

**Report:
Review of Changes
in UK Food and Feed
Legislation April
2006 – March 2007**

Statutory Analysis
Government Chemist
Programme

December 2007
LGC/GC/2007/015



*Setting standards
in analytical science*

Report: Review of Changes in UK Food and Feed Legislation April 2006 – March 2007

Statutory Analysis
Government Chemist
Programme

December 2007

Contact Point:

M Walker

Tel: 020 8943 7356

Prepared by:

M Walker

Approved by:

Date: 3 April 2008

Contents

1	Summary	1
2	Food Safety	5
2.01	Contaminants	5
2.02	Aflatoxins - Commission Decision on Import Conditions	7
2.1	Materials and Articles in Contact with Food	8
2.2	PAH - Analytical Validation – (smoke products)	11
2.3	Pesticides and Veterinary Residues	11
2.4	Food Colours	13
2.5	Other Food Additives	14
2.6	Quick-frozen Foodstuffs	14
2.7	Food Hygiene	15
2.8	Kava-kava	18
3	Consumer Choice and Prevention of Fraud	19
3.1	Curd Cheese (Bowland Dairy Products Limited)	19
3.2	Non-authorized genetically modified organism "LL RICE 601"	19
3.3	Eggs (Marketing Standards)	20
3.4	Fish Labelling	20
3.5	Olive Oil	20
3.6	Organic Production	21
3.7	Honey	21
3.8	Labelling of Beef and beef products	21
4.	Health and Nutrition	22
4.1	Nutrition and Health Claims	22
4.2	Food Supplements	24
4.3	PNU (PARNUTS) Foods	24
4.4	Nutritional Standards for School Lunches	26
5.	Regulation	27
5.1	Animal health, organic foods, veterinary residues, pesticides residues, protected food names and beef labelling and TSEs.	30
5.2	Meat - Official Controls Charges	31
5.3	Wine, FSA subsumes the Wine Standards Board	31
5.4	Transmissible Spongiform Encephalopathies	32
5.5	Import Control of Products of Animal Origin	34
5.6	Ban on the import of captive birds from third countries	37
5.7	Live animal veterinary check and transport requirements, the Poultry Health Scheme and imports of captive birds	37
5.8	EXCISE - Beer, Cider and Perry, Spirits, and Wine and Made-wine	39
6.	Feeding stuffs and Fertilisers	41
6.1	Undesirable Substances: camphechlor (toxaphene), lead, fluorine, cadmium and dioxins and dioxin-like PCBs	41
6.2	Feed Additives	42
6.3	Fertilisers - authorisation of laboratories and methods of sampling and analysis	44
7.	Appendix I	45
7.1	Regulation	45
7.2	Directive	45
7.3	Decision	45
7.4	Recommendation, opinion	45

1 Summary

This is the second of three reviews to be undertaken as part of the project RF1 (Milestone RF1/3a) in the Government Chemist 2005-2008 programme. It covers changes in UK food and agricultural legislation that have taken place during the period April 2006 to March 2007 and are important to stakeholders especially those that relate to chemical measurement and the role of the Government Chemist.

The first report [[Review of Changes in UK Food and Feed Legislation April 2005 - March 2006](#)] (to which readers should refer) provided some background to the legislation to show why, as well as how, it has changed and to provide an insight into the reasons for the existence of statutes in the areas covered.

For this report it has been decided to group legislation into five categories. The first three reflect the three primary objectives of food law while regulatory issues and animal feed and fertilisers make up the remaining two. Thus the structure and content of the report are as follows:

- Food Safety, including contaminants and additives.
- Consumer Choice and Prevention of Fraud – including composition and general labelling;
- Health and Nutrition – including nutrition labelling, nutrients and supplements;
- Regulation – dealing with regulatory activities and overarching provisions;
- Feedingstuffs and Fertilisers – dealing with animal feed and fertilisers.

In each case, the English regulations are cited primarily however where equivalent regulations have been made at the same time for Scotland, Wales and Northern Ireland the main text includes such references. European measures are also cited as appropriate although where they have been transposed into UK law they are referenced in the UK regulations and are not cited separately. Potentially temporary and local measures such as prohibition legislation for shellfish harvesting areas have not been recorded but are archived in the Government Chemist source data for the report.

For any specific legislation this document should be read with the actual measure and any view, information or advice given should not be taken as an authoritative statement or interpretation of the law, as this is a matter for the courts.

The sources of information used have been The UK Daily List, The Association of Public Analysts website, [APA Legislation Index](#) , Office of Public Sector Information ([OPSI](#)) and European legislative information database, [Eur-Lex](#). Extensive use has been made of the explanatory notes that accompany each set of regulations.

The following summary briefly describes the main new provisions in 2006/07.

Food Safety

Contaminants

A major new Commission Regulation (EC No. 1881/2006) appeared, consolidating maximum levels for certain contaminants in foodstuffs. Two new allied official control sampling and analysis Commission Regulations on dioxins and dioxin-like PCBs and nitrates were also published.

Materials and Articles in Contact

Two sets of Plastic Materials and Articles in Contact with Food Regulations were made in England (with territorial equivalents) in 2006, the second set (the 'No 2 Regulations'), came into force in November 2006 revoking and replacing the earlier (No.1) Regulations. These introduce extensive revisions of the provisions safeguarding food from migration of undesirable or dangerous additives from its packaging, make administrative arrangements for enforcement and for a reference sample to be analysed by the Laboratory of the Government Chemist.

The Ceramic Articles in Contact with Food (England) Regulations 2006 set limits on the amount of lead and cadmium which may be transferred from such articles together with requirements for testing for such transfer.

Veterinary and pesticides Residues

Detailed rules in a Commission decision (See Appendix I for the legal standing of a 'decision') concerning the performance of analytical methods and the interpretation of results for the analysis of an official sample for Veterinary Residues were referenced in The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Amendment) Regulations 2006, No. 755 that came into force 6th April 2006. Three sets of Regulations amended, by adding new European Directives on active substances, the Plant Protection Products Regulations 2005. Similarly three sets of Regulations amended the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005.

Food Hygiene, Quick Frozen Foods and Additives

Food hygiene and quick frozen foodstuffs were also the subject of three sets of regulations while Food Additives received only minor attention with an update on purity criteria for two permitted food colours.

Consumer Choice and Prevention of Fraud

Unauthorised GM material

Following the contamination of long grain rice in the USA with unauthorised GM material, European Member States agreed on additional testing requirements. All imports of US long grain rice were held at the port of entry into the EU for sampling and testing for the presence of GM material. This was put into effect in the UK by the The Rice Products (Restriction on First Placing on the Market) (England) Regulations

Miscellaneous

Statutory instruments on Eggs (Marketing Standards), Fish Labelling and Curd Cheese (Bowland Dairy Products Limited) completed new legislative in this area.

Health and Nutrition

Health and Nutrition Claims

A major change in the regulation of claims of this nature was made by the long anticipated EU regulation of claims put into effect in December 2006 by Regulation 1924/2006. Nutrition claims include, for example, 'low salt', 'high fibre', 'low saturated fat' etc. Health claims refer to a relationship between a food and health, for example "calcium helps build strong bones", "omega-3 may help maintain heart health"

After transitional periods have expired it will only be possible to make nutrition claims that appear in the Annex to the Regulation and health claims that appear in the lists of authorised claims to be contained in the Community Register. If a claim is made it will be obligatory to provide nutrition labelling. The Regulation also puts in place provisions that may restrict the use of claims on certain foods or categories of foods based on their nutritional composition (nutrient profile).

Food Supplements

Regulations made in 2003 prohibit the sale of a food supplement in the manufacture of which a vitamin or mineral has been used unless that vitamin or mineral is in a positive list. New regulations in 2006 added calcium-L-methylfolate and Ferrous bisglycinate to the positive list.

PNU (PARNUTS) Foods

A food for a particular nutritional use (a parnuts' or 'PNU' food) is a food which, owing to its special composition or process of manufacture, is clearly distinguishable from food for normal consumption, and is sold in such a way as to indicate its suitability for its claimed nutritional purpose.

Two measures in 2006/07 alter the legislation on PNU foods:

- requiring notification to the FSA and giving FSA powers to restrict or suspend trade in such products where there are grounds for doing so;
- adding three substances to the list in the categories vitamins and minerals which may be added for specific nutritional purposes in designated PNU foods (without any time limit).

School Lunches

The regulation of Nutritional Standards for School Lunches is briefly described.

Regulation

Official Feed and Food Controls

The principle European piece of legislation on food and feed control, Commission Regulation 882 of 2004 continues to have a major impact on domestic legislation. The impact of Article 11 (supplementary expert opinion) was examined in detail in our previous report. Correspondence with the head of FSA Contaminants Branch confirmed this interpretation but advised that FSA would not be encouraging traders and authorised officers to send the retained portion of the sample to the Government Chemist for analysis before results were available from the Public Analyst sample and traders' portion. Notices provided by authorised officers will indicate that traders have the option to request that the referee sample is analysed when an adverse result from the PA sample has been obtained.

For completeness and continuity the main provisions of the Official Feed and Food Controls (England) Regulations 2006, No. 15, which came into force in January 2006 are listed. These are followed by The Official Controls (Animals, Feed and Food) (England) Regulations 2006, No. 3472, which came into force in February 2007 and apply 882/2004 in relation to areas excluded from the earlier 2006 regulations. The new areas dealt with include animal health, organic foods, veterinary residues, pesticides residues, protected food names, beef labelling and TSEs.

National Control Plans

A further consequence of 882/2004 is the requirement on all member states to draw up National Control Plans (NCP) for food and feed and that for the UK was published to be implemented from 1 January 2007. [NCP Executive Summary](#) The plan is a comprehensive document describing the regulatory landscape in the UK in these sectors. Of particular relevance to the Government Chemist are references to the UK National Reference Laboratories, Official Laboratories and Official Feed and Food Control and designated laboratories. The document does not describe the enforcement process in detail therefore the role of the GC is not referenced, but it does list LGC in a number of cases where it holds the status of a UK official laboratory. [NCP Full document](#) (No further detail is given below as this is not a new piece of legislation).

Wine

As a consequence of the [Hampton Review Report](#) which aimed to simplify enforcement activity in England and reduce the number of enforcement bodies the Wine Standards Board, the non-Governmental body responsible for wine-making practices, labelling of wine and the UK vineyard register, merged with the Food Standards Agency on 1 July. [FSA news release](#)

Transmissible Spongiform Encephalopathies

Detailed provisions for the prevention, control and eradication of certain transmissible spongiform encephalopathies including approvals, authorisations, over thirty month monitoring and prohibition of use of mechanically recovered meat are given in new The Transmissible Spongiform Encephalopathies Regulations 2006.

Products of Animal Origin etc

Import control of Products of Animal Origin and Live animal veterinary check, transport requirements, the Poultry Health Scheme and imports of captive birds are detailed in various other provisions.

Beer, Cider and Perry, Spirits, and Wine and Made-wine

Lastly in this category these excise regulations are mainly administrative but also include the following that may be of interest to analysts:

- A prohibition on the addition of other substances to beer is removed from previous regulations and replaced with a restriction on the addition of water;
- Remove provisions in the Spirits Regulations 1991 on ascertainment of original gravity after fermentation has commenced (both methods) and Schedule 2 (table for determining original gravity).

Feedingstuffs

Undesirable Substances

Limits for camphechlor (toxaphene), lead, fluorine, cadmium and dioxins and dioxin-like PCBs are given in new regulations.

Fertilisers

For EC fertilisers, authorisation of laboratories and methods of sampling and analysis are dealt with in the The EC Fertilisers (England and Wales) Regulations 2006 that came into force 11th October 2006.

2 Food Safety

2.01 Contaminants

Reflecting their prominence as currently the largest single cause of food alerts and recalls there has been significant activity in the area of food contaminants with the "2007" regulations revoking and replacing with changes the "2006" Regulations, mirroring changes in European measures.

The Contaminants in Food (England) Regulations 2007, No. 210, Made 29th January 2007, Laid before Parliament 5th February 2007 and Coming into force 1st March 2007

<http://www.opsi.gov.uk/SI/si2007/20070210.htm>

These Regulations, which apply in relation to England only, revoke and re-enact with changes the Contaminants in Food (England) Regulations 2006 (S.I. 2006/1464) ("the 2006 Regulations", see below). They make provision for the execution and enforcement of Commission Regulation (EC) [No. 1881/2006](#) setting maximum levels for contaminants in foodstuffs (OJ No. L364, 20.12.2006, p.5) ("the Commission Regulation", The Commission Regulation consolidates and makes further amendments to the provisions formerly contained in Commission Regulation (EC) No. 466/2001.

The Regulations —

(a) make it an offence, (except in certain cases relating to food placed on the market before a date given in specified Community legislation) —

(i) to place on the market certain foods if they contain contaminants of any kind specified in the Commission Regulation at levels exceeding those specified (subject to a derogation applicable to certain types of lettuce and to fresh spinach),

(ii) to use food containing such contaminants at such levels as ingredients in the production of certain foods,

(iii) to mix foods that do not comply with the maximum levels referred to above with foods which do comply,

(iv) to mix foods to which the Commission Regulation relates and which are intended for direct consumption or as food ingredients with foods to which the Commission Regulation relates and which are intended to be sorted or otherwise treated prior to consumption, or

(v) to detoxify by chemical treatment food containing mycotoxins in excess of the limits specified in the Commission Regulation (regulation 3);

(b) specify the enforcement authorities (regulation 4);

(c) provide for the application of specified provisions of the Food Safety Act 1990 for the purposes of these Regulations (regulation 5);

(d) make a consequential amendment to the Food Safety (Sampling and Qualifications) Regulations 1990 in so far as they apply in relation to England (regulation 6), the effect being to disapply the sampling and analysis provisions of those Regulations only to the extent that those matters are regulated by the Community instruments mentioned in paragraphs (a) to (f) below.

