with the requirements of Articles 42 and 44 of Regulation (EC) No 882/2004. Commission emergency measures also normally require monitoring returns to be made to the Commission through the FSA, as does Regulation (EC) No 669/2009).

5.5.10.3 Notification of food hazards or incidents

See section 2.4.1.4 of the Code. FSA in NI's Consumer Protection team can be contacted by e-mail: incidents.ni@foodstandards.gsi.gov.uk

All competent authorities should notify the FSA in NI of a serious localised incident or a wider problem using the Rapid Alert System for Food and Feed (RASFF) as soon as a decision has been taken that one has occurred. This must be done at the earliest opportunity and by the quickest available means using the appropriate

contact details and reporting arrangements set out in section 2.4.1.4 of the Code and any subsequent documents.

5.5.10.4 Notification of illegal imports of POAO

A notification should be made to Defra whenever illegally imported POAO are seized under Regulation 19 of the TARP Regulations (Northern Ireland) 2011. Competent authorities should report the seizures to Defra using the IIT1 form. The reporting of seizures by competent authorities/PHAs requires the completion (preferably electronically) of a common form (IIT 1 (4/08)), which is then sent by e-mail to both the following recipients;

Imports&TradeinAnimalsandProducts@defra.gsi.gov.uk

Adam.Graves@defra.gsi.gov.uk

for DEFRA to record the appropriate information required. However, the option remains for the form to be completed manually, if that method is preferred, and sent to DEFRA by fax/post. Details of where to e-mail/fax/post the form is included on the form. The form is located on the secure parts of the following websites. Please note competent authorities will need to obtain the necessary password permission in order to access these areas from.

The Association of Port Health Authorities: http://www.porthealthassociation.co.uk
CIEH: http://www.ehcnet4.net/govt/defra/iit/iitrept.php

The information provided in this form is also shared with the FSA's NFCU (email: foodCrime@foodstandards.gsi.gov.uk).

Please note: Where illegally imported POAO is found at a point of entry, this is dealt with by the competent authority at the point of entry. If illegally imported POAO is found outside of the BIP it is dealt with by the competent authority responsible for enforcement at that establishment (e.g. DAERA or district council).

All competent authorities should set up, implement and maintain arrangements to effectively deal with illegally introduced POAO. Due to the nature of the enforcement activity which might require prompt action, officers should be properly authorised, template notices should be available, and effective mechanisms for any likely sampling or examination should be in place. Consideration should be given to necessary arrangements for the transport, storage, facilities and the necessary control arrangement for the destruction of POAO by high temperature incineration.

Where an authorised officer is satisfied that a POAO has been illegally introduced the officer shall seize the consignment or product, pending investigation, under Regulation 32(7) of the Trade in Animals and Related Products Regulations (Northern Ireland) 2011.

5.5.11 Liaison/referrals

Whenever inland competent authorities come across problems with imported food, where the point of entry for the goods can be ascertained and similar problems are likely to be found in other imported consignments, the competent authority at the point of entry should be informed as soon as possible, to help target their future surveillance activities.

In certain circumstances, it may be necessary for competent authorities covering points of entry to refer imported food matters to inland competent authorities. This would include situations where inland supervision of consignments is required and where checks at the point of entry reveal food safety or food standards concerns that are most appropriately dealt with by the inland competent authority.

Examples include where:

- a consignment of FNAO, which is subject to emergency controls or other restrictions, has been illegally imported e.g. without being presented to the competent authority at the point of entry for the required checks to be carried out;

- the competent authority at the point of entry is aware that illegal imports of POAO might have been distributed;

- checks on imported food reveal labelling issues which cannot be enforced at time of import;

- examination under the Official Feed and Food Controls Regulations (Northern Ireland) 2009 has been deferred;

- unsatisfactory test results are received for samples taken for routine surveillance but meanwhile the consignment has been released from the port; and

- analysis indicates, for example, that nuts are not suitable for human consumption but are referred for feed use

Wherever practicable, inland competent authorities should agree to assist with these referrals and respond as appropriate without undue delay and provide feedback to the competent authority at the point of entry on the outcome. Records of such referrals and details of any action taken should be maintained by all competent authorities involved.

It might also be necessary for FSA in NI to refer matters concerning illegally imported POAO to inland competent authorities. This information will normally be received from DAERA or BF where they have intercepted illegal imports destined for commercial establishments. Competent authorities should respond to these referrals as soon as possible and where requested provide feedback directly to DAERA or BF as required. Competent authorities should maintain records of action taken.

5.5.12 Inland inspection of imported food

See section 5.4 of the Code.

The Official Feed and Food Controls Regulations (Northern Ireland) 2009 also cover semi-finished products, materials and articles in contact with food, pesticides, and labelling issues.

When considering specific imported food intervention programmes local competent authorities should not simply focus on food businesses that specialise in the supply of food to specific minority groups. They should consider food businesses within their area that routinely import food from third countries, in particular those establishments that are the first destination after import. Such establishments are likely to include local food manufacturers and warehouses. Any intervention programme should also be informed by food alerts and the food business establishment compliance history.

In addition to assessing fitness for consumption, reasonable steps should be taken to check the legality of the importation of any POAO and FNAO from a third country. The FSA in NI's inland Enforcement of Imported Feed and Food Controls resource pack provides detailed advice on points to consider when investigating the legitimacy of food imports.

http://www.food.gov.uk/enforcement/enforcework/enforce_authorities/resourcepack

For further information about imported food controls and the types of food imports and countries of origin where there are prohibitions and restrictions see: www.food.gov.uk/imports.

5.5.12.1 Deferred examination of FNAO – inland controls

See section 5.4.4 of the Code and 5.5.14.4 of this Practice Guidance.

Inland competent authorities should ensure that any available information on imported food, which is sampled, detained, seized or destroyed, wherever practicable is recorded in relevant in-house records or databases.

5.5.13 Sampling of Imported Food

5.5.13.1 Considerations for sampling

Routine imported food sampling considerations, for competent authority surveillance and enforcement purposes, should take account of:

- any statutory requirements for sampling laid down in European Commission Decisions or Emergency Control Regulations (usually this will occur at a point of entry);
- any agreed FSA sampling programmes;
- any sampling required following a Food Alert or RASFF notification;

- information from any EU, regional liaison group, local or other sampling survey; and

- any imported food where there is no history or information on the product

Commodities sampled under EU Emergency measures should be detained until the enforcing competent authority receives the results unless otherwise stated in the implementing rules. This type of sampling occurs at the point of entry as the products will not usually be permitted clearance for free circulation until satisfactory laboratory analysis is confirmed.

Competent authorities should also take into account local priorities, including consumer complaints relating to imported food, and their local business profile when considering sampling, and include these in their sampling programmes. Sampling policies and programmes should be reviewed from time to time to assess the need to include national or regional imported food priorities/surveys and the UK's National Control Plan.

Competent authorities should take into account any specific central guidance on sampling or other matters set out by the FSA.

5.5.13.2 Qualifications/experience/training of officers carrying out sampling

Samples for microbiological examination or chemical analysis should be taken by authorised officers, having been properly trained in the appropriate techniques including relevant EU protocols and FSA guidance, and being competent to carry out the duties assigned to them. Sampling should only be undertaken by officers meeting the relevant qualification and experience requirements described in the Code. See Chapter 4 of this Practice Guidance for more information.

5.5.14 Food of Non-Animal Origin (FNAO)

This section applies to competent authorities with a point of entry, checks undertaken at ETSF, and deferred examinations under the Official Feed and Food Controls Regulations (Northern Ireland) 2009.

The advice in this section also applies to composite products which contain a small amount of product of animal origin and which are outside the Veterinary Checks regime covered by Directive 97/78/EC.

5.5.14.1 Identification

It is important that competent authorities with a point of entry are aware of the volume and nature of foods entering the port. Competent authorities overseeing seaports where enquiries with the port operator indicate that food is imported should check 100% of ships' manifests for imported food. 100% checks should continue until enquiries with the port operator reveal no food imports for a continuous period of three months, and further food imports are not reasonably foreseeable. Thereafter

contact should be made with the port operator at least once every three months to check the status of food imports.

Competent authorities overseeing airports and ETSF must set up, implement and maintain documented procedures on the arrangements in place to identify imported food. Where possible, airline manifest documents should be checked.

This might include:

- liaison with HMRC regarding food imported directly from third countries or via other Member States or ports under T1 arrangements (a transit declaration made to HM Revenue and Customs. T1 signifies those goods that are not in free circulation i.e. still subject to Customs control);

- liaison with transit shed operators to obtain copies of cargo manifests;

- random checks of ITSF (Internal Temporary Storage Facilities – formerly; known as 'transit sheds')/ETSF transit sheds/ERTS handling imported food with a view to verifying the information arrangements in place; and

- informal notification systems in co-operation with importers, their agents or airlines and ITSF operators.

5.5.14.2 Prohibition

It is an offence under regulation 27 as read with regulation 39 of the Official Feed and Food Controls Regulations (Northern Ireland) 2009 for any person to import a product that does not comply with the food safety requirements as set out in EU Food Law Regulation (EC) No 178/2002 or with the requirements of Articles 3 to 6 of Regulation (EU) 852/2004. This prohibition applies to products being imported either direct from a third country or from a third country through another EU Member State.

5.5.14.3 Examination

Imported food should be subjected to risk based checks. Regulation (EC) No 882/2004 outlines the requirements for documentary checks, random identity checks and where appropriate physical checks. The checks that are conducted will vary slightly depending on whether these take place at the point of entry or whether these are inland.

Checks on imported food should take into account any guidance issued by the FSA. Such guidance might cover foods for which specific documentary checking regimes have been laid down or foods with restricted points of entry and/or testing regimes laid down in Commission Decisions or Regulations. Competent authorities with points of entry which are not designated to handle certain FNAO products subject to Emergency Control Decisions and Regulations must ensure relevant port operators, local HMRC, or agents/importers are aware of any restrictions. Arrangements must also be in place to deal with any such consignments which arrive at the point of entry.

A systematic documentary check does not imply 100% checking of documents but there must be risk based planned arrangements in place. However, documents required to accompany any consignment by food law, such as under Emergency Control measures, are likely to require 100% checking. At the point of entry the documentation that would be checked, would consist of for example, health certification and laboratory reports and analysis. However, inland, documentary checks may involve, for example, checking CEDs/CVEDs and clarifying that the consignment was imported by the correct means.

An identity check involves checking that the consignment corresponds with the documentation that is provided. At the point of entry the checks would be to ensure the product tallies up with all of the documentation provided, for example, checking batch codes for the products. An identity check conducted inland would be closely linked with the documentary check, but may include verifying the batch codes and ensuring that the identity of the product can be confirmed. This may also assist with identifying and verifying whether the product has been legally imported.

Physical checks might include: checks on the food itself, checks on the means of transport, checks on the packaging, checks on the temperature controls, organoleptic testing, and chemical or microbiological examination, or any other check necessary to verify compliance with EU food safety requirements. Such checks may also take into account any guarantees that the competent authority of the third country has given and which have been assessed by the European Commission. The arrangements and follow up actions should be set out in relevant service policies and procedures.

For physical checks conducted at both points of entry and inland, these should be carried out under appropriate conditions inclusive of standards of hygiene and at a place with access to appropriate control facilities allowing investigations to be conducted properly. Samples should be handled in such a way as to guarantee both their legal and analytical validity.

Where an authorised officer reasonably requires facilities and assistance to carry out checks on a product, the importer may be asked to provide these. The Official Feed and Food Controls Regulations (Northern Ireland) 2009also allow an authorised officer to require that physical checks and identity checks take place at a specified place, where necessary for proper examination.

Checks should be informed by:

- statutory requirements for documentary checks and associated sampling laid down in relevant Emergency Control Decisions and Emergency Control Regulations;

- the risk associated with different types of food safety issues;

- knowledge of the product e.g. new or unusual;

- any requirements following a Food Alert or RASFF notification;

- the history of compliance for the product, country of origin and exporter/importer;

- the controls that the FBO importing the food has carried out;

- any guarantees that the competent authority of the third country of origin has given under the third country pre-export checks provisions in Regulation (EC) No 882/2004 (details under section 5.5.36 below);

- any existing co-ordinated programmes e.g. at the request of or under the direction of other food control/advisory bodies;

- adequacy or sufficiency of documentation e.g. discrepancies which need further investigation; and

- suspicion of non-compliance.

Checks might also be influenced by information received from inland competent authorities regarding non-compliant food or from other control authorities or the port operator who may have concerns about a consignment.

As well as the reference sample required by the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013, officers should give the owner, importer or importer's agent a receipt for, or a record of, all samples taken and a copy of the results in the case of non-compliance.

Competent authorities with points of entry or, should aim to establish effective holding arrangements in liaison with local stakeholders such as transit shed operators or dock companies, to ensure that consignments for which they are seeking additional information cannot be removed from the port or ETSF.

5.5.14.4 Deferred examinations of FNAO

See section 5.4.4 of the Code.

Deferred examinations may be considered where the competent authority at the point of entry has a valid reason why an examination needs to be deferred, but it is anticipated this is likely to be in exceptional circumstances only.

Either the competent authority covering the point of entry or the importer may request deferred examination. However, the final decision on whether to defer examination rests with the competent authority covering the point of entry. In coming to any decision, liaison with the receiving competent authority should be carried out to ensure that appropriate checks will take place and deferral should therefore be based on full co-operation and agreement between the two competent authorities.

Where products are subject to Emergency Control Decisions or Emergency Control Regulation measures which require designated points of entry, deferred examination is unlikely to be appropriate but there might be exceptional circumstances where there are overriding health and safety considerations. In such cases the FSA in NI

should be informed. In all cases where food is of a known or emerging risk should it be subject to relevant document and identity checks before being deferred for physical checks.

When any examination is deferred, the Official Feed and Food Controls Regulations (Northern Ireland) 2009 require that the importer must provide a written undertaking that the consignment has been sealed and will not be opened until it reaches its specified destination and opening the container has been authorised by the receiving competent authority. The competent authority at the point of entry should notify the receiving competent authority forthwith and in writing that the food has not been examined and forward to the competent authority a copy of any written undertaking given by the importer.

Deferred examinations under the Official Feed and Food Controls Regulations (Northern Ireland) 2009 should be carried out in accordance with regulation 27 of the Regulations - only an outline has been provided in this practice guidance. Please note: these arrangements are not common practice.

5.5.15 Onward transportation

Article 8 of Regulation (EC) No 669/2009 permits the authorisation by the competent authority at a DPE for onward transportation of a consignment(s) of FNAO that may have been sampled at the DPE pending results of tests/analysis. The competent authority at the DPE may authorise these arrangements; however where authorisation is given, the competent authority at the point of destination must be consulted. Appropriate arrangements shall be put in place to ensure that the consignment remains under the continuous control of these competent authorities (so it may not be tampered with in any manner pending the results of the tests/analysis).

Please note: the onward transportation arrangement may apply for consignments of FNAO, moving inland within the UK (i.e. from a DPE to an inland) but may also apply to consignments of FNAO transporting between EU Member States.

5.5.16 Charges

Regulation (EC) No 669/2009 provides that mandatory fees for FNAO imports of a ‘known or emerging risk’ are collected in accordance with the criteria laid down in Annex VI of Regulation (EC) No 882/2004.

Commission Emergency measures normally provide for mandatory charges.

5.5.17 Enforcement at points of entry and inland

See section 5.4.3 of the Code.

Where there is no evidence to suggest that a deliberate attempt has been made to import non-compliant goods, and adequate control arrangements are in place, ports might consider voluntary surrender as an option for dealing with such consignments. In accordance with section 6.2.10.8 of the Code, where food is voluntarily

surrendered for destruction, a receipt should be issued and the description of the food should include the phrase “voluntarily surrendered for destruction” with the person surrendering the food or their representative signing the receipt.
5.5.18 Products of animal origin (POAO) – POAO Enforcement

5.5.18.1 Imported food legislation – products of animal origin

In the UK, DEFRA is the Government Department designated as the central competent authority for controls at Border Inspection Posts (BIPs) on products of animal origin (excluding fishery products and bivalve molluscs for which the FSA has responsibility) and live animal imports. In NI, DAERA undertake this role on behalf of DEFRA. The following guidance is provided for competent authorities that are responsible for enforcement of imported food inland to explain key elements of the Trade in Animals and Related Products Regulations (Northern Ireland) 2011 (‘TARP’) and how those Regulations are applied and fit with other existing domestic and EU legislation.

5.5.18.2 Regulation (EC) No 882/2004

This regulation applies to official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. The relevant provisions of these regulations are:

Article 14 – Under this article the general rules of Articles 18-25 of Regulation (EC) No 882/2004 also apply to official controls on all feed and food, including feed and food of animal origin.

Article 18 – This Article provides that in case of suspicion of non-compliance or if there is doubt as to the identity or the actual designation of the consignment, or as to the correspondence between the consignment and the certified guarantees, the competent authority shall carry out official controls in order to confirm or to eliminate the suspicion or doubt. It also provides that the competent authority may place the consignment concerned under official detention until it obtains the results of such official controls.

Article 22 – The feed or food business operator responsible for the consignment or its representative shall be liable for the costs incurred by competent authorities for the activities referred to in Articles 18, 19, 20 and 21.

Article 28 – This Article provides for the recovery of expenses arising from additional official controls when the detection of non-compliance leads to official controls that exceed the competent authority’s normal control activities. The competent authority may then charge the operators responsible for the non-compliance, or may charge the operator owning or keeping the goods at the time when the additional official controls are carried out, for the expenses arising from the additional official controls.

5.5.18.3 The Trade in Animals and Related Products Regulations (Northern Ireland) 2011

The relevant provisions of these regulations are:

Regulation 19 – The enforcement authority must seize any consignment that is either: brought into Northern Ireland other than through a Border Inspection Post (BIP) approved for that animal or product, removed from a BIP without a Common Veterinary Entry Document (CVED) or the authority of the Official Veterinary Surgeon (OVS) (or official fish inspector in relation to fish and fishery products) at the BIP, or transported from a BIP to a destination other than that specified on the CVED.

Regulation 20(3) – If a consignment of products is seized outside a BIP under regulation 19 the enforcement authority must dispose of the consignment as Category 1 material in accordance with Regulation (EC) No 1069/2009 (Animal-by products Regulation), or act in accordance with sub-paragraph (b) or (c) of paragraph (1) of regulation 20.

5.5.18.4 Illegally introduced POAO

POAO must be imported in accordance with the relevant provisions of the Trade in Animals and Related Products (TARP) Regulations (Northern Ireland) 2011. These require that POAO are imported through a designated BIP and are subject to mandatory veterinary checks. A CVED must be issued for consignments which pass the veterinary checks and this should accompany the consignment to the first establishments after import, where it should be retained for a period of one year. POAO are considered to be illegally introduced (smuggled) where they have not been presented at the BIP of entry, for clearance or have not received a correctly completed CVED from the BIP.

UKBA became responsible in Great Britain for detecting smuggled POAO in Customs controlled areas including ERTS. However, in NI responsibility has not transferred and remains with DAERA. Competent authorities still have responsibilities relating to POAO e.g. fish/fishery products presented at BIPs and also inland where officers come across illegal POAO in the course of their routine enforcement activities. DAERA is responsible for illegal POAO found at establishments under their control.

All competent authorities should set up, implement and maintain arrangements to effectively deal with illegally introduced POAO. Due to the nature of the enforcement activity which might require prompt action, officers must be properly authorised, template notices should be available, and effective mechanisms for any likely sampling or examination should be in place. Consideration should be given to necessary arrangements for the transport, storage, facilities and the necessary control arrangement for the destruction of POAO by high temperature incineration.

Where an authorised officer, in the course of their duties, comes across POAO at establishments under Customs control i.e. in a port area or an ETSF, which they have reason to believe has been illegally introduced, they should notify HMRC (in

the absence of any local reporting arrangements, contact HMRC National Co-ordination Unit on 0845 600 4374) and if needed for adequate interim control of the consignment, issue a detention notice under Regulation 32(7) of the TARP Regulations (Northern Ireland) 2011. This should be done as soon as possible.

5.5.18.5 Detention/Seizure of POAO found inland at establishments outside Customs control

See section 6.2.11.2 of the Code.

5.5.18.6 Reporting

A notification to DEFRA via DAERA should be made when illegally imported POAO is seized under Regulation 19 of the TARP Regulations (Northern Ireland) 2011.

The reporting of seizures requires the completion of IIT 1 (04/08) form (preferably electronically), which is located on the secure parts of APHA and CIEH websites.
See section 5.5.10.4.

Chapter 6 – Enforcement sanctions and penalties

6.1 Dealing with non-compliance

6.1.1 Introduction

This chapter requires competent authorities to take appropriate action on FSA guidance on the effective enforcement of food law. This chapter:

- gives additional information to the material in the Code on the application of enforcement sanctions and penalties, and other measures that may be taken by authorities to secure compliance
- requires each competent authority to document its food law enforcement policy and keep it up-to-date; and
- lists reference materials which competent authorities should take account of

6.1.2 The enforcement approach

The primary objective of any enforcement action must be to achieve compliance in the most effective way and the approach should be in line with the "hierarchy of enforcement".

The practice of giving advice, and communicating by letter about enforcement issues, are well-established approaches to enforcement that are understood by food businesses. Such procedures are therefore encouraged whenever they are likely to secure compliance with the requirements of food law within a time that is reasonable in the circumstances. See section 6.1.1 of the Code for information on proportionality and consistency.

When determining the appropriate enforcement action, consideration should be given to;

- The level of risks to consumer safety resulting from the non-compliance;
- Particular consumer sensitivities around an issue, leading to loss of consumer confidence or economic loss to industry;
- The potential for non-compliant foods being distributed widely with large numbers of consumers affected;
- Previous history of compliance.
- Collaboration with Home Authority/Primary Authority (see 6.1.6 for further information).

6.1.3 Enforcement information

In order to ensure consistent interpretation and application of food law competent authorities should ensure that authorised officers have up-to-date information readily available to enable them to carry out their duties competently.

For example:

- relevant legislation;
- the Code of Practice;
- EU Guidance documents;
- UK Guides to Good Practice where appropriate;
- Guidance/ relevant correspondence issued by, jointly with, or on behalf of the FSA;
- FSA food alerts;
- relevant industry codes of practice; and
- appropriate technical literature.

6.1.4 Guidance issued to competent authorities

The FSA periodically issues communication to competent authorities on new and/or revised enforcement policies, information on food safety matters and other issues connected with the effective enforcement of food law. Annex 3 contains links to legislation and guidance.

Competent authorities should have arrangements to determine what action is appropriate on receipt of such communications, and to bring them to the attention of their authorised officers as necessary.

6.1.5 FSA's food law prosecution outcomes database

The FSA has created a central repository of information about successful prosecutions brought by UK competent authorities and the FSA. The database will include food standards, food safety and food hygiene related prosecution cases in the UK. Competent authorities will be able to utilise this information to support their own enforcement activities. This will be available on the '**Enforcement and Regulation→ Monitoring**' section of food.gov.uk.

To help the FSA maintain the database, competent authorities should report successful prosecutions 28 days after a conviction has been obtained. Cases should be reported using the Food Law Prosecution Outcomes spreadsheet and sent to the Directorate Support Team at prosecutionsuccess@foodstandards.gsi.gov.uk. The FSA will also record whether a

defendant has been added to the prohibited persons register but this information will only be made available upon request.

6.1.6 Primary Authority role

The Primary Authority Scheme in relation to the devolved function of food safety does not extend to Northern Ireland on a statutory basis. In April 2009 competent authorities in Northern Ireland agreed a statement of intent between CEHOG and the Department of Enterprise, Trade and Investment's[21] (DETI) Trading Standards Service to apply the principles of the scheme when discharging their food law functions. Therefore if competent authorities are dealing with a FBO who has a Primary Authority in Great Britain, they will need to be mindful of the need to liaise with the Primary Authority, as detailed in the paragraph below.

Where enforcement action is being considered in relation to a business in Northern Ireland which has business throughout the UK and has a Primary Authority partnership in Great Britain, the competent authority may make a notification to the Primary Authority in Great Britain via the Primary Authority Register. In most circumstances, this notification should be made at the stage at which the enforcement action is being considered, allowing the Primary Authority to consider whether relevant Primary Authority Advice has already been given to the business. However, the notification may be made retrospectively and the Primary Authority Handbook, available on the BRDO website sets out conditions of the notification which are statutory in Great Britain.

Primary Authority Advice provided to a business may be published on the Primary Authority Register by the Primary Authority, although this is not always the case. However, competent authorities are encouraged to communicate with the relevant Primary Authority during the early stages of an investigation to determine whether Primary Authority Advice has been given, and whether the business has followed it.

6.2 Formal sanctions

6.2.1 Hygiene Improvement Notices and Improvement Notices

6.2.1.1 Introduction

This section deals with the use of:

- Hygiene Improvement Notices (HINs) under Regulation 6 of the Food Hygiene Regulations (Northern Ireland) 2006,

- Improvement Notices (INs) under Article 9(1) of the Food Safety (Northern Ireland) Order 1991 in connection with food safety issues that do not involve hygiene.

[21]The Department for the Economy (DfE) encompasses the functions of the former Department of Enterprise, Trade and Investment (DETI).

6.2.1.2 Service of notices

The Food Hygiene Regulations (Northern Ireland) 2006 require a HIN to be served on the FBO. The Food Safety (Northern Ireland) Order 1991 requires an IN to be served on the proprietor of a food business (see section 6.2.2 of the Code). HINs or INs must be served in accordance with the statutory requirements.

HINs or INs should normally be served either by delivery to the FBO/ food business proprietor in person, or at their usual or last known residence by a postal or courier service that included proof of posting or despatch and, ideally, proof of delivery.

It is not always possible to identify the FBO and section 24 of the Interpretation Act (Northern Ireland) 1954 therefore allows an IN to be addressed to the "owner" or "occupier" and left at the establishment if they cannot be identified.

The officer serving a HIN or IN should ensure, wherever possible, that the person who is responsible for taking action also receives a copy, especially where the local manager is not the FBO / food business proprietor.

6.2.1.3 Drafting of notices

It should be clear from the HIN or IN the grounds for failure to comply with a relevant provision of food law, the matters which constitute the failure to comply, and the measures (or equivalent measures) the recipient is required to take. Notices should be clear and easy to understand.

As failure to comply with the requirements of a HIN or IN within the specified period is an offence, an officer who has decided to serve a notice should consider whether a single notice with a single time limit is appropriate. Failure to comply with one or more items of such a notice would be a failure to comply with the whole notice and constitutes a single offence.

It may be possible to cite more than one non-compliance in a notice; provided the issues are of the same theme, the action required of the FBO/ food business proprietor are capable of rectifying all the failures cited on the notice, and the time frames for compliance are all the same. However, simplicity is often better; to avoid confused drafting, ensure the notice is understandable to the FBO and any time frames for compliance fit with the escalation of each issue.

Using multiple notices, each with a different time limit, may be more appropriate where multiple contraventions are concerned. Separate notices with separate time limits may also be easier to handle if there is an appeal. An appeal against a single notice concerning multiple contraventions would result in the suspension of the whole notice until the appeal had been dealt with.

In respect of HINs requiring structural work to be carried out, ideally the officer will discuss the detail of any such work with the FBO, or with a person acting on the FBO's behalf who is in a position to authorise the work, before a notice is issued, and reach agreement with them on what should be done. However, the issue of a

notice should not be unduly delayed if agreement cannot be reached or a responsible person cannot be contacted.

It is the FBO's responsibility to obtain any necessary planning permission, if they need or choose to undertake any building works to improve the structure of the establishment.

6.2.1.4 Time limits

A HIN should clearly state the time limit by which the measures required by the notice must be completed. Both the Food Hygiene Regulations (Northern Ireland) 2006 and The Food Safety (Northern Ireland) Order 1991 specify a minimum period of 14 days. For time limits of INs served under the Food Information Regulations (Northern Ireland) 2014 see section 6.2.2.7 of this Practice Guidance.

An appeal may be lodged against the time limit, so it must be realistic, justifiable, and have regard to the extent and complexity of the measures required.

Where circumstances allow, it is good practice to discuss and agree the time limit with the FBO/ food business proprietor or with a person acting on the FBO/ food business proprietor's behalf who is in a position to agree a time limit, before a notice is issued. The officer may, however, set a time limit without such agreement if agreement cannot be reached or a responsible person cannot be contacted.

The following factors should be taken into consideration in setting a time limit:

- the risk to public health;
- the nature of the problem; and
- the availability of solutions

6.2.1.5 Extension of time limits

Although HINs and INs are to be complied with by the stipulated time limit, competent authorities should give due regard to any genuine difficulties that may occur in achieving compliance by that deadline. There is no specific provision in the regulations to extend the time limit for compliance with a notice, but it may be unreasonable not to allow an extension if the FBO/ food business proprietor has a genuine reason for needing more time. The FBO/ food business proprietor should be advised when the notice is served that any request for an extension of time should be made in writing before the notice expires.

Before issuing a new notice the authorised officer must consider again whether the conditions prevailing at the establishment still warrant the issuing of another notice. If the authorised officer is satisfied that the contraventions still exist and that there is a genuine reason for such an extension, they should make a note of the reasons for their decision on the relevant establishment file. The existing notice should then be withdrawn and a new notice issued reflecting the new time limit by which compliance must be achieved.

However, the officer should never issue such a notice automatically. When deliberating a request for an extension of the time limit, the officer should always consider whether the facts at that time justify such an extension, taking account of:

- the reason for the request;
- the remedy involved;
- the risk to public health associated with the fault if an extension was granted;
- past record of co-operation of the food business operator / food business proprietor;
- any temporary action which the food business operator / food business proprietor proposes to take to rectify the non-compliance; and
- demonstrable evidence of steps taken to address the requirements contained in the notice.

6.2.1.6 Works of equivalent effect

Notices should make clear that Regulation 6 of the Food Hygiene Regulations (Northern Ireland) 2006 and Article 9 of the Food Safety (Northern Ireland) Order 1991, as appropriate, allow a FBO/ food business proprietor to carry out measures of at least equivalent effect to those specified in a HIN / IN and recommend that alternative measures are discussed with the officer who served the notice before starting work to avoid unnecessary expenditure or inappropriate work. Ultimately, it is for the FBO/ food business proprietor to decide how they will comply with the objectives of the legislation.

The competent authority should respond in writing to any request from a FBO/ food business proprietor to vary the work, and any agreed alternative measures should be confirmed in writing.

Disputes should be considered by the competent authority's lead officer for food safety, or by the head of service or another senior manager.

Competent authorities should ensure that they have procedures in place to consider such matters, so that it is clear to the FBO/ food business proprietor that there is a proper review.

6.2.1.7 Compliance

The officer who served the HIN or IN should liaise with the FBO / food business proprietor, monitor the work being undertaken and encourage the FBO/ food business proprietor to notify the officer when the work has been completed. Another authorised officer should monitor the work if the officer who served the notice is unable to do so.

The work should be checked as soon as practicable after notification has been received that it has been completed or as soon as possible following the expiry of the notice and the officer should confirm in writing to the FBO/ food business proprietor that the works have been satisfactorily completed.

6.2.1.8 Compensation and appeals

If a HIN or IN is served in error and as a result a food business suffers, financial loss due to being unable to sell the food due to its perishable nature, they may pursue compensation through a civil negligence claim against the serving competent authority.

It should be clear to the recipient of a HIN or IN that there is a right of appeal against the notice.

The notice should therefore include details of the right of appeal and the recipient provided with the name and address of the relevant local Magistrates court.

The FBO / food business proprietor should also be asked to notify the officer if an appeal is lodged.

6.2.1.9 Other discussions with the competent authority

Although a FBO / food business proprietor has a right of appeal against a HIN or IN, the competent authority should be prepared to discuss the notice and its requirements informally with the FBO / food business proprietor if they wish to do so.

The competent authority should also be prepared to discuss the requirements of any letter or other enforcement action.

If an FBO / food business proprietor indicates that the requirements of a notice are inconsistent with the interpretation or practice of other competent authorities, the competent authority should have regard to the views of the “Primary Authority” and/or “Home Authority” for the business, where one exists as defined by BRDO.

Competent authorities should have internal arrangements to consider such requests for further discussion and consider how they make these arrangements known to FBOs / food business proprietors.

Any disputes that arise should be referred to the lead officer for food safety, or an appropriate senior manager nominated by the lead food officer to come to a decision.

6.2.1.10 Other guidance

Further guidance on the drafting and use of HINs has been issued by LGA and can be found on the Knowledge Hub: https://khub.net/

The competent authority may want to discuss enforcement issues on a regional level or via the ‘knowledge hub’ with other competent authorities to see if there is

other established practice that should be taken into account. An opinion may be sought from the National Food Hygiene Focus Group or the Food Standards and Labelling Focus Group with cases submitted via the Regional Liaison Groups.

6.2.2 Food Information Regulations Improvement Notices

6.2.2.1 Introduction

This section is for food enforcement officers issuing Improvement Notices (INs) under Article 9(1) of the Food Safety (Northern Ireland) Order 1991 as applied and modified by Regulation 12(1) of the Food Information Regulations (Northern Ireland) 2014.

Regulation 12(1) of the Food Information Regulations (Northern Ireland) 2014 (FIR 2014) applies the provisions in Article 9(1) of the Food Safety (Northern Ireland) Order 1991 to enable INs to be served for a contravention of certain provisions of Regulation (EU) No 1169/2011 on the provision of food information to consumers (EU FIC) and other provisions of FIR 2014. For these purposes, Article 9(1) of the Food Safety (Northern Ireland) Order 1991 has been modified by FIR 2014 (SR No. 223). Please see Part 1 of Schedule 4 of FIR 2014 for details of the modifications.

6.2.2.2 When to use Improvement Notices to enforce the Food Information Regulations (Northern Ireland) 2014

Food Information Regulation IN's should be used in line with the enforcement policy of the competent authority and must be considered as part of the escalation of enforcement action in line with the hierarchy of enforcement.

An IN may be served on a person requiring the person to comply with the provisions specified in paragraph (1A) of the modified version of Article 9(1) of the Food Safety (Northern Ireland) Order 1991 set out in Part 1 of Schedule 4 to FIR 2014. These are:

- the EU FIC provisions listed in Schedule 5, (the main provisions of 1169/2011), except insofar as they relate to net quantity (Article 9(1A)(a) to (c));
- the provisions in FIR 2014 listed in Article 9(1A) (d). These relate to:
- the national requirements for non-prepacked foods requiring meat QUID labelling for foods containing meat (regulation 7(1), (4) and (5));
- food irradiation labelling (the provisions of regulation 8(1) and (3)); and
- the national requirements under Regulation 6 to provide the name of food for non-prepacked foods.

