Food and feed law:

A review of changes in food and feed legislation and associated activity affecting the UK

April – June 2016

Government Chemist Programme Report

Department for Business, Energy & Industrial Strategy

FUNDED BY BEIS

Food and feed law:
A review of changes in food and feed legislation and associated activity affecting the UK

April – June 2016

Author: Michael Walker

Contact point: Michael Walker
michael.walker@lgcgroup.com
07738 179 985

Report no. LGC/R/2016/526

Approved by:

Dr Julian Braybrook

_____

Date: 1 September 2016

Preparation of this report was funded by the Department for Business, Energy & Industrial Strategy.

Introduction to 'Food and feed law' review series

This is the seventh in a series of quarterly reports that will provide regular updates on developments in food and feed law and related scientific and regulatory issues.

They form part of the Government Chemist project 'Support for the Government Chemist statutory function', which is one of the projects in the 2014-2017 programme. The primary purpose of the report is to track changes in food and agricultural legislation, concentrating on legislative changes that relate to chemical measurement and the role of the Government Chemist. It also includes general issues in food and feed to ensure contextual awareness.

The reports in this series will group the legislation into six broad categories; although the categories may not always be populated in every report.
The categories are:

1. **Cross-cutting issues**
2. **Food safety**
    - Including contaminants, food contact materials, and additives.
3. **Consumer choice and prevention of fraud**
    - Including composition and general labelling.
4. **Health and nutrition**
    - Including nutrition labelling, nutrients and supplements.
5. **Regulation**
    - Regulatory activities and overarching provisions.
6. **Feeding stuffs and fertilisers**
    - Animal feed and fertilisers.

European measures are normally listed first, along with the implementing domestic legislation, followed by purely domestic legislation. English regulations are cited in the text; however for significant measures, where equivalent regulations have been made at the same time for Scotland, Wales and Northern Ireland, devolved references are given. Potentially temporary and local measures, such as prohibition legislation for shellfish harvesting areas, have not been recorded.

Please note – although key information in certain areas is carried forward from previous reports legislation in force and made prior to April 2016 will not necessarily be reiterated herein. No responsibility can be taken for the use made of any view, information or advice given. In particular, 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.

Hyperlinks in the document were accessed and available at the date of this report.

For any specific legislation this document should be read with the actual measure. Readers must always come to their own view on legislation in force, with expert public analyst and/or legal assistance if appropriate.

The sources of information used have been Office of Public Sector Information (OPSI), Food Standards Agency (FSA) updates, European Food Safety Authority (EFSA) and the European legislative information database, EUR-Lex. Extensive use has been made of the explanatory notes that accompany each set of domestic regulations.

Executive summary

This report provides an update on developments in food and feed law and related scientific and regulatory issues for the period from April to June 2016.

The outcome of the referendum on whether the UK should remain in the EU dominated the quarter and although in the longer term there will be significant legislative changes, in the short to medium term food and feed law will remain unaffected. The major legislative change in the quarter was the new 'Psychoactive Substances Act 2016' that received Royal Assent in January 2016 and came into force across the UK on 26 May 2016. The act makes it an offence to produce, supply, possess with intent to supply, import or export psychoactive substances; that is, any substance intended for human consumption that is capable of producing a psychoactive effect. The maximum sentence will be seven years' imprisonment. It excludes legitimate substances, such as food, but there has been considerable interest in this area and the new Act is a welcome addition to consumer protection.

Emerging priorities were reported by the European Food Safety Authority (EFSA) in the quarter with 28 themes emerging, the top five being "development of standard risk-benefit assessment methods", "common data collection/surveillance scheme across Europe", "aggregated exposure ("cocktail effects", but including environmental as well as food exposures)", "antimicrobial/antibiotic resistance", zoonoses in general, and "environmental contaminants (e.g. from agricultural, industrial or household sources) in food". All of these have analytical implications.

In late March the Food Standards Agency (FSA) published the first assessment of food crime in the UK, carried out by the National Food Crime Unit (NFCU) on behalf of the FSA and Food Standards Scotland (FSS). This examined the scale and nature of the food crime threat to the UK's £200 billion food and drink industry. The areas highlighted as top priorities included the red meat sector with misdescription, livestock theft and waste diversion into the human food chain identified as issues. Spirits counterfeiting, allergens and non-food supplements (including 2,4-dinitrophenol, DNP) were also topics of concern. Allergens featured in both the FSA annual report of incidents for 2015 and also the quarterly incidents reports that the FSA started to issue this year. The conviction and gaoling of Mohammed Zaman at Teesside Crown Court for manslaughter was reported in the quarter. This followed the death of a peanut allergic customer who had asked for a nut-free meal but had a reaction to the curry because it contained peanut flour. Mr Zaman switched almond powder for a cheaper mix containing peanuts. Herbs and spices adulteration also featured in the NFCU threat assessment and it was timely therefore that new guidance was launched on 7 June to provide food companies that use culinary dried herbs and spices with best practice to assess and protect the authenticity of these products.

Methods of sampling and analysis for the official control of contaminants in foodstuffs were amended in the quarter as regards the analysis of inorganic arsenic, lead and polycyclic aromatic hydrocarbons.

EFSA drew attention to the acute health risks from the presence of cyanogenic glycosides, mainly amygdalin, in raw apricot kernels which can produce cyanide. EFSA also published a major review of the widely used additives sulphur dioxide and the sulphites group, which are included as a legislated allergen group in the Food Information Regulation 1169/2011 owing to possible intolerance reactions and recorded probable fatalities in consumers sensitive to sulphites in food. EFSA noted that although the toxicological database was limited, the current group acceptable daily intake (ADI) of 0.7 mg SO_2 equivalent/kg bw per day would remain adequate but should be

considered temporary whilst the database was improved. The EFSA Panel further concluded that exposure estimates to sulphur dioxide–sulphites were higher than the group ADI for all population groups.

Contents

1 Cross-cutting issues

1.1 European referendum

The outcome of the referendum on whether the UK should remain in the EU dominated the quarter and although in the longer term there will be significant legislative changes, in the short to medium term food and feed law will remain unaffected.

1.2 Emerging risks

The Emerging Risks Exchange Network, EREN, has been referred to in previous reports[1] and regularly updates outline emerging risks in brief meeting reports[2]. In addition, one of the European Food Standards Agency's (EFSA) key aims is to develop, in collaboration with Member States, an assessment of "prioritised activities and initiatives which are likely to have the greatest impact in strengthening risk assessment and risk monitoring". To support this, EFSA commissioned a 'Delphi'[3] survey of risk assessment experts throughout Europe.[4] Analysis of the initial results yielded consensus with 28 topics taken forward for further discussion with the experts. The 28 topics were as follows and the top-rated **highlighted in bold**:

Generic:

- Methods and systems for identifying emerging (food) risks (e.g. new food-borne diseases)
- **Development of standard risk-benefit assessment methods**
- **Common data collection/surveillance scheme across Europe**
- Multiple contaminant impacts on the risk profile of foods
- Risks/benefits of botanicals/herbals in food supplements
- Allergenicity/food allergens in general (risk assessment and management)
- **Aggregated exposure (as per cocktail effects, but including environmental as well as food exposures).**

Chemical:

- Harmonisation of methods for risk assessment of chemical contaminants
- Cumulative exposure assessment (e.g. for pesticide residues/PAHs)
- Infant and baby food
- Emerging contaminants.

Microbiological:

- Systems for monitoring and characterising microbes isolated from food, environment and human illness cases
- Improve the use of genetic data (e.g. from whole genome sequencing) for risk assessment of microbiological contaminants
- **Antimicrobial/antibiotic resistance**
- Microbial food pathogens (in general)

---

1 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review-january-to-march-2016

2 https://www.efsa.europa.eu/en/topics/topic/emergingrisks

3 The Delphi technique is a structured process that uses a series of questionnaires or 'rounds' to gather information. Rounds are held until group consensus is reached, see for example Boulkedid, R., Abdoul, H., Loustau, M., Sibony, O. and Alberti, C. (2011) Using and reporting the Delphi method for selecting healthcare quality indicators: a systematic review, *PloS one*, 6(6): p.e20476; and Powell, C. (2003) The Delphi technique: myths and realities. *J Adv. Nurs.,* 41: 376–382

4 Rowe, G. and Bolger, F. (2016) Final report on 'the identification of food safety priorities using the Delphi technique' http://www.efsa.europa.eu/sites/default/files/scientific_output/files/main_documents/1007e.pdf

- Food-borne viruses (in general) (e.g. Hepatitis A and Norovirus in fruit and vegetables)
- Campylobacter (e.g. in poultry and ready to eat foods)
- **Zoonoses (in general, including bio-hazards, MRSA etc.).**

Environmental:

- Improving information on the occurrence and spread of harmful organisms at the level of individual EU countries
- Ribonucleic acid interference (RNAi) applied to food producing organisms as pesticide, veterinary medicine, or newly expressed trait in genetically modified crops
- Better understand biological organisms and plant substances used in crop protection (so reducing the need for chemicals e.g. pesticides)
- The impact of chemicals on the ecosystem (release of chemicals to the environment)
- **Presence/detection of environmental contaminants (e.g. from agricultural, industrial or household sources) in food**
- Cocktail effects (the health risk assessment of chemical mixtures, e.g. food additives).

Nutrition:

- Indirect effects on human health due to modified agricultural practices (e.g. via reduction of pesticide use, changed content of mycotoxins, etc.)
- Developing standard biomarkers of intake and/or exposure to contaminants
- Food supplements risk/benefits
- Determination of allergen thresholds (clinical studies), in conjunction with immunochemical measurements of allergens in foods
- Development of standard risk-benefit assessment methods (of foods).