The Commission Regulation specifies the Community methods of sampling and analysis that are required to be used for the official control of levels of the substances covered by it. Those methods are set out in —
Lead, cadmium, mercury and 3-MCPD

(a) Commission Directive 2001/22/EC laying down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foodstuffs (OJ No. L77, 16.3.2001, p.14), as corrected by Commission Decision 2001/873/EC (OJ No. L325, 8.12.2001, p.34), and as amended by Commission Directive 2005/4/EC (OJ No. L19, 21.1.2005, p.50);

Tin

(b) Commission Directive 2004/16/EC laying down the sampling methods and the methods of analysis for the official control of the levels of tin in canned foods (OJ No. L42, 13.2.2004, p.16);

Benzo(a)pyrene

(c) Commission Directive 2005/10/EC laying down the sampling methods and the methods of analysis for the official control of the levels of benzo(a)pyrene in foodstuffs (OJ No. L34, 8.2.2005, p.15), and

Mycotoxins

(d) Commission Regulation (EC) No. 401/2006 laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs (OJ No. L70, 9.3.2006, p.12);

Nitrates

(e) Commission Regulation (EC) No. 1882/2006 laying down methods of sampling and analysis for the official control of levels of nitrates in certain foodstuffs (OJ No. L364, 20.12.2006, p.25);

Dioxins and dioxin-like PCBs

(f) Commission Regulation (EC) No. 1883/2006 laying down methods of sampling and analysis for the official control of levels of dioxins and dioxin-like PCBs in certain foodstuffs (OJ No. L364, 20.12.2006, p.32).

See also

- Commission Regulation (EC) No 333/2007 of 28 March 2007 laying down the methods of sampling and analysis for the official control of the levels of lead, cadmium, mercury, inorganic tin, 3-MCPD and benzo(a)pyrene in foodstuffs - [Text](#)
- Commission Recommendation of 28 March 2007 on the monitoring of the presence of furan in foodstuffs [Text](#)

Revoked:-The Contaminants in Food (England) Regulations 2006, No. 1464, These Regulations, which applied in relation to England only, revoked and re-enacted with changes the Contaminants in Food (England) Regulations 2005 (S.I. 2005/3251)("the 2005 Regulations"). They made provision for the execution and enforcement of Commission Regulation (EC) No. 466/2001 setting maximum levels for contaminants in foodstuffs (OJ No. L77, 16.3.2001, p.1, as corrected and amended) ("the Commission Regulation"). Since the 2005 Regulations were made, the Commission Regulation was amended so as to (a) introduce maximum permitted levels and other controls relating to certain Fusarium toxins (Commission Regulation (EC) No 856/2005, OJ No L143, 7.6.2005, p.3); and (b) introduce new or amended controls relating to dioxins and the sum of dioxins and dioxin-like PCBs (Commission Regulation (EC) No 199/2006, OJ No L32, 4.2.2006, p.34).

See also

- Commission Recommendation of 16 November 2006 recommending numbers and types of samples to be taken and analysed by Member States

for background levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in foodstuffs (notified under document number C(2006) 5425) [Text](#)

- The Contaminants in Food Regulations (Northern Ireland) 2007
- The Contaminants in Food (Wales) Regulations 2007
- The Contaminants in Food (Scotland) Regulations 2007

2.02 Aflatoxins - Commission Decision on Import Conditions

Owing to the serious threat to public health from regular exceedence of limits on aflatoxins in some foodstuffs in July 2006 the Commission consolidated a number of previous decisions on special import conditions. The Table below summarises the decision. In addition, for foodstuffs from Iran and Brazil it required all costs from sampling, analysis, storage and official measures pursuant to this decision to be borne by the importers in food businesses involved. All the food listed below must be accompanied by results of sampling and analysis and a health certificate, valid for only 4 months. There are also conditions imposed on the return of non-conforming lots and designated points of import.

COMMISSION DECISION of 12 July 2006 on special conditions governing certain foodstuffs imported from certain third countries due to contamination risks of these products by aflatoxins [Commission Decision](#)

Country of origin	Food	Health Certificate from	Ratio of sampling
Brazil	Brazil nuts in shell and mixtures of nuts or dried fruits containing Brazil nuts in shell;	Ministério da Agricultura, Pecuária e Abastecimento (MAPA)	Each consignment
China	Peanuts Roasted peanuts	State Administration for Entry-Exit inspection and Quarantine of the People's Republic of China	Approximately 10 % of consignments
Egypt	Peanuts Roasted peanuts	Egyptian Ministry of Agriculture	Approximately 20 % of consignments
Iran	Pistachios Roasted pistachios	Iranian Ministry of Health	Each consignment
Turkey	Dried figs Hazelnuts (<i>Corylus</i> sp) in shell or shelled Pistachios Mixtures of nuts or dried fruits containing figs, hazelnuts or pistachios; Fig paste and hazelnut paste Hazelnuts, figs and pistachios, prepared or preserved, including mixtures Flour, meal and powder of hazelnuts, figs and pistachios Cut, sliced and broken hazelnuts.	General Directorate of Protection and Control of the Ministry of Agriculture and Rural Affairs of the Republic of Turkey	Approximately 5 % of the consignments for each category of hazelnuts and derived products from such hazelnuts from Turkey and approximately 10 % of the consignments of other categories of foodstuffs

Sampling and analysis by member states and countries of origin must be in accordance with regulation 401/2006 EC

2.1 Materials and Articles in Contact with Food

The Plastic Materials and Articles in Contact with Food (England) (No.2) Regulations 2006 No. 2687, made 9th October 2006, laid before Parliament 17th October 2006, coming into force 19th November 2006.

http://www.opsi.gov.uk/SI/si2006/uksi_20062687_en.pdf

These Regulations, which apply in relation to England only, revoke the Plastic Materials and Articles in Contact with Food (England) Regulations 2006 ("the No.1 Regulations", see below), and re-enact those Regulations with certain changes. The main changes are —

(a) an amendment to the definition of "the Directive" so as to include the amendments made to Commission Directive 2002/72/EC by Commission Directive 2005/79/EC, which introduces new provisions relating to PVC gaskets containing epoxidised soybean oil and makes widespread changes to the Annexes containing lists of authorised monomers (including other starting substances) and additives;

(b) provision for a transitional defence relating to the sale of jars of foods for infants and young children sealed with PVC gaskets containing epoxidised soybean oil; and

(c) the replacement of most of the content of Schedules 1 to 4 of the No. 1 Regulations by the incorporation, by reference to Annexes of Commission Directive 2002/72/EC as amended, of the specifications and lists of authorised substances formerly contained in those Schedules.

The Regulations in Part 2 —

(a) prohibit specified activities in relation to any plastic material or article (as defined in regulation 2) which fails to meet the appropriate required standards set out in the Regulations (regulation 3);

(b) prohibit the use of monomers and additives in the manufacture of plastic materials and articles other than in accordance with specified conditions (regulation 4 and Schedule 1 in the case of monomers and regulation 5 and Schedule 1 in the case of additives);

(c) specify the required standards relating to the capability of a monomer or an additive to confer its constituents to food (regulation 6 for monomers and regulation 7 for additives);

(d) specify the required standard for products obtained by bacterial fermentation (regulation 8);

(e) specify the required standard relating to overall migration limits from plastic materials or articles to food (regulation 9);

(f) specify the required standards relating to the migration of primary aromatic amines from plastic materials or articles to food (regulation 10);

(g) specify the methods for determining the capability of a plastic material or article to transfer its constituents to food, and for detecting the presence of any such constituents in food (regulation 11 and Schedules 2 & 3);

(h) provide that prior to the retail stage plastic materials and articles must be accompanied by certain specified written information, including a declaration of legislative compliance (regulation 12);

(i) provide for the execution and enforcement of Regulation 1895/2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food (OJ No. L302, 19.11.2005, p.28), which contains Community provisions relating to the epoxy derivatives known as BADGE, BFDGE and NOGE (regulation 13).

The Regulations in Part 3 —

(a) designate food authorities and port health authorities as the enforcement authorities in their respective areas or districts (regulation 14);

(b) specify the offences that may be committed under these Regulations and set out the maximum penalties on conviction (regulation 15);

(c) provide for defences of a general nature, such as exercise of due diligence etc, to offences under regulation 15 (regulation 16);

(d) provide a defence relating to the sale of glass jars that contain certain foods for infants and young children and that have been sealed with a PVC gasket containing epoxidised soybean oil (regulation 17);

(e) provide for transitional defences in relation to certain plastic materials or articles that have already been manufactured or put into circulation in advance of a change in the law that would otherwise have made their manufacture or circulation unlawful (regulation 18);

(f) specify the procedure to be followed when sending a sample for analysis (regulation 19);

(g) make provision for a reference sample to be analysed by the Laboratory for the Government Chemist (regulation 20).

Part 4 of the Regulations contains provisions relating to the procedure to be followed and the time limit to be observed where a person wishes to apply to the European Food Safety Authority for the authorisation of a new additive (regulation 21).

The principal Directives implemented by these Regulations are —

(a) Council Directive 82/711/EEC (OJ No. L297, 23.10.1982, p.26) laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs, as amended by Commission Directives 93/8/EEC (OJ No. L90, 14.4.1993, p.22) and 97/48/EC (OJ No. L222, 12.8.1997, p.10);

(b) Council Directive 85/572/EEC laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs (OJ No. L372, 31.12.1985, p.14);

(c) Commission Directive 2002/72/EC (OJ No. L220, 15.8.2002, p.18) relating to plastic materials and articles intended to come into contact with foodstuffs, as amended by Commission Directives 2004/1/EC (OJ No. L7, 13.1.2004, p.45), 2004/19/EC (OJ No. L71, 10.3.2004, p.8) and 2005/79/EC (OJ No. L302, 19.11.2005, p.35).

Also see the Plastic Materials and Articles in Contact with Food:

- (No 2) Regulations (Northern Ireland) 2006 No 420;
- (Scotland) (No 2) Regulations 2006 No 517.

- The Plastic Materials and Articles in Contact with Food (Wales) Regulations 2006, No 2982 (W.273)

Revoked: The Plastic Materials and Articles in Contact with Food (England) Regulations 2006 No. 1401. These Regulations, which applied in relation to England only, revoked the Plastic Materials and Articles in Contact with Food Regulations 1998 as amended ("the 1998 Regulations") in so far as they apply in relation to England, and re-enacted or re-enacted with changes certain provisions contained in those Regulations.

The Ceramic Articles in Contact with Food (England) Regulations 2006 No. 1179 Made 24th April 2006, laid before Parliament 27th April 2006, coming into force, (except for regulations 3(3)(a) and (b) and 4) 20th May 2006, Regulations 3(3)(a) and (b) and 4 20th May 2007.

http://www.opsi.gov.uk/SI/si2006/uksi_20061179_en.pdf

Also see the Ceramic Articles in Contact with Food:

- (Scotland) Regulations 2006 No 230
- (Northern Ireland) Regulations 2006 No 217
- (Wales) Regulations 2006 No 1704 (W. 166).

These Regulations, made by the then Department of Trade and Industry (Employment Relations and Consumer Affairs) apply to ceramic articles which are intended to come into contact with food. They set limits on the amount of lead and cadmium which may be transferred from such articles together with requirements for testing for such transfer (migration) and require ceramic articles to be accompanied at the marketing stages by certificates of compliance. There is no provision for a reference sample to be analysed by the Laboratory for the Government Chemist. They also amend the Official Feed and Food Controls (England) Regulations 2006, No 15 by the omission of the words "except in so far as it involves the regulation of food contact materials under the Ceramic Ware (Safety) Regulations 1988" in sub-paragraph (b) of Schedule 3 (Definition of relevant food law) of the Official Feed and Food Controls (England) Regulations.

The Regulations implement Council Directive 84/500/EEC on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs (O.J. L.277 of 20.10.84 p.12) as amended by Commission Directive 2005/31/EC regarding a declaration of compliance and performance criteria of the analytical method for ceramic articles intended to come into contact with foodstuffs (O.J. L.110 of 30.4.05 p.36). The former Directive was previously implemented by the Ceramic Ware (Safety) Regulations 1988 (S.I. 1988/1647) which these Regulations revoke in respect of England, Wales and Northern Ireland.

The 1988 Regulations applied to the United Kingdom. Following devolution these Regulations apply to England. Corresponding Regulations (see above) are made for Northern Ireland, Scotland and Wales.

Regulation 2 defines "ceramic article". Regulation 3 and Schedule 1 limit the quantities of lead and cadmium which may be transferred by a ceramic article and Schedule 2 sets out how tests for such transfer (migration) are to be carried out. Regulation 4 requires a written declaration of compliance to accompany a ceramic article or articles not yet in contact with food at all marketing stages up to the retail stage. The details of the declaration are set out in Schedule 3. The regulation also requires a manufacturer, or importer into the Community, to keep appropriate

documentation to show that the article or articles comply with the requirements of Schedule 1.

Regulation 5 provides that the Regulations are to be enforced by food authorities and port health authorities in their respective areas or districts. Regulation 6 sets out the penalties for failure to comply with the Regulations and the defences that are available. Regulation 7 sets out the provisions of the Food Safety Act 1990 which are applied for the purposes of the Regulations.

2.2 PAH - Analytical Validation – (smoke products)

[Commission Regulation 627/2006](#) of 21 April 2006 implementing Regulation (EC) No 2065/2003 sets performance characteristics for validated analytical methods for 15 PAH that might be found in primary smoke products used for smoked flavours. As provision is made for a positive list of authorised products as smoke flavours and a validated method is required from the trade as part of the safety assessment dossier the performance characteristics are given, based on IRMM collaborative trial work. Full references are given in the EU text.

2.3 Pesticides and Veterinary Residues

Three sets of Regulations in 2006/07 amended, by adding new European Directives on active substances, the Plant Protection Products Regulations 2005 (S.I. 2005/1435) ("the principal Regulations") which implement in England and Wales Council Directive 91/414/EEC concerning the placing of plant protection products on the market (OJ No. L230, 19.8.91, p.1, as read with corrigenda published in OJ No. L170, 25.6.92, p.40). These were:

- *The Plant Protection Products (Amendment) Regulations 2006, No. 1295*
<http://www.opsi.gov.uk/si/si2006/20061295.htm>
- *The Plant Protection Products (Amendment) (No.2) Regulations 2006, No. 2933*
<http://www.opsi.gov.uk/si/si2006/20062933.htm>
- *The Plant Protection Products (Amendment) Regulations 2007, No. 636*
<http://www.opsi.gov.uk/SI/si2007/20070636.htm>

Similarly three sets of Regulations amend the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) Regulations 2005 (S.I. 2005/3286) ("the principal Regulations"). The Regulations implement various Commission Directives and substitute or insert a new residue definition for certain pesticides in Schedule 1 to the principal Regulations which identifies the pesticide residues that are taken into account in the measuring of residue levels for each pesticide; and new maximum residue levels for certain pesticides in Schedule 2 to the principal Regulations.

