



Food and feed law:

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

January – March 2015

Government Chemist Programme Report

June 2015



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 2015

Author: Michael Walker

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

Report no. LGC/R/2015/432

Approved by:



Date: 3 June 2015

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

© LGC Limited 2015

Introduction to 'Food and feed law' review series

This is the second 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 – legislation in force and made prior to January 2015 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 2015.

The most significant legislative event in the quarter was Royal Assent to the Food (Scotland) Act 2015 on 13 January 2015 to create Food Standards Scotland (FSS), or in Gaelic, Inbhe-Bidhe Alba. Food Standards Scotland is a new, independent body which will replace the UK-wide Food Standards Agency (FSA) in Scotland.

The decision to create a new body followed changes made at UK level which split up responsibility for food standards, and the subsequent recommendations of the Scudamore review 'Future arrangements to secure food standards and safety in Scotland' in 2012 which was commissioned by the Scottish Government. Many of Scudamore's recommendations will be taken forward by the new food body.

Food Standards Scotland was made a non-ministerial office of the Scottish Administration by Order in February 2015 and will take on its responsibilities formally on 1 April 2015. FSS will provide Scotland with regulation and independent advice on food safety and standards, food information, and nutrition.

A memorandum of understanding has been established to link the work of FSA and FSS.

In other news, FSA recalled a series of cumin and paprika containing products owing to the presence of almond, a risk for people with almond allergy. On April 30, 2015 the Canadian Food Inspection Agency – Agence Canadienne d'inspection des aliments, CFIA-ACIA, rescinded their cumin/almond food recalls as additional testing appeared to confirm that the original laboratory results were false positives. New evidence emerged regarding the cross-reactivity of mahaleb, a spice obtained from a specific species (*Prunus mahaleb*) of cherry seeds, with the almond allergen test kit. It is highly likely, the Canadian authorities stated, that the positive sample results for the ground cumin and cumin-containing products were due to mahaleb contamination and not almond. Work continues in the Government Chemist Programme to investigate this.

In terms of animal feed, Commission Regulation 2015/186 amended Annex I to Directive 2002/32/EC of the European Parliament and of the Council to set new maximum levels for arsenic, fluorine, lead, mercury, endosulfan and Ambrosia seeds. This covers animal feed, particularly pet foods.

Contents

Cross Cutting Issues.....	4
The Food (Scotland) Act 2015	4
Food safety	5
Allergens.....	5
Contaminants	6
Food additives	6
Food contact materials	7
Marine biotoxins	7
Pesticides	8
Veterinary residues	8
Consumer choice	9
Food labelling	9
Meat products.....	9
Fish labelling.....	10
Novel foods.....	10
Consumer attitudes	10
Health & nutrition.....	11
Regulation	11
Import controls.....	11
Local authority enforcement activity.....	11
Multi-Annual National Control Plan	11
Food Law Code of Practice	12
2015/16 national sampling priorities for food	12
Fertilisers & feeding stuffs.....	12
Acknowledgements	13

Cross Cutting Issues

The Food (Scotland) Act 2015

The most significant legislative event in the quarter was Royal Assent to the Food (Scotland) Act 2015 on 13 January 2015 to create Food Standards Scotland (FSS), or in Gaelic, Inbhe-Bidhe Alba. Food Standards Scotland is a new, independent body which will replace the UK-wide Food Standards Agency (FSA) in Scotland. The Act sets out key aspects of the relationship between the Scottish Ministers and FSS. The Scottish Ministers may request advice and assistance from FSS in relation to particular matters and may give FSS directions in certain circumstances.

The food and feed law provisions mirror those of the Food Standards Act 1999¹ that set up the Food Standards Agency, however new provisions include:

- Provision for a food hygiene information scheme.
- An offence of failing to report suspicion of food not being compliant with food information law (e.g. mislabelled food), and powers for authorised officers to detain or seize and remove such food and for a sheriff to determine the treatment of such food.
- New administrative sanctions, compliance notices and fixed penalties so that offences will be dealt with more quickly and at less cost than prosecution.

The decision to create a new body followed changes made at UK level which split up responsibility for food standards, and the subsequent recommendations of the Scudamore review 'Future arrangements to secure food standards and safety in Scotland' in 2012 which was commissioned by the Scottish Government. Many of Scudamore's recommendations will be taken forward by the new food body.