1.2.1 National Food Crime Unit

In late March the Food Standards Agency (FSA) published[5] the first assessment of food crime in the UK. The Food Crime Annual Strategic Assessment (FCASA), carried out by the FSA's National Food Crime Unit (NFCU) on behalf of the FSA and Food Standards Scotland (FSS), examines the scale and nature of the food crime threat to the UK's £200 billion food and drink industry. The assessment will inform the NFCU's priorities over the next year. Readers are referred to the FCASA for a list of strategic food crime priorities. The FCASA will be carried out annually to ensure the FSA keeps UK consumers and businesses informed of the risks from food crime. There is some overlap with the above EFSA data, in relation to meat speciation issues.

1.2.2 Incidents

In late March the FSA also published for the first time a within year list of incidents. The FSA summarised alerts issued in the period October to December 2015 and also included information on foodborne outbreak investigations supported by the FSA. In the period the FSA issued 38 food notices, of which 26 were allergy alerts, with the top three undeclared allergens being cereals, milk and mustard.[6] The quarter covering January to March 2016 was published in May; allergens again dominated the list with microbiological and, to a lesser extent, physical contamination also evident.[7]

---

[5] https://www.food.gov.uk/news-updates/news/2016/15017/the-food-standards-agency-fsa-has-today-published-the-first-assessment-of-food-crime-in-the-uk

[6] https://www.food.gov.uk/news-updates/news/2016/15039/fsa-publishes-list-of-incidents-for-october-to-december-2015

[7] http://www.food.gov.uk/news-updates/news/2016/15159/fsa-publishes-list-of-incidents-for-january-to-march-2016

The FSA also published a review of an investigation in September 2014 where there were reports of the presence of soya in wheat flour.[8] The review recommendations included:

- Improving understanding across industry and regulators of the technical complexities of this type of low level contamination;
- Raising awareness across industry of risks relating to allergen contamination;
- Considering setting accepted levels of contamination for industry to adopt with a view to reducing risks to consumers;
- Encouraging industry to identify vulnerabilities in the supply chain, particularly around transport of foods including bulk consignments and development of guidance to reduce the risk of contamination;
- Development of advice on testing regimes (particularly for bulk consignments) and appropriate analytical methods, including sampling protocols for representative results of the consignment of wheat, flour, grist and other products in order to achieve a risk based, consistent approach.

In June 2016 the FSA published[9] its annual report of 2015 food incidents. It showed that in 2015, the FSA and FSS were notified of, investigated and managed 1,514 food, feed and environmental contamination incidents in the UK. The overall number of incidents was similar to those seen in recent years. However, in most categories, the numbers of incidents differ considerably from year to year. The four largest contributors in 2015 were:

- Pathogenic micro-organisms (18%)
- Allergens (14%). The number of allergen incidents has increased from 89 in 2013 to 206 in 2015. This may be related to new rules on providing allergen ingredients information from December 2014
- Chemical contamination (other) (12%) (fires were the cause of almost all)
- Residues of veterinary medicinal products (8%).

2 Food safety

2.1 Food hypersensitivity

Background to this topic is to be found in papers published or contributed to from the Government Chemist capability building research on food allergen measurement.[10,11,12,13] Significant recent developments in the area include the conviction of Mohammed Zaman at Teesside Crown Court for manslaughter following the death of a peanut allergic customer who had a reaction to a curry.[14]

Following the cumin and mahaleb cases new guidance launched on 7 June will provide food companies that use culinary dried herbs and spices with information on best practice in assessing and protecting the authenticity of these products. The guidance was developed by the British

---

8 https://www.food.gov.uk/sites/default/files/soya-in-wheat.pdf

9 http://www.food.gov.uk/news-updates/news/2016/15190/fsa-annual-report-of-incidents-2015-published

10 Johnson *et al.* (2014) A multi-laboratory evaluation of a clinically-validated incurred quality control material for analysis of allergens in food, *Food Chem.*, 148: 30-36

11 Gowland, M. H. and Walker, M. J. (2015) Food allergy, a summary of eight cases in the UK criminal and civil courts: effective last resort for vulnerable consumers?. *J. Sci. Food Agric*., 95: 1979–1990

12 Holcombe *et al.* (2015) A peanut quality control material to improve allergen analysis – How difficult can it be?, *Clin. Transl. Allergy*, 5(Suppl 3): P116

13 Walker *et al*. (2016) Flawed food allergen analysis–health and supply chain risks and a proposed framework to address urgent analytical needs, *Analyst*, 141: 24-35

14 http://www.bbc.co.uk/news/uk-england-36360111

Retail Consortium (BRC), Food and Drink Federation (FDF) and Seasoning and Spice Association (SSA) in liaison with the FSA and FSS.[15,16]

Changes to European legislation take effect in mid-2016 which affect gluten-free labelling. Regulation (EC) No 41/2009 provided a legal framework around the term gluten-free and is being repealed from 20 July 2016. From this date, rules relating to gluten will be provided by Regulation (EU) No 1169/2011 on the provision of food information to consumers (FIC), and Commission Implementing Regulation (EU) No 828/2014[17] but national provisions will allow enforcement at UK level.[18]

Regulation (EU) No 828/2014 stipulates that the statement *"gluten-free"* may only be made where the food as sold to the final consumer contains no more than 20 mg kg^{-1} of gluten. The statement *"very low gluten"* may only be made where the food, consisting of or containing one or more ingredients made from wheat, rye, barley, oats or their crossbred varieties which have been specially processed to reduce the gluten content, contains no more than 100 mg kg^{-1} of gluten in the food as sold to the final consumer. Additionally, oats contained in a food presented as gluten-free or very low gluten must have been specially produced, prepared and/or processed in a way to avoid contamination by wheat, rye, barley, or their crossbred varieties and the gluten content of such oats cannot exceed 20 mg kg^{-1}.

National provisions were made by the Food Information (Scotland) Amendment Regulations 2016,191,[19] coming into force on 20 July 2016. These affect SSI 2014/312 which is amended, and SSI 2010/355 which is revoked. These Regulations make provision to enforce in Scotland the requirements of Commission Implementing Regulation (EU) No 828/2014 on the requirements for the provision of information to consumers on the absence or reduced presence of gluten in food ("Regulation 828/2014"). Regulation 2 makes amendments to the Food Information (Scotland) Regulations 2014 to ensure that Articles 3(1) and 4 of Regulation 828/2014 can be enforced. In particular, they have the effect of making it an offence to fail to comply with those Articles and they ensure that powers of entry are available under section 32 of the Food Safety Act 1990 for the purposes of enforcing those Articles. Regulation 3 revokes the Foodstuffs Suitable for People Intolerant to Gluten (Scotland) Regulations 2010.

2.2 Contaminants

Regulation (EC) No 1881/2006 remains the primary European legislation, the latest consolidated version of which was published in April 2016.[20] This is a measure that is frequently updated and almost always features in our quarterly updates. A useful summary of contaminant information is available on the European Commission website.[21]

2.2.1 Sampling and analysis for contaminants

Commission Regulation (EC) No 333/2007 lays down the methods of sampling and analysis for the official control of levels of certain contaminants in foodstuffs. This was amended in the quarter by Commission Regulation (EU) 2016/582 of 15 April 2016 amending Regulation (EC) No

15 https://www.fdf.org.uk/news.aspx?article=7539
16 https://www.fdf.org.uk/herbs-spices-guidance.aspx
17 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1471529878473&uri=CELEX:32014R0828
18 https://www.coeliac.org.uk/about-us/news/changes-to-european-legislation-on-gluten-free-labelling/
19 http://www.legislation.gov.uk/ssi/2016/191/contents/made
20 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1466704439817&uri=CELEX:02006R1881-20160401
21 http://ec.europa.eu/food/safety/chemical_safety/contaminants/index_en.htm

333/2007 as regards the analysis of inorganic arsenic, lead and polycyclic aromatic hydrocarbons and certain performance criteria for analysis. As recorded previously, Regulation (EC) No 1881/2006 was amended by Commission Regulation (EU) 2015/1006 to set maximum levels for inorganic arsenic. In light of this, specific procedures for analysis for inorganic arsenic are required. EN standard 13804 on the determination of elements and their chemical species has been updated. The maximum levels for polycyclic aromatic hydrocarbons (PAH) in cocoa beans and derived products are on a fat basis. Proficiency tests performed by the European Union Reference Laboratory for PAH indicate divergences in the determination of the fat content. It is therefore appropriate to harmonise the approach for the determination of the fat content. These changes are set out in Regulation (EU) 2016/582.[22]

2.2.2 Mycotoxins

Previous quarterly reports should be consulted for information, e.g. on ergot, erucic acid and tropane alkaloids.

An interesting report was published by the International Agency for Research on Cancer (IARC) on 'Mycotoxin control in low- and middle-income countries'.[23] The report notes an estimated 500 million of the poorest people in sub-Saharan Africa, Latin America, and Asia are exposed to mycotoxins at levels that substantially increase mortality and morbidity. Aflatoxins are a cause of human liver cancer and, in high doses, have caused deaths from aflatoxicosis. More recently, significant negative effects of aflatoxin on child growth have been reported, as well as immune modulation. The report concludes that surveillance data on exposure to aflatoxins are generally lacking outside the developed countries. However, available data from measurements of contaminated crops and through the use of exposure biomarkers in exposed populations demonstrate that mycotoxin exposures can be high throughout Africa, as well as in Latin America and parts of Asia. More recently, among maize-consuming populations in these regions, the high concurrent exposure to aflatoxins and fumonisins has been documented. Notwithstanding the challenges, future mycotoxin monitoring programmes should be prioritised. In the short term, data from individual studies of sufficient quality should be added to the Global Environment Monitoring System (GEMS)/Food Contamination Database. A rapid screening approach aimed at the field/subsistence-farming level that is inexpensive and user-friendly and has a wide dynamic range should be developed. This could support a rapid alert system that informs responses and appropriate actions for food safety. The report assessed some 15 interventions, four of which were judged to be ready for implementation. The intervention for which the strongest evidence of improvement of health exists, but which is also the most difficult to achieve, was to increase dietary diversity. Other strategies deemed ready for implementation were sorting of the crop; a package of post-harvest measures, including improved storage; and, in Latin America for maize, optimised nixtamalization, a process in which the grain is soaked and cooked in an alkaline solution, usually limewater, and hulled. Several interventions were considered that might be used in emergency situations of extremely high contamination (e.g. chemoprotectants, agents that can be put into the diet to ameliorate the effects of aflatoxin once ingested). As currently envisaged, the recommendations would be relevant for investment of public, nongovernmental organisation, and private funds at the scale of the subsistence farmer, the smallholder, and through to a more advanced value chain.