6.2.2.3 Food business operators

The use of the term “food business operator” has the meaning given in point 3 of Article 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council (regulation 2(1) of FIR 2014 as read with Article 2 (1)(a) of EU FIC).

FBOs are responsible for complying with the regulations by ensuring that consumers are provided with accurate and up to date information and the requirements are set out in EU FIC (Article 8). The regulations apply to FBOs at all stages of the food chain from production to wholesalers, retail and caterers. It includes food delivered by mass caterers, and food intended for supply to mass caterers, as well as foods offered for sale by means of distance communication – this includes foods sold over the internet or telephone orders.

The requirements for the presentation of mandatory food information are set out in EU FIC. (Chapter 4: Articles 9 to 35)

Communication of mandatory food information may be by a number of means depending on where in the supply chain the transaction occurs.

6.2.2.4 Allergenic ingredients

The information accompanying the sale of non-prepacked allergenic foods and foods containing allergens sold to consumers or mass caterers, may be provided by verbal communication, and writing on a board or menu at point of purchase, as permitted by regulation 5 of FIR (Northern Ireland) 2014 as read with Article 9(1)(c) of EU FIC.

Where a FBO intends to make allergens information available verbally, the FBO must indicate to consumers that details of those allergens can be obtained by asking a member of staff. This indication must be given in one of the ways specified in regulation 5(4) of FIR 2014.

6.2.2.5 Issuing INs and carrying out enforcement in a proportionate manner

Food Information Regulations INs should be used in line with the competent authority’s enforcement policy and must be considered as part of the escalation of enforcement action in line with the hierarchy of enforcement.

If the authorised officer has reason to believe that an informal approach will not result in a successful outcome then a more formal approach should be considered

Since breach of a notice is a criminal offence, competent authorities should carefully consider whether they are appropriate in the circumstances and in line with the hierarchy of enforcement and their own enforcement policy. A notice once served may be appealed to a court of summary jurisdiction in Northern Ireland if the business doesn’t agree with the conditions of the notice. Care should be taken to make sure that evidence of the non-compliance is obtained and its continuity maintained and the relevant procedures have been followed when issuing a notice.

For information on the drafting and service of notices please see section 6.2.1.2 and 6.2.1.3 of this Practice Guidance.

6.2.2.6 Breaches of allergens labelling provisions

In the case of a failure to comply with any of the allergen-related provisions specified in regulation 10 of FIR (Northern Ireland) 2014, officers will have the choice of taking a criminal prosecution in relation to the contravention and/or serving an IN.

It will be possible, in serious cases, for an enforcement officer to take a criminal prosecution for the basic contravention as well as issuing an IN to require measures to be taken by the food business to remedy the contravention within a specified time period.

Decisions on whether to issue a notice, take a criminal prosecution for an offence under regulation 10 of FIR or (in serious cases) doing both, should take into account the public health risk and the evidence and circumstances, and what they believe is the most effective enforcement strategy.

6.2.2.7 Time limits for improvement notices under FIR (Northern Ireland) 2014

The modification to Article 9(1) of the Food Safety (Northern Ireland) Order 1991 by FIR 2014 included the removal of the minimum 14 day requirement for compliance. This will allow the notice to require immediate rectification to ensure that consumers are safeguarded where public safety is at risk through poor or incorrect labelling i.e. through the absence of or wrongly applied date marking. Criminal sanctions are also retained for failure to comply with certain allergen labelling / information requirements – see section 6.2.2.6 of this Practice Guidance. INs should therefore, be used in accordance with statutory guidance and the competent authority enforcement policy, and must be considered as part of an escalation of enforcement action.

For additional information on time limits see section 6.2.1.4 of this Practice Guidance. For information on the extension of time limits see section 6.2.1.5 of this Practice Guidance.

6.2.2.8 Works of equivalent effect and compliance

See section 6.2.1.6 of this Practice Guidance

6.2.2.9 Appeals

In the case of INs issued under the FIR 2014, INs must make it clear that there is a right of appeal against the Notice to a court of summary jurisdiction in Northern Ireland. (For INs issued under The Food Safety (Northern Ireland) Order 1991 – see section 6.2.1 of this Practice Guidance).

The FBO should also be asked to notify the officer if an appeal is lodged.

The FBO has 28 days from the date on which the IN was served to appeal to the correct tribunal office.

As soon as an appeal is lodged then the time limit set out in the IN for carrying out the stated measures is suspended, until the appeal has been decided in accordance with the Food Safety (Northern Ireland) Order 1991, (Article 38(2)).

If the IN remains as originally imposed or is altered, the enforcing authority may enforce the IN, respectively in its original or altered form

While an appeal is pending, Article 38(2) of the Food Safety (Northern Ireland) Order 1991 effectively stops the clock in terms of the time period for compliance with an IN. This will mean that during and up to the appeal the FBO will be able to continue selling the product.

6.2.2.10 Compensation

There is no provision for compensation in the FIR 2014. If an IN is served in error and as a result a food business suffers, financial loss due to being unable to sell the food due to its perishable nature, they may pursue compensation through a civil negligence claim against the serving competent authority.

6.2.2.11 Responsibilities and enforcement

Article 8 of EU FIC sets out responsibilities under FIC and the FBO responsible for the food information is the operator under whose name or business name the food is marketed. Which business in the food supply chain is responsible for the food information will affect which enforcement authority to involve where breaches are found. Below is some general guidance for how this applies in practice but this will vary case by case and officers should discuss with other members of the enforcement community if they have any concerns relating to a particular case they are dealing with. The principles apply to issuing INs and pursuing criminal sanctions. For ‘branded’ pre-packed foods the brand owner would generally be responsible for the information on the label. For ‘own branded’ products, the retailer group selling the goods will be responsible for the information.

Under Article 8(3) of EU FIC retailers have a responsibility not to sell items they know or presume, on the basis of information available to them as professionals to breach the provisions of the EU FIC.

Where the contravention is the responsibility of the brand owner which is sold across many retail outlets the competent authority should inform the seller of the contravention and notify the brand owner and their relevant Primary Authority of the contravention. See section 6.1.6 of this Practice Guidance for information on the Primary Authority role. For retailers where the competent authority has reason to believe the retailer are or should have been aware of the contravention, the details should be referred to the Primary/Home Authority for pre enforcement discussions and decisions as to enforcement action.

The approach to enforcement action should be subject to a dialogue and agreement between the various authorities and businesses involved. *For example*, an agreement may have been made by the Home Authority or Primary Authority to allow the 'selling on' of goods with labels in breach of labelling provisions, on condition that changes are made to future batches. In these instances the enforcing authority would be expected to adopt a flexible approach.

An IN may be served on a FBO outside of the competent authority area provided there is contravention inside the competent authority area.
Depending on the circumstance, food businesses may choose to take action with their suppliers direct in order to avoid reputational damage associated with the sale of non-compliant goods.

6.2.2.12 Authorisation of officers

The authorisation of officers to serve INs will be as described in the Code which applies to the serving of INs for Regulations made under the Food Safety (Northern Ireland) Order 1991. Article 2(2) (a) of the Order allows competent authorities to authorise officers to act "in matters arising" under Regulations made under the Order such as the FIR 2014. The Food Safety (Northern Ireland) Order 1991 allows for the authorisation of officers, in writing, either generally or specifically to act in matters arising under the Order or Regulations made under the Order.

INs served under Article 9(1) of the Food Safety (Northern Ireland) Order 1991 may only be signed by officers who have been authorised to do so by the competent authority. See Chapter 4 of this Practice Guidance and the Code.

6.2.2.13 Resources available

A model form of an IN for the purposes of FIR (Northern Ireland) 2014 can be found in Section 6.3 of this Practice Guidance.

Links to EU and FSA allergens guidance can be found in Annex 3

6.2.3 Prohibition procedures

6.2.3.1 Introduction

This section deals first with:

- the use of hygiene prohibition procedures, hygiene emergency prohibition orders (HEPOs), remedial action notices (RANs) and detention notice (DN) procedures under Regulations 7, 8, 9 respectively of the Food Hygiene Regulations (Northern Ireland) 2006 and the associated voluntary closure procedures; and

- the prohibition procedures of Article 10 and Article 11of the Food Safety (Northern Ireland) Order 1991, the associated voluntary closure procedures and the prohibition of persons from participating in the management of any

food business, or any food business of a class or description specified in the order under Article 10 of the Order, in connection with food standards issues.

6.2.3.2 The Food Hygiene Regulations (Northern Ireland) 2006: Regulation 7 - Hygiene Prohibition Procedures

A court of summary jurisdiction may make a hygiene prohibition order (HPO) under Regulation 7 of the Food Hygiene Regulations (Northern Ireland) 2006 to:

- prohibit the use of a process or treatment for the purposes of the business if the health risk condition is fulfilled;

- prohibit the use of the establishment or equipment for the purposes of the food business or any similar food business if the construction of the establishment or use of any equipment fulfils the health risk condition; or

- prohibit the use of the establishment or equipment; for the purposes of any food business if the state or condition thereof fulfils the health risk condition.

The competent authority must first successfully prosecute the FBO for an offence under the Food Hygiene Regulations (Northern Ireland) 2006.

The Court will make an order if it considers that the establishment, equipment, treatment and/or process fulfils the health risk condition as per Regulation 7(2).

The Court may also make an order prohibiting a FBO from managing any food business, or a particular type of food business.

6.2.3.3 The Food Hygiene Regulations (Northern Ireland) 2006: Regulation 8 - Hygiene Emergency Prohibition Procedures

An authorised officer may serve a Hygiene Emergency Prohibition Notice (HEPN) under Regulation 8 of the Food Hygiene Regulations (Northern Ireland) 2006 if the health risk condition is fulfilled in respect of a food business and there is an imminent risk of injury to health. The effect of the notice is to immediately close the establishment, or prevent the use of equipment, or the use of a process or treatment. Unlike Regulation 7, these powers cannot be used against a person.

The authorised officer must apply to a court of summary jurisdiction for a HEPO within three days of a HEPN being served, the day of service of the notice being day one.

The operator must have at least one complete days' notice of the intention to make the application.

6.2.3.4 The Food Safety (Northern Ireland) Order 1991 - Article 10 - Prohibition Procedures

It should be noted that prohibition procedures under the Food Safety (Northern Ireland) Order 1991 are rarely used and in general only in cases where the food safety risk is not related to food hygiene.

A court may make a prohibition order under Article 10 of the Order to:

- close food establishments
- prohibit establishments from being used for particular kinds of food business
- prevent the use of a piece of equipment for any food business, or a particular food business
- prohibit a particular process
- prohibit the proprietor from managing any food business.

The competent authority must first successfully prosecute the proprietor of the food business for a breach of relevant food law.

The court will make an order if it considers that the establishment, equipment or process pose a risk of injury to health.

The court may also make an order prohibiting a food business proprietor or manager from managing a food business.

6.2.3.5 The Food Safety (Northern Ireland) Order 1991 – Article 11 - Emergency Prohibition Procedures

An authorised officer may serve an Emergency Prohibition Notice (EPN) under Article 11 of the Order if there is an imminent risk of injury to health in food establishments. The effect of the notice is to immediately close the establishments, or prevent the use of the equipment or process, although unlike Article 10, these powers cannot be used against a person.

The authorised officer must apply to court of summary jurisdiction for an emergency prohibition order (EPO) within three days of an EPN being served, the day of service of the notice being day one.

Although there is no legal requirement for the application to be heard within the three days, the Court should be asked to list the application for hearing at the earliest opportunity.

The food business proprietor must have at least one complete days' notice of the intention to make the application. Once made, an EPO supersedes an EPN.

6.2.3.6 "Health risk condition" / "(imminent) risk of injury to health"

Regulations 7 and 8 of the Food Hygiene Regulations (Northern Ireland) 2006 may only be used if the "health risk condition" is fulfilled. In respect of regulation 7, there must be a risk of injury to health and in respect of regulation 8 there must be an imminent risk of injury to health. Article 10 of the Food Safety (Northern Ireland) Order 1991 may only be used if the "health risk condition" is fulfilled and Article 11 may only be used if there is an "imminent risk" of injury to health.

In respect of regulation 8 of the Food Hygiene Regulations (Northern Ireland) 2006 and Article 11 of the Food Safety (Northern Ireland) Order 1991, the word "imminent" qualifies the word "risk". There must always be an imminent risk of injury to health before a HEPN or EPN may be served. It is the risk of injury that must be imminent. The injury itself may occur sometime in the future, but it is essential to show that it could occur for the action to succeed. Not everyone exposed to the risk of injury will actually suffer the injury. It is the exposure to the risk of injury that enables action to be taken.

6.2.3.7 "Health risk condition" – Food Hygiene Regulations (Northern Ireland) 2006

In relation to food hygiene, the health risk condition under the Food Hygiene Regulations (Northern Ireland) 2006 may exist if, for example, conditions in establishments, or a defective process or treatment, carries a high risk of causing food-borne infection.

Foods containing potentially harmful levels of pathogenic micro-organisms represent an imminent risk and should be seized or detained under Regulation 25 of the Food Hygiene Regulations (Northern Ireland) 2006 by using Article 8 of the Food Safety (Northern Ireland) Order 1991. However, the process or treatment which exposed the food to this microbiological contamination should be dealt with under Regulation 8 of the Food Hygiene Regulations (Northern Ireland) 2006.

6.2.3.8 "Health risk condition" – Food Safety (Northern Ireland) Order 1991

In relation to food standards, the health risk condition under the Food Safety (Northern Ireland) Order 1991 may exist if, for example:

- a process or treatment introduces a teratogenic chemical (one that injures a developing foetus in the womb) into food, but the damage will not be apparent until the baby is born

- a process or treatment introduces a genotoxic chemical (one that damages genes or chromosomes) into food, the effects of which may not manifest themselves until abnormal offspring or a malignant tumour occurs sometime in the future.

Foods containing potentially damaging levels of such chemicals represent an imminent risk and should be seized or detained under Article 8 of the Food Safety

(Northern Ireland) Order 1991. However, the process or treatment which exposed the food to this chemical contamination should be dealt with under Article 11 of the Food Safety (Northern Ireland) Order 1991.

6.2.3.9 Criteria for action - Hygiene Prohibition Procedures / Prohibition Procedures

The criteria for action depend on the conditions in regulation 7(2) of the Food Hygiene Regulations (Northern Ireland) 2006 and Article 19(2) of the Food Safety (Northern Ireland) Order 1991 being met, i.e. that either the construction or condition of the establishment, or any equipment or the use of any process or treatment involves a risk of injury to health.

An authorised officer should use professional judgement to decide whether establishments, process, treatment or piece of equipment or its use involves a risk of injury to health.

The general criminal law principle is that the onus of proof rests with the party who asserts the affirmative issue that the court should make an order. The persuasive burden remains with the prosecution throughout (except where the defence raises insanity, a statutory objection to the proviso or where the statute transfers the onus). A similar rule applies in civil proceedings.

The following paragraphs provide examples of circumstances that may show that the health risk condition exists as defined by regulation 7(2) i.e. there is an imminent risk of injury to health, and where an authorised officer may therefore consider the use of such prohibition powers. These examples are in no way prescriptive or exhaustive and are for illustrative purposes only.

6.2.3.10 Health risk conditions where prohibition of establishments may be appropriate

- infestation by rats, mice, cockroaches, birds or other vermin, serious enough to result in the actual contamination of food or a significant risk of contamination;

- very poor structural condition and poor equipment and/or poor maintenance, or routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter, resulting in the actual contamination of food or a significant risk of food contamination;

- drainage defects or flooding of the establishment, serious enough to result in the actual contamination of food, or a significant risk of food contamination;

- establishments or practices which seriously contravene food law and have been, or are implicated, in an outbreak of food poisoning; and/or

- any combination of the above, or the cumulative effect of contraventions which, taken together, represent the fulfilment of the health risk condition.

6.2.3.11 Health risk conditions where the prohibition of equipment may be appropriate

- use of equipment for the processing of high-risk foods that has been inadequately cleaned or disinfected or which is grossly contaminated and can no longer be properly cleaned;

- dual use of complex equipment, such as vacuum packers for raw and ready-to-eat foods. However, dual use of less complex equipment such as weighing scales may be appropriate subject to the business being able to demonstrate that such equipment will be effectively cleaned and disinfected between use for raw and ready-to-eat foods; and/or

- use of storage facilities or transport vehicles for primary produce where the storage facilities or transport vehicles have been inadequately cleaned or disinfected.

6.2.3.12 Health risk conditions where prohibition of a process may be appropriate

- serious risk of cross contamination;

- failure to achieve sufficiently high processing temperatures;

- operation outside critical control criteria, for example, incorrect pH of a product which may allow *Clostridium botulinum* to multiply; and/or

- the use of a process for a product for which it is inappropriate.

6.2.3.13 Hygiene emergency prohibition procedures / emergency prohibition procedures

In the case of Regulation 8(2) of the Food Hygiene Regulations (Northern Ireland) 2006 and Article 11(2) of the Food Safety (Northern Ireland) Order 1991, the application is made by the competent authority and hence it bears the onus of proof and the persuasive burden. The necessary evidential requirements are respectively set out in Regulation 7(2) and 7(4) and Regulation 8(1) and 8(4) of the Food Hygiene Regulations (Northern Ireland) 2006, and Article 10(3) and 10(4) and Article 11(1) and (4) of the Food Safety (Northern Ireland) Order 1991.

An authorised officer should use professional judgement to decide whether establishments, process, treatment or piece of equipment or its use involves an imminent risk of injury to health.

Further guidance can be found below.

6.2.3.14 Seeking additional advice

Authorised officers should seek expert medical or other advice if a process or treatment is producing food that appears to contain chemicals or other substances

that may pose an imminent risk of injury to health, or where the process or treatment in question itself requires other specialist knowledge or expertise.

An authorised officer exercising a right of entry under regulation 14 of the Food Hygiene Regulations (Northern Ireland) 2006 or Article 33 of the Food Safety (Northern Ireland) Order 1991 may be accompanied by anybody else who is necessary, including an expert or experts.

It is, however, the authorised officer who must be satisfied that the health risk condition is fulfilled with respect to the food business.

6.2.3.15 Deferring immediate action

There may be circumstances where immediate closure may be unnecessary, even though there might be an imminent risk to health. For example, the condition of a retail food establishment that might pose an imminent risk, would not necessarily warrant immediate closure if the condition was only discovered at the end of trading hours.

In such a case, the authorised officer might decide not to impose an emergency prohibition if the FBO undertook the necessary measures to clean the establishment during the night.

The risk in such circumstances might be minimal, as the establishment would not be open to the public. The authorised officer would be free to decide on the following morning whether the imminent risk still existed or had been removed.

6.2.3.16 Serving a prohibition order

A HPO, a HEPO, a prohibition order or an EPO – all of which are made by the courts – need not necessarily be served by the authorised officer who initiated the action. It should, however, be served by an authorised officer who is competent to explain the purpose of the order or deal with obstruction.

If a HPO, a HEPO, a prohibition order or an EPO cannot be handed to the FBO in person, a copy of the document should be handed to whoever is responsible for complying with immediate closure or prohibition action, e.g. the manager.

The authorised officer should ensure that the FBO is aware of the matters that constitute an imminent risk. Although this is included in the model HEPO in this practice guidance and the prescribed EPN the FBO may not understand what steps need to be taken to remove the imminent risk and further explanation may be necessary.

6.2.3.17 Methods of serving the notice or order

Every effort should be made to serve a HPO, a HEPO, a prohibition order or an EPO by delivering it to the FBO/food business proprietor, or each of the food business operators/ food business proprietors in the case of a partnership etc., by hand.

The authorised officer may, if necessary, consult with the clerk of the court to see if it would be possible to serve the Order before the FBO/ food business proprietor leaves the court if the operator/ food business proprietor is present

The service of the notice or order on a number of partners may present difficulties, particularly where a partner is not in the United Kingdom at the time. As soon as the notice or order is properly served on any one of the partners it takes effect.

If it is not possible to serve the document by hand then the authorised officer should serve the document by a postal or courier service that includes proof of posting or despatch and, ideally, proof of delivery.

The document may be faxed to the FBO / food business proprietor of the business for information in advance of its formal service, but a hard copy must follow for it to be properly served.

It may be useful to record the time of service, even when the postal service is used.

Immediately the document has been legally served by one of the methods mentioned in section 24 of the Interpretation Act (Northern Ireland) 1954, the prohibition on the use of the establishment, or equipment for the purposes of any food business, or a particular type of food business, or prohibition on a process or treatment, becomes effective under the order and the HEPN or EPN ceases to have effect.

6.2.3.18 Evidence required

The authorised officer should collect sufficient evidence to produce to the court to substantiate any proceedings.

It is important that contemporaneous notes, including sketches and photographs, are taken during an inspection as they may be used in evidence to a court. Samples of insects, dirt or other contaminants may also be useful.

Although authorised officers need not be accompanied by a witness, there may be occasions when visual reports are of particular relevance and there would be benefits in matters being witnessed.

An authorised officer’s notes made during or at the end of a visit to an establishment should be accurate and factual, so that they may rely on it in court.

6.2.3.19 Prohibition of a person

When an FBO/food business proprietor has been convicted of a relevant offence, the authorised officer may feel that it is appropriate to ask the Court to consider making a prohibition order in relation to that FBO/ food business proprietor.

Circumstances where such action may be appropriate include repeated offences such as failure to clean, failure to maintain equipment, blatant disregard for health risks, or putting health at risk by knowingly using unsafe food.

6.2.3.20 Application to court

The competent authority should discuss a detailed programme of formal action with its litigation solicitor and with the clerk of the court and should clarify details of local court practice to try and resolve potential difficulties of obtaining court time at short notice. This could be initiated by informal contact with the clerk to ensure that, if at all possible, applications for emergency prohibition orders and hygiene emergency prohibition orders are expedited.

The FBO / food business proprietor must be notified that the authorised officer intends to apply for a HEPO or EPO. A notice of application for the order must be served on the FBO/ food business proprietor at the latest on the day before the date of the application, giving details of the Court appearance.

6.2.3.21 Action to be taken prior to the hearing

The authorised officer should organise monitoring of the establishment between the service of the notice and the court hearing. The officer who served the notice need not necessarily carry out the monitoring but should fully brief the relevant colleague of the risks and evidence gathered that gave rise to the service of the notice.

The establishment should be re-inspected shortly before the hearing (preferably the day before or on the day of the hearing itself) by the officer who served the notice.

If this is not possible, an authorised officer with relevant experience should carry out the re-inspection. This should also be the case if any contravention was found during the monitoring.

The purpose of the re-inspection is to gather evidence as to the current condition of the establishment or equipment for the Court hearing. The authorised officer must note any changes that have taken place since the notice was served. For example, the circumstances which led to the service of the notice might have worsened, or other circumstances not present originally might now also pose a risk to health.

If the authorised officer is considering bringing the attention of the court to regulation 7(1) of the Food Hygiene Regulations (Northern Ireland) 2006 or Article 10(1) of the Food Safety (Northern Ireland) Order 1991 so that a HPO or prohibition order against a FBO / food business proprietor is to be considered, it is important that suitable evidence is gathered to produce to the court.

It is important that the authorised officers brief their legal advisers fully on the public health aspect of the case in hand, including the public health basis for the legal requirements which have been breached, so that they can, in turn, impress upon the court the seriousness of the charges.

6.2.3.22 Information to be given to the court

Information that the court may require includes:

- the state of the establishment or equipment, both at the time of the offence and at the time the establishment were re-inspected prior to the hearing; and

- any evidence that the FBO / food business proprietor had been involved in the commission of offences elsewhere, which tended to show weaknesses in management (the authorised officer may have to investigate to ascertain whether the FBO/ food business proprietor has been convicted of offences at previous food establishments and what these convictions were for)

It is usual practice for those prosecuting to ascertain whether there have been any previous convictions or cautions and to obtain details for presentation to the Court in the event of the prosecution being successful. They may also be used in evidence if the requirements of Article 6 of the Criminal Justice (Evidence) (Northern Ireland) Order 2004 are met.

6.2.3.23 Affixing the notice or order on the establishment

Regulations 7 and 8 of the Food Hygiene Regulations (Northern Ireland) 2006 and Articles 10 and 11 of the Food Safety (Northern Ireland) Order 1991 direct that as soon as practicable after the making of an order or the service of a notice, a copy of the order or notice should be affixed in a conspicuous position on the establishment by the competent authority.

The purpose of this is to inform the public, which includes anyone who may use the establishment or equipment, that the establishment have been closed or a process or piece of equipment prohibited from being used.

An authorised officer, who is competent to explain the meaning and importance of the notice, should take this action. A witness need only accompany the officer if required by the competent authority. The authorised officer who initiated the action need not necessarily be involved.

The authorised officer must, firmly affix the document inside the establishment, but in a position where it can clearly be seen and read from the outside, preferably on the inside of the glass of a front display window.

If such a position is unavailable the officer should use professional judgement as to the best place available and if necessary affix a second copy of the document to the outside of the establishment, making sure, as far as possible, that it is protected from the weather and possible vandalism. The competent authority should arrange for periodic checks to be made on the document to establish that it is still there.

6.2.3.24 Unauthorised removal or defacement of notices or orders

Neither the Food Hygiene Regulations (Northern Ireland) 2006 nor the Food Safety (Northern Ireland) Order 1991 make any reference to defacing or removing a HPO, a

HEPN, a HEPO, a prohibition order, an EPN, or an EPO. Such action should be considered as obstruction under Regulation 15 of the Food Hygiene Regulations (Northern Ireland) 2006, as removing or defacing a notice or order may be considered an act that "intentionally obstructs any person acting in the execution of the Hygiene Regulations". Similarly, Article 34 of the Food Safety (Northern Ireland) Order 1991 makes it an offence to intentionally obstruct any person acting in the execution of that Order.

6.2.3.25 Lifting a notice or order

The FBO / food business proprietor must apply in writing to the competent authority for a certificate lifting an EPN or order or a prohibition order. On receiving such a request, the authorised officer should re-inspect the establishment as soon as possible and determine as soon as is reasonably practicable, or in any event within 14 days, whether the notice or order may be lifted.

The decision on whether to issue the certificate or not should be made by the officer who initiated the action if this is possible or, if it is not, by another authorised officer with the relevant qualifications and experience.

If the competent authority is of the opinion that the health risk condition has been removed, arrangements should be made for the certificate under Regulation 7(7) or 8(8) of the Food Hygiene Regulations (Northern Ireland) 2006, or Article 10(6) or 11(8) of the Food Safety (Northern Ireland) Order 1991 as appropriate to be issued as quickly as possible, and in any case within 3 days. The certificate may be sent by fax, although the food business proprietor may also be informed of the decision verbally, thus allowing the establishment to re-open immediately.

If the authorised officer is of the opinion that the health risk condition has not been removed, arrangements should be made under Regulation 7(7) (b) or 8(9) (b) of the Food Hygiene Regulations (Northern Ireland) 2006, or Article 10(7) (b) or Article 11(9) (b) of the Food Safety (Northern Ireland) Order 1991 as appropriate for the competent authority to issue a notification of continuing risk to health as quickly as possible. The competent authority must give reasons why it is not satisfied that the health risk condition has been removed.

Although a certificate lifting a HEPN or EPN may be issued before the application for an HPO or EPO may be heard, the FBO/ food business proprietor may still be prosecuted for the offence(s) against the Food Hygiene Regulations (Northern Ireland) 2006 or the Food Safety (Northern Ireland) Order 1991 as appropriate.

The competent authority should ensure that the court is informed in this situation.

A HPO or prohibition order on the FBO / food business proprietor may only be lifted on application by the FBO/ proprietor to the Court that made the order.

6.2.3.26 Lifting of HEPN before court hearing

Where a delay occurs between the inspection/ service of the HEPN and the hearing of the HEPO application by the court, a further inspection should take place prior to

the hearing to ensure evidence of any current risk to public health is available. Failure to gather such evidence may prevent the court in making an informed decision on whether the health risk condition still exists.

If an officer conducts a further inspection before the court hearing and they are satisfied that the health risk condition no longer exists, under regulation 8(9) of the Food Hygiene Regulations (Northern Ireland) 2006 they must issue a certificate within three days to this effect. The authorised officer may still wish to continue with the application to request the HEPO – the officer should make clear the distinction between making of the application for the HEPO and the hearing to request the HEPO, the latter of which may lessen the possibilities of a claim for compensation by the FBO. Regulation 8(10) gives the Court discretion to issue a declaration that they are satisfied the health risk condition was fulfilled on the date of service of the HEPN. If the FBO has sought a certificate that the health risk condition no longer exists the competent authority must determine within 14 days whether that this condition is fulfilled or not.

6.2.3.27 Breach of a notice or order

A person who fails to comply with a HIN is guilty of an offence under Regulation 6(2) of the Food Hygiene Regulations (Northern Ireland) 2006.

A person who knowingly contravenes a HPO or a prohibition order is guilty of an offence under regulation 7(5) of the Food Hygiene Regulations (Northern Ireland) 2006 or Article 10(5) of the Food Safety (Northern Ireland) Order 1991, respectively.

A person who knowingly contravenes a HEPN or order or an EPN or order is guilty of an offence under Regulation 8(5) or (6) of the Food Hygiene Regulations (Northern Ireland) 2006 or Article 11(5) or (6) of the Food Safety (Northern Ireland) Order1991, respectively.

A person who fails to comply with a Remedial Action Notice (RAN) is guilty of an offence under Regulation 9(7) of the Food Hygiene Regulations (Northern Ireland) 2006.

A person who fails to comply with a Detention Notice (DN) is guilty of an offence under regulation 9(7) of the Food Hygiene Regulations (Northern Ireland) 2006.

Where a notice is breached, there are several offences, the breach of the regulations and the breach of the notice requiring the non-compliance to be addressed. Both are offences and should be referred for prosecution.

The authorised officer should start proceedings for the offence under the appropriate legislation by referring the case to its' legal advisers who will assess the evidence to establish whether it satisfies the tests for prosecution[22]. If it does the solicitors will issue a summons to the relevant court of summary jurisdiction. This summons is

[22] http://www.ppsni.gov.uk/Prosecution-Decisions-6768.html

subsequently served on the Defendant requiring them to attend a first hearing to enter a plea.

The competent authority should make contingency arrangements with its legal department, so that in the event of the breach of a notice or order, there is no delay in making an application before the court. Competent authorities should refer to their internal enforcement policy when deciding what action to take regarding the breach of regulations and or notices.

6.2.3.28 Appeals: Refusal of a competent authority to issue a certificate that the health risk condition no longer exists

Regulation 19(1) (b) of the Food Hygiene Regulations (Northern Ireland) 2006 and Article 37 of the Food Safety (Northern Ireland) Order 1991 allow anybody who is aggrieved by a decision of a competent authority to refuse to issue a certificate that there is no longer a risk to health to appeal by to a court of summary jurisdiction by way of notice under Part VII of the Magistrates Courts (Northern Ireland) Order 1981. The time limit for such an appeal is one month from the date when the competent authority served the notice of their refusal to lift the prohibition.

The recipient of a notice of refusal should clearly understand their right of appeal. The notice should therefore include, or be accompanied by, details of the right of appeal and the name and address of the relevant court.

6.2.3.29 Compensation

Regulation 8(10) of the Food Hygiene Regulations (Northern Ireland) 2006 and Article 11(10) of the Food Safety (Northern Ireland) Order 1991 provide for the competent authority to compensate the FBO/food business proprietor for losses arising from the service of a HEPN or EPN if a HEPO or EPO as appropriate is not applied for to the Court within three days and the Court is not satisfied that the health risk condition was fulfilled at the time the notice was served.

Compensation is payable in respect of “any loss” which is directly attributable to the wrongful service of the notice.

The competent authority may assess the amount of compensation due taking into account (among other things) the following aspects where applicable:

- the length of time the process or treatment was halted, or the use of establishment or equipment was prohibited and for what purpose;
- loss of trade;
- value of spoilt food;
- loss of goodwill;
- loss of wages;

- how much of the damage to trade is repairable; and

- obligation of the FBO / proprietor to mitigate their own loss or if the FBO / proprietor of the business is agreeable, a loss adjuster may be called in.

6.2.4 Seizure and detention

6.2.4.1 Introduction

This section concerns the use of the detention and seizure powers under regulation 25 of the Food Hygiene Regulations (Northern Ireland) 2006 and / or Article 8 of the Food Safety (Northern Ireland) Order 1991.

6.2.4.2 General

It is presumed under food law that all food is intended for human consumption until it is proved to the contrary.

Detention powers should not be used in relation to food that has already been clearly identified by a food business as not being intended for human consumption.

An officer may assist or advise the person in charge of the food as appropriate. If there is any doubt about the food being used for human consumption, it must be presumed that it is. If an FBO wished to argue for a contrary intention then it is for the FBO to prove this.

6.2.4.3 Regulation 25 Food Hygiene Regulations (Northern Ireland) 2006 - Food not produced, processed or distributed in compliance with the hygiene regulations

Under regulation 25 of the Food Hygiene Regulations (Northern Ireland) 2006, an authorised officer of a competent authority may, on an inspection of any food, certify that it has not been produced, processed or distributed in compliance with the regulations as defined in regulation 2. A model certificate for this purpose can be found at 6.3 below. The food must then be treated for the purposes of Article 8 of the Food Safety (Northern Ireland) Order 1991 as failing to comply with food safety requirements. Competent authorities must continue to use the forms set out in the Detention of Food (Prescribed Forms) Regulations (Northern Ireland) 1991[23]when using powers under Article 8 of the Food Safety (Northern Ireland) Order 1991 following the issue of a certificate as mentioned above.

6.2.4.4 Food which does not satisfy food safety requirements - Food Safety (Northern Ireland) Order 1991

If food does not satisfy food safety requirements for other than hygiene reasons, Article 8 of the Food Safety (Northern Ireland) Order 1991 should be used. Article 9 of the Order permits the service of a detention of food notice to prevent the use of

[23] SI 1990 No. 2614

the food for human consumption. Competent authorities must continue to use the forms set out in the Detention of Food (Prescribed Forms) Regulations 1990 when using powers under Article 8 of the Food Safety (Northern Ireland) Order 1991.

