



THE FOOD HYGIENE (ENGLAND) REGULATIONS 2005 - DELEGATION OF POWERS

1. BACKGROUND

- 1.1 All hygiene legislation issued since 1990 has been made under the Food Safety Act 1990. Food Safety enforcement powers for Environmental Health Officers are contained in this Act.

2. CHANGES IN LEGISLATION

- 2.1 The European Parliament has issued Hygiene Regulations that apply in all member states and will replace all existing UK Hygiene Regulations.
- 2.2 From 1 January 2006, Local Authorities will derive their hygiene enforcement powers from The Food Hygiene (England) Regulations 2005.

3. REQUEST FOR DELEGATION OF POWERS

- 3.1 A Local Authority, referred to in the Regulations as an enforcement authority may authorise persons in writing to act in matters arising under the Hygiene Regulations. The following powers are recommended to be delegated to the respective posts.

Source	Power Delegated	Delegated To
The Food Hygiene (England) Regulations 2005	Regulation 6. - To Serve Hygiene Improvement Notices	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 7 (5) – To serve Hygiene Prohibition Orders on the food business operator and to affix a copy to the premises	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 7 (6) – To issue a certificate that the authority is satisfied the health risk condition no longer exists.	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 8 - To serve Hygiene Emergency Prohibition Notices.	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers

Source	Power Delegated	Delegated To
	Regulation 8 – To apply to the Magistrate’s Court for a Hygiene Emergency Prohibition Order	Head of Legal and Democratic Services, or solicitors, or employed barrister in consultation with Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 8 –To issue a certificate that the authority is satisfied that the health risk condition no longer exists.	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 9 - To serve Remedial Action/Detention Notices.	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 9 – to serve a certificate withdrawing a Remedial Action/Detention Notice.	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 12 - To procure samples	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 13 -To submit samples for analysis or examination	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 14 – To enter premises for the purposes of the Regulations	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 14 – To inspect any records, any computer and associated apparatus or material which is or has been in use in connection with the records, and to seize and detain any records.	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 27 - To certify that food has not been produced, processed or distributed in compliance with the Hygiene Regulations.	Environmental Health Manager (Commercial), or Senior Environmental Health Officers, or Environmental Health Officers

Source	Power Delegated	Delegated To
	Regulation 12 - To procure samples.	Environmental Health Technicians.
	Regulation 13 - To submit samples for analysis or examination.	Environmental Health Technicians.
	Regulation 14 – To enter premises for the purposes of the Regulations	Environmental Health Technicians.
	Regulation 14 – To inspect any records, any computer and associated apparatus or material which is or has been in use in connection with the records, and to seize and detain any records.	Environmental Health Technicians.
	Regulation 6 - To serve Hygiene Improvement Notices.	Environmental Health Technicians holding the Higher EHRB qualification or equivalent.
	Regulation 9 - To serve Remedial Action/Detention Notices -	Environmental Health Technicians holding the Higher EHRB qualification or equivalent.
	Regulation 9 – to serve a certificate withdrawing a Remedial Action/Detention Notice.	Environmental Health Technicians holding the Higher EHRB qualification or equivalent.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications as a result of this report.

5. ENVIRONMENTAL IMPLICATIONS

5.1 There are no environmental implications as a result of this report.

6. CRIME AND DISORDER IMPLICATIONS

6.1 There are no crime and disorder implications as a result of this report

7. RECOMMENDATION

7.1 That the officers be delegated powers as set out in Section 3 of this report.

For Further Information Please Contact:

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Background Papers:

Food Law Code of Practice & Practice
Guidance 2005