Food Standards Scotland was made a non-ministerial office of the Scottish Administration by Order² and will take on its responsibilities formally on 1 April 2015. FSS will provide Scotland with regulation and independent advice on food safety and standards, food information and nutrition.³

The Scottish Minister for Public Health announced on 20 January 2015 the appointment of seven board members for FSS. These appointments follow the appointment in November last year of Ross Finnie as Chair of the body. The board members are Mr George Brechin, Ms Marieke Dwarshuis, Mrs Heather Kelman, Dr Carrie Ruxton, Dr Susan Walker, Dr Anne Maree Wallace, and Ms Louise Welsh. The board will be working on a 'shadow' basis in the run-up to vesting day. Geoff Ogle, Director of the FSA in Scotland will be Chief Executive of the new FSS.

The FSA in Scotland also moved to new premises in Pilgrim House in Aberdeen in advance of the launch of FSS.⁴ A memorandum of understanding has been established to link the work of FSA and FSS.⁵

The relevant functions of the Food Standards Agency within the meaning of section 35 of the Food Standards Act 1999 cease to be exercisable in Scotland on 1 April 2015. Hence the Food

¹ <http://www.legislation.gov.uk/ukpga/1999/28/contents>

² <http://www.legislation.gov.uk/ssi/2015/99/contents/made> The Food (Scotland) Act 2015 (Commencement) Order 2015, No. 99 (C. 19)

³ <http://www.legislation.gov.uk/asp/2015/1/contents> Food (Scotland) Act 2015

⁴ <https://www.food.gov.uk/scotland/news-updates/news/2015/13643/new-premises-for-food-standards-agency-in-scotland>

⁵ <https://www.food.gov.uk/sites/default/files/fsa-150115.pdf>

(Scotland) Act 2015 (Consequential and Transitional Provisions) Order 2015 provides modifications of secondary legislation and transitional provisions.⁶

The Food (Scotland) Act 2015 (Consequential Provisions) Order 2015⁷ provides that FSS is part of the Scottish Administration and that references in the Scotland Act 1998 and any other enactments to an office-holder in the Scottish Administration are to be taken as including references to FSS, unless the context otherwise requires. It also provides that the Crown Suits (Scotland) Act 1857 does not apply to FSS with the effect that the Lord Advocate cannot be sued in the place of FSS.

Explanatory notes to the Food (Scotland) Bill give background to the Act.⁸

Food safety

Allergens

Cumin containing almond

In October 2014, the Canadian Food Inspection Agency, on random testing for allergens, revealed undeclared peanut and almond protein in products containing cumin. This led to widespread recalls of cumin products in North America. One set of recalls related to peanut and almond started in autumn 2014, and a second larger one for peanut only, started in December 2014. The products involved were salsas, spices including paprika, and spice mixes and seasonings. Use of the latter in meat products led to their recall. Hummus was also affected. None of the North American recalled products were distributed in the UK. The Food and Drug Administration (FDA) reported around a dozen allergic reactions; however the severity of them was not made clear.

On January 31 2015, in the UK the FSA recalled ground cumin with almond protein on a precautionary basis. On February 12 and 14, FSA issued two further recalls on undeclared almond protein in fajita meal/dinner kits and seasoning mixes. It appears that a batch of paprika was the likely source (Santa Maria). Denmark, Sweden and Norway have also issued alerts/recalls. According to FSA none of the tests have detected peanut proteins at levels that would require allergen labelling. The source may be cross contamination in harvesting, transport, storage, processing, peanut hulls, almond shells or peanut meal (animal feed after oil extraction).^{9, 10}

On April 30, 2015 the Canadian Food Inspection Agency – Agence Canadienne d'inspection des aliments (CFIA-ACIA) – rescinded the food recall warnings issued on March 20 and 22, 2015. CFIA-ACIA advised the public that there was no longer evidence to indicate that the recalled cumin and cumin-containing products contain almond. The products were recalled as a result of laboratory testing indicating that they contained undeclared almond. However, additional testing

⁶ <http://www.legislation.gov.uk/ssi/2015/100/schedule/paragraph/20/made> The Food (Scotland) Act 2015 (Consequential and Transitional Provisions) Order 2015 No. 100

⁷ <http://www.legislation.gov.uk/uksi/2015/444/made> The Food (Scotland) Act 2015 (Consequential Provisions) Order 2015, no 444

⁸ http://www.scottish.parliament.uk/S4_Bills/Food%20%28Scotland%29%20Bill/b48s4-introd-en.pdf

