Food and feed law:

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

January – March 2016

Government Chemist Programme Report

Department for Business Innovation & Skills

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

January – March 2016

Author: Michael Walker

Contact point: Michael Walker

michael.walker@lgcgroup.com

07738 179 985

Report no. LGC/R/2016/523

Approved by:

Julian Braybrook

_____

Date: 1 September 2016

Preparation of this report was funded by the Department for Business, Innovation & Skills.

Introduction to 'Food and feed law' review series

This is the sixth 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 some information is carried forward from the previous report legislation in force and made prior to January 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 January to March 2016.

Control of contaminants is frequently updated and almost always features in our quarterly updates. There were developments on Tropane alkaloids and ethyl carbamate in the Quarter, both with analytical implications. Tropane alkaloids are secondary metabolites which naturally occur in plants of several families and are potentially toxic to infants and young children. Their presence in seeds found as impurities in certain cereals prompted the Commission Regulation 2016/239 amending Regulation 1881/2006 to establish a maximum permitted concentration for tropane alkaloids of 1.0 µg kg^{-1} (atropine / scopolamine) in processed cereal-based foods and baby foods for infants and young children, containing millet, sorghum, buckwheat or their derived products. Further information, including on analytical methods is provided in a European Food Standards Agency (EFSA) opinion and the analysis of these interesting compounds may to be a suitable topic for future Government Chemist capability building.

Ethyl carbamate is a recognised health concern, particularly with respect to stone fruit brandies and there is a Commission code of practice, CoP to reduce ethyl carbamate in these beverages, concentrating on hydrocyanic acid, an important precursor. There are regulatory maxima for hydrocyanic acid in alcoholic beverages and monitoring has shown significant reductions thus Commission Recommendation 2016/22 retains and updates the CoP.

Commission Regulation 2016/324 amended and corrected food additives law to ensure clarity in the regulation of additives in foods for infants and young children. These foods are governed by Regulation (EU) No 609/2013 which lays down general compositional and information requirements and the regulation was updated in the Quarter.

Flavourings are controlled by Regulation (EC) No 1334/2008 which was again amended in the Quarter. The enforcement of flavourings law does not seem to feature heavily or at all in the activities of Public Analysts and perhaps some general capability building is required in this area.

At the request of Monsanto following a commercial decision of the company not to market them in the EU certain GM maize products authorisations were withdrawn.

Levels of official controls on imports of feed and food of non-animal origin are periodically updated as new threats emerge or others are brought under control and in the Quarter, a new regulation was made to maintain an increased level of surveillance of imported groundnuts and groundnut products from Brazil, *Capsicum annuum* and nutmeg from India and nutmeg from Indonesia due to a continued increased risk of these products being contaminated by aflatoxins.

Contents

1 Cross-cutting issues

1.1 Emerging Risks

Although dealt with in a previous report[1] it is probably worth retaining the list of emerging concerns from the Emerging Risks Exchange Network, EREN,[2].

1 Okadaic acid in Manila clams in Italy
2 Heat-generated food contaminants
3 Pomegranate substitution
4 Adulteration of lamb dishes with other meat species
5 Novel phleboviruses
6 Detection of *Aethina tumida* in Southern Italy
7 Clenbuterol as emerging risk in the food chain
8 Long term effects of food emulsifiers on intestinal barriers
9 Other active substances than vitamins and mineral used in food supplements
10 Potential issues with the transition from long-chain poly- and perfluorinated alkyl substances (PFASs) to new fluorinated alternatives.

2 Food safety

2.1 Contaminants

Regulation (EC) No 1881/2006 remains the primary European legislation, the latest consolidated version of which was published in November 2015[3]. This is a measure that is frequently updated and almost always features in our quarterly updates.

2.1.1 Inorganic arsenic, iAs

See previous reports – there were no new updates January – March 2016.

2.1.2 Polycyclic aromatic hydrocarbons

See previous reports – there were no new updates January – March 2016.

2.1.3 Mycotoxins

2.1.3.1 Ergot

This topic was covered in previous reports and Commission Regulation 2015/1940[4] amended Regulation (EC) No 1881/2006 on maximum levels of ergot sclerotia in certain unprocessed cereals and the provisions on monitoring and reporting. A limit for unprocessed cereals (with the exception of corn and rice) of 0.5 g kg^{-1} (grams of ergot sclerotia per kilogram of product) has been established. Competent authorities may take appropriate measures, in accordance with Article 14(8) of Regulation (EC) No 178/2002 to impose restrictions on the placing of food on the market or to require withdrawal of such food from the market, where the food is found unsafe

1 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review-april-to-june-2015
2 http://www.efsa.europa.eu/en/supporting/pub/839e
3 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1453831421062&uri=CELEX:02006R1881-20151118
4 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.283.01.0003.01.ENG

because of the level of ergot alkaloids, despite its compliance with the maximum level on ergot sclerotia. There were no new updates on ergot January – March 2016.

