

**GUIDANCE FOR  
LOCAL AUTHORITIES  
IN  
GREAT BRITAIN  
ON  
IMPORTED FOOD  
AND FEED CONTROLS**

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## 1.0 Introduction

1.1 All local authorities have certain responsibilities for imported food controls. The purpose of this guidance is to set out and assist local authorities in Great Britain on the level and type of activity to achieve effective and consistent enforcement on imported food and, for relevant authorities, feed. This document does not cover control activities at Border Inspection Posts, where central guidance produced by Defra is already available<sup>1</sup>. However it does provide enforcement guidance for local authorities relating to illegally introduced Products of Animal Origin (POAO).

1.2 Except where a specific distinction is made **this guidance applies to all local authorities, both inland and at points of entry**. For the purpose of this guidance “imported food and feed” means food or animal feed imported into Great Britain from outside the European Union (“third countries”) and at the time of importation not in free circulation in the European Union; “point of entry” means a seaport, airport or international rail link at which imported food or feed is introduced into the UK.

1.3 Local authorities (including Port Health Authorities) with a point of entry provide the first line of control on imported food to ensure it is safe and complies with EU and UK requirements. However, it is important that controls are also in place at Enhanced Remote Transit Sheds (ERTS), international rail terminals and other premises inland as significant amounts of food of non-animal origin (FNAO) will not have been physically checked at points of entry and there is a possibility that POAO may have entered the UK illegally. Some local authorities also have responsibilities for checking compliance of imported feed with animal feed controls. Further details of the roles and responsibilities of Port Health Authorities, local authorities and other government agencies and departments can be found in the Food Standard Agency’s Local Authority Resource Pack on Imported Food Control<sup>2</sup>.

1.4 This guidance incorporates relevant information from:

- good practice guides contained in the Syniad/APHA/FSA Benchmarking study into the port health function involving port health participants from seaports, LACORS and other Government Departments<sup>3</sup>
- the Food Standards Agency’s Local Authority Resource Pack on Imported Food Control provided to food authority delegates at national update training seminars<sup>2</sup>.

1.5 This guidance includes summaries of some statutory provisions, however, these are indicative and for general guidance only. Where references are made to legislation which extends to England only, the equivalent Welsh and Scottish legislation is detailed in Annex 1.

## 2.0 Status of this Guidance

2.1 This document should be considered as centrally issued guidance for the purpose of the Framework Agreement on Local Authority Food Law Enforcement (the latest version is available on the Agency’s website<sup>4</sup>. Amendments have been made to the Standard in the Framework Agreement to clarify its application to imported food control (Amendment 4 to be issued in June 2004).

### **3.0 Service Planning**

3.1 The Framework Agreement on Local Authority Food Law Enforcement includes service planning guidance. Section 2.3 (“Scope of the food service”) and Section 2.4 (“Demands on the food service”) provide for local authorities to set out the scope of the responsibilities and service provided and to describe any external factors that may impact on their service. Where relevant, local authorities should include in these sections imported food and feed responsibilities and the control arrangements in place.

3.2 Local authorities with a point of entry should include details of resources allocated for imported food and feed control work in their service plans.

### **4.0 Documented Policies and Procedures**

4.1 All local authorities should ensure that their written policies and procedures cover imported food and feed as appropriate having regard to the work that might reasonably be anticipated within the administrative district and jurisdiction of the authority.

4.2 Procedures relating to examination of imported food including deferred examinations under the Imported Food Regulations 1997 (detailed under paragraph 11.4), should cover both food safety and food standards issues.

### **5.0 Authorisation**

5.1 All local authorities should ensure that at least one officer is properly authorised to undertake imported food and, where appropriate, feed control work and enforcement action. One of the key issues which needs to be considered in any review of authorisations is the identification of the specific legislation where enforcement powers originate. This will affect the content and wording of authorisation documentation.

5.2 For food safety and food standards matters this should include authorisation under the Food Safety Act 1990 and under hygiene and processing regulations issued under it, including the Imported Food Regulations 1997 and the Contaminants in Food (England) Regulations 2003, whether generally or specifically (Section 5(6) Food Safety Act 1990). Officers enforcing feed legislation should also be authorised under The Agriculture Act 1970 as amended.

5.3 Officers should also be authorised to enforce relevant regulations issued under the European Communities Act 1972. The European Communities Act does not however contain any enforcement powers and its primary function is to provide a mechanism by which Regulations can be enacted. Powers of enforcement for Regulations made under the Act are usually contained in the Regulations themselves, therefore the Agency’s view is that all Regulations relevant to imported food and feed control should specifically be referred to in authorisation documents, including officers’ credentials. As such these should, for example, include:

- The Products of Animal Origin (Import and Export) Regulations 1996 as amended,
  - The Products of Animal Origin (Third Country Imports) (England) Regulations 2004
- Note: the definition of “local authority” for enforcement purposes does not currently include County Councils.

- The Feeding Stuffs Regulations 2000 as amended,
- The Feeding Stuffs (Enforcement) Regulations 1999 as amended, and
- Emergency Control Regulations e.g. The Food (Hot Chilli and Hot Chilli Products (Emergency Control) (England) Regulations 2003 as amended

5.4 General advice on the authorisation of officers has been developed by LACORS.<sup>5</sup> Local Authorities may also wish to consult their own legal advisors on this matter.

## **6.0 Qualifications/experience of authorised officers**

6.1 Officers authorised to undertake imported food control work and enforcement action should be appropriately qualified, experienced and competent to carry out the range of tasks and duties they are authorised to perform, in line with the relevant requirements of The Food Safety Act 1990 Code(s) of Practice.

