

Statement for local authorities in England

The FSA will be updating enforcement documentation produced while the UK was in the EU

The UK is leaving the EU. The FSA must ensure that its guidance documents and material includes the correct referencing to UK law and all relevant functions, systems and institutions.

We are prioritising those matters that must be changed to enable all food enforcement authorities to enforce the law from day one if we leave the EU without a deal. This will include certification and prescribed legal forms used by enforcement authorities. Other references are being reviewed and prioritised and will be updated in due course.

This page includes information about:

- retained EU law
- FSA EU Exit statutory instruments
- correct referencing to UK law, institutions, systems and processes
- enforcement regulations
- legislation examples

Converting EU law into UK law

The [European Union \(Withdrawal\) Act 2018](#) (the 'EUWA') will end the supremacy of EU law within the UK. It will convert directly applicable EU legislation (in particular, EU Regulations and Decisions) as it stands at the moment of exit into domestic law.

Food legislation will generally have the same effect that it had before the UK left the EU, unless or until it is changed by Parliament. Some has been amended by statutory instruments (SIs) made under the EUWA. This is because the EUWA creates powers to make secondary legislation to correct 'retained EU law' to ensure that the legislation will work properly once the UK has left the EU.

When the UK leaves the European Union, legislation originating from the EU will be published on www.legislation.gov.uk and it will be updated with amendments made by the UK after exit. A new EU Exit Web Archive is also being created so that you can access a wider selection of EU law as it stood at EU exit, including treaties, legislative acts, the Official Journal of the EU, case law and judgements of the European Court of Justice, in English, French and German.

FSA EU Exit statutory instruments

UK Government Ministers have made a number of EU Exit statutory instruments (SIs) in relation to food and feed law. These will fix inoperabilities in retained EU

legislation for food and feed safety and hygiene if we leave the EU without a deal on 31 October 2019.

These UK-wide SIs ensure that the retained EU law will operate in a UK context, they also include the England national enforcement corrections to ensure that the current England-only enforcement regulations continue to work properly with the retained EU law. Northern Ireland, Wales and Scotland are producing their own national SIs to ensure that their national enforcement regulations continue to work properly with the retained EU law.

The Ministry of Housing, Communities and Local Government has [published a list of FSA and other government department statutory instruments](#) which have been laid and identified as having impacts on local authorities. This is supported by additional [guidance from Defra](#) on local authority documentation.

Changing EU references to UK law, institutions, systems and processes

If we leave the EU without a deal, the FSA and Food Standards Scotland (FSS) will be responsible for many of the functions previously carried out by the European Commission and European Food Safety Authority. As such, the FSA will ensure that all guidance documents and material are updated to replace any references to institutions, systems and processes that the UK will no longer rely on.

We are prioritising those matters that must be changed to enable all food enforcement authorities to enforce the law from day one. This will include:

- certification and prescribed legal forms used by enforcement authorities
- [the system used to notify UK authorities about high-risk food and feed products from the EU](#)
- [health and identification marks on meat, fish and dairy products](#)

Read more about the [food and feed safety risk assessment and management process](#).

Enforcement regulations

All domestic country-specific enforcement regulations will continue to remain in force and provide the essential administrative provisions that authorised officers rely on, such as:

- powers of entry
- powers to serve formal notices
- offences
- time limits to bring proceedings
- clarification on enforcement jurisdictions

Other key messages

- The European Communities Act 1972 will be repealed and replaced by The European Union (Withdrawal) Act 2018.
- EU food and feed legislation in their consolidated versions will be incorporated into UK law on exit day. For most businesses, the current requirements of food and feed law will continue to apply with no or limited changes. [Check out our business guidance page.](#)
- The titles of retained EU food and feed safety and hygiene legislation will remain unchanged – this is because the fixing statutory instruments amend the name of relevant legislation (in the body text only), by removing the ‘EU’ and ‘EC’ references but they will not change the actual title at the top of the document. This will prevent all delegated authorities, documents and notices from having to be updated.
- Various ‘EU’ terms (e.g. European Community, European Union, member states, third countries) will be removed and will no longer be of relevance within the context of UK food law.
- The statutory instruments that will fix inoperabilities contained within retained EU law and domestic implementing regulations, will have the effect of amending retained EU law and domestic implementing regulations. See examples below.
- Local and port health authorities will need to determine how best to review their own guidance and documentation and amend it as required to reflect the changes in the law. [Read additional guidance from Defra and the FSA.](#)

Legislation examples

The following examples apply in England only. However, the same principles will apply to devolved food and feed legislation and to other related legislation that is the policy responsibility of Defra and the agricultural departments in the devolved administrations.

