

Unsafe / Illegal Food

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1. Food not to be “placed on the market” when “unsafe” (General Food Regulation EC 178/2002)

Placing on market has a wide definition and includes:

- holding for purpose of sale
- offering for sale
- sale (including trade, wholesale and retail) or any other transfer, whether free of charge or not.



2. Food is “unsafe” if it is

- “injurious to health” – take into account immediate, short and long term effects; probable cumulative toxic effects; particular health sensitivities of consumers; or



2. (contd.)

- “unfit for human consumption” – includes contamination, putrefaction, deterioration or decay

Regard to be had to

- normal conditions of use
- information provided to consumer



3. Food is deemed safe :

if it complies with specific Community provisions governing food safety

- unless there are reasons to consider it is unsafe (e.g. accidental contamination)



4. Food which is in breach of specific legislation on food safety

FSA Guidance Notes state that this is presumed to be “unsafe”

- unless a risk assessment shows that it is neither injurious to health nor unfit for human consumption
- however, it would still be in breach of that specific legislation

In some cases specific legislation leaves no alternative but to prevent non-compliant food from going into food chain, (e.g. where no negative BSE test).



5. Responsibilities

FBO

- To withdraw and recall unsafe food
- To inform Local Authorities and FSA
LAs
- to enforce food law

FSA

- to advise, inform, assist, monitor LAs
- enforce meat hygiene controls



6. Remedies

Local authorities (MHS in meat plants) can:

- detain pending further investigation or seize unsafe food for condemnation by court
- issue improvement or remedial action notices
- prosecute
- remove/suspend approval
- seize and destroy imports of products of animal origin if produced or traded in breach of Community animal health or food safety rules (POAO Regulations)



7. Future challenges

- compliance with EC law
- different views on legal interpretation / science / risk
- protection of human health/proportionality