6.2 All local authorities should have at least one officer competent in imported food controls. Relevant update training could include:

- (a) attendance at Food Standards Agency enforcement training on imported food control; and
- (b) familiarisation with the Agency's Local Authority Resource Pack on Imported Food Control; or
- (c) other relevant training of an equivalent content eg in-house training or cascade training relating to (a) & (b) above.

## **7.0 Information**

7.1 Local authorities with a point of entry should maintain up to date information on:

- the port operator,
- access to port/Customs areas,
- stakeholders, including import agents and airlines/shipping lines,
- trade type (volume, nature, trade routes),
- facilities where imported food and feed inspection can be carried out and arrangements for storage of detained/seized goods. Defra will be able to offer further specific advice on 'operating procedures for sharing facilities at BIPS,
- equipment available for carrying out inspections and sampling of imported food and feed,
- details of appointed and specialist laboratories for analysis and/or examination of samples,
- health and safety requirements, and
- security requirements

at the point(s) of entry they cover.

7.2 Local authorities with a point of entry, ERTS or international rail terminals should establish routine local liaison and communication with relevant local organisations for the purpose of general exchange of information on food and feed imports and for the effective handling of incidents. These contacts could include, where appropriate:

- HM Customs & Excise including anti-smuggling and Convention On International Trade in Endangered Species (CITES) teams,
- the State Veterinary Service,

- the Health Protection Agency in England, or Scottish Centre for Infection and Environmental Health in Scotland or the National Public Health Service for Wales,
- the Horticultural Marketing Inspectorate and Plant Health & Seeds Inspectorate (Defra) in England and Wales or the Horticultural and Marketing Unit (Scottish Executive Environment and Rural Affairs Department) in Scotland,
- port operator; import agents; Transit Shed \ ERTS operators,
- Maritime and Coastguard Agency (MCA), and
- neighbouring local authorities, particularly for joint boards and ports which fall under the jurisdiction of more than one local authority.

Contact details and information on the roles and responsibilities of relevant central government departments and other organisations can be found in the Food Standard Agency's Local Authority Resource Pack on Imported Food Control<sup>2</sup>

7.3 Specific liaison and communication arrangements in relation to imported feed are detailed in paragraphs 15.10 and 15.11.

7.4 Where relevant, local authorities should ensure that their officers have access to secure areas under the Aviation and Maritime Security Act 1990. Information on this may be obtained from the port operator.

## **8.0 Records**

### **Identifying and recording food and feed importers**

8.1 All local authorities should ensure that food and, where relevant, feed premises and traders in their district (outside and within port areas) which import food or feed are identified and recorded in premises/trader databases and included in inspection programmes as appropriate.

8.2 Completed food premises registration forms can be used to assist identification of food premises as importers so far as the Food Premises (Registration) Regulations 1991 (as amended) provide for this.

8.3 For the purpose of identifying and recording food importers in their districts, local authorities may use the meaning given in the Imported Food Regulations 1997: "a person importing food from a third country if, whether as owner, consignor, consignee, agent or broker he is in possession of food being imported from a third country; or he is in any way entitled to the custody or control of food being imported from a third country". Manufacturers, wholesalers, distributors, retailers and other types of food businesses and traders may also directly import food and if so should be identified as food importers on relevant files together with an indication of the type and origin of foods being imported.

8.4 To help identify food importers, local authorities may initially conduct desktop exercises using such information sources as local knowledge, telephone directories or internet searches. Records can be refined further after visits to food premises and/or communications with food business proprietors as part of routine programmed activities.

## **Records of consignments and examinations**

8.5 Local authorities with a point of entry should ensure that, where available, information relating to the number and type of food and feed consignments is maintained together with information on the checks made to determine compliance with legal requirements. The level of information recorded about food and feed examinations (including examinations undertaken at ERTS or international rail terminals and deferred examinations under the Imported Food Regulations 1997) should provide consignment traceability and permit effective internal monitoring. This information should include any identifying reference for the consignment examined, country of origin, information on the nature of the food or feed and the checks carried out and, where any enforcement action or sampling has been undertaken, the details of the agent and/or consignor/consignee.

8.6 Inland local authorities should ensure that any available information (as per paragraph 8.5) on imported food or feed which is sampled, detained, seized or destroyed, wherever practicable is recorded in relevant in-house records or databases.

## **Arrangements for points of entry without permanent local authority presence**

8.7 Where there is no permanent local authority presence at an airport or seaport and it is not considered by the authority to be a point of entry for food, at least once every three months the local authority should contact the port operator, HMCE and/or other commercial operators to confirm the port's status regarding food and feed activities and/or obtain information about the volumes, types, countries of origin and customs status of food and feed entering the port since the last such enquiry. A record of these exchanges should be kept by local authorities for a period of two years.

8.8 The purpose of these arrangements is to provide local authorities with updated information on food and feed being imported. This will enable risk-based judgements to be made on targeting of enforcement action and ensure that emergency controls or restrictions on certain foods are being enforced, including designated port of entry, and requirements relating to documentary checks and associated statutory sampling (further details on risk-based checks can be found in paragraph 13.5).

## **9.0 Reporting and Notification Arrangements**

### **Nominated officer for imported food controls**

9.1 Every local authority with a point of entry should appoint a nominated officer with the necessary competency in imported food control to be a point of contact with the Food Standards Agency on imported food matters. The details of the nominated officer or changes to the nominated officer should be notified to the Agency's Imported Food Division or in Scotland, FSA Scotland, and in Wales, FSA Wales<sup>6</sup>.

### **Monitoring Returns**

9.2 All local authorities should complete relevant enforcement monitoring returns to the Agency and should ensure that the returns are an accurate reflection of their imported food and feed control activity.

## **Other Returns/Information**

9.3 In May 2003 and April 2004 the Food Standards Agency wrote to all local authorities seeking baseline data on imported food law enforcement activity, to be used as an initial measure for the Government's initiative to achieve a 'step change' in local authority delivery and co-ordination of imported food controls. In order for the Agency to monitor imported food control work, authorities should comply with future requests for such data.

