

Health and Safety Executive Operational Circular

Field Operations Directorate

OC 520/18 ...

To

Agricultural and Factory Inspectors (Bands 0-4)

FCG Specialist Inspectors (Occ Hyg and Mech) (Bands 1-3)

EMAS Professional Staff (Bands unallocated) ...

FOOD SAFETY LEGISLATION

...
This OC describes the main food safety legislation and discusses areas of potential overlap with the requirements of health and safety legislation.

BACKGROUND ...

1 Some food safety legislation deals with the same issues as health and safety legislation. This OC, agreed with the Department of Health (DH), and Ministry of Agriculture, Fisheries and Food (MAFF), explains how such potential overlaps can be resolved. It also describes the main food safety legislation which FOD staff may encounter and which they will need to take into account when discussing health and safety requirements. The relevant food enforcement authority is usually the local authority, but the Meat Hygiene Service have also been given powers to inspect certain meat and meat product premises. ...

THE MAIN FOOD SAFETY LEGISLATION ...

Food Safety Act 1990 ...

2 This creates the "umbrella" offence of selling or supplying food which does not meet food safety requirements and allocates enforcement powers. The enforcement authorities are aided in their work by a number of codes of practice (CoPs) issued under the Food Safety Act s.40 which provide guidance on recommended enforcement practice. ...

The Food Safety (general Food Hygiene)

Regulations 1995

3 These Regulations are made under The Food Safety Act and set out basic hygiene rules. They place a duty on the proprietor of a food business to:___

- (1) make sure food is supplied or sold in a hygienic way;___
- (2) identify hazards to the safety of food;___
- (3) know which steps in their operation are critical for food safety; and___
- (4) ensure food safety controls are in place, maintained and reviewed. ___

4 They set basic requirements for food premises (including fixed, moveable and temporary), equipment, supply of raw materials, quality of water in food, personal hygiene for food handlers, practices to prevent food contamination and training and supervision requirements for food handlers. ___

5 They apply to most catering and retail outlets and to those food processing businesses which are not covered by more specific "vertical" regulations (see below). Fruit and vegetable processing would therefore be their main factory application. ___

6 They will be supported by industry-specific CoPs. To date, one CoP for catering has been produced. Codes of practice for dispensing and vending, retail, baking, markets and wholesale and distribution will follow. ___

The Food Safety (temperature Control) Regulations 1995

7 Like the General Food Hygiene Regulations, the Temperature Control Regulations do not apply to "primary productions" (ie, harvesting, slaughter and milking) nor where other more product-specific regulations apply (although they do apply to fish processing). For the remainder of food businesses, ie chiefly retail, catering, fruit and vegetables, the Temperature Control Regulations require foods which are likely to support the growth of pathogenic micro-organisms or the formation of toxins to be held at or below 8 C (product) temperature or at or above 63C. ___

Product-specific legislation

8 Details of product-specific legislation affecting the hygiene of food processing for fishery products, ice cream, meat, poultry and milk products and egg products are given at Appendix 1. ___

The Supply of Machinery (safety)

Regulations 1992 (SMR) (as amended)

9 These Regulations, provide for suppliers of newagri-foodstuffs machinery to meet certain essential requirements concerned with the hygienic design and construction of that machinery. The European Committee on Standardisation (CEN) are producing supporting harmonised European standards. HSE enforces provisions in respect of machines used at work.

10 The regulations mentioned at paras 2-9 have the most overlap with the health and safety issues discussed at paras 17-28. However, the regulations at paras 11-15 may be referred to by occupiers and FOD staff will need to know there is legislation in the following general areas.

The Food Labelling Regulations 1984

11 These Regulations relate to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer and includes provisions on declaration of additives.

Food Standards (general Provisions) Order 1944

12 These Regulations prohibit the sale of any food for which a standard of composition is prescribed under a description which would mislead the purchaser (chiefly fish cakes and crucic acid).

Regulations on the composition and labelling of particular foods

13 Regulations as listed at Appendix 2 govern the composition and labelling of certain specified foodstuffs.

The chemical safety of food

14 Regulations, as listed at Appendix 3, cover additives, aflatoxins, antioxidants and chemicals in foodstuffs including those originating from materials in contact with the food.

Other legislation

15 Other food safety legislation covers: imported foods; food irradiation; genetically modified organisms; marketing standards, descriptions and designations, and weights and measures.

POTENTIAL OVERLAP WITH HEALTH AND SAFETY

Risk assessment

16 The General Hygiene Regulations require food businesses to assess their food safety risks using the principles of hazard analysis and critical control points (HACCP). Some of the product-specific hygiene regulations also contain requirements for formal risk assessments. Food businesses will hence carry out this form of risk assessment on the same processes, ingredients, products, equipment and workplaces as for the assessment of health and safety risks. In some instances the necessary controls for food safety hazards might have to be considered in the context of health and safety risks. The main areas of overlap and potential conflict are given below.