---

[22] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.101.01.0003.01.ENG&toc=OJ:L:2016:101:TOC&mc_cid=e1843f434a&mc_eid=f1b5809dbc

[23] https://www.iarc.fr/en/publications/pdfs-online/wrk/wrk9/IARC_publicationWGR9_full.pdf

2.2.3 Dioxins and PCBs

Regulation 1881/2006 establishes, with certain derogations, maximum levels for dioxins, for the sum of dioxins and dioxin-like PCBs and for non-dioxin-like PCBs in fish and fishery products. In May 2016 Commission Recommendation (EU) 2016/688 established monitoring and management of the presence of dioxins and PCBs in fish and fishery products from the Baltic region. Certain fish and fishery products from the Baltic region exceed regularly the maximum levels set in Regulation 1881/2006 and the Recommendations sets out minimum sampling levels and other requirements for Denmark, Germany, Poland, Latvia, Estonia, Lithuania, Finland and Sweden.[24]

2.3 Non regulated contaminants

There are some contaminants for which legislation is not currently appropriate. Some compounds arise as artefacts of food processing or even cooking, for example acrylamide.

2.3.1 Acrylamide

The November 2015 the FSA update[25] on acrylamide remains highly relevant. The report looks at how the chemical was first identified, what the risks are to consumers, and how the FSA and industry are reacting to this risk.[26]

2.3.2 Apricot kernels – cyanide

EFSA have issued a scientific opinion on the acute health risks related to the presence of cyanogenic glycosides, mainly amygdalin, in raw apricot kernels and products therefrom. Amygdalin produces cyanide, by chewing or grinding, which is of high acute toxicity in humans. The estimated maximum quantity of apricot kernels (or raw apricot material) that can be consumed without exceeding the acute reference dose is 0.06 and 0.37 g in toddlers and adults, respectively. Thus the acute reference dose would be exceeded by consumption of one small kernel in toddlers, while adults could consume three small kernels. However, consumption of less than half of a large kernel could already exceed the acute reference dose in adults.[27]

2.3.3 Glycerol based process contaminants (MCPD and GE)

EFSA have assessed[28] the risks for public health of glycidyl fatty acid esters (GE), 3-monochloropropanediol (3-MCPD), and 2-monochloropropanediol (2-MCPD) and their fatty acid esters. These substances form during food processing, in particular, when refining vegetable oils at high temperatures (approx. 200℃).

The highest levels of GE, as well as 3-MCPD and 2-MCPD (including esters) were found in palm oils and palm fats, followed by other oils and fats. For consumers aged three and above, margarines and “pastries and cakes” were the main sources of exposure to all substances.

---

[24] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2016.118.01.0016.01.ENG
[25] https://www.food.gov.uk/news-updates/news/2015/14655/chief-scientific-advisor-s-report-acrylamide
[26] https://www.food.gov.uk/sites/default/files/csa-acrylamide-report.PDF
[27] http://www.efsa.europa.eu/en/press/news/160427?mc_cid=127fb196ca&mc_eid=f1b5809dbc
[28] http://www.efsa.europa.eu/en/press/news/160503a

2.3.4 Endocrine disruptors

Endocrine disruptors are substances that interfere with the functioning of hormones, with potentially harmful effects on health. A wide range of chemicals are suspected of being responsible for endocrine-disrupting activity. Defining scientific criteria for their identification is highly complex and has important repercussions for a wide range of stakeholders. There is a lack of consensus among both scientists and regulators. Work on the issue has been conducted at UK, EU and international level. The European Commission's delay in adopting scientific criteria has provoked strong reactions from various stakeholders. The Commission is expected to come up with scientific criteria and to present the legal acts required before summer 2016. In a judgment delivered on 16 December 2015, the General Court of the Court of Justice of the EU found that the Commission had breached European Union law by failing to act on endocrine disruptors. It concluded that the Commission did not comply with its clear obligation to specify scientific criteria for the identification of chemicals that have endocrine-disrupting properties by 13 December 2013. In addition, it stated that there was no requirement to carry out an impact assessment, which the Commission had suggested was necessary to evaluate the various possible options prior to taking its decision.[29] The background to these issues and the Court judgement were examined in a briefing produced in April 2016 by the European Parliamentary Research Service.[30]

2.3.5 Nickel

The Hellenic Food Authority asked EFSA to evaluate the risk to human health from the presence of nickel in food, particularly in vegetables. The EFSA Scientific Panel on Contaminants in the Food Chain (CONTAM Panel) decided to extend the risk assessment to drinking water and adopted the Scientific Opinion on the risks to public health related to the presence of nickel in food and drinking water[31]. This opinion identified reproductive and developmental toxicity as the critical effect for the risk characterisation of chronic oral exposure to nickel. Eczematous flare-up reactions and worsening of allergic reactions were identified as the critical effect for acute oral exposure to nickel of nickel-sensitised humans. Commission Recommendation (EU) 2016/1111 of 6 July 2016 therefore asked member states to monitor for nickel in certain foods.[32] (See also feed below, 6.2.)

2.4 Food additives

Annex II to Regulation (EC) No 1333/2008 lays down a European Union list of food additives approved for use in foods and their conditions of use, and Annex I to Regulation (EC) No 1334/2008 lays down a European Union list of flavourings and source materials approved for use in and on foods and their conditions of use. Commission non-official guidance describes the food categories in Part E of Annex II to Regulation 1333/2008.[33]

In this quarter, Commission Regulation (EU) 2016/441 of 23 March 2016 amended Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council to permit the use of steviol glycosides (E 960) as a sweetener in mustard with a limit of 120 mg kg^{-1} as steviol

---

29 http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2016)581986
30 http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/581986/EPRS_BRI(2016)581986_EN.pdf
31 EFSA CONTAM Panel (EFSA Panel on Contaminants in the Food Chain) (2015) Scientific Opinion on the risks to public health related to the presence of nickel in food and drinking water, EFSA Journal, 13(2):4002, 202 pp doi:10.2903/j.efsa.2015.4002
32 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1471533458929&uri=CELEX:32016H1111
33 http://ec.europa.eu/food/food/fAEF/additives/guidance_en.print.htm

equivalents.[34] Commission Regulation (EU) 2016/479 of 1 April 2016 amended Annex II to permit the use of steviol glycosides in certain energy-reduced or "with no added sugars" beverages (coffee, tea, cappuccino (maximum 30 mg kg^{-1}) and malt-based and chocolate/cappuccino flavoured (maximum 20 mg kg^{-1}).[35]

Annex II was also amended by Commission Regulation (EU) 2016/683 of 2 May 2016 to extend the authorised use of propionic acid preservative to tortillas to a maximum of 2000 mg kg^{-1}.[36]

The status of food additives in caseinates was clarified during the quarter by aligning Annex II with the provisions of Directive (EU) 2015/2203[37] on caseins and caseinates intended for human consumption. A food category "edible caseinates" was established and the additives authorised in edible caseinates included with the respective conditions of use by Commission Regulation (EU) 2016/691 of 4 May 2016.[38] Compositional standards for caseinates are given in the Directive.

2.4.1 Sulphites

In April 2014 EFSA published a major review of the widely used additives sulphur dioxide and the sulphites group, which are included as a legislated allergen group in the Food Information Regulation 1169/2011 owing to possible intolerance reactions and recorded probable fatalities in consumers sensitive to sulphites in food. EFSA also noted that endogenous sulphites can be generated as a consequence of the body's normal processing of sulphur-containing amino acids and that sulphites may occur as a consequence of fermentation and are naturally present in a number of foods and beverages. EFSA confirmed that although the toxicological database was limited, the current group ADI of 0.7 mg SO_2 equivalent/kg bw per day (derived using a default uncertainty factor of 100) would remain adequate but should be considered temporary whilst the database was improved. The EFSA Panel further concluded that exposure estimates to sulphur dioxide–sulphites were higher than the group ADI for all population groups.[39]

2.4.2 Additives in wine

Commission Regulation (EC) No 606/2009 lays down authorised oenological practices (Annex I A). The International Organisation of Vine and Wine (OIV) adopted new oenological practices concerning the use of malolactic fermentation activators, and the treatment of wine and must with glutathione. In accordance with Article 80(3)(b) of Regulation (EC) No 1308/2013, when authorising oenological practices for wine, the Commission must take into account the protection of human health. Glutathione is used for its antioxidant properties and remains active in the final product, therefore it is a food additive. However it is not currently included in Annex II to Regulation (EC) No 1333/2008 hence its use in wine and must cannot be authorised unless and until it is included in the Union list of food additives, on the basis of an EFSA positive opinion. However Commission Delegated Regulation (EU) 2016/765 of 11 March 2016 did amend Regulation 606/2009 to allow use of certain malolactic fermentation activators as described in 2016/765.[40]

---

[34] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1466595930807&uri=CELEX:32016R0441
[35] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.087.01.0001.01.ENG&toc=OJ:L:2016:087:TOC
[36] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.117.01.0028.01.ENG&toc=OJ:L:2016:117:TOC
[37] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1466676596182&uri=CELEX:32015L2203
[38] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.120.01.0004.01.ENG&toc=OJ:L:2016:120:TOC
[39] http://www.efsa.europa.eu/sites/default/files/scientific_output/files/main_documents/4438.pdf
[40] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1471533458929&uri=CELEX:32016R0765

2.4.3 Flavourings

Flavourings and certain food ingredients with flavouring properties are controlled by Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008[41]. In this quarter, Commission Regulation (EU) 2016/637 of 22 April 2016[42] removed the following flavour compounds from the EU permitted list: 2,6,6-trimethyl-1-cyclohexen-1-carboxaldehyde (FL No 05.121), myrtenyl formate (FL No 09.272), myrtenyl-2-methylbutyrate (FL No 09.899), and myrtenyl-3-methylbutyrate (FL No 09.900). This was as a result of an EFSA opinion, on the basis of submitted data, that the representative compound for this class of flavouring, p-mentha-1,8-dien-7-al (FL No 05.117), is genotoxic in vivo, has already been removed from the list and hence its related compounds also pose a potential safety concern.