⁹ Sources – Patrick Bennett, Allergic Living, USA, <http://allergicliving.com/2015/02/14/inside-the-peanut-tainted-cumin-recalls-what-happened/> and Seasoning and Spice Association Q&A

¹⁰ <http://www.food.gov.uk/news-updates/news/2015/13609/snack-foods-poco-loco-ltd-is-recalling-various-enchilada-and-fajita-meal-kits-due-to-the-undeclared-presence-of-almond> and other previous alerts

confirmed that the original laboratory results were false positives. The false positives were confirmed based on new evidence regarding the cross-reactivity of mahaleb, a spice obtained from a specific species (*Prunus mahaleb*) of cherry seeds, with the almond allergen test kit. It is highly likely that the positive sample results for the ground cumin and cumin-containing products were due to mahaleb contamination and not almond.¹¹

Work continues in the Government Chemist Programme to investigate this.

Undeclared allergens in lamb dishes

FSA published the results of a survey of undeclared meat in lamb dishes from takeaway outlets across the UK, (see below) however the samples were also analysed by Public Analysts for the presence of undeclared allergens. The results showed 4 % tested positive for the presence of undeclared allergens, including peanut and almonds proteins. A risk assessment was carried out on these seven samples. The concentrations found were indicative of low level cross-contamination from the ingredients used, or from within the kitchen when the dish was being prepared, but were high enough to cause an allergic reaction. The findings ranged from 2.5 – 41.8 mg kg⁻¹ peanut protein. Based on a 500 g portion, these concentrations of peanut protein found are sufficient to elicit a reaction in those with an allergy to peanut. Almond protein at 11 mg kg⁻¹ was found, again based on a 500 g portion this is sufficient to elicit a reaction in those with an allergy to almond. Some of the dishes sampled were marketed as free from nut or peanut when asked and subsequently had been found to contain low levels of peanut sufficient to elicit allergic reactions in those with peanut allergy.¹²

The FSA, in its press release¹³, made clear that allergen management does not require much more than good food hygiene practices; but because allergens cannot be cooked out, food businesses need to know what allergens are present in their food ingredients or dishes. This can be achieved by clear labelling, good segregation and communication.

Contaminants

Regulation (EC) No 1881/2006 remains the primary European legislation, the latest consolidated version of which was in September 2014.¹⁴ No new contaminants legislation was made in the quarter.

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. No new legislation was made in the quarter however The Commission issued a non-official guidance document describing the food categories in Part E of Annex II to Regulation 1333/2008. It is hoped the descriptions of the categories will be useful for Member State control authorities and the food industry to ensure

¹¹ <http://www.inspection.gc.ca/about-the-cfia/newsroom/food-recall-warnings/complete-listing/2015-04-30/eng/1430432363404/1430432364107>

¹² <http://www.food.gov.uk/sites/default/files/lamb-takeaway-finalreport%20-Jan%202015v2.pdf>

¹³ <http://www.food.gov.uk/news-updates/news/2015/13546/fsa-lamb-takeaway-survey>

¹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1430122316104&uri=CELEX:02006R1881-20140901>

correct implementation of food additives legislation. The guidance follows that endorsed in November 2014 by the Standing Committee on the Food Chain and Animal Health on classification of a substance as a colour (i.e. a food additive) or not.¹⁵

In addition, the FSA published the results of a survey of undeclared meat in lamb dishes from takeaway outlets across the UK. The results showed 2 % were non-compliant because of the unauthorised use of additives. The colours E110 Sunset Yellow and E124 Ponceau 4R were found and are permitted food additives within EU food additive regulations, but have restrictions on their use. Until 31 May 2013, both colours were permitted in sauces at 500 mg kg⁻¹. Following a programme to re-evaluate all food additives, carried out by EFSA, permission for E110 and E124 in 'sauces' (which includes curry sauces) was withdrawn. Both colours are however still permitted in a wide variety of other foods and drinks at reduced maximum levels. The concentrations found in sauces in this survey were found within a range of 3-167 mg kg⁻¹, which all appear to be a breach of the current legislation, although none would have breached the 500 mg kg⁻¹ limit in the legislation pre 31 May 2013.¹⁶