9.4 Local authorities should also supply any other information reasonably requested by the Agency.

## **Notification of food hazards or incidents**

9.5 All local authorities should send details of any imports rejected where there is a direct or indirect risk to health to the Agency's Food Incident Branch<sup>7</sup> using the Rapid Alert System for Food and Feed (RASFF) notification form. This will include imports rejected for reasons such as chemical, microbiological or foreign body contamination or imports from a country which is not authorised to export that category of products to the EU. In addition, with regard to testing for residues of veterinary medicines in Annex IV of 2377/90, as amended (such as nitrofurans and chloramphenicol) or those not approved for use (such as malachite green), details of ALL positive results should be sent to the Incident Branch using the RASFF notification form. Where available, copies of the health certificate and the airway bill or bill of lading should also be forwarded to the Incident Branch. Guidance on completing the RASFF notification form has already been provided to local authorities. A copy of the notification template can be found on the Agency's website<sup>8</sup>.

9.6 All local authorities should notify the Agency of a serious localised incident or a wider problem under the Food Hazard Warning System as soon as a decision has been taken that one has occurred, using the appropriate contact details and reporting arrangements set out in the Food Safety Act 1990 Code(s) of Practice.

## **Notification of illegal imports of POAO**

9.7 A notification must be made to Defra's Illegal Animal Products Seizures (ILAPS) database whenever illegally imported POAO are seized. Further details are contained in Section 14 of this guidance.

## **10.0 Liaison**

10.1 Whenever inland authorities come across problems with imported food or feed, where the point of entry for the goods can be ascertained and similar problems are likely to be found in other imported consignments, the local authority at the point of entry should be informed to help target their future surveillance activities.

10.2 In certain circumstances, it will be necessary for local authorities at points of entry to refer imported food or feed matters to inland authorities. This would include situations where inland supervision of consignments is required and also where checks at the point of entry reveal food safety or food standards concerns and it is appropriate to refer the matter to an inland authority. Examples include:

- Where a consignment of food of non-animal origin, which is subject to emergency controls or other restrictions, has been illegally imported e.g. without being presented to the local authority at the point of entry for the required checks to be carried out.
- Where the local authority at the point of entry is aware that illegal imports of products of animal origin may have been distributed.
- Where checks on imported food reveal labelling issues, as labelling legislation can not be enforced at time of import.
- Where examination under the Imported Food Regulations 1997 has been deferred (see paragraph 11.4).
- Where unsatisfactory test results are received for samples taken for routine surveillance and as such the consignment has been released from the port.
- Where analysis indicates that nuts are not suitable for human consumption but are referred for pet feed use.

This is reliant on the full co-operation of inland authorities. Wherever possible, inland authorities should agree to assist with these referrals and respond as appropriate without undue delay and provide feedback to the local authority at the point of entry on the outcome. To assist this process a suggested pro-forma for this purpose is available on the Agency's website<sup>9</sup>. Records of such referrals and details of any action taken should be maintained by authorities.

10.3 It may also be necessary for the Food Standards Agency to refer matters concerning illegally imported POAO to inland authorities. This information will normally be received via HM Customs & Excise where they have intercepted illegal imports destined for commercial premises. Local authorities should respond to these referrals without undue delay and where requested provide feedback directly to HM Customs & Excise. Records of action taken should be maintained by authorities.

10.4 Specific liaison and communication arrangements in relation to imported feed are detailed in paragraphs 15.10 and 15.11.

## **11.0 Inland Inspection of Imported Food**

11.1 During the course of routine activities such as inspection of food premises or investigation of complaints, authorised officers should give due consideration to imported food issues including any appropriate documentary, identity and physical checks on imported foods, including sampling.

11.2 Local authority procedures should ensure food (including imported food) examination forms part of food premises inspections.

11.3 In addition to assessing fitness for consumption, reasonable steps should be taken to check the legality of the importation of any POAO and FNAO from a third country. The Food Standard Agency's Local Authority Resource Pack on Imported Food Control provides detailed advice on points to consider when investigating the legitimacy of imports. The Agency's website<sup>10</sup> also provides information on the types and countries of origin of food imports which are prohibited or restricted, as well as links to other relevant sites.

## **Deferred Examinations**

11.4 The Imported Food Regulations 1997 (regulation 5) allow for the examination of consignments of food to be deferred and undertaken by the food authority covering the ERTS or international rail terminal or at any other place of destination in the UK. Deferred examinations may be necessary where for example it is considered unnecessarily destructive to open the consignment in the environment at the point of entry.

11.5 Either the local authority at the point of entry or the importer can request deferred examination. However, the decision rests with the local authority at the port of entry. In coming to their decision they need to liaise with the receiving authority to ensure that appropriate checks will be carried out and as such the procedure relies on co-operation between authorities. Receiving authorities should wherever possible agree to any reasonable request for a deferred examination.

11.6 When the examination is deferred, the importer must give a written undertaking that the consignment has been sealed and will not be opened until it reaches its specified destination. The local authority at the point of entry must notify the receiving authority by the most expeditious means available that the food has not been examined and send that authority a copy of the written undertaking given by the importer.

11.7 This procedure is only for examinations under the Imported Food Regulations 1997. It is not available for POAO or FNAO subject to emergency controls (for a current list see the Agency's website)<sup>11</sup>.

11.8 Deferred examinations under the Imported Food Regulations cannot be undertaken if the conditions laid down in regulation 5 of these Regulations, as outlined above, are not met. In such circumstances, as may be found at ERTS, Food Safety Act 1990 provisions would be available to deal with food failing UK food safety requirements.

