APPENDIX 5

Draft

Regulation EC 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

Guidance Notes for enforcement authorities on the feed and food law elements

Important note

These Notes seek to provide informal, non-statutory advice on the requirements of ***Regulation (EC) 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules***. They should not be taken as an authoritative statement or interpretation of the Regulation as only the courts have this power. The Guidance Notes should be read in conjunction with the EU Regulation[1] and, where appropriate, with other enforcement or operational instructions (see Appendix 1).

Introduction

These Notes aim to cover the main elements of Regulation 882/2004. The text of the Regulation is available on the European Commission's website at:

http://europa.eu.int/servlet/portail/RenderServlet?search=DocNumber&lg=en&nb_docs=25&domain=Legislation&coll=&in_force=NO&an_doc=2004&nu_doc=882&type_doc=Regulation

The scope of the Notes is restricted to those aspects of the EU Regulation relating to official controls in respect of **feed law** and **food law**. They do **not** relate to the **animal health** and **animal welfare** elements of the EU Regulation for which the Department for Environment, Food and Rural Affairs (Defra) and the Agriculture Departments in the devolved countries have responsibility.

As the Regulation places obligations on those authorities responsible for monitoring and enforcing feed and food law, the Guidance notes are aimed primarily at these authorities. However, the Notes may also provide useful information for the feed and food industries, and for consumers.

General information

Q1. What is Regulation 882/2004 about?

A1. It is about arrangements for the enforcement of feed and food law requirements (as well as animal health and animal welfare rules). It sets out the general approach that must be taken, and the principles that must be adopted, by the authorities in EU Member States that have responsibility for monitoring and enforcing feed and food law i.e. for the 'competent authorities' (see Q4 and Q5) organising and undertaking 'official controls' (see Q6). It also provides the legal basis for the European Commission to assess the effectiveness of national enforcement arrangements.

Q2. Why has the Regulation been introduced?

A2. It has been introduced to address the findings of the European Commission that there is a wide variation in the manner in which Community legislation is currently being implemented and enforced in the different Member States. It is also

[1] Official Journal L191, 28.5.2004, 1-52.

needed to consolidate and extend requirements set out in existing EU sector-specific legislation in order to remove inconsistencies and to fill gaps.

Q3. What are the aims and objectives of the Regulation?

A3. The aim is to create a more comprehensive, integrated, risk-based, EU-wide, 'farm to fork' approach to official controls. The objective is to improve the consistency and effectiveness of controls across the EU and, as a consequence, raise standards of food safety and consumer protection, and provide a more level playing field for businesses. It also aims to provide a greater degree of transparency for consumers about enforcement arrangements.

Q4. What are 'competent authorities'?

A4. 'Competent authorities' are defined specifically for the purposes of the Regulation at Article 2.4. In effect, these are the central authority or authorities of a Member State that are responsible for national enforcement arrangements as well as other authorities that actually monitor and enforce the law (i.e. carry out official controls).

Q5. Who are the competent authorities in the UK?

A5. Responsibility for official feed and food controls is held centrally. In practice, execution of this responsibility is divided between central and local authorities. The central authorities are the Food Standards Agency, Defra and the devolved Agriculture Departments and their agencies (e.g. the Meat Hygiene Service, the Veterinary Medicines Directorate, the Pesticides Safety Directorate, the Dairy Hygiene Inspectorate and the Egg Marketing Inspectorates). At the local level, responsibility lies with feed and food law enforcement services in local authorities in Great Britain (GB) and district council Environmental Health Services in Northern Ireland.

Q6. What are official controls?

A6. 'Official controls' are specifically defined for the purposes of the Regulation at Article 2.1. In effect, these are:

- Enforcement checks carried out by the competent authorities in the Member States to monitor compliance by feed and food businesses with the requirements set out in 'feed law' and 'food law'. Such checks include, for example, inspections, audits, surveillance, sampling and analysis etc.
- Checks carried out by the European Commission's Inspection Services, generally by its Food and Veterinary Office (FVO), to evaluate the performance of national control authorities and national control systems.

Q7. What feed law is covered by the Regulation?

A7. 'Feed law' is specifically defined for the purposes of the Regulation at Article 2.3 In effect, this includes EU and national rules on feed hygiene, feed composition, feed additives, medicated feed, feed labelling, and veterinary medicine and pesticide residues in feed etc. It covers not only feed for food-producing animals but also feed for horses, pets and fish.