2.1.4 Erucic acid

Regulation 2015/2284 of the European Parliament and of the Council[5] repealed Council Directive 76/621/EEC relating to the fixing of the maximum level of erucic acid in oils and fats.

2.1.5 Tropane alkaloids

Tropane alkaloids are secondary metabolites which naturally occur in plants of several families including *Brassicaceae, Solanaceae and Erythroxylaceae* (coca family). More than 200 tropane alkaloids have been identified so far. The most studied are (-)-hyoscyamine and (-)-scopolamine. Atropine is the racemic mixture of (-)-hyoscyamine and (+)-hyoscyamine of which only the (-)-hyoscyamine enantiomer exhibits anticholinergic[6] activity. The presence of tropane alkaloids in genus *Datura* is well known. *Datura stramonium* is widely distributed in temperate and tropical regions and for this reason seeds of *Datura stramonium* have been found as impurities in linseed, soybean, sorghum, millet, sunflower and buckwheat and products thereof. The *Datura stramonium* seeds cannot be easily removed from sorghum, millet and buckwheat by sorting and cleaning and therefore sorghum, millet and buckwheat and their derived products and cereal based foods containing these are found to be contaminated with tropane alkaloids. Thus Commission Regulation 2016/239[7] amended Regulation (EC) No 1881/2006 to establish maximum permitted concentration for tropane alkaloids of 1.0 µg kg^{-1} in processed cereal-based foods and baby foods for infants and young children, containing millet, sorghum, buckwheat or their derived products. Analytically it is not always possible to distinguish between the enantiomers of hyoscyamine, hence the regulations establish the maximum level for atropine and scopolamine. As the synthesis of tropane alkaloids in plants leads to (-)-hyoscyamine and (-)-scopolamine and not to (+)-hyoscyamine, analytical results on atropine in food of plant origin reflects the occurrence of (-)-hyoscyamine. Sampling rules to be applied for the control of compliance with the maximum levels are in Part J of Annex I to Commission Regulation (EC) No 401/2006. Further information, including on analytical methods is provided in the European Food Standards Agency (EFSA) opinion.[8] The analysis of tropane alkaloids appears to be a candidate for Government Chemist capability building.

2.1.6 Ethyl carbamate

EFSA published a scientific opinion on ethyl carbamate in food and beverages in 2007 and concluded that it indicates a health concern, particularly with respect to stone fruit brandies. EFSA recommended mitigation measures to reduce the levels of ethyl carbamate in these beverages. As hydrocyanic acid is an important precursor of ethyl carbamate formation in stone fruit spirits and stone fruit marc spirits, EFSA concluded that such measures should include focus on hydrocyanic acid and other precursors of ethyl carbamate. Maximum concentrations of hydrocyanic acid in stone fruit spirits and stone fruit marc spirits have been laid down in Regulation (EC) No 110/2008 of the European Parliament and of the Council (2). This Regulation stipulates that the maximum hydrocyanic acid content in stone fruit spirits and stone fruit marc

[5] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.327.01.0023.01.ENG&toc=OJ:L:2015:327:TOC

[6] Anticholinergic - inhibition of cholinergic (acetylcholine) neurotransmission at receptor sites in the central and the peripheral nervous system. Common clinical manifestations include flushing, dry skin and mucous membranes, mydriasis (dilation of the pupil of the eye), altered mental status and fever. Atropine from *Atropa belladonna* is the signature poison, Clinical Pharmacology, Laurence, Bennett & Morris, Churchill Livingstone,1997.

[7] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.045.01.0003.01.ENG&toc=OJ:L:2016:045:TOC

[8] EFSA CONTAM Panel (EFSA Panel on Contaminants in the Food Chain), 2013. Scientific Opinion on Tropane alkaloids in food and feed. EFSA Journal 2013;11(10):3386, 113 pp. doi:10.2903/j.efsa.2013.3386, http://www.efsa.europa.eu/sites/default/files/scientific_output/files/main_documents/3386.pdf

spirits shall be 7 grams per hectolitre of 100 % vol. alcohol (70 mg/l). Regulation (EC) No 1334/2008 of the European Parliament and of the Council establishes a maximum level of hydrocyanic acid of 35 mg/kg in alcoholic beverages. This maximum level applies without prejudice to Regulation (EC) No 110/2008.

Commission Recommendation 2010/133/EU provided for a Code of Practice on the prevention and reduction of ethyl carbamate contamination in stone fruit spirits and stone fruit marc spirits to achieve levels of ethyl carbamate in stone fruit spirits and stone fruit marc spirits as low as possible with the aim to achieve the level of 1 mg/l as a target. Monitoring results were reported in the EFSA technical report 'Evaluation of monitoring data on levels of ethyl carbamate in the years 2010-2012 adopted on 28 March 2014. The report shows that more than 80 % of the analytical results in 'Spirits made from stone fruits' and more than 95 % of the analytical results in 'Spirits made from fruits other than stone fruits' were below the target value of 1 mg L^{-1}. It is thus appropriate to maintain the Code of Practice, with the target level for ethyl carbamate of 1 mg L^{-1} but to update the Code with experiences gained and to align it on certain aspects with the Codex Code of Practice on ethyl carbamate contamination in stone fruit distillates, adopted in 2011 (CAC/RCP 70-2011),

Thus Commission Recommendation 2016/22[9] covers the prevention and reduction of ethyl carbamate contamination in stone fruit spirits and stone fruit marc spirits, repealing Recommendation 2010/133/EU. It makes some recommendations regarding the manufacturing process and procedures for the measurement of hydrocyanic acid and ethyl carbamate in products.