Floors

17 Floors are generally required by food hygiene regulations to be "maintained in a sound condition, be easy to clean and, where necessary, disinfect". The Department of Health has agreed that the risk to food safety from floors is generally lower than the risk to employees safety from slipping except in certain high risk food operations. Consequently HSE guidance places the emphasis on having floors which have a sufficiently high surface roughness to address the main slips risks. Research has shown such rough floors can be cleaned to the same levels for hygiene as smoother floors. However, this may require special cleaning equipment and a high commitment given to the cleaning of floors. High surface roughness may be acceptable as long as the floor is impermeable.

Windows

18 Food hygiene regulations generally require windows that can open to the outside environment to be fitted where necessary with insect-proof screens which can be easily removed for cleaning; and where open windows would result in contamination of foodstuffs, windows must remain closed and fixed during production. A risk assessment should indicate whether food might become contaminated necessitating these steps. There may then be a conflict with health and safety requirements for sufficient ventilation. Where sufficient natural ventilation might be impeded then adequate mechanical ventilation (with filters) may need to be provided for hygiene, health and safety and combustion ventilation purposes.

Storage of hazardous substances

19 Food hygiene regulations generally require hazardous substances to be adequately labelled and stored in separate and secure containers and often in separate rooms away from food production areas. Substances which may be hazardous to food safety will not necessarily be the same as those defined as "hazardous substances" for health and safety purposes. Nevertheless, the labelling and storage requirements of defined "hazardous substances" under health and safety legislation should assist rather than conflict, this hygiene requirement.

Machinery and equipment

20 The General Food Hygiene Regulations place duties on food businesses to see that all articles, fittings and equipment with which food comes into contact shall be kept clean and be constructed, maintained and installed so as to achieve good hygiene. It is advised that this duty can be met for new machines by users taking all reasonable steps to ensure their suppliers have met their parallel duties under SMR in respect of hygienic design. ___

Temperature ___

21 The EC has amended the Meat Products Directive to allow food enforcement authorities to derogate from the previous requirement that meat products workrooms be kept at or below 12°C where technology allows and there is no risk to food hygiene. This does not mean that every workroom is exempt from this temperature requirement. ___

22 This has removed specific anomalies between hygiene and safety legislation. Food businesses will still need to give careful thought as to how to meet their dual food safety and employee temperature obligations in practice. The principles of how to approach this dual consideration are set out in HSE Information Sheet, Food Sheet No 3: *Workroom temperatures in places where food is handled* (file 520). (Note, that whilst the approach remains valid, some of the detail of the food safety legislation set out in the appendices of that publication need to be updated in accordance with this OC). ___

23 HSE Information Sheet, Food Sheet No 3 suggests, for those products where temperature control is needed, that a combination of locally chilled equipment and/or minimising time exposed to higher workroom temperatures should be considered first. Where that is not practicable then local heating of workstations in an otherwise chilled workroom should next be considered before systems of work and personal protective equipment (PPE) measures to achieve thermal comfort are relied upon. ___

24 Further research is indicating some ill health effects at low temperatures and BSI is offering to CEN a standard on thermal stress from indoor chilled environments which gives guidance on acceptable factors - most especially wind chill effects from air movements and draughts and thermal efficiency of PPE. The Food NIG is also co-sponsoring with industry further research into ways of controlling product temperature without chilling workroom air and hopes to produce further guidance in 1997. ___

25 Surveys of chill working have shown however that most factories can work at or close to (ie 12°C) the 13°C "reasonable" temperature and still adequately control product temperature. The NIG suggests most emphasis is given to those factories where workers are exposed to significantly lower temperatures. ___

26 The product-specific hygiene regulations are slightly stricter than the more recent Food Safety (Temperature Control) Regulations 1995 (mainly applicable to retail, catering the manufacture of products of animal origin and fruit and vegetables) which contain a number of potential relaxations to product temperature control which can be used during processing. In some product specific hygiene regulations (eg minced meat regulations) there is little; if any scope for temperature fluctuations of the product. ___

27 The General Temperature Regulations permit temporary periods outside the 8°C product

temperature requirement where there is no risk to food safety, or for a limited time outside chill control if that would not have adverse effect where "the practicalities of handling during or after processing and preparation" meant that was unavoidable. Therefore, in certain instances control of a product's temperature may be provided by time, eg processing the product at temperatures above 8°C for limited periods between chill holding. Also maximum chill temperatures for products can be varied by a manufacturer following a risk assessment, where a scientific assessment of the product demonstrates that this is acceptable. __