6.2.4.5 Specific powers of seizure and detention for competent authorities enforcing food standards

The following legislation, gives powers of seizure and detention to competent authorities carrying out food standards controls.

- The Contaminants in Food Regulations (Northern Ireland) 2013
- The Eggs and Chicks Regulations (Northern Ireland) 2010
- The Food Additives, Flavourings, Enzymes and Extraction Solvents Regulations (Northern Ireland) 2013
- The Food Irradiation Regulations (Northern Ireland) 2009
- The Genetically Modified Food Regulations (Northern Ireland) 2004
- The Flavourings in Food Regulations (Northern Ireland) 2010
- The Tryptophan in Food Regulations (Northern Ireland) 2005
- The Scotch Whisky Regulations 2009
- The Spirit Drinks Regulations 2008

6.2.4.6 Detention of food

Authorised officers need to exercise careful judgement, and might need to seek expert advice, before using their powers to detain food pending further investigation.

Food that is suspected of causing food poisoning may often be readily identified, and the decision to detain may therefore be taken relatively easily.

The notice may specify that the food is either to be held where it is, or moved to a place specified by the officer, pending further investigations.

Food that requires special storage conditions, such as refrigeration, might need to be moved elsewhere, in which case the decision to require the food to be moved should be discussed with the owner of the food.

The decision to detain a whole batch, lot, or consignment needs careful consideration before a notice is served (see section 6.2.4.10 of this Practice Guidance).

6.2.4.7 Seizure of food

The officer might be required to prove that the food produced before the Justice of the Peace is the food that was seized. The food should only be left if the officer is confident that it will not be moved, used for human consumption, or the evidence destroyed.

6.2.4.8 Food condemnation warning

A food condemnation notification giving details of the time and place of the appearance before a Justice of the Peace should be given to the person in charge of the food once the decision to seize food has been taken. This notification is purely administrative and may therefore be signed by any authorised officer.

The officer delivering the notification does not need to hold the same qualifications as the officer who took the decision to detain or seize the food, but must be sufficiently competent to explain the purpose of the notification and to deal with any obstruction.

Notification to the owner of the food may be by personal delivery, fax, telephone, e-mail, or other rapid means of communication.

This is especially important in cases of seizure, because of the right conferred by Article 8(5) of the Food Safety (Northern Ireland) Order 1991, on any person who might be liable to prosecution for selling or producing unsafe food to attend before a Justice of the Peace, to be heard and to call witnesses.

6.2.4.9 Taking action without inspecting

The provisions of Article 8 of the Food Safety (Northern Ireland) Order 1991 also apply to food that has not been inspected (Article 8(2)).

This could apply when the officer has reasonable grounds to suspect that consumption of the food would be likely to cause foodborne or other communicable disease, or that it was otherwise so contaminated that it would not be reasonable for it to be consumed in that condition.

Information from another reliable source, e.g. another competent authority, the Northern Ireland Public Health Laboratory (NIPHL), the Consultant in Communicable Disease Control (CCDC), or the FSA etc. may be sufficient to enable an authorised officer to act without inspecting.

Although an inspection of the food is not legally necessary in such situations, it might nonetheless be prudent, if only for identification purposes.

6.2.4.10 Dealing with batches, lots or consignments of food

Article 14(2) of Regulation (EC) No 178/2002[24] defines unsafe food and is relevant to both the Food Hygiene Regulations (Northern Ireland) 2006 and the Food Safety (Northern Ireland) Order 1991. The General Food Regulations (Northern Ireland) 2004 deals with food that fails to comply with food safety requirements if it is unsafe within the meaning of Article 14(2) of Regulation (EC) No 178/2002.

Article 14(6) of Regulation (EC) No 178/2002 covers situations where food is part of a larger batch, lot or consignment of food of the same class or description. In such circumstances it is presumed, until the contrary is proved, that all of the food in the batch, lot or consignment fails to comply with food safety requirements.

The authorised officer should use professional judgement to decide whether to detain or seize the whole of the batch, lot or consignment. Appropriate expert advice should be sought if necessary.

If a whole batch, lot or consignment is detained and it subsequently becomes clear that only part of the detained food is affected and needs to be seized, the remainder of the batch etc. may be released. The compensation provisions under Article 8(7) of the Food Safety (Northern Ireland) Order 1991, should always be borne in mind if this course of action is taken.

6.2.4.11 Voluntary procedures

It should also be borne in mind that the use of voluntary procedures might contribute to a defence in any subsequent prosecution. It could, for example, be argued that the food was not so contaminated that it had to be seized.

The fact that food had been condemned by a Justice of the Peace would be persuasive in any prosecution, but would not in itself necessarily establish an offence. It would still be necessary for a case to be proved beyond reasonable doubt. In this respect certificates of analysis or examination are of particular value.

6.2.5 Remedial Action Notices and Detention Notices

All relevant information is contained in section 6.2.12 of the Code.

[24] Regulation (EC) No. 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety

6.3 Documentation

Model forms which may be used by authorised officers in connection with the Food Hygiene Regulations (Northern Ireland) 2006 (FHR 2006) and Food Information Regulations 2014 are provided as summarised in the following table.

Practice Guidance Reference	Model form	For use In connection with:
6.3.1	Hygiene Improvement Notice	regulation 6, FHR 2006
6.3.2	Hygiene Emergency Prohibition Notice	regulation 8, FHR 2006
6.3.3	Notice of Intention to apply for a Hygiene Emergency Prohibition Order	regulation 8, FHR 2006
6.3.4	Certificate that health risk condition no longer exists	regulation 6 and regulation 7, FHR 2006
6.3.5	Notice of determination that health risk condition remains in existence	regulation 7 and regulation 8 FHR 2006
6.3.6	Certificate that food has not been produced, processed or distributed in compliance with the Hygiene Regulations	regulation 25, FHR 2006
6.3.7 6.3.8	Suggested wording with use of FIR 2014 Improvement Notices A model form of an Improvement Notice for the purposes of FIR 2014	Regulation (EU) No 1169/2011 of the European Parliament and of the Council or the Food Information Regulations (SR 2014 No223)
6.3.9	Remedial Action Notice	regulation 9, FHR 2006
6.3.10	Detention Notice	regulation 9, FHR 2006
6.3.11	Notice of withdrawal of Remedial Action Notice/Detention Notice	regulation 9, FHR 2006

6.3.1 Model form - Hygiene Improvement Notice

District council: .....

The Food Hygiene Regulations (Northern Ireland) 2006 –
Regulation 6
Hygiene Improvement Notice

Reference Number: .....

1. To: ..... (Food Business Operator)

   At: ..... (Address of Food Business Operator)

2. I have reasonable grounds for believing that you are failing to comply with the Hygiene Regulations because:

   _____

   _____

   [Officer to insert grounds for believing that the Hygiene Regulations are being breached]

   in connection with your food business _____ (Name of Food Business)

   at: _____ (Address of Food Business)

   The matters which constitute your failure to comply are:

   _____

   _____

   _____

   [Officer to insert provision(s) of the Hygiene Regulations which is/are being breached and why]

3. In my opinion, the following measure(s) are needed for you to comply with the Hygiene Regulations:

   _____

   _____

4. The measure or measures that will achieve the same effect must be taken by: _____ (date)

5. It is an offence not to comply with this Hygiene Improvement Notice by the date stated.

Signed: ..... (Authorised officer)
Name in capitals: .....
Date: .....
Address: .....

.....

Tel: ..... Fax: .....
E-mail: .....

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.
Model form - Hygiene Improvement Notice (reverse)

NOTES

1. In the opinion of the authorised officer you are not complying with the Hygiene Regulations as described in paragraph 2 of the notice. The work needed in the officer's opinion to put matters right is described and it must be finished by the date set.

2. You are responsible for ensuring that the work is carried out within the period specified which must be at least 14 days from the date of the notice.

3. You have a right to carry out work that will achieve the same effect as that described in the notice. If you think that there is another equally effective way of complying with the law, you should first discuss it with the officer.

YOUR RIGHT OF APPEAL

4. In accordance with Regulation 19 of the Food Hygiene Regulations 2006, if you disagree with all or part of this notice, you may appeal to a court of summary jurisdiction. You must appeal within one calendar month of the date of the notice or the period ending with the date stated in paragraph 4 of the notice, whichever ends earlier.

5. If you decide to appeal, the time set out in the notice is suspended and you do not have to carry out the work described until the appeal is heard. However, if you are not complying with the regulations mentioned in the notice, you may still be prosecuted for failure to comply with those regulations.

6. When the appeal is heard, the court may confirm, cancel or vary the notice.

WARNING

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE

Offenders are liable to be fined and/or imprisoned for up to 2 years.

6.3.2 Model form - Hygiene Emergency Prohibition Notice

District council: .....

The Food Hygiene Regulations (Northern Ireland) 2006 –
Regulation 8
HYGIENE EMERGENCY PROHIBITION NOTICE

Reference Number: .....

1. To: ..... (Food Business Operator)

   At: ..... (Address of Food Business Operator)

2.* I am satisfied that the health risk condition is fulfilled with respect to: ..... (Name of Food Business)

   at: ..... (Address of Food Business)

   Because: .....

   .....

   .....

   (* See Note 1 overleaf)

   YOU MUST NOT USE IT FOR THE PURPOSES OF [THIS] [ANY] [THIS OR ANY SIMILAR][†] FOOD BUSINESS.
   [† Officer to delete as appropriate]

Signed: ..... (Authorised officer)
Name in capitals: .....
Date: .....
Address: .....

.....

Tel: ..... Fax: .....
E-mail: .....

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Model form 2 - Hygiene Emergency Prohibition Notice (reverse)

NOTES

1. When you receive this notice you must IMMEDIATELY stop using the establishment, process, treatment or equipment described by the officer in paragraph 2 of the notice and located at the address stated.

2. Within 3 days of service of this notice, the district council must apply to a court of summary jurisdiction for an order confirming the prohibition. You will be told the date of the hearing which you are entitled to attend and at which you may call witnesses if you wish.

3. If you believe that you have acted to remove the health risk condition, you may apply in writing to the authority for a certificate of satisfaction which, if granted, would allow you to use the establishment, process, treatment or equipment again. You may do this even if the court hearing has not taken place.

4. You are not allowed to use the establishment, process, treatment or equipment for the purpose specified in paragraph 2 of the notice (see Regulation 7(3) of the Food Hygiene Regulations (Northern Ireland) 2006 as applied by Regulation 8(4)) until

    a. a court decides you may do so; or
    b. the issues you with a certificate as in paragraph 3 above; or
    c. 3 days have passed since the service of the notice and the district council has not applied to the court as in paragraph 2 above; or the district council abandons the application.

A copy of this notice must, by law, be fixed on the establishment. It is an offence (under Article 3 of the Criminal Damage (Northern Ireland) Order 1977 to deface it.

COMPENSATION: If the authority does not apply to the Magistrates' Court, for an order confirming its action within 3 days of the date of service of this notice, you will be entitled to compensation for any losses you have suffered because you could not use the establishment, process, treatment or equipment because you were complying with this notice. You will also be entitled to such compensation if the Magistrates' Court, decide at the hearing that the health risk condition was not fulfilled with respect to the food business at the time when the notice was served.

WARNING

ANYONE WHO CONTRAVENES THIS NOTICE IS GUILTY OF AN OFFENCE

Offenders are liable to be fined and/or imprisoned for up to 2 years.

6.3.3 Model form – Notice of intention to apply for a Hygiene Emergency Prohibition Order

District council:: .....

The Food Hygiene Regulations (Northern Ireland) 2006 – Regulation 8

NOTICE OF INTENTION TO APPLY FOR HYGIENE EMERGENCY PROHIBITION ORDER

Reference Number: .....

1. To: ..... (Food Business Operator)

   At: ..... (Address of Food Business Operator)

2. You are the food business operator of the food business at:

   _____

   _____

   _____

3. I give notice that I shall be applying to the court of summary jurisdiction sitting at

   _____

   on: ..... (Date)*

   at: ..... (Time)*

   [*Officer to insert if known]

   for a Hygiene Emergency Prohibition Order because: .....

   _____

   _____

   [Officer to state reason why the order is being sought in respect of the establishment, process, treatment or equipment]

4. If an order is made by the court you will not be able to use the [establishment] [process] [treatment] [equipment]† described:

   _____

   _____

   _____

   for the purpose of [this] [any] [this or any similar]† food business.

   [† Officer to delete as appropriate]

Signed: ..... (Authorised officer)

Name in capitals: .....

Date: .....

Address: .....

.....

Tel: ..... Fax: .....

E-mail: .....

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Model form - Notice of intention to apply for a Hygiene Emergency Prohibition Order (reverse)

NOTES

1. This notice tells you that the authority intends to apply to a court of summary jurisdiction for a Hygiene Emergency Prohibition Order (HEPO) which, if granted, would mean that you could not use the establishment, process, treatment or equipment described for the purposes specified in paragraph 3 of the notice (see Regulation 7(3) of the Food Hygiene Regulations (Northern Ireland) 2006 as applied by Regulation 8(4)).

2. The court will consider the evidence from the authority as to why they believe the health risk condition is fulfilled from the operation of your food business or part of it. You may bring your own evidence and witnesses to put before the court and you may choose to be represented by a lawyer.

3. If the court is satisfied by the authority's evidence that the health risk condition is fulfilled, then an order will be made stating what you may not do. The order will be served on you by the authority. A copy of it must be fixed by the authority in a conspicuous position on your establishment and it is an offence to deface it (Article 3 1 of the Criminal Damage (Northern Ireland) Order 1977).

4. You have the right to appeal to the county court against the decision of the court if you think that it is wrong.

5. The making of an order does not mean you are guilty of an offence but the authority may seek to prosecute you for offences under the Food Hygiene Regulations (Northern Ireland) 2006 or associated regulations.

6. If you have been issued with a Hygiene Emergency Prohibition Notice from the district council, you will know what steps should be taken to remove the health risk condition.

7. If the court is not satisfied by the district council’s evidence and an order is not issued, then you will be entitled to continue your business. If the authority has already issued you with a hygiene emergency prohibition notice and you have suffered loss because you have complied with it, then you will also be entitled to compensation from the district council.

6.3.4 Model form - Certificate that health risk condition no longer exists

District council:: .....

The Food Hygiene Regulations (Northern Ireland) 2006 – Regulations 7 and 8

CERTIFICATE THAT THE HEALTH RISK CONDITION NO LONGER EXISTS

Reference number: ----------

1. To: ..... (Food Business Operator)

   At: .....

   ..... (Address of Food Business Operator)

   Name of food business: .....

   Address of food business:

2. The district council certifies that it is satisfied that you have taken sufficient measures to secure that the health risk condition described in the:

   Hygiene Prohibition Order*

   Hygiene Emergency Prohibition Notice*

   Hygiene Emergency Prohibition Order*

   [* Officer to delete as appropriate]

   served on you on …… (date) is no longer fulfilled with respect to the food business.

Signed: ..... (Authorised officer)

Name in capitals: .....

Date: .....

Address: .....

.....

Tel: ..... Fax: .....

E-mail: .....

THIS CERTIFICATE MEANS THAT YOU MAY NOW USE THE ESTABLISHMENT, PROCESS, TREATMENT OR EQUIPMENT AGAIN.

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this certificate, you may want to seek legal advice.

Model form - Certificate that health risk condition no longer exists (reverse)

NOTES

The district council is now satisfied that the health risk condition no longer exists in respect of the circumstances that caused the district council to issue you with a Hygiene Emergency Prohibition Notice or the court to impose a Hygiene Prohibition Order or Hygiene Emergency Prohibition Order.

The relevant notice or order is now lifted and you may use the establishment, process, treatment or equipment again.

6.3.5 Model form – Notice of determination that health risk condition remains in existence

District council: .....

The Food Hygiene Regulations (Northern Ireland) 2006 –
Regulations 7 and 8

NOTICE OF DETERMINATION THAT THE HEALTH RISK CONDITION REMAINS IN EXISTENCE

Reference number: ----------

1. To: ..... (Food Business Operator)
   At: ..... (Address of Food Business Operator)
   Name of food business: .....
   Address of food business: .....
2. The district council has determined that it is NOT satisfied that you have taken sufficient measures to remove the health risk condition described in the:
   Hygiene Prohibition Order*
   Hygiene Emergency Prohibition Notice*
   Hygiene Emergency Prohibition Order*
   [* Officer to delete as appropriate]
   served on you on
   ..... (date) and is satisfied that the health risk condition remains fulfilled with respect to the food business.
3. The district council is not satisfied because

   .....

   .....

   .....

Signed: ..... (Authorised officer)
Name in capitals: .....
Date: .....
Address: .....

.....

Tel: ..... Fax: .....
E-mail: .....

THIS NOTICE MEANS THAT YOU MAY NOT USE THE ESTABLISHMENT, PROCESS, TREATMENT OR EQUIPMENT UNTIL THE ENFORCEMENT AUTHORITY NOTIFIES THAT YOU MAY DO SO.

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Model form - Notice of determination that health risk condition remains in existence (reverse)

NOTES

1. The district council is not satisfied that the health risk condition no longer exists in respect of the circumstances that caused the enforcement authority to issue you with a Hygiene Emergency Prohibition Notice (HEPN) or the court to impose a Hygiene Prohibition Order (HPO) or Hygiene Emergency Prohibition Order (HEPO).

2. You still cannot use the establishment, process, treatment or equipment in question for the purposes described in the HEPN, HPO or HEPO even if you are appealing against the terms of this notice.

3. In accordance with Regulation 19 of the Food Hygiene Regulations (Northern Ireland) 2006, you are entitled to appeal against the decision of the authority to refuse to issue a certificate of satisfaction under Regulation 7(6) or Regulation 8(8). If you want to do so, you should apply to the court of summary jurisdiction, within one calendar month of the date on which this notice is served on you.

4. As soon as you think that the health risk condition has been removed because of actions you have taken, you may apply in writing to the district council for a certificate of satisfaction which, if granted, would allow you to use the establishment, process, treatment or equipment again. If a HEPN has been issued, you may do this even if the court hearing has not taken place.

WARNING

FAILURE TO COMPLY WITH THE ORIGINAL NOTICE OR ORDER IS AN OFFENCE

Offenders are liable to be fined and/or imprisonment for up to 2 years.

6.3.6 Model form - Certificate that food has not been produced, processed or distributed in compliance with the Hygiene Regulations

District council: .....

The Food Hygiene Regulations (Northern Ireland) 2006 – Regulation 25

CERTIFICATE THAT FOOD HAS NOT BEEN PRODUCED, PROCESSED OR DISTRIBUTED IN COMPLIANCE WITH THE HYGIENE REGULATIONS

Reference number: ----------

1. To: ..... (Food Business Operator)
   At: ..... (Address of Food Business Operator)
   Name of food business: _____
   Address of food business: _____
2. Following an inspection, I certify that the following food:

   _____

   _____

   _____

   has not been produced, processed or distributed in compliance with the Hygiene Regulations, as outlined below:

   _____

   _____

   _____

   The above food shall therefore be treated for the purposes of Article 8 of the Food Safety (Northern Ireland) Order 1991 as failing to comply with food safety requirements.

Signed: _____ (Authorised officer)
Name in capitals: _____
Date: .....
Address: .....

.....

Tel: ..... Fax: .....
E-mail: _____

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this certificate, you may want to seek legal advice.

Model form – Certificate that food has not been produced, processed or distributed in compliance with the Hygiene Regulations (reverse)

NOTES

The authorised officer has certified that the food detailed has not been produced, processed, or distributed in compliance with the Hygiene Regulations for the reasons given.

The food shall therefore be treated for the purposes of Article 8 of the Food Safety Order 1991 as failing to comply with food safety requirements.

6.3.7 Food Information Regulations (Northern Ireland) 2014 – Wording of Notices

Regulation 12 of the Food Information Regulations (Northern Ireland) 2014 (FIR 2014) applies, with modifications, Article 9(1) of the Food Safety (Northern Ireland) Order 1991 so that Improvement Notices (INs) may be served in respect of breaches of Regulation (EU) No. 1169/2011 as well as in respect of breaches of the FIR 2014

Schedule 5 of the FIR 2014 specifies those provisions of Regulation (EU) No. 1169/2011 which, if breached, engage an enforcement authority's power to issue an IN.

Some examples of wording for use in the model IN form is set out, below:

- **Schedule 5 Part 1: For matters relating to the sale / supply of non-complaint "minced meat"**

Description of the breach……
Contrary to Article 17(5) of Regulation (EU) No.1169/2011 on the provision of food information to consumers, a product was named as ……when its composition failed to meet the criteria for the use of that name.

- **Schedule 5 Part 2: For all other breaches of Regulation (EU) No. 1169/2011**

Description of the breach ……..
This is a breach of the provisions of Article ……of Regulation (EU) No. 1169/2011 on the provision of food information to consumers, which is specified as entry number …. of Part 2 of Schedule 5 to the Food Information Regulations (Northern Ireland) 2014.

- **Regulation 5: Allergenic ingredients - where required information is given orally**

Description of the breach …….
5(3) *No Notice indicating that the allergenic ingredient information is available orally*
"Contrary to Regulation 5 (3) of the Food Information Regulations (Northern Ireland) 2014, the Food Business Operator failed to provide an indication in the required manner that allergenic ingredient information required by Article 9(1)(c) of Regulation (EU) No. 1169/2011 on the provision of food information to consumers was available by asking a member of staff"

5(4) The *Notice was incorrectly displayed*
"The Food Business operator failed to display a notice, indicating that allergenic ingredient information was available, that was readily discernible by the intended purchaser contrary to Regulation 5 (4) of the Food Information Regulations (Northern Ireland) 2014"

5(5) *No name or incorrect name of allergenic substance*
"Contrary to Regulation 5 (5) of the Food Information Regulations (Northern Ireland) 2014, the Food Business Operator failed to make available a clear reference to the name of the allergenic substance listed in Annex II of Regulation (EU) No. 1169/2011 on the provision of food information to consumers"

- **Regulation 6: Name of the Food - loose food or foods broken from bulk**

6(1) *Loose food required to be named*
"Contrary to Regulation 6 (1) of the Food Information Regulations (Northern Ireland) 2014, the Food Business Operator offered food for sale and failed to provide the name of the food as required by Article 9(1)(a) of Regulation (EU) No. 1169/2011 on the provision of food information to consumers."

6(4) *Where the name of the food shall appear*
"Contrary to Regulation 6 (4) of the Food Information Regulations (Northern Ireland) 2014, the Food Business Operator failed to provide the name of the food in the manner required."

- **Regulation 7: Non Pre-packed food that contain meat**

- *No QUID Declaration*

"Contrary to Regulation 7(1) of the Food Information Regulations (Northern Ireland) 2014, the Food Business Operator offered for sale a food that contained meat, namely ……., and failed to provide particulars of the quantity of the meat content as required by Article 9(1) (d) of Regulation (EU) No. 1169/2011 on the provision of food information to consumers."

- *Incorrect meat content declaration*

"Contrary to Regulation 7(4) of the Food Information Regulations (Northern Ireland) 2014, the Food Business Operator offered for sale a food that contained meat, namely ……..... with an indication of the quantity of meat content which was incorrect due to excess fat and connective tissue."

- *Where the meat content declaration should appear*

"Contrary to Regulation 7 (5) of the Food Information Regulations (Northern Ireland) 2014, the Food Business Operator failed to provide the quantity of the meat content of a food that contained meat, namely…….. in the manner required.""

Regulation 8: Irradiated food or foods containing irradiated ingredients

- *Bulk food products sold loose to labelled "Irradiated" together with the name of the food*

"Contrary to Regulation 8(1) of the Food Information Regulations (Northern Ireland) 2014, being a person who placed on the market, in bulk, a food that has been treated with, or a food containing an ingredient that has been treated with, ionising radiation and failed to ensure that the relevant indication appeared together with the name of the food in the manner required."

- *"Irradiated" does not appear in the ingredients list*

"Contrary to regulation 8 (3) of the Food Information Regulations (Northern Ireland) 2014, being a person who placed on the market a food which contained an ingredient which has been treated with ionising radiation and failed to ensure that the relevant indication appeared in the ingredients list of the food.".

6.3.8 Model form - The Food Information Regulations (Northern Ireland) 2014 Improvement Notice

District council:……

(Name & Address of the issuing Council):

Reference Number:……

Article 9(1) of the Food Safety (Northern Ireland) 1991 as applied and modified by regulation 12(1) of, and Part 1 of Schedule 4 to, the Food Information Regulations 2014 (SR 2014 No.223)

1. To: ……..
……
……
……
……
……(Name and address of the business on which the notice is being served)

_____

2. I have reasonable grounds for believing that you are failing to comply with [Authorised officer to insert relevant provision of Regulation (EU) No 1169/2011 (as specified by Schedule 5 of the Food Information Regulations (Northern Ireland) 2014) or the Food Information Regulations (Northern Ireland) 2014]

because:……
……
……
……
……
……
……...
[Authorised officer to insert grounds for believing that the Food Information Regulation (Northern Ireland) 2014 are being breached.]

[DN -*A description of the breach in plain English is necessary. Identify the product specifically the label the durability date/ lot code and what exactly was wrong with the label. You may wish to attach copy of the label as supporting evidence.]*

in connection with where the contravention took place……...
……
……
……
……

(Name & Address of Food Business if different to that in 1 above)

The matters which constitute your failure to comply are:

……
……
……
……
……
……
[Authorised officer to insert why there is a failure to comply]

3. In order to comply with the provision specified above, you must take the following measure(s) (or measures that are at least equivalent to them)

……
……
……
……
……
……

You are required to take these measures by…….... (date)

5. *It is an offence not to comply with this notice.*

Signed: ……. Authorised officer)

Name in capitals: …….....

Date: ……

Address: …….

……

……

…….

Tel: ……

Fax: ……

E-mail: ……

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Model Form – Food Information Regulation (Northern Ireland) 2014 IN (reverse)

NOTES

1. In the opinion of the authorised officer you are not complying with the provision of Regulation (EC) No 1169/2011 of the European Parliament and of the Council or the Food Information Regulations (Northern Ireland) 2014 (SR 2014 No. 223) specified in paragraph 2 of the notice. The measures needed to put matters right are described in paragraph 3 of the notice and those measures (or equivalent measures) must be completed within the stated period.

2. You are responsible for ensuring that the measures are carried out within the period specified in the notice.

3. You have a right to take measures that are at least equivalent to the stated measures i.e. that will achieve the same effect as the measures described in the notice. If you think that there is another equally effective way of complying with the law, we would recommend that you first discuss it with the officer who issued this notice or another officer to make sure that they agree.

YOUR RIGHT OF APPEAL

4. If you disagree with all or part of this notice, you may appeal against the notice to a court of summary jurisdiction, in accordance with Article 37(1) of the Food Safety (Northern Ireland) Order 1991, as applied and modified by regulation 12(3) of, and Schedule 4 to, the Food Information Regulations (Northern Ireland) 2014. You must appeal within:

   one calendar month from the date the notice was sent to you or the time specified in the notice whichever ends the earlier.

5. If you decide to appeal the time set out in the notice is suspended and you do not have to carry out the work described until the appeal is heard.

6. When the appeal is heard, the court may confirm, cancel or vary the notice.

7. You should notify the officer serving the notice if an appeal is lodged.

6.3.9 Model form - Remedial Action Notice

District council: _____

The Food Hygiene Regulations (Northern Ireland) 2006 –
Regulation 9
REMEDIAL ACTION NOTICE

Reference Number: _____

1. To: _____
   (Food Business Operator or a Duly Authorised Representative)
   At: _____
   _____
   (Address of Food Business Operator or a Duly Authorised Representative)
   Name of food business: _____
   Address of food business: _____

2. In my opinion:
   The Hygiene Regulations are being breached*
   Inspection under the Hygiene Regulations is being hampered*
   because: _____
   _____
   _____
   [Officer to insert which provision(s) of the Hygiene Regulations is/are being breached and why]
   [* Officer to delete as appropriate]
3. This notice requires you to:
   Cease use of the following rooms/areas/items of equipment*
   Observe the conditions imposed on the following process*
   Cease the following process*
   Reduce the rate of operation to the rate stated*
   Stop the following operation(s) completely*
   [* Officer to delete as appropriate]
   _____
   _____
   _____
   _____
4. The action required to remedy the situation is as follows:
   _____
   _____
   _____

Signed: ..... (Authorised officer)
Name in capitals: .....
Date: .....
Address: .....

.....

Tel: ..... Fax: .....
E-mail: .....

It is an offence under Regulation 9(7) not to comply with this notice.

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Model form - Remedial Action Notice (reverse)

NOTES

1. **The authorised officer is satisfied that the requirements of the Hygiene Regulations are not being met and/or that an inspection under the Hygiene Regulations is being hampered for the reasons given.**

2. When an authorised officer is satisfied that relevant action has been taken or any inspection by an authorised officer will not be hampered this notice will be withdrawn by means of a further notice in writing.

YOUR RIGHT OF APPEAL

3. In accordance with Regulation 19 of The Food Hygiene Regulations (Northern Ireland) 2006, you are entitled to appeal against this notice. If you want to do so, you should apply to a court of summary jurisdiction within one calendar month of the date on which this notice is served on you.

4. This notice remains in effect even if you are appealing against the terms of this notice.

WARNING

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE

Offenders are liable to be fined and/or imprisonment for up to 2 years.

6.3.10 Model form - Detention Notice

District council : .....

The Food Hygiene Regulations (Northern Ireland) 2006
(Establishments subject to approval under Article 4(2) of Regulation (EC) No. 853/2004)

DETENTION NOTICE

Reference number: ----------

1. To: .....
   (Food Business Operator or a Duly Authorised Representative)
   At: .....
   .....
   (Address of Food Business Operator or a Duly Authorised Representative)
   Name of food business: .....
   Address of food business: .....
   .....

2. The following food is being detained for the purposes of examination:
   Description: .....
   .....
   .....
   Quantity: .....
   .....
   .....
   Identification Marks/Health Marks: .....
   .....
   .....

3. This food is not to be used.

4. The food is being detained for the purposes of examination.

5. The food must not be removed from: .....
   .....
   .....
   ..... (Name/address of food business where food is to remain)

6. You will be informed in writing as soon as the authorised officer is satisfied as to the result of the examination. The notice will then either be withdrawn and the food released, or the food will be seized to be dealt with by a Justice of the Peace, who may condemn the food and order its destruction. You may choose to voluntary surrender the food at any time.

Signed: ..... (Authorised officer)
Name in capitals: .....
Date: .....
Address: .....

.....

Tel: ..... Fax: .....
E-mail: .....

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Model form 5 - Detention Notice (Reverse)

NOTES

1. The authorised officer has, by means of this notice, required the detention of the food specified for the purposes of examination.

2. The food must remain where it is. If it is moved it may only be moved to the place stated in paragraph 5 of this notice.

3. If an authorised officer is satisfied that the food need no longer be detained this notice will be withdrawn by means of a further notice in writing.

4. If, for some reason, you need to move the food after receiving this notice, you should contact the officer at the address given.

WARNING

FAILURE TO COMPLY WITH THIS NOTICE IS AN OFFENCE

Offenders are liable to be fined and/or imprisonment for up to 2 years.

6.3.11 Model form – Notice of withdrawal of Remedial Action Notice/Detention Notice

District council: .....

The Food Hygiene Regulations (Northern Ireland) 2006 - Regulation 9

NOTICE OF WITHDRAWAL OF A REMEDIAL ACTION NOTICE/DETENTION NOTICE*

Reference number:

1. To: _____
   (Food Business Operator or a Duly Authorised Representative)
   At: _____
   _____
   (Address of Food Business Operator or a Duly Authorised Representative)
   Name of food business: _____
   Address of food business: _____
   .....
2. The authorised officer is satisfied that the action specified in the Remedial Action Notice reference number …… served on you on ……(date) has been taken. That Remedial Action Notice is hereby withdrawn.*
3. The authorised officer is satisfied that the food specified in the Detention Notice reference number …… served on you on ……(date) need no longer be detained. That Detention Notice is hereby withdrawn.*

   [* Officer to delete as appropriate]

Signed: ..... (Authorised officer)
Name in capitals: .....
Date: .....
Address: .....
.....
Tel: ..... Fax: .....
E-mail: .....

Please read the notes overleaf carefully. If you are not sure of your rights or the implications of this notice, you may want to seek legal advice.

Model form - Notice of withdrawal of a Remedial Action Notice/Detention Notice (reverse)

NOTES

1. The authorised officer is now satisfied that the action specified in the Remedial Action Notice has been taken and/or that the food specified in the Detention Notice need no longer be detained.

2. The relevant notice/notices is/are now withdrawn.

Chapter 7 - Subject specific guidance

7.1 Matters relating to live bivalve molluscs

7.1.1 Introduction

This chapter provides specific guidance to competent authorities on the application and enforcement of the Live Bivalve Mollusc (LBM) aspects of Regulations (EC) No 852/2004, 853/2004 and 854/2004. In line with Annex III, Section VII (1) of Regulation (EC) No 853/2004 provisions relating to LBMs in this section also includes live echinoderms, tunicates and marine gastropods, with the exception of the provisions on purification. The classification requirements of Chapter II Part A: Requirements for Production areas do not apply to marine gastropods which are not filter feeders

Under Regulation (EC) No 854/2004 FSA in NI must classify production and relaying areas from which it authorises the harvesting/ or relaying of live bivalve molluscs. Production and relay areas are classified as being of one of three categories according to the level of faecal contamination. They are required to be routinely monitored for microbiological contamination, to assess accumulation of marine biotoxins in the flesh and phytoplankton in the water and for the presence of chemical contamination in accordance with Regulations (EC) No 852/2004, 853/2004, 854/2004 and 1881/2006.

7.1.2 The Local Market Exemption (Small Quantities)

Regulation (EC) No 853/2004 does not apply to the direct supply of small quantities of LBMs to the final consumer or to local retail establishments directly supplying the final consumer. For LBMs, a small quantity equates to a total amount of not more than 25 tonnes harvested in a calendar year. The maximum harvested in a year can be made up of different species as long as neither the total allowance for each species nor the overall total is exceeded. Allowances are detailed below:

7.1.2.1 Allowances for small quantities of LBMs

Species	Annual Maximum amount
Cockles	25.0 tonnes
Oysters	5.0 tonnes
King Scallops	5.0 tonnes
Queen Scallops	10.0 tonnes
Mussels	20.0 tonnes
Other Live Bivalve Molluscs	10.0 tonnes
Marine Gastropods	20.0 tonnes

Although exempt from the detailed requirements of Regulation (EC) No 853/2004, harvesters supplying small quantities are required to comply with the food safety and

traceability requirements set out in Articles 14 and 18 of Regulation (EC) No 178/2002. The general traceability requirements for POAO in Regulation (EC) No 931/2011 also apply.