2.5 Food contact materials

Commission Regulation 2015/1906[43] amended Regulation (EC) No 282/2008 on recycled plastic materials and articles intended to come into contact with foods. The amendment clarifies regulatory procedures consequent upon Decision 1999/468/EC having been replaced by Regulation (EU) No 182/2011. There were no new centrally published updates in this quarter.

2.6 Marine biotoxins

No new centrally published updates in this quarter.

2.7 Pesticides

Commission Implementing Regulation 2015/595[44] sets out a coordinated multiannual control programme of the EU for 2016, 2017 and 2018 to ensure compliance with maximum residue levels (MRLs) of pesticides and to assess the consumer exposure to pesticide residues in and on food of plant and animal origin.

Regulation (EC) No 396/2005 governs MRLs of pesticides in or on food and feed of plant and animal origin; Annexes II, III and V to the regulation are regularly amended as regards MRLs and can be seen on the EU Pesticides Database.[45, 46]

Individual records of MRLs and changes thereto are not reproduced here.

In May 2016 rolling results from the government's monitoring programme in 2016 to check home-produced and imported food for any pesticide residues were published for January to March 2016.[47]

---

41 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1445980490072&uri=CELEX:02008R1334-20150729
42 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.108.01.0024.01.ENG&toc=OJ:L:2016:108:TOC&mc_cid=127fb196ca&mc_eid=f1b5809dbc
43 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.278.01.0011.01.ENG
44 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.099.01.0007.01.ENG
45 http://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/public/?event=homepage&language=EN
46 http://ec.europa.eu/food/plant/pesticides/max_residue_levels/index_en.htm
47 https://www.gov.uk/government/publications/pesticide-residues-in-food-rolling-monitoring-results-for-2016

2.8 Products of animal origin

Regulations (EC) 853/2004 and 854/2004 control the import of products of animal origin. These are to be imported only from a third country or a part of third country that appears on a designated list. In April 2016 Commission Implementing Regulation (EU) 2016/759 prescribed lists of third countries, parts of third countries and territories from which Member States are to authorise the introduction into the Union of certain products of animal origin intended for human consumption, laying down certificate requirements, amending Regulation (EC) No 2074/2005 and repealing Decision 2003/812/EC. The products covered are: [48]

(a) Frogs' legs
(b) snails
(c) gelatine and collagen
(d) raw materials for the production of gelatine and collagen
(e) treated raw materials for the production of gelatine and collagen
(f) honey, royal jelly and other products of apiculture
(g) the following highly refined products:
    (i) chondroitin sulphate;
    (ii) hyaluronic acid
    (iii) other hydrolysed cartilage products
    (iv) chitosan
    (v) glucosamine
    (vi) rennet
    (vii) isinglass
    (viii) amino acids that are authorised as food additives.

2.9 Radioactivity

Commission Implementing Regulation (EU) 2016/6 of 5 January 2016 relaxed the special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station, and repealed Implementing Regulation (EU) No 322/2014.

Council Regulation (Euratom) 2016/52[49] sets out maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency, and repeals Regulation (Euratom) No 3954/87 and Commission Regulations (Euratom) No 944/89 and (Euratom) No 770/90. See also new Welsh private water supply regulations covering monitoring of radioactivity in water at 2.12 below.

2.10 Transmissible spongiform encephalopathies

No relevant new centrally published updates on TSEs were reported in this quarter.

2.11 Veterinary residues

Commission Regulation (EU) No 37/2010 of 22 December 2009 deals with MRLs of veterinary medicinal products in foodstuffs of animal origin. Domestic effect is given by the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and

[48] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1469454004085&uri=CELEX:32016R0759
[49] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.013.01.0002.01.ENG&toc=OJ:L:2016:013:TOC

Scotland) Regulations 2015[50] and, in the current quarter in Northern Ireland, by the Animal and Animal Products (Examination for Residues and Maximum Residue Limits) (Northern Ireland) 2016 (SR 54)[51].

Regulation (EU) No 37/2010 is regularly amended as regards MRLs. Further information is available from the European Medicines Agency (EMA)[52] and on the European Commission website.[53]

2.11.1 Nitrofurans

No new centrally published updates in this quarter

2.12 Food Hygiene

The Food Hygiene Rating (Promotion of Food Hygiene Rating) (Wales) Regulations 2016, No. 429 (W. 138) were made and come into force on 28 November 2016. Applying to establishments which supply takeaway food the regulations require a conspicuous notice in Welsh and English to indicate the availability of the business food hygiene rating.[54]

2.13 Water for human consumption

Legislation on water for human consumption is noted here, whether or not regarded as "food".

The primary EU law on supplied water is Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption, alongside Directive 2009/54/EC on the exploitation and marketing of natural mineral waters[55] (recast)[56] and Directive 2003/40/EC establishing the list, concentration limits and labelling requirements for the constituents of natural mineral waters and the conditions for using ozone-enriched air for the treatment of natural mineral waters and spring waters.[57]

Domestic implementation of the latter two is by:

- The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007 (SI 2785);
- The Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007 (SSI 483);
- The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2007 (SI 3165, W276);
- The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 (SR 420).

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) Amendment Regulations 2015[58, 59] amended, in this quarter, the Natural Mineral Water, Spring Water and

---

50 http://www.legislation.gov.uk/uksi/2015/787/pdfs/uksi_20150787_en.pdf
51 http://www.legislation.gov.uk/nisr/2016/54/pdfs/nisr_20160054_en.pdf
52 http://www.ema.europa.eu/ema/index.jsp?curl=pages/regulation/document_listing/document_listing_000165.jsp
53 http://ec.europa.eu/health/documents/community-register/index_en.htm
54 http://www.legislation.gov.uk/wsi/2016/429/pdfs/wsi_20160429_mi.pdf
55 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1453734625466&uri=CELEX:32009L0054
56 Which repeals and replaces Directive 80/777/EEC.
57 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1453734764128&uri=CELEX:32003L0040
58 http://www.legislation.gov.uk/ssi/2015/363/pdfs/ssi_20150363_en.pdf

Bottled Drinking Water (Scotland) (No. 2) Regulations 2007 ("the 2007 Regulations") by implementing, in relation to spring water and drinking water in a bottle, Council Directive 2013/51/Euratom laying down the requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.13, p.12). Regulation 3 makes consequential amendments to the interpretation provisions in regulation 2 of the 2007 Regulations. Regulation 4 amends regulation 16 of the 2007 Regulations to specify the monitoring and sampling requirements required by Food Authorities. Similar legislation has been enacted in Wales by the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015[60] (SI 1867, W274) and in Northern Ireland with the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015[61] (SR 365).

Commission Directive 2015/1787[62] amended Annexes II and III to Council Directive 98/83/EC on the quality of water intended for human consumption. The tests to be carried out to determine quality and the frequency are described, as is the requirement for laboratories using methods accredited to ISO/IEC 17025 to carry these out.

The Private Water Supplies (Wales) (Amendment) Regulations 2016 No. 411 (W. 129)[63] came into force on 14 April 2016 and amend the Private Water Supplies (Wales) Regulations 2010 to implement Council Directive 2013/51/Euratom on the protection of the health of the general public with regard to radioactive substances in water intended for human consumption from private water supplies. Regulation 3 of these Regulations inserts new regulation 10A (monitoring of radioactive substances: general) into the 2010 Regulations to make provision for new requirements in relation to monitoring for radon, tritium and indicative dose ("the radioactive substances parameters"). Regulation 3 also inserts new regulation 10B (monitoring of radioactive substances: supplies to a single dwelling not used for a commercial or public activity) into the 2010 Regulations. Further monitoring requirements are included in new Schedule 2A. Regulation 5 inserts a new Part (Part 3 – radioactive substances parameters) into Schedule 1 to the 2010 Regulations. The new Part 3 includes Table D which sets parametric values for the radioactive substances parameters. Regulations 2, 4 and 6 of these Regulations make consequential amendments in light of regulation 6. Regulation 8 of these Regulations inserts a new Part (Part 3 – monitoring for indicative dose and analytical performance characteristics) into Schedule 3 to the 2010 Regulations. The new Part 3 makes provision for additional sampling and analysis requirements in relation to the radioactive substances parameters listed in the new Table D in Part 3 of Schedule 1.

The Water Supply (Water Quality) Regulations 2016, 614[64], enabling power: Water Industry Act 1991, and European Communities Act 1972 came into force on 27 June 2016. It affects:

- SI 2007/3544
- SI 2016/303 amended and SI 2002/2469
- SI 2005/2035
- SI 2007/3544
- SI 2013/235, SI 2013/1387 partially revoked and SI 2000/3184
- SI 2001/2885
- SI 2007/2734

---

[59] http://www.legislation.gov.uk/ssi/2015/363/pdfs/ssics_20150363_en.pdf correction slip
[60] http://www.legislation.gov.uk/wsi/2015/1867/pdfs/wsi_20151867_mi.pdf
[61] http://www.legislation.gov.uk/nisr/2015/365/pdfs/nisr_20150365_en.pdf
[62] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.260.01.0006.01.ENG
[63] http://www.assembly.wales/laid%20documents/sub-ld10651/sub-ld10651-e.pdf
[64] http://www.legislation.gov.uk/uksi/2016/614/pdfs/uksi_20160614_en.pdf

- 2010/991 revoked.