Food safety

The EU food safety regulation ‘Regulation (EC) 178/2002’ will continue to be referred to as Regulation (EC) 178/2002 after exit day in the UK. Corrections to this EU regulation and The Food Safety and Hygiene (England) Regulations 2013 (that allows for its enforcement in England) are being made through the fixing SI, The General Food Law (Amendment etc.) (EU Exit) Regulations 2019. The same principle applies to Commission Implementing Regulation (EU) No 931/2011 on traceability.

Food hygiene

Similarly, the EU hygiene regulations (listed below) will retain their pre-exit titles and continue to be enforced through the Food Safety and Hygiene (England) Regulations 2013:

- Regulation (EC) 852/2004
- Regulation (EC) 853/2004
- Regulation (EC) 854/2004
- Commission Implementing Regulation (EU) 2015/1375
- Regulation (EC) 2073/2005

The Specific Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 and The General Food Hygiene (Amendment etc.) (EU Exit) Regulations 2019 will make various amendments to both the retained EU hygiene legislation and its domestic enforcing regulation to allow them to remain operable within the UK.

TSE

Regulation (EC) 999/2001 will continue to have the same title and be enforced through The Transmissible Spongiform Encephalopathies (England) Regulations 2018. They will be amended by The Transmissible Spongiform Encephalopathies (EU Exit) Regulations 2019, that will make the appropriate changes required for the legislation to continue to operate post exit.

Food additives

European Parliament and Council Regulation (EC) No 1333/2008 and Regulation (EU) No 234/2011 on food additives and Regulation (EC) No 1331/2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings, will retain their pre-exit titles and continue to be enforced through. The Food Additives, Flavourings, Enzymes and Extraction Solvents (England) Regulations 2013. The situation will be the same for similar EU derived legislation on flavourings and enzymes.

All retained EU legislation and its domestic enforcing regulation will be amended by The Food Additives, Flavourings, Enzymes and Extraction Solvents (Amendment etc.) (EU Exit) Regulations 2019, which will remove references to EU institutions such as the European Food Safety Authority and the Commission and replace them with appropriate UK entities. All food additives authorised prior to the UK's exit may continue to be used in line with the specifications and conditions of use specified in the retained EU law.

Applications for new additives, flavourings and enzymes post-exit will be managed within the UK by the FSA and FSS, who will for example be responsible for ensuring the appropriate risk assessment is undertaken and advice provided on whether a new substance is safe and may be added to a list of approved substances. However, it will be for the appropriate authority as designated, to take the final risk management decision on whether to authorise or not.

Contaminants in food

Council Regulation (EEC) No. 315/93 laying down Community procedures for contaminants in food and Commission Regulation (EC) No 1881/2006, setting maximum levels for certain contaminants in foodstuffs will retain their original titles, as will The Contaminants in Food (England) Regulations 2013. The Contaminants in

Food (Amendment) (EU Exit) Regulations 2019 will correct any inoperabilities within retained EU contaminants legislation to reflect that risk assessments and risk management decisions will be undertaken within the UK.

Animal feed legislation

All EU animal feed legislation (selected list below) will retain their pre-exit titles and continue to be enforced through existing domestic implementing regulations:

- Regulation (EC) No 1831/2003 (making provisions for additives used in animal nutrition)
- Regulation (EC) No 1831/2003 (making provisions for additives used in animal nutrition)
- Regulation (EC) No 767/2009 (controlling the placing on the market and use of feed)
- Commission Regulation (EU) No 68/2013 (cataloguing feed materials)
- legislation providing authorisation of all the individual feed additives in place at the time of exit

The Animal Feed (Amendment) (EU Exit) Regulations 2019 will make the appropriate changes required for the feed legislation above to continue to operate post exit.

Further information

If you need more information,
please email: EUExit@food.gov.uk