## **12.0 Sampling of Imported Food**

### **Considerations for sampling**

12.1 In addition to routine sampling considerations, local authority sampling programmes for surveillance and enforcement purposes should be informed by:

- Any statutory requirements for sampling laid down in European Commission Decisions or Emergency Control Regulations (usually this will occur at a point of entry),
- Any agreed LACORS/Food Standards Agency sampling programmes,
- Any sampling required following a Food Hazard Warning or RASFF notification,
- Any EU, LACORS, regional liaison group, local or other sampling survey, and
- Information on a product and/or lack of information e.g. imported food to be newly placed on the market where no other sampling activity is known.

12.2 Local authorities should also consider local priorities and their local business profile for imported food sampling and include these in their own sampling programmes. Sampling policies and programmes should be reviewed from time to time to assess the need to include national or regional imported food priorities/surveys.

12.3 Local authorities should take into account any specific central guidance on sampling or other matters set out by the Agency or Defra (Scottish Executive Environment and

Rural Affairs Department (SEERAD) in Scotland, National Assembly for Wales Agriculture Department (NAWAD) in Wales), or LACORS.

### **Qualifications/experience/training of officers carrying out sampling**

12.4 Samples for microbiological examination or chemical analysis should be taken by authorised officers who are properly trained in the appropriate techniques and competent to carry out the duties assigned to them. Sampling should only be undertaken by officers meeting the relevant qualification and experience requirements described in the Food Safety Act 1990 Code(s) of Practice.

12.5 Local authorities should ensure that officers carrying out sampling for the official control of contaminants in foodstuffs, are also competent in sampling methods prescribed in Commission legislation implemented by the Contaminants in Food (England) Regulations 2003 and official guidance.

### **13.0 Food of Non-Animal Origin**

13.1 This section applies to local authorities with a point of entry and examinations undertaken at ERTS or internal rail terminals and deferred examinations under the Imported Food Regulations 1997.

#### **Identification**

13.2 Local authorities overseeing seaports where enquiries with the port operator indicate that food is imported should check 100% of ships' manifests for imported food. 100% checks should continue until enquiries with the port operator reveal no food imports for a continuous period of three months, and further food imports are not reasonably foreseeable. Thereafter contact should be made with the port operator at least once every three months (see paragraph 8.7).

13.3 Local authorities overseeing airports, international rail terminals, Enhanced Remote Transit Sheds and international rail terminals should set up, implement and maintain documented procedures on the arrangements in place to identify imported food. This might include:

- liaison with HMC&E regarding food imported directly from third countries or via other Member States or ports under T1 arrangements;
- liaison with transit shed operators to obtain copies of cargo manifests;
- random checks of transit sheds/ERTS handling imported food with a view to verifying the information arrangements in place;
- Informal notification systems in co-operation with importers or their agents.

#### **Examination**

13.4 Imported food should be subjected to risk based food safety and, where appropriate, food standards checks. These may consist of documentary, identity and/or physical checks. Physical checks might include: checks on the means of transport, checks on the packaging and labelling, checks on the temperature controls, organoleptic testing, and chemical or microbiological examination. The arrangements and follow up actions should be set out in relevant service policies and procedures.

13.5 Checks should be informed by:

- Statutory requirements for documentary checks and associated sampling laid down in European Commission Decisions and Emergency Control Regulations,
- The risks associated with different types of food,
- Knowledge of the product eg new or unusual,
- Any requirements following a food hazard warning or RASFF notification,
- The history of compliance for the product, country of origin and exporter/importer,
- The controls that the food business importing the food has carried out,
- Any guarantees that the competent authority of the third country of origin has given,
- Any existing co-ordinated programmes e.g. at the request of or under the direction of other food control/advisory bodies, and
- Adequacy or sufficiency of documentation e.g. discrepancies which need further investigation.

Checks may also be influenced by information received from inland authorities regarding non-compliant food or from HM Customs & Excise or the port operator who may have concerns about a consignment.

13.6 Checks on imported food should also take into account any guidance issued by the Food Standards Agency. This will cover matters such as those foods for which specific documents need to be checked and those foods with restricted points of entry and/or checking regimes laid down in Commission Decisions or Regulations. Local Authorities with points of entry which are not designated to handle certain FNAO products subject to emergency control decisions may wish to ensure relevant port operators, local HM Customs and Excise, or agents/importers are aware of any restrictions. Arrangements should also be in place to deal with any such consignments which may arrive at the point of entry.

13.7 Officers should give the owner, importer or importer's agent a receipt for, or a record of, all samples taken.

13.8 Local authorities with points of entry, ERTS and international rail terminals should also aim to establish effective holding arrangements in liaison with local stakeholders such as transit shed operators or dock companies, to ensure that consignments for which they are seeking additional information can not be removed from the port or ERTS.

## **Enforcement**

### **Imported Food Regulations 1997**

13.9 Where relevant for the purpose of examination at points of entry or deferred examination at ERTS, international rail terminals or other place of destination, an authorised officer considers that a sample of a food should be procured, they may serve a notice under regulation 6 of the Imported Food Regulations 1997 on the person importing the food or any person in possession of the food who is entitled to be in possession of it. The notice should require that the food should not be removed from the place specified in the notice for a specified period not exceeding six days, excluding weekends and bank holidays, unless the officer's examination of the food has been completed. The person on whom any notice is served should be informed in writing by the authorised officer of the appeal provisions at the time the notice is served.

13.10 Where samples are submitted for analysis or examination, and the consignment is detained pending the results, local authorities should inform the analyst or examiner of

that fact and the associated detention period and also ensure that the consignment is stored appropriately and securely. The importer or the importer's agent should be informed of the analysis/examination results as soon as possible.