In order for harvesters of small quantities to meet the food safety requirements of Regulation (EC) No 178/2002, Food business operators should consider the risks associated with LBMs such as microbiological contamination, viral contamination, marine biotoxins and chemical contamination and ensure that such risks are controlled.

These requirements do not apply to LBMs gathered for private domestic use and competent authorities may consider it reasonable to assume that individuals gathering small amounts of LBMs totalling less than 5kg in a day are exempt from the small quantity requirements. These levels are for 'whole' LBMs and include the weight of the shell. This should not however detract enforcement authorities from pursuing instances where there is a suspicion of fraudulent activity or where public health could be at risk.

7.1.3 Pectinidae (scallops) and non - filter feeding gastropods harvested from outside classified production areas

Competent authorities will wish to note the specific exemption for scallops ('pectinidae') and non-filter feeding gastropods, which may be harvested from outside classified areas providing the requirements in Annex III, Chapter VII, and Section IX of Regulation (EC) No 853/2004 are met. FBOs are required to ensure that product placed on the market meets the required health standards and a system of 'own checks' should be in place to verify this. Competent authorities may carry out verification checks in accordance with Annex II, Chapter III of Regulation (EC) No 854/2004 to ensure these requirements have been observed.

7.1.4 Heat treatment

LBMs which are to undergo an approved heat treatment process or other processing, e.g. freezing, are subject to the requirements of Regulation (EC) No 853/2004 that relate to LBMs up to the point where processing begins in an approved establishment. After that point they are considered to be fishery products (see section 7.2).

The controls that must be exercised over any heat treatment process for LBMs from Class B or Class C production areas are set out in Annex II, Section VII, Chapter II(5) of Regulation (EC) No 853/2004 and, if appropriate Annex II, Chapter XI of Regulation (EC) No 852/2004.

7.1.5 Shellfish liaison arrangements

The competent authority's first point of contact in relation to non-routine matters concerning the enforcement of the regulations will be FSA in NI.

It is essential for the effective enforcement of the regulations that adjoining competent authorities maintain effective liaison arrangements. Cross border issues

should be referred to FSA in NI who will liaise with the relevant bodies in the Republic of Ireland.

All competent authorities in areas in which there are commercial LBM harvesting activities should be represented at the NI Fish & Shellfish Working Group (NIF&SFWG).

The NIF&SFWG includes representatives from other relevant local and national organisations, including DAERA Environment, Marine and Fisheries, the Loughs Agency and where necessary official control laboratories utilised for shellfish monitoring.

The liaison group's functions should include:

- the identification of local LBM relaying areas (if any) (working with the industry)
- joint sampling plans to monitor the quality of LBMs from classified areas
- arrangements for the issue of registration documents
- arrangements for the making of closure notices covering waters from more than one competent authority area
- arrangements for the detention/recall of bivalve molluscs affected by any closure notice
- effective local notification procedures to advise interested parties of action taken under the regulations (where such notification is required by the regulations)
- co-ordination of local monitoring procedures to ensure compliance with the requirements of the regulations.

7.1.6 Notification of classified live bivalve mollusc (LBM) production and relaying areas

An annual review of all classified LBM production and relaying areas is carried out by FSA in NI in January to ensure the correct classification category is awarded. An assessment of 12 month and 3 year datasets is carried out. Classifications may also be reviewed in year and re-classifications/de-classifications carried out when necessary. A list of classified LBM production and relaying areas is published on the FSA website at:
http://www.food.gov.uk/enforcement/monitoring/shellfish/shellharvestareas#toc-4
Relevant competent authorities will be advised of the outcome of the annual classification review and will be notified of any in year amendments.

Competent authorities should forward relevant details of classified LBM production and relaying areas to members of the local shellfish industry, including harvesters, handlers, operators of dispatch and purification centres and other individuals and

organisations likely to be substantially affected by the classification of bivalve mollusc production and relaying areas.

7.1.7 Relaying areas

Relaying areas that have been approved for classification by FSA in NI can be classified as Class A or Class B areas. Classified relaying areas, like production areas, are routinely monitored for microbiological contamination, to assess accumulation of marine biotoxins in the flesh and phytoplankton in the water and for the presence of chemical contamination in accordance with Regulations (EC) No 852/2004, 853/2004, 854/2004 and 1881/2006.

Requirements for relaying LBMs are outlined in Regulation (EC) No 853/2004. LBMs are required to be relayed for a minimum period of two months after which they must be treated in accordance with the classification status of the relaying area – i.e. following relaying, LBMs harvested from a Class A relaying area may go directly to market. LBMs harvested from a Class B relaying area must undergo purification *or* an EC approved heat treatment process prior to being placed on the market."

7.1.8 Monitoring of registration documents

Competent authorities must carry out regular examinations of the use and completion of registration documents. Examination of the documents should be carried out as part of the inspection of dispatch centres, purification centres or processing establishments (see section 7.3 of the Code) however checks may be made at any part of the traceability chain.

Under Regulation (EC) No853/2004, food businesses placing LBMs on the market are required to complete a registration document (unless issued with a permanent transport authorisation) to identify each batch harvested from classified production and relaying areas. A registration document must accompany each batch every time it is moved between establishments, up to and including the arrival of the LBMs at dispatch centre or processing establishment. The date of receipt must be recorded on the registration document (can be date stamped) when the batch is received at a dispatch centre, purification centre, relaying area, or processing establishment by the operator of the establishment or relaying area. Operators are required to retain registration documents for at least 12 months. Gatherers are also obliged to keep a copy of completed registration documents for the same period.

The same requirements apply to batches of scallops (pectinidae) and non -filter feeding gastropods harvested from outside classified production areas. Although the classification status of the production area (i.e. Class A, B or C) is not appropriate, the location of the production area must be described in as precise detail as is practicable or by a code number (e.g. ICES coordinates, OS grid references etc.).

Competent authorities should be aware of the commercial advantages of abusing the registration document procedure, e.g. by suggesting that live bivalve molluscs have been taken from waters with a better microbiological quality or from an area that demands a premium priced product.

An appropriate system of verifying batches described as being from class A, B and C areas is to analyse samples of shellfish to assess the microbiological standard against that of the classified area it came from. On a cautionary note, it should be recognised that shellfish *E. coli* monitoring from any one production area might show significantly variable results, both temporally and spatially, due to environmental and other factors e.g. class C areas might occasionally yield single results <230 *E.coli*/100g (for this reason classifications are based on a time series of data rather than single results). Therefore a batch sample returning a single result that meets the requirements of a particular classification category must not be considered conclusive proof that the batch originated from the same class of production area. Competent authorities should refer to the classification status of the relevant production/relaying area and the official control monitoring data which is available on the FSA website.

It is not possible for competent authorities to monitor every landing in their area, or to detect abuses in the use of registration documents by concentrating resources on sampling only. However, authorities should familiarise themselves with the commercial activities within ports in their local area and implement some degree of monitoring of landings of LBMs and other shellfish (e.g. pectinidae). This may be achieved through effective and periodic liaison with other statutory inspectorates e.g. DAERA (Environment Marine and Fisheries Group) and the Loughs Agency. It is within the remit of DAERA to track the movement of fishing vessels in their local waters and provide other vital information to help verify the information contained in registration documents and the activities of harvesters e.g. the seasonality of the harvesting season, minimum landings size, checks on whether shellfish were harvested under the appropriate permissions/DAERA licences.

Competent authorities responsible for establishments receiving batches of LBMs from outside their local area are encouraged to contact the issuing competent authority when inspecting registration documents. In order to ensure efficiency in this verification process, competent authorities are advised to keep a log of all registration documents that have been issued by them in accordance with the retention period specified in the framework, including details of the harvesters to whom they have been issued and the production areas which the harvester requires the registration documents for.

In addition to local liaison, competent authorities are also encouraged to have in place procedures to assist tracking and verifying the authenticity of registration documents they have issued. For example, the use of one or a combination of coloured carbon tear offs, embossed local authority stamps in conjunction with unique reference numbers on documents may be used when trying to ensure registration documents may not be easily falsified. It may be prudent, in some circumstances, to limit the number of documents issued to each harvester or ask for sight of previously completed documents to assist in effectively monitoring/tracking of product for traceability and verification purposes.

Competent authorities should be aware that registration documents may be completed on behalf of the gatherer, for example, by an “agent” providing all required information relating to the batch is appropriately completed. The supplying

harvester(s) must be able to support the declaration made on the registration document by the "agent". Competent authorities may wish to consider amending their forms to reflect this activity.

7.1.9 Sampling of live bivalve molluscs by operators

Operators of approved processing establishments, auction halls and purification / dispatch centres should have adequate systems of own checks in place, including laboratory and commercial testing arrangements, to ensure that the LBMs comply with the microbiological food safety criteria set for LBMs in Annex I, Chapter I of Regulation (EC) No 2073/2005 and the health standards referred to in Annex III, Section VII, Chapter V of Regulation (EC) No 853/2004.

Officers should be aware that the regulations do not prescribe a frequency for these tests (to detect microbiological and marine biotoxin contamination) but they should be in line with the businesses' food safety management system. As part of the system of own checks, operators should have arrangements for end product testing of their product, which could include the use of commercial kits for the detection of marine biotoxins.

In determining what level of sampling and testing is appropriate, the competent authority should have regard to HACCP principles and any advice issued by FSA in NI or contained in voluntary guidelines produced by relevant trade associations.

7.1.10 Laboratories used in connection with dispatch, purification and processing establishments

There is no requirement for laboratories carrying out testing for food businesses to be accredited, however, FBOs must ensure that the results of testing are robust in order to accurately validate and verify their food safety management procedures. Accredited laboratories have been subject to comprehensive quality control so use of an accredited laboratory may give the FBO more confidence in the test results and reduce the checks that the FBO will have to carry out themselves. FBOs must be able to demonstrate to the competent authority how they ensure that test results are reliable and robust and this should be evidenced and documented in their food safety management system. FBOs and competent authorities should also consider whether the laboratory is also accredited for the relevant EU reference method(s) and participates in proficiency testing as part of a recognised external quality assurance scheme. Alternative methods may also be used if they are validated against the reference method in accordance with the criteria in EN/ISO 16140.

The current recognised method for microbiological testing of LBMs is appended to the paper entitled "Modification of the standard method used in the United Kingdom for counting Escherichia coli in live bivalve molluscs"[25], published in Volume 1 of Communicable Disease and Public Health of 3 September 1998. The current reference method for analysis of *E.coli* specified in the Regulation is the detection and Most Probable Number (MPN) technique specified in ISO 16649-3. The

[25] https://www.cefas.co.uk/media/1557/modified_method.pdf

Impedance method is also an accepted and validated alternative to the MPN method for detecting *E.coli* in LBMs.

7.1.11 Marine biotoxins

The regulatory limits and current recognised methods for the detection of marine biotoxins are included in the table below:

Toxin group and Regulatory Limit (Reg. 853/2004)	EU Reference method (Reg. 2074/2005)	Method of analysis in NI
ASP 20 mg of domoic acid/kg shellfish flesh	HPLC	HPLC – all species
PSP 800 µg of saxitoxin/kg shellfish flesh	Biological method HPLC – validated alternative	HPLC - all species
Lipophilic toxins (LT) 160 µg okadaic acid eq/kg 3.75mg yessotoxin eq/kg 160 µg azaspiracids eq/kg	LCMS	LCMS – oysters, cockles, hard/razor clams, mussels and scallops Biological method to continue for remaining species

FSA in NI's official control shellfish monitoring results are published on the FSA website. [26]

7.1.12 Sampling of live bivalve molluscs by competent authorities

Competent authorities are required to verify food safety management plans at dispatch, purification and processing establishments. Part of this process may include the taking of samples to be analysed at an accredited official control laboratory. Any results that show breaches of the end product standard should be investigated by the FBO in the first instance and corrective action taken which could include follow up sampling, withdrawals/recalls. The competent authority should follow up any investigation to verify that corrective actions have been taken.

Where necessary, competent authorities should communicate test results which do not comply with the end product standard to neighbouring competent authorities responsible for the relevant harvesting area, relaying area, or purification centre.
Competent authorities should also communicate the results of any samples of LBMs to the operator of the establishment from where the samples were procured and

[26] http://www.food.gov.uk/enforcement/monitoring/shellfish/nibiotoxin#toc-1

notify FSA in NI of any sample results that exceed the required health standard for the particular production or relaying area.

Sampling by competent authorities should be aimed at verifying FBOs compliance with the requirements for end product at all stages of production, processing and distribution. Results that are inconsistent with the FBO's own records must be followed up by further investigations and tests by the FBO.

7.1.13 Information on standards to be applied in purification centres

Regulation (EC) No 853/2004 outlines the structural and hygiene requirements for purification centres. Information on the required standards of purification systems may be found in a series of operating manuals for the different types of purification system used in the UK and a further guidance document "Procedures to Minimise Risks to Food Safety in Bivalve Mollusc Purification" published by the Sea Fish Industry Authority (Sea-fish). These documents contain recommendations designed to help shellfish processors achieve high quality standards, as well as to comply with the requirements of Regulation (EC) No 853/2004. In some instances the guidance makes recommendations for good industry practice, which go beyond the requirements of legislation. These documents are available on the Sea-fish Website www.seafish.org .

Competent authorities may refer to the guidance document to establish a consistent approach to the requirements of the regulations but should avoid using, in support of formal enforcement action, those parts that are directed towards the achievement of good industry practice and high quality standards.

7.1.14 Molluscs and other shellfish which fail to satisfy requirements

In accordance with regulation 25 of the Food Hygiene Regulations (Northern Ireland) 2006 any LBM or other shellfish that have not been produced, processed or distributed in accordance with the Regulations should be treated, for the purposes of Article 8 of the Food Safety (Northern Ireland) Order 1991 as failing to comply with food safety requirements and should be seized and taken before a Justice of the Peace to be condemned, implementing Directive 91/67/EEC on the animal health conditions governing the placing on the market of aquaculture animals and products.

7.1.15 Transfer of seed molluscs to classified production areas

Seed bivalve molluscs may be transferred from areas that are not classified as production areas for "growing on" within a production area of any class. Such molluscs must be genuine "seed shellfish" (juvenile shellfish too small to be marketed). Transfers of "seed bivalve molluscs" might only be carried out under the authorisation of DAERA Marine and Fisheries Division. Any stock relayed onto a licensed NI site is authorised with a Section 13 Permit under the Fisheries Act (Northern Ireland) 1966.

Transfers of "seed bivalve molluscs" taken from an unclassified area, to be used for onward growth in a classified production area are permitted, provided that they remain in the classified production area for a period of not less than six months before they are harvested for human consumption. This does not permit the movement of adult or partially developed bivalve molluscan shellfish from an

unclassified area for further short-term growth before marketing. It is restricted to the seeding of new areas or the re-seeding of existing classified production areas. If new areas are seeded they must be classified before harvesting can take place. Harvesters should inform the relevant competent authority if any such movements are contemplated.

7.1.16 Closure notices (temporarily closing harvesting areas)

(See also section 7.7 of the Code)

When sampling results show that the health standards for LBMs, as outlined in Regulation (EC) No 853/2004, have not been met or that there may be a risk to human health the competent authority should instigate a closure, either by a Temporary Closure Notice (TCN) or by voluntary agreement (where applicable) as soon as is practically possible and notify interested parties. A Closure Notice may be considered where, for example, the classified production area was subject to sudden or accidental pollution which affected the quality of the production area. The use of a Closure Notice is compulsory following a sample result that shows a regulatory breach for *E.coli,* marine biotoxins and chemical contamination.

There may also be circumstances when it would be appropriate for the competent authority to consider seeking the opinion of appropriate experts such as the consultant in communicable disease control and consultant microbiologist at the NIPHL.

A model notice of temporary closure of production area(s) can be found at section 7.1.19.2.

7.1.17 Reporting of illegal harvesting activity

It is an offence to place LBMs on the market that have been harvested from areas that are not classified, or which are unsuitable for health reasons. Similarly, it is also illegal for food businesses to place on the market scallops and non - filter feeding gastropods from outside classified areas that do not meet the microbiological end product standard or which contain harmful levels of marine biotoxins.

Competent authorities should monitor harvesting areas within their remit, including areas closed for harvesting (as described above) to ensure this practice does not occur. Where competent authorities become aware of these instances, they will need to consider appropriate surveillance and follow up enforcement. Competent authorities are encouraged to establish close working relationships with other local inspectorates, such as DAERA who might be able to assist in combating this practice e.g. through surveillance, notification of fishing activity in areas under restrictions, assistance in the verification of information in registration documents etc.

All cases of illegal harvesting must be reported to FSA in NI at incidents.ni@foodstandards.gsi.gov.uk . The Food Fraud Liaison Officer may advise on investigative opportunities.

7.1.18 Shellfish identification marks

As part of the monitoring of the use of shellfish identification marks, competent authorities should, periodically, select a batch or consignment from a retail outlet or restaurant and seek to trace the batch or consignment back through an auction hall, dispatch centre or processing establishment, to the original gatherers to establish that records relating to the traceability of the batch and the identification mark are in order. Competent authorities should co-operate with other competent authorities in any random checks through the production and distribution chain.

Note: retailers are to retain identification tags for 60 days to assist in tracing product in the event of a report of illness.

If any checks suggest that registration documents, identification marks or records are not in order the competent authority should carry out an investigation to establish where the procedures have not been properly followed. In such cases they should also consider increasing the frequency of random checks through the distribution chain until they are satisfied that the appropriate procedures are being followed.

7.1.19 Documentation

The following template forms are available:

Practice Guidance Reference	Template Form
7.1.19.1	Live Bivalve Molluscs/Live Shellfish Registration Document
7.1.19.2	Model notice of temporary closure of production area(s) (live bivalve molluscs/shellfish)

7.1.19.1 LIVE BIVALVE MOLLUSCS / LIVE SHELLFISH REGISTRATION DOCUMENT

Model Registration Document

LIVE BIVALVE MOLLUSCS / LIVE SHELLFISH∞
REGISTRATION DOCUMENT
(Regulation (EC) No. 853/2004 – Article 7 / Annex III, Section VII, Chapter 1)
∞ Including pectinidae and non-filter feeding gastropods harvested from unclassified areas (Regulation (EC) No. 853/2004 – Annex III, Section VII, Chapter IX)

Registration Document
No……

Issued by: ……

Date of Issue: ……..

Name of gatherer Signature of gatherer

……

District Council where shellfish landed Address of gatherer

……

Date of gathering.....

LBMs harvested within classified production areas

Location of production area (Name, Code or Grid ref) Class of production area. (A, B* or C*)

....

∞ Pectinidae and non filter feeding gastropods harvested from outside classified production areas

Location of production area (ICES area):.....

……

Name of shellfish species being moved (common and scientific name) and quantity of shellfish being moved

Place of destination, (country) and establishment (if applicable) approval number

……

*When shellfish originate from a production area classified as B or C:

Relaying area ..……

Duration of relaying ……

OR

Address of Purification Centre

……

Duration of purification.....

Date batch entered Purification Centre Date batch left Purification Centre

.....

☐ Checks to verify health standards of shellfish∞ have not been carried out and have been deferred to the approved establishment stated above.

Date of Receipt ……

Place of Receipt ……..

[Date of Signature] …….

REMINDER – This document is to be kept by the person receiving the shellfish for a period of not less than 12 months and the gatherer is to keep a copy for the same period.

7.1.19.2 Model notice of temporary closure of production area(s) (live bivalve molluscs/shellfish)

NOTICE OF TEMPORARY CLOSURE OF PRODUCTION AREA(S)

Regulation (EC) No 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption

Pursuant to the power conferred on it by Article 6 of, and paragraph C of Chapter II of Annex II to the above EC Regulation, being satisfied that [the results of sampling show that the health standards for molluscs are exceeded] [there might be a risk to human health][27] –

As competent authority for the purposes of the above EC provision by virtue of regulation 4 of the Food Hygiene Regulations (Northern Ireland) 2006 S.R. 2006 No. 3 -

[Insert district council] has temporarily closed the production area identified in the Schedule to this notice for the production of [insert list of all affected species] by food business operators until further notice.[28]

Signed: Dated this [ ] day of [ ] 200[ ]

_____

[Insert official position of signatory]
On behalf of the [insert district council]

SCHEDULE

Area[s] in which the production of [insert list of all species affected] by food business operators is prohibited by reason of this order:-

(a) [Insert area]
(b) [Insert area]

Food business operators must not collect the affected animals from this area by any method; it is unsuitable for their production for health reasons and has been temporarily closed. For a food business operator to collect affected animals from the area that is temporarily closed amounts to the commission of a criminal offence under regulation 17 of The Food Hygiene Regulations (Northern Ireland) 2006 S.R. 2006 No. 3. On conviction a fine or imprisonment for a term of up to two years or both might be imposed.

---

[27] Recent analysis of samples taken by [insert DC] from the affected area has shown that [insert animals] are affected by [insert problem].

[28] [insert DC] will continue to take samples for analysis and keep its decision to close the area under review. To check the current status of the area you may contact [insert DC] by [insert preferred method of contact, e.g. telephone no.]

[PRIVATE INDIVIDUALS ARE STRONGLY ADVISED NOT TO GATHER [insert description of affected animals] FOR THEIR OWN CONSUMPTION FROM THE AFFECTED PRODUCTION AREA. THERE MIGHT BE A RISK TO HUMAN HEALTH IN DOING SO.]

7.2 Matters relating to fishery products

7.2.1 Introduction

This section provides specific guidance to competent authorities on the application and enforcement of the fishery products aspects of Regulations (EC) No 852/2004, 853/2004 and 854/2004 (the Regulations).

7.2.2 Competent authority

The FSA is the UK central competent authority with lead responsibility for the Regulations. Competent authorities are responsible for enforcement of the Regulations at their local level, and therefore approve fishery products establishments, register certain markets and fishing vessels, and otherwise enforce the Regulations.

7.2.3 Scope of approval

The Regulations do not apply to retail unless expressly indicated. They apply however when operations are carried out to supply fishery products to other establishments.

Factory and freezer vessels, and auction hall and wholesale markets are required to have approval and must be inspected at regular intervals to check for compliance with hygiene and temperature requirements and subject to Regulation (EC) No 853/2004 Annex III Section VIII Chapters 1 and II, respectively.

7.2.4 Direct supply of small quantity of fish

The Regulations do not apply to the direct supply of small quantities of fishery products (i.e. primary products) to the final consumer or to local retail establishments directly supplying the final consumer. For the purposes of fishery products (not including live bivalve molluscs) a small amount is a total amount of not more than 25 tonnes of fishery products in a calendar year. While the Regulations do not apply to this allowance it is still the responsibility of the harvester to ensure that these products meet the end product standards set down for placing these fishery products on the market.

7.2.5 Conditions during and after landing

One of the public health and quality measures in the regulations is periodic inspection and checks on the fitness for human consumption of fish at the time of landing or before the first sale. Where fishery products are sold at a market associated with the landings, these inspections must take place in that auction hall or wholesale market. It is not normally necessary for any inspections to be carried out at the time of landing. An organoleptic examination of the fishery products normally satisfies this requirement.

A competent authority may authorise the transfer of fishery products from the landing (ex-quay) into containers for immediate delivery to an approved establishment or

auction hall or wholesale market for the checks to be carried out there. Deferring the checks to be carried out later in an auction hall or wholesale market should not normally require any special arrangements with the receiving competent authority.

Deferring checks to an approved establishment must, however, be subject to liaison and agreement with the receiving competent authority, and have regard to the compliance record of the receiving establishment and confidence in its management. Authorisation of such deferred checks should be withdrawn if there is any suspicion of non-compliance with the requirements of the regulations. If an organoleptic examination of any product raises doubt as to the freshness of the product, the competent authority may consider submitting the product for chemical analysis or microbiological examination.

With respect to the landing of fresh fish, checks required under the regulations are without prejudice to other checks that are required under EC marketing standards regulations by other statutory agencies. Authorised officers should, where necessary, liaise with other statutory inspectors, e.g. DAERA (Environment, Marine and Fisheries) to ensure that any enforcement action taken is appropriate.

7.2.6 Information on standards to be applied

Guidance on the requirements of the Regulations can be obtained from the Sea Fish Industry Authority (Seafish). Competent authorities may use the guidance as a reference in establishing a consistent approach to the requirements of the Regulations. Competent authorities should, however, exercise caution and avoid using, in support of formal enforcement action, those parts of the Seafish guidance that is directed towards the achievement of good industry practice and high quality standards.

7.2.7 Documentation

The following Checklists are available:

Practice Guidance Reference	Checklist
7.2.7.1	Fishing Vessel Check List
7.2.7.2	Freezer Vessel Check List
7.2.7.3	Factory Vessel Check List

Although the content of these documents is regarded as the minimum required, competent authorities may adapt them as necessary to meet local requirements.

7.2.7.1 Fishing vessel check list

Vessel name: _____ Inspecting officer: _____
Registration number: _____ Inspection date: _____
Person seen: _____

A. Vessel and Fish Handling Equipment	yes	no	n/a*
Is the vessel designed to avoid contamination of the catch with bilge water, fuel, oil, grease or other objectionable substances?	☐	☐	
Are surfaces and equipment that fish come into contact with corrosion resistant, smooth and easy to clean? Are surface coatings durable?	☐	☐	
Are the engine room and any crew quarters separated from fish handling and fish storage areas?	☐	☐	☐
If you pump seawater for use on your catch, is the water intake positioned to avoid contamination of the water from exhaust etc.?	☐	☐	☐
If ice is used, is it made from potable water or clean seawater?	☐	☐	☐

B. Fish Handling	yes	no	n/a
Once the catch is brought on board, is it protected from contamination?	☐	☐	
Is the catch protected from the sun and any source of heat?	☐	☐	
When handling the catch, whether manually or mechanically, is your system designed to minimise bruising?	☐	☐	
Is the catch gutted and washed quickly and efficiently?	☐	☐	☐
Is the catch chilled quickly?	☐	☐	☐
Is fish stored at a temperature approaching that of melting ice?	☐	☐	☐
Can melt water drain away from the stored fish?	☐	☐	☐

C. General Hygiene Requirements	yes	no	n/a
Are the crew aware of the health risks associated with fish handling?	☐	☐	
Is the vessel and equipment kept clean and, where necessary, disinfected?	☐	☐	
Is the fish storage area and fish storage containers kept clean, in a good state of repair and free of contaminants?	☐	☐	
Is the vessel kept free of pests? *valid ships sanitation certificate seen/issued? Any issues noted from certificate?	☐	☐	
Following the last vessel check, if there was a request for remedial action, has the appropriate action been taken?	☐	☐	☐
Applicable only to some vessels: Do you keep records relating to the control of hazards?	☐	☐	☐

* n/a: not applicable. Further explanation required in the comments box below.
* Ships Sanitation Certificate- where issued/valid port/ in date?

Comments

7.2.7.2 Freezer vessel check list

Vessel name: _____ Inspecting officer: _____
Registration number: _____ Inspection date: _____
Person seen: _____

	yes	no	n/a*

A. Vessel and Fish Handling Equipment

Is the vessel designed and constructed to prevent contamination of the products from bilge-water, smoke, fuel, sewage, oil, grease or other objectionable substances, and to permit pest control?	☐	☐	☐
Are storage containers and holds kept clean and in good repair?	☐	☐	☐
Are all fish contact surfaces made of a material that is corrosion-resistant, smooth, and easy to clean, durable and non-toxic?	☐	☐	☐
Is all equipment and material used for handling fishery products corrosion-resistant and easy to clean and disinfect?	☐	☐	☐
Are water intakes situated in a position to avoid contamination of the water supply used for fish/processing?	☐	☐	☐
Does the vessel freezing equipment to rapidly achieve a core temperature of -18 ºC or below?	☐	☐	☐
Does the vessel have storage facilities to hold product at -18 ºC or below?	☐	☐	☐
Does the cold store have a temperature recording device located where it is easy to read?	☐	☐	☐
Does it record the temperature at the point where it would be expected to be highest?	☐	☐	☐

B. Fish Handling

	yes	no	n/a
Are fish protected from sun or other sources of heat soon after being taken on board?	☐	☐	☐
Is clean water used for washing the fish?	☐	☐	☐
Are fishery products handled and stored to minimise bruising or damage to the flesh?	☐	☐	☐
Are fishery products kept chilled or frozen?	☐	☐	☐
Is ice that is used to chill fishery products made from clean water?	☐	☐	☐
Are fish headed or gutted on board? If yes:	☐	☐	☐
6(a) Is this carried out as soon as possible after capture?	☐	☐	☐
6(b) Are the fishery products washed with clean water?	☐	☐	☐
6(c) Are any viscera not intended for human consumption kept apart from products for human consumption?	☐	☐	☐
6(d) Are any livers and roes for human consumption kept chilled or frozen?	☐	☐	☐

C. General Hygiene Requirements

	yes	no	n/a
Does the vessel have an adequate number of flush lavatories for the number of crew?	☐	☐	☐
Do all the lavatories open directly into non-food/non-fish rooms?	☐	☐	☐
Is there adequate ventilation to the lavatories?	☐	☐	☐
Is there an adequate number of washbasins for hand washing?	☐	☐	☐

Are basins located to facilitate hand washing during fish handling?	☐	☐	☐
Are washbasins provided with hot and cold water and materials for cleaning hands and hygienic drying?	☐	☐	☐
Are all food-washing facilities separate from all hand-washing facilities (or in use at different times, with effective cleaning between any changes of use)?	☐	☐	☐
Is there adequate ventilation to the fish preparation areas and sanitary conveniences?	☐	☐	☐
Do fish preparation rooms have adequate lighting?	☐	☐	☐
Are drainage facilities in the fish preparation areas adequate?	☐	☐	☐
If open drains are used (such as gullies) do they flow from the cleaner areas to the more contaminated area?	☐	☐	☐
Are adequate changing facilities provided for staff where needed?	☐	☐	☐
Are cleaning materials stored away from areas where fish are handled or stored?	☐	☐	☐
Pest control? Is there a valid ships sanitation certificate? If so where issued from and date?			

D. Food Preparation Areas	yes	no	n/a
1. Are floor surfaces made of a non-toxic material that is easy to clean?	☐	☐	☐
2. Do floors in wet rooms allow adequate drainage of water?	☐	☐	☐
3. Are walls made of a non-toxic material that is easy to clean?	☐	☐	☐
4. Are the walls, ceilings, windows etc. constructed so that dirt cannot accumulate and fall onto the product?	☐	☐	☐
5. Are the fittings on walls and ceiling securely attached so they cannot fall into the product?	☐	☐	☐
6. Are all doors made of a smooth material that is easy to clean and disinfect?	☐	☐	☐
7. Are all food contact surfaces made of smooth, non-corrosive material that is non toxic?	☐	☐	☐
8. Are food contact surfaces maintained so that surface material cannot come loose and contaminate the food?	☐	☐	☐
9. Are adequate facilities provided for washing equipment?	☐	☐	☐
10. Is hot and cold water supplied to equipment-washing facilities?	☐	☐	☐
11. Are there adequate facilities for any fish washing?	☐	☐	☐
12. Is clean water supplied to these facilities?	☐	☐	☐
13. Have all staff received training in food hygiene to enable them to carry out their duties?	☐	☐	☐
14. Do they have suitable work wear to prevent contamination of the food?	☐	☐	☐
Do you have a reporting and exclusion policy for staff sickness?	☐	☐	☐
Are wrapping and packaging materials stored to protect them from contamination?	☐	☐	☐
Are wrapping and packing carried out in a way that prevents contamination of the product?	☐	☐	☐

Is any packaging stored separately from food processing and preparation areas?	☐	☐	☐
Are there members of staff responsible for HACCP and have they been adequately trained in HACCP application?	☐	☐	☐
Are hand-washing facilities in the work rooms designed to prevent the spread of contamination?	☐	☐	☐

*n/a: not applicable. Explain further in the box below.