2.2 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.

2.2.1 Acrylamide

In November 2015 the Food Standards Agency (FSA) published[10] the second in a regular series of science updates from Chief Scientific Advisor Professor Guy Poppy. This issue focuses on chemical risks in food. The major topic discussed in the report is acrylamide, the chemical contaminant that forms in certain foods during cooking. Regulators have been working with the food industry to reduce levels of acrylamide in processed foods and have long-standing advice to consumers on how to minimise the risks when cooking at home. 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.[11]

2.3 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.[12]

[9] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.006.01.0008.01.ENG&toc=OJ:L:2016:006:TOC
[10] https://www.food.gov.uk/news-updates/news/2015/14655/chief-scientific-advisor-s-report-acrylamide
[11] https://www.food.gov.uk/sites/default/files/csa-acrylamide-report.PDF
[12] http://ec.europa.eu/food/food/fAEF/additives/guidance_en.print.htm

In the Quarter, Commission Regulation 2016/56[13] amended Annex II to Regulation (EC) No 1333/2008 as regards the use of extracts of rosemary (E 392) as an antioxidant in spreadable fats to a maximum of 100 mg kg^{-1} as the sum of carnosol and carnosic acid expressed on fat basis

In addition Commission Regulation 2016/324[14] amended and corrected Annex II as regards the use of certain food additives permitted in all categories of foods. Due to the difficulties encountered during the transfer of food additives to the new categorisation system provided in Annex II, foods for infants and young children were not transferred from Article 2(3)(b) of Directive 95/2/EC to Table 1 of Part A of Annex II In particular it must be ensured that the carry-over principle does not apply to those foods. Therefore, that table in Annex II should be corrected to include foods for infants and young children provided in Directive 2009/39/EC of the European Parliament and of the Council (6), as replaced by Regulation (EU) No 609/2013 (see below). Also in view of Article 16 on the use of food additives in foods for infants and young children of Regulation (EC) No 1333/2008, it was important to clarify the conditions of use of the food additives listed in food category 0. 'Food additives permitted in all categories of foods' of part E of Annex II to that Regulation and to amend the title of that category.

Annex III to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in food additives, food enzymes, food flavourings, nutrients and their conditions of use.

2.3.1 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[15]. In the Quarter, Commission Regulation 2016/54[16] amended Annex I to Regulation (EC) No 1334/2008 as regards inclusion of gamma-glutamyl-valyl-glycine in the Union list of flavouring substances. In addition Commission Regulation 2016/55[17] amended the Annex as regards the following substances:

- beta-Isomethylionone
- 6-Methylhepta-3,5-dien-2-one
- 4-Methylpent-3-en-2-one
- trans-1-(2,6,6-Trimethyl-1-cyclohexen-1-yl)but-2-en-1-one, and
- 3-[(4-amino-2,2-dioxido-1H-2,1,3-benzothiadiazin-5-yl)oxy]-2,2-dimethyl-N-propylpropanamide, which also has limits in certain foods.

The enforcement of flavourings law does not seem to feature heavily or at all in the activities of Public Analysts and perhaps some general capability building is required in this area.

2.4 Food contact materials

Commission Regulation 2015/1906[18] 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 January – March 2016.

[13] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.013.01.0046.01.ENG&toc=OJ:L:2016:013:TOC
[14] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.061.01.0001.01.ENG&toc=OJ:L:2016:061:TOC
[15] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1445980490072&uri=CELEX:02008R1334-20150729
[16] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.013.01.0040.01.ENG&toc=OJ:L:2016:013:TOC
[17] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.013.01.0043.01.ENG&toc=OJ:L:2016:013:TOC
[18] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.278.01.0011.01.ENG

2.5 Marine biotoxins

No new centrally published updates January – March 2016.

2.6 Pesticides

Commission Implementing Regulation 2015/595[19] sets out a coordinated multiannual control programme of the EU for 2016, 2017 and 2018 to ensure compliance with maximum residue levels 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 maximum residue levels (MRLs) of pesticides in or on food and feed of plant and animal origin; Annexes II, III and V to the regulation were amended as follows in the quarter:

Commission Implementing Regulation 2016/1[20] as regards maximum residue levels for bifenazate, boscalid, cyazofamid, cyromazine, dazomet, dithiocarbamates, fluazifop-P, mepanipyrim, metrafenone, picloram, propamocarb, pyridaben, pyriofenone, sulfoxaflor, tebuconazole, tebufenpyrad and thiram in or on certain products.