13.11 If it appears to an authorised officer on inspection or examination of food, that a batch, lot or consignment of food fails to comply with food safety requirements (Food Safety Act 1990 section 8) or is unsound or unwholesome, the officer could after appropriate consultation with the person importing that food, serve on that person a notice under regulation 7 of the Imported Food Regulations:

- stating that the food may be used in Great Britain for purposes other than human consumption; or
- ordering the re-dispatch of the food outside the European Community.

The person on whom any notice is served should be informed in writing by the authorised officer of the appeal provisions at the time the notice is served.

### **Food Safety Act 1990**

13.12 Alternatively, Food Safety Act 1990 Section 9 could be applied, the food seized and taken before a magistrate or, in Scotland, the Sheriff. When using these provisions, regard must be had to Food Safety Act 1990 Code(s) of Practice.

13.13 Section 9 provisions may also be used to detain food for up to 21 days in order to determine whether it complies with food safety requirements.

### **Voluntary Surrender**

13.14 Where there is no evidence to suggest that a deliberate attempt has been made to import non compliant goods, and adequate control arrangements are in place, ports may consider Voluntary Surrender as an option for dealing with such consignments. In accordance with Food safety Act Code(s) of Practice, where food is voluntarily surrendered for destruction, a receipt should be issued and the description of the food should include the phrase "voluntarily surrendered for destruction" and the receipt should be signed by the person surrendering the food.

13.15 Any decision on the use of regulation 7 of the Imported Food Regulations 1997 or Section 9 of the Food Safety Act 1990 action should also be informed by any relevant guidance issued by the EU or the Food Standards Agency on the appropriateness of alternative use or re-exportation.

### **Contaminants in food and emergency controls**

13.16 Officers should also have regard to the Contaminants in Food (England) Regulations 2003 and any relevant Emergency Control Regulations, which may provide for specific detention powers and notice provisions to deal with illegal/non-conforming consignments that are different from those under the Imported Food Regulations. Details of foodstuffs currently subject to emergency controls/EU restrictions can be found on the Agency's website<sup>11</sup>.

## **Storage and destruction/disposal arrangements**

13.17 Arrangements must be in place to ensure that detained/seized FNAO is stored appropriately, particularly to avoid cross contamination of other goods, and that food which is to be destroyed or disposed of, is dealt with in a suitable and effective manner and that there is no possibility of it re-entering the food chain e.g. deep burial at an approved waste disposal site. Copies of waste disposal notes should be kept on file.

## **14.0 Products of Animal Origin - Enforcement**

### **Illegally introduced POAO**

14.1 POAO should be imported in accordance with the Products of Animal Origin (Third Country Imports) (England) Regulations 2004. These require that POAO are imported through a designated Border Inspection Post (BIP) and are subject to veterinary checks. A Common Veterinary Entry Document (CVED)<sup>12</sup> is issued for consignments which pass the veterinary checks and this must accompany the consignment to the first premises after import, where it should be retained for a period of one year. POAO are considered to be illegally introduced (smuggled) where checks at the BIP have been evaded.

14.2 HM Customs & Excise became responsible in April 2003 for detecting smuggled POAO in Customs controlled areas including ERTS. However, local authorities still have responsibilities relating to goods presented at Border Inspection Posts and also inland where officers come across illegal POAO in the course of their routine enforcement activities (MHS are responsible for illegal POAO found at premises under their control). Defra have produced guidance clarifying the roles and responsibilities, including relevant contact details, of enforcement agencies involved in the control of illegal imports of POAO<sup>13</sup>.

14.3 All local authorities should set up, implement and maintain arrangements to effectively deal with illegally introduced POAO. Due to the nature of the enforcement activity which might require prompt action, officers should be properly authorised, template notices should be available, and effective mechanisms for any likely sampling or examination should be in place. Consideration should be given to necessary arrangements for the transport, storage, facilities and the necessary control arrangement for the destruction of POAO by high temperature incineration.

14.4 Where an authorised officer, in the course of their duties, comes across POAO at premises under Customs control i.e. in a port area or an ERTS, which they have reason to believe has been illegally introduced, they should notify Customs and issue a detention notice under regulation 16(4) of the POAO (Third Country Imports) (England) Regulations 2004.

14.5 Where illegal imports of POAO are found inland in an area/premises outside customs control, the local authority has responsibility for the enforcement action. Where an authorised officer is satisfied that a POAO has been illegally introduced, they should serve a notice under regulation 24 of the POAO (Third Country Imports) (England) Regulations 2004 on the person having charge of any consignment or product. An authorised officer should by such notice, take charge of the consignment or product and either:

- have it re-dispatched, by the mode of transport by which it was first introduced into the EU, to a destination in a third country within sixty days; or

- have it re-dispatched for rendering or incineration in accordance with relevant animal by-products legislation.

Although the final decision rests with the enforcing authority, in most circumstances it is unlikely to be appropriate or practical to re-dispatch the products.

### **POAO Dangerous To Animal Or Public Health**

14.6 Where an authorised officer, either at a port of entry or inland, considers that a consignment or product from a third country presents a risk to animal or public health, they should serve a notice under regulation 25 of the POAO (Third Country Imports) (England) Regulations 2004 on a person having charge of the consignment or product. The product should then be destroyed without undue delay in accordance with relevant animal by-products legislation.

14.7 A risk to animal or public health could be demonstrated by for example; a verified certificate of analysis from an official control laboratory, acknowledged expert opinion, a FHW or RASFF notification implicating the POAO and with established risk to health noted, or opinion of a suitably qualified and experienced authorised officer.

### **Detention of POAO inland**

14.8 Where an officer wishes to detain any POAO inland in order to investigate further to establish its safety or compliance, voluntary co-operation could be sought in the first instance. In situations where this is not possible or is inappropriate due to risk, there is a provision under regulation 8 of the POAO (Third Country Imports) (England) Regulations 2004 for an authorised officer to serve a notice on the person having charge of the consignment to detain the product until such a time any further notice allows the product to be removed. In order to use this provision a sample must be taken, however the sample does not have to be submitted to a Public Analyst/Food Examiner.