- *The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) (Amendment) (No. 2) Regulations 2006, No. 1742*
<http://www.opsi.gov.uk/si/si2006/20061742.htm>
- *The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) (Amendment) (No. 3) Regulations 2006, No. 2922*
<http://www.opsi.gov.uk/si/si2006/20062922.htm>
- *The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (England and Wales) (Amendment) Regulations 2007, No. 971*
<http://www.opsi.gov.uk/SI/si2007/20070971.htm>

See also:

- The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment Regulations 2007, 142; The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No. 3) Regulations 2006 No 548; The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No.2) Regulations 2006 No 312; The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment Regulations 2006 No 151;
- The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Amendment) Regulations (Northern Ireland) 2006 No 501; The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) Regulations (Northern Ireland) 2006, No 220.
- Commission Directive 2006/61/EC of 7 July 2006 amending the Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC as regards maximum residue levels for atrazine, azinphos-ethyl, cyfluthrin, ethephon, fenthion, methamidophos, methomyl, paraquat and triazophos [Text](#)
- Commission Directive 2006/62/EC of 12 July 2006 amending the Annexes to Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC as regards maximum residue levels for desmedipham, phenmedipham and chlorfenvinphos [Text](#)
- Commission Regulation (EC) No 1231/2006 of 16 August 2006 amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin, as regards ceftiofur and polyoxyethylene sorbitan monooleate and trioleate [Text](#)
- Commission Directive 2006/92/EC of 9 November 2006 amending Annexes to Council Directives 76/895/EEC, 86/362/EEC and 90/642/EEC as regards maximum residue levels for captan, dichlorvos, ethion and folpet [Text](#)
- Commission Directive 2007/7/EC of 14 February 2007 amending certain Annexes to Council Directives 86/362/EEC and 90/642/EEC as regards the maximum residue levels of atrazine, lambda-cyhalothrin, phenmedipham, methomyl, linuron, penconazole, pymetrozine, bifenthrin and abamectin [Text](#)
- Commission Directive 2007/12/EC of 26 February 2007 amending certain Annexes to Council Directive 90/642/EEC as regards the maximum residue levels of penconazole, benomyl and carbendazim [Text](#)
- Corrigendum to Commission Directive 2006/60/CE of 7 July 2006 amending Annexes to Council Directive 90/642/EEC as regards the maximum residue levels of trifloxystrobin, thiabendazole, abamectin, benomyl, carbendazim, thiophanate-methyl, myclobutanyl, glyphosate, trimethylsulfonium, fenpropimorph and clormequat [Text](#)
- Commission Directive 2007/8/EC of 20 February 2007 amending Annexes to Council Directives 76/895/EEC, 86/362/EEC and 90/642/EEC as regards maximum residue levels for phosphamidon and mevinphos [Text](#)
- Commission Directive 2007/11/EC of 21 February 2007 amending certain Annexes to Council Directives 86/362/EEC, 86/363/EEC and 90/642/EEC as regards maximum residue levels for acetamiprid, thiacloprid, imazosulfuron, methoxyfenozide, S-metholachlor, milbemectin and tribenuron [Text](#)
- Commission Regulation (EC) No 287/2007 of 16 March 2007 amending Annex II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin, as regards Ginseng, standardised extracts and preparations thereof [Text](#)

The Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (Amendment) Regulations 2006, No. 755, made 10th March 2006, laid before Parliament 16th March 2006, coming into force 6th April 2006.
<http://www.opsi.gov.uk/si/si2006/20060755.htm>

These Regulations amend the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997 (S.I. 1997/1729) that give effect to [Directive 96/22/EC \(consolidated text\)](#) - this Directive prohibits the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists. Regulation 18 is amended to give effect to [Commission Decision 2002/657](#) implementing detailed rules concerning the performance of analytical methods and the interpretation of results for the analysis of an official sample.

Provisions duplicated in the Veterinary Medicines Regulations 2005 (S.I. 2005/2745) are removed by amending regulations 6, 23 and 32 and revoking regulation 33. Upon whom an authorised officer may serve a notice specifying the result of a sample analysed is clarified by amending regulation 15. Drafting errors in regulation 34 are corrected

A Regulatory Impact Assessment may be obtained from the Veterinary Medicines Directorate, Woodham Lane, Addlestone, Surrey, KT15 3LS.

See also:

Commission Directive 2006/59/EC of 28 June 2006 amending Annexes to Council Directives 76/895/EEC, 86/362/EEC, 86/363/EEC and 90/642/EEC as regards maximum residue levels for carbaryl, deltamethrin, endosulfan, fenitrothion, methidathion and oxamyl, and Commission Directive 2006/53/EC of 7 June 2006 amending Council Directive 90/642/EEC as regards the maximum residue levels of fenbutatin-oxide, fenhexamid, cyazofamid, linuron, triadimephon/triadimenol, pymetrozine, and pyraclostrobin.

Commission Regulation (EC) No 545/2006 amending Regulation (EC) No 1464/2004 made changes to the authorisation of the feed additive, E765, Narasin, (Monteban, Montegan G 100) a coccidiostat for chickens for fattening. A MRL of 50 µg Narasin per kilogram wet chicken tissue was set and other conditions of use and labelling imposed.

2.4 Food Colours

The purity criteria for sunset yellow FCF (E110) and titanium dioxide (E171) were updated by *the Colours in Food (Amendment) (England) Regulations 2007, No. 453, made 14th February 2007, laid before Parliament 9th March 2007 and coming into force 6th April 2007* apply in relation to England only.
http://www.opsi.gov.uk/SI/si2007/uksi_20070453_en.pdf

The Regulations implement Commission Directive 2006/33/EC amending Directive 95/45/EC as regards sunset yellow FCF (E110) and titanium dioxide (E171) (OJ No. L82, 21.3.2006, p.10) by updating the definition of "Directive 95/45/EC" (Commission Directive 95/45/EC laying down specific criteria of purity concerning colours for use in foodstuffs, OJ No. L226, 29.9.1995, p.1) that appears in regulation 2(1) of the Colours in Food Regulations 1995 (S.I. 1995/3124, as already amended), which extend to the whole of Great Britain, to reflect the amendments made to that Directive by Commission Directive 2006/33/EC (regulation 2). Commission Directive 2006/33/EC amends Commission Directive 95/45/EC by substituting revised purity criteria for the colours sunset yellow FCF (E110) and titanium dioxide (E171).

See also The Colours in Food Amendment (Scotland) Regulations 2007 which put the above into effect in Scotland.

2.5 Other Food Additives

DIRECTIVE 2006/52/EC of 5 July 2006 amending Directive 95/2/EC on food additives other than colours and sweeteners and Directive 94/35/EC on sweeteners for use in foodstuffs [The Directive](#) prohibited a range of additives in jelly mini-cups and made other amendments to the controls on permitted food additives, including preservatives.

Further minor textual changes and changes to permitted levels of nitrates in certain cured meats were made by Corrigendum to Directive 2006/52/EC of the European Parliament and of the Council of 5 July 2006 amending Directive 95/2/EC on food additives other than colours and sweeteners and Directive 94/35/EC on sweeteners for use in foodstuffs (OJ L 204, 26.7.2006) [Text](#)

2.6 Quick-frozen Foodstuffs

The Quick-frozen Foodstuffs (England) Regulations 2007, No. 191, made 20th January 2007, laid before Parliament 2nd February 2007 and coming into force 1st March 2007 apply in relation to England only.
http://www.opsi.gov.uk/SI/si2007/uksi_20070191_en.pdf

They revoke and re-enact in relation to England the Quick-frozen Foodstuffs Regulations 1990 (S.I. 1990/2615, as amended), which extended to the whole of Great Britain. In addition to continuing the implementation of the Directives specified below, these Regulations now also provide for the execution and enforcement of Commission Regulation (EC) No. 37/2005 on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption (OJ No. L10, 13.1.2005, p.18).

These Regulations:

- (a) prohibit the placing on the market of a quick-frozen foodstuff unless certain conditions are satisfied (regulation 3);
- (b) prohibit the placing on the market of a quick-frozen foodstuff intended for the ultimate consumer unless certain conditions regarding packaging are satisfied (regulation 4);
- (c) impose requirements relating to the marking or labelling of quick-frozen foodstuffs (regulation 5);
- (d) impose requirements in relation to the equipment used in respect of quick-frozen foodstuffs intended for placing on the market for human consumption (regulation 6);
- (e) provide for additional inspections of quick-frozen foodstuffs and of the temperatures maintained in respect of them (regulation 7);
- (f) require a food operator to make records available in certain circumstances (regulation 8);
- (g) provide that a person who contravenes or fails to comply with any of the provisions of these Regulations is guilty of an offence and create a penalty for that offence (regulation 9(1));
- (h) provide that, subject to certain exceptions, namely compliance with transitional requirements for measuring instruments installed before 1st January 2006 in the case of a contravention of the first paragraph of Article 2.2 of Commission Regulation (EC) No. 37/2005 and a contravention of Article 2 of Commission Regulation (EC) No. 37/2005 in respect of small cold stores in retail outlets where the air temperature is measured by an easily visible thermometer, a person who contravenes or fails to

comply with specified provisions of that Regulation is guilty of an offence and create a penalty for that offence (regulation 9(2), (3) and (4));

(i) provide for the execution and enforcement of these Regulations (regulation 9(5)); and

(j) apply with modifications certain provisions of the Food Safety Act 1990 (1990 c.16) for the purposes of these Regulations (regulation 10).

The Directives implemented by S.I. 1990/2615 that these Regulations continue to implement are—

(a) Council Directive 89/108/EEC on the approximation of the laws of Member States relating to quick-frozen foodstuffs for human consumption[17]; and

(b) Commission Directive 92/2/EEC laying down the sampling procedure and the Community method of analysis for the official control of the temperatures of quick-frozen foods intended for human consumption (OJ No. L34, 11.2.92, p.30).

See also:

The Quick-frozen Foodstuffs (Wales) Regulations 2007

The Quick-Frozen Foodstuffs Regulations (Northern Ireland) 2007

The Quick-frozen Foodstuffs Amendment (Scotland) Regulations 2007

The Quick-Frozen Foodstuffs (No.2) Regulations (Northern Ireland) 2007

2.7 Food Hygiene

Two measures in 2006/07 change the original 2005 Food Hygiene Regulations.

The Food Hygiene (England) (Amendment) Regulations 2007, No. 56, made 9th January 2007, laid before Parliament 17th January 2007, coming into force 14th February 2007. These Regulations amend the Food Hygiene (England) Regulations 2006 (S.I. 2006/14) by updating the definitions of certain Community instruments that are referred to in those Regulations.

http://www.opsi.gov.uk/si/si2007/uksi_20070056_en.pdf

The Food Hygiene (England) Regulations 2006, No. 14, made 9th January 2006, laid before Parliament 9th January 2006, coming into force 11th January 2006. These Regulations revoke and re-enact with changes the Food Hygiene (England) Regulations 2005 (S.I. 2005/2059), [see below for main provisions].

<http://www.opsi.gov.uk/si/si2006/20060014.htm> See also the Food Hygiene (Wales) Regulations 2006 No 31 (W.5).

The Food Hygiene (England) Regulations 2005 provided for the execution and enforcement in relation to England of "the Community Regulations". The 2007 regulations complete the list of required Community instruments which are —

(a) Regulation (EC) No. 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs (OJ No. L139, 30.4.2004, p.1; the revised text of this Regulation is now set out in a Corrigendum, OJ No. L226, 25.6.2004, p.3);

(b) Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin (OJ No. L139, 30.4.2004, p.55; the revised text of this Regulation is now set out in a Corrigendum, OJ No. L226, 25.6.2004, p.22);

(c) 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 (OJ No. L155, 30.4.2004, p.206; the

revised text of this Regulation is now set out in a Corrigendum, OJ No. L226, 25.6.2004, p.83);

(d) Commission Regulation (EC) No. 2073/2005 on microbiological criteria for foodstuffs (OJ No. L338, 22.12.2005, p.1); and

(e) Commission Regulation (EC) No. 2075/2005 laying down specific rules on official controls for *Trichinella* in meat (OJ No. L338, 22.12.2005, p.60).

The other major changes made by these Regulations are that —

(a) the previous enforcement arrangements are altered; and

(b) the scope of Schedule 5 (direct supply by the producer of small quantities of meat from poultry or lagomorphs [[order](#) Lagomorpha, are [mammals](#) of which there are two families, [Leporidae](#) ([hares](#) and [rabbits](#)), and Ochotonidae ([pikas](#))] slaughtered on the farm) is extended in the light of Article 3 of Commission Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004 (OJ No. L338, 22.12.2005, p.83).

