

Department for Environment, Food and Rural Affairs

**Food Information Regulations 2013
Enforcement and offences; Additional
consultation questions**

December 2012

Introduction

The consultation on the Food Information Regulations 2013 was launched on the 7th November 2012. In the Impact Assessment included in the consultation pack, we asked for stakeholders' views on the appropriateness or otherwise of the proposed approach to enforcement, that being based for the most part on improvement notices, or where an immediate risk to public health is involved, criminal sanctions.

Defra is seeking consultees' views on some additional questions, looking in a little more detail at how the improvement notice approach will work, and specifically at the appeals process to be put in place as part of this approach.

Questions

Appeals against improvement notices will be heard by the General Regulatory Chamber of the First - tier Tribunal.

Question 1

Do you consider the General Regulatory Chamber of the First - tier Tribunal to be appropriate for these appeals? Please give reasons for your response.

The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 can be found here; <http://www.justice.gov.uk/downloads/tribunals/general/consolidated-TPFTT-GRC-Rules2009-6-04-12.pdf>

(Asked on behalf of the Tribunal Procedure Committee)

Question 2

(Asked on behalf of the Tribunal Procedure Committee)

Do you consider that the rules of the General Regulatory Chamber of the First-tier Tribunal will suit the handling of these appeals against Improvement Notices for the Food Information Regulations 2013? If not, why not? Please give the specific rule changes that you propose and your reasons for doing so.

Background

Appeals to the First-tier Tribunal

Appeals will be made to the General Regulatory Chamber (GRC) of the First-tier Tribunal (FtT). The tribunal is empowered to deal with a wide range of issues which might form the substance of appeals, and to ensure cases are dealt with in the interest of justice and minimising parties' costs. The composition of a tribunal is a matter for the Senior President of Tribunals to decide, and may include non legal members with suitable expertise or experience in the issues in an appeal in addition to Tribunal Judiciary.

The General Regulatory Chamber operates under the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 which provide flexibility for dealing with individual cases. Rule 2 of the General Regulatory Chamber Rules states its overriding objective as being to deal with a case fairly and justly. This includes dealing with a case in ways which are proportionate to the importance of the case, the complexity of the issues and the anticipated costs and resources of the parties. The rules give the tribunals judges wide case management powers in order to achieve these objectives.

The Tribunal may also hear an appeal either orally in a court room or determined on the papers only. This latter written procedure is used if both parties agree that the Tribunal may determine the appeal on the papers without holding a full hearing and the Tribunal is satisfied that it can determine the issues without one.

Under the Rules the Tribunal has the power to award costs against a party where it considers that a party has acted unreasonably in bringing, defending or conducting the proceedings.

The Lord Chancellor has the capacity to charge fees for appeals to the First-tier Tribunal, for example an application fee. Where he is proposing to introduce fees he is required to consult the Senior President of Tribunals. Following this, any such proposal would be subject to secondary legislation that would need to be debated and agreed by both Houses of Parliament before it would take effect.

Onward appeal from the tribunal

Any party to a case has a right to appeal to the Upper Tribunal on points of law arising from a decision of the First-tier Tribunal. The right may only be exercised with the permission of the First-tier Tribunal or the Upper Tribunal. Where permission is given, the further appeal would be made to the Upper Tribunal.

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