

DELEGATION OF POWERS UNDER NEW FOOD SAFETY AND HYGIENE REGULATIONS

1. BACKGROUND

- 1.1 The European Parliament has issued a number Food Hygiene and Food Safety Regulations that apply directly in all EU member states and there are obligations on all EU member states to make national law to provide for the Regulations' enforcement. The Food Safety and Hygiene (England) Regulations 2013 ('the 2013 Regulations') have been made to consolidate the current regulations and continue to apply the European legislation into UK law. These Regulations will come into force on 31 December 2013 and repeal existing Regulations.
- 1.2 A review of legislation to control the safety of imported food and products of animal origin has identified amendments that need to be considered for delegation of powers.
- 1.3 The Food Hygiene and Food Safety enforcement powers for Environmental Health staff are derived from these Regulations.

2. CHANGES IN LEGISLATION

- 2.1 Legislators have identified concerns raised by food businesses that it can be difficult to find food safety law and food hygiene law that is relevant to them. In England there was previously two sets of Regulations which dealt with food safety (The General Food Regulations 2004) and food hygiene (The Food Hygiene (England Regulations) 2006) as well as various amending Statutory Instruments.
- 2.2 By consolidating the existing Regulations into one set of Regulations, it will make these provisions easier to find. In addition, following food poisoning from sprouts and seeds intended for sprouting, the European Commission has introduced a package of Regulations for the hygienic production of sprouts, which are intended to safeguard public health. These Regulations will be given effect in England in the 2013 Regulations.
- 2.3 A review of other legislation has identified the need to update some delegations and these are also included below.
- 2.4 The revised delegations of powers are a result of changes in legislation and do not introduce any new requirements for businesses.

3. REQUEST FOR DELEGATION OF POWERS

- 3.1 As New Forest District Council is the enforcement authority referred to in the 2013 Regulations it may authorise persons, in writing, to act in matters arising under the 2013 Regulations and relevant EU Regulations. The following powers are recommended to be delegated to the respective posts.

Source	Power Delegated	Delegated To
The Food Safety and Hygiene (England) Regulations 2013, EU Regulation 852/2004, EU Regulation 853/2004, EU Regulation 854/2004, EU Regulation 2073/2005, EU Regulation 2075/2005, and EU Regulation 178/2002.	Regulation 2 -The appointment of Authorised Officers.	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers, or Environmental Health Technicians.
The Food Safety and Hygiene (England) Regulations 2013	Regulation 6 - to serve a Hygiene Improvement Notice on a food business operator	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers, or Environmental Health Technicians holding the Higher EHRB qualification or equivalent.
	Regulation 7 – to serve a Hygiene Prohibition Order on the food business operator and to affix a copy to the premises and to issue a certificate that that the authority is satisfied that the health risk condition no longer exists.	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 8 – to serve a Hygiene Emergency Prohibition Notice on a food business operator and to affix a copy to the premises.	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 8 - to apply to a Magistrates Court for a Hygiene Emergency Prohibition Order.	Head of Legal and Democratic Services, or Solicitors, or Employed Barrister, in consultation with the Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 8 - To serve a copy of a Hygiene Emergency Prohibition Order on a food business operator and to affix a copy to the premises. To issue a certificate that that the authority is satisfied that the health risk no longer exists.	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers
	Regulation 9 - to serve a Remedial Action Notice on a food business operator and	Environmental Health Manager, or Senior Environmental Health

to serve notice to withdraw a Remedial Action Notice	Officers, or Environmental Health Officers	
Regulation 10 - to serve a Detention Notice on the food business operator and to serve notice to withdraw a Detention Notice.	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers	
Regulation 14 - to procure samples	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers, or Environmental Health Technicians	
Regulation 15 -to submit samples for analysis or examination	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers, or Environmental Health Technicians	
Regulation 16 – to enter premises, 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, detain and take away any records	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers, or Environmental Health Technicians	
Regulation 16 - to apply to a justice of the peace for a warrant of entry	Head of Legal and Democratic Services, or Solicitors, or Employed Barrister, in consultation with the Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers	
Regulation 29 – to certify that any food has not been produced, processed or distributed in compliance with the Hygiene Regulations.	Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers.	
The Food Safety and Hygiene (England) Regulations 2013, EU Regulation 852/2004, EU Regulation 853/2004, EU Regulation 854/2004, EU Regulation 2073/2005, EU Regulation 2075/2005, and EU Regulation	Power to issue Simple Cautions	Head of Public Health and Community Safety, or Environmental Health Manager, in consultation with the Head of Legal and Democratic Services

178/2002.The Food Safety Act 1990 and Regulations made thereunder.

The Trade in Animals and Related Products Regulations 2011

Powers of entry contained within Regulation 33, and powers of authorised officers contained within Regulation 34.The seizure of unchecked consignments brought into the country and the detention of products of animal origin which may have been introduced in breach of the regulations.

Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers or Environmental Health Technicians

Transmissible Spongiform Encephalopathy (England) Regulations 2010 (as amended)

The appointment as inspectors with powers of entry, inspection, sampling and seizure. The service of notices restricting movement or the destruction of parts or whole animal body. The service of notices for the cleansing of premises, vehicles and containers

Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers

The Official Controls (Animals, Feed and Food) (England) Regulations 2006, EU Regulation 882/2004

The appointment as inspectors and enforcement officers for the enforcement of the regulations including power of entry, the inspection of records and the detention of food

Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers

Products of Animal Origin (Third Country Imports) (England) Regulations 2006 (as amended)

Powers of entry including applying for entry warrant. The inspection and sampling of any product. Powers in relation to documents including examination and seizure. The service of notice to deal with non conforming products. To instruct the re-dispatch or destruction of consignments and products illegally brought in to the country. To take charge of and destroy products dangerous to animal or public health by service of notice.

Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers

Products of Animal Origin (Import and Export) Regulations 1996 (as amended)

To inspect and sample products, the inspection of premises and examination of documents. To be accompanied by a representative of the European Commission. Power to deal with consignments illegally imported and posing a risk to health. The service of notice to destroy, re- export, or move food to a border inspection post.

Environmental Health Manager, or Senior Environmental Health Officers, or Environmental Health Officers

3.2 Delegation of the above powers supersedes existing entries in the list of Council delegations and the following should be deleted; ENV 57 to 68 inclusive, ENV 70, ENV 72, ENV 74 to 76 inclusive and ENV 83. This includes deleting reference to The Food Hygiene (England) Regulations 2006 which are repealed by the 2013 Regulations.

4. FINANCIAL, ENVIRONMENTAL, CRIME AND DISORDER IMPLICATIONS

4.1 The powers contained in the new Regulations are not new as they have been consolidated from previous legislation, therefore there are no financial, environmental or crime and disorder implications as a result of this report.

5. PORTFOLIO HOLDERS COMMENTS

5.1 The Portfolio Holder supports the proposed delegations, which update the existing powers.

6. RECOMMENDATION

6.1 That the officers be delegated the powers as set out in Section 3.1 of this report and the current delegations which refer to the Food Hygiene (England) Regulations 2006 and other superseded entries, as set out in Section 3.2 of this report, be deleted from the Council's delegations, with effect from 31 December 2013.

FOR FURTHER INFORMATION PLEASE CONTACT:

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BACKGROUND PAPERS

Published documents