14.9 Where Third Country POAO have been imported correctly through a BIP in another Member State but are found to be non-conforming, for example they are not marked with the approval number of the establishment of origin, as opposed to being deliberately smuggled, provisions under the Products of Animal Origin (Import and Export) Regulations 1996 as amended may be used. Part III of these Regulations applies to intra-community trade and includes goods which originate in a third country but have received full clearance in a Member State i.e. they are in free circulation. Regulation 16 covers consignments posing a risk to health or illegal consignments. Under 16(3), where an authorised officer has reasonable grounds for believing that any POAO does not comply with animal or public health conditions relating to import into Great Britain or the European Community, a notice may be served to prohibit the movement of the consignment. Regulation 16(4) provides that a notice must then be served ordering the destruction of the goods, or public and animal health considerations permitting, use of the goods for other purposes as may be specified in the notice, including returning them (with the authorisation of the competent authority of the country of origin) to their country of origin. If the consignment fails to comply with legislation due to an irregularity in documentation only, the notice shall grant the consignor a period of seven days to produce the correct documentation before action is taken (regulation 16(5)).

## **Reporting**

14.10 A notification to Defra's Illegal Animal Products Seizures (ILAPS) database should be made by local authorities whenever illegally imported POAO are seized. In particular this will include instances where a notice is served under regulation 24 of the Products of Animal Origin (Third Country Imports) (England) Regulations 2004. Details of regulation 16 notices should not be notified to the ILAPS database as this would duplicate Customs' ILAPS notification.

14.11 Local authorities can log straight onto the web based ILAPS database to input data and run reports<sup>14</sup>.

## **15. Imported feed**

15.1 Imported feed from outside the European Union is subject to the same type of controls as for domestically produced and traded feeds. The principal controls are set out in the Feeding Stuffs Regulations 2000 (as amended). These include a list of authorised feed additives and controls on undesirable substances (contaminants). The Feeding Stuffs (Establishments and Intermediaries) Regulations 1999 require the approval or registration of feed businesses making, selling or using certain feed additives. This guidance on feed does not cover enforcement of zoonoses controls on animal feedingstuffs. Defra, SEERAD and NAWAD have issued separate guidance on enforcement of feed controls in the TSE Regulations 2002 which can be found on Defra's website<sup>15</sup>. The controls for zootechnical feed additives (antibiotic growth promoters and coccidiostats) are set out in Feedingstuffs (Zootechnical Products) Regulations 1999 as amended.

### **Enforcement requirements.**

15.2 There are a number of particular enforcement requirements that apply to imported feeds. These are set out in the Feeding Stuffs (Enforcement) Regulations 1999 as amended. These controls require, amongst other things, that feeds are checked at all stages of production and manufacture, and the intermediate stages prior to marketing, including importation. There are requirements for feed/feed materials to undergo documentary and physical (which may include random sampling and laboratory tests) checks (see paragraph 15.9). In order to achieve effective and consistent enforcement on imported feed, greater communication will be required between all interested parties at operational level.

15.3 Products covered by this legislation include compound feeds (manufactured feeds), feed materials (i.e. single feeds or ingredients of compound feeds) and feed additives. Zootechnical feed additives and feeds that contain them are also within the scope but checks on these are the responsibility of the Animal Medicines Inspectorate of the Royal Pharmaceutical Society of Great Britain.

### **Procedures for non-compliant feeds**

15.4 The Feeding Stuffs (Enforcement) Regulations 1999 as amended contain procedures for dealing with imported feeds that do not meet requirements. Where non-compliance of a product is established, local authorities must require the importer to take remedial action, which may include:

- rendering the products harmless including by processing in any suitable manner;
- bringing the products into compliance within a deadline;
- use for purposes other than for feed or food;
- destruction of the products; or
- re-dispatch to the country of origin.

Regulations 5 and 6 refer to these and associated procedures.

15.5 Where a local authority has information indicating that an imported product presents a serious risk to human or animal health or to the environment, a notice should be served under regulation 6B to deal with the product. The product should not be used in animal nutrition and should either be detained or be removed to a place specified by the authority. Regulation 10 also provides other powers, including seizure of products and powers of entry. Where importers have evidence that products they have imported do not comply with the relevant legislation, they are required under regulation 6A to inform the relevant local authority accordingly.

15.6 A pro forma for local authorities to report non-complying consignments to the Food Standards Agency is attached in Annex 2<sup>6</sup>. A notification to RASFF may also be required (see paragraph 9.5).

### **Enforcement responsibilities**

15.7 Regulation 4 of The Feeding Stuffs (Enforcement) Regulations 1999 as amended sets out liaison arrangements for the inspection of imported feeds. This covers procedures for products which are brought into the United Kingdom directly from a third country and those which are imported via another Member State but are not yet in free circulation.

15.8 Regulation 4 specifies the requirements regarding the completion and receipt of the 'model document' - the document that must be completed by enforcement authorities in Member States when products first enter the European Union but which are intended to be sent on to another Member State. Its primary purpose is to record the checks carried out on a consignment and to provide this information to enforcement authorities in the receiving Member State(s).

15.9 Regulation 4 also sets out responsibilities for checks on imported feed. All consignments are required to be subject to a documentary check and to random identity and physical checks (e.g. the sampling and analysis of products for undesirable substances). Under the Feeding Stuffs (Enforcement) Regulations 1999 as amended, Customs are responsible for the check of documents accompanying the consignment, while local authorities are responsible for identity and physical checks.