Health surveillance__

28 The Department of Health has prepared guidance (*Food handlers: fitness to work*) on pre-employment screening, and action to take when certain ill health is reported. It focuses on food safety and therefore does not include any reference to respiratory fitness or dermatitis with regard to occupational ill health. These issues will still need to be considered, where relevant, under health and safety legislation. __

FURTHER ADVICE __

29 A full list of food safety legislation entitled *Food Law*, produced by MAFF Food Safety and Science Group, can be obtained from the Stationery Office. __

30 Enquiries about the relationship between food safety and occupational health and safety legislation should be addressed to the Food NIG who will discuss issues with SPDB and appropriate contacts in MAFF and DH. __

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ASI headings__

Catering: Department of Health: food manufacture: health and safety hygiene: meat: Ministry of Agriculture, Fisheries and Food (MAFF): risk assessment: Supply of Machinery (Safety) Regulations 1992 (as amended): temperature.

APPENDIX 1

(para 8) __

PRODUCT-SPECIFIC HYGIENE LEGISLATION__

FISHERY PRODUCTS __

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The Food Safety (Fishery Products) (Deregulations) Regulations 1992__

The Food Safety (Live Bivalve Molluscs) (Deregulations) Regulations 1992__

The Food Safety (Fishery Products) Regulations 1992__

The Food Safety (Live Bivalve Molluscs and other Shellfish) Regulations 1992__

The Food Safety (Fishery Products on Fishing Vessels) Regulations 1992__

The Food Safety (Live Bivalve Molluscs and other Shellfish) (Import Conditions and Miscellaneous Amendments) Regulations 1994__

The Food Safety (Fishery Products) (Import Conditions and Miscellaneous Amendments) Regulations 1994 __

ICE CREAM __

The Ice Cream (Heat Treatment etc) Regulations 1959__

MEAT AND POULTRY __

The Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995 __

The Fresh Meat (Hygiene and Inspection) Regulations 1995__

The Wild Game Meat (Hygiene and Inspection) Regulations 1995__

The Meat Products (Hygiene) Regulations 1994__

The Minced Meat and Meat Preparations (Hygiene) Regulations 1995__

MILK AND MILK PRODUCTS __

The Dairy Products (Hygiene) Regulations 1995 (as amended)__

The Drinking Milk Regulations 1976__

The Milk and Dairies (General) Regulations 1959 (only regs.18-20 remain in force)__

EGGS __

The Egg Products Regulations 1993 __

The Eggs (Marketing Standards) Regulations 1995.

APPENDIX 2

(para 13) __

REGULATIONS ON THE COMPOSITION AND LABELLING OF PARTICULAR FOODS__

The Bread and Flour Regulations 1984 __

The Butter Regulations 1966 __

The Cheese Regulations 1970 __

The Cocoa and Chocolate Products Regulations 1976__

The Coffee and Coffee Products Regulations 1978__

The Condensed Milk and Dried Milk Regulations 1977__

The Cream Regulations 1970 __

The Drinking Water in Containers Regulations 1994__

The Fruit Juices and Fruit Nectars Regulations 1977__

The Honey Regulations 1976 __

The Ice Cream Regulations 1967 __

The Jam and Similar Products Regulations 1981__

The Margarine Regulations 1967__

The Meat Products and Spreadable Fish Products Regulations 1984__

The Milk and Milk Products (Protection of Designations) Regulations 1996__

The Natural Mineral Water Regulations 1985__

The Quick Frozen Foodstuffs Regulations 1996__

The Skimmed Milk with Non Milk Fat Regulations 1960__

The Soft Drinks Regulations 1964__

The Specified Sugar Products Regulations 1976.

APPENDIX 3

(para 14) __

REGULATIONS DEALING WITH CHEMICAL SAFETY OF FOOD__

The Food Additives Labelling Regulations 1992__

Aflatoxins in Nuts, Nut Products, Dried Figs and Dried Fig Products Regulations 1992__

The Antioxidants in Food Regulations 1978__

The Arsenic in Food Regulations 1959__

The Chloroform in Food Regulations 1980__

The Colouring Matter in Food Regulations 1973__

The Emulsifiers and Stabilisers in Food Regulations 1989__

The Extraction Solvents in Food Regulations 1993__

The Flavourings in Food Regulations 1992__

The Materials and Articles in Contact with Food Regulations 1987__

The Lead in Food Regulations 1979__

The Meat (Treatment) Regulations 1964__

The Mineral Hydrocarbons in Food Regulations 1966__

The Miscellaneous Additives in Food Regulations 1980__

The Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) Regulations 1994
__

The Potassium Bromate (Prohibition as a Flour Improver) Regulations 1990__

The Preservatives in Food Regulations 1989__

The Solvents in Food Regulations 1967__

The Sweetness in Food Regulations 1953__

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The Tetrachloroethylene in Olive Oil Regulations 1989__

The Tin in Food Regulations 1992__

The Tryptophan in Food Regulations 1990.