The main provisions of the Regulations —

(a) create certain presumptions that, for the purposes of these Regulations, specified food is intended for human consumption (regulation 3);

(b) provide that the Food Standards Agency is the competent authority for the purposes of the Community Regulations except where it has delegated competences as provided for in the Community Regulations (regulation 4);

(c) make provision for the execution and enforcement of these Regulations and of the Community Regulations (regulation 5);

(d) provide for the following enforcement measures to be available in respect of a food business operator —

(i) hygiene improvement notices (regulation 6),

(ii) hygiene prohibition orders (regulation 7),

(iii) hygiene emergency prohibition notices and orders (regulation 8), and

(iv) remedial action notices and detention notices (regulation 9);

(e) provide that where the commission of an offence under these Regulations is due to the act or default of some other person that other person is guilty of the offence (regulation 10);

(f) provide that in proceedings for an offence under these Regulations it is a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence (regulation 11);

(g) provide for the procurement and analysis of samples (regulations 12 and 13);

(h) provide powers of entry for authorised officers of an enforcement authority (regulation 14);

(i) create the offence of obstructing an officer (regulation 15);

(j) provide a time limit for bringing prosecutions (regulation 16);

(k) provide that a person who contravenes or fails to comply with specified provisions of the Community Regulations is guilty of an offence (regulation 17(1));

(l) provide penalties for offences (regulation 17(2) and (3));

(m) provide that a person is considered not to have contravened or failed to comply with a specified provision of Regulation (EC) No. 852/2004 (requirement for bulk foodstuffs in liquid, granulate or powder form to be transported in receptacles and / or containers / tankers reserved for the transport of foodstuffs) provided the requirements of Schedule 3 are complied with (regulation 17(4));

(n) an individual as well as a company can be prosecuted where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate or a person purporting to act as such he as well as the body corporate is deemed to be guilty of that offence and may be proceeded against and punished accordingly (regulation 18); similar rules apply to a Scottish partnership (regulation 19);

(o) provide a right of appeal in respect of —

- (i) the service of a hygiene improvement notice or a remedial action notice,
- (ii) the refusal of an enforcement authority to issue a certificate under specified provisions to the effect that they are satisfied that a food business operator has taken measures to secure that the health risk condition is no longer fulfilled with respect to the food business concerned, and
- (iii) the making of a hygiene prohibition order or a hygiene emergency prohibition order (regulations 20 to 22);

(p) provide for the application, for the purposes of these Regulations, of section 9 of the Food Safety Act 1990 (1990 c. 16), but with a specified modification (regulation 23);

(q) provide for the issue to food authorities by the Secretary of State of codes of recommended practice (regulation 24);

(r) provide for the protection of officers acting in good faith (regulation 25);

(s) provide for the revocation or suspension of the designation or as the case may be appointment of specified officials (regulation 26);

(t) provide that when an authorised officer of an enforcement authority has certified that any food has not been produced, processed or distributed in compliance with these Regulations and the Community Regulations, it shall be treated for the purposes of section 9 of the Food Safety Act 1990 as failing to comply with food safety requirements (regulation 27);

(u) provide for the service of documents (regulation 28);

(v) provide that the requirements set out in the following Schedules have effect —

- (i) Schedule 3 (bulk transport in sea-going vessels of liquid oils or fats and the bulk transport by sea of raw sugar) (regulation 29),
- (ii) Schedule 4 (temperature control requirements) (regulation 30),

(iii) Schedule 5 (direct supply by the producer of small quantities of meat from poultry or lagomorphs slaughtered on the farm) (regulation 31), and
(iv) Schedule 6 (restrictions on the sale of raw milk intended for direct human consumption (regulation 32);

(w) make consequential amendments to specified instruments (regulation 33); and

(x) revoke the Food Hygiene (England) Regulations 2005 (S.I. 2005/2059) (regulation 34).

See also the Food Hygiene (Wales) (Amendment) Regulations 2006 No 1534 (W.151), the The Food Hygiene (Wales) (Amendment) Regulations 2007, 1. which amend the Food Hygiene (Wales) Regulations 2006 (S.I. 2006/31 (W.5)) by updating the definitions of certain Community instruments that are referred to in those Regulations and The Food Hygiene (Scotland) Regulations 2006 No 3.

2.8 Kava-kava

The Kava-kava in Food (Wales) Regulations 2006 No. 1851 (W.194) prohibited the sale, possession for sale, offer, exposure or advertisement for sale, and the importation into Wales from outside the United Kingdom or the transportation into Wales from any other part of the United Kingdom, of any food consisting of, or containing, Kava-kava (being a plant or part of a plant, or an extract from such a plant, belonging to the species *Piper methysticum*).

3 Consumer Choice and Prevention of Fraud

3.1 Curd Cheese (Bowland Dairy Products Limited)

The Curd Cheese (Restriction on Placing on the Market) (England) (Revocation) Regulations 2007, No. 673 made 5th March 2007, laid before Parliament 5th March 2007, coming into force 6th March 2007 revoke the *Curd Cheese (Restriction on Placing on the Market) (England) Regulations 2006 (S.I. 2006/2787)*. Those Regulations implemented in relation to England Commission Decision 2006/694/EC prohibiting the placing on the market of curd cheese manufactured in a dairy establishment in the United Kingdom (Bowland Dairy Products Limited) (OJ No. L283, 14.10.2006, p.59). Commission Decision 2006/694/EC has been repealed by the Commission Decision of 2nd March 2007. Similar regulations were made and revoked in Wales.

3.2 Non-authorized genetically modified organism "LL RICE 601"

The Rice Products (Restriction on First Placing on the Market) (England) Regulations 2006, No. 2921. <http://www.opsi.gov.uk/si/si2006/20062921.htm> These Regulations implement in relation to England Commission Decision 2006/601/EC on emergency measures regarding the non-authorized genetically modified organism "LL RICE 601" in rice products (OJ No. L 244, 7.9.2006, p.27) as amended by Commission Decision 2006/754/EC amending Decision 2006/601/EC on emergency measures regarding the non-authorized genetically modified organism "LL RICE 601" in rice products (OJ No. L306, 7.11.2006, p.17).

The Regulations –

(a) prohibit the first placing on the market of any "rice product" (defined in regulation 2(1)), except where –

(i) it is accompanied by an original analytical report satisfying specified requirements and confirming that the product does not contain the genetically modified rice "LL RICE 601",

(ii) official sampling and analysis carried out in accordance with specified methods and within a specified time limit shows that the product does not contain such rice, and

(iii) specified requirements for split consignments are complied with (regulation 3(1));

(b) provide that a person who knowingly contravenes that prohibition is guilty of an offence and prescribe penalties for that offence (regulation 3(2));

(c) provide for their enforcement (regulation 4); and

(d) apply with modifications certain provisions of the Food Safety Act 1990 for the purposes of the Regulations (regulation 5).

See also *The Rice Products (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2006 No 443*; *The Rice Products (Restriction on First Placing on the Market) (Scotland) Regulations 2006 No 542*; *The Rice Products (Restriction on First Placing on the Market) (Wales) Regulations 2006 No 2923 (W.260)*.

See also Commission Decision of 7 March 2007 repealing Decision 2005/317/EC on emergency measures regarding the non-authorized genetically modified organism Bt10 in maize products (notified under document number C(2007) 674) [Text](#)

3.3 Eggs (Marketing Standards)

The Eggs (Marketing Standards) (Amendment) (England and Wales) Regulations 2006, No. 1540, made 14th June 2006, laid before Parliament 14th June 2006, coming into force 15th June 2006. <http://www.opsi.gov.uk/SI/si2006/20061540.htm> These Regulations amend the *Eggs (Marketing Standards) Regulations 1995 (S.I. 1995/1544)* ("the 1995 Regulations").

The 1995 Regulations provide for the enforcement and execution of certain provisions of Council Regulation (EEC) No. 1907/90 (OJ No. L173, 6.7.90, p.5) and Commission Regulation (EEC) No. 1274/91 (OJ No. L121, 16.5.91, p.11) relating to marketing standards for eggs and Regulation (EEC) No. 2782/75 of the Council (OJ No. L282, 1.11.75, p.100) and Commission Regulation (EEC) No. 1868/77 (OJ No. L209, 17.8.77, p.1) relating to the production and marketing of eggs for hatching and of farmyard poultry chicks. Since the 1995 Regulations were last amended Commission Regulation (EEC) No. 1274/91 has been repealed and replaced by Commission Regulation (EC) No. 2295/2003 (OJ No. L340, 24.12.2003, p.16). This has itself since been amended. Council Regulation (EEC) No. 1907/90, Council Regulation (EEC) No. 2782/75 and Commission Regulation (EEC) No. 1868/77 have also been amended. These Regulations amend the 1995 Regulations, by (a) omitting regulations 7 and 7A (relating to the United Kingdom official mark); and (b) replacing the Schedule with an updated Schedule of Community provisions.

3.4 Fish Labelling

Names prescribed by law for fish.

The Fish Labelling (Amendment) (England) Regulations 2006, No. 506, made 27th February 2006, laid before Parliament 9th March 2006, coming into force 6th April 2006. <http://www.opsi.gov.uk/si/si2006/20060506.htm> These Regulations, which apply to England only, amend the *Fish Labelling (England) Regulations 2003** ("the principal Regulations") by providing that commercial designations accepted in other Member States are names prescribed by law (regulation 2(a)) and replace the Schedule to the principal Regulations (which provides a list of commercial designations for the species of sea fish, salmon and freshwater fish and shellfish listed therein) with the Schedule to these Regulations. The new Schedule includes a number of insertions and amendments (regulation 2(b)).

*which provide for the execution and enforcement of Title 1, Chapter 2 of Council Regulation (EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products as applied by Commission Regulation (EC) No. 2065/2001 laying down detailed rules on the application of Council Regulation (EC) No. 104/2000 as regards informing consumers about fishery and aquaculture products.

See also *The Fish Labelling (Wales) (Amendment) Regulations 2006 No 1339*, and *The Fish Labelling (Amendment) Regulations (Northern Ireland) 2006 No 116*.

3.5 Olive Oil

The *Olive Oil (Marketing Standards) (Amendment) Regulations 2006 No 3367* amend the *Olive Oil (Marketing Standards) Regulations 2003*, apply to Great Britain. The effect of the amendment is to postpone the date of application of article 5(c) of Regulation 1019/2002, (which limits the indication of organoleptic properties of virgin olive oil on the labelling), to 1st July 2008.

3.6 Organic Production

A corrigendum was issued to Council Regulation (EC) No 1991/2006 of 21 December 2006 amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs: [Text](#) and also [Text](#)

3.7 Honey

Corrigendum to Council Directive 2001/110/EC of 20 December 2001 relating to the conductivity of honey [Text](#)

3.8 Labelling of Beef and beef products

The labelling and traceability (to slaughter etc) of beef cuts and trimmings was placed on the same footing as minced beef by Commission Regulation (EC) No 275/2007 of 15 March 2007 amending Regulation (EC) No 1825/2000 laying down detailed rules for the application of Regulation (EC) No 1760/2000 as regards the labelling of beef and beef products, [Link to text](#)

4. Health and Nutrition

4.1 Nutrition and Health Claims

The long awaited EU regulation of these claims was put into effect by REGULATION (EC) No 1924/2006 of 20 December 2006 on nutrition and health claims made on foods. [Text of Regulation](#)

The following is based on draft Food Standards Agency guidance to the Regulation to be found at [FSA Guidance](#)

The Regulation defines nutrition claims as referring to particular nutritional benefits of a food such as “low salt”, “low sugar”, “high fibre” while health claims refer to a relationship between a food and health, for example “calcium helps build strong bones”, “omega-3 may help maintain heart health”

After transitional periods have expired it will only be possible to make nutrition claims that appear in the Annex to the Regulation and health claims that appear in the lists of authorised claims to be contained in the Community Register. If a claim is made it is obligatory to provide nutrition labelling.

The Regulation also puts in place provisions that may restrict the use of claims on certain foods or categories of foods based on their nutritional composition (nutrient profile). Where a product is high in more than two nutrients, for example, fat and sugar, only limited claims can be made. However if the product is high in just one nutrient, nutrition claims could be made on the condition that the product also highlights the high content of that nutrient, for example by saying “high fat content”. However, health claims cannot be made where any nutrient does not meet the criteria set by the nutrient profile. When establishing nutrient profiles the European Commission will take into account the opinion of the European Food Safety Authority (EFSA) and will also put in place exemptions where these are considered necessary.

Nutrition Claims

Subject to certain transitional arrangements detailed in Section 6, only claims listed in the Annex to the Regulation can be made on food and only if the product meets with the specific conditions of use for the claim. The claim must also comply with the general requirements of the Regulation, which include not being false, ambiguous or misleading, not encouraging or condoning excess consumption of a food and not implying that a balanced diet cannot provide necessary nutrients.

Nutrition claims must not be made on alcoholic beverages, with limited exceptions for reduced energy and alcohol content claims.

For further details on making nutrition claims and how to access an up-to-date version of the Annex please see the latest version of the guidance on the FSA website.

Health Claims

In general, only health claims which are listed in the Community Register can be used on food and only if the product meets with any specific conditions of use as well as the general requirements of the Regulation. The Community Register is not yet in existence and national rules will continue to apply as claims are authorised and listed. Once the Community Register has been adopted claims must be authorised and listed in it in order to be made. It is the responsibility of the food business operator to get claims listed. The Regulation has three ways to get claims onto the Register:

1. Member States have until 31st January 2008 to submit claims based on generally accepted scientific evidence to the European Commission who, on the advice of EFSA, will decide if they can be listed. These claims will need to be accompanied by references to the relevant scientific justification and conditions of use.
2. Claims based on new or emerging science and/or proprietary data can be submitted by businesses to the Food Standards Agency for forwarding to EFSA. They will need to be accompanied by a dossier of information in support of the claim. EFSA will assess this evidence before advising the Commission on a decision. For claims submitted in this way there is a maximum time limit of eight months for a decision by the Commission.
3. Disease risk reduction claims and claims which refer to children's development and health will also need to be submitted via the agency with a dossier of information in support of the claim for assessment by EFSA.

The following health claims are prohibited:

- Any health claim on alcoholic beverages
- Claims which suggest that health could be affected by not consuming the food
- Claims which make reference to the rate or amount of weight loss
- Claims which make reference to recommendations of individual doctors or health professionals.

The Annex to the Regulation lists nutrition claims and conditions for the following claims:

LOW ENERGY
ENERGY-REDUCED
ENERGY-FREE
LOW FAT
FAT-FREE
LOW SATURATED FAT
SATURATED FAT-FREE
LOW SUGARS
SUGARS-FREE
WITH NO ADDED SUGARS
LOW SODIUM/SALT
VERY LOW SODIUM/SALT
SODIUM-FREE or SALT-FREE
SOURCE OF FIBRE
HIGH FIBRE

SOURCE OF PROTEIN
HIGH PROTEIN
SOURCE OF [NAME OF VITAMIN/S] AND/OR [NAME OF MINERAL/S]
HIGH [NAME OF VITAMIN/S] AND/OR [NAME OF MINERAL/S]
INCREASED [NAME OF THE NUTRIENT]
REDUCED [NAME OF THE NUTRIENT]
LIGHT/LITE
NATURALLY/NATURAL

4.2 Food Supplements

The Food Supplements (England) (Amendment) Regulations 2007, No. 330, made 6th February 2007 laid before Parliament 15th February 2007, coming into force 6th April 2007. http://www.opsi.gov.uk/si/si2007/uksi_20070330_en.pdf These Regulations amend the Food Supplements (England) Regulations 2003* to implement in England Commission Directive 2006/37/EC (OJ No. L94, 1.4.2006, p.32) amending Annex II to Directive 2002/46/EC as regards the inclusion of certain substances.