Comments

7.2.7.3 Factory vessel check list

Vessel name: _____ Inspecting officer: _____
Registration number: _____ Inspection date: _____
Person seen: _____

A. Vessel and Fish Handling Equipment	yes	no	n/a*
Is the vessel designed and constructed to prevent contamination from bilge-water, smoke, fuel, sewage, oil, grease or other objectionable substances, and to permit pest control?	☐	☐	☐
Are storage containers and holds kept clean and in good repair?	☐	☐	☐
Are all fish handling contact surfaces made of a material that is corrosion-resistant, smooth, easy to clean, durable and non-toxic?	☐	☐	☐
Is all equipment and material used for handling fishery products corrosion-resistant and easy to clean and disinfect?	☐	☐	☐
Are water intakes situated in a position to avoid contamination of the water supply used for fish handling/processing?	☐	☐	☐
Do you have an area reserved for taking the catch on board?	☐	☐	☐
Can each successive catch be separated?	☐	☐	☐
Is the receiving area easy to clean?	☐	☐	☐
Is it protected from the sun and any potential source of contamination?	☐	☐	☐
Do you have a system to transport the catch from the receiving area to any processing areas in a hygienic way?	☐	☐	☐
Are work areas of sufficient size and design to allow work to be carried out hygienically and for cleaning to be easy and efficient?	☐	☐	☐
Are areas for finished product large enough and easy to clean?	☐	☐	☐
Is waste stored separately to fishery products for human consumption?	☐	☐	☐
13 (a) If a waste processing unit operates on board is there a separate hold for its storage?	☐	☐	☐
14. Do you have special equipment for disposing of processing waste directly into the sea or into a watertight tank for that purpose?	☐	☐	☐
15. Is the vessel designed to prevent pests from causing contamination?	☐	☐	☐

B. Fish Handling	yes	no	n/a
Are fish protected from sun or other sources of heat soon after being taken on board?	☐	☐	☐
Is clean water used for washing the fish?	☐	☐	☐
Are fishery products handled and stored to minimise bruising or damage to the flesh?	☐	☐	☐
Are fishery products kept chilled?	☐	☐	☐
Is any ice that is used to chill fishery products made from clean water?	☐	☐	☐
Are fish headed or gutted on board?	☐	☐	☐
Is this carried out as soon as possible after capture?	☐	☐	☐

Are the fishery products washed with clean water?	☐	☐	☐
Are any viscera not intended for human consumption kept apart from products for human consumption?	☐	☐	☐
Are any livers and roes for human consumption kept chilled or frozen?	☐	☐	☐

C. General Hygiene Requirements	yes	no	n/a
Does the vessel have an adequate number of flush lavatories for the number of crew?	☐	☐	☐
Do all the lavatories open directly into non-food/non-fish rooms?	☐	☐	☐
Is there adequate ventilation to the lavatories?	☐	☐	☐
Are there an adequate number of washbasins for hand washing?	☐	☐	☐
Are basins located to facilitate hand washing during fish handling?	☐	☐	☐
Are washbasins provided with hot and cold water and materials for cleaning hands and hygienic drying?	☐	☐	☐
Are any fish washing facilities separate from the hand washing facilities (or in use at different times, with effective cleaning between any changes of use)?	☐	☐	☐
Is there adequate ventilation to the fish preparation areas and sanitary conveniences?	☐	☐	☐
Do fish preparation rooms have adequate lighting?	☐	☐	☐
Are drainage facilities in the fish preparation areas adequate?	☐	☐	☐
If open drains are used (such as gullies) do they flow from the cleaner areas to the more contaminated area?	☐	☐	☐
Are adequate changing facilities provided for staff where needed?	☐	☐	☐
Are cleaning materials stored away from areas where fish is handled or stored?	☐	☐	☐

D. Fish Preparation Areas	yes	no	n/a
Are floor surfaces made of a non-toxic material that is easy to clean?	☐	☐	☐
Do floors in wet rooms allow adequate drainage of water?	☐	☐	☐
Are walls made of a non-toxic material that is easy to clean?	☐	☐	☐
Are the walls, ceilings, windows etc. constructed so that dirt cannot accumulate and fall onto the product?	☐	☐	☐
Are the fittings on walls and ceiling securely attached so they cannot fall into the product?	☐	☐	☐
Are all doors made of a smooth material that is easy to clean and disinfect?	☐	☐	☐
Are all food contact surfaces made of smooth, non-corrosive material that is non-toxic?	☐	☐	☐
Are all food contact surfaces maintained so that surface material cannot come loose and contaminate the food?	☐	☐	☐
Are adequate facilities provided for washing equipment?	☐	☐	☐
Is hot and cold water supplied to equipment washing facilities?	☐	☐	☐
Are there adequate facilities for any fish washing?	☐	☐	☐

Is clean water supplied to these facilities?	☐	☐	☐
Have all staff received training in food hygiene to enable them to carry out their duties?	☐	☐	☐
Do they have suitable work wear to prevent contamination of the food?	☐	☐	☐
Do you have a reporting and exclusion policy for staff sickness?	☐	☐	☐
Are wrapping and packaging materials stored to protect them from contamination?	☐	☐	☐
Are wrapping and packing carried out in a way that prevents contamination of the product?	☐	☐	☐
Are there members of staff responsible for HACCP and have they been adequately trained in HACCP application?	☐	☐	☐
Is any packaging stored separately from food processing and preparation areas?	☐	☐	☐
Are hand-washing facilities in the work rooms designed to prevent the spread of contamination?	☐	☐	☐
Pest control- is there a valid Ships sanitation certificate? Where and when issued?	☐	☐	☐

*n/a: not applicable. Further explanation required in the comments box below.

Comment

7.3 Matters relating to meat

7.3.1 Meat - guidance

A Guide to the Food Hygiene and other regulations for the Meat Industry has been produced for UK meat plant operators, particularly for those whose establishment require approval and veterinary control.

This Guide can be found on the FSA's website at:

http://www.food.gov.uk/foodindustry/meat/guidehygienemeat

A Food Safety Management Diary for meat producers has been produced for voluntary use and can be found at:

http://www.food.gov.uk/multimedia/pdfs/foodmandiary2006.pdf

For guidance on Halal food issues see Annex 2.

7.3.2 Meat - approval of establishments

Details of FSA approved establishments, and guidance on approval of establishments, can be found on the FSA's website at:
http://www.food.gov.uk/enforcement/sectorrules

The FSA is responsible for approving establishments subject to veterinary control (i.e. slaughterhouses, cutting plants placing fresh meat on the market and game handling establishments) as well as any cold stores, meat products, minced meat, meat preparations, mechanically separated meat establishment and edible co-products plants that are co-located with approved slaughterhouses, cutting plants, or game handling establishments.

Competent authorities are responsible for approving all other food establishments handling products of animal origin and for registering establishments that are exempt from approval.

7.3.3 Enforcement in meat establishments

The DAERA Veterinary Service, Veterinary Public Health & Trade Programme (DAERA VPHTP) on behalf of the FSA is responsible for enforcement in meat establishments that require veterinary control (see above).

7.3.3.1 Integrated establishments

The DAERA VPHTP on behalf of the FSA is responsible for enforcement in minced meat, meat preparations, mechanically separated meat plants, cold stores or edible co-products plants that are integrated with an approved slaughterhouse, cutting plant or game handling establishment.

Competent authorities are responsible for enforcement in relation to those parts of the establishment in which the meat products or edible co-products are produced. In these establishments competent authorities are also responsible for recommending approval in respect of meat products or edible co-product activities to FSA.

Competent authorities are responsible for the registration and enforcement of food businesses which do not required approval, but are co-located with approved slaughterhouse, cutting plant or game handling establishment. Examples include a retail butcher.

7.3.3.2 Stand-alone establishments

Competent authorities are responsible for enforcement in stand-alone establishments that produce meat products, minced meat, meat preparations and mechanically separated meat.

7.3.3.3 Cold stores

Cold stores supplying the final consumer (see definition in 7.3.4.1 of this Practice Guidance) exclusively or supplying other establishments (including caterers) on a "marginal, localised and restricted" basis (see section 7.3.4.2 of this Practice Guidance) are not subject to approval and must be registered under Regulation (EC) No 852/2004.

European Commission guidance advises that wholesale meat cold stores require approval on the basis that they are used in relation to activities for which Annex III of Regulation (EC) No 853/2004 lays down requirements. It has been decided to follow this guidance. There is no requirement for veterinary control of cold stores and competent authorities are therefore responsible for approving cold stores and for enforcement in cold stores, <u>except</u> where they are co-located with approved slaughterhouses, cutting plants or game handling establishments.

Additional advice on the approval of stand-alone cold stores which are not co-located with FSA approved establishments can be found in the FSA Guidance for LAs on the approval of establishments.

7.3.3.4 Wild game

There are exemptions from the scope of Regulation (EC) No 853/2004 for the supply of wild game by primary producers or by hunters. Such supply can be in-fur or in-feather but must only be supplies of small quantities directly to the final consumer or to retail outlets directly supplying the final consumer – see section 7.3.4. Additionally, hunters can supply small quantities of game meat. However, game supplied under the hunter exemption to a retail outlet cannot be supplied to another retail outlet under the retail to retail exemption.

Primary Producers whose onward supply is limited to small quantities of primary product (i.e. in-fur or in-feather wild game) directly to the final consumer or to retail outlets directly supplying the final consumer are exempt from the scope of both

Regulation (EC) No 853/2004 and Regulation (EC) No 852/2004. However, they are responsible for supplying safe food under Regulation (EC) No 178/2002.

Establishments used for the supply of small quantities of prepared wild game to the final consumer or to retail outlets directly supplying the final consumer must meet the hygiene requirements of Regulation (EC) No 852/2004 and are subject to enforcement by competent authorities.

Establishments that process wild game and do not qualify under the Wild Game exemptions to supply in-fur/in-feather carcases or small quantities of wild game meat to the final consumer only or to local retail establishments that directly supply meat to the final consumer must be approved by the FSA as an approved game handling establishment (AGHE). AGHEs are subject to official veterinary controls and they need to comply with both the general hygiene requirements of Regulation (EC) No 852/2004 and specific provisions for the initial handling of large/small wild game in Regulation (EC) No 853/2004. They must have in place a food safety management procedure based on HACCP principles and must only accept game that has been examined by a trained person. In certain circumstances, where the trained person is unexpectedly unavailable, certain viscera such as the head (except for antlers and horns) and the heart, lungs, and liver but not the stomach and intestines of the deer, must accompany the body for post mortem inspection. AGHEs must also ensure that animal by-products are handled and disposed of according to Regulation (EC) No 1069/2009.

The wild game guide can be found on the FSA's website at:
http://www.food.gov.uk/business-industry/farmingfood/wildgameguidance

7.3.3.5 Edible co-products

Competent authorities are responsible for enforcement in stand-alone establishments producing edible co-products i.e. treated stomachs, bladders and intestines, rendered animal fats and greaves, gelatine and collagen.

Separate guidance on these products can be found on the FSA's website at:

http://www.food.gov.uk/foodindustry/guidancenotes/meatregsguid/coproductbyproductguide

7.3.4 Exemptions from approval

Also see approvals guidance at:
https://www.food.gov.uk/enforcement/sectorrules/approvalsguidance)

7.3.4.1 Retail establishments (Regulation (EC) No 853/2004, Article 1(5) (b) (ii))

The exemption is for retail establishments that supply products of animal origin to the final consumer, or that supply other establishments (including caterers) on a marginal, localised and restricted basis.

"Final consumer" is defined as "the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity", i.e. the public.

The regulations require establishments that cut meat that is placed on the market (i.e. rather than supplied for further processing.) to be approved as cutting plants and subject to veterinary control, unless that supply is on a marginal, localised and restricted basis.

7.3.4.2 Retail Establishments - "marginal, localised and restricted" supply to other establishments

In respect of fresh or processed meat including meat products, the terms 'marginal', 'localised' and 'restricted' should be interpreted as:

- **Marginal:**

Recital 13 of Regulation (EC) No 853/2004 interprets "marginal" as **'**a small part of the establishment's business', but European Commission guidance provides that it may also be interpreted as 'a small amount of food of animal origin in absolute terms'. Thus:

(i) "a small part of the establishment's business" means "**up to a quarter of the business in terms of food"** ; or

(ii) "a small amount of food of animal origin" means, in relation to meat (fresh or processed, excluding wild game and wild game meat) **up to two tonnes per week, (which could be averaged over any 12 month period)** subject to the establishment having a genuine retail element to its operation supplying the final consumer with part of its production of meat.

(iii) If either (i) or (ii) applies, the establishment is exempt from the requirements of Regulation (EC) No 853/2004. Provided, in relation to meat, the "localised" criteria below is also met.

- **Local/localised**

is within the supplying establishment's own county plus the **greater** of **either** the neighbouring county or counties or 50km/30miles from the boundary of the supplying establishment's **county**, but never beyond the UK except supply from Northern Ireland to the Republic of Ireland**.** When the supplying establishment is located in the Scottish islands, local is interpreted as anywhere within Scotland.

- **Restricted**

This applies to the supply of wild game originating from an AGHE. Supply is subject to the game having been examined by a trained person and carcases of large wild game animals must be accompanied by a trained person's declaration stating that no abnormalities were observed either before or after shooting. For all other meat, the restrictions relate to the amount of meat supplied.

7.3.4.3 Guidance on the cutting of meat for direct sale by farmers (e.g. at farmers' markets)

The "marginal, localised and restricted" exemption allows a butcher to cut meat on a farmer's behalf and return it to that farmer for onward sale; provided this is a marginal part of that butcher's business and the farmer being supplied is local.

7.3.4.4 Wild game (primary producers/hunters)

The Regulation (EC) No 853/2004 Article 1(3) (e) exemption repeats the one at Regulation 852/2004 Article 1(2) (c) allowing primary producers to supply small quantities of wild game carcases (i.e. in-fur/in-feather) either direct to the final consumer or to local retail establishments directly who may then supply the game to the final consumer only. Primary producers, whether individual hunters or shooting estates, are exempt from both Regulation (EC) No 852/2004 and Regulation (EC) No 853/2004.

The Regulation (EC) No 853/2004 Article 1(3) (e) exemption applies only to individual hunters who prepare wild game meat from carcases they have shot themselves. Only small quantities of this meat may be sold either direct to the final consumer or to local retailers directly who may then supply the game to the final consumer only. However, because the meat is not a primary product, the hunter is exempt only from Regulation (EC) No 853/2004, not from Regulation (EC) No 852/2004.

For these exemptions, the UK is interpreting supply of "small quantities" as self-defining because the demand for in-fur/in-feather carcases from the final consumers and local retailers is limited. In the case of the hunter claiming a Regulation (EC) No 853/2004 Article 1(3) (e) exemption, this is separate from the primary producer exemption as it allows the hunter to supply wild game meat in small quantities. The meat that is supplied would have to be part of this amount, rather than in addition to it. Supply direct to a final consumer may be via mail order or internet sales as well as by delivery/collection. The interpretation of “local” is the same as for “localised” (see section 7.3.4.2 of this Practice Guidance).

The summary table at 7.3.7 below provides information on what elements of the various regulations apply to the hunting of wild game and its placing on the market.

Separate guidance on the supply of wild game outside approved establishments can be found on the FSA website at:
https://www.food.gov.uk/business-industry/farmingfood/wildgameguidance

7.3.4.5 On-farm slaughter and cutting of small quantities of poultry and lagomorphs

Regulation (EC) No 853/2004 does not apply to the direct supply, by the producer, of small quantities of meat from poultry (i.e. farmed birds except ratites) or lagomorphs (i.e. rabbits, hares and rodents) slaughtered on the farm to the final consumer or to local retail establishments directly supplying such meat to the final consumer only.)

(Article 1(3)(d))[29]. Article 1(4) goes on to say that the rules governing the persons and activities benefiting from this exemption (in addition to those in Regulation (EC) No 852/2004) will be set out in national law. These national rules are set out in the Food Hygiene Regulations (Northern Ireland) 2006.

- **Which producers benefit from this exemption?**

The exemption only applies to producers who slaughter their own animals on the farm of production (i.e. animals raised by that producer, on the farm in question) as long as only *small quantities* of meat are supplied.

The UK is interpreting 'small quantities' as:

- producers annually slaughtering under 10,000 birds or lagomorphs;

or

- producers annually slaughtering over 10,000 birds or lagomorphs who are members of an appropriate assurance scheme and who either (a) dry pluck by hand or (b) slaughter for 40 days per year or less.

The limit of 10,000 birds or lagomorphs in the first category should allow for some fluctuation in annual throughput around that level provided that it does not habitually exceed a combined limit of 10,000 a year.

Although there is no limit to the number of birds or lagomorphs that producers in the second category may slaughter, the FSA anticipates that the restrictions will limit production to relatively small quantities. In judging whether an assurance scheme is appropriate, regard should be had as to whether the scheme has requirements that go beyond minimum legal requirements in relation to food safety and hygiene and whether it has independent verification arrangements. The FSA can advise in cases of doubt.

- **Where can the meat be sold?**

Meat produced under this exemption may be supplied:

- direct to the final consumer; **or**

- direct to local retail establishments directly supplying such meat to the final consumer only.

In the first category, direct supply to the final consumer includes mail order or internet sales, as long as the supply is *direct* to the consumer. Such supplies are not necessarily limited to meat in the form of fresh meat. They could be in the form of meat products or preparations.

In the second category, the supply must be direct to local retail establishments (in the form of fresh meat, meat preparations or meat products), and could include the

[29] As amended by Article 3 of Regulation (EC) 2076/2005 (Transitional and Implementing Measures)

supply by the producer to restaurants or other catering establishments. The retail establishments supplied must be *local*. 'Local' supply is interpreted as being the same as 'localised' and, in addition, anywhere within the UK in the two weeks preceding Christmas and Easter and (for geese) Michaelmas (*late September*).

- **What rules apply?**

Regulation (EC) No 852/2004 applies to producers who benefit from this exemption. This includes, among other things, the requirement to register the establishment with 2014.

The record keeping rule requires the producer to keep a record in adequate form to show the number of birds and the number of lagomorphs received into, and the amounts of meat despatched from, the establishment during each week. Such records, in order to be adequate, should at least record this information by species of animal slaughtered. The records should be retained for one year and be made available to an authorised officer of the local competent authority on request.

7.3.5 Meat products, minced meat and meat preparations – Cutting of meat

Paragraph 2 of Section VI of Annex III to Regulation (EC) No 853/2004 has the effect that establishments that cut meat exclusively for the manufacture of meat products, minced meat, meat preparations or mechanically separated meat need to comply with the relevant requirements of Annex III of Regulation (EC) No 853/2004 for red or white meat cutting plants, but will not need approval as cutting plants.

7.3.6 Home Slaughter of Livestock: A Guide to the Law in Northern Ireland

Where slaughter of livestock is carried out for private domestic consumption and the meat is not placed on the market (whether free of charge or not) such activity falls out of the scope of both Regulation (EC) No 852/2004 and Regulation (EC) No 853/2004. However, the EU TSE Regulations apply wherever a TSE susceptible animal is slaughtered (including home slaughter). This means that after slaughter of cattle, sheep or goats, specified risk material (SRM) must be removed, stained and disposed of in accordance with both the EU TSE Regulation (EC) No. 999/2001 and the EU Animal By-Products Regulation 1069/2009.

A more detailed guide on home slaughter is available at the web link below:
http://www.food.gov.uk/northernireland/niregulation/niguidancenotes/homeslaughterlivestockni

7.3.7 The wild game sector - which regulations apply to which activities

ACTIVITY	Regulation (EC) No 178/2004	Regulation (EC) No. 852/2004	Regulation (EC) No. 853/2004	Regulatio 854/
Shooting for own consumption	No	No Art 1.2a exemption	No Art 1.3a exemption	No
Supply direct to final consumer or to local retailers (directly supplying final consumer) of small quantities of:	Yes			
a) whole carcasses by primary producer (hunter or estate)	Yes	No Art 1.2c exemption National rules apply – the Food Safety (NI) Order 1991	No Art 1.3c exemption	No
b) meat from carcasses (produced by hunter from own shooting)	Yes	Yes Establishments to be registered as food business and to operate under Annex II	No Art 1.3e exemption National rules apply	No
1. Supply of whole carcasses to approved game handling establishments (AGHEs) *either direct from shoot or from game larder operated by primary producer*	Yes	Yes Establishments to be registered as food business and to operate under Annex I	Parts relating to primary producer (“trained person requirements and hygiene practices e.g. initial handling, temperature controls and transport)	Parts relati primary pro documenta hygiene pr including C examinatio “trained pe informatior
2. Supply of whole carcasses to approved game handling establishments (AGHEs) *not by the primary producer*	Yes	Yes Establishments to be registered as food business and to operate under Annex II (including any game	Parts relevant to documentation originally supplied by “trained person”, plus temperature controls, hygienic	Parts relev supplier’s h practices, p check supp documenta

		larders and vehicles)	handling and transport	“trained pe
3. <u>All other (non-retail) establishments preparing wild game meat for placing on the UK domestic or export market</u> • These are approved game handling establishments (AGHEs)	Yes	Yes	Yes Establishments to be approved by FSA	Yes

7.4 Matters relating to raw milk and dairy products

7.4.1 Introduction

This section provides specific guidance to competent authorities on the application and enforcement of the dairy products aspects of Regulation (EC) No 852/2004, 853/2004 and 854/2004.

7.4.2 Enforcement

Responsibility for the registration and subsequent supervision and inspection of milk production holdings rests with DAERA Agri-food Inspection branch (AfIb)

The approval of, and enforcement in relation to liquid milk establishments rests with FSA in NI, through DAERA AfIb. Competent authorities are responsible for the approval of, and enforcement in relation to, dairy product establishments.

In establishments where both milk is bottled and milk products are manufactured, FSA in NI is responsible for approval. DAERA AfIb on behalf of FSA in NI will consult with competent authorities on the suitability of such establishments for approval. These establishments will be subject to joint food law enforcement by DAERA AfIb and competent authorities.

The approval of on farm dairy product establishments rests with the competent authorities.

7.4.3 Milk and dairy product liaison arrangements

At establishments where both DAERA AfIb and competent authorities have enforcement responsibilities it is essential that both parties establish and maintain effective liaison arrangements for the effective enforcement of the regulations. Agreements have already been put in place for inspection forms/audit reports to be exchanged between both enforcement authorities in order to promote effective enforcement at integrated establishments. Further information regarding these arrangements can be found at the following link:

http://www.food.gov.uk/multimedia/pdfs/enforcement/enfni11031.pdf[30]

The NI Approvals Forum, chaired by FSA in NI, currently provides a forum for the collaboration of FSA in NI, DAERA and competent authorities.

[30] Note that references to DARD, substitute to DAERA and references to DARD VPHU should now be DARD Afib

7.4.4 FBOs selling raw drinking milk and cream

Article 10(8) of Regulation (EC) No 853/2004 allows Member States to establish national rules on the sale of raw milk and cream intended for direct human consumption.

The restrictions on sales of raw cows' drinking milk (RDCM) are set out in Schedule 6 of the Food Hygiene Regulations (Northern Ireland) 2006 and are enforced by DAERA AfIb.

DAERA AfIb is also responsible for enforcing the requirements in respect of sales of raw drinking milk intended for direct human consumption in addition to cows' milk. Competent authorities should alert DAERA AfIb if they become aware of sales of raw drinking milk at establishments other than those permitted under Schedule 6 of the Food Hygiene Regulations (Northern Ireland) 2006. DAERA AfIb will be responsible for taking the necessary enforcement action at food establishments where the sale of raw drinking milk is not permitted.

7.4.5 Health requirements for production of dairy products from raw milk

FBOs are responsible for ensuring that the requirements of Regulation (EC) No 853/2004, Annex III, Section IX, Chapter I are met through private veterinary inspections at regular intervals. Annual mandatory checks relating to Tuberculosis (TB) and Brucellosis (Br) on all animals in dairy and other bovine herds along with checks / examinations for various reasons by Private Veterinary Practitioners (PVP) is considered to be sufficient. The frequency of such inspections will be dependent on the individual circumstances. Competent authorities should establish the date of the last TB test for the herd during their inspection. For other relevant PVP visits, FBOs should keep evidence of such visits e.g. a receipt/invoice - and of any follow up action taken if problems occur – for checking by authorised officers. Purchasers (or processors) of raw milk are also required to ensure, e.g. through contracts, that checks have been carried out to assess compliance with relevant animal health standards. Immediate problems that may affect the safety of milk will normally be notified to DAERA AfIb by PVP or by DAERA Veterinary Service. Longer-term issues arising from records may also be referred to DAERA AfIb. Where DAERA AfIb suspect that requirements are not being complied with, or that follow up action has not been taken, they should raise the matter with the purchaser/processor, or in the case of producer/retailers of raw milk with the producer direct, and advise them to take appropriate advice e.g. from their private veterinary surgeon.

Where DAERA AfIb becomes aware of an issue with the health status of an animal or the herd supplying milk for the production of dairy product on farm, or the test results of the milk, the competent authority will receive notification from DAERA AfIb.

7.4.6 Criteria and standards for raw milk

In the case of the standards laid down in Regulation 853/2004, Annex III, Section IX, Chapter I, Part 3 for plate counts and somatic cell counts the regulations specify a minimum frequency of sampling by the producer or the purchaser. During the inspection of on farm dairy processing establishments authorised officers should

perform the necessary checks to ensure that the samples taken by FBOs or purchaser meet the prescribed legislative criteria. Where authorised officers have concerns over the FBO test results they should consider random official checks to satisfy themselves that the required standards are being met. Checks on medicines records and FBO sample results should also be conducted by authorised officers to verify that where authorised substances have been administered to milk producing animals that the withdrawal periods prescribed for these authorised products or substances has been observed. Consideration should also be given to the sampling of products for the presence of residues of authorised and unauthorised substances.

7.4.7 Temperature requirements for milk used for the manufacture of dairy products

Regulation 853/2004, Annex III, Section IX, Chapter II, Part 1, Paragraph 1 stipulates that the acceptability of raw milk applies from the arrival of the milk at a processing establishment. Paragraph 2 allows temperatures and times specified for treatment of raw milk to be exceeded for "technological reasons". These reasons will include cases where higher temperatures may be essential to the manufacture of certain products e.g. cheeses and also instances over a weekend for example when establishments are unable to process milk within the specified period. Authorisation by the competent authority is required whenever it is anticipated that these times will be exceeded.

7.4.8 Heat treatment of raw milk or dairy products

Requirements for pasteurisation and ultra-heat treatment are set out in Annex III, Section IX, Chapter II of Regulation (EC) No 853/2004.

7.4.9 Phosphatase testing

Regulation (EC) 2074/2005, details requirements for the alkaline phosphatase (ALP) testing method for heat-treated milk:

All FBO’s should have implemented the reference method for ALP activity ISO 11816-1.

An ALP test is considered to give a negative result if the measured activity in cow's milk is not higher than 350 mU/l

An alternative analytical method may be used as long as it is validated against the reference method.

7.4.10 Labelling of cheeses made from raw milk

Regulation (EC) No 853/2004 requires cheeses made from raw milk (for which the manufacturing process does not include any heat treatment or any physical or chemical treatment) and sold pre-packaged, are required to be labelled as being 'made with raw milk' at point of sale. Regulation (EC) No 1169/2011 provides that 'labelling' includes any packaging, document, notice, label, ring or collar accompanying or referring to such products.

Blocks of cheese on display at a delicatessen counter which it is intended will be cut into smaller portions for sale to the consumer are required to be labelled as 'made with raw milk' either by a label on the cheese or by a notice referring to it. However, such cheese once it is cut and wrapped and given to the consumer for purchase does not require to be labelled with the prescribed wording.

7.4.11 Officially Tuberculosis Free status and dairy hygiene legislation

7.4.11.1 Scope

This guidance provides information and advice for competent authorities in Northern Ireland who have dairy establishments in their area using cows' milk in the manufacture of dairy products. The guidance will be of assistance to those competent authorities involved with investigations at dairy product establishments on farm following notification from DAERA of the loss[31] of "Officially Tuberculosis Free" (OTF) status of dairy herds.

7.4.11.2 Introduction

Tuberculosis (TB) is an infectious disease of humans and many animal species, caused by some bacteria of the genus *Mycobacterium*. Most cases of human tuberculosis are caused by *Mycobacterium tuberculosis (M. tuberculosis)*. TB in cattle is primarily caused by *Mycobacterium bovis (M. bovis*), which unlike *M. tuberculosis* has a very broad host range.

Regular tuberculin testing of dairy herds ensures that most cases of TB in cattle are detected in the early stages of infection, before the development of clinical signs and the shedding of bacteria in milk. *M. bovis* is however responsible for a very small proportion of all cases of human TB infection diagnosed in the UK. The gradual introduction of milk pasteurisation since the 1930's and the statutory regular TB testing programme in cattle herds have helped minimise the risk of zoonotic TB to the general public via the consumption of milk from infected cows. *M. bovis* infection in humans is now very rare in the UK – between 20 and 40 cases a year, which is less than 1% of all bacteriologically confirmed TB cases in the UK. Most of these cases are diagnosed either in older people (thought to be due to reactivation of latent *M. bovis* infection acquired in the past or contracted abroad).

7.4.11.3 Legislative background

EC Regulation 853/2004, Annex III Section IX, Chapter 1,Part 1, 1,2(b) requires that raw milk must come from animals belonging to a herd which is officially tuberculosis free (OTF). Annex III Section IX, Chapter 1.1.3 requires that milk which does not

[31] For the purpose of this guidance and for the purposes of Dairy Hygiene legislation, the herd will have lost OTF status if: a reactor is disclosed by tuberculin testing , suspect lesions of TB are identified at routine post mortem meat inspection ('slaughterhouse cases''), inconclusive reactors are disclosed within 3 years of a previous confirmed TB incident in the same herd; or a tuberculin skin test has become overdue ("status suspended"-OTFS); or when *M. bovis* infection is confirmed in a herd by post mortem examination and /or bacteriological culture ('status withdrawn- OTFW').

satisfy this condition may only be sold for human consumption after it has been heat treated, with the authorisation of the FSA. Regulation (EC) No 853/2004, Annex III Section IX, Chapter I Part I.4 requires that **milk from TB reactor animals is not used for human consumption.**

While Regulation (EC) No 853/2004 requires that raw milk based products may only be manufactured with milk from herds classified as OTF, Regulation (EC) No 853/2004 do not prohibit the marketing of products made before the removal of OTF status. If, following the procedures suggested for dealing with stocks of raw milk based products an agreed outcome cannot be concluded with the producer, any action taken will need to be under the Food Safety (Northern Ireland) Order 1991.

7.4.12 Competent authority enforcement issues

7.4.12.1 Action to take on loss of OTF status of a dairy herd

When a dairy herd is placed under TB movement restrictions, DAERA AfIb will notify competent authorities with dairy products establishments on farm, of conditions in a herd that results in the loss of OTF status.

Competent authorities responsible for inspecting on farm dairy product establishments should ensure that **milk from the TB reactor animals is not being used in the manufacture of dairy products on farm**. They should also ensure that where milk from non OTF herds are used in the manufacture of dairy products that this practice is authorised by the competent authority and that the FBO meets the requirements of Annex III Section IX, Chapter I, Part 1, 3 and that all hazard analysis controls are in place and working effectively at the establishment, in particular adequate heat treatment.

To give effect to this competent authority authorised officers will need to:

Contact the herd owner to establish:

a) that no milk from reactor animals is entering the food chain,
b) whether milk from the herd is being offered without heat treatment as part of an on-farm business, for example a Bed &Breakfast
c) whether the milk is being, or has been used to make unpasteurised milk-based products either on the farm or elsewhere,

These investigations may be facilitated by contacting DAERA AfIb

If, as a result of the enquiries above, milk from reactor animals is found to have entered the food chain <u>after</u> the loss of OTF status this must be notified to FSA in NI's Consumer Protection team immediately. Similarly FSA in NI's Consumer Protection team should be notified immediately if milk from the non-reactor animals in the herd is found to have entered the food chain without heat treatment.

7.4.12.2 Action to be taken on stocks of raw milk based products following loss of OTF status

For products made prior to the herd losing its OTF status competent authorities should liaise with FSA in NI who will conduct a risk assessment of the situation, which will assist in determining the action to be taken by the competent authority. If, as a result of the risk assessment, it is concluded that it would be appropriate to withdraw or destroy such products, a voluntary withdrawal/destruction should be pursued. Authorised officers will have to decide on appropriate action based on the circumstances of individual cases.

The factors to be taken into account in the risk assessment will include:

a) **The reasons for the loss of OTF status.** This may be due to the disclosure of TB test reactors, inconclusive reactors only, a reported slaughterhouse case, pending culture results, or an overdue TB test.

b) **The number of reactors and slaughterhouse cases identified.** This is the number of reactors in relation to the total herd size and number of cattle tested. A single or a low number of reactors in a large herd might represent a lower risk, since it might indicate that the infection has not had time to spread within the herd. A large number of reactors in any herd might indicate either a long term spread within the herd or multiple infections linked to a common source. Herds with larger number of reactors at the initial test are more likely to have additional reactors disclosed at the next tests.

c) **Types of cattle reacting to the test.** For example, maiden non calved heifers or bullocks being non-milk-producing animals might be of less significance than infection detected in adult milking cows. A high proportion of reactor calves may be indicative of milk-borne spread of infection from a cow with TB of the udder.

d) The number, severity and location of any TB lesions found at post mortem examination (PME) and the bacteriological culture results.
If no TB lesions are found, or lesions are confined to one organ or one part of the body other than the mammary gland, the risk of TB bacilli being present in milk may be considered low. If TB lesions were found in the mammary gland or in more than one organ or part of the body in a lactating dairy cow, the risk of TB bacilli being present in milk may be considered significant. TB bacilli may be present in milk even in the absence of obvious udder disease when the disease has been distributed systemically. Following PME tissue samples are collected from a small subset of reactors, including those where no visible lesions were found in the absence of lesioned cattle. Tissue culture takes a minimum of 6 weeks to positively identify *M. bovis,* with approximately <10% of reactors with no visible lesions at PME and >90% of reactors with visible lesions yielding a positive culture of *M. bovis*.

e) **Testing history of the individual herd.** Aspects to consider include:

1. time elapsed since the last negative TB test;
2. previous TB history of the herd (recurrent incidents); and
3. the reason for conducting the test.

f) **The baseline testing frequency for the local area**. This provides an indication of whether the herd is in a high TB prevalence area. The local DAERA Divisional Veterinary Office (DVO) will provide expert opinion and judgement of the TB incidence and prevalence in the locality.

g) **General herd health and herd bio-security.** Consideration should also be given to:

1. **milk somatic cell counts** - higher cell counts might indicate a higher likelihood of TB organisms being present in the milk; and

2. **animal trading record for the farm**, highlighting numbers brought in, from where and their last TB test date (this is important because it may take a minimum of 6 weeks from the time of infection for an animal to react to the tuberculin test).

h) **Type(s) of milk-based product and production process.** For example, the use of bought in milk might make it more difficult to establish the necessary herd information. Consideration must be given to any scientific evidence, including that provided by the milk processors, that the production process might eliminate the pathogens and that TB organisms are absent from the product.

i) **Fresh milk products.** The shelf life of the product might have been exceeded by the time the post-mortem report or tissue culture results are received.

j) **Size of the TB restricted herd.** The likelihood, severity and duration of TB incidents, as well as the probability of finding further reactors at follow-up tests, tends to increase with herd size. Although this trend has been identified the affect is difficult to quantify and therefore the other factors detailed above are of greater significance for the risk assessment.

Where there is evidence of active disease in an animal, then it is likely that withdrawal of batches of the product produced before the date of TB testing would be appropriate as a precaution. The DAERA Veterinary Officer dealing with the TB incident is often the person best placed to provide information and assist the competent authority with the risk assessment.

The regulations do not prohibit the marketing of products made before the removal of OTF status. If a voluntary solution cannot be concluded with the producer any action taken will need to be under the Food Safety (Northern Ireland) Order 1991. Authorised officer might consider action under Article 8 of the Order if they suspect that the products concerned fail to comply with food safety requirements as defined in Article 14 of Regulation (EC) No 178/2002 on general food law.

It is an offence under Regulation 4(b) of the General Food Regulations 2004 to contravene Article 14(1) of Regulation (EC) No 178/2002.