### **Liaison arrangements**

15.10 Relevant local authorities are required to carry out regular checks on imported feed consignments at point of entry, on a risk basis. The Agency will be providing further advice on inspection frequencies and setting out sampling programmes.

15.11 Local authorities responsible for feed enforcement which have points of entry in their district, should have in place arrangements with Customs and/or port authorities through which they are made aware of consignments of imported feed. Whilst it may not

be appropriate for every consignment to be checked, the information may enable the local authority to put in place a risk-based inspection programme.

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Imported Food Division. June 2004

Email: [imported.food@foodstandards.gsi.gov.uk](mailto:imported.food@foodstandards.gsi.gov.uk) Tel: 020 7276 8018

This guidance can be found on the FSA's website at

<http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/importedfoodfeedcontrols>

<sup>1</sup> For information and guidance on international trade in animal products see Defra's website [www.defra.gov.uk/animalh/int-trde/default.htm](http://www.defra.gov.uk/animalh/int-trde/default.htm).

<sup>2</sup> Food Standards Agency Imported Food Control Resource Pack (available on the Agency's website [www.food.gov.uk](http://www.food.gov.uk)) A Scottish version of the pack can be obtained from FSA Scotland, contact details below.

<sup>3</sup> Benchmarking the Port Health Function, The Syniad Benchmarking Centre ([martin.goodman@wlga.gov.uk](mailto:martin.goodman@wlga.gov.uk))

<sup>4</sup> [www.food.gov.uk/enforcement/frameagree/](http://www.food.gov.uk/enforcement/frameagree/)

<sup>5</sup> Local Authority Delegated Powers, Authorisation of Officers and Use of Credentials, LACORS – draft at time of print.

<sup>6</sup> Imported Food Division – Tel. 020 7276 8018 , fax 020 7276 8024, email [imported.food@foodstandards.gsi.gov.uk](mailto:imported.food@foodstandards.gsi.gov.uk)

FSA Scotland - Tel: 01224 285175 [jacqui.bunyan@foodstandards.gsi.gov.uk](mailto:jacqui.bunyan@foodstandards.gsi.gov.uk)

FSA Wales – Tel: 029 20678957 [rob.wilkins@foodstandards.gsi.gov.uk](mailto:rob.wilkins@foodstandards.gsi.gov.uk)

<sup>7</sup> Incident Branch – Tel. 020 7276 8448, fax 020 7276 8446, email [sinead.johnson@foodstandards.gsi.gov.uk](mailto:sinead.johnson@foodstandards.gsi.gov.uk) or [donna.stephenson-baah@foodstandards.gsi.gov.uk](mailto:donna.stephenson-baah@foodstandards.gsi.gov.uk)

<sup>8</sup> [www.food.gov.uk/multimedia/worddocs/section11proformas.doc](http://www.food.gov.uk/multimedia/worddocs/section11proformas.doc). The forms will need slight adaptation for use in Scotland.

<sup>9</sup> [www.food.gov.uk/multimedia/worddocs/referralsproforma.doc](http://www.food.gov.uk/multimedia/worddocs/referralsproforma.doc).

<sup>10</sup> [www.food.gov.uk/enforcement/imports/](http://www.food.gov.uk/enforcement/imports/)

<sup>11</sup> [www.food.gov.uk/multimedia/pdfs/foodstuff\\_controls.pdf](http://www.food.gov.uk/multimedia/pdfs/foodstuff_controls.pdf).

<sup>12</sup> This document was introduced on 1 March 2004 and is standardised throughout EU Member States. The predecessor of the CVED was the Certificate of Veterinary Checks (CVC).

<sup>13</sup> Enforcement guidance for anti-smuggling activity against illegal imports of meat and other products of animal origin will be issued shortly by Defra. For further information, contact [andy.green@defra.gsi.gov.uk](mailto:andy.green@defra.gsi.gov.uk), or phone 020 7904 8233.

<sup>14</sup> <http://ilaps.defra.gov.uk>. Food authorities without user names and passwords should contact [richard.j.stuckey@defra.gsi.gov.uk](mailto:richard.j.stuckey@defra.gsi.gov.uk) to be allocated these.

<sup>15</sup> [www.defra.gov.uk/animalh/bse/animal-health/paptseguide.pdf](http://www.defra.gov.uk/animalh/bse/animal-health/paptseguide.pdf)

<sup>16</sup> The completed pro-forma should be sent directly to the Animal Feed Unit, Room 415b, Aviation House, London WC2B 6NH, tel 0207 276 8462, fax 0207 276 8478, email : [joseph.nicholas@foodstandards.gsi.gov.uk](mailto:joseph.nicholas@foodstandards.gsi.gov.uk)

## Annex 1

**Table of Scottish and Welsh equivalents to the English legislation referred to in the text.**

<b>Legislation referred to in guidance</b>	<b>Equivalent Scottish Legislation</b>	<b>Equivalent Welsh Legislation</b>
The Contaminants in Food (England) Regulations 2003 Statutory Instrument 2003 No. 1478	The Contaminants in Food (Scotland) Regulations 2003 Scottish Statutory Instrument 2003 No. 289	The Contaminants in Food (Wales) Regulations 2003 Welsh Statutory Instrument 2003 No.1721 (w.188)
The Products of Animal Origin (Third Country Imports) (England) Regulations 2004 Statutory Instrument (DN)	The Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2004 Scottish Statutory Instrument (pending)	The Products of Animal Origin (Third Country Imports) (Wales) Regulations 2004 Welsh Statutory Instrument (pending)
The Feeding Stuffs Regulations 2000 Statutory Instrument 2000 No. 2481	The Feeding Stuffs (Scotland) Regulations 2000 Scottish Statutory Instrument 2000 No. 453	The Feeding Stuffs Regulations 2001 Welsh Statutory Instrument 2001 No. 343 (w. 15)
The Food (Hot Chilli and Hot Chilli Products)(Emergency Controls)(England) Regs 2003, as amended Statutory Instruments 2003 No. 1940 and 2004 No. 142	The Food (Hot Chilli and Hot Chilli Products)(Emergency Control)(Scotland) Regulations 2004. Scottish Statutory Instrument 2004 No. 56	The Food (Hot Chilli and Hot Chilli Products)(Emergency Control)(Wales) Regulations 2003, as amended Welsh Statutory Instruments 2003 No. 2455 (W.238) and 2004 No. 392 (W.40)
The Imported Food Regulations 1997 Statutory Instrument 1997 No. 2537	N/A	N/A
The Products of Animal Origin (Import and Export) Regulations 1996 as amended Statutory Instrument 1996 No. 3124	N/A	N/A