The 2003 Regulations prohibit the sale of a food supplement in the manufacture of which a vitamin or mineral has been used unless that vitamin or mineral is listed in Schedule 1 to those Regulations and is in a form listed in Schedule 2 (the positive lists), subject to a transitional provision (regulation 5 and Schedules to those Regulations).

These Regulations add another form of the vitamin folate [calcium-L-methylfolate] and another form of the mineral iron ["Ferrous bisglycinate] to the positive list in Schedule 2 to the 2003 Regulations (regulation 5), make a consequential amendment (regulation 4) and update the definition of "Directive 2002/46/EC" in the 2003 Regulations (regulation 3).

*which implement in England Directive 2002/46/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to food supplements (OJ No. L183, 12.7.2002, p.51).

See Also:

The Food Supplements (Scotland) Amendment Regulations 2007

4.3 PNU (PARNUTS) Foods

A food for a particular nutritional use (a parnuts' or 'PNU' food) is a food which, owing to its special composition or process of manufacture, is clearly distinguishable from food for normal consumption, and is sold in such a way as to indicate its suitability for its claimed nutritional purpose. A particular nutritional use means the fulfilment of the particular nutritional requirements of certain categories of persons (a) whose digestive processes or metabolism are disturbed or (b) whose physiological condition renders them able to obtain special benefit from controlled consumption of certain substances in foodstuffs or (c) of infants or children in good health. Parnuts foods include infant formulae and follow-on formulae, processed cereal-based foods and baby foods for infants and young children, certain weight reduction products, and foods for special medical purposes. Provisions regarding the addition of substances to infant formulae, follow-on formulae, processed cereal-based foods and baby foods for infants and young children are laid down in separate Directives which apply to those specific categories of parnuts foods. The sale of such food is restricted where there has been added to it for a specific nutritional purpose a substance falling within

one of the following six categories: vitamins; minerals; amino acids; carnitine and taurine; nucleotides; choline and inositol. In such a case the substance must be listed under the relevant category in Schedule 1 or, as regards foods for special medical purposes, Schedule 1 or 2 of the principal Regulations, *Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2002 as amended*. There was a time-limited derogation* as respects substances listed in Schedule 3 (regulation 3(5) of those Regulations).

Two measures in 2006/07 alter the legislation on PNU foods:

- requiring notification to the FSA and giving FSA powers to restrict or suspend trade in such products where there are grounds for doing so;
- adding three substances to the list in the categories vitamins and minerals which may be added for specific nutritional purposes in designated PNU foods (without any time limit).

The Notification of Marketing of Food for Particular Nutritional Uses (England) Regulations 2007, No. 181, made 20th January 2007, laid before Parliament 1st February 2007, coming into force 1st March 2007. <http://www.opsi.gov.uk/SI/si2007/20070181.htm> These Regulations, which apply in relation to England only, implement Articles 9 and 11 of Council Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses, (OJ No. L186, 30.6.1989, p.27), as last amended by Regulation (EC) No. 1882/2003 (OJ No. L284, 31.10.2003, p.1).

These Regulations prohibit the sale of "PNU food" (regulation 2(1) definition refers) unless the requirements of Article 9 of the Directive (notification to competent authorities of such products) have been complied with (regulation 3); and enable the FSA by written declaration to suspend or restrict trade in products intended for a particular nutritional use where it has detailed grounds for establishing that the product does not comply with Article 1(2) of the Directive (requirements for foodstuffs for particular nutritional uses) or endangers human health (regulation 4). Enforcement responsibilities, offences and penalties and application of provisions of the Food Safety Act 1990 are set out in regulations 5, 6 and 7 of these Regulations. The Regulations also revoke the Notification of Marketing of Food for Particular Nutritional Uses (England and Wales) Regulations 2002 (S.I. 2002/333) in so far as they apply to England (regulation 8). Labelling provisions of the Directive are implemented in the Food Labelling Regulations 1996 (S.I. 1996/1499).

See also

The Notification of Marketing of Food for Particular Nutritional Uses (Scotland) Regulations 2007 and

The Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007

The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) (Amendment) Regulations 2006, No. 3116.

<http://www.opsi.gov.uk/SI/si2006/20063116.htm> These Regulations, which apply in relation to England only, amend the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2002 as amended ("the principal Regulations"). These Regulations implement Commission Directive 2006/34/EC (OJ No. L83, 22.3.2006, p.14) amending the Annex to Directive 2001/15/EC as regards the inclusion of certain substances.

These Regulations:

- (a) add calcium–L–methylfolate and ferrous bisglycinate to the list in the categories vitamins and minerals which may be added for specific nutritional purposes in designated PNU foods (without any time limit*) (regulation 4);
- (b) add magnesium L–aspartate in the category minerals to the list of substances which may be added for specific nutritional purposes in foods for special medical purposes (without any time limit) (regulation 5);
- (c) update the definition of "Directive 2001/15" (regulation 3).

The Regulations also amend the Notification of Marketing of Food for Particular Nutritional Uses (England and Wales) Regulations 2002 in so far as they apply in relation to England to remove unnecessary wording from regulation 6 of those Regulations (regulation 6).

*Due to the expiry of a legislative derogation, marketing parnuts foods which contain certain substances was not permitted after 31st December 2006. Directive 2001/15/EC applies to any parnuts foods other than infant formulae, follow-on formulae, processed cereal-based foods and baby foods intended for infants and young children. Directive 2001/15/EC, as amended, is implemented in England by The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2002 SI 1817, as amended. At the time of adoption of 2001/15/EC, a number of substances added to parnuts foods for nutritional purposes could not be included because they had not been assessed by the Scientific Committee on Food (SCF), the forerunner of the European Food Safety Authority (EFSA). Thus, Commission Directive 2004/6/EC implemented a derogation which permitted the use of these substances in parnuts foods, for nutritional purposes, until 31st December 2006.

See also The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Amendment) Regulations (Northern Ireland) 2006 SI 481; The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Scotland) Amendment Regulations 2006 SI 556; The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) (Amendment) Regulations 2007, N0 116 W7.

4.4 Nutritional Standards for School Lunches

The Education (Nutritional Standards for School Lunches) (England) Regulations 2006, No. 2381, made 4th September 2006, laid before Parliament 8th September 2006, coming into force 11th September 2006.
<http://www.opsi.gov.uk/si/si2006/20062381.htm>

These regulations replace the Education (Nutritional Standards for School Lunches) (England) Regulations 2000 (except for nursery schools and nursery units within primary schools) with new nutritional standards for school lunches in maintained schools and pupil referral units. Regulation 3 divides food which is the subject of these regulations into six groups which are set out in the Schedule. School lunches are to include these foods as specified in these regulations. Regulations 4 to 8 set out the requirements for school lunches to include food from the groups in the Schedule. Regulation 9 provides that drinks served as part of a school lunch must be within the list in group F in the Schedule. Regulations 10 and 11 permit deep-fried food to be served only twice in a week; and limit confectionery and savoury snacks to healthier items without sugar, salt or fat. Regulation 12 prevents the addition of salt after food is cooked and places limits on other condiments.

5. Regulation

The Official Feed and Food Controls (England) Regulations 2006, No. 15, made 9th January 2006, laid before Parliament 9th January 2006, coming into force 11th January 2006.

<http://www.opsi.gov.uk/SI/si2006/20060015.htm>

See also *The Official Feed and Food Controls (Wales) Regulations 2006* WSI 590; *The Official Feed and Food Controls Regulations (Northern Ireland) 2006* SI 2; *The Official Controls (Animals, Feed and Food) Regulations (Northern Ireland) 2007* No 133

These Regulations apply the core Regulation (EC) No. 882/2004 by revoking and re-enacting with changes the Official Feed and Food Controls (England) Regulations 2005 (S.I. 2005/2626) and were the subject of detailed comment with regard to their impact on official control laboratories, in the first of these reports. The opportunity is taken here to set out the major provisions of the Regulations.

The principal changes from the 2005 Regulations are:

- Updated Schedule 1 to take account of Commission Regulations that entered into force on and applied from 11th January 2006;
- References to the Food Hygiene (England) Regulations 2005 (S.I. 2005/2059) are replaced with references to the Food Hygiene (England) Regulations 2006 (S.I. 2006/14);
- Part 3 (official controls on feed and food of non-animal origin from third countries) does not apply in relation to certain feed additives; and
- The definition of "relevant feed law" in Schedule 2 is revised.

The Regulations apply in relation to England only and provide for the execution and enforcement of official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ No. L165, 30.4.2004, p.1) in relation to "relevant feed law" and "relevant food law", terms defined in Schedules 2 and 3 respectively. The revised text of Regulation (EC) [No. 882/2004](#) is now set out in a Corrigendum (OJ No. L191, 28.5.2004, p.1).

The Regulations (regulation 27) also impose prohibitions on the introduction of certain feed and food into England in the light of Article 11 (imported food) of Regulation (EC) [No. 178/2002](#) laying down the general principles and requirements of food law, (OJ No. L31, 1.2.2002, p.1), as last amended by Regulation (EC) [No. 1642/2003](#) (EFSA finance, budget and reporting requirements) and as read with Article 10 of Regulation (EC) [No. 852/2004](#) (hygiene of imported food; revised text at OJ No. L226, 25.6.2004, p.3).

- The main provisions of the Regulations are:
- the designation of specified bodies as competent authorities for the purposes of the provisions of Regulation (EC) No. 882/2004 (regulation 3);
- exchange and provision of information by competent authorities (regulation 4);
- enable a competent authority to require a control body* to provide information and make records available and provide that a person who
 - (i) fails to comply with a requirement to provide information or make records available, or
 - (ii) in purported compliance with such a requirement furnishes false or misleading information,is guilty of an offence (regulation 5); * A "control body" is defined for the purposes of Regulation 882/2004 at [Article 2.5](#) as "an independent third party to which the

competent authority has delegated certain control tasks". Control bodies are usually non-governmental, organisations such as privately owned laboratories (e.g. LGC) undertaking testing, or analysis of samples taken during an official control. [DEFRA Guidance Q23](#)

- enable the Secretary of State to issue codes of recommended practice to feed authorities and food authorities (regulation 6);
- give the Food Standards Agency the function of monitoring the performance of enforcement authorities in enforcing certain legislation (regulation 7) and FSA the power,
 - (i) to require information and records to be provided (regulation 8), and
 - (ii) to authorise individuals (who may thereby exercise certain powers, including a power of entry) (regulation 9);
 - define certain terms used in regulations 7 to 9 (regulation 10);
 - a person who:
 - (i) obstructs a person exercising a power to enter premises, take samples or inspect and copy records,
 - (ii) fails to comply with a requirement to provide information, make records available or provide facilities, records, information or other assistance, or
 - (iii) in purported compliance with such a requirement furnishes false or misleading information,
- is guilty of an offence (regulation 11);
- right of appeal in respect of a decision of the competent authority concerning the approval of certain establishments taken under Article 31 of Regulation (EC) No. 882/2004 (regulations 12 and 13);
- an authorised officer of a competent authority may take with him a member of staff of the competent authority of another member State for the purpose of conducting an administrative enquiry under Article 36 of Regulation (EC) No. 882/2004 (regulation 14);
- when an "enforcing officer", defined in regulation 15(2), enters premises for the purpose of executing and enforcing official controls he may take with him a Commission expert to enable that expert to carry out functions under Article 45 of Regulation (EC) No. 882/2004 (regulation 15);
- provide that a person who enters premises under the powers referred to in subparagraph (j) or (k) of this paragraph and discloses any information obtained on the premises with regard to any trade secret is guilty of an offence unless he does so in the performance of his duty (regulation 16);
- specify the authorities that are responsible for executing and enforcing regulations 5(3), 9(8), 11, 16, 18(8) and 19 (regulation 17);
- give powers of entry to authorised officers (regulation 18);
- create the offence of obstructing an officer (regulation 19);
- provide penalties for offences under Part 2 of these Regulations (regulation 20);
- provide a time limit for bringing prosecutions for offences under regulation 18(8) (regulation 21);
- make provision for the execution and enforcement of Part 3 of these Regulations and Articles 15 to 24 of Regulation (EC) No. 882/2004, together defined in regulation 2(1) as "the Import Provisions" (regulations 23 and 24);
- provide that the Commissioners for Her Majesty's Revenue and Customs are to carry out the functions given to customs services under Article 24 of Regulation (EC) No. 882/2004 (regulation 25);

- make provision for the execution and enforcement of the Import Provisions to be deferred until a product reaches its destination (regulation 26);
- provide for the checking of products that are introduced into England (regulation 28);
- provide that an enforcement authority, first, has the power to do anything that a competent authority may do under Articles 18 to 21 and 24(3) of Regulation (EC) No. 882/2004 and, second, is the competent authority for the purposes of Article 22 of that Regulation (regulation 29);
- provide for the service of notices (imports of feed and food from third countries) (regulation 30);
- provide a right of appeal in respect of the service of notices under regulation 30 (regulations 31 and 32);
- enable the Secretary of State or the Agency by written declaration to suspend, or impose conditions on, the introduction into England of any product from a third country where she or it learns or reasonably suspects that any food or feed that has been or may be introduced into England from that third country is likely to constitute a serious risk to animal or public health (regulation 33);
- provide for charges to be payable in relation to controls carried out on consignments (regulation 34);
- provide for the procurement and analysis of samples of food for the purposes of the execution and enforcement of the Import Provisions (regulations 35 and 36);
- provide powers of entry for authorised officers of food authorities in relation to the execution and enforcement of the Import Provisions (regulation 37);
- create the offence of obstructing an officer acting in the execution of the Import Provisions (regulation 38);
- create offences consisting of contravening or failing to comply with specified regulations and failing to comply with a notice served under the Import Provisions and provide penalties for offences under Part 3 of these Regulations (regulation 39);
- provide a time limit for bringing prosecutions for certain offences under Part 3 of these Regulations (regulation 40);
- provide that where the commission of an offence under these Regulations is due to the act or default of some other person that other person is guilty of the offence (regulation 41);
- provide that in proceedings for an offence under these Regulations it is a defence for the accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence (regulation 42);
- provide that where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate or a person purporting to act as such he as well as the body corporate is deemed to be guilty of that offence and may be proceeded against and punished accordingly (regulation 43);
- provide that where an offence under these Regulations which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner he as well as the partnership is deemed to be guilty of that offence and may be proceeded against and punished accordingly (regulation 44);
- provide for the protection of officers acting in good faith (regulation 45);
- provide for the service of documents (regulation 46);
- amends the Feed (Hygiene and Enforcement) (England) Regulations 2005 (S.I. 2005/3280) (regulation 47); and

- revoke the Official Feed and Food Controls (England) Regulations 2005 (S.I. 2005/2626) (regulation 48).