Commission Implementing Regulation 2016/46[21] as regards maximum residue levels for oxadixyl and spinetoram in or on certain products.

Commission Implementing Regulation 2016/53[22] as regards maximum residue levels for diethofencarb, mesotrione, metosulam and pirimiphos-methyl in or on certain products.

Commission Implementing Regulation 2016/60[23] amends Annexes II and III to Regulation (EC) No 396/2005 of the European Parliament and of the Council as regards maximum residue levels for chlorpyrifos in or on certain products.

Commission Implementing Regulation 2016/67[24] as regards maximum residue levels for ametoctradin, chlorothalonil, diphenylamine, flonicamid, fluazinam, fluoxastrobin, halauxifen-methyl, propamocarb, prothioconazole, thiacloprid and trifloxystrobin in or on certain products.

Commission Implementing Regulation 2016/75[25] as regards maximum residue levels for fosetyl in or on certain products.

Commission Implementing Regulation 2016/71[26] as regards maximum residue levels for 1-methylcyclopropene, flonicamid, flutriafol, indolylacetic acid, indolylbutyric acid, pethoxamid, pirimicarb, prothioconazole and teflubenzuron in or on certain products.

Commissioning Implementing Regulation 2016/138[27] concerns the non-approval of the active substance 3-decen-2-one, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market.

[19] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.099.01.0007.01.ENG
[20] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.002.01.0001.01.ENG&toc=OJ:L:2016:002:TOC
[21] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.012.01.0028.01.ENG&toc=OJ:L:2016:012:TOC
[22] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.013.01.0012.01.ENG&toc=OJ:L:2016:013:TOC
[23] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.014.01.0001.01.ENG&toc=OJ:L:2016:014:TOC
[24] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.015.01.0002.01.ENG&toc=OJ:L:2016:015:TOC
[25] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.016.01.0008.01.ENG&toc=OJ:L:2016:016:TOC
[26] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.020.01.0001.01.ENG&toc=OJ:L:2016:020:TOC
[27] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.027.01.0005.01.ENG&toc=OJ:L:2016:027:TOC

Commissioning Implementation a Regulation 2016/139[28] renews the approval of the active substance metsulfuron-methyl, as a candidate for substitution, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Implementing Regulation (EU) No 540/2011.

2.7 Radioactivity

Council Regulation (Euratom) 2016/52[29] was made during the Quarter laying down maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency, and repealing Regulation (Euratom) No 3954/87 and Commission Regulations (Euratom) No 944/89 and (Euratom) No 770/90.

2.8 Transmissible spongiform encephalopathies

Regulation (EC) No 999/2001 laid down rules for the prevention, control and eradication of transmissible spongiform encephalopathies (TSEs) in animals. It applies to the production and placing on the market of live animals and products of animal origin and, in certain specific cases, to exports thereof. Regulation (EC) No 999/2001 provides that specified risk material (SRM) is to be removed and disposed of in accordance with Annex V to that Regulation. In accordance with that Annex, SRM includes the intestines from the duodenum to the rectum and the mesentery of bovine animals of all ages. The Communication from the Commission to the European Parliament and the Council – The TSE Roadmap 2: A Strategy Paper on Transmissible Spongiform Encephalopathies for 2010-2015 of 16 July 2010[30] states that any amendment of the current list of SRM referred to in Annex V to Regulation (EC) No 999/2001 (the 'list of SRM') should be based on new evolving scientific knowledge, while maintaining the existing high level of consumer protection within the Union.

No new centrally published updates on TSEs were reported January – March 2016.

2.9 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 Scotland) Regulations 2015[31] and in the Quarter in Northern Ireland by the Animal and Animal Products (Examination for Residues and Maximum Residue Limits) (Northern Ireland) 2016 (SR 54)[32].

Regulation (EU) No 37/2010 was amended in the quarter by:

Commission Implementing Regulation 2016/305[33] as regards the substance 'gentamicin'. The limit for gentamicin in all mammalian food and fin fish is defined as the sum of gentamicin C1, gentamicin C1a, gentamicin C2 and gentamicin C2a, at the following levels:

- 50 µg kg^{-1} in muscle
- 50 µg kg^{-1} in fat

[28] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.027.01.0007.01.ENG&toc=OJ:L:2016:027:TOC
[29] 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
[30] http://ec.europa.eu/food/food/biosafety/tse_bse/docs/roadmap_2_en.pdf
[31] http://www.legislation.gov.uk/uksi/2015/787/pdfs/uksi_20150787_en.pdf
[32] http://www.legislation.gov.uk/nisr/2016/54/pdfs/nisr_20160054_en.pdf
[33] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.058.01.0035.01.ENG&toc=OJ:L:2016:058:TOC

- 200 µg kg^{-1} in liver
- 750 µg kg^{-1} in kidney, and
- 100 µg kg^{-1} in milk.