Q8. What food law is covered by the Regulation?

A8. The definition of 'food law' for the purposes of the Regulation is the one used in the EU General Food Law Regulation 178/2002[2]. In effect, this includes EU and national rules on food hygiene, food composition, food labelling, additives and contaminants, veterinary medicine and pesticide residues, standards for organic foods, protected names etc. Regulation 882/2004, however, specifically excludes marketing standards that have been developed under the Common Agricultural market e.g. those for wine, olive oil, fruit and vegetables and honey etc.

Q9. What is the scope of the feed and food elements of the Regulation?

A9. It covers controls at all stages of production, processing and distribution. It covers controls on feed and food produced within the EU and that exported to or imported from outside the Community, i.e. third countries. Existing specific rules for controls for particular areas of concern, e.g. BSE controls and food hygiene controls for products of animal origin, will continue to apply without prejudice to the new overarching Regulation.

Q10. What are the main elements of the Regulation?

A10. These are:

- General principles for enforcement arrangements in the Member States – see Q12;
- Requirements for the competent authorities – see Q13 to Q28;
- Requirements for sampling and analysis and official laboratories – see Q29-Q32);
- Official controls of third country imports of feed and food – see Q33 to Q40;
- Financing of official controls – see Q41 to Q46;
- Administrative assistance and co-operation with other Member States and with the Commission – see Q47 to Q49;
- National control plans and annual reports to the Commission – see Q50 to Q53;
- Community controls in Member States and in third countries – see Q54 to Q57.

Q11. When will the Regulation apply?

A11. Most of the provisions in the Regulation will apply from 1 January 2006 but the provisions on financing of official controls (Articles 27 and 28) will apply from 1 January 2007.

[2] Regulation EC 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. Official Journal L31, 1.2.2002, 1-24.

General principles for enforcement arrangements in the Member States

Q12. What are these principles?

A12. These are included at Article 3 of the Regulation and require that the national control system should be set up such that controls are carried out:

- regularly and in accordance with a risk-based approach;
- unless necessary, without prior warning to the business concerned;
- at all stages of production, processing and distribution; and
- on feed and food produced and sold within the EU, feed and food for export and feed and food imports.

Requirements for the competent authorities

Q13. What are these requirements?

A13. The main ones, which are set out at Articles 4 to 9, 31 and 54 of the Regulation, are that the competent authority should:

- meet certain operational criteria – such as, having a sufficient number of suitably qualified and experienced staff, ensuring that staff are free from conflict of interest, having contingency plans for emergencies, having appropriate legal powers, having suitable facilities and equipment etc.
- carry out internal audits or have external audits undertaken;
- ensure specific conditions are met if any control task is delegated to an independent third party i.e. a 'control body';
- ensure that staff receive appropriate and on-going training;
- be transparent about its enforcement activity;
- prepare reports of individual controls and provide copies to businesses;
- have, use and update, as necessary, documented procedures for carrying out controls;
- ensure effective and efficient co-ordination with other competent authorities or between different units of a single authority;
- have procedures in place for the registration/approval of premises; and
- take appropriate action where businesses are infringing the law.

Q14. Will this mean any changes to the food law enforcement arrangements in the UK?

A14. Most of the provisions of Regulation 882/2004 consolidate existing requirements so food law enforcement arrangements in the UK are generally already consistent with these. Minor updating is needed in some areas and will be reflected in the revised enforcement or operational instructions etc. listed at Appendix 1. Some requirements are new at EU level, notably, those on audit, those on delegating tasks to control bodies, and those on transparency.

Q15. Will this mean any changes to the feed law enforcement arrangements in the UK?

A15. The EU Regulation replaces Directive 95/53/EC[3], which provides a framework for the enforcement of EC animal feed legislation. In many cases, the new Regulation maintains the provisions that currently apply under 95/53/EC - for example, it preserves the need for checks to be made at all stages of the feed chain. However, some provisions are new, e.g. there will be a need to integrate national feed inspection plans with those covering food.

Q16. What will the new audit requirements mean for UK competent authorities?

A16. Currently, UK local authorities/district councils are audited by the Food Standards Agency, as is the Meat Hygiene Service and the Veterinary Service of the Department of Agriculture and Rural Development (DARD - which carries out the MHS function in Northern Ireland). These authorities also undertake a certain amount of internal monitoring and local authorities and district councils may in addition participate in inter-authority auditing schemes. The Food Standards Agency itself and Defra and its various agencies, such as the Dairy Hygiene Inspectorate, have internal audit systems in place and are audited externally by the National Audit Office. These arrangements will need to be reviewed in the light of the new Regulation and to take account of guidelines on criteria for audit which the Commission is to establish.

