

**Official Feed and Food Controls (England)  
Regulations 2007 (SI 2007/3185)**

**Guidance notes for feed and food  
businesses on the imports provisions for  
products of non-animal origin**

**(April 2008)**

**Issued by the Imported Food Branch of the  
Enforcement Support Division**

## Introduction

On 14 December 2007 the legislation controlling **feed and food of animal origin**, imported from non-European Union (non-EU) countries into the UK, changed. The Official Feed and Food Controls (England) Regulations 2007<sup>1</sup> (the OFFC Regulations 2007), and parallel legislation in Scotland, revoked and replaced the previous OFFC Regulations 2006<sup>2</sup> but the general approach on imported food controls in the new legislation is similar. The main purpose of the new Regulations is to apply Article 28 of Regulation 882/2004/EC<sup>3</sup> which concerns cost recovery for controls on food in certain circumstances (further information on Article 28 is at <http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/offcexpenses>). Parallel legislation is also being produced in Wales and Northern Ireland. The revisions which have been made, however, do not affect the provisions relating to imports.

These Guidance Notes, using a question and answer format, explains the legal requirements for import businesses that are set out in Part 3 of the Official Feed and Food Controls (England) Regulations 2007 (the OFFC Regulations) and outlines the arrangements for enforcement of these. It should be read together with the regulations

The Guidance will be updated regularly, in particular, to take account of on-going developments at European Community level and in response to stakeholder feedback.

## Important note

Whilst this guidance is not legally binding, it does represent the considered views of the Food Standards Agency. However only the courts can give a definitive view on the law.

## Question and answer guidance

### Q1. Why are the OFFC Regulations required?

A1. The domestic legislation is required because rules on enforcement checks (also called enforcement controls or official controls) for feed and food of non-animal origin have been agreed at European Community level and must be applied nationally by the Member States. These rules are included in EU Regulation No 882/2004 on Official Feed and Food, Animal Health and

<sup>1</sup> SI 2007/3185 (a copy of these Regulations is available at <http://www.opsi.gov.uk/si/si2007/20073185.htm> )

<sup>2</sup> SI 2006/15. (a copy of these Regulations is available at <http://www.opsi.gov.uk/si/si2006/20060015.htm> )

<sup>3</sup> Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules. Official Journal L191, 28.5.2004, 1-52. A copy of the Regulation is available at: [http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2004/l\\_191/l\\_19120040528en00010052.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2004/l_191/l_19120040528en00010052.pdf)

Animal Welfare Controls (**the EU Regulation**). This was introduced to improve the consistency and effectiveness of feed and food controls across the EU and at its borders. It provides a more comprehensive and integrated approach to the current rules that apply to imports of products of non-animal origin.

**Q2. What types of products do the OFFC Regulations apply to?**

A2. The Regulations apply to products of non-animal origin being imported into England from non-EU countries (or third countries). This includes foods such as vegetables, cereals, nuts, mushrooms, fruit, and products made from these. It also applies to animal feedingstuffs including feed materials, compound feedingstuffs and feed additives.

**Q3. Do the OFFC Regulations cover imports of food of animal origin?**

A3. No. Food of animal origin is covered by the Products of Animal Origin (Third Country Imports) (England) Regulations 2006 as amended. However the OFFC Regulations do apply to composite products which contain product of animal origin and which are not subject to veterinary checks at Border Inspection Posts at import.

**Q4. What standards do imported feed and food covered by the OFFC Regulations need to comply with?**

A4. Such imported feed and food should meet the same or equivalent hygiene and compositional standards as feed and food produced in the UK and in other EU Member States. Further information on these requirements and the relevant legislation can be found on the FSA website [www.food.gov.uk](http://www.food.gov.uk) (other useful links are provided later in this document).

**Q5. Who carries out checks in England?**

A5. For food, the local authority or port health authority is responsible for carrying out enforcement checks in England and, for feed, the enforcement authority is the trading standards department of the local authority in whose territory the point of entry is located.

**Q7. Where are these checks to be carried out?**

A7. Checks may be carried out at the point of entry but they may also be carried out at the point of release, warehouses, operators' premises or at other points in the feed or food chain. In exceptional circumstances, the enforcement authority at the point of entry may need to defer the checks to another place inland. In this case, you will have to give a written undertaking that the consignment is sealed and will remain sealed until it reaches its destination and until the enforcement authority at its destination agrees it can be opened.