Food contact materials

Commission Regulation 2015/174¹⁷ amended and corrected Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food. The amendments cover the substances (+)-tartaric acid, phenol, 1,4-butanedio formal, 1,4:3,6-dianhydrosorbitol, kaolin, activated charcoal, 1,3,5-tris (2,2-di-methylpropanamido) benzene, polyethyleneglycol (EO = 1-50) ethers of linear and branched primary (C₈-C₂₂) alcohols, fatty acids (C₈-C₂₂), esters with pentaerythritol, 2,2,4,4-tetramethylcyclobutane-1,3-diol, (butadiene, ethyl acrylate, methyl methacrylate, styrene) copolymer crosslinked with divinylbenzene (in nanoform) 2H-perfluoro-[(5,8,11,14-tetramethyl)-tetraethyleneglycol ethyl propyl ether], ethylene-vinyl acetate copolymer wax, (butadiene, ethyl acrylate, methyl methacrylate, styrene) copolymer not cross-linked (in nanoform) polyglycerol and (butadiene, ethyl acrylate, methyl methacrylate, styrene) copolymer crosslinked with 1,3-butanediol dimethacrylate (in nanoform).

Marine biotoxins

An interesting case¹⁸ arose in the General Court of the EU in which the court confirmed that the biological method of detection of marine biotoxins in live bivalve molluscs may be replaced by a chemical method. Until 2011, the official method of detection of lipophilic biotoxins was a biological method, the mouse bioassay (MBA). Following an EFSA scientific opinion that the MBA has shortcomings, the Commission allowed a validated chemical method LC-MS/MS. Spain took the view that the replacement of the MBA by LC-MS/MS as the reference method seriously undermines the protection of public health and severely affected producers in Galicia. Thus, it alleged an infringement of Article 168 of the Treaty on European Union and the Treaty on the Functioning of the European Union.¹⁹

The General Court took the view, *inter alia*, that Spain:

- had not established that the decision to replace the biological method by the chemical method as the reference method for known biotoxins entails a risk to public health;

¹⁵ http://ec.europa.eu/food/food/FAEF/additives/guidance_en.print.htm

¹⁶ <http://www.food.gov.uk/sites/default/files/lamb-takeaway-finalreport%20-Jan%202015v2.pdf>

¹⁷ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.030.01.0002.01.ENG

¹⁸ <http://curia.europa.eu/jcms/upload/docs/application/pdf/2015-02/cp150015en.pdf>

¹⁹ <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:12012E/TXT>

- had not proved that the chemical method is less reliable than the biological method;
- in particular, had failed to prove: (i) that there is a difference between the time required for analysis of the chemical method and that of the biological method which is the cause of a risk to public health; (ii) that the higher cost of the chemical method will lead to a lesser degree of protection for public health, and (iii) that the available reference materials do not permit a proper control.

An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

Pesticides

Regulation (EC) No 1107/2009 deals with the placing of plant protection products on the market and under this regulation Commission Implementing Regulation 2015/51²⁰ approved the active substance chromafenozide, allowing Member States to extend provisional authorisations granted for this active substance. Pursuant to the regulation, Commission Implementing Regulation 2015/58²¹ amended Implementing Regulation (EU) No 540/2011 to bring the expiry date of the approval of the active substance tepraloxymid forward to 31 May 2015, the sole applicant for the renewal of the active substance tepraloxymid having decided not to pursue the application for its renewal. Commission Implementing Regulation 2015/306²² similarly renewed the approval of the active substance *Isaria fumosorosea* strain Apopka 97. Commission Implementing Regulation 2015/532²³ amended and corrected Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of copper compounds, while Commission Implementing Regulations 2015/307²⁴ and 2015/308²⁵ amended Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance triclopyr and Z,Z,Z,Z-7,13,16,19-docosatetraen-1-yl isobutyrate respectively.

Regulation (EC) NO 396/2005 governs maximum residue levels, MRLs, of pesticides in or on food and feed of plant and animal origin. Commission Regulation 2015/165²⁶ amended Annex IV to this Regulation as regards MRLs for lactic acid, *Lecanicillium muscarium* strain Ve6, chitosan hydrochloride and *Equisetum arvense* L. in or on certain products.

Veterinary residues

Commission Regulation (EU) No 37/2010 of 22 December 2009 deals with maximum residue limits of veterinary medicinal products in foodstuffs of animal origin. The Regulation was amended in the quarter:

- Commission Implementing Regulation 1390/2014²⁷ changed the maximum residue limits (MRLs) for eprinomectin in bovine, ovine and caprine tissues.
- Commission Implementing Regulation 2015/149²⁸ changed MRLs for methylprednisolone in equine and bovine tissues and products.