The territorial extent is Engalnd and Wales and . These Regulations supplement Chapter III of the Water Industry Act 1991 (c.56) (water supply). They also transpose requirements of Council Directive 98/83/EC on the quality of water intended for human consumption (OJ No L 330, 5.12.1998, p 32) and Council Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ No L 296, 7.11.2013, p 12). They are primarily concerned with the quality of water supplied in England by water undertakers and licensed water suppliers for domestic or food production purposes, and with arrangements for the publication of information about water quality. They revoke and replace the Water Supply (Water Quality) Regulations 2000 (SI 2000/3184). The regulations include detailed limits and analytical performance characteristics for a wide range of substances.

Parallel regulations, the Private Water Supplies (England) Regulations 2016, SI 618, for private supplies were made, coming into force 27 June 2016.[65] They revoke and replace the Private Water Supplies Regulations 2009 (SI 2009/3101).

2.14 Psychoactive substances

The Psychoactive Substances Act 2016 received Royal Assent on 28 January 2016. The act applies across the UK and came into force on 26 May 2016.[66]
The act:

- Makes it an offence to produce, supply, offer to supply, possess with intent to supply, possess on custodial premises, import or export psychoactive substances; that is, any substance intended for human consumption that is capable of producing a psychoactive effect. The maximum sentence will be seven years' imprisonment;
- Excludes legitimate substances, such as food, alcohol, tobacco, nicotine, caffeine and medical products from the scope of the offence, as well as controlled drugs, which continue to be regulated by the Misuse of Drugs Act 1971;
- Exempts healthcare activities and approved scientific research from the offences under the act on the basis that persons engaged in such activities have a legitimate need to use psychoactive substances in their work;
- Includes provision for civil sanctions – prohibition notices, premises notices, prohibition orders and premises orders (breach of the two orders will be a criminal offence) – to enable the police and local authorities to adopt a graded response to the supply of psychoactive substances in appropriate cases;
- Provides powers to stop and search persons, vehicles and vessels, enter and search premises in accordance with a warrant, and to seize and destroy psychoactive substances.

Further information including explanatory notes is available[67] as well as Home Office guidance for local authorities on taking action against "head shops" selling psychoactive substances.[68]

---

65 http://www.legislation.gov.uk/uksi/2016/618/contents/made
66 http://www.legislation.gov.uk/ukpga/2016/2/contents/enacted
67 https://www.gov.uk/government/collections/psychoactive-substances-bill-2015
68 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/410961/Guidance_for_local_authorities_on_taking_action_against_10.03_15.pdf

Certain enabling powers were also made with UK applicability: the Psychoactive Substances Act 2016 (Consequential Amendments) Regulations 2016[69], the Psychoactive Substances Act 2016 (Commencement) Regulations 2016[70] and the Magistrates' Courts (Psychoactive Substances Act 2016) (Transfer of Proceedings) Rules 2016[71].

3 Consumer choice

3.1 Food labelling

The primary legislation is now Regulation 1169/2011[72] on the provision of food information to consumers, EU FIC. A useful summary of links to the legislation and guidance has been provided by Dr David Jukes of the University of Reading.[73] Domestic implementation is effected in England by the Food Information Regulations (SI 2014 No 1855)[74], in Northern Ireland by the Food Information Regulations (Northern Ireland) 2014 (SR 2014 No 223)[75] and, in Wales the Food Information Regulations (Wales) 2014 (SI 2014 No 2303, W227)[76]. In Scotland implementation is by the Food Information Regulations (Scotland) 2014 (SSI 312)[77] which were amended in December 2015 by the Food Information (Miscellaneous Amendments) (Scotland) Regulations 2015 (SSI 410).[78] These make a set of small drafting amendments, for example clarifying aspects of the labelling of “alcohol-free”, “dealcoholized” and “low alcohol” drinks.

Information is available on the Commission website.[79] Guidance on nutrition labelling is also available on the Commission website.[80]

3.1.1 Country of origin labelling

The Country of Origin of Certain Meats (England) Regulations 2015 (SI 518)[81] modified certain provisions of the Food Safety Act 1990, and implemented Articles 3 to 6 and 8 of Commission Implementing Regulation (EU) No 1337/2013 regarding the provenance or country of origin of certain types of meats (fresh, chilled and frozen meat of swine, sheep, goats and poultry). Please see our July – September 2015 report for further detail.[82]

Similar legislation has been enacted in Northern Ireland through The Country of Origin of Certain Meats Regulations (Northern Ireland) 2015[83] (SR 321) and in Wales by the Country of Origin of Certain Meats (Wales) Regulations 2015[84] (SI 1591, W177).

FSA in Northern Ireland in late March 2016 issued some clarification on voluntary labelling of Country of Origin. European food labelling legislation Regulation (EU) No. 1169/2011 on Food

---

69 http://www.legislation.gov.uk/uksi/2016/554/regulation/2/made
70 http://www.legislation.gov.uk/uksi/2016/553/contents/made
71 http://www.legislation.gov.uk/uksi/2016/546/made
72 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:304:0018:0063:EN:PDF
73 http://www.reading.ac.uk/foodlaw/label/links.htm
74 http://www.legislation.gov.uk/uksi/2014/1855/pdfs/uksi_20141855_en.pdf
75 http://www.legislation.gov.uk/nisr/2014/223/pdfs/nisr_20140223_en.pdf
76 http://www.legislation.gov.uk/wsi/2014/2303/pdfs/wsi_20142303_mi.pdf
77 http://www.legislation.gov.uk/ssi/2014/312/pdfs/ssi_20140312_en.pdf
78 http://www.legislation.gov.uk/ssi/2015/410/pdfs/ssi_20150410_en.pdf
79 http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm
80 http://ec.europa.eu/food/food/labellingnutrition/nutritionlabel/index_en.htm
81 http://www.legislation.gov.uk/uksi/2015/518/pdfs/uksi_20150518_en.pdf
82 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review-april-to-june-2015
83 http://www.legislation.gov.uk/nisr/2015/321/pdfs/nisr_20150321_en.pdf
84 http://www.legislation.gov.uk/wsi/2015/1519/pdfs/wsi_20151519_mi.pdf

Information to Consumers introduced in December 2014 sets out requirements for "voluntary labelling" – including country of origin – stating that any additional voluntary claims must not mislead, be ambiguous or confuse consumers. The FSA in NI note that using the additional voluntary term "Irish" on food produced in Northern Ireland may be misleading to consumers as this term is also used to describe another member state of the EU. However, whether or not the use of the term "Irish" in food labelling is misleading, can only be determined by a court of law. The FSA continues to advise local authorities in Northern Ireland on a case by case basis. Ultimately it is the food manufacturers' responsibility not to mislead consumers with the labelling information that they provide.[85]

3.1.2 Meat products

The Products Containing Meat etc. Regulations 2014 enacted in England (e.g. SI 3001/2014[86]), Scotland, Wales and Northern Ireland lay down definitions and minimum meat content standards for certain meat products presented for sale directly to the consumer (see our report for October – December 2014[87]).

Similar Regulations have been enacted in Scotland with the Products Containing Meat etc. Regulations (Scotland) Regulations 2014 (SSI 289/2014)[88] which revokes the Meat Products (Scotland) Regulations 2004 (SSI 6/2004), the Meat Products (Scotland) Amendment Regulations 2008(SSI 97/2008) and regulation 18(4) of the Food Additives (Scotland) Regulations 2009(SSI 436/2009), and in Northern Ireland with the Products Containing Meat etc. Regulations (Northern Ireland) 2014[89] (SR 285/2014).

There was a technical amendment in the last quarter to the Scottish regulations inserting a reference to section 22 of the Food Safety Act 1990 (defence of publication in the course of business) by the Products Containing Meat etc. (Scotland) Amendment Regulations 2016 (SSI 24/2016).[90]

3.1.3 Fish labelling

The Fish Labelling Regulations 2013 (in each UK country) as amended remain the principle statutory provisions. A short guide to the EU's new fish and aquaculture consumer labels has been produced (with thanks to Dr Stephen Pugh, for drawing attention to this).[91]

3.1.4 Defra food labelling guidance

Defra have published guidance on the information that must be provided with food products to comply with the European Food Information to Consumers Regulation No 1169/2011 (FIC) and the Food Information Regulations 2014 (FIR).[92]

---

85 https://www.food.gov.uk/northern-ireland/news-updates/news/2016/15025/voluntary-labelling-of-country-of-origin
86 http://www.legislation.gov.uk/uksi/2014/3001/pdfs/uksi_20143001_en.pdf
87 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review
88 http://www.legislation.gov.uk/ssi/2014/289/pdfs/ssi_20140289_en.pdf
89 http://www.legislation.gov.uk/nisr/2014/285/pdfs/nisr_20140285_en.pdf
90 http://www.legislation.gov.uk/ssi/2016/24/pdfs/ssi_20160024_en.pdf
91 http://ec.europa.eu/fisheries/documentation/publications/eu-new-fish-and-aquaculture-consumer-labels-pocket-guide_en.pdf
92 https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers

3.1.5 Organic food

The principal measure is Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products.

Annex III to Commission Regulation (EC) No 1235/2008 sets out the list of third countries whose systems of production and control measures for organic production of agricultural products are recognised as equivalent to those laid down in Regulation (EC) No 834/2007. The recognition accorded to Canada pursuant to Article 33(2) of Regulation (EC) No 834/2007 was extended by Commission Implementing Regulation (EU) 2016/459 of 18 March 2016 which amends Regulation (EC) No 1235/2008.[93]

Commission Implementing Regulation (EU) 2016/910 of 9 June 2016 amended Regulation (EC) No 1235/2008 as regards the arrangements for imports of organic products from third countries. The duration of the recognition of several control bodies in accordance with Article 33(3) of Regulation (EC) No 834/2007 ended on 30 June 2016. Based on the results of the continuous supervision carried out by the Commission, the recognition of the control bodies 'AsureQuality Limited', 'Balkan Biocert Skopje', 'Bio.inspecta AG', 'IMO-Control Sertifikasyon Tic. Ltd Şti', 'Organic Control System' and 'TÜV Nord Integra' is extended until 30 June 2018.[94]

In the quarter, Commission Implementing Regulation (EU) 2016/673 of 29 April 2016[95] amended Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 as regards micro-algae, juveniles and seed from non-organic bivalve shellfish hatcheries, certain oenological practices, reconstitution of a herd or a flock after high mortality of animals by health or catastrophic circumstances, and other administrative details. Micro-algae, like multi-cellular marine algae and phytoplankton, are already subject to detailed production rules under Article 6a of Regulation (EC) No 889/2008 when they are further used as feed for aquaculture animals and the rules were extended when they are used for food production. By the end of December 2015 all juveniles and seed from bivalve shellfish hatcheries should have been of organic production. However insufficient organic products were available and the deadline has been extended one year.