5.1 Animal health, organic foods, veterinary residues, pesticides residues, protected food names and beef labelling and TSEs.

The Official Controls (Animals, Feed and Food) (England) Regulations 2006, No. 3472, made 28th December 2006, laid before Parliament 8th January 2007, coming into force 16th February 2007 http://www.opsi.gov.uk/SI/si2006/ukSI_20063472_en.pdf

These Regulations apply and enforce Regulation (EC) No. 882/2004 in England in relation to animal health and welfare rules, and feed and food law excluded from the Official Feed and Food Controls Regulations (England) 2006, No. 15 as amended by SI 2006 No. 1179 ("the 2006 Regulations"). These Regulations provide for the designation of the Secretary of State and local authorities (including food authorities) as competent authorities for the purposes of Article 4.1 of Regulation 882/2004 (regulations 3 to 5). The designations relate to:

- (a) animal health and welfare rules;
- (b) food law which concerns controls on animals;
- (c) feed law not listed in Schedule 3 to the 2006 Regulations; and
- (d) food law concerning controls on food excluded from the designations in the 2006 Regulations:-

- (i) organic foods, including imported organic food products;
- (ii) protected name food products and specific character food products;
- (iii) veterinary medicines residues;
- (iv) pesticides residues;
- (v) the import from third countries of, and intra-Community trade in, products of animal origin; and
- (vi) beef labelling.

They also relate to transmissible spongiform Encephalopathies ("TSEs") in relation to testing (including sampling) controls on bovine, ovine and caprine animals slaughtered for human consumption. The designations do not include medicated feedingstuffs and zootechnical additives, which are covered in paragraph 4 of Schedule 5 to the Veterinary Medicines Regulations 2006 (SI 2006/2407).

The Regulations provide for the exchange of information between competent authorities in England and elsewhere in the United Kingdom, and in the European Union (regulation 6). They create independent powers for a competent authority's auditors to conduct audits required under Article 4.6 of Regulation 882/2004 (regulation 7). Provision is made for the Secretary of State to call for information from a local authority about its audits; and for him to require an auditor to carry out an audit of that local authority's official controls as a competent authority (regulation 8). Regulation 9 provides that where the Secretary of State arranges that the Food Standards Agency is to carry out an audit for purposes of Regulation 882/2004 of relevant legislation under these Regulations, monitoring provisions of the 2006 Regulations apply together with the corresponding enforcement provisions from the 2006 Regulations. The Regulations also supplement existing powers of inspectors so that they may bring Commission experts with them for purposes of the Commission's own audits (regulation 10). There are provisions to facilitate assistance and co-operation between Member States required under Title IV (Articles 34 to 40) of Regulation 882/2004 (regulations 11 and 12), in particular to enable officials of the Commission and other Member States to attend with an inspector who investigates suspected breaches under the relevant legislation. Regulation 13 provides for the

payment on written demand of expenses charged under Article 40.4 and Article 28 of Regulation 882/2004.

Regulation 20 amends the 2006 Regulations to remove from the definition of "relevant food law" in so far as it applies in relation to food, Schedule 2 to the Transmissible Spongiform Encephalopathies (England) (No. 2) Regulations 2006 ("the TSE Regulations") and certain provisions in the EU Regulation on TSEs (Regulation No. EC 999/2001 (OJ No. L147, 31.5.2001, p. 1)) relating to the monitoring of TSEs in slaughtered goats and sheep.

A full Regulatory Impact Assessment of the effect that this instrument will have on the costs of business has been placed in the library of both Houses of Parliament and copies can be obtained from the OFFC Implementation Team, Department for Environment, Food and Rural Affairs, Area 204, 1A Page Street, London, SW1P 4 PQ.

5.2 Meat - Official Controls Charges

The Meat (Official Controls Charges) (England) Regulations 2006, No. 2705, made 11th October 2006, laid before Parliament 18th October 2006, coming into force 1st January 2007.

<http://www.opsi.gov.uk/SI/si2006/20062705.htm> These Regulations apply in relation to England only. They revoke and replace the Meat (Official Controls Charges) (England) Regulations 2005 (S.I. 2005/2983). They provide for the execution and enforcement in relation to England of Articles 26 and 27 of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (OJ No. L165, 30.4.2004, p.1; the revised text of Regulation (EC) No. 882/2004 is now set out in a Corrigendum, OJ No. L191, 28.5.2004, p.1), in so far as those provisions require fees to be collected to cover the costs occasioned by official controls performed, first, on meat of domestic ungulates, meat from poultry and lagomorphs, meat of farmed game and meat of wild game under 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 (OJ L139, 30.4.2004, p.206; the revised text of Regulation (EC) No. 854/2004 is now set out in a Corrigendum, OJ No. L226, 25.6.2004, p.83) and, second, to verify compliance with the animal welfare rules set out in Council Directive 93/119/EC (OJ No. L340, 31.12.93, p.21) in so far as they apply in relation to animals slaughtered for human consumption at slaughterhouses.

5.3 Wine, FSA subsumes the Wine Standards Board

The Common Agricultural Policy (Wine) (England and Northern Ireland) (Amendment) Regulations 2006, No. 1499, made 5th June 2006 laid before Parliament 9th June 2006, coming into force 1st July 2006. These Regulations further amend the Common Agricultural Policy (Wine) (England and Northern Ireland) Regulations 2001 ("the 2001 Regulations"), which provide for the enforcement in England and Northern Ireland of European Community Regulations concerned with the production and marketing of wine and related products. The Regulations:

(a) replace references to the Wine Standards Board with references to the Food Standards Agency (regulation 2(1) to (3)) thereby making the Food Standards Agency responsible for the enforcement functions under the 2001 Regulations that were previously the responsibility of the Wine Standards Board;

- (b) make other consequential amendments arising as a result of the changes made in relation to those enforcement functions (regulation 2(4) and (5));
- (c) put in place a different procedure for the review of prohibitions etc. on the movement of wine-sector products (regulation 2(6)); and
- (d) contain transitional provisions (regulation 3).

5.4 Transmissible Spongiform Encephalopathies

The Transmissible Spongiform Encephalopathies Regulations 2006, No. 68, made 17th January 2006, laid before Parliament 20th January 2006, coming into force 1st March 2006. <http://www.opsi.gov.uk/SI/si2006/20060068.htm>

These Regulations, which apply in England, revoke and remake with amendments the TSE (England) Regulations 2002, which enforced Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ No L 147, 31.5.2001, p 1) as amended by and as read with the provisions in Schedule 1 ("the Community TSE Regulation").

The main Regulations

The Regulations provide that the Secretary of State is the competent authority for the purposes of the Community TSE Regulation (except in Schedule 6, where the competent authority is the Food Standards Agency) (regulation 3) and provide an exception for research (regulation 4).

The provisions in Part 2 introduce the Schedules.

Part 3 deals with administration and enforcement.

Regulations 10 to 14 deal with approvals, authorisations, licences and registrations, occupier's duties, suspension, amendment and revocations of approvals, etc., and an appeals procedure. Regulation 15 deals with valuations.

Regulations 16 to 18 give powers to the Secretary of State and the local authority to appoint inspectors, and deal with powers of entry and powers of inspectors. Regulation 19 provides for a notice procedure, and regulation 20 provides for licences permitting movement during a movement restriction.

Regulations 21 to 23 deal with obstruction of an inspector, penalties, and offences by a body corporate. A person guilty of an offence under these Regulations is liable—
(c) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term of three months or both, or
(d) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

Schedule 1

Schedule 1 lists provisions that amend Regulation (EC) No 999/2001 and with which it must be read.

Schedule 2

Schedule 2 deals with monitoring for TSEs. Paragraph 1 provides for notification to the Secretary of State of fallen stock that must be tested for TSE under the Community TSE Regulation. Paragraph 2 makes it an offence to consign an over-age animal to a slaughterhouse for human consumption, and to slaughter such an

animal for human consumption. Paragraph 3 provides for brain stem sampling of specified bovine animals.

Paragraph 4 creates a requirement for anyone slaughtering animals over 30 months old for human consumption to have a Required Method of Operation.

Paragraph 5 provides for retention of products and their disposal, and paragraph 6 deals with compensation.

Paragraphs 7 to 14 specify the minimum requirements that must appear in a Required Method of Operation.

Schedule 3

Schedule 3 deals with control and eradication of TSEs in bovine animals. Paragraph 1 provides for notification of a suspect animal to the Secretary of State. Paragraphs 2 and 3 provide for the restriction and slaughter of the suspect. Paragraphs 4 and 5 deal with the offspring and cohorts of the suspect. Paragraph 6 deals with compensation for an animal that dies under restriction, and paragraph 7 deals with placing on the market.

Paragraphs 8 to 10 deal with compensation.

Schedule 4

Schedule 4 deals with control and eradication of TSEs in sheep and goats. Paragraph 1 provides for notification of a suspect animal to the Secretary of State. Paragraphs 2 and 3 provide for the restriction and slaughter of the suspect. Paragraphs 4 and 5 deal with movement restrictions. Paragraphs 6 to 8 provide for action following confirmation. Paragraph 9 provides for time for appeals, and paragraph 10 provides for killing and destruction. Paragraphs 11 to 13 deal with infected animals from another holding, common grazing and multiple flocks on a holding. Paragraph 14 deals with subsequent occupiers of the land.

Paragraphs 15 to 21 set out the procedure to be followed after the killing or destruction. Paragraph 15 restricts the introduction of animals on to a holding. Paragraph 16 regulates the use of ovine germinal products, and paragraph 17 restricts the movement of animals from a holding.

Paragraph 18 specifies when the time relating to restrictions begins. Paragraph 19 provides for notification of animals that die while under restriction. Paragraph 20 deals with placing on the market of progeny, and paragraph 21 requires notification to the Secretary of State before the owner may consign sheep aged over 18 months for slaughter.

Paragraph 22 deals with derogations from the requirement for the killing and destruction of sheep and goats.

Paragraphs 23 to 25 deal with compensation.

Schedule 5

Schedule 5 deals with feedingstuffs. Paragraphs 1 to 3 prohibit feeding specified feedingstuffs to ruminant and non-ruminant animals, and provide for exceptions. Paragraphs 4 and 5 provide for movement restrictions and slaughter of animals suspected of having been fed prohibited feedingstuffs, and paragraph 6 provides for compensation. Paragraph 7 prohibits the slaughter for human consumption of restricted animals.

Paragraphs 8 and 9 regulate the production and use of fishmeal for feeding to non-ruminant animals. Paragraphs 10 and 11 regulate feedingstuffs containing dicalcium phosphate or tricalcium phosphate. Paragraphs 12 and 13 regulate feedingstuffs containing blood products and blood meal.

Paragraph 14 makes provision for changes in use of equipment. Paragraphs 15 and 16 control the manufacture, storage and transport of processed animal protein and products containing it. Paragraph 17 controls exports, and paragraph 18 regulates fertilisers derived from animal protein. Paragraph 19 deals with records, and paragraph 20 deals with cross-contamination.

Schedule 6

Schedule 6 deals with specified risk material, mechanically recovered meat and slaughtering techniques. Paragraph 1 appoints the Food Standards Agency as the competent authority for this Schedule. Paragraph 2 makes provision for training of slaughterhouse staff.

Paragraph 3 deals with mechanically recovered meat, paragraph 4 with pithing and paragraph 5 with tongue harvesting.

Paragraph 6 controls the removal of specified risk material, and paragraphs 7 and 8 deal with bovine animals and sheep and goats at a slaughterhouse.

Paragraph 9 deals with young lamb and goat stamps.

Paragraph 10 deals with the removal of spinal cord from sheep and goats.

Paragraph 11 provides for the authorisation of cutting plants, and paragraph 12 controls the removal of specified risk material at a cutting plant.

Paragraph 13 deals with meat from other member States and paragraph 14 prohibits the export of specified risk material.

Paragraphs 15 and 16 require the staining of specified risk material, and paragraph 17 provides for the security of specified risk material.

Paragraph 18 prohibits the supply of specified risk material for human consumption.

A regulatory impact assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the BSE and Animal By-Products Division, Department for Environment, Food and Rural Affairs, Area 301, 1a Page Street, London SW1P 4PQ.

See also

- The Transmissible Spongiform Encephalopathies Regulations (Northern Ireland) 2006 No 202.
- The TSE (Scotland) Amendment (No. 3) Regulations 2006.

5.5 Import Control of Products of Animal Origin

The following regulations relate mainly to veterinary checks.

The Products of Animal Origin (Third Country Imports) (England) Regulations 2006, No. 2841, made 24th October 2006, laid before Parliament 30th October 2006, coming into force 24th November 2006.

<http://www.opsi.gov.uk/SI/si2006/20062841.htm>

These Regulations revoke and re-enact with changes the Products of Animal Origin (Third Country Imports) (England) (No. 4) Regulations 2004 (S.I. 2004/3388). The principal changes are to regulations 5, 17, 48 and 49 (see below), and to Schedules 1 and 3, which have been revised in order to implement Community instruments that have come into force since the Products of Animal Origin (Third Country Imports) (England) (No. 4) Regulations 2004 were made.

The Regulations implement for England Council Directive 97/78/EC (laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries) (OJ No. L24, 30.1.98, p. 9). Commission Decision 2002/349/EC (laying down the list of products to be examined at border inspection posts under Council Directive 97/78/EC) (OJ No. L121, 8.5.2002, p. 6) specifies the products of animal origin to which the Directive applies— meat, fish (including shellfish), milk, and products made from these, together with egg products and a large number of animal by-products, including casings, skins, bones and blood – from third countries.