²⁰ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.009.01.0022.01.ENG

²¹ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.010.01.0025.01.ENG

²² http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.056.01.0001.01.ENG

²³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.039.01.0007.01.ENG

²⁴ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.056.01.0006.01.ENG

²⁵ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.056.01.0009.01.ENG

²⁶ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.028.01.0001.01.ENG

²⁷ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.369.01.0065.01.ENG

²⁸ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.026.01.0007.01.ENG

- Commission Implementing Regulation 2015/150²⁹ changed MRLs for gamithromycin in porcine and bovine tissues.
- Commission Implementing Regulation 2015/151³⁰ changed MRLs for doxycycline in the tissues of all food-producing species
- Commission Implementing Regulation 2015/152³¹ changed MRLs for tulathromycin in ovine, caprine, porcine and bovine tissues.

Consumer choice

Food labelling

The primary legislation is now Regulation 1169/2011³² 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.³³ Domestic implementation is effected in England by the Food Information Regulations (SI 2014 No 1855)³⁴, in Northern Ireland by the Food Information Regulations (Northern Ireland) 2014 (SR 2014 No 223)³⁵ and, in the present quarter, Wales brought out the Food Information Regulations (Wales) 2014 (SI 2014 No 2303, W227)³⁶. No new labelling legislation was made in the quarter; however information is available on the Commission website.³⁷ Guidance on nutrition labelling is available on the Commission website.³⁸

Meat products

The Products Containing Meat etc. (England) Regulations 2014 (SI 3001/2014)³⁹ remain the primary domestic legislation and revoke the Meat Products (England) Regulations 2003 (SI 2075/2003), the Meat Products (England) (Amendment) Regulations 2008 (SI 517/2008), regulation 18(4) of the Food Additives (England) Regulations 2009 (SI 3238/2009) and the entry relating to the Meat Products (England) Regulations 2003 in the table in Part 2 of the Schedule to the Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (SI 1809/2012). Similar Regulations have been enacted in Scotland with the Products Containing Meat etc. Regulations (Scotland) Regulations 2014 (SSI 289/2014)⁴⁰ 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) 2014⁴¹ (SR 285/2014). These regulations lay down definitions and minimum meat content standards for certain meat products presented for sale directly to the consumer.

²⁹ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.026.01.0010.01.ENG

³⁰ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.026.01.0013.01.ENG

³¹ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.026.01.0016.01.ENG

³² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:304:0018:0063:EN:PDF>

³³ <http://www.reading.ac.uk/foodlaw/label/links.htm>

³⁴ http://www.legislation.gov.uk/ukxi/2014/1855/pdfs/ukxi_20141855_en.pdf

³⁵ http://www.legislation.gov.uk/nisr/2014/223/pdfs/nisr_20140223_en.pdf

³⁶ http://www.legislation.gov.uk/wsi/2014/2303/pdfs/wsi_20142303_mi.pdf

³⁷ http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm

³⁸ http://ec.europa.eu/food/food/labellingnutrition/nutritionlabel/index_en.htm

³⁹ http://www.legislation.gov.uk/ukxi/2014/3001/pdfs/ukxi_20143001_en.pdf

⁴⁰ http://www.legislation.gov.uk/ssi/2014/289/pdfs/ssi_20140289_en.pdf

⁴¹ http://www.legislation.gov.uk/nisr/2014/285/pdfs/nisr_20140285_en.pdf

In the quarter, the FSA published the results of a survey of undeclared meat in lamb dishes from takeaway outlets across the UK. The testing was prompted by evidence of ongoing substitution of lamb for cheaper meats, such as beef and chicken. Local authority trading standards and environmental health officers sampled 307 lamb dishes, such as curries and kebabs, sold from takeaway outlets. All were analysed by Public Analysts for the presence of undeclared species of meat. Dishes with sauces were also tested for undeclared allergens and the unauthorised use of additives. The results showed:

- 73 % were fully compliant with food legislation;
- 21 % failed because of the presence of non-declared meat;
- 4 % tested positive for the presence of undeclared allergens, including peanut and almonds proteins;
- 2 % were non-compliant because of the unauthorised use of additives.

The samples that tested positive for undeclared meat showed the presence of beef, chicken, and in one sample pork, although not sold as a halal product. Of these samples, 23 had levels of undeclared meat species below 1 % which is more likely to indicate poor handling during processing rather than potential adulteration.