All foods sold as organic must originate from growers, processors and importers who are registered with an approved certification body and subject to regular inspection. In October 2015 Defra updated the list of UK approved organic control bodies.[96]

3.2 Food fraud/food crime

The European Commission IT tool to facilitate the exchange of administrative information between national authorities working to combat cross-border violations in Europe – known as the Administrative Assistance and Cooperation (AAC) system – was described in a previous report. In the wake of the horsemeat episode of 2013, the Commission[97] also developed an action plan to strengthen controls of the food supply chain. One of these measures was to set up a pan-European mechanism to ensure the rapid exchange of information between national authorities and the Commission in cases of suspected food fraud[98] cases. The AAC system will ensure that

---

93 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.080.01.0014.01.ENG&toc=OJ:L:2016:080:TOC
94 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.153.01.0023.01.ENG&toc=OJ:L:2016:153:TOC
95 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.116.01.0008.01.ENG&toc=OJ:L:2016:116:TOC
96 https://www.gov.uk/government/publications/organic-certification-list-of-uk-approved-organic-control-bodies
97 http://ec.europa.eu/food/safety/official_controls/food_fraud/horse_meat/index_en.htm
98 http://ec.europa.eu/food/safety/official_controls/food_fraud/index_en.htm

the Food Fraud Network works even more efficiently and is able to respond more swiftly to information requests.

On 30 March 2016 Europol announced the outcomes of Operation Opson V.[99] More than 10,000 tonnes and one million litres of hazardous fake food and drink had been seized in operations across 57 countries in an INTERPOL-Europol coordinated exercise to protect public health and safety. Seizures ranged from nearly nine tonnes of counterfeit sugar contaminated with fertilizer in Khartoum, Sudan to Italian officers recovering more than 85 tonnes of olives which had been "painted" with copper sulphate solutions to enhance their colour. Involving police, customs, national food regulatory bodies and partners from the private sector, checks were carried out at shops, markets, airports, seaports and industrial estates between November 2015 and February 2016. A number of arrests were made worldwide.

In May 2016 the FDA Food Safety Modernization Act (FSMA) final rule was publicised aimed at preventing intentional adulteration from acts intended to cause wide-scale harm to public health, including acts of terrorism targeting the food supply. Such acts, while not likely to occur, could cause illness, death, economic disruption of the food supply if mitigation strategies are not in place. Rather than targeting specific foods or hazards, this rule requires mitigation (risk-reducing) strategies for processes in certain registered food facilities and a useful set of documents accompanies the fact sheet on this issue. [100]

3.3 Genetically modified organisms

Regulation (EC) No 1829/2003 of the European Parliament and of the Council provides for the authorisation, labelling and supervision of genetically modified food and feed.[101] The Regulation was not amended in this quarter.

3.3.1 Cultivation of GMOs

Commission Directive 2015/412[102] amends Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of genetically modified organisms (GMOs) in their territory. This devolves responsibility in this matter to Member States. See our previous quarterly report[103] for further details.

3.4 Cloned animals

Cloning involves the removal of the nucleus from a somatic cell (any body tissue) of an animal and its transfer into an enucleated egg (an egg cell that has had its own nucleus removed) of a donor female of the same species. This is then stimulated to generate an embryo for transfer into a surrogate mother. In April 2016 the Defra Farm Animal Genetic Resources Committee issued a statement on cloning of farm animals. EU legislation regards foods and food ingredients derived from clones as novel foods. However, the European Commission and both the European Food Safety Authority and the UK Food Standards Agency acknowledge that meat and milk from healthy clones and healthy offspring of clones is indistinguishable from, and as safe as that from, conventionally bred animals. The Committee believes that both UK and EU policy should be

---

99 https://www.europol.europa.eu/content/largest-ever-seizures-fake-food-and-drink-interpol-europol-operation
100 http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm378628.htm
101 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1436450297142&uri=CELEX:02003R1829-20080410
102 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.068.01.0001.01.ENG
103 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review-april-to-june-2015

based on evidence, and as such does not consider that there is any scientific justification for treating the products of the healthy offspring of clones, including semen and embryos, any differently from conventionally bred animals with regard to the production of food. The Committee notes that, in past trials, some cloned progeny have not developed normally, leading to significant welfare problems and premature death.[104]

The Government Chemist last looked at the analytical science of cloned animals in 2012 when it was found that reproducible traits that would be discriminatory for healthy adult cloned animals could not be defined.[105] This appears still to be the case.

3.5 Honey

The making and coming into force of the Honey (Wales) Regulations 2015[106] (SI 1507, W174) completed in the quarter the updating of domestic implementation of Council Directive 2001/110/EC relating to honey[107]. These regulations sit alongside the Honey (Scotland) Regulations 2015 (SSI 208)[108], the Honey Regulations (Northern Ireland) 2015 (SR 261)[109], and the Honey Regulations (England) 2015[110] (SI 1348) all revoking their 2003 predecessors. The Regulations regulate the use of the names “honey”, “blossom honey”, “nectar honey”, “honeydew honey”, “comb honey”, “chunk honey” and “cut comb in honey”, “drained honey”, “extracted honey”, “pressed honey”, “filtered honey” and “baker’s honey”.

Compositional criteria and labelling are prescribed and an obligation is imposed on food authorities to enforce the Regulations. Provisions of the Food Safety Act 1990 enabling an improvement notice to be served requiring compliance with specified provisions of the Regulations are included and failure to comply with an improvement notice is an offence.
The Food Information Regulations 2014 are amended with a transitional provision in respect of food placed on the market or labelled before 24 June 2015, prohibiting an improvement notice from being served in relation to such food if it would have been compliant with the 2003 Honey Regulations.

3.6 Novel foods

The regulation of novel foods featured in our previous quarterly report with the revocation of Regulation (EC) No 258/97[111] and its replacement by Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods[112]

A Commission Q&A is available[113], a list of authorisations[114] and in the present quarter EFSA held a meeting on draft guidance. The new regulation introduces a centralised authorisation procedure. EFSA will conduct the scientific risk assessment on the safety of novel foods. The regulation, which will come into effect in January 2018, also introduces a notification procedure for traditional food from third countries, a type of novel food with a history of use in countries

---

[104] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524769/fangr-cloning-farm-animals-statement.pdf
[105] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/332618/Cloned_animal_report.pdf
[106] http://www.legislation.gov.uk/wsi/2015/1507/pdfs/wsi_20151507_mi.pdf
[107] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1445979649018&uri=CELEX:02001L0110-20140623
[108] http://www.legislation.gov.uk/ssi/2015/208/contents/made
[109] http://www.legislation.gov.uk/nisr/2015/261/contents/made
[110] http://www.legislation.gov.uk/uksi/2015/1348/pdfs/uksi_20151348_en.pdf
[111] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1446024882821&uri=CELEX:01997R0258-20090807
[112] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.327.01.0001.01.ENG&toc=OJ:L:2015:327:TOC
[113] http://europa.eu/rapid/press-release_MEMO-15-5875_en.htm
[114] http://ec.europa.eu/food/safety/novel_food/authorisations/list_authorisations/index_en.htm

outside the EU. Public consultation on the draft guidance was open until 21 April 2016 and the guidance documents are expected to be finalised and adopted by September 2016.[115]

In the quarter Commission Implementing Decision (EU) 2016/598 of 14 April 2016 authorised an extension of use of lipid extract from Antarctic Krill (*Euphausia superba*) as a novel food ingredient under Regulation (EC) No 258/97 of the European Parliament and of the Council.[116]

3.7 Olive oil

Commission Delegated Regulation (EU) 2016/1226 of 4 May 2016[117] amended Annex IX to Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the optional reserved terms for olive oil. In November 2015, the International Olive Council adopted a new method for the organoleptic assessment of virgin olive oil modifying the optional terminology for labelling purposes. The optional reserved terms are set out in Annex IX to Regulation (EU) No 1308/2013 as: "first cold pressing, cold extraction, acidity, pungent, fruitiness: ripe or green, bitter, robust, medium, delicate, well-balanced, mild oil".

See also previous quarterly reports.

3.8 Protected names

There are three protection marks in the EU:[118]

- Protected geographical indication (PGI)
- Protected designation of origin (PDO)
- Traditional speciality guaranteed (TSG).

A list of UK protected names and a list of UK applications being considered is available.[119]

3.9 Consumer attitudes

See previous quarterly reports; no new centrally published information was recorded in the quarter.