2.9.1 Nitrofurans

No new centrally published updates January – March 2016.

2.10 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[34] (recast)[35] 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.[36]

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[37] amended in the quarter the Natural Mineral Water, Spring Water and 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[38] (SI 1867, W274) and in Northern Ireland with the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015[39] (SR 365).

Commission Directive 2015/1787[40] 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.

---

34 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1453734625466&uri=CELEX:32009L0054
35 Which repeals and replaces Directive 80/777/EEC.
36 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1453734764128&uri=CELEX:32003L0040
37 http://www.legislation.gov.uk/ssi/2015/363/pdfs/ssi_20150363_en.pdf
38 http://www.legislation.gov.uk/wsi/2015/1867/pdfs/wsi_20151867_mi.pdf
39 http://www.legislation.gov.uk/nisr/2015/365/pdfs/nisr_20150365_en.pdf
40 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.260.01.0006.01.ENG

No new centrally published updates January – March 2016.

3 Consumer choice

3.1 Food labelling

The primary legislation is now Regulation 1169/2011[41] 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.[42] Domestic implementation is effected in England by the Food Information Regulations (SI 2014 No 1855)[43], in Northern Ireland by the Food Information Regulations (Northern Ireland) 2014 (SR 2014 No 223)[44] and, in Wales the Food Information Regulations (Wales) 2014 (SI 2014 No 2303, W227)[45]. In Scotland implementation is by the Food Information Regulations (Scotland) 2014 (SSI 312)[46] which were amended in December 2015 by the Food Information (Miscellaneous Amendments) (Scotland) Regulations 2015 (SSI 410).[47] These make a set of small drafting amendments, for example clarifying aspects of the labelling of 'alcohol-free', 'dealcoholised' and 'low alcohol' drinks.

Information is available on the Commission website.[48] Guidance on nutrition labelling is also available on the Commission website.[49]

3.1.1 Country of origin labelling

The Country of Origin of Certain Meats (England) Regulations 2015 (SI 518)[50] 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.[51]

Similar legislation has been enacted in Northern Ireland through The Country of Origin of Certain Meats Regulations (Northern Ireland) 2015[52] (SR 321) and in Wales by the Country of Origin of Certain Meats (Wales) Regulations 2015[53] (SI 1591, W177).

3.1.2 Meat products

The Products Containing Meat etc Regulations 2014 enacted in England (e.g. SI 3001/2014[54]), 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 to December 2014[55]). There was a technical amendment in the Quarter to the Scottish regulations inserting a reference to section 22 of the Food Safety Act 1990 (defence of

41 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:304:0018:0063:EN:PDF
42 http://www.reading.ac.uk/foodlaw/label/links.htm
43 http://www.legislation.gov.uk/uksi/2014/1855/pdfs/uksi_20141855_en.pdf
44 http://www.legislation.gov.uk/nisr/2014/223/pdfs/nisr_20140223_en.pdf
45 http://www.legislation.gov.uk/wsi/2014/2303/pdfs/wsi_20142303_mi.pdf
46 http://www.legislation.gov.uk/ssi/2014/312/pdfs/ssi_20140312_en.pdf
47 http://www.legislation.gov.uk/ssi/2015/410/pdfs/ssi_20150410_en.pdf
48 http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm
49 http://ec.europa.eu/food/food/labellingnutrition/nutritionlabel/index_en.htm
50 http://www.legislation.gov.uk/uksi/2015/518/pdfs/uksi_20150518_en.pdf
51 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review-april-to-june-2015
52 http://www.legislation.gov.uk/nisr/2015/321/pdfs/nisr_20150321_en.pdf
53 http://www.legislation.gov.uk/wsi/2015/1519/pdfs/wsi_20151519_mi.pdf
54 http://www.legislation.gov.uk/uksi/2014/3001/pdfs/uksi_20143001_en.pdf
55 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review

publication in the course of business) by the Products Containing Meat etc. (Scotland) Amendment Regulations 2016 (SSI 24/2016)[56]

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, Defra, for drawing attention to this).[57]

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).[58]

3.1.5 ECJ Court case – the *Teekanne* case

This case was a request for a preliminary ruling from the Bundesgerichtshof (Germany), and involved a fruit tea which had drawings of raspberries and vanilla flowers on the packaging even though the product did not, in fact, contain any vanilla or raspberry constituents or flavourings. It was clear from the ingredients list that the natural flavourings present had the taste of raspberry or vanilla but that those flavourings had not been obtained from raspberries or vanilla. The question referred to the court was whether, taking into account the information given in the ingredients list, this would constitute a breach of the provisions of Article 2 of 2000/13/EC relating to misleading labelling. The essence of the judgment is that the labelling of a product can be misleading as to its ingredients *even if the ingredient list itself is correct*. It will be for the German courts in the *Teekanne* case to decide whether the labelling was misleading. The ECJ approach mirrors the approach taken under section 15(4) of the Food Safety Act 1990. This provides that that the fact that a label contains an accurate statement of the composition of a food does not preclude a court from finding that it's labelling is likely to mislead a consumer.[59]