Local authorities have followed up on all samples where problems were identified and relevant action was taken including, in a number of cases, prosecution.⁴²

Fish labelling

Fish Labelling (Amendment) Regulations 2014⁴³, amending the Fish Labelling Regulations 2013 owing to administrative changes in the basis of the underpinning European legislation, were mentioned in the previous quarterly report. In February 2015 in Scotland, the Fish Labelling (Scotland) Regulations 2013 (SSI 256) were amended by the Fish Labelling (Scotland) Amendment Regulations 2015⁴⁴, coming into force on 15 March 2015.

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).⁴⁵

Novel foods

No new legislation in the quarter.

Consumer attitudes

No new information in the quarter.

⁴² <http://www.food.gov.uk/news-updates/news/2015/13546/fsa-lamb-takeaway-survey>

⁴³ http://www.legislation.gov.uk/ukxi/2014/3104/pdfs/ukxi_20143104_en.pdf

⁴⁴ http://www.legislation.gov.uk/ssi/2015/48/pdfs/ssi_20150048_en.pdf

⁴⁵ http://ec.europa.eu/fisheries/documentation/publications/eu-new-fish-and-aquaculture-consumer-labels-pocket-guide_en.pdf

Health & nutrition

Regular bulletins are available from the Department of Health on EU legislation on nutrition and health claims. The update from the European Commission's Working Group meeting on health claims, 19 January 2015, was published in February 2015 and included, for example, a short note on the use of term "tonic" in the form of Tonic Water, Indian Tonic Water or Quinine Tonic Water (and equivalent translations) to be used as generic descriptor in relation to Art. 1(4) of Regulation (EC) No. 1924/2006.⁴⁶

Guidance on nutrition labelling is available on the Commission website.⁴⁷

Regulation

The Food (Scotland) Act 2015⁴⁸ established FSS and describes the structure and function of this new food body in Scotland coming into operation on 1 April 2015.

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. No new updates were made in the quarter.

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.

Multi-Annual National Control Plan

The UK Multi-Annual National Control Plan, (UK MANCP), was extended and updated to March 2016. The UK MANCP covers the official control systems in respect of 'feed and food law' (as defined for the purposes of Regulation (EC) 882/2004), and in respect of animal health (including aquatic animals and bee health) and animal welfare. The plan details the roles and responsibilities of the different authorities and organisations involved in monitoring compliance with, and enforcement of, feed and food law, animal health and welfare rules and plant health requirements. It also provides an overview of how these authorities and other bodies work together to safeguard public, animal and plant health, to protect consumers and to promote animal welfare. It is a European requirement that all member states have a national control plan. The plan provides the basis of assessments of the performance of the UK's national control systems by the European Commission's inspection services. Progress on implementation of the MANCP is monitored on an ongoing basis and annual reports are prepared and submitted to the European Commission. The plan and annual reports can be found at the link below.⁴⁹

⁴⁶ <https://www.gov.uk/government/publications/nutritional-and-health-claims-legislation-bulletins-2015>

⁴⁷ http://ec.europa.eu/food/food/labellingnutrition/nutritionlabel/index_en.htm

⁴⁸ http://www.legislation.gov.uk/asp/2015/1/pdfs/asp_20150001_en.pdf

⁴⁹ <https://www.food.gov.uk/enforcement/regulation/europeleg/feedandfood/ncpuk>

Food Law Code of Practice

No new information in the quarter.

2015/16 national sampling priorities for food

In February 2015, FSA announced it was again making funding available to enforcement authorities for sampling and surveillance of food and invited bids from local authorities.⁵⁰

Fertilisers & feeding stuffs

Commission Regulation 2015/186⁵¹ amended Annex I to Directive 2002/32/EC of the European Parliament and of the Council as regards maximum levels for arsenic, fluorine, lead, mercury, endosulfan and Ambrosia seeds. This covers animal feed, particularly pet foods.

Annex 1 of Directive 2002/32/EC sets limits on the amounts or concentrations of undesirable substances permitted in animal feed relative to a feed with a moisture content of 12 %. New data show the current maxima for arsenic, fluorine and lead are not achievable in calcareous marine shells. Hence these maximum limits in calcareous marine shells have been increased while keeping a high level of animal and public health protection. The pet food industry utilise many co-products and by-products of the food industry as raw materials. The current maximum permitted concentrations of mercury for these co-products and by-products intended for animal feed are stricter than the maximum level of mercury applicable to the muscle meat of fish for human consumption. Therefore there is a shortage in supply of such products compliant with the maximum resulting in the need to use of smaller size fish with lower level of mercury for production of pet food, contrary to principles of sustainable fishery. Therefore the maximum for mercury in fish, other aquatic animals and products derived thereof intended for the production of compound feed for dogs, cats, ornamental fish and fur animals is increased whilst keeping a high level of animal health protection.