7.4.12.3 Action to take before OTF problems arise

Competent authorities should liaise with DAERA AfIb to ensure that herds supplying RCDM and/or establishments or processors manufacturing unpasteurised dairy products are tuberculin tested annually. Competent authority should notify FSA in NI when they become aware of the sale of RCDM for human consumption or the production of unpasteurised dairy products in their area. Competent authorities should advise manufacturers producing unpasteurised dairy products that the law requires that the milk they use may only come from herds classified as OTF. Therefore, enforcement officers should verify that those processors who buy in milk are able to produce evidence that the milk they purchase only comes from OTF dairy herds that are tested annually for TB. Competent authorities should contact DAERA AfIb who will be able to supply further information about these issues.

Competent authority might find it helpful to liaise with the local DAERA DVO as their responsibilities include checking farm records under animal health legislation.

7.4.12.4 Cases of human illness

In the event of a CCDC being notified that a person(s) has confirmed bovine TB, and the infection is thought to be recently acquired, the CCDC should ascertain any connection with cattle that might indicate the infection might have been caught from an animal source or might be passed to animals. If so they must inform DAERA and FSA in NI for detailed guidance. For detailed guidance on dealing with human cases of TB please contact the Public Health Agency

https://www.gov.uk/government/publications/bovine-tuberculosis-tb-public-health-management

7.4.12.5 Further contacts and information

If further advice is needed on the action to be taken on stocks of raw milk based products following the loss of OTF status, competent authorities should contact FSA in NI's, Consumer Protection team.

If more information is required on DAERA procedures concerning TB controls competent authorities should contact the local DAERA DVO.

The following web site may be useful:
https://www.daera-ni.gov.uk/topics/animal-health-and-welfare/animal-diseases-diseases-affect-cattle/bovine-tuberculosis

7.5 Matters relating to egg products and liquid egg

7.5.1 Introduction

This chapter provides specific guidance to competent authorities on the enforcement of Section X, Eggs and Egg Products Chapter II of Regulation (EC) No 853/2004. This lays down the public health rules for the manufacture and placing on the market of egg products and liquid egg for human consumption.

The regulations lay down requirements for:

- establishments
- raw materials for the manufacture of egg products
- special hygiene requirements for the manufacture of egg products
- analytical specifications
- labelling and identification marking

7.5.2 Scope of the regulations

The regulations apply to establishments manufacturing egg products and liquid egg for human consumption, which include food businesses involved in the production of:

- processed products resulting from the processing of eggs, or various components or mixtures of eggs, or from the further processing of such processed products
- liquid egg for onward transportation to approved processing establishments.

All establishments need to be approved if the regulations apply to them.

None of the requirements in Section X, Chapter II of Regulation (EC) No 853/2004 apply to retail, as defined by Regulation (EC) No 178/2002, so establishments such as bakers and caterers that process eggs and supply to the final consumer are not subject to any of the requirements of Regulation (EC) No 853/2004. However, there is a requirement under egg marketing legislation[32] for caterers to only use class A eggs, so they must have come from an approved egg packing establishment which meets the requirements in Regulation (EC) No 853/2004.

7.5.3 Types of approved establishments

Establishments requiring approval fall into two categories:

[32] See link to the DAERA' website with the three pertinent EU legislation noted at the bottom of the page:

https://www.daera-ni.gov.uk/articles/egg-marketing

(i) establishments where egg products are manufactured and placed on the market, i.e. where processing of raw eggs takes place;

(ii) establishments where liquid egg is produced for later processing by an approved egg product manufacturer.

Category (ii) exists because egg packing centres might prefer to break out eggs, including cracked eggs, to produce liquid egg rather than risk breakage before they are sent to a processing establishment described in category (i). Such approvals must require that the eggs are broken out as soon as possible in accordance with the FBO's HACCP-based procedures and the resulting liquid egg frozen or chilled for transport to another approved establishment. If chilled, the storage temperature must not exceed 4^{o}C and the storage period before processing must not exceed 48 hours. Any establishment approved for category ii) only, must comply with the same requirements for approval as egg product manufacturers in category (i). When notifying the FSA of approvals, the competent authority should specify whether the approval is for i) or ii) and if the premise is also a packing centre.

7.5.4 Dirty eggs

Eggs cannot be broken out unless they are clean and dry. Dirty eggs (non-Class A eggs) may be cleaned, but competent authorities must ensure that any washing, drying and disinfecting of eggs is separated from all other operations of the business.

7.5.5 Centrifuging or crushing

The regulations prohibit the use of centrifuges or crushing to obtain egg contents or obtain egg whites from shells for human consumption. However, centrifuges may be used for the disposal of waste, and in such cases, the centrifuge must be situated completely separately from other operations of the approved establishment. Authorised officers must satisfy themselves that centrifuged material cannot contaminate egg products intended for human consumption. Waste material must be denatured upon entry to the centrifuge, for example by use of a dye.

7.5.6 Identification marking

The general requirements for identification marking laid down in Annex II, Section I of Regulation (EC) No 853/2004 must be complied with and are set out in 3.3.14 of the Code. However, there are additional specific requirements for egg products. Regulation 853/2004, Annex III, Section X, Chapter II, Part V requires that consignments of egg products to be used as an ingredient in the manufacture of another product must have a label giving the temperature at which the egg products must be maintained and the period during which conservation may thus be assured.

7.5.7 Pasteurisation and heat treatment

The regulations do not prescribe a time / temperature combination for the heat treatment of eggs, but they do require that the process must eliminate microbiological hazards or reduce them to an acceptable level. Processing is not

required for egg white intended for the manufacture of dried or crystallised albumen destined subsequently to undergo heat treatment.

Competent authorities will need to be satisfied that the heat treatment process is sufficient to ensure a reduction in the level of micro-organisms in the egg product to any levels laid down in EC Regulations on microbiological criteria.

Where a non-standard process is proposed, the onus is on the occupier to show that adequate research has been carried out into its effectiveness. In establishments where heat processing takes place, competent authorities must establish that the operator of the heat process has an acceptable and appropriate level of expertise.

7.5.8 Analytical specifications

Part IV of Annex III, Section X, Chapter II of Regulation (EC) No 853/2004 lays down analytical specifications that the end product must not exceed. Although there are no prescribed EU methods for testing for lactic or butyric acids, methods do exist. Where such methods are used, due consideration must be given to the reliability of the results. Where samples are tested, the results must be compared with the standards specified.

Authorised officers may help occupiers develop sampling plans since these also are not prescribed in the regulations.

7.5.9 Temperature control

The regulations require that products that have not been stabilised so as to be kept at room temperature must be cooled to not more than 4°C. Products for freezing must be frozen immediately after processing.

7.5.10 Storage and transport

Establishments must keep eggs and egg products separate to avoid contamination. If separate rooms are not available, egg products may be stored in separate containers and areas.

Storage rooms must be capable of maintaining any required temperature controls.

The regulations do not cover egg products that are stored in separate establishments such as depots or warehouses outside approved egg products establishments. Such storage is covered by Regulation (EC) No 852/2004.

7.5.11 Egg marketing

Egg packing centres, whether or not approved to produce liquid egg under the regulations, are the responsibility of DAERA (AfIB) in respect of egg quality and marketing regulations and are inspected by Egg Marketing Inspectors (EMIs).

It is recommended that authorised officers liaise with EMIs prior to inspecting egg product.

7.6 Dietetic foods/foods for specific groups

7.6.1 What do we mean by dietetic foods?

Dietetic foods, or foods for particular nutritional uses, are foods that, because of their special composition or manufacturing, are aimed to satisfy the special nutritional needs of specific groups of people such as:

- infants and young children;
- people undertaking energy-restricted diets to lose weight;
- people with specific medical conditions; and/or
- people with gluten intolerance

7.6.2 The regulation on food for specific groups

Regulation (EC) No 609/2013[33] of the European Parliament and the Council on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control ('Food for Specific Groups' - FSG) was adopted on 12 June 2013 and applies from 20 July 2016 and aims to protect specific vulnerable groups of consumers by regulating the content and marketing of these "special" food products offered to them. It also aims to increase legal clarity for business and to facilitate correct application of the rules.

7.6.3 What does the Regulation do?

Simplify the applicable regulatory framework, by eliminating those rules that are unnecessary and contradictory and by replacing them with a new Framework which takes into account the developments on the market and in EU food law. In particular, the new Regulation will Repeal Directive 2009/39/EC and abolish the obsolete concept of "dietetic food"

- Strengthen provisions on foods for vulnerable population groups that need particular protection e.g. infants and children up to 3 years old, overweight or obese people and people with specific medical conditions e.g. people with metabolism disorders;
- Set general compositional and labelling rules and require the Commission to adopt, through delegated acts, specific compositional and labelling rules for:
    - Infant and follow-on formula
    - Processed-cereal based food and other baby food

[33] Regulation (EC) No 609/2013 repeals Directive 2009/39 and references to that Directive should be construed as references to this Regulation.

- Food for special medical purposes
- Total diet replacement for weight control

- Establish a single Union list of substances that can be added to these foods including minerals and vitamins;

- Require the Commission to transfer rules on gluten-free foods and very low gluten under Regulation (EC) No 1169/2011 on food information to consumers in order to ensure clarity and consistency;

- Require the Commission to transfer rules and regulate meal replacement products for weight control solely under Regulation (EC) No 1924/2006 on nutrition and health claims in order to ensure legal certainty.

The FSG Regulation has adopted two Delegated regulations, and will adopt a further two in due course, which update the detailed composition and labelling rules under the FSG framework Regulation.

The Food Safety (Information and Compositional Requirements) Regulations (Northern Ireland) 2016, which came into operation on 20th July 2016, implement the framework of Regulation (EC) No 609/2013 of the European Parliament and of the Council, and introduce an IN enforcement regime enabling an IN to be served requiring compliance with specified EU requirement. Regulations 26 and 27 of the Infant Formula and Follow on Formula Regulations (Northern Ireland) 2007 (S.R. 2007 No. 506) are revoked, as are the Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007 and the Food for Particular Nutritional Uses (Miscellaneous Amendments) Regulations (Northern Ireland) 2010.

The Food Information (Amendment) Regulations (Northern Ireland) 2016, which also came into operation on 20th July 2016, make provision to enforce the requirements of Commission Implementing Regulation (EC) No 828/2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food and have regard in particular to Article 36(3)(d) of Regulation (EC) No 1169/2011 of the European Parliament and of the Council of 25th October 2011 on the provision of food information to consumers ("FIC") which were implemented by the Food Information Regulations (Northern Ireland) 2014 ("the 2014 Regulations). These new regulations make amendments to the 2014 Regulations to ensure that appropriate references to FIC and FIC provisions incorporate references to Regulation 828/2014. The Foodstuffs Suitable for People Intolerant to Gluten Regulations (Northern Ireland) 2016 are also revoked.

Information on legislation in this area can be found on the EU website at:
http://ec.europa.eu/food/food/labellingnutrition/children/index_en.htm

7.6.3 Other legislation relevant to baby food

When considering the manufacture and placing on the market of these products the following areas of General Food Law and Food Hygiene legislation should be taken into account:

- Regulation (EC) No 178/2002 laying down the general principles and requirements of food law;

- Regulation (EC) No 852/2004 on the hygiene of foodstuffs;

- Regulation (EC) No 853/2004 on hygiene rules for food of animal origin;

- Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules;

- Regulation (EC) No 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption;

- Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs;

- Regulation (EC) No 31333/2008 on food additives;

- Regulation (EC) No 1129/2011 implementing annex II to Regulation 31333/2008;

- Regulation (EC) No 1130/2011 implementingannex III to Regulation 31333/2008;

- Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs;

- Directive 2000/13/EC on the labelling, presentation and advertising of foodstuffs . As from 13 December 2014 this will be replaced by Regulation (EU) No 1169/2011 on the provision of food information to consumers; and

- Regulation (EC) No 1924/2006 on nutrition and health claims made on foods

7.6.4 Microbiological criteria for baby food

Chapters 1 and 2 of Annex I to Regulation (EC) No 2073/2005 set out food safety criteria and process hygiene criteria regarding dried infant formulae, dried dietary foods for special medical purposes intended for infants below six months of age (dried infant formulae and dried dietary foods), ready-to-eat foods intended for infants and ready- to-eat foods for special medical purposes.

Salmonella and Enterobacter sakazakii are the micro-organisms of greatest concern in infant formulae, formulae for special medical purposes and follow-on formulae. The presence of these pathogens constitutes a considerable risk if conditions after reconstitution permit multiplication. Part 2.2 of Chapter 2 of that Annex provides that where dried infant formulae and dried dietary foods are tested and

Enterobacteriaceae are detected in any of the sample units, the batch is to be tested for Enterobacter sakazakii and Salmonella.

FBOs responsible for the manufacture of the product must conduct studies in accordance with Annex II to Regulation (EC) No 2073/2005 in order to investigate compliance with the criteria throughout the shelf-life. In particular, this applies to ready-to-eat foods that are able to support the growth of Listeria monocytogenes and that may pose a Listeria monocytogenes risk for public health.

7.6.5 Criteria applicable to foods intended for infants

7.6.5.1 Food safety criteria

Food category	Micro-organisms/their toxins, metabolites	Sampling plan (1)		Limits (2)		Analytical reference method (3)	Stage where the criterion applies
		n	c	m	M		
1.1 Ready-to-eat foods intended for infants and ready-to-eat foods for special medical purposes (4)	*Listeria monocytogenes*	10	0	Absence in 25 g		EN/ISO 11290-1	Products placed on the market during their shelf-life
1.22 Dried infant formulae and dried dietary foods for special medical purposes intended for infants below six months of age	*Salmonella*	30	0	Absence in 25 g		EN/ISO 6579	Products placed on the market during their shelf-life
1.23 Dried follow-on formulae	*Salmonella*	30	0	Absence in 25 g		EN/ISO 6579	Products placed on the market during their shelf-life
1.24 Dried infant formulae and dried dietary foods for special medical purposes intended for infants below six months of age (5)	*Cronobacter spp (Enterobacter sakazakii)*	30	0	Absence in 10 g		ISO/TS 22964	Products placed on the market during their shelf-life

7.6.5.2 Process hygiene criteria

Food category	Micro-organisms/their toxins, metabolites	Sampling plan (1)		Limits (2)		Analytical reference method (3)	Stage where the criterion applies	Action in case of unsatisfactory results
		n	c	m	M			
2.2.9 Dried infant formulae and dried dietary foods for special medical purposes intended for infants below six months of age	*Enterobacteriaceae*	10	0	Absence in 10 g		ISO 21528-1	Products placed on the market during their shelf-life	Improvements in production hygiene to minimise
2.2.10 Dried follow-on formulae	*Enterobacteriaceae*	5	0	Absence in 10 g		ISO 21528-1	Products placed on the market during their shelf-life	Improvements in production hygiene to minimise
2.2.11 Dried infant formulae and dried dietary foods for special medical purposes intended for infants below six months of age	*Presumptive Bacillus cereus*	5	1	50 cfu/g	500 cfu/g	EN/ISO 7932 (10)	End of the manufacturing process.	Improvements in production hygiene. Prevention of recontamination. Selection of raw material.

(1) n = number of units comprising the sample; c = number of sample units giving values between m and M.

(2) For points 1.1 - 2.2.10 above, m = M.

(3) The most recent edition of the standard shall be used.

(4) Regular testing against the criterion is not required in normal circumstances for the following ready-to-eat foods:

- those which have received heat treatment or other processing effective to eliminate *L. monocytogenes*, when recontamination is not possible after this treatment (for example, products heat treated in their final package),
- fresh, uncut and unprocessed vegetables and fruits, excluding sprouted seeds,

- bread, biscuits and similar products,
- bottled or packed waters, soft drinks, beer, cider, wine, spirits and similar products,
- sugar, honey and confectionery, including cocoa and chocolate products,
- live bivalve molluscs.

(14) Parallel testing for Enterobacteriaceae and *E. sakazakii* shall be conducted, unless a correlation between these micro-organisms has been established at an individual plant level. If Enterobacteriaceae are detected in any of the product samples tested in such a plant, the batch must be tested for *E. sakazakii*. It shall be the responsibility of the manufacturer to demonstrate to the satisfaction of the competent authority whether such a correlation exists between Enterobacteriaceae and *E. sakazakii*.

(Cronobacter species) .Enterobacteriaceae n=10 c=0 absent in 10g (Cronobacter species)

7.6.6 The EU Commission Non-paper on implementation of microbiological criteria to infant formula, follow on formulae and baby food

The aim of the Non-paper is to help FBOs and competent authorities in the implementation of the Regulation (EC) No 2073/2005. The Non-paper can be found at the following site.
http://ec.europa.eu/food/food/biosafety/salmonella/docs/20100614_nonpaper_infant_formulae_baby_food.pdf

7.6.7 Codex Alimentarius Standards

The Following Standards and the recommended codes of practice should be taken into account by Food Business manufacturing and handling these type of foods.

Codex Standards for Canned Baby Foods (codex standard 73-1981 amended1989 see the link: http://www.codexalimentarius.org/codex-home/en/

Codex Standard for Processed Cereal Based Foods for Infants and Young Children (codex standard 74-1981 Revised 1986)

Recommended code of hygienic practice for Powdered formula for infants and young children (CAC/RCP 66-2008 amended 2009)

Code of hygienic practice for milk and Milk products (CAC/RCP 57-2004 amended 2009)

7.6.8 Substances which may endanger the health of children and young infants

Infant formulae and follow-on formulae and baby foods must not contain any substance in such quantity as to endanger the health of infants and young children. This includes pesticides, chemical contaminants, additives, food contact materials and anything else that may be a risk to the health of this vulnerable sector of the population.

7.6.9 Contaminants (Commission Regulation 1881/2006)

7.6.10 Legislation

Commission Regulation (EC) No 1881/2006 sets maximum levels for certain contaminants in foodstuffs. It includes limits for baby foods and foods for infants and young children, infant formulae and follow-on formulae, including infant milk and follow-on milk, and dietary foods for special medical purposes intended specifically for infants, which are set out in the Annex. There are limits for nitrates (Section 1), various mycotoxins (Section 2) and metals (lead and tin, Section 3). Limits for dioxins and PCBs are set out in the Annex to Commission Regulation 1259/2011 amending Section 5 of the Annex to 1881/2006 and limits for polycyclic aromatic hydrocarbons are set out in the Annex to Commission Regulation (EC) No 835/2011 amending Section 6 of the Annex to 1881/2006.

There are also Commission Regulations laying down the methods for sampling and analysis for official control. These are 401/2006 (mycotoxins), 1882/2006 (nitrates), 333/2007 (metals), as amended by 836/2011 (PAHs), and 252/2012 (dioxins and PCBs).

7.6.11 Enforcement

FBOs should be aware of their obligations under general food law and also of their specific obligations to ensure compliance with the limits set out in Commission Regulation (EC) No 1881/2006. Common to all of the recent surveys in this area, contaminants were found to be very low or non-detectable, with no non-compliances reported. On this basis, baby food and infant formulae are generally considered to be low risk and therefore not a priority for official controls.

Nevertheless, keeping in mind the responsibilities of FBOs under General Food Law, testing for enforcement purposes may be appropriate if an FBO is found not to be operating with due diligence.

FBOs should be able to demonstrate checks and certificates to indicate the suitability of raw materials and packing materials for use in this type of products.

7.6.12 Surveys

The Food Standards Agency has conducted a number of surveys to determine the levels of contaminants in baby foods and infant formulae in order to assess the associated risk.

- Mycotoxins:

http://www.food.gov.uk/science/research/surveillance/fsisbranch2011/mycotoxins

- Metals:

http://tna.europarchive.org/20110116113217/http://www.food.gov.uk/news/newsarchive/2006/oct/weaning

- Polycyclic aromatic hydrocarbons (PAHs):

http://tna.europarchive.org/20110116113217/http://www.food.gov.uk/news/newsarchive/2006/may/pahsurvey

- Dioxins and PCBs:

http://webarchive.nationalarchives.gov.uk/20120206100416/http://food.gov.uk/news/newsarchive/2007/jun/dioxinsurvey

7.7 Temperature control provisions

7.7.1 Introduction

This section provides guidance on the enforcement of Regulation 27 and Schedule 4 of the Food Hygiene Regulations (Northern Ireland) 2006. In respect of circumstances exempted from the requirements of Regulation 27 / Schedule 4 and where food is required to be kept under temperature control for safety reasons, the general requirements of Annex II of Regulation (EC) No 852/2004 which include Chapter I, Paragraph 2 (d), Chapter III Paragraph 2(g), Chapter IV Paragraph 7, Chapter V Paragraph (2) and Chapter IX Paragraphs (2), (5), (6) and (7), of Regulation 852/2004 would still apply, as appropriate.

Regulation 27 and Schedule 4 do not apply in respect of any FBO to which Regulation (EC) No 853/2004 applies.

7.7.2 General approach to temperature checks

Schedule 4 does not apply to any food business operation on ships and aircraft and those businesses to which Regulation (EC) No 853/2004 applies. Where applicable, the Schedule requires certain types of perishable food to be maintained within specified temperature ranges. The purpose of checking the temperature of such foods for enforcement purposes is to establish whether these requirements are being met, taking account of any exemptions or tolerances that might apply.

Where appropriate, regard must be given to any relevant temperature requirements of Annex II of Regulation (EC) No 852/2004.

Authorised officers should normally adopt a staged approach to verifying compliance with the temperature requirements of the regulations as follows:

Stage 1 - Air temperature monitoring

Air temperature monitoring provides an indication of the performance of a refrigeration system over time, and a single reading at any one time will not necessarily be an indication of product temperature. Air temperature monitoring records are an indication of temperature history, including defrost cycles, door openings, breakdowns etc. They must be regarded as a guide to how a particular system is functioning.

Stage 2 – Between-pack Testing

Non-destructive temperature measurement, or between-pack testing, must normally be used as the next step in the enforcement process. This is done with a pre-cooled flat-headed probe, suitable for measuring surface or between-pack temperatures.

It is important to ensure good thermal contact between the product and the probe when taking between-pack measurements. A total tolerance of +2.8ºC (0.8ºC as specified for instrument accuracy and 2ºC for the limitation of the methodology) must be allowed. Care must be taken to allow time for the reading to stabilise, and to ensure that the temperature reading relates to the product, not the surrounding air, which can happen if the probe is not properly sandwiched between the packs. Testing must be conducted with the minimum of disturbance to the product or its temperature-controlled environment, particularly the airflow patterns in retail display cabinets. For products within an outer casing it will be necessary to open the casing and insert the temperature probe between packs.

Not all packs or packaging materials are suitable for between-pack testing. Irregularly shaped packs where good thermal contact is not possible, packaging materials that act as an insulator and products in cartons or bubble packs where large air spaces exist are all examples where a between-pack temperature measurement might not be sufficiently accurate to give an indication of product temperature. In such instances it might be necessary to proceed directly to a destructive temperature measurement.

Stage 3 - Product testing (destructive)

If a “stage 2” temperature measurement has not been possible, or there is reasonable doubt after a “stage 2” test about compliance with temperature requirements, it will be necessary to progress to destructive testing.

Sample preparation and temperature measurement must normally be undertaken with the sample in its temperature-controlled environment. If this is not possible, the sample must be removed to an appropriately refrigerated environment, provided the transfer does not prejudice product temperature. Any transfer must take place prior to preparation of the sample. Transfer of products within the normal cold chain, e.g. from a vehicle to a cold store, is acceptable.

When a “stage 3” measurement is being carried out, insertion of the temperature probe into the food might render the food unsaleable. In such circumstances, the authorised officer must consider purchasing the food in question.

The selection of items to be tested is at the discretion of the officer. However, if “stage 2” testing has been carried out and there appears to be a breach of the relevant temperature requirements, it must not normally be necessary to select large numbers of items for “stage 3” testing.

In the first instance, items must be taken for “stage 3” testing from the warmest part of the refrigeration system. This can usually be identified using thermochromic (liquid

crystal) strip temperature indicators. Although these do not give an accurate temperature reading, they can provide a useful guide to relative temperature distribution within a refrigeration system.

General approach

If an authorised officer is satisfied after “stage 1” or “stage 2” that the relevant temperature requirements are being met, there is no need to move to the next stage and enforcement action should cease.

If there is no temperature monitoring system, or the officer has reasonable doubt about the information derived from the system where there is one, the officer should carry out a “stage 2” check.

If the temperature measured at “stage 2” gives the officer reasonable doubt that the relevant temperature requirements are being met, the officer should move on to “stage 3” and measure the temperature of the food itself.

“Stage 3” product testing (destructive) methods must always be used to produce evidence for prosecution.

The FBO or manager should, if present, be invited to witness temperature measurement. This is especially important when evidence is being gathered with a view to possible legal proceedings.

7.7.3 Taking temperature measurements

The temperature of a product must not be prejudiced by, for example, opening the doors in a vehicle too often or for too long; disturbing the air curtain in a chill cabinet, or removing the food from a refrigerated environment for long periods.

Any opened cases or cartons must be re-sealed and appropriately labelled or marked with the date and time of the inspection; the name of the person who opened it, and the name of the competent authority. This is to show that the case or carton was opened for an official inspection and removes any suspicion of malicious tampering.

7.7.4 Tolerances

“Stage 2” temperature readings might be up to 2ºC warmer than the true product temperature, especially product with thick packaging. They might also be affected by recent movement of goods, defrost cycles or instrumental inaccuracy as described below.

Authorised officers must use professional judgement in borderline cases to decide whether further “stage 2” measurements are necessary before proceeding to “stage 3”.

7.7.5 Checking and calibration of enforcement measuring thermometers etc.

Thermometers and other temperature measuring devices used for inspection and/or enforcement purposes must be periodically tested and calibrated by a suitably accredited tester (e.g. the instrument manufacturer or a UKAS accredited laboratory or testing house), in accordance with any recommendations of the manufacturer or supplier, to ensure accuracy, integrity and reliability. A certificate of such calibration must be obtained.

Competent authorities must also check devices for accuracy at regular intervals between each calibration (e.g. against a reference thermometer used only for that purpose) to ensure they remain within relevant tolerances. Details of such checks must be recorded and these records retained.

Competent authorities must ensure that temperature measurements that are to be used in evidence are taken with a thermometer or other measuring device that has a current certificate of calibration.

The accuracy of the thermometer or other temperature measuring device, and any detachable probes, must be checked against a reference thermometer or calibrator that is certified to an appropriate standard, e.g. NPL, and the result recorded, before and after taking any temperature measurements that are likely to result in enforcement action.

The record of such a check must be referenced to the instrument's certificate of calibration and include serial numbers of the instrument and any interchangeable probes.

If a reference thermometer is not available, the sensor can be checked in a wet ice mixture. In this case, the system must be calibrated at 0ºC. The temperature of wet ice from distilled water is 0ºC. Drinking water with a salt content of 0.1% will only depress the melting point to -0.06ºC. Therefore, in most cases drinking water can be used to make the ice for the checking procedure. Ice must be broken up into very small pieces, packed into a wide-necked vacuum flask, wetted with cold water and stirred. The sensor must be placed at the centre of the flask at a depth of at least 50mm and agitated frequently and the temperature read after three minutes when stabilised. The read-out instrument can be checked separately using calibration attachments at two or three different temperatures. The combination of checking the system at 0ºC with that of checking the instrument must ensure accuracy at higher temperatures.

7.7.6 Pre-cooling of instruments

The thermometer or other temperature measuring device and the penetration probe must be pre-cooled before being used to measure product temperature to ensure that instruments are as close as possible to the temperature of the product being measured. Pre-cooling reduces the likelihood of a rise in product temperature due to the temperature of the probe and the action of making the hole and can usually be done by leaving the instruments and probe in the same temperature controlled

environment as the sample for about 10 minutes. Provided there is no significant rise in the temperature of the instrument or probe, subsequent measurements can be made after a much shorter pre-cooling period.

7.7.7 Preparation of samples for temperature measurement

Only temperature measuring probes that are specifically designed for the purpose must be used to make a hole in the product. If the probe is not designed for this purpose a separate pre-cooled product penetration implement must be used. The diameter of the hole must provide a close fit to that of the probe and its depth will depend on the type of product being tested (as described below).

7.7.8 Measurement of product temperature

Preparation of the product for testing and its temperature measurement must take place with the product in its temperature-controlled environment. Measurement is as follows:

a) Where the product dimensions allow, insert the pre-cooled probe to a depth of at least 2.5cm from the nearest outside surface of the product.

b) Where (a) is not possible the probe must be inserted to a minimum depth from the surface of at least 3 times the diameter of the probe. With some products, because of their small size, greater care has to be taken to avoid excessive rises in product temperature from unnecessary handling of the sample.

Certain foods, because of their size or composition, cannot be penetrated satisfactorily to determine their internal temperature. In these cases, the internal temperature of the food package must be determined by insertion of a suitable pre-cooled sharp-stemmed probe to the centre of the pack to measure the temperature in contact with the food.

It may not always be possible to determine the internal product temperature accurately, especially of fragile or open-textured products. The temperature of such products must be measured by carefully removing the product from its packaging and firmly sandwiching a pre-cooled flat-headed probe between two items of product.

The temperature reading must not be recorded until it has stabilised.

7.7.9 Equipment used for chilled product temperature measurement

Temperature measurement systems that are used for enforcement purposes must meet the following requirements:

- the system must reach 90% of its final reading within 3 minutes
- the system must have an accuracy of +/-0.5ºC, or better when the sensor is measuring within the temperature range -20ºC to +30ºC

- the accuracy must not change by more than +/-0.3ºC when the instrument is operated in temperatures of -20ºC to +30ºC

- the instrument display must be readable to at least 0.1ºC

- the system must be robust and shock proof

- the temperature sensitive part of the system must be constructed to facilitate good thermal contact with the food and be easily cleaned

A dry cell battery, not mains electricity, must power the measuring instrument. The instrument must incorporate a method of checking the battery voltage to indicate when replacement or re-charging is necessary. The design of the probe depends on the type of temperature measurement:

For product tests: a robust rigid stem with a sharpened point suitable for insertion into the product and capable of being sterilised;

For between-pack tests: a flat head suitable for a between-pack measurement with good surface contact, low thermal mass and high thermal conductivity. If a suitable flat probe is not available, one can be constructed using a calibrated sensor crimped in the centre of a square, (approximately 4cm long) or circle (approximately 4cm diameter) or a double layer of aluminium foil. Any inter-connecting cables must be flexible between 0ºC and +30ºC.

7.7.10 Food that is warmer than prescribed chill holding temperature

When measuring the temperature of food itself, authorised officers must be aware that the Schedule allows the temperature of a food subject to chill holding temperatures, whilst it is for service or on display for sale, to rise above 8ºC for one period only of less than four hours (Schedule 4, paragraph 5(1)(b) and (c)).

The officer must be satisfied that the FBO has measures in place, as appropriate, to ensure that the chill holding tolerance described above is not exceeded.

7.7.11 Food that is cooler than prescribed hot holding temperature

When measuring the temperature of food itself, authorised officers must be aware that the Schedule allows the temperature of a food subject to hot holding temperatures, whilst it is for service or on display for sale, to fall below 63ºC for one period only of less than 2 hours. (Schedule 4, paragraph 7(2) (a) and (b)).

The officer must be satisfied that the FBO has measures in place, as appropriate, to ensure that the hot holding tolerance described above is not exceeded.

7.7.12 Temperature deviations resulting in a breach of regulation 27/Schedule 4 of the Food Hygiene Regulations (Northern Ireland) 2006

Where the FBO suggests that specified temperatures have not been complied with for unavoidable reasons, the authorised officer must discuss the reasons with the FBO and, where possible, seek agreement on action to prevent any recurrence.

Authorised officers must always ensure that any measures taken by the FBO with respect to food that has been exposed to temperatures in excess of, or below, those permitted by the regulations are consistent with food safety, and take appropriate action to remove such food from the food chain if necessary.

If the food itself is at a higher temperature than the prescribed chill holding temperature, or a lower temperature than the prescribed hot holding temperature, and the authorised officer is of the opinion that the food has not been produced, processed, or distributed, in accordance with the Food Hygiene Regulations, the officer must deal with the food under regulation 29 of the Regulations. Voluntary procedures to remove food from the food chain can, however, be used in appropriate circumstances.

If food is at a higher temperature than 8ºC (chill holding) or below 63ºC (hot holding), but does not fail food safety requirements, the authorised officer must use professional judgement to determine the most appropriate action in the circumstances. The food may still be fit for consumption, even if it has been maintained at temperatures higher than those specified in the regulations beyond the time limits allowed.

Authorised officers should enquire into the history of the food, in particular to ascertain whether it could previously have been exposed to temperatures above 8ºC. Enforcement decisions must take account of the history of the food and whether it is consistent with food safety. Authorised officers may adopt an educative approach as the first step towards securing compliance, and discuss the requirements of the legislation with the FBO to ensure they understand the controls, why they are needed, and how they can be achieved.

7.8 Bottled waters

7.8.1 Introduction

This chapter provides guidance to competent authorities on enforcement of the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015 (the Regulations).

7.8.2 Legislation

The Regulations control the exploitation and marketing of natural mineral waters spring water and bottled drinking water. They implement and enforce the following European instruments in Northern Ireland:

Council Directive 98/83/EC on the quality of water intended for human consumption in relation to water intended to be labelled and sold as “spring water” and “bottled drinking water.

Commission Directive 2003/40/EC establishing the list, concentration limits and labelling requirements for the constituents of natural mineral waters and the conditions for using ozone-enriched air for the treatment of natural mineral waters and spring waters.

Commission Directive 2009/54/EC of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters.

Commission Regulation (EC) No 115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and water bottled and labelled as “spring water”.

Council directive 2013/51/Euratom laying down the requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.

7.8.3 Natural mineral waters

The regulations require each UK natural mineral water source to be recognised by the competent authority for the area in which the source is located.

Once recognition has been granted, the competent authority is required to make periodic checks to ensure that the source remains free from all risk of pollution and that the composition of the water remains stable.

It is not permitted to sell water as natural mineral water if the source has not been recognised.

The most recent list of all recognised sources within the EU is available on the EU’s website at:

http://ec.europa.eu/food/safety/labelling_nutrition/mineral_waters/index_en.htm

7.8.4 Recognition of natural mineral waters

Applications for recognition of natural mineral waters in the UK are submitted in writing to the competent authority. The competent authority is required to assess all the information required by the regulations.

Competent authority must notify the FSA whenever they recognise a new natural mineral water, withdraw recognition, or approve a change in the name of the source or trade description of a natural mineral water.