**Q8. What type of checks are carried out?**

A8. These include documentary checks where commercial and other documents accompanying the consignment are examined, as well as identity checks which involve a visual inspection to ensure that the documents tally with the labelling and content of the consignment. In some cases, physical checks may also be undertaken. These checks may include samples being taken for analysis in a laboratory or by a food examiner. Feed and food consignments may be detained when such checks are taking place.

**Q9. What actions can the enforcement authorities take when products do not comply with legal requirements?**

A9. The enforcement authority may require that the feed or food be destroyed or that it is re-despatched outside the EU (this will be subject to certain conditions). However, recognising that some products might need to enter the EU specifically for reprocessing, the controls allow enforcement authorities to submit such feed or food for special treatment (such as reprocessing or heat treatment). In certain circumstances, the enforcement authority may feel it appropriate to prosecute for breaches of import requirements.

**Q10. What can I do if I disagree with action taken by the local or port health authority?**

A10. In the first instance, you should discuss your concerns with the enforcement officer or authority directly. Where formal action has been taken, such as through service of official notices, you have the right to appeal. You may appeal to a Magistrate's Court against decisions taken by the enforcement authorities within one month from the date on which the notice was served. If your appeal fails you may appeal to the Crown Court.

**Q11. Do I have to pay for routine checks made by the enforcement authority?**

A11. In general, you will not have to pay the costs of sampling or analysis

However, where a product is found not to comply with import requirements, costs which are incurred by enforcement authorities associated with enforcement action such as detention, special treatment and/or re-despatch, are recoverable from the person responsible for the consignment.

However, there are certain types of food subject to additional EU safeguard or emergency measures, such as pistachio nuts from Iran which are subject to enhanced checks for aflatoxin contamination, where the enforcement authorities may recover costs of relevant controls from you.

**Q12. I have heard that there are new requirements for the import of 'high risk' feed and food of non-animal origin (non-POAO) – is this correct?**

A12. The EU Regulation provides that the Commission may issue a list of 'high risk' non-POAO products. These products will be subject to increased import

controls at specially designated points of entry. In addition, you will have to pre-notify the local or port health authority at these designated ports of the arrival of consignments. However, the Commission has not yet issued the list of 'high risk' products so it is not possible at this stage to legislate for these products at a national level. Once the list of products has been agreed at EU level, it is intended that the OFFC Regulations will be amended appropriately. In the meantime existing EU safeguard measures continue to apply.

**Q13. In what circumstances will the provisions on declarations in the case of serious risk to animal or public health be used and how will I find out when declarations have been put in place?**

A13. Declarations may be issued where there is a serious and imminent risk to animal or public health and control measures need to be put in place rapidly. In particular, they may be used to ensure that Emergency Control Decisions made at EU level may be implemented in the UK without delay. The Food Standards Agency will publicise declarations when they are made.

**Q14. If I have further enquiries, what do I do?**

A14. If you have further general enquiries, contact the Food Standards Agency's Imported Food Helpline by email to [imported.food@foodstandards.gsi.gov.uk](mailto:imported.food@foodstandards.gsi.gov.uk) or by phone on 020 7276 8018.

If you have enquires about specific consignments, you should, in the first instance, contact: for food - the local or port health authority at the port of entry; and, for animal feed, the local authority (usually the trading standards department) in whose area the port of entry is located.

You can identify the relevant authority using the finder at: <http://www.food.gov.uk/enforcement/laresource/yourarea/>

Contact details for port health authorities can be found at: [http://www.porthhealth.co.uk/port\\_directory.asp?letter=A](http://www.porthhealth.co.uk/port_directory.asp?letter=A)

**Q15. Where may I get further information?**

A15. Information on the import of food can also be found on the Food Standards Agency website at [www.food.gov.uk/imports](http://www.food.gov.uk/imports).

The Agency has also produced Question and Answer Notes on the EU Regulation. These are primarily aimed for enforcement authorities but may also provide some useful background information. These notes can also be found on the Agency's website [www.food.gov.uk](http://www.food.gov.uk)

The European Commission has produced Guidance on imports to the Community. A copy may be downloaded from the Commission's website at: [http://europa.eu.int/comm/food/international/trade/interpretation\\_imports.pdf](http://europa.eu.int/comm/food/international/trade/interpretation_imports.pdf)