Assessment of recent data of the presence of endosulfan in feed materials have indicated that the maximum levels for endosulfan levels in oilseeds and maize and derived products thereof can be decreased.

The genus *Ambrosia* (Asteraceae family) is distributed worldwide. *Ambrosia artemisiifolia* (common ragweed) has heavily colonised several areas of South-East Europe. *Ambrosia* spp. are of public health concern due to the allergenic properties of its pollen, causing rhinoconjunctivitis and asthma, with skin allergies and food allergy playing minor roles. *Ambrosia* may cross-sensitize patients to other allergens, including food allergens. Animal feed materials compounded for use in livestock are extensively processed which destroys *Ambrosia* seeds. However, bird feed often contains significant quantities of *Ambrosia* seeds and remains unprocessed. A footnote on the presence of *Ambrosia* seeds in feed materials was erroneously deleted from Annex I to Directive 2002/32/EC by Commission Regulation (EU) No 1275/2013. Experience has shown that certain provisions of the footnote have to be strengthened to avoid dissemination of *Ambrosia* seeds into the environment. It is therefore appropriate to reintroduce the footnote in Annex I.

⁵⁰ <https://www.food.gov.uk/news-updates/help-shape-our-policies/2015-16-food-sampling-priorities>

⁵¹ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.031.01.0011.01.ENG

Commission Implementing Regulation 2015/38⁵² authorised the preparation of *Lactobacillus acidophilus* CECT 4529 as a feed additive for laying hens and amending Regulation (EC) No 1520/2007 (holder of authorisation Centro Sperimentale del Latte).

Commission Implementing Regulation 2015/46⁵³ authorised diclazuril as a feed additive for chickens for fattening, for turkeys for fattening, and for guinea fowl for fattening and breeding (holder of authorisation Huvepharma NV).

Commission Implementing Regulation 2015/47⁵⁴ authorised a preparation of alpha-amylase produced by *Bacillus licheniformis* (DSM 21564) as a feed additive for dairy cows (holder of the authorisation DSM Nutritional products Ltd, represented by DSM Nutritional Products Sp. Z.o.o).

Commission Regulation 2015/327⁵⁵ of 2 March 2015 amended Regulation (EC) No 1831/2003 of the European Parliament and of the Council as regards requirements for the placing on the market and conditions of use of additives consisting of preparations.

In some preparations of additives for animal nutrition pursuant to Regulation (EC) 1831/2003, technological substances are incorporated for functional reasons such as stabilising or standardising it, or facilitating its handling or its incorporation into feed. The specific composition of authorised additives consisting of preparations will therefore vary according to the rationale for the use of those preparations. The technological substances are not intended to perform a function *in the feed* in which the preparation is to be incorporated. It is desirable to bring more transparency and clarity when placing on the market, without affecting intellectual property rights relating to the composition of premixtures containing such substances. In particular, it is appropriate to introduce into Annex III to Regulation 1831/2003 additional labelling requirements for this type of additives and for premixtures containing them, so as to allow a verification that technological additives used in a preparation are authorised for the intended purpose and that those additives exert a function only on the active substance contained in the preparation. While the most relevant information should be kept on the packaging or container, information about the composition of the preparations can be by other written means. Operators should be able to provide information about the composition of the preparations which are placed on the market since such information enables the end-user or the purchaser to make an informed choice, allows appropriate risk assessment and contributes to fairness of transactions. Annexes III and IV to Regulation (EC) No 1831/2003 were thus amended in accordance with the Annex to Regulation 2015/327. Additives consisting of preparations and premixtures containing such additives, which are produced and labelled before 23 March 2017 in accordance with Regulation (EC) No 1831/2003 as it stood before 23 March 2015 may continue to be placed on the market and used until the existing stocks are exhausted.

Acknowledgements

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

⁵² http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.008.01.0004.01.ENG

⁵³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.009.01.0005.01.ENG

⁵⁴ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.009.01.0008.01.ENG

⁵⁵ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.058.01.0046.01.ENG