Competent authorities should also notify the Belfast Gazette, of any recognition, of a natural mineral water.

Natural mineral water cannot be tankered, unless it was tankered for the purposes of exploiting the *spring* before 17 July 1980. Hence transport of water from the spring to the packaging line must be in a closed pipeline made of a suitable material and the filling system must ensure that there is no microbiological contamination of the water before closure of its container.

Applications for recognition of natural mineral waters from outside the EEA should be submitted in writing to FSA in NI.

7.8.5 Labelling of natural mineral waters

The regulations include detailed labelling requirements for containers of natural mineral water that must be met when natural mineral waters are packaged.

7.8.6 Spring and other bottled drinking water

The recognition and monitoring procedures by competent authorities that apply to natural mineral waters do not apply to spring and other bottled drinking waters, although these waters are subject to specific compositional and microbiological standards that are set out in the regulations.

However, like natural mineral water, spring water cannot be tankered, unless it was being transported in tankers on or before 13 December 1996. The right to tanker is linked to the *spring*, not the bottler.

7.8.7 Labelling of spring and other bottled water

Any bottled water that is described as “spring water” must meet the relevant labelling and exploitation requirements in the regulations.

Bottled drinking waters are subject to the general labelling requirements of the Food Information Regulations (Northern Ireland) 2014.

7.9 Food waste and animal by-products

7.9.1 Introduction

This provides guidance to competent authorities on the control of food waste.

The legislative framework that controls the identification, categorisation, segregation, collection and disposal of food waste includes regulations and orders that are made under both the Food Safety (Northern Ireland) Order 1991, the Disease of Animals (Northern Ireland) Order 1981 and Regulation (EC) No 852/2004

For the purposes of this guidance, “food waste” includes food material that is not fit or not intended for human consumption.

7.9.2 Inspection of food businesses

Any inspection of a food business, including inspections of mobile establishments / premises, ships, aircraft and trains, must include a check on the arrangements that the business has for the collection and disposal of food waste.

Checks must also include the arrangements in ports and airports for the collection and disposal of imported food waste from ships and aircraft.

Checks must verify that threats to human or animal health which may arise from the illegal disposal of food waste are effectively controlled by proper disposal in accordance with the requirements of the relevant legislation.

7.9.3 Disposal of Animal by-products

According to Regulation 1069/2009 Animal by-products (ABP) means entire bodies or parts of animals, products of animal origin or other products obtained from animals, which are not intended for human consumption. Articles 8-10 of Regulation (EC) No 1069/2009 set out what is comprised by Category 1, 2 and 3 materials and should be referred to.

Where appropriate, inspections should include checks that FBOs ensure that their food safety management system includes a documented procedure for identification, labelling (Category 1, 2 or 3), handling and disposal of such products. Containers used for collection of ABP need to be clearly labelled and easily distinguishable from containers used for collection of products destined for processing and subsequent human consumption. Articles 12- 14 of Regulation (EC) No 1069/2009 sets out requirements for the disposal of Category 1, 2 and 3 ABP.

Checks should also verify that these documented procedures are carried out accordingly at the establishment by the FBO.

Further, detailed guidance on the identification, labelling, storage and transport of ABP can be found in Chapter 5 of the Industry Guide to Edible co-products and Animal By-products[34].

7.10 Distance selling/mail order

7.10.1 Introduction

This chapter provides guidance to competent authorities on the enforcement of food law in relation to the distance selling of food, and information on other generic legal requirements that relate to distance selling.

[34] http://www.food.gov.uk/business-industry/guidancenotes/meatregsguid/coproductbyproductguide

For the purposes of this guidance, “the distance selling of food” means the advertisement of food for sale directly to consumers where the subsequent sale of the food to the consumer takes place without the buyer and seller meeting face-to-face. Examples of distance selling include the sale of food through internet websites, mail order transactions, and telephone sales.

The enforcement issues for competent authorities that relate to the distance selling of food depend primarily on the location of the advertiser and/or seller.

7.10.2 Location of the seller

The ability of competent authorities to enforce food law in relation to the distance selling of food depends on where the seller is based.

It is important to bear in mind that food bought via an internet website involves a sale via the World Wide Web, and that the seller could therefore be located anywhere in the world.

If the seller is in the UK, the enforcement and consumer protection issues are likely to be within UK jurisdiction, and UK legislation will bind the seller.

Similarly, if the seller is based elsewhere in the EU, that Member State’s legislation, including EU legislation is likely to apply to the sale.

However, the difficulties are not so easily addressed when the seller is outside the EU because the enforcement powers of competent authorities and consumer protection laws might not reach beyond the UK’s jurisdiction. There are, therefore, important distinctions between UK, EU and non-EU distance selling transactions.

7.10.3 Location of the buyer

The location of the buyer in a distance selling transaction is important only insofar as it affects the ease with which the buyer might be able to invoke an appropriate remedy, must there be a problem with the transaction, e.g. food not as described, food unfit for consumption on delivery etc.

7.10.4 Distance selling of food from the UK

The distance selling of food from the UK takes place when the advertisement of food for sale or the sale transaction itself takes place within the jurisdiction of the UK legal system.

The distance selling of food from the UK is covered by relevant food law. Food that is sold by a distance selling method from the UK, and advertisements for such food, must therefore comply with exactly the same legal requirements as food sold from a high street supermarket or advertised in a UK national newspaper.

Competent authorities are therefore responsible for enforcing food law in relation to the distance selling of food from the UK, including food that is advertised or sold through UK-based internet sites.

Competent authorities must therefore have appropriate means of monitoring the distance selling of food by businesses for which they act as Home Authority.

Competent authorities must include an assessment of relevant food hygiene, safety, advertising, compositional, and labelling matters in programmed inspections of businesses involved in the distance selling of food from the UK in their areas.

Competent authorities must also encourage distance sellers of perishable food that are based in their areas to adopt best practice by:

- ensuring the maintenance of appropriate temperature controls during transit
- clearly marking consignments on the outermost packaging with the date of despatch and the appropriate durability indication.

7.10.5 Distance selling of food from the EU (Outside the UK)

The distance selling of food from the EU takes place when the advertisement of food for sale or the sale transaction itself takes place outside the jurisdiction of the UK legal system, but within the jurisdiction of another Member State.

UK consumers who purchase food from a distant seller in another Member State cannot rely on the protection of UK food law.

However, as most UK food law derives from EU single market rules, similar provisions to those that apply in the UK will apply in the other Member State.

Competent authorities must generally use the liaison role of the FSA (See both the Code and this Practice Guidance) to resolve problems relating to the distance selling of food from the EU.

7.10.6 Distance selling of food from third countries

The distance selling of food from third countries takes place when the advertisement of food for sale or the sale transaction itself takes place outside the jurisdiction of any EU Member State.

UK consumers who purchase food from a distance seller in a third country cannot rely on the protection of UK food law.

7.10.7 Generic distance selling legislation

Generic law regulating distance selling in the UK is set out in the Consumer Protection (Distance Selling) Regulations 2000[35], which implement Council Directive 97/7/EC in the UK.

The primary aim of this legislation is to facilitate cross-border distance selling consumer transactions within the EU by laying down basic levels of consumer protection that apply throughout the EU, irrespective of the Member State that has legal jurisdiction over the transaction.

The regulations lay down minimum levels of information that must be provided to the consumer by distance sellers of goods or services in the EU. These include:

- the name of the supplier and a geographical (rather than an internet) address;
- a description of the goods or services;
- the period that the offer remains open;
- the price (including all taxes);
- the right to withdraw;
- the arrangements for delivery of any goods

The central UK competent authority with responsibility for these Regulations is the Department for the Economy (DfE). Enforcement in Northern Ireland is the responsibility of the Office of Fair Trading (OFT) and the Department for the Economy

DfE, OFT and LGG have each published guidance on the regulations for businesses, consumers, and enforcement agencies. Copies of the guidance are available directly from the knowledge hub website at:

https://khub.net/

If any further advice is required, officers must contact the Contract Regulation Unit at OFT.

7.10.8 Other references

A Guide to Good Hygiene Practice for the mail order food industry, developed in accordance with Article 8 of Regulation (EC) No 852/2004, was published in 2007.

[35] SI 2000 No. 2334

Chapter 8 – Sampling and analysis

8.1 Sampling and analysis - Introduction

See Chapter 8 of the Code for Sampling and Analysis.

See section 5.2.8 of this Practice Guidance for further information on sampling visits.

See section 5.5.13 of this Practice Guidance for information on sampling of imported food.

This section concerns the procedures that should be followed when food samples are procured under Regulation 12 of the Food Hygiene Regulations (Northern Ireland) 2006 or Article 29 of the Food Safety (Northern Ireland) Order 1991, and the associated requirements of the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013. Guidance to help ensure sampling by competent authorities is undertaken effectively and consistently is set out below and on microbiological sampling in LGA advice which can be found at:- https://khub.net/

The Food Hygiene Regulations (Northern Ireland) 2006 and the Food Safety (Northern Ireland) Order 1991 allow samples to be procured either by "purchasing" or "taking". The choice is at the discretion of the authorised officer, having regard to the policy of the competent authority. Where the quantity or frequency of sampling gives rise to significant financial consequences for the owner of the food, the competent authority could offer an ex-gratia payment if samples are not purchased. The officer must give the owner a receipt for, or a record of, all samples the officer has taken. If enforcement action is anticipated following microbiological examination or chemical analysis the sampling officer must purchase the sample.

8.2 Certificate issued by Public Analyst or Food Examiner

Also see section 8.1.11 of the Code. A Public Analyst or Food Examiner should give the officer who submitted the sample a certificate specifying the result. Competent authorities must discuss with the Public Analyst or Food Examiner how these requirements are to be met, including the means by which results that indicate a significant risk to public health, or where legislative deadlines apply, such as water in poultry, can be notified without delay.

Please note that Certificates of Examination (as specified in Schedule 3 of the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013 are available for formal samples on request from either a Public Analyst or Food Examiner. The test report and Certificate of Examination are within the scope of accreditation of the issuing laboratory to the ISO/IEC 17025:2005 (General requirements for the competence of testing and calibration laboratories) standard which is an essential requirement of Official laboratories testing foods for food control under Regulation (EC) No 882/2004. **The test report and Certificate of Examination are the only authoritative versions of the test results** and other sources of information (such as results in UKFSS) are outside the control of the

Public Analyst or Food Examiner and should be used (and interpreted) at the risk of the final users.

8.3 Samples for examination - avoiding contamination

Care must be taken to prevent contamination of samples and instruments, and containers used for samples must be clean and dry. It is important to avoid the use of cleaning and sterilising methods that might leave residues on instruments or containers that might, in turn, affect the results of the analysis or examination (e.g. alcohol).

8.4 Samples for examination - continuity of evidence

Food samples are normally dealt with in a food laboratory and faecal specimens in a clinical laboratory, operating independently of the competent authority. Laboratory personnel might therefore need to be reminded of the possibility of legal action, the need to treat food samples and other specimens as evidence, and to ensure the continuity of such evidence.

Records must therefore be kept of all stages of transport, including:

- dates and times of transport;
- identity of custodians
- date and time of receipt in the laboratory
- identity of the person receiving sample

For food samples, the temperature of transport must be monitored, and recorded on receipt at the laboratory. If the sample has been posted, proof of posting or a record of the method of despatch to the Food Examiner or Clinical Microbiologist must be kept. The Food Examiner or Clinical Microbiologist must be made aware that the results of their examination of the food or faecal specimen(s) might be used as evidence in Court, and that by examining the sample/specimen, they might be required to produce a certificate of examination, give a sworn written statement, and/or give oral sworn testimony in court.

Other laboratory personnel might also be required to give evidence as to the handling of food samples and faecal specimens and the testing and examination thereof in a criminal prosecution.

Full traceability in the laboratory therefore needs to be ensured, including recording the identity of everybody who has been involved in handling and examining the sample or specimen, and the action they took. Specifically there must be a system at the laboratory for logging the sample or specimen’s arrival, and its storage, which must be secure. For food samples, the temperature of storage must be such as to minimise microbial change, and be monitored using a calibrated thermometer or other similar device. Continuity preservation at the laboratory is vital so that there is certainty that the result relates to the sample/specimen submitted. There must be no

possibility that the result would refer to a different sample or specimen. Neither must the results raise any doubt as to their reliability, or the reliability or accuracy of laboratory procedures. An individual in the laboratory must be capable of making a sworn statement and of providing sworn oral testimony on these points.

It must also be made clear that if the Food Examiner/Clinical Microbiologist does not carry out the actual examination, but has it conducted under their direction, the person who actually examines the sample or specimen might also be required to give evidence.

8.5 Samples for analysis - quantity of samples for analysis

The nature and quantity of any sample must be such as to enable the required analysis to be made. The nature of the samples that are appropriate will depend on the purpose for which the analysis is being undertaken. The quantity will vary according to the product and type of analysis to be carried out. The Public Analyst must be consulted in case of doubt.

National sampling protocols must be taken into consideration, where they exist. Some modification to the protocols might be necessary in the case of large consignments of imported foods.

8.6 Samples for analysis - containers for samples

Samples of non-pre packed food or opened cans or packets, must first be placed in clean, dry, leak-proof containers such as wide-mouth glass or food quality plastic jars, stainless metal cans or disposable food quality plastic bags. Jars, bottles or cans must be suitably closed. Disposable food quality plastic bags must be sealed securely after filling, so that they cannot leak or become contaminated during normal handling. Samples of alcoholic drinks must be placed in glass bottles.

The contained final parts must each be secured with a tamper evident seal and labelled, specifying the name of the food, the name of the officer, the name of the competent authority, the place, date and time of sampling and an identification number. Where necessary, it must then be placed in a second container, such as a plastic bag, which must be sealed in such a way as to ensure that the sample cannot be tampered with. A copy of the food label if available and any other relevant details must be submitted to the Public Analyst with a final part.

8.7 Samples for analysis - transport and storage of samples[36]

Final parts of food which are perishable must be kept refrigerated or in a frozen state, as necessary. The method of storage used will differ, depending on whether the final part is to be submitted to the Public Analyst, or retained for possible submission to the Laboratory of the Government Chemist.

[36] The Campden and Chorleywood Food Research Association publication “Guidelines for the preservation of official samples for analysis” (CCFRA Guideline No. 36) includes further guidance.

The final part to be submitted to the Public Analyst must be transmitted as soon as practicable after sampling, particularly where tests are to be made for substances which might deteriorate or change with time (e.g. certain pesticides, sulphur dioxide, etc.). In any case, where doubt exists about suitable storage or transport arrangements for samples for analysis, the Public Analyst must be consulted. Since retained final parts might need to be stored for several months prior to submission to the Laboratory of the Government Chemist, it is important that they are appropriately stored.

8.8 Samples for analysis - samples which present difficulties in dividing into parts

An exception to division into three parts applies where the authorised officer is of the opinion that division of the sample is either not reasonably practicable, or is likely to impede proper analysis. Regulation 6(4) of the Food (Sampling and Qualifications) Regulations (Northern Ireland) 2013 allows for the sample to be submitted for analysis complete without division into three parts. There is no final part for the seller/owner, neither is there a final part to be retained. This procedure must therefore be used with caution. Situations where this procedure might be used will depend on the tests to be carried out but might include the following:

- where there is insufficient product available to comply with the procedures in Regulations 6(1) or 6(2);

- there is no way of storing a final part for further analysis as with tests for previously frozen meat

This situation might also arise where foods are not pre-packed and are not homogeneous and it is difficult to divide the food into three parts, so that each part contains the same proportion of each ingredient, e.g. meat products with lumps of meat, pies where it is difficult to divide the pastry and the filling into three, fruit cocktail/yoghurts with fruit where an ingredient is to be quantified.

In any case, where a single sample is taken in accordance with Regulation 6(4) the owner must be notified of its submission for analysis.

Regulation 6(2) sets out an exception from the general procedures where the sample consists of unopened containers and opening them would, in the opinion of the authorised officer, impede proper analysis. In these circumstances the authorised officer must divide the sample into parts by putting containers into three lots and each lot must be treated as a final part.

Where any doubt exists, the Public Analyst must be consulted.

8.9 Samples for examination

Samples for examination are not required to be divided into three parts, since the non-homogeneous distribution of bacterial contaminants means that no two samples will be the same. It is not appropriate to retain a part for examination later in the

event of a dispute, as bacteria might not survive prolonged storage or conversely, might greatly multiply.

8.10 Samples for examination - quantity of samples

The quantity of any sample procured must be such as to enable a satisfactory examination to be made. The quantity will vary according to circumstances, but must normally be at least 100 grams. In any case of doubt the Food Examiner must be consulted.

8.11 Samples for examination - handling of samples

Full traceability in the taking and handling of the sample must be ensured, including the identity of those who have had dealings with the sample, and what they did with it. Samples of non-pre packed food, or from opened cans or packets of food, must be first placed in sterile, leak-proof containers or disposable sterile plastic bags. Disposable sterile plastic sampling bags must be sealed securely after filling, so that they cannot leak or become contaminated during normal handling. Advice must be sought from the Food Examiner in case of doubt. In any event, liaison with the Food Examiner before samples are submitted to the laboratory will ensure correct procedures are followed.

The samples, thus packaged, must be secured with a tamper evident seal and labelled, specifying:

- type of food sample
- name of the Officer
- the exhibit identification number (e.g. RG/1)
- the date, place and time of sampling

Containers that might be easily damaged, or that cannot themselves be made tamper-evident, must then be placed in a second container, such as a plastic bag, which must be sealed in such a way as to ensure that the sample cannot be tampered with. A copy of the food label, if available and any other relevant details must be given to the Food Examiner, e.g. food handling techniques/storage methods observed in respect of the food sampled.

For general sampling information see the LGA “Guidance on Food Sampling for Microbiological Examination”, January 2006. The guidance can be found on Knowledge Hub. Note that the substance of the guidance is still relevant, but the references to legislation are out of date.

https://khub.net/

Officers must take steps to ensure that, as far as possible, samples for examination reach the laboratory in a condition microbiologically unchanged from that existing when the sample was taken. During sampling it is vital that the sample is not

contaminated by the sampling officer. Appropriate action must be taken to avoid contamination of the sample and microbial growth or death during sampling, transport and storage. The temperature of transport must be monitored and recorded.

8.12 Samples for examination - handling, transport and storage of faecal specimens

On occasions, officers will be required to investigate reported or suspected cases of foodborne illness and obtain faecal specimens. Officers must therefore have a ready supply of appropriate leak-proof containers for the collection of faecal specimens.

Such specimens must be collected as soon as possible after the onset of symptoms and submitted to the laboratory with relevant individual's details included on the container and on any accompanying documentation.

It is important that faecal specimens are transported to the laboratory as soon as possible; some important pathogens might not survive the pH changes that occur in stool specimens which are not promptly delivered to the laboratory, even if transported in a refrigerated state. Liaison with the laboratory will help ensure that the specimens receive prompt attention on their arrival.

8.13 Samples for examination - request for examination

The officer must ensure that all relevant information is passed to the Food Examiner with the sample to ensure that the sample is subjected to the most appropriate examination and to enable the Examiner to interpret the results.

ANNEX 1 Additional Guidance notes for competent authorities

A1.1 Q&A Live Bivalve Molluscs/shellfish

A1.1.1 Approval of Establishments

1. When does a harvester or handler of shellfish need to consider becoming an approved dispatch centre?
2. May inland markets become dispatch centres?
3. Are separate approval numbers needed for dispatch and purification centres operating from the same site?
4. What locations are considered suitable for dispatch centres and purification centres?
5. Does the dispatch centre working area need to be physically identifiable from the purification centre working area, where both activities are carried out on the same establishment?

A1.1.2 Registration documents

6. Can a competent authority issue registration documents to gatherers of shellfish in another competent authority's area?

A1.1.3 Identification Marking

7. If a dispatch centre is selling live shellfish to individual consumers on a retail basis, does the identification mark need to be applied to each sale?

A1.1.4 Seed Shellfish

8. What is the minimum period of on-growing of seed mussels before they can be harvested for human consumption?

Approval of Establishments

When does a harvester or handler of shellfish need to consider becoming an approved dispatch centre?

Annex 1(2) of Regulation (EC) No 853/2004 defines a dispatch centre as 'any on-shore or off-shore establishment for the reception, conditioning, washing, cleaning, grading, wrapping and packaging of live bivalve molluscs fit for human consumption.' All dispatch centres must be approved. As fishing vessels are considered primary production, fishing vessels do not need approval for washing and grading live bivalve molluscs at sea. Though fishing vessels will need to be registered & subject to the competent authorities Food Hygiene Interventions programme.

Annex III, Section VII, Chapter I of Regulation (EC) No 853/2004 requires all live bivalve molluscs destined to be placed on the market for retail sale to enter the market via a dispatch centre. At the dispatch centre they are sampled, wrapped and

identification marked. The dispatch centre may not be on the shoreline and could be some distance away, even in another Member State.

May inland markets become dispatch centres?

Yes. The market would need to meet the approval conditions for dispatch centres. Approval as a dispatch centre is not necessary to enable a market to unwrap parcels of live shellfish already sent from a dispatch centre and to split up the parcels for sale to retailers or consumers.

Are separate approval numbers needed for dispatch and purification centres operating from the same site?

No. Where both exist on the same establishment then the same number should be used for the dispatch centre and for the purification centre. The suffixes “DC, PC” should be used to identify the activities for which the establishment is approved.

What locations are considered suitable for dispatch centres and purification centres?

Regulation (EC) No 853/2004, Annex III, Section VII, Chapter III requires dispatch and purification centres to be located on land that is not subject to flooding by ordinary high tides or run-off from surrounding areas.

Does the dispatch centre working area need to be physically identifiable from the purification centre working area, when both activities are carried out on the same establishment?

The need to separate clean from contaminated live shellfish would dictate this. It would also be in the interests of the business to have separate areas in the event of enforcement action on either the dispatch or purification centre. In small plants this is subject to a risk assessment by the competent authority.

Registration documents

Can a competent authority issue registration documents to gatherers of shellfish in another competent authority’s area?

Registration documents should be issued by the competent authority with responsibility for the harvesting area. This ensures that up to date information about any public health issues relating to the harvesting area may be given to gatherers. However, a competent authority may allow gatherers to apply to it for registration documents for gathering in another competent authority’s area as long as the two competent authorities liaise to ensure that arrangements operate effectively to assist industry and avoid potential misuse. Inter-authority arrangements of this kind must normally be restricted to adjoining competent authorities.

Identification marking

If a dispatch centre is selling live shellfish to individual consumers on a retail basis, does the identification mark need to be applied to each sale?

Regulation (EC) No 853/2004 does not, generally, apply to retail. Under this regulation there is only a requirement for identification marks to accompany consignments of live shellfish prior to retail sale. After live shellfish are sold the retailer should retain a copy of the registration document for at least 12 months, or for as long as the competent authority requires. Therefore, where a dispatch centre is acting as a retailer, record keeping of the dispatch of batches of live shellfish through the retail outlet may suffice. The position is similar for live shellfish sold by mail order.

Seed Shellfish

What is the minimum period for on growing of seed mussels before they can be harvested for human consumption?

The minimum period for growing on genuine seed mussels should be six months.

A1.2 Q&A Fishery Products

A1.2.1 Approval of Establishments

1. Which establishments are subject to approval under Regulation (EC) No 853/2004?
2. What is 'retail'?
3. Who is the Final Consumer?
4. In what circumstances would auction halls or wholesale markets need to be approved?
5. Should individual stalls in auction halls and wholesale markets be approved establishments?
6. Should retailers who also sell wholesale be approved establishments?
7. Are retailers engaged in processing of fish covered by Regulation (EC) No 853/2004?
8. Do cold stores need to be approved establishments?
9. Do cash and carry's need to be approved?
10. Are sandwich makers covered by the regulations and do they need to be approved?
11. Do fishmongers who also process fish (including smoking) and, if applicable, supply fish vans need to be approved?
12. Are fishmongers who sell retail, but who keep fish live covered by the regulations?
13. If a retail outlet only has upright or chest freezer cabinets, does it need to be approved to comply with the requirements laid down for cold stores?
14. Do establishments storing only cans and jars of fishery products need to be approved?
15. Are airport caterers who supply fishery products to companies, which supply airlines, covered by the regulations and do they need approval?

16. If a business supplies a company or a contractor, who then supplies the final consumer, would it be covered by Regulation (EC) Nos 852/2004, 853/2004 and 854/2004 (the regulations)?

A1.2.2 Conditions of approval

17. Do all the requirements of Regulation (EC) No 853/2004 in relation to fishery products apply to all fishery products establishments?
18. Could such facilities as wash basins and lavatories be communal to a number of establishments?
19. When the regulations refer to temperature recording devices, does this mean that readings can be taken and logged manually?
20. Are communal filleting establishments permissible?
21. The regulations require that operations such as filleting and slicing must be carried out in a place other than that used for heading and gutting operations. How should this be interpreted?
22. Is there a list of approved detergents and similar substances for maintaining general conditions of hygiene in establishments and on equipment?

A1.2.3 Fish farms

23. Are fish farms covered by the regulations?

A1.2.4 Identification marks

24. Where should the identification mark appear in the case of fresh fish sold by an auction hall or wholesale market to a person who is not a retail customer?

A1.2.5 Landings of fishery products

25. Do competent authorities have to carry out histamine checks on other compounds listed in Regulation (EC) No 854/2004 on all consignments of fish?
26. Do quaysides where fish are landed need to comply with the regulations?

Approval of establishments – Questions and Answers

1. Which establishments handling fishery products are subject to approval under Regulation (EC) No 853/2004?

Under Article 4 of Regulation (EC) No 853/2004, establishments handling products of animal origin for which Annex III of that Regulation lays down requirements (including fishery products) require approval. There are however a number of exemptions from this requirement.

Article 1(2) of Regulation (EC) No 853/2004 has the effect of exempting establishments engaged only in the production of food containing both products of plant origin and processed fishery products (e.g. sandwich makers) from approval, provided that the fishery products used enter the establishment as processed products. In such cases compliance with the relevant requirements of Regulation 852/2004 is required and the processed fishery products must be obtained and handled in accordance with the requirements of Regulation (EC) No 853/2004.

Certain establishments such as those carrying out 'primary production' and 'retail' (as defined in Article 3(7) of Regulation (EC) No 178/2002) establishments carrying out certain activities are also exempt from the requirement to be approved, although some provisions of Regulation 853/2004 are nonetheless applicable. Primary production establishments exempt from approval, including fishing vessels, are required to comply with Section VIII (Fishery Products) of Regulation (EC) No 853/2004 as appropriate. Retailers exempt from approval are required to comply with Chapter III, Parts A, C and D, and Chapter IV and V of Section VIII (Fishery Products), of Regulation 853/2004. Section VIII Paragraphs 2 and 3 of Regulation (EC) No 853/2004 refer respectively. Factory and freezer vessels are required to be approved and comply, as appropriate, with Chapters I – III of Regulation (EC) No 853/2004, Annex III, Section VIII. Competent authorities may wish to use the checklists included in Appendix B, C and D of this section when carrying out official controls.

In order to decide whether a retail activity is or is not exempt from approval, Article 1(5) of Regulation (EC) No 853/2004 must be considered. If a retail operation consists of transport and storage only then it will not require approval. Although the regulation generally applies to retail when food operations are conducted with the purpose of supplying another establishment, a retail establishment without approval may supply products of animal origin which would normally trigger the need for approval, but only to other retail establishments on a marginal, localised and restricted basis.

Food businesses claiming exemptions from the requirement to be approved must be considered on a case by case basis.

2. What is retail?

The definition of 'retail', which is given in Article 3(7) of Regulation (EC) No 178/2002, is as follows:

'retail' means the handling and/or processing of food and its storage at the point of sale or delivery to the final consumer, and includes distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets

3. Who is the Final Consumer?

The definition of 'final consumer', which is given in Article 3(18) of Regulation 178/2002, is as follows:

'final consumer' means the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity

4. In what circumstances would auction halls or wholesale markets need to be approved?

Under Article 2(1) (c) of Regulation (EC) No 852/2004 an 'establishment' is defined as 'any unit of food businesses. Regulation (EC) No 853/2002 defines 'wholesale market' as 'a food business that includes several separate units which share common installations and sections where foodstuffs are sold to FBO.

It is the case that wholesale outlets are included under the definition of 'retail' in Regulation (EC) No 178/2002 (see Q&A 2). However, for such establishments to fall within this definition, an element of their sale or delivery of food must be to the final consumer. Auction halls and wholesale markets may fall under this definition.

Auction halls and any units within wholesale markets considered to be 'retail' under the definition would not require approval and would be subject to Regulation (EC) No 852/2004 only. They would be permitted to supply the final consumer and other retail establishments on a marginal, localised and restricted basis. Auction halls and units within wholesale markets that do not sell, or deliver, to the 'final consumer' cannot be considered to be 'retail' as defined and as such would need to be approved and would be subject to the relevant requirements of both Regulation (EC) No 852/2004 and Regulation (EC) No 853/2004.

5. Should individual stalls / units within auction halls and wholesale markets be approved establishments?

Individual stalls / units within auction halls and wholesale markets are classed as establishments. If the stall / unit can be considered to be 'retail' as defined (see Q&A 2 and 4) and is supplying only the final consumer and other retail establishments on a marginal, localised and restricted basis approval would not be required and Regulation (EC) No 852/2004 only would be applicable. Otherwise, the stall / unit would require approval and would be subject to the relevant requirements of both Regulation (EC) No 852/2004 and Regulation (EC) No 853/2004.

6. **Should retailers who also sell fishery products on a wholesale basis be approved?**

Establishments falling under the definition of 'retail' as defined (see Q&A 2 and 4, above) which also sell wholesale other than to the final consumer and/or other retail establishments on a marginal, localised and restricted basis would require approval. Such establishments would be subject to the relevant requirements of both Regulation (EC) No 852/2004 and Regulation (EC) No 853/2004.

7. **Are retail establishments engaged in processing of fish covered by Regulation (EC) No 853/2004?**

Unless they are only selling processed fish to the final consumer and to other retail establishments on a marginal, localised and restricted basis, retail establishments would require approval and would be subject to the relevant requirements of both Regulation (EC) No 852/2004 and Regulation (EC) No 853/2004.

8. **Do cold stores need to be approved?**

European Commission guidance advises that wholesale meat cold stores require approval on the basis that they are used in relation to activities for which Annex III of Regulation (EC) No 853/2004 lays down requirements. It has been decided to apply this guidance across all products of animal origin. There is no requirement for veterinary control of cold stores and competent authorities are therefore responsible for approving fish cold stores and for enforcement in such establishments.

Stand-alone Cold stores supplying the final consumer exclusively or supplying retail establishments (including caterers) on a marginal, localised and restricted basis are not subject to approval and should therefore be registered under Regulation (EC) No 852/2004.

9. **Do cash and carry's need to be approved?**

The definition of 'retail' in Article 3(7) of Regulation (EC) No 178/2002 (see Q&A 2) includes 'wholesale outlets'. Cash and carry's may therefore fall into this category and could, depending on their specific activities, be exempt from the requirements of Regulation (EC) No 853/2004. Although a wholesale outlet may be considered to be 'retail' as defined, if it is not supplying final consumers exclusively and/or other retail establishments on a marginal, localised and restricted basis approval would be required.

10. **Are sandwich makers covered by the regulations and do they need to be approved establishments?**

Owing to the exemption provided by Article 1(2) of Regulation (EC) No 853/2004, sandwich makers will not be subject to approval under that Regulation if the fishery products they use to make the sandwiches enter their establishment as processed products. However, the processed fishery products used in the production of the sandwiches must be obtained and handled in accordance with the requirements of

Regulation (EC) No 853/2004. Such sandwich makers will still need to comply with the relevant requirements of Regulation (EC) No 852/2004.

11. Do retail fishmongers who also process fish (including smoking) and, if applicable, supply retail fish vans need to be approved establishments?

Retail fishmongers that sell their own processed products, but only to the final consumer would not be subject to approval under Regulation (EC) No 853/2004. They would, however, need to comply with Regulation (EC) No 852/2004. If a retail fishmonger sells their own processed products to other establishments (including those in the same ownership) it will be subject to approval under Regulation (EC) No 853/2004, unless the other establishments are retail establishments and the supply is marginal, localised and restricted.

12. Are retail fishmongers who keep fish live covered by the Regulation (EC) No 853/2004?

Regulation (EC) No 853/2004 does not apply if they sell only to their final consumers. However, such establishments will still need to comply with the relevant requirements of Regulation (EC) No 852/2004, as appropriate.

13. If a retail establishment only has upright or chest freezer cabinets, does it need to be approved?

There is no need for a retail establishment to be approved where the only storage activity in respect of fishery products is their display, in upright or chest freezer cabinets, for retail sale to the final consumer. However, they will need to comply with Regulation (EC) No 852/2004 as appropriate.

14. Do establishments storing only cans and jars of fishery products need to be approved?

No.

15. Are airport caterers which supply fishery products to companies, which supply airlines, covered by Regulation (EC) No 853/2004 and do they need approval?

As they are not retail and are not supplying the final consumer exclusively, approval would be required for such industrial catering establishments unless all the products they make contain both products of plant origin and processed fishery products and the fishery products used enter the establishment as processed products (see Article 1(2) of Regulation (EC) No 853/2004). In this case, the processed fishery products used must be obtained and handled in accordance with the requirements of Regulation (EC) No 853/2004, and compliance with the relevant requirements of Regulation (EC) No 852/2004 would be required.

16. If a non-retail establishment supplies a company or a contractor, who then supplies the final consumer, would it be covered by the Regulation (EC) No 853/2004?

Yes. The establishment is not a retailer and is supplying other establishments.

Conditions of Approval – Questions and Answers

1. **Do all the requirements of Regulation (EC) No 853/2004 in relation to fishery products apply to all fishery products establishments?**

No. In Regulation (EC) No 852/2004 there are general requirements applicable to both businesses involved in primary production and manufacturing food businesses and indicates where separate conditions apply. Similarly, in Regulation (EC) No 853/2004 there are specific requirements for establishments such as purification centres, fishing vessels, factory vessels and fishery product processing establishments.

2. **Could such facilities as wash basins and lavatories be communal to a number of establishments?**

Regulation (EC) No 852/2004 sets out the general hygiene requirements for food business establishments. As regards to wash basins and lavatories in wholesale markets (see Q&A 4), it is for the competent authority to decide whether separate facilities, for different units within the market (see Q&A 5) are necessary in the interests of public health or whether the communal facilities are sufficient for compliance with the Regulation.