3.1.6 Organic food

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.[60]

3.2 Food Fraud

In November, the European Commission launched a dedicated IT tool, known as the Administrative Assistance and Cooperation (AAC) system to facilitate the exchange of administrative information between national authorities working to combat cross-border violations in Europe. In the wake of the horsemeat scandal of 2013, the Commission[61] 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[62] cases. As a result, the European Food

[56] http://www.legislation.gov.uk/ssi/2016/24/pdfs/ssi_20160024_en.pdf
[57] http://ec.europa.eu/fisheries/documentation/publications/eu-new-fish-and-aquaculture-consumer-labels-pocket-guide_en.pdf
[58] https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers
[59] http://old.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62014CJ0195:EN:HTML
[60] https://www.gov.uk/government/publications/organic-certification-list-of-uk-approved-organic-control-bodies
[61] http://ec.europa.eu/food/safety/official_controls/food_fraud/horse_meat/index_en.htm
[62] http://ec.europa.eu/food/safety/official_controls/food_fraud/index_en.htm

Fraud Network (FFN) was born and tasked with handling requests for cross-border cooperation. Each Member State has appointed a contact point to handle requests from contact points in the other Member States that form part of the network. This network has been operational since July 2013 and since its creation, the Commission has observed a marked increase in the number of exchanges from 30 in 2013 to over 90 in 2015.

Cross border cooperation helps to improve the capability of national authorities to:

- detect and prevent cross border breaches of EU food chain rules; and if necessary;
- collect the information that is needed to refer a case for further investigation and to ensure appropriate enforcement action.

The AAC system will ensure that the Food Fraud Network works even more efficiently and is able to respond more swiftly to information requests.

3.3 Caseins and caseinates

Commission Directive 2015/2203[63] covers the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC. Compositional standards for these products are given in the Directive.

3.4 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.[64] The Regulation was amended in the Quarter.

Commission Implementing Decision 2016/87[65] withdrew from the market existing products derived from MON 863 (MON-ØØ863-5) and repealed Decisions 2010/139/EU, 2010/140/EU, 2010/141/EU authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON863×MON810×NK603 (MON-ØØ863-5×MON-ØØ81Ø-6×MON-ØØ6Ø3-6), MON863×MON810 (MON-ØØ863-5×MON-ØØ81Ø-6) and MON863×NK603 (MON-ØØ863-5×MON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council. This was at the request of Monsanto following a commercial decision of the company not to market these maize products in the EU.

3.4.1 Cultivation of GMOs

Commission Directive 2015/412[66] 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[67] for further details. Commission Implementing Decision 2016/321[68] adjusted the geographical scope of the authorisation for cultivation of genetically modified maize (*Zea mays* L.) MON 810 (MON-ØØ81Ø-6). In the United Kingdom, this cultivar can be grown in England, but not in Northern Ireland, Scotland or Wales.

63 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.314.01.0001.01.ENG&toc=OJ:L:2015:314:TOC
64 http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1436450297142&uri=CELEX:02003R1829-20080410
65 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.017.01.0014.01.ENG&toc=OJ:L:2016:017:TOC
66 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.068.01.0001.01.ENG
67 https://www.gov.uk/government/publications/food-and-feed-law-legislation-review-april-to-june-2015
68 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.060.01.0090.01.ENG&toc=OJ:L:2016:060:TOC

3.4.2 Genetically modified animals

An interesting review paper was published on genetically modified animals. The past two decades have witnessed the rise of commercial crops that have been genetically modified for an increased suitability in extensive cultivation. Currently, a substantial body of research is being carried out in order to produce Genetically Modified (GM) animals that may similarly yield improvements in animal breeding, genetics and reproduction. The authors attempt a comprehensive review of the existing trails at animal modification with commercial applications and aimed at a deliberate release onto the market. In addition, they investigate detection and quantification options within the frame of food/feed control and traceability on the European market.[69]

3.5 Honey

The making and coming into force of the Honey (Wales) Regulations 2015[70] (SI 1507, W174) completed in the quarter the updating of domestic implementation of Council Directive 2001/110/EC relating to honey[71]. These regulations sit alongside the Honey (Scotland) Regulations 2015 (SSI 208)[72], the Honey Regulations (Northern Ireland) 2015 (SR 261)[73], and the Honey Regulations (England) 2015[74] (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 24th 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 Meat products

The Products Containing Meat etc. (England) Regulations 2014 (SI 3001/2014)[75] remain the primary domestic legislation for definitions and minimum meat content standards for certain meat products presented for sale directly to the consumer.