3.10 Spirit drinks etc.

Commission Regulation (EC) No 2870/2000 lists and describes the reference methods for the analysis of spirit drinks. However, some methods, e.g. for the determination of volatile acidity and total sugars require attention as they have been subjected to two international validation studies. Regulation (EC) No 110/2008 lays down requirements for some categories of spirit drinks to be aged in wood and provides that others may undergo such ageing. Analysis of the principal compounds coming from wood can be helpful when considering if a sample is consistent with the definition corresponding to the relevant category of spirit drink. A method that has been collaboratively trialled has therefore been added. These changes are put into effect by

---

[115] http://www.efsa.europa.eu/en/press/news/160415?mc_cid=e1843f434a&mc_eid=f1b5809dbc
[116] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.103.01.0034.01.ENG&toc=OJ:L:2016:103:TOC&mc_cid=e1843f434a&mc_eid=f1b5809dbc
[117] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1471533458929&uri=CELEX:32016R1226
[118] http://ec.europa.eu/agriculture/quality/schemes/index_en.htm
[119] https://www.gov.uk/guidance/eu-protected-food-names-how-to-register-food-or-drink-products

Commission Implementing Regulation (EU) 2016/635 of 22 April 2016, amending the Annex to Regulation (EC) No 2870/2000.[120]

3.11 The Consumer Rights Act 2015

The Consumer Rights Act 2015, which in certain circumstances may be applicable to food, became law on 1 October 2015, replacing three major pieces of consumer legislation – the Sale of Goods Act, Unfair Terms in Consumer Contracts Regulations and the Supply of Goods and Services Act.[121, 122]

4 Health and nutrition

4.1 Nutrition and health claims

Regulation (EC) No 1924/2006 on nutrition and health claims made on foods governs the use of these claims in the labelling, presentation and advertising of foods. It aims at enabling consumers to make healthier choices by protecting them from misleading information and ensuring a level playing field for food businesses to operate within the single market. Since its adoption in 2006, the implementation of the Regulation remains incomplete since nutrient profiles, that the Commission was requested to set by January 2009, have not been established and health claims on plants and their preparations used in foods are not yet fully regulated. The Commission's plan to carry out a REFIT evaluation of the EU legislation on nutrition and health claims was announced in its Better Regulation Communication of 19 May 2015. This REFIT evaluation aims at focusing on nutrient profiles and health claims on plants and their preparations added to foods. It also aims at considering the more general regulatory framework for the use of such substances in foods since it is closely related to the use of health claims. A routemap and progress are available.[123]

Guidance on nutrition labelling is available on the Commission website.[124] The EU Register of nutrition and health claims is also available.[125]

Regular bulletins are available from the Department of Health on EU legislation on nutrition and health claims.[126]

4.1.1 Fruit and vegetables in schools

Regulation (EU) 2016/791 of the European Parliament and of the Council of 11 May 2016 amended Regulations (EU) No 1308/2013 and (EU) No 1306/2013 on the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments.[127]

---

120 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.108.01.0001.01.ENG&toc=OJ:L:2016:108:TOC&mc_cid=127fb196ca&mc_eid=f1b5809dbc
121 https://www.gov.uk/government/publications/consumer-rights-act-2015/consumer-rights-act-2015
122 http://www.which.co.uk/consumer-rights/regulation/consumer-rights-act
123 http://ec.europa.eu/food/safety/labelling_nutrition/claims/refit/index_en.htm
124 http://ec.europa.eu/food/food/labellingnutrition/nutritionlabel/index_en.htm
125 http://ec.europa.eu/food/safety/labelling_nutrition/claims/register/index_en.htm
126 https://www.gov.uk/government/publications/nutritional-and-health-claims-legislation-bulletins-2015
127 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.135.01.0001.01.ENG&toc=OJ:L:2016:135:TOC

4.2 Infant formula and follow-on formula

Regulation (EU) No 609/2013 lays down general compositional and information requirements for different categories of food, including infant formula and follow-on formula. The Commission must adopt specific compositional and information requirements for infant formula and follow-on formula, taking into account the provisions of Directive 2006/141/EC. Infant formula is the only processed foodstuff which wholly satisfies the nutritional requirements of infants during the first months of life until the introduction of appropriate complementary feeding. In order to safeguard the health of those infants, it is necessary to ensure that infant formula is the only product marketed as suitable for such use during that period. The essential composition of infant formula and follow-on formula must satisfy the nutritional requirements of infants in good health as established by generally accepted scientific data. Infant formula and follow-on formula are sophisticated products that are specially formulated for a vulnerable group of consumers. In order to ensure the safety and suitability of such products, detailed requirements should be laid down on the composition of infant formula and follow-on formula, including requirements on energy value, macronutrient and micronutrient content. These requirements are based on an EFSA opinion on the essential composition of infant and follow-on formulae. Commission Delegated Regulation 2016/127[128] supplements Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for infant formula and follow-on formula and as regards requirements on information relating to infant and young child feeding.

4.3 Sugar

Sugar is a topic of keen current interest and in October 2015 Public Health England published[129] a review of a broad range of measures to reduce the nation's excessive sugar consumption. The evidence review showed that action to reduce sugar consumption levels could include, but is not limited to, reducing:

- The volume and number of price promotions in retail and restaurants
- The marketing and advertising of high sugar products to children
- The sugar content in and portion size of everyday food and drink products.

The review also suggested consideration of a price increase, through a tax or a levy, as a means of reducing sugar intake, although stated this is likely to be less effective than the three measures set out above.

Other conclusions from the review included setting a clear definition of high sugar foods; adopting the government buying standards for foods and catering services; delivering accredited training on diet and health to all who work in catering, fitness and leisure sectors; and continuing to raise awareness of practical steps to reduce sugar consumption.

The Health (Miscellaneous Provision) Act (Northern Ireland) 2016: Chapter 26[130], achieved Royal assent on 12 May 2016. This Act is to regulate the sale or use of nicotine products and tobacco, and to make other miscellaneous provisions but also includes provision in relation to sugar sweetened drinks. It requires the NI Department of Health, Social Services and Public Safety to carry out a study on a levy on sugar sweetened drinks within two years to determine:

(a) a definition of sugar sweetened drinks;

---

[128] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.025.01.0001.01.ENG&toc=OJ:L:2016:025:TOC
[129] https://www.gov.uk/government/news/new-evidence-review-of-measures-to-reduce-sugar-consumption
[130] http://www.legislation.gov.uk/nia/2016/26/pdfs/nia_20160026_en.pdf

(b) which sugar sweetened drinks should be subject to a levy;
(c) factors to be considered in determining and administering a levy;
(d) the financial rate at which a levy may be set;
(e) the anticipated health and economic impacts of the levy; and
(f) the options for funding measures to address adverse health conditions associated with the consumption of sugary drinks derived from the levy revenue.

4.4 Food supplements

No new information in the quarter.

4.5 Food for infants & young children, medical purposes and weight control

In the Quarter Commission Delegated Regulation 2016/128[131] supplemented Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for food for special medical purposes.

The Foods for Specific Groups (Scotland) Regulations 2016,190 were made on 2 June 2016 and come into force on 20 July 2016.[132] These Regulations make provision to enforce in Scotland certain provisions of Regulation (EU) 609/2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control. EU Regulation (EU) 609/2013 repeals and replaces a regime regulating (mostly, but not exclusively, compositional and labelling requirements) which must be met by certain groups of food before such food may be marketed in the Member States. Regulation 3 provides for the execution and enforcement of these Regulations by local authorities. Regulation 4 provides for offences and penalties. Regulation 5 modifies certain provisions of the Food Safety Act 1990 for enforcement purposes. Regulations 6 amends the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997. Regulation 7 provides for revocation of subordinate legislation.

5 Regulation

The Official Feed and Food Controls (England) Regulations 2009 were amended, in England, by the Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015 that came into force on 6 April 2015, see below.

In late March 2016 the FSA published the triennial review of six FSA Scientific Advisory Committees:

- The General Advisory Committee on Science (GACS)
- The Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT)
- The Advisory Committee on the Microbiological Safety of Food (ACMSF)
- The Advisory Committee on Animal Feedingstuffs (ACAF)
- The Advisory Committee on Novel Foods and Processes (ACNFP), and
- The Social Science Research Committee (SSRC).

[131] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.025.01.0030.01.ENG&toc=OJ:L:2016:025:TOC
[132] http://www.legislation.gov.uk/ssi/2016/190/contents/made

Amongst the eight recommendations, the review concluded that the role of providing independent, high-level advice and challenge on the FSA's use of science should pass from the GACS to a new Science Council. This mirrors similar models in other Government departments.
It is also recommended that the FSA should consult on moving the functions of the ACNFP and ACAF into a new committee, with a wider remit on innovation in the food chain. This would be established by December 2017. The SSRC will work as an expert committee of the FSA, focusing on providing advice and challenge on how the FSA can use social sciences to deliver its strategic priorities. The ACMSF and COT will retain their current structure and function. The review reinforced the importance of ensuring that the advisory committees continue to operate to the established high standards of independence, openness and transparency, including holding open meetings and publishing papers, minutes and reports, and having access to FSA officials and the Board. Further recommendations can be viewed in the full report.[133]

5.1 Regulators' development needs analysis, RDNA

The food section of the RDNA self-assessment tool has been updated to include the competency statements for authorised officers and lead food officers in the Food Law Code of Practice 2015.[134] RDNA appears to be a useful mechanism of clarifying regulatory need and seems to be open to all stakeholders.[135] There are links to the Guidance for Regulators Information Point (GRIP) portal that intended to help authorised officers and lead food officers in England meet their development needs both during and after their competency assessment processes.[136]

5.2 Food law prosecutions database

In November 2015 the FSA announced[137] the publication of a food law prosecutions database. The database[138] gives details of local authority food hygiene and food safety prosecutions outlining where and how food businesses have breached regulations. This data is supplied on a voluntary basis by local authority officers.

5.3 Food Standards Scotland

The Food (Scotland) Act 2015[139] established Food Standards Scotland (FSS) and describes the structure and function of this new food body in Scotland coming into operation on 1 April 2015.