3. **When the regulations refer to temperature recording devices, does this mean that readings can be taken and logged manually?**

Annex II, Chapter I (2) (d) of Regulation (EC) No 852/2004 stipulates that, where necessary, it should be possible to monitor and record temperatures at which foodstuffs are maintained. The Regulation does not stipulate that the recording of temperatures should be done automatically, which implies that manual recording is allowed. However, for freezer vessels or establishments on land where the freezing of fishery products is undertaken, there is a requirement that a temperature recording-device is installed (see Regulation (EC) No 853/2004 Annex III, Section VIII, Chapter I(C) (Requirements for Freezer Vessels) and Chapter III (B) (Requirements for Frozen Products (on land)).

4. **Are communal filleting establishments permissible?**

The regulations do not specify whether or not communal filleting establishments are permissible. Provided that control arrangements are adequate, ensuring that filleting is carried out to avoid contamination or spoilage then communal filleting establishments would not be precluded. However, a separate establishment for communal filleting is likely to require approval and compliance with the relevant requirements of Regulation (EC) No 852/2004 would be required.

5. **The regulations require that operations such as filleting and slicing must be carried out in a place other than that used for heading and gutting operations. How should is this to be interpreted?**

The main requirement under Regulation (EC) No 853/2004 is to avoid contamination of fillets. There may be a number of ways in which this can be achieved, one of

which is to separate operations by time rather than place. As long as the competent authority is content that contamination of the fillets is prevented then this separation by time may be allowed. We would assume that filleting and slicing is carried out where necessary at a different time or a place other than that where heading and/or gutting is carried out.

6. **Is there a list of approved detergents and similar substances for maintaining general conditions of hygiene in establishments and in respect of equipment?**

No. Chemicals suitable for use in the food industry are governed by other legislation.

Fish Farms – Questions and Answers

7. **Are fish farms covered by the regulations?**

Yes, farmed fish are classified as primary production, which is covered by Regulation (EC) No 852/2004. Although fish farms are covered by other animal health legislation Annex 1 of that Regulation lays down hygiene provisions, which stipulate that primary products must be protected against contamination with respect to further processing. Various hygiene requirements to achieve this are laid down.

Identification marks - Questions and Answers

8. **Where should the identification mark appear in the case of fresh fish sold by an approved auction hall or wholesale market?**

Annex II(C) of Regulation (EC) No 853/2004 allows for the identification mark to be applied in either of these ways; directly on the product, the wrapping or packaging, a label affixed to the product, its wrapping or packaging and be an irremovable tag of resistant material. Under these provisions approval number of the market (and the individual trader if applicable) can appear on the crate or whatever other container is being used as well as the accompanying documentation. The documentation may be in the form of a receipt or other proof of purchase e.g. some wholesale markets use a docket system to ensure that sold fish goes to the right buyer.

Landings of fishery products - Questions and Answers

9. **Do competent authorities have to carry out histamine checks on other compounds listed in Regulation (EC) No 854/2004 on all consignments of fish?**

According to Regulation (EC) No 854/2004, random checks for histamine are to be carried out to verify compliance with permitted levels. Competent authorities should decide when these checks are necessary, but these are likely to take place should the freshness of the product be in doubt.

Other checks are required under Annex III, Chapter II of Regulation (EC) No 854/2004 and corresponding checks must also be carried out by FBOs.

10. Do quaysides where fish are landed need to comply with the regulations?

There are no structural requirements for quays laid down in the regulations. However Annex II of Regulation (EC) No 852/2004 does lay down general hygiene requirements for establishments which will be applicable to auction halls and wholesale markets. Additionally, handling practices for the unloading and landing of fish and some requirements relating to equipment are specified in Annex III, Section VII, Chapter II of Regulation (EC) No 853/2004.

Seafish Guidelines for Facilities and Equipment during Landing, Storage, Auction and Dispatch from the Landing Area contain recommendations for quaysides and suggests that the following should be in place:

- Laboratory arrangements for the purpose of carrying out sampling in accordance with the regulations;
- Documented cleaning schedules with details of any checks, including sampling, carried out by the occupier to establish the efficacy of proposed cleaning and disinfection methods;
- Documented maintenance schedules. These should specify the checks to be carried out and any reporting arrangements;
- Documented pest control arrangements, including copies of any contracts with external pest control companies;
- Details for calibrating and monitoring automatic temperature control equipment, where required by the regulations;
- Staff hygiene training programme, including records of training undertaken to date;
- Written company policy on staff illness and exclusion from work;
- Medical certificates for all staff;
- Details of traceability system, including checks on incoming raw materials, arrangements for controlling application of the health mark and correct use of commercial documentation. Details should include arrangements for documenting these procedures. It may also be appropriate to request examples of identification marked labels;
- Emergency withdrawal procedure;
- Up to date list of suppliers;
- Up to date list of customers (National, EU, 3rd Country).

ANNEX 2 Guidance for food law enforcement officers on Halal food issues

A2.1 Background

Halal is an Arabic word which means 'permissible', a related word in the Qur'an is *Tayyab* which means wholesome and fit for human consumption. With regard to food described as *Halal,* it means food that Muslims are permitted to consume under Islamic law. The opposite of *Halal* is *Haram*, which means 'prohibited by God, unwholesome, foul'. It follows, for example, that any meat that has not been rendered *Halal* by Islamic slaughter or that is liable to cause ill health, e.g. meat that is contaminated and unfit for consumption, cannot be considered *Halal*. Meat also cannot be considered *Halal* if it is past its "minimum durability marking". If a Muslim is sold *Haram* food, it is viewed very seriously, as it causes them to eat food prohibited in Islam and, in addition, it may be a form of fraud or deception.

Muslims regard Al Qur'an as the very words of God as revealed to the last prophet Muhammed, and is the primary source of Islamic law. In Al Qur'an there are prohibitions on the consumption of pork, blood, carrion and alcohol, among other things. For a product to be *Halal* (lawful) for Muslim consumption, and described as such, all the ingredients should be *Halal*. The Muslim requirement for food to be *Halal* applies whether the FBO is preparing, handling, processing, manufacturing, packaging, storing, importing, distributing, supplying, transporting or selling food, whether for profit or not, from a factory, warehouse, shop, restaurant, van, village hall, community centre or vending machine.

A2.2 Examples of where the requirements of food law relate to Halal requirements

There are many similarities between aspects of *Halal* requirements and aspects of food law. A *Halal* FBO must not only comply with food law but with the **Islamic Shariah (Law)** related to food. The requirements of the **Islamic** dietary laws are that:

- Meat, and other foods, including food ingredients, whether home-produced or imported, must be *Halal*;

- Meat must be obtained from *Halal* sources, e.g. an abattoir must have the facilities and personnel to undertake *Halal* slaughter. See section A.2.3 for further information on Islamic Shariah (Law) relating to *Halal* slaughter, previously provided by the FSA's then Muslim Organisations Working Group;

- Meat must be wholesome and meet food safety requirements - if meat is unfit for human consumption it cannot be considered *Halal*, even if slaughtered in the prescribed manner.

To be *Halal*:

- The animal should be alive or deemed to be alive at the actual time of slaughter and slaughter must be carried out in compliance with Islamic Shariah and the Welfare of Animals (Slaughter or Killing) Regulations 1996[37]. Animals/birds must be slaughtered by severance of neck arteries and jugular veins;

- No pork or pork ingredients must be present in the food;

- No alcohol or other intoxicants must be used;

- Any animal product, such as gelatine, must be produced from animals slaughtered in accordance with the Islamic Shariah;

- Any animal fat or meat must come from animals slaughtered in accordance with the Islamic Shariah; and

- Any preparation area and the equipment used should be kept in such a manner as to prevent cross contact, contamination or mixing *Halal* food with non-*Halal* food.

Displaying *Halal* and non-*Halal* meat on the same establishment does not in itself render *Halal* meat non-*Halal*. If open, unpackaged *Haram* food is stored and displayed alongside *Halal* meat, there would have to be clear separation and suitable labelling. However it should be noted that, as any direct or indirect contact between *Halal* and *Haram* food (e.g. use of the same knives or chopping boards etc.) would render *Halal* meat and poultry as *Haram,* this could be difficult to achieve in practice.

There is no legal requirement to label food as being non-*Halal*. If a description "HALAL" is made, then it must be clear which product the description refers to, if the business is not to run the risk of committing offences of mis-describing the foods on sale.

At present there are few recognised systems of certifying that a particular food is *Halal.* However, certain Muslim organisations are collaborating to develop an umbrella certification board for *Halal* foods.

Officers carrying out routine inspections or following up complaints should whenever possible consider, apart from hygiene issues, checking whether food claiming to be *Halal* is actually *Halal*. This may be done, for example, in any informal food sampling programme, of canned meat, where the presence of pork in what is purported to be *Halal* meat would obviously be *Haram* to a Muslim and may well contravene food law in terms of composition and labelling.

[37] Under Regulation 22 "Schedule 5 (which relates to the stunning and killing of animals) shall not apply to any animal which is slaughtered in accordance with Schedule 12 (which relates to slaughter by a religious method)".

Where officers suspect misdescription of fresh meat they should liaise with the Official Veterinarian (OV) – through the FSA's relevant regional Field Operations FOenquiries@foodstandards.gsi.gov.uk .

In summary, officers are asked to consider action, where appropriate, against FBOs who sell and mis-describe *Halal* foods, in the same way as they would for any contravention of food law in food establishments generally.

A2.3 Islamic Shariah (law) relating to slaughter of animals or poultry

- Animal and birds should have preferably been raised in a natural environment;
- Their feed should not contain animal-based products;
- Animals and poultry at farms or lairages must be cared for properly. They must be fed and watered before slaughter;
- They must receive ante-mortem inspection so that only healthy animals are brought in for slaughter;
- In the slaughterhouse animals must not be able to see other animals being slaughtered, nor must they have sight of blood. This requires cleaning the area before the next slaughter;
- There must be no cruelty to animals or poultry at any time;
- The slaughter man must be a Muslim, who has been properly trained and licensed;
- All slaughtering must be carried out in a licensed slaughterhouse;
- Places where pigs are slaughtered should be avoided;
- The slaughter man must use a sharp knife (which must not be sharpened in front of the animal). He must sever the jugular veins and carotid arteries as well as the oesophagus and trachea, but not the spinal cord as this restricts convulsion, which in turn restricts the pumping out of blood;
- At the time of slaughter he must pronounce *Bismillah Allahu Akbar* (In the name of God, God is the Greatest) on each animal or bird;
- At all times the meat and general hygiene regulations must be complied with; and
- Any carcasses found unfit on post mortem inspection must not be used for food for human consumption.

NB: This is included for information

Acknowledgement: The FSA is grateful for the help and advice received from members of the FSA's Muslim Organisations Working Group.

ANNEX 3 Links to legislation, guidance and forms (food hygiene)

A3.1 Food Law Code of Practice (Northern Ireland) /Practice Guidance (Northern Ireland)

https://www.food.gov.uk/sites/default/files/ni-food-cop-2016.pdf

A3.2 Regulations relating to Northern Ireland

The Food Hygiene Regulations (Northern Ireland) 2006

http://www.legislation.gov.uk/nisr/2006/3/contents/made

The Official Feed and Food Controls Regulations (Northern Ireland) 2009

http://www.legislation.gov.uk/nisr/2009/427/contents/made

The Food Safety (Northern Ireland) Order 1991

http://www.legislation.gov.uk/nisi/1991/762/contents

The Trade in Animals and Related Products Regulations (Northern Ireland) 2011

http://www.legislation.gov.uk/nisr/2011/438/contents/made

The Food Information Regulations (Northern Ireland) 2014

http://www.legislation.gov.uk/nisr/2014/223/contents/made

The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015.

http://www.legislation.gov.uk/nisr/2015/365/contents/made

A3.3 EU Regulations

The following links below are to the Commission's consolidated versions of the legislation which are intended, for ease of reference, to reflect the various amendments to the legislation over time. *Please note that these consolidated versions do not constitute official texts for legal purposes*.

Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002R0178:20090807:EN:HTML

Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004R0882:20090807:EN:HTML

Regulation (EC) No 852/2004 on the hygiene of foodstuffs:

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02004R0852-20090420

Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin:

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02004R0853-20141117

Regulation (EC) No 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004R0854:20100705:EN:HTML

Regulation (EC) No 1688/2005 implementing Regulation 853/2004 of the European Parliament and of the Council as regards special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:271:0017:0028:EN:PDF

Commission Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2005R2073:20100519:EN:HTML

Commission Regulation (EC) No 2074/2005 laying down implementing measures for certain products under Regulation 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No 854/2004 of the European Parliament and of the Council and Regulation (EC) No 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and 854/2004:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2005R2074:20090101:EN:HTML

Commission Regulation (EC) No 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No 853/2004, 854/2004 and 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and 854/2004:

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2005R2076:20090224:EN:HTML

Regulation (EC) No 882/2004

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0882-20140630&qid=1476095953969&from=EN

Regulation (EC) No 31333/2008

Regulation (EC) No 1129/2011

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011R1129-20131121&qid=1476097027981&from=EN

Regulation (EC) No 1130/2011

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R1130&qid=1476097478877&from=EN

Regulation (EC) No 1881/2006

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1881-20160401&qid=1476097568637&from=EN

Regulation (EU) No 1169/2011

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011R1169-20140219&qid=1476096783772&from=EN

Regulation (EC) No 1924/2006

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1924-20141213&qid=1476097646609&from=EN

Regulation (EC) No 1688/2005

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005R1688-20111219&qid=1476097709320&from=EN

Regulation (EC) No 2074/2005

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005R2074-20160603&qid=1476097787567&from=EN

Regulation (EC) No 401/2006

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R0401-20140701&qid=1476097919928&from=EN

Regulation (EC) No 1882/2006

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1882&qid=1476097979470&from=EN

Regulation (EC) No 836/2011

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R0836&qid=1476098056860&from=EN

Regulation (EC) No 252/2012

http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R0252&qid=1476098232931&from=EN

A3.4 European Commission guidance documents

European Commission Guidance Document on Regulation (EC) No 852/2004 on the hygiene of foodstuffs:

http://ec.europa.eu/food/safety/docs/biosafety_food-hygiene_legis_guidance_reg-2004-852_en.pdf

European Commission Guidance Document on Regulation (EC) No 853/2004 on the hygiene of food of animal origin:

http://ec.europa.eu/food/safety/docs/biosafety_food-hygiene_legis_guidance_reg-2004-853_en.pdf

European Commission Guidance Documents on the implementation of procedures based on HACCP principles and facilitation of the implementation of the HACCP principles in certain food businesses:

http://ec.europa.eu/food/safety/docs/biosafety_food-hygiene_legis_guidance_haccp_en.pdf

A3.5 FSA guidance documents

For model template forms see the documentation section of this Practice Guidance.

A3.6 Central register of letters sent by the FSA to competent authorities

http://www.food.gov.uk/enforcement/workwithenforcers/centralref/

A3.7 FSA allergens guidance

- Training: The FSA has worked with the relevant professional bodies (TSI and CIEH) to develop training to support effective enforcement of the new arrangements.

- Industry developed guidance: British Retail Consortium and Food and Drink Federation in partnership with the FSA have also provided allergen guidance for pre-packed food on:

  http://www.brc.org.uk/downloads/Guidance%20on%20Allergen%20Labelling.pdf

- E-learning: The FSA has updated its E-learning module to provide training and advice for caterers, enforcement officers and consumers about allergen labelling and the EU FIC. This is freely accessible at: http://allergytraining.food.gov.uk

- Consumer advice: The new food allergen labels are already coming onto the market. To inform consumers of the changes, we updated our advice for consumers to include details of the new Regulation. http://www.food.gov.uk/sites/default/files/multimedia/pdfs/publication/allergy-leaflet.pdf

- Enforcement officer and SME's Advice on EU FIC can be found at the following link: http://www.food.gov.uk/business-industry/guidancenotes/allergy-guide/

- Training is available on the details of the EU FIC http://www.food.gov.uk/enforcement/enforcetrainfund/

- The Food Standards Agency offers training for officers on issuing Food Standards IN's http://www.food.gov.uk/enforcement/enforcetrainfund/.

- Allergy and Intolerance – Guidance for Food businesses http://www.food.gov.uk/sites/default/files/fir-2014-guidance.pdf

ANNEX 4 - Glossary

AfIB	Agri-food Inspection Branch
AGHE	Approved Game Handling Establishment
ALP	Alkaline Phosphatase
APHA	Association of Port Health Authorities
Approval number	Unique number given to establishments subject to approval under Regulation (EC) No 853/2004
Approved establishment	An establishment approved under Regulation 853/2004 for handling, preparing and/or producing products of animal origin.
ASP	Amnesic shellfish poisoning
Audit	A systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.
Authorised officers	Has the meaning set out in the Food Safety (Northern Ireland) Order 1991
Awarding bodies	In relation to the Code, the awarding bodies are: The Chartered Institute of Environmental Health (CIEH); Trading Standards Institute (TSI) and; The Institute of Food Science and Technology (IFST).
BF	Border ForceP91
BIP	Border Inspection Post
BIS	Department for Business, Innovation and Skills.
BRDO	Better Regulation Delivery Office – it's remit does not extend to Northern Ireland
Broadly compliant(Hygiene)	An establishment that has an intervention rating score of not more than 10 points under each of the following three parts of section 5.6.1: Part 2: Level of (Current) Compliance - Hygiene and Level of (Current) Compliance – Structure; and Part 3: Confidence in Management.
Broadly compliant(Standards)	An establishment that has an intervention rating score of not more than ten points under each of the following parts of section 5.6.2, Part 2: Level of (Current) Compliance; and Part 3, Confidence in Management/Control Systems.
Br	Brucellosis

BTSF	Better Training Safer Food
Cefas	Centre for Environment, Fisheries and Aquaculture Science
CED	Common Entry Document
CEHOG	Chief Environmental Health Officer's Group
CCP	Critical Control Point
CVED	Common Veterinary Entry Document
Central Competent Authority	Has the meaning set out in Regulation (EC) No 882/2004 and is the Food Standards Agency.
CIEH	Chartered Institute of Environmental Health
CIM	Confidence in Management
Competent authority	Has the meaning set out in the Official Feed and Food Control Regulations (Northern Ireland) 2009. For the purposed of this guidance 'competent authority' refers to 'district council'.
Competent person	Meeting the requirements of the competency framework set out in Chapter 4.
Complaint	Conformity with the requirements of the law.
Compliance risk elements	These are defined within the Hygiene Risk Rating System as structure compliance, hygiene compliance, confidence in management and significant risk.
Conditional approval	Has the meaning set out in Article 31(2)(d) of Regulation (EC) No 882/2004.
Could	Is generally used to indicate those provisions which are for guidance only.
CPD	Continuing Professional Development.
CSCATS	Core Skills in Consumer Affairs and Trading Standards
CTSI	Chartered Institute of Trading Standards
DAERA	Department of Agriculture, Environment and Rural Affairs
DC	Dispatch Centre
DCA	Diploma in Consumer Affairs
DCATS	Diploma in Consumer Affairs and Trading Standards

DEFRA	Department for Environment Food & Rural Affairs
DTS	Diploma in Trading Standards
Detention Notice	Has the meaning set out in Regulation 9 of the Food Hygiene Regulations (Northern Ireland) 2006.
DfE	Department for the Economy
Domestic establishment	A dwelling house or other building used principally, but not exclusively as a dwelling and its curtilage.
DVO	Divisional Veterinary Office
E.coli O157	Escherichia coli O157
EEA	European Economic Area
EHRB	Environmental Health Registration Board
Emergency Prohibition Order	Has the meaning set out in Article 11 of the Food Safety Order (Northern Ireland) 1991
Enforcement Authority	Has the meaning set out in Regulation 2 the Food Hygiene Regulations (Northern Ireland) 2006.
EMIs	Egg Marketing Inspectors
EPN	Emergency Prohibition Notice
ERTS	Enhanced Remote Transit Shed
Establishment	"Establishment" does not simply mean "premises", but is directly linked to the business occupying the establishment ("establishment denotes both premises and the manner in which those premises are being used by the food business operator").
ETSF	External Temporary Storage Facilities
Export	The action of sending or transporting a commodity abroad, especially for trade or sale outside the EU.
EU	European Union
EU FIC	European Food Information to Consumers Regulation (EC) No 1169/2011

FBO	Food Business Operator
FCATS	Foundation Certificate in Consumer Affairs and Trading Standards.
FSG	Food for Specific Groups
FHRS	Food Hygiene Rating Scheme
Food Examiner	Has the meaning set out in Article 30 of the Food Safety (Northern Ireland) Order 1991.
FSA	Food Standards Agency
Food Business	Has the meaning set out in Regulation 178/2002 – Article 3.2[38]
FBO	Food Business Operator - has the meaning set out in Regulation (EC) No 178/2002 – Article 3.3
Framework	Framework Agreement on Local Authority Food Law Enforcement[39]
Full Approval	Has the meaning set out in Article 31(2)(d) of Regulation (EC) No 882/2004.
Formal Action	The taking of action against a food business operator as set out in the legislation including the service of a statutory notice to remedy non-compliance with legal requirements, or the institution of legal proceedings for breaches of legal requirements.
Formal Notice	Means a under legislation relating to food law.
FNAO	Food not of animal origin
GRIP	Guidance for Regulators Information Point
HACCP	Hazard Analysis and Critical Control Point
Hazard	Anything that has the potential to cause harm.
HDCATS	Higher Diploma in Consumer Affairs and Trading Standards

[38] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:031:0001:0024:EN:PDF

[39] http://food.gov.uk/multimedia/pdfs/enforcement/frameworkagreementno5.pdf

HEPO	Hygiene Emergency Prohibition Order
HEPN	Hygiene Emergency Prohibition Notice
HIN	Hygiene Improvement Notice
Home Authority	The authority where the relevant decision making base of an enterprise is located.
Hygiene	The measure and conditions necessary to control hazards and to ensure fitness for human consumption of a foodstuff taking into account its intended use.
HPO	Hygiene Prohibition Order
IFST	Institute of Food Science and Technology
Import	The action of bringing in goods and/or services from another country outside of the EU.
Informal approach	Bringing to the attention of a food business operator and giving advice on non-compliances with food safety law in order that any non-compliance can be quickly remedied.
Inspecting authority	The food authority that carries out the official control intervention in respect of any establishment.
INs	Improvement Notices
Intervention	Regulatory actions taken by a government in order to affect or interfere with decisions made by individuals, groups, or organizations regarding social and economic matters.
Investigation	The action taken by the competent authority to gather evidence where it believes an offence has been committed.
ITSF	Internal Temporary Storage Facilities
LAEMS	Local Authority Enforcement Monitoring System
LCMS	Liquid chromatography–mass spectrometry
LGA	Local Government Group Association.
Live bivalve molluscs	References to live bivalve molluscs also include live echinoderms, live tunicates and live marine gastropods, in line with Annex III, Section VII(1) of Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin (Regulation (EC) No 853/2004), with the exception of parts of the Code which deal with purification of live bivalve molluscs
LT	Lipophillic Toxins

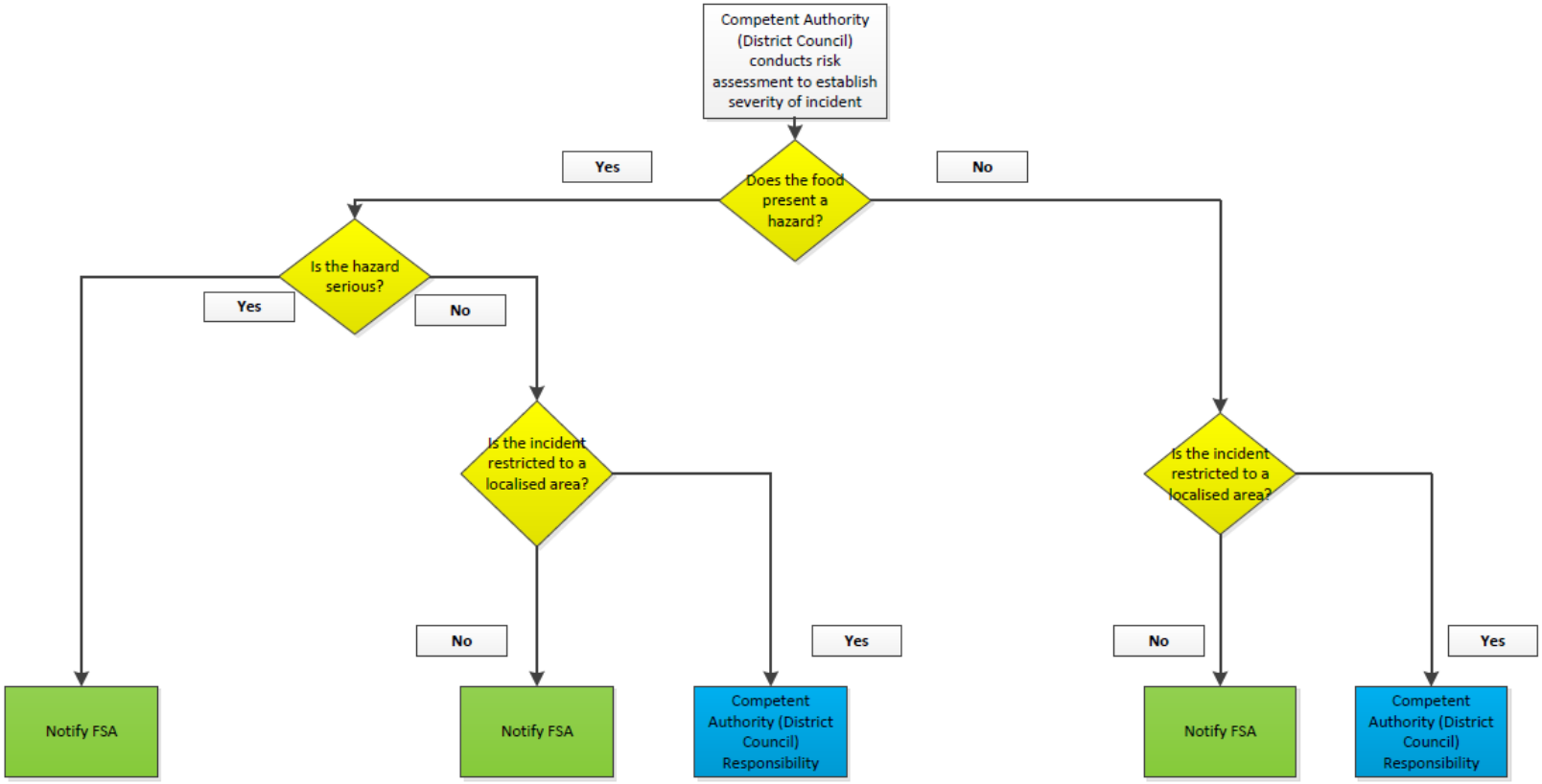
Mobile establishment	Premises other than permanent premises, and "relevant moveable premises" means moveable premises, used for the transport or preparation of food or the retail sale of food on five or more days, whether consecutive or not, in any period of five consecutive weeks, other than – (a) motor vehicles which are constructed solely for the purpose of carrying no more than 8 passengers (including the driver) and their personal effects, (b) tents, or (c) moveable premises which are ordinarily kept outside Great Britain.
Monitoring	Conducting a planned sequence of observations or measurements with a view to obtaining an overview of the state of compliance with feed or food law, animal health and animal welfare rules.
Must	Is used to confirm an obligation.
May	On its own indicates an optional exercise of a power or function.
May not	Indicates a prohibition.
NCASS	Nationwide Caterers Association
NIF&SFWG	NI Fish & Shellfish Working Group
NIPHL	Northern Ireland Public Health Laboratory
Non-compliant	A failure to comply with one or more requirements of a food law.
NPL	National Physical Laboratory
Official controls	Has the meaning set out in Article 2 (1) of Regulation (EC) No 882/2004.
Official controls interventions	Inspections, monitoring, surveillance, verification, auditing and sampling (where the analysis/examination is to be carried out by an official laboratory).
Official laboratory	A laboratory accredited for the purposes of analysis, and which appears on the list of official food control laboratories.
Originating authority	Means the authority in whose area final food production takes place.
OFT	Office of Fair Trading
Other interventions	Education, advice and coaching provided at a food establishment and information and intelligence gathering (including sampling where the analysis and examination is NOT to be carried out by

	an official laboratory).
OTF	Office of Fair Trading
OVS	Official Veterinary Surgeon
PAHs	Polycyclic aromatic hydrocarbons
PACE	Police and Criminal Evidence
PCBs	Polychlorinated Biphynels
Penalty	The punishment imposed by a court on conviction for an offence under food legislation.
PC	Purification Centre
PME	Post Mortem Examination
POAO	Products of animal origin
PSP	Paralytic Shellfish Poisoning
Public analyst	Has the meaning set out in Article 27 of the Food Safety (Northern Ireland) Order 1991
PVP	Private Veterinary Practitioners
RASFF	Rapid Alert System for Food and Feed
RCDM	Raw Cows Drinking Milk
RDNA	Regulators' Development Needs Analysis
RIPA	Regulation of Investigatory Powers Act
Records	Means information preserved in writing or the like.
REHIS	Royal Environmental Health Institute of Scotland.
Remedial Action Notice	Has the meaning set out in Regulation 9 (1) of the Food Hygiene Regulations (Northern Ireland) 2006
Registering authority	The competent authority responsible for registering an establishment under Regulation (EC) No 852/2004. In relation to a mobile establishment, the registering authority will be where it is ordinarily kept.
Risk	The chance or probability that a person will be harmed or experience an adverse health effect if exposed to a hazard.

Risk analysis	A process consisting of three interconnected components: risk assessment, risk management and risk communication.
Risk rating category	The Risk Category attributed to a premises following an inspection and scoring of the premises in accordance with the Intervention Rating Scheme and used to determine the frequency of inspection of the premises.
Safety	The quality of averting or not causing injury, danger, or loss.
Sanction	The provision within a statute to take punitive action for failure to comply with the provisions of the statute.
Sampling	Taking feed or food or any other substance (including from the environment) relevant to the production, processing and distribution of feed or food or to the health of animals, in order to verify through analysis compliance with feed or food law or animal health rules.
SFBB	Safer Food Better Business
SFSORB	Scottish Food Safety Officers' Registration Board
Signed	Means having a signature affixed either in writing or by electronic means.
SRM	Specific Risk Material
Standards	Rules or principles defined in food safety law that are used as the basis for judgment against.
Surveillance	Means a careful observation of one or more food businesses, or food business operators or their activities.
The Code	Refers to the Food Law Code of Practice (Northern Ireland) 2016
TCN	Temporary Closure Notice
Third country	Has the meaning set out in Chapter V of Regulation (EC) No 882/2004.
TRACES	Trade Control and Expert Systems
TSI	Trading Standards Institute
TSQF	Trading Standards Qualification Framework

UK	United Kingdom
UKAS	United Kingdom Accreditation Service
UKBA	United Kingdom Border Agency
UKFSS	United Kingdom Food Surveillance Scheme
Validation	Means confirmation that requirements have been complied with.
Verification	Means the checking, by examination and the consideration of objective evidence, whether specified requirements have been fulfilled.
VTEC	Verocytotoxin-producing *Escherichia coli*

ANNEX 5 – Food Incident Flow diagram



ANNEX 6 - Food/Feed Incident Report Form (Competent Authorities)

FOOD/FEED INCIDENT REPORT FORM

FOOD AND FEED INCIDENTS SHOULD BE REPORTED TO THE FSA USING THE ONLINE TOOL AT http://incidents.foodapps.co.uk/IncidentReportForm/login.aspx

WHERE THE ONLINE FUNCTION CANNOT BE ACCESSED, THIS FORM SHOULD BE COMPLETED BY THE INVESTIGATING OFFICER/REPRESENTATIVE AND SUBMITTED TO THE APPROPRIATE FSA CONTACT:

In England:	**foodincidents@foodstandards.gsi.gov.uk** **Tel: 020 7276 8448** **Fax: 020 7276 8788 (only use when unable to email or submit via the online reporting tool and by prior agreement with FSA)**
In Wales	**wales.foodincidents@foodstandards.gsi.gov.uk** **Tel: 029 2067 8961 or out of hours 07889 926 573** **Fax: 029 2067 8918 (only use when unable to email or submit via the online reporting tool and by prior agreement with FSA)**
In Northern Ireland	**incidents.ni@fooodstandards.gsi.gov.uk** **Tel: 028 9041 7700 or out of hours 07884 473 022** **Fax: 028 9041 7728 (only use when unable to email or submit via the online reporting tool and by prior agreement with FSA)**

1. Reporting Competent Authority's name and address:

2. Name of reporting officer including telephone, fax and e-mail details:

Name of reporting officer	
Contact details (business hours)	**Telephone:** **Email:** **Fax:**
Contact details **(out-with business hours)**	**Telephone:** **Email:**

3. Date and time initial information received by Competent Authority:

4. Initial information received by:

5. Received from (include Local Authority, health protection authority etc, address, telephone number and contact name where possible):

6. Method (telephone/fax/letter/other):

7. Brief description of incident:

8. Type of contamination:

9. Description of product

Type of Product:

Product Name:

Brand Name:

Batch Code/s:

Description of Packaging:

Pack Size:

Durability Date/s or Code/s:

Country of Origin:

UK Importer/Distributor (including contact details):

Manufacturer (including contact details):

10. **Has clinical illness occurred? If yes, include details (type of illness, symptoms, numbers of consumers affected etc):**

11. **Full details of distribution (including EU and Third Countries) e.g. quantities/areas, and when the particular product/batch in question was first placed on the market:**

12. Is the manufacturer/retailer/supplier aware of the incident, if so what are their proposals for dealing with it?

13. Assessment of hazard (please highlight):

Local	**Retail**
Regional	**Catering**
Manufacture	**National**
International	**Import/Export**

14. Other relevant contact details (e.g. home and/or originating authority/other). Include Name, address, telephone and fax number, email address:

15. Has any enforcement action already been taken? For example, have samples been taken for examination or analysis, or detention notices served, or food seized? Please email any laboratory reports or detention notices etc to the FSA with this form, or as soon as possible thereafter.

16. Has there been media interest? Yes/No

If there has been a press release please email to the FSA with this form

17. Any additional information: Please attach additional pages if necessary.

Signed:	
Date:	
Job Title:	