Similar Regulations have been enacted in Scotland with the Products Containing Meat etc. Regulations (Scotland) Regulations 2014 (SSI 289/2014)[76] 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)

[69] A. Lievens, M. Petrillo, M. Querci, A. Patak, Genetically modified animals: Options and issues for traceability and enforcement, Trends in Food Science & Technology, Volume 44, Issue 2, August 2015, Pages 159-176, ISSN 0924-2244, http://dx.doi.org/10.1016/j.tifs.2015.05.001. (http://www.sciencedirect.com/science/article/pii/S0924224415001223)
[70] http://www.legislation.gov.uk/wsi/2015/1507/pdfs/wsi_20151507_mi.pdf
[71] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1445979649018&uri=CELEX:02001L0110-20140623
[72] http://www.legislation.gov.uk/ssi/2015/208/contents/made
[73] http://www.legislation.gov.uk/nisr/2015/261/contents/made
[74] http://www.legislation.gov.uk/uksi/2015/1348/pdfs/uksi_20151348_en.pdf
[75] http://www.legislation.gov.uk/uksi/2014/3001/pdfs/uksi_20143001_en.pdf
[76] http://www.legislation.gov.uk/ssi/2014/289/pdfs/ssi_20140289_en.pdf

Regulations 2009(SSI 436/2009), and in Northern Ireland with the Products Containing Meat etc. Regulations (Northern Ireland) 2014[77] (SR 285/2014).

3.7 Novel foods

The regulation of novel foods featured in our previous quarterly report with the revocation of Regulation (EC) No 258/97[78] and its replacement by Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods[79]

A Commission Q & A is available[80] and a list of authorisations.[81]

3.8 Olive oil

The inherent chemical composition and sensory attributes of olive products make them highly appreciated worldwide with descriptions, definitions and optional reserved terms established in Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products, (Part VIII and Annex IX). Commission Regulation (EEC) No 2568/91 defines the physico-chemical and organoleptic characteristics of olive oil and olive-pomace oil and lays down methods of assessing those characteristics. Those methods and the limit values for the characteristics of oils are regularly updated on the basis of the opinion of chemical experts and in line with the work carried out within the International Olive Council (IOC). The Regulation was amended twice January – March 2016.

Commission Delegated Regulation 2015/1830[82] adjusted the lower limit values for linoleic acid laid down in a note to the second table in Annex I to Regulation (EEC) No 2568/91 and altered from 2015 to 2016 the phased reduction of the fatty acid ethyl ester limit for extra virgin olive oil set out in that Annex. The method for the detection of extraneous vegetable oils in olive oils set out in Annex XXa to is no longer in use and has been deleted.

Commission Implementing Regulation 2015/1833[83] amended Regulation 2568/91 by updating relevant methods of analysis.

For completeness the reference to a review paper on the damage caused by olive fly, is retained from last quarter's report.[84]

[77] http://www.legislation.gov.uk/nisr/2014/285/pdfs/nisr_20140285_en.pdf
[78] http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1446024882821&uri=CELEX:01997R0258-20090807
[79] 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
[80] http://europa.eu/rapid/press-release_MEMO-15-5875_en.htm
[81] http://ec.europa.eu/food/safety/novel_food/authorisations/list_authorisations/index_en.htm
[82] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.266.01.0009.01.ENG
[83] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.266.01.0029.01.ENG
[84] Ricardo Malheiro, Susana Casal, Paula Baptista, José Alberto Pereira, A review of Bactrocera oleae (Rossi) impact in olive products: From the tree to the table, Trends in Food Science & Technology, Volume 44, Issue 2, August 2015, Pages 226-242, ISSN 0924-2244, http://dx.doi.org/10.1016/j.tifs.2015.04.009. (http://www.sciencedirect.com/science/article/pii/S0924224415001028)

3.9 Protected Names

There are 3 protection marks in the EU:

- 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.[85]

3.10 Consumer attitudes

The results from the FSA's Biannual Public Attitudes Tracker for May 2015 were published. The top two food safety issues of total (i.e. spontaneous plus prompted) concern for respondents were food hygiene when eating out (37%), and the use of additives in food products (29%). The top wider food issues of total concern were the amount of sugar in food (51%), food waste (49%) and the amount of salt in food (47%).[86]

3.11 Scotch whisky

The Legal Report of the Scotch Whisky Association[87] was published in the quarter. During 2014, new proceedings were authorised in respect of 19 different brands covering Belgium, China, Curacao, Ecuador, France, Germany, India, New Zealand, the Netherlands and Scotland.[88]

4 Health and nutrition

Guidance on nutrition labelling is available on the Commission website.[89]

Regular bulletins are available from the Department of Health on EU legislation on nutrition and health claims.[90]

4.1 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

[85] https://www.gov.uk/guidance/eu-protected-food-names-how-to-register-food-or-drink-products
[86] http://www.food.gov.uk/news-updates/news/2015/14268/public-attitudes-tracker-results-published
[87] http://www.scotch-whisky.org.uk/
[88] http://www.scotch-whisky.org.uk/news-publications/publications/documents/legal-report-2014/#.VjvKBNLhCCg
[89] http://ec.europa.eu/food/food/labellingnutrition/nutritionlabel/index_en.htm
[90] https://www.gov.uk/government/publications/nutritional-and-health-claims-legislation-bulletins-2015

Regulation 2016/127[91] 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.