**Annex 2 Pro-Forma for recording contamination incidents notified directly to the Animal Feed Unit – Food Standards Agency**

**PART 1  
Section A**

**SFS NO:.....**

<b>Reporting RL:</b>		<b>Contaminant:</b>	
<b>Proposed date of visit:</b>		<b>S/VIO:</b>	

**Section B**

<b>Name and address of owner of livestock affected:</b>		
<b>Tel No.</b>		
<b>Person in charge of livestock:</b> <i>(if different from owner)</i>		
<b>Address of Premises</b> <i>(if different from above):</i>		
<b>CPH Number:</b>		
<b>Veterinary Practice:</b>		
<b>Tel No.</b>		

**Section C**

<b>Suspected source of contaminant</b> <i>if medicine complete section E</i> <i>if purchased feed/feed supplement complete section F</i>	
<b>Species, age and number of livestock involved:</b>	
<b>Details of produce likely to pose an immediate risk to the food chain.</b>	
<b>Are there any on-farm sales?</b>	
<b>Name and telephone number of milk purchaser:</b> <i>(if applicable)</i>	
<b>Have livestock or products likely to be contaminated already been moved off the farm? If yes, give details:</b>	

**Section D**

<b>History of the incident:</b>
<b>Main clinical signs:</b>
<b>Main post-mortem findings:</b>
<b>Initial laboratory results</b> <i>(please include VLA Ref. No(s)):</i>

**Section E**

<b>For use where a medicinal product is thought to be involved.</b>	
<b>Name of product:</b>	
<b>Manufacturer/product licence holder:</b>	
<b>Batch Number and expiry date:</b>	
<b>Licensed for this species Yes/No:</b>	
<b>Dose given:</b>	

S/VIO ..... Date .....

## Section F

For use where a feed/feed supplement is thought to be involved.	
<b>Local Authority</b>	
<b>Type of Feed:</b> (Compound, additive, feed material, premix, etc.)	
<b>Is feed bought-in or produced on farm?:</b>	
<b>If bought-in:</b> <b>Date delivered:</b>	
<b>Name, address and other contact details of manufacturer or supplier</b>	
<b>Batch number or other identification :</b> (Including expiry and shelf life if applicable)	
<b>If produced on farm:</b> <b>Type of feed</b>	
<b>Length of time since harvest or Ensiling</b>	
<b>Inclusion rate in finished feed</b> (if applicable)	
<b>Quantity of product fed daily</b>	
<b>Conditions in which feed is stored:</b> (Give as much detail as possible)	
<b>How often are feed silos/other equipment cleaned?</b>	
<b>Any other relevant information:</b> (e.g. previous problems with feed product or supplier)	

S/VIO ..... Date .....

**PART 2**

**SFS NO:.....**

<b>Full chronological history of incident (with dates):</b>					
<b>No. of animals/birds in exposed group</b>		<b>No. dead</b>		<b>No. presently showing clinical signs</b>	
<b>Farm visit findings:</b>					
How has access to contaminant been prevented?					
Has the owner signed agreement to a period of voluntary restriction?					
Yes/No		For how long?		No. of animals under restriction	

Copies of the following should be attached if available:

- PM and/or laboratory report
- Farm visit report
- Signed voluntary restriction and schedule
- Notification to DVM (FSF 5)
- Other, e.g. medicines label
- Any advisory letter to farmer

.....  
S/VIO

.....  
Date

**Send to:** SVIO(FS)  
DVM (where 3 months restrictions agreed - FSF 1 and FSF 5 only)

## Annex 3

### Glossary of Terms

BIP	EU Border Inspection Post situated at a seaport or airport or international rail or road link – designated point of entry for products of animal origin from third countries
CITES	Convention on International trade in Endangered Species, enforced by HM Customs & Excise.
Consignment	Consignments can consist of one type of product, or a number of different types of products, which is covered by the same health certificate and/or airway bill or bill of lading. See legal definition in POAO Regs.
ERTS	Enhanced Remote Transit Shed. Customs approved warehouse facilities where imported goods are held in temporary storage under Customs control. They are intended to facilitate entry of goods for Customs purposes and may be some distance from the seaport or airport, so may therefore fall under the jurisdiction of another local authority. May be referred to as “temporary storage facilities”.
Feeding stuffs	Term used in Legislation on feed mixes for farm animals wild animal feed (e.g. bird feed) and pet food
High risk FNAO	Products subject to special import conditions/emergency controls. These are laid down in specific Community and domestic legislation concerning individual products/groups of products and/or countries of origin.
Joint board	Port Health Authorities may be a stand-alone organisation managed by a Joint Board of Members from a two or more local authorities who each part fund the PHA
Manifest	Document/computer file describing all cargo carried on a ship, cargo train or aircraft.
PHA	Port Health Authority. These are specially constituted local authorities with a remit of administering a range of environmental health functions in docks/seaports.
T1 arrangements	A transit declaration made to HM Customs & Excise. T1 signifies that the goods are not in Free Circulation i.e. they are subject to Customs control