The products to which the Regulations apply (defined in regulation 2) must comply with the requirements listed, by reference to the relevant Community legislation, in Schedule 1.

Regulation 4 provides for exemptions from Parts 3 to 9 of the Regulations. Regulation 4(7) provides that Part 3, with the exception of regulation 25, and Parts 4 to 9 do not apply to products intended for personal use that comply with the conditions laid down in that regulation. Regulation 5 defines the authorities that enforce the Regulations. Usually, these will be port health authorities, who appoint official veterinary surgeons and official fish inspectors to conduct veterinary checks at each border inspection post in their area (regulation 6). Regulation 5 has been revised to include the provision that the Commissioners for Her Majesty's Revenue and Customs enforce regulation 16 at points of entry other than border inspection posts. A further revision at regulation 5(4) amends enforcement provisions in relation to illegally imported products found inland so that local authority enforcement officers who are not authorised officers under the Regulations can take hold of any products of animal origin they suspect of having been illegally imported until an authorised officer can take charge of it. Regulation 5(10) creates a new offence relating to the unlawful disclosure of information received from Her Majesty's Revenue and Customs. Regulations 7, 8, 9 and 11 confer the necessary enforcement powers on the enforcement authorities. Regulation 13 has been revised to enable the approval of Border Inspection Posts to be suspended in part (previously only a full suspension of approval was permitted).

Part 3 establishes the inspection system that will apply to products in general. The bringing into England of products that do not comply with the Schedule 1 requirements is prohibited, unless they are being transported across England (regulation 15). Products must be brought in at border inspection posts, advance notice of their introduction must be given, and they must be made available for inspection, together with required documentation, at a border inspection post (regulations 16 to 19). Regulation 17 has been revised in order to bring requirements for pre-notification of imported consignments to Border Inspection Posts into line with Commission Regulation 136/2004 laying down procedures for veterinary checks at Community Border Inspection Posts on products imported from third countries. Regulations 21 to 28 deal with products that are rejected at inspection, are brought in illegally, or present a risk to animal health or public health.

Parts 4 to 8 lay down special provisions that apply to particular categories of product (on-board catering supplies, products intended for free circulation in the Community, products in transit across England, products intended for warehousing under particular Customs regimes, and products exported from the Community and then returned to it). Regulations 48 and 49 are new provisions, which implement procedures for the direct movement of consignments, intended as food for passengers or crew, that do not meet EU import requirements from Border Inspection Posts to ships operating internationally.

Part 9 deals with the calculation and payment of charges for the veterinary checks provided for in the Regulations; Part 10 confers on the Secretary of State and the Food Standards Agency power to prohibit the bringing of products into England from non-EEA countries in which there is an outbreak of animal disease; Part 11 establishes offences and penalties; Part 12 deals with the service of notices and with notification of decisions; and Part 13 provides that certain existing provisions do not apply to products to which these Regulations apply, and revokes the Products of Animal Origin (Third Country Imports) (England) (No. 4) Regulations 2004. Part I of Schedule 3 has been amended in relation to Salmonella testing to enable Border Inspection Posts to charge for such tests carried out in accordance with Community legislation.

The Products of Animal Origin (Third Country Imports) (England) (No. 4) (Amendment) Regulations 2006, No. 844, made 20th March 2006, laid before Parliament 22nd March 2006, coming into force 23rd March 2006. These Regulations replace Schedule 1 to the Products of Animal Origin (Third Country Imports) (England) (No. 4) Regulations 2004 (SI 2004/3388) ("the 2004 Regulations") in order to give effect to Community instruments that have come into force since the 2004 Regulations were made.

The 2004 Regulations implement for England Council Directive 97/78/EC laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries (OJ No. L24, 30.1.98, p. 9). Schedule 1 to the 2004 Regulations lists the Community instruments that lay down conditions for the importation of products of animal origin from third countries into the Community. Regulation 15 of the 2004 Regulations prohibits the introduction into England of products of animal origin that do not comply with these import conditions.

In particular, paragraph 3 of Part VIII of Schedule 1 gives effect to Commission Decision 2006/79/EC amending Decisions 2005/759/EC and 2005/760/EC as regards an extension of their period of application (OJ No. L36, 8.2.2006, p. 48). The effect of this is to extend until 31st May 2006 the restrictions on the importation of products derived from captive birds contained in Commission Decision 2005/760/EC concerning certain protection measures in relation to highly pathogenic avian influenza in certain third countries for the import of captive birds (OJ No. L285, 28.10.2005, p. 60). Paragraph 19 of Part VIII of Schedule 1 gives effect to the restrictions on the importation of untreated feathers from all third countries contained in Commission Decision 2006/7/EC concerning certain protection measures in relation to the import of feathers from certain third countries (OJ No. L5, 10.1.2006, p. 17), as amended by Commission Decision 2006/183/EC (OJ No. L65, 7.3.2006, p. 49).

These Regulations revoke the Products of Animal Origin (Third Country Imports) (England) (No. 4) (Amendment) Regulations 2005 (S.I. 2005/3386). The amendments made by those Regulations to Schedule 1 to the 2004 Regulations have been incorporated into the revised Schedule 1.

5.6 Ban on the import of captive birds from third countries

The Animals and Animal Products (Import and Export) (England) (Amendment) Regulations 2006, No. 2126, made 28th July 2006, laid before Parliament 31st July 2006, coming into force in accordance with regulation 1(2) These Regulations amend the Animals and Animal Products (Import and Export) (England) Regulations 2006 (S.I. 2006/1471) ("the principal Regulations"). Regulation 2(3) amends the principal Regulations to give effect to the extension of the European Union ban under Commission Decision 2005/760/EC (OJ No. L 285, 28.10.2005, p. 52, as amended by Commission Decision 2006/522/EC, OJ No. L 205, 27.7.2006, p. 28) on the import of captive birds from third countries until 1st January 2007. Regulation 2 of these Regulations also makes minor amendments to other provisions in the principal Regulations.

5.7 Live animal veterinary check and transport requirements, the Poultry Health Scheme and imports of captive birds

The Animals and Animal Products (Import and Export) (England) Regulations 2006, No. 1471, made 6th June 2006, laid before Parliament 8th June 2006, coming into force 29th June 2006. These Regulations revoke and re-make with changes the Animals and Animal Products (Import and Export) (England) Regulations 2005 (S.I. 2005/2002) ("the 2005 Regulations"). They implement Council Directive 90/425/EEC (concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market) (OJ No. L224, 18.8.90, p. 29) and Council Directive 91/496/EEC (laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries) (OJ No. L268, 24.9.91, p. 56).

With respect to intra-Community trade, the Regulations make it an offence to export, import or transport for intra-Community trade any animal or animal product to which Directive 90/425/EEC applies except in accordance with the provisions of regulations 5, 6 and 7 which give effect to the veterinary check and transport requirements for such trade under Directive 90/425/EEC. Part I of Schedule 3 lists individual instruments governing trade of specific types, identifying relevant provisions and specifying any additional requirements which must be complied with pursuant to regulations 5 and 6.

These Regulations provide a statutory basis for the Poultry Health Scheme, which is a means of approving and monitoring poultry establishments engaging in intra-Community trade of poultry and hatching eggs. The approval and monitoring of such establishments is a requirement of Council Directive 90/539/EEC. Regulation 5(5) prohibits exports unless the commodities originate from an establishment which is a member of the Poultry Health Scheme and conforms to the requirements of Directive 90/539/EEC. Schedule 4 sets out how the fees for membership and registration are calculated and provides for re-inspection fees. It also provides for powers for suspension or revocation of membership under specified circumstances.

The Regulations set out the procedures and requirements for the registration of dealers in animals and animal products (regulation 8), and the approval of centres and teams engaging in intra-Community trade in animals and animal products (regulation 9). Regulation 9, with Schedule 5, provides for approval of laboratories to carry out specified poultry health tests. Powers in regulation 10 provide for checks on intra-community trade at the place of destination as required under Directive 90/425. The Regulations also place duties on consignees of animals and animal products (regulation 11), and provide for the approval of assembly centres (regulation 12).

They specify the procedure to be followed in the case of illegal consignments (regulation 13).

Imports from third countries

These Regulations prohibit the importation of any animal from a third country unless the conditions of Council Directive 91/496/EEC are complied with and the relevant provisions of numerous EU instruments, and any additional requirements, identified in Part II of Schedule 7 are complied with (regulation 16). Regulation 16, with Part I of Schedule 7 prescribes the third countries from which animals may be imported. Regulation 17, with Schedule 2, specifies the places at which animals may be imported through Border Inspection Posts. The procedure for importation is provided for in regulation 18, and the payment of fees in that connection at regulation 20. Procedures to be followed where a consignment constitutes a danger to health or is otherwise illegal are set out in regulations 21 and 22. Regulation 23 requires that, at the place of destination, certain animals (elephants and other Artiodactyla) may not be released until authorised by an authorised officer of the Secretary of State. Post-import controls are provided for in regulation 24.

Part 4 makes provision for imports from third countries which undergo the requisite veterinary border checks on arrival at another member State.

General provisions

The Regulations also give powers to the Secretary of State to take action in the event of an outbreak of disease in another state (regulation 28) and make provision for the notification of decisions (regulation 29), inspectors' powers of entry (regulation 30) and the recovery of expenses (regulation 31). Obstruction of any person acting in the execution of the Regulations is made an offence (regulation 32), and it is an offence under regulation 34 to contravene the Regulations (excepting certain fees provisions). Penalties are provided for (regulation 34). Disapplication of other legislation relating to the import of animals continues to be provided for (regulation 35, with Schedule 9). Regulation 35 contains transitional provisions (with Part IV of Schedule 8). The revocation of the 2005 Regulations is provided for at regulation 36.

Principal changes made by these Regulations

New provisions are included to implement (for the first time in these Regulations), Commission Decision 2000/666/EC (OJ No. L 278, 31.10.2000, p. 26), in relation to imports of captive birds. Schedules 3 and 7 have also been revised and updated in order to bring the implementation of Community instruments up-to-date at the time of making.

Imports of captive birds from third countries

A new regulation 19 has been inserted to provide for the arrangements for quarantine of captive birds imported from third countries, as required under Commission Decision 2000/666/EC. Specific requirements are imposed on quarantine managers as to the running of quarantine centres and facilities under regulation 19(2) and Part II of Schedule 8, and there are general prohibitions applying to any persons in respect of entry to a quarantine centre or facility, and removal of birds and carcasses from quarantine without the authorisation of a veterinary inspector. Regulation 19 also gives inspectors supplementary powers of entry, and powers of inspection and sampling, and provides for the Veterinary Laboratories Agency (an executive agency of Defra) to act as the official laboratory and make charges for laboratory testing carried out in connection with Commission Decision 2000/666/EC as set out in Part III to Schedule 8.

Regulations 16, 18 and 21 (previously regulation 20) have been amended to reflect the implementation in these Regulations of Commission Decision 2000/666/EC, in particular, the provisions now in regulation 21(2) to (4) prescribing the measures which must be taken when avian influenza, Newcastle disease or Chlamydia psittaci is found in an imported captive bird at a quarantine centre or facility.

Transitional arrangements are provided for in regulation 35 and Part IV of Schedule 8 in respect of quarantine approvals currently held by avian quarantine centres or facilities and captive bird imports generally. Such imports are currently subject of a temporary ban pursuant to EU legislation. Regulation 16(4) provides that regulation 16(2) and (3), as read with relevant parts of Schedule 7, shall not apply to permit the import of captive birds from third countries until 1st August 2006, when the EU ban is due to be lifted. The disapplication provisions in regulation 35 have been revised to reflect disapplication of the Importation of Birds, Poultry and Hatching Eggs Order 1979 (SI 1979/1702) in relation to imports of captive birds from third countries.

Changes to lists of instruments and "additional requirements" in Schedules 3 and 7

The changes made to Part I of Schedule 3 are in paragraphs 1, 6, 7, 8(1), 9 and 10. The "additional requirement" (d) in paragraph 1, now specifically identifies special conditions on exports of cattle to Germany, Denmark, Italy, Austria, Finland and Sweden.

New paragraphs have been added to Part I of Schedule 7 in relation to the countries from which imports are permitted of bees, captive birds, and cats, dogs and ferrets going to approved bodies, institutes or centres. The list in that Part for cloven hoofed animals, elephants and zoo ungulates has also been described more completely and it and the list for finfish have both been updated.

In Part II of Schedule 7, paragraphs 1, 2, 3(4) (previously paragraph 6), 5 (previously paragraph 10), 8 (previously paragraph 11), and 10 (previously paragraph 13) have also been revised and updated. New paragraphs list instruments covering trade in bees, captive birds and cats, dogs and ferrets going to approved bodies, institutes or centres. The repeal of Council Directive 72/462/EEC has necessitated removal of paragraph 1 from Part II of Schedule 7 of the revoked 2005 Regulations. A new paragraph (now paragraph 2) further implements Council Directive 2004/68/EC, in relation to zoo ungulates (aspects of the Directive having been implemented in the 2005 Regulations).

5.8 EXCISE - Beer, Cider and Perry, Spirits, and Wine and Made-wine

The Beer, Cider and Perry, Spirits, and Wine and Made-wine (Amendment) Regulations 2006, No. 1058, made 5th April 2006, laid before Parliament 6th April 2006, coming into force 1st May 2006

<http://www.opsi.gov.uk/si/si2006/20061058.htm>

- These Regulations amend the Beer Regulations 1993 (S.I. 1993/1228), the Cider and Perry Regulations 1989 (S.I. 1989/1355), the Spirits Regulations 1991 (S.I. 1991/2564), the Spirits (Rectifying, Compounding and Drawback) Regulations 1988 (S.I. 1988/1760), and the Wine and Made-wine Regulations 1989 (S.I. 1989/1356). They seek to reduce unnecessary administrative burdens and are mainly concerned with record keeping but contain some provisions likely to be of interest to analysts:
- A prohibition on the addition of other substances to beer is removed and replaced with a restriction on the addition of water;

- Remove provisions in the Spirits Regulations 1991 on ascertainment of original gravity after fermentation has commenced (both methods) and Schedule 2 (table for determining original gravity).