4.2 Sugar

Sugar is a topic of keen current interest and in October 2015 Public Health England published[92] 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.

4.3 Food Supplements

No new information in January – March 2016.

4.4 Food for special medical purposes

In the Quarter Commission Delegated Regulation 2016/128[93] 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.

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 6th April 2015, see below.

5.1 Food law prosecutions database

In November 2015 the FSA announced[94] the publication of a Food law prosecutions database. The database[95] gives details of local authority food hygiene and food safety prosecutions

[91] 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
[92] https://www.gov.uk/government/news/new-evidence-review-of-measures-to-reduce-sugar-consumption
[93] 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
[94] http://www.food.gov.uk/news-updates/news/2015/14644/food-standards-agency-publishes-food-law-prosecutions-database
[95] http://www.food.gov.uk/enforcement/prosecutions

outlining where and how food businesses have breached regulations. This data is supplied on a voluntary basis by local authority officers.

5.2 Food Standards Scotland

The Food (Scotland) Act 2015[96] 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.

5.3 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 2016/24[97] amended Regulations (EC) No 669/2009 and (EU) No 884/2014.to maintain an increased level of official controls on the import of groundnuts and groundnut products from Brazil, *Capsicum annuum* and nutmeg from India and nutmeg from Indonesia and This is due to a continued increased risk of these products being contaminated by aflatoxins.

5.4 Local authority enforcement activity

No centrally published new updates were published January – March 2016. We remain open to including in this review any updates communicated by individual local authorities to the author. However see above (5.1) for Food law prosecutions database which is based on local authority activity.

5.5 Multi-Annual National Control Plan

No centrally published new updates were published January – March 2016.

5.6 Food Law Code of Practice

No centrally published new updates were published January – March 2016.

5.7 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.[98] The FSA has invited recommendations for priorities for the 2016-17 National Coordinated Sampling Programme.[99] The FSA in Northern Ireland published its eighth food surveillance sampling report.[100]

96 http://www.legislation.gov.uk/asp/2015/1/pdfs/asp_20150001_en.pdf
97 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.008.01.0001.01.ENG&toc=OJ:L:2016:008:TOC
98 https://www.food.gov.uk/enforcement/sampling/samplingandsurveillance
99 https://www.food.gov.uk/news-updates/help-shape-our-policies/priorities-for-the-2016-17-national-coordinated-sampling-programme
100 https://www.food.gov.uk/northern-ireland/news-updates/news/2015/14469/northern-ireland-food-surveillance-sampling-report-published

5.8 Community Reference Laboratories

See 'Feed Additives' below

5.9 Sugar industry

Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry.

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[101] (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;

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

- 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 and Wales 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) No. 882/2004.

The Animal Feed (Composition, Marketing and Use) (Northern Ireland) Regulations 2016[102] (SR 4) which amends 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[103] (SR 5) and 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) and the Feed (Hygiene and Enforcement) and the Animal Feed (Amendment) Regulations (Northern Ireland) 2013 (SR 294).

The Animal Feed (Composition, Marketing and Use) (Wales) Regulations 2016 were made on 15th March 2016 and came into force on 12th May 2016.[104] The Animal Feed (Hygiene, Sampling etc. and Enforcement) (Wales) Regulations were also made on 15th March 2016 and came into force on 12th May 2016.[105]

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[106] amended Annex II to as regards the dioxin testing of oils, fats and derived products. The amendment made the following clarifications:

- 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;
- 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;
- 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;
- 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;

[102] http://www.legislation.gov.uk/nisr/2016/4/pdfs/nisr_20160004_en.pdf
[103] http://www.legislation.gov.uk/nisr/2016/5/pdfs/nisr_20160005_en.pdf
[104] http://legislation.data.gov.uk/wsi/2016/386/made/data.html
[105] http://www.legislation.gov.uk/wsi/2016/387/regulation/15/made
[106] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.278.01.0005.01.ENG

- Based on previous testing results of products derived from vegetable oils, except fatty acid distillates from physical refining and deodistillates (which appear to be deodorizer 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.

6.2 Feed Additives

The following changes were made in feed additive legislation in the quarter.

Commission Implementing Regulation 2016/329[107] on the authorisation of 6-phytase as a feed additive for all avian species and for weaned piglets, pigs for fattening, sows and minor porcine species (holder of the authorisation Lohmann Animal Nutrition GmbH).

6.2.1 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[108] 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

Nick Boley and Selvarani Elahi for systematic collection of the legislation, Vicki Barwick and Caroline Pritchard for editorial assistance

Funding from the Department for Business, Innovation and Skills under the Government Chemist Programme for work carried out in this project is gratefully acknowledged.

[107] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.062.01.0005.01.ENG&toc=OJ:L:2016:062:TOC
[108] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.257.01.0030.01.ENG