5.4 Import controls

Commission Regulation (EC) No 669/2009 lays down rules concerning increased levels of official controls on imports of feed and food of non-animal origin when warranted by evidence of increasing threats to the food chain. The regulation is therefore periodically updated as new threats emerge or others are brought under control. In the quarter Commission Implementing Regulation (EU) 2016/443 of 23 March 2016 brought in additional controls for groundnuts and derived products originating from Madagascar (aflatoxins), palm oil from Ghana (Sudan dyes),

133 https://www.food.gov.uk/news-updates/news/2016/15022/triennial-review-of-six-fsa-scientific-advisory-committees
134 https://www.gov.uk/government/news/fresh-food?mc_cid=127fb196ca&mc_eid=f1b5809dbc
135 http://rdna-tool.bis.gov.uk/
136 http://www.regulatorsdevelopment.info/grip/food
137 http://www.food.gov.uk/news-updates/news/2015/14644/food-standards-agency-publishes-food-law-prosecutions-database
138 http://www.food.gov.uk/enforcement/prosecutions
139 http://www.legislation.gov.uk/asp/2015/1/pdfs/asp_20150001_en.pdf

and lemons from Turkey (pesticides residues). Enhanced surveillance of aubergines and bitter melon from the Dominican Republic was discontinued.[140]

Commission Implementing Regulation (EU) 2016/874 of 1 June 2016 amended Implementing Regulation (EU) 2015/943 on emergency measures suspending imports of dried beans from Nigeria owing to residues of the pesticide dichlorvos. Concentrations largely exceeding the acute reference dose tentatively established by EFSA were found and the prohibition which was to apply until 30 June 2016 was extended for another three years.[141]

Commission Implementing Decision (EU) 2016/884 of 1 June 2016 amended Implementing Decision 2014/88/EU suspending imports from Bangladesh of foodstuffs containing or consisting of betel leaves ("Piper Betle") due to the presence of a wide range of *salmonella* by extending the suspension until 30 June 2018.[142]

Commission Implementing Regulation (EU) 2016/1024 of 24 June 2016 amended Regulation (EC) No 669/2009 to increase import surveillance of consignments of hazelnuts originating from Georgia for aflatoxins. As a result of improved safety entries for dried grapes from Afghanistan (for ochratoxin A) and almonds from Australia (for aflatoxins) were deleted.[143]

5.5 Local authority enforcement activity

No centrally published new updates were published in the quarter. We remain open to including in this review any updates communicated by individual local authorities to the author. However see section 5.2 for the food law prosecutions database which is based on local authority activity.

5.6 Multi-Annual National Control Plan

No centrally published new updates were published in the quarter.

5.7 Food Law Code of Practice

No centrally published new updates were published in the quarter.

5.8 National sampling priorities for food

The FSA has been working with UK local authorities since 2003 to support Enforcement Authority risk-based sampling and surveillance of food sold in the UK, whether it is imported or produced in the EU or UK.[144] The FSA has invited recommendations for priorities for the 2016-17 National Coordinated Sampling Programme.[145] The FSA in Northern Ireland published its eighth food surveillance sampling report.[146]

5.9 Community Reference Laboratories

See section 6.3, 'Feed Additives'.

---

[140] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1466699635302&uri=CELEX:32016R0443
[141] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.145.01.0018.01.ENG&toc=OJ:L:2016:145:TOC
[142] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.146.01.0029.01.ENG&toc=OJ:L:2016:146:TOC
[143] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1024&rid=214
[144] https://www.food.gov.uk/enforcement/sampling/samplingandsurveillance
[145] https://www.food.gov.uk/news-updates/help-shape-our-policies/priorities-for-the-2016-17-national-coordinated-sampling-programme
[146] https://www.food.gov.uk/northern-ireland/news-updates/news/2015/14469/northern-ireland-food-surveillance-sampling-report-published

6 Feeding stuffs and fertilisers

The Animal Feed (Hygiene, Sampling etc. and Enforcement) (England) Regulations 2015 came into force on 6 April 2015. The Feed (Hygiene and Enforcement) (England) Regulations 2005, the Feed (Specified Undesirable Substances) (England) Regulations 2006, the Feed (Hygiene and Enforcement) and the Animal Feed (England) (Amendment) Regulations 2013 were revoked. Also revoked were Regulation 51 and Schedule 7 of the Official Feed and Food Controls (England) Regulations 2009 and Regulations 4, 5, 6, 7, 21, 22, and 23 and Schedule 1 of the Feed (Sampling and Analysis and Specified Undesirable Substances) (England) Regulations 2010.

Thus the 2015 regulations make provisions for the appointment and qualifications of Agricultural Analysts, sampling for analysis, secondary analysis by the Government Chemist, and the form and evidential status of an Agricultural Analyst's certificate of analysis. Also dealt with are methods of analysis where the sampling has not been carried out in the course of official controls and making it an offence to tamper or otherwise interfere with a sample.

The 2015 regulations provide for the continuing execution and enforcement of Regulation (EC) No 183/2005 laying down requirements for feed hygiene and Commission Regulation (EC) No. 152/2009 laying down the methods of sampling and analysis for the official control of feed, and also make provision as to administration generally in relation to feed law, in particular so as to give effect to Regulation (EC) No 882/2004 on official controls. Part 2 of the 2015 Regulations deals with the execution and enforcement of Regulation 183/2005, which provides that almost all businesses producing, trading in or using animal feed should be either registered, or approved, by the competent authorities.

The Animal Feed (Composition, Marketing and Use) (England) Regulations 2015[147] (SI 255) amended the Official Feed and Food Controls (England) Regulations 2009 (SI 3255) and revoked the Genetically Modified Animal Feed (England) Regulations 2004 (SI 2334), the Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (England) (Revocation) Regulations 2007 (SI 3007) and the Animal Feed (England) Regulations 2010 (SI 2503), other than regulations 1, 2 and 14. These Regulations give effect to:

- Commission Directive 82/475/EEC laying down the categories of feed materials which may be used for the purposes of labelling compound feedingstuffs for pet animals;
- Directive 2002/32/EC of the European Parliament and of the Council on undesirable substances in animal feed;
- Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed;
- Regulation (EC) No. 1831/2003 of the European Parliament and of the Council on additives for use in animal nutrition;
- Commission Directive 2008/38/EC establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes; and
- Regulation (EC) No. 767/2009 of the European Parliament and of the Council on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing certain other measures.

Similar regulations were made in Northern Ireland in the quarter to make provision as to administration generally in relation to feed law, in particular so as to give effect to Regulation (EC)

[147] http://www.legislation.gov.uk/uksi/2015/255/pdfs/uksi_20150255_en.pdf

No. 882/2004. These were the Animal Feed (Composition, Marketing and Use) (Northern Ireland) Regulations 2016[148] (SR 4) amending:

- The Official Feed and Food Controls (Northern Ireland) Regulations 2009 (SR 427) and The Animal Feed (Hygiene, Sampling etc. and Enforcement) Regulations (Northern Ireland) 2016[149] (SR 5) which supersede:
    - The Feed (Hygiene and Enforcement) Regulations (Northern Ireland) 2005 (SR.546);
    - The Feed (Specified Undesirable Substances) Regulations (Northern Ireland) 2006 (SR 471);
    - Regulation 46 and Schedule 7 of the Official Feed and Food Controls Regulations (Northern Ireland) 2009 (SR 427);
    - Regulations 4, 5, 6, 20, 21, and 22 and Schedule 1 of the Feed (Sampling and Analysis and Specified Undesirable Substances) Regulations (Northern Ireland) 2010 (SR 323);
    - The Feed (Hygiene and Enforcement) and the Animal Feed (Amendment) Regulations (Northern Ireland) 2013 (SR 294).

6.1 Dioxin testing

Regulation (EC) No 183/2005 of the European Parliament and of the Council lays down general rules on feed hygiene and processing conditions. In the quarter Commission Regulation 2015/1905[150] amended Annex II to as regards the dioxin testing of oils, fats and derived products. The amendment made the following clarifications:

a) That products derived from refined oil and feed additives authorised in accordance with Regulation (EC) No 1831/2003 of the European Parliament and of the Council are not covered by the definition therein;
b) The definition of fat blending excludes simple storage of consecutive batches of fats and oils without mixing them, and when blended fats are considered a compound feed and when they are feed materials;
c) Better to detect products that are clearly contaminated with dioxin at the point of entry in the feed chain, the requirements concerning dioxin monitoring set out in Annex II to Regulation (EC) No 183/2005 apply to all feed business operators placing feed on the market, including importers;
d) To achieve a representative sample incremental samples to form the aggregate sample must be taken at regular intervals, e.g. at least one incremental sample every 50 tonnes, in line with the provisions on sampling as provided for in Commission Regulation (EC) No 152/2009;
e) Based on previous testing results of products derived from vegetable oils, except fatty acid distillates from physical refining and deodistillates (which appear to be deodoriser distillates), do not have a high risk for dioxin contamination and 100 % dioxin testing is no longer required for these products.

Lastly the certification that the mandatory analysis of a specific batch has been undertaken is clarified by specifying the tasks for the different feed business operators in order to clarify the responsibilities of the various actors in the feed chain.

[148] http://www.legislation.gov.uk/nisr/2016/4/pdfs/nisr_20160004_en.pdf
[149] http://www.legislation.gov.uk/nisr/2016/5/pdfs/nisr_20160005_en.pdf
[150] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.278.01.0005.01.ENG

6.2 Nickel in feed

See section 2.3.5 – EFSA requires further data on Ni in food of animal origin and accordingly Commission Recommendation (EU) 2016/1110 of 28 June 2016 askes Member States to monitor for the presence of nickel in feed.[151]

6.3 Feed additives

In May 2016 the EFSA Panel on Additives and Products or Substances used in Animal Feed, FEEDAP, reviewed a series of guidance documents intended to help applicants in their preparation of technical dossiers, listed those that remain relevant and identified those that will need to be revised.[152]

6.3.1 Community and National Reference Laboratories

Regulation (EC) No 1831/2003 deals with application for, and authorisation of, feed additives in animal nutrition with detailed rules in Regulation (EC) No 1831/2003 including the duties and tasks of the Community Reference Laboratory (CRL). In October 2015 Commission Implementing Regulation 2015/1761[153] amended Regulation 378/2005 as regards the Community Reference Laboratory reports, fees and the feed additive national reference laboratories, including LGC, listed in Annex II thereto.

7 Acknowledgements

Editorial assistance from Vicki Barwick is gratefully acknowledged. Funding from the Department for Business, Innovation & Skills (Department for Business, Energy & Industrial Strategy from July 2016) under the Government Chemist Programme for work carried out in this project is gratefully acknowledged.

[151] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1471533458929&uri=CELEX:32016H1110
[152] http://www.efsa.europa.eu/en/efsajournal/pub/4473
[153] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.257.01.0030.01.ENG