A full Regulatory Impact Assessment of the effect these regulations will have on the costs of business, charities and voluntary bodies is available at www.hmrc.gov.uk.
<http://www.hmrc.gov.uk/budget2006/bn57.htm>

6. Feeding stuffs and Fertilisers

6.1 Undesirable Substances: camphechlor (toxaphene), lead, fluorine, cadmium and dioxins and dioxin-like PCBs

The Feed (Specified Undesirable Substances) (England) Regulations 2006, No. 3120, made 22nd November 2006, laid before Parliament 28th November 2006, coming into force 26th December 2006

<http://www.opsi.gov.uk/SI/si2006/20063120.htm>

These Regulations make further amendments to the Feeding Stuffs (England) Regulations 2005 (SI 2005/3281 as already amended by SI 2006/113 and SI 2006/2808 ("the Feeding Stuffs Regulations"), and also amend the Feed (Hygiene and Enforcement) (England) Regulations 2005 (SI 2005/3280) ("the Feed Hygiene Regulations"). They implement the following EC Directives:

- [Commission Directive 2005/86/EC](#) amending Annex I to Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed as regards camphechlor (toxaphene) (OJ No. L318, 6.12.2005, p.16);
- [Commission Directive 2005/87/EC](#) amending Annex I to Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed as regards lead, fluorine and cadmium (OJ No. L318, 6.12.2005, p.19); and
- [Commission Directive 2006/13/EC](#) amending Annexes I and II to Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed as regards dioxins and dioxin-like PCBs (OJ No. L32, 4.2.2006, p.44).

The Regulations also implement a provision contained in Council Directive 79/373/EEC on the circulation of compound feedingstuffs (OJ No. L86, 6.4.1979, p.30), as last amended by Council Regulation (EC) No. 807/2003 (OJ No. L122, 16.5.2003, p.36). This provision relates to the limits of variation for the declaration of the moisture content of compound pet foods.

The Regulations amend the Feed Hygiene Regulations by inserting a new regulation 24A to give authorised officers of a feed authority powers of entry, sampling, inspection and associated activities in order to carry out the investigative functions required by Directive 2002/32/EC as amended by Commission Directive 2006/13/EC (regulation 3(2)); and by amending regulation 27(4) (which deals with disclosure of information related to sampling) so as to extend its application to sampling conducted under regulation 24A (regulation 3(3)).

See also The Feed (Specified Undesirable Substances) (Wales) Regulations 2006 WSI 3256; The Feed (Specified Undesirable Substances) Regulations (Northern Ireland) 2006 SI 471;

The Feeding Stuffs (England) (Amendment) Regulations 2006, No. 2808, made 19th October 2006, laid before Parliament 25th October 2006, coming into force 17th November 2006.

http://www.opsi.gov.uk/si/si2006/uksi_20062808_en.pdf

These Regulations amend the Feeding Stuffs (England) Regulations 2005 (SI 2005/3281) ("the 2005 Regulations") by inserting into them a provision requiring the percentage of each feed material contained in a compound feed to be declared, within a tolerance of $\pm 15\%$, on the label of the compound feed or on an accompanying document, (regulation 2(2)). This provision was formerly contained in

the Feeding Stuffs Regulations 2000 (SI 2000/2481) as amended by SI 2003/1503 ("the 2000 Regulations"). They also revoke a provision in the 2000 Regulations requiring the exact percentage of each feed material in a compound feed to be disclosed to customers on request (regulation 3(a)).

The provisions of the 2000 Regulations implemented, in relation to England, Article 1.4 (the $\pm 15\%$ tolerance) and Article 1.1(b) (exact %w/w to be given to customer on request) respectively of [Directive 2002/2/EC](#) amending Council Directive 79/373/EEC on the circulation of compound feedingstuffs (OJ No. L63, 6.3.2002, p.23). Following implementation, the provisions were suspended by order of the High Court pending the outcome of a referral to the European Court of Justice (ECJ). During the period of suspension, all of the 2000 Regulations other than the suspended provisions were revoked and replaced by the 2005 Regulations. In response to the referral the ECJ has ruled that Article 1.4 of Directive 2002/2/EC is legally valid, whereas Article 1.1(b) is not. See also [Proposal for a decision on the circulation of compound feedingstuffs](#)

See also

- The Feeding Stuffs (Wales) Regulations 2006 WSI 116;
- The Feeding Stuffs (Wales) (Amendment) Regulations 2006 WSI 2928;
- The Feeding Stuffs and the Feeding Stuffs (Sampling and Analysis) (Amendment) (Wales) Regulations 2006 WSI 617;
- The Feeding Stuffs (Amendment) Regulations (Northern Ireland) 2006 SI 427;
- The Feeding Stuffs and the Feeding Stuffs (Sampling and Analysis) (Amendment) Regulations (Northern Ireland) 2006 SI 18;
- The Feeding Stuffs (Scotland) and the Feed (Hygiene and Enforcement) (Scotland) Amendment Regulations 2006 SI 578;
- The Feeding Stuffs (Scotland) Amendment Regulations 2006 SI 516;
- The Feeding Stuffs (Scotland) Amendment and the Feeding Stuffs (Sampling and Analysis) Amendment (Scotland) Regulations 2006 SI 16.

6.2 Feed Additives

The evaluation and authorisation of a range of feed additives continues; typical of these is Commission Regulation (EC) No 773/2006 of 22 May 2006 permitted the micro-organism preparation *Kluyveromyces marxianus-fragilis* B0399 MUCL 41579 for piglets for four years. The use of the enzyme preparation of endo-1,4-beta-xylanase and endo-1,4-beta-glucanase produced by *Aspergillus niger* (CBS 600.94) had already been authorised without a time limit for chickens for fattening, turkeys for fattening and piglets, as enzyme E1609 in coated, liquid and solid forms by Commission Regulation (EC) No 1453/2004. In the new regulation the authorisation of the use of this enzyme preparation for ducks and also to include a granulate form was approved for four years.

See also:

- Commission Regulation (EC) No 1284/2006 of 29 August 2006 authorising and controlling the use of enzymes E1621, E1628 and E1638 in feed. [Text](#)
- Commission Regulation (EC) No 1443/2006 of 29 September 2006 authorising and controlling the use of enzyme E1639, E 773 Semduramycin sodium and E670a 25-hydroxycholecalciferol in feed [Text](#)
- Commission Regulation (EC) No 1444/2006 of 29 September 2006 concerning the authorisation of *Bacillus subtilis* C-3102 (Calsporin) as a feed additive [Text](#)

- Commission Regulation (EC) No 1445/2006 of 29 September 2006 amending Regulation (EC) No 1200/2005 as regards the authorisation of the feed additive *Bacillus cereus* var. *toyoi* , [Text](#)
- Commission Regulation (EC) No 1446/2006 of 29 September 2006 concerning the authorisation of *Enterococcus faecium* (Biomim IMB52) as a feed additive [Text](#)
- Commission Regulation (EC) No 1447/2006 of 29 September 2006 concerning the authorisation of a new use of *Saccharomyces cerevisiae* (Biosaf SC 47) as a feed additive [Text](#)
- Commission Regulation (EC) No 1451/2006 of 29 September 2006 amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin, as regards fluazuron, sodium nitrite and peforelin [Text](#)
- Commission Regulation (EC) No 545/2006 of 31 March 2006 amending Regulation (EC) No 1464/2004 as regards the conditions for authorisation of the feed additive "Monteban",
- Commission Regulation (EC) No 109/2007 of 5 February 2007 concerning the authorisation of monensin sodium (Coxidin) as a feed additive [Text](#)
- Commission Regulation (EC) No 108/2007 of 5 February 2007 amending Regulation (EC) No 1356/2004 as regards the conditions for authorisation of the feed additive Elancoban, coccidiostat [Text](#)
- Commission Decision of 18 December 2006 allowing Member States to extend provisional authorisations granted for the new active substance tritosulfuron [Text](#)
- Commission Directive 2007/5/EC of 7 February 2007 amending Council Directive 91/414/EEC to include captan, folpet, formetanate and methiocarb as active substances [Text](#)
- Corrigendum to Commission Regulation (EC) No 1876/2006 of 18 December 2006 concerning the provisional and permanent authorisation of certain additives in feedingstuffs [Text](#)
- Commission Directive 2007/6/EC of 14 February 2007 amending Council Directive 91/414/EEC to include metrafenone, *Bacillus subtilis*, spinosad and thiamethoxam as active substances [Text](#)
- Commission Regulation (EC) No 188/2007 of 23 February 2007 concerning the authorisation of a new use of *Saccharomyces cerevisiae* (Biosaf SC 47) as a feed additive [Text](#)
- Commission Regulation (EC) No 184/2007 of 20 February 2007 concerning the authorisation of potassium diformate (Formi LHS) as a feed additive [Text](#)
- Commission Regulation (EC) No 186/2007 of 21 February 2007 concerning the authorisation of a new use of *Saccharomyces cerevisiae* (Biosaf SC 47) as a feed additive [Text](#)
- Commission Regulation (EC) No 226/2007 of 1 March 2007 concerning the authorisation of *Saccharomyces cerevisiae* CNCM I-1077 (Levucell SC20 and Levucell SC10 ME) as a feed additive [Text](#)
- Commission Regulation (EC) No 242/2007 of 6 March 2007 concerning the authorisation of endo-1,4-beta xylanase EC 3.2.1.8 (Belfeed B1100MP and Belfeed B1100ML) as a feed additive [Text](#)
- Commission Regulation (EC) No 243/2007 of 6 March 2007 concerning the authorisation of 3-phytase (Natuphos) as a feed additive [Text](#)
- Commission Regulation (EC) No 244/2007 of 7 March 2007 concerning the authorisation of L-histidine monohydrochloride monohydrate as a feed additive [Text](#)

6.3 Fertilisers - authorisation of laboratories and methods of sampling and analysis

The EC Fertilisers (England and Wales) Regulations 2006, No. 2486, made 6th September 2006, laid before Parliament 14th September 2006, coming into force 11th October 2006.

<http://www.opsi.gov.uk/SI/si2006/20062486.htm>

Of interest to analysts because they provide for the authorisation of laboratories and refer to Regulation No. 2003/2003 (EC) listing detailed methods of sampling and analysis, these Regulations which are made under section 2(2) of the European Communities Act 1972, implement in England and Wales [Regulation \(EC\) No 2003/2003](#) of the European Parliament and the Council relating to fertilisers ("the Community Regulation"). The Regulations create offences for breaches by manufacturers of the requirements of the Community Regulation regarding designation, compositional tolerances, identification, marking, labelling and packaging of fertilisers designated as EC fertilisers (regulations 3 to 8)). The term "manufacturer" is defined in Article 2 of the Community Regulation. Manufacturers are required to keep records described in Article 8 (regulation 9). Regulation 10 provides the Secretary of State (in England) or the National Assembly for Wales (in Wales) with the power to serve compliance notices. Further special provisions relating to these are set out in regulation 14. Local authorities are responsible for enforcing the Regulations and appointing inspectors for that purpose (regulation 11) and powers of entry, inspection and offences of obstruction of inspectors are contained in regulations 12, 13 and 15 respectively. Regulation 16 makes provision for the authorisation of laboratories competent to analyse samples and regulation 17 makes provision for the taking and analysis of samples for the purpose of the Regulations. Inspectors have powers to require remedial action to be taken regarding fertiliser designated as EC fertiliser in respect of which they think an offence under the Regulations is being committed, or to seize the fertiliser (regulation 18). Regulation 19 provides the Secretary of State (in England) and the National Assembly for Wales (in Wales) with a power to give directions for the mitigation or elimination of risk in circumstances where either of them has justifiable grounds for believing that an EC designated fertiliser, although complying with the requirements of the Community Regulation, constitutes a risk to safety or health of humans, animals or plants or a risk to the environment.

Regulations 21 and 22 disapply the provisions of:

- Part IV of the Agriculture Act 1970 (1970 c.40);
- the Fertilisers Regulations 1991 (S.I. 1991/2197 as amended); and
- the Fertilisers (Sampling and Analysis) Regulations 1996 (S.I. 1996/1342).

No regulatory impact assessment has been prepared in respect of these Regulations as they have no impact on the cost of business. A transposition note has been prepared copies of which can be obtained from Defra – Nutrient Management Unit, Area 5C, 9 Millbank, C/O 17 Smith Square, London SW1P 3JR. Email: Gary.beckwith@defra.gsi.gov.uk. A copy has been placed in the library of each House of Parliament.

See also

- The EC Fertilisers (Scotland) Regulations 2006 SI 543
- The EC Fertilisers Regulations (Northern Ireland) 2006 No 503
- 2006/390/EC: Commission Decision of 24 May 2006 on the national provisions notified by the Czech Republic under Article 95(4) of the EC Treaty concerning the maximum admissible content of cadmium in fertilisers.

7. Appendix I

7.1 Regulation

is an EU decision that directly binds all Member States and citizens in the whole of the EU. They are directly applicable, which means that the legal acts do not have to be transposed into national law but confer rights or impose duties on the Community citizen in the same way as national law.

[Back to Top](#) 

7.2 Directive

is a type of EU decision that binds the member states to achieve certain targets. Normally they are transferred within a certain deadline (for instance 18 months) into national laws by the national parliaments. A directive is binding on the Member States as regards the objective to be achieved but leaves it to the national authorities to decide on how the agreed Community objective is to be incorporated into their domestic legal systems. The reasoning behind this form of legislation is that it allows Member States to take account of special domestic circumstances when implementing Community rules. In principle they are free to determine the form and methods used to transpose their Community obligations into domestic law.

[Back to Top](#) 

7.3 Decision

is distinguished from the regulation by being of individual application and from directive by being binding in its entirety. It is directly applicable only on the persons, companies or Member States mentioned in it. The Community institutions can require to perform or refrain from action, or can confer rights or impose obligations.

[Back to Top](#) 

7.4 Recommendation, opinion

Recommendation is a non-binding decision, which only urges Member States to comply or expresses a view to Member States. A Member State cannot be sanctioned for non-complying with recommendations.

In contrast to recommendations, the **opinion** or "avis" in French, usually refers to an actual EU initiative being considered or planned. It can, for example, be a statement from the EU Parliament in the **consultation procedure**, an internal working document in a committee, a statement from the Committee of the Regions or the Economic and Social Committee. It can also be, for example, an EU Commission statement or a statement of the Court of Justice or Court of Auditors or the European Central Bank.