Q17. What is a 'control body'?

A17. The term 'control body' is defined for the purposes of the Regulation at Article 2.5. In effect, control bodies are independent or non-governmental organisations to which the competent authority has delegated specific tasks. Generally, these are likely to be privately owned laboratories undertaking analysis of official samples. In delegating the task, the competent authority retains ultimate responsibility for the work.

Q18. Are there any control bodies in the UK?

A18. Yes. Any privately-owned laboratory used by a competent authority to undertake chemical analysis or microbiological examination will be considered as a 'control body' under the Regulation. This includes, for example, privately-owned Public Analyst and Agricultural Analyst laboratories undertaking analytical work for local authorities.

Q19. What sort of tasks may be delegated?

A19. Any tasks relating to the monitoring of compliance of businesses with feed and food law may, for now, be delegated e.g. inspections, sampling and analysis etc. However, delegation of responsibility for taking action where infringements are found is prohibited. The Commission may, at a future date, restrict further the types of tasks that may be delegated.

[3] Council Directive 95/53/EC fixing the principles governing the organization of official inspections in the field of animal nutrition. Official Journal L 265 , 8.11.1995, 17-22.

Q20. What are the specific conditions for delegating tasks?

A20. These are set out in detail at Article 5 of the Regulation. In summary, there must be an accurate description of the task and proof that the control body has the necessary expertise etc., and that it is impartial and free from conflict of interest in respect of the particular task. Control bodies must meet appropriate and specified European standards and there must be procedures in place to ensure that results of any controls are communicated to the competent authority. In addition, the competent authority must arrange audit or inspection of the control body and, if it finds that the control body is not meeting the specified conditions, the delegation must be withdrawn.

Q21. How will the audit/inspection requirement for UK control bodies be met?

Q21. Any laboratories that undertake analysis for official control purposes in the UK will need to meet certain standards, i.e. be accredited to certain standards. In the UK, accreditation is undertaken by the United Kingdom Accreditation Service (UKAS). The FSA is proposing to extend the role of UKAS to undertake this audit/inspection function.

Note for consultation

Stakeholders, particularly enforcement stakeholders, are asked to comment on the proposal to extend the role of UKAS.

Q22. What are the requirements on transparency?

A22. These are set out at Article 7 of the Regulation. The competent authorities of Member States must publish information on official controls that are carried out and on the effectiveness of these, i.e. details of enforcement activity and the results of this. In addition, the Commission will produce and publish an annual report on the overall operation of enforcement arrangements in the Member States.

Q23. How will this obligation be met in the UK?

A23. Much information is already published in the UK on enforcement activity. This includes, for example, publication of enforcement policies, service delivery plans and performance reviews by local authorities and district councils. In addition, the Food Standards Agency publishes monitoring data that it collects on local authority and MHS enforcement activity and audit reports etc. Much of this information is available on the enforcement portal of the FSA website at: http://www.food.gov.uk/enforcement/

Defra and its Agencies also publish extensive information on their websites. This includes, for example,

- reports on approvals and inspections relating to standards for organic feed and food which is available at: http://www.defra.gov.uk/farm/organic/
- information on programmes that monitor residues of veterinary medicines in food which is available at: www.vmd.gov.uk and www.vet-residues-committee.gov.uk
- monitoring of pesticide residues in feed and food which is available at: www.psd.gov.uk

In addition, it is proposed that consumer summaries of the UK national control plan and annual reports (see Q50 to Q53) will be published.

Q24. Will individual inspection reports need to be published?

A24. No. The Regulation does not go as far as this. It is general information, giving the overall picture, that is required. Reports, however, must be provided to the business concerned, at least in the case of non-compliance.

Q25. What are the requirements relating to registration and approvals?

A25. The requirements for feed and food business establishments to be registered or approved are set out in the new EU Feed Hygiene Regulation[4] and EU Food Hygiene legislation[5, 6]. Regulation 882/2004 sets out at Article 31 the responsibilities of the competent authorities in undertaking the registration or approval process. Local authorities and the MHS are responsible for approvals in GB while in Northern Ireland, responsibility lies with district councils and DARD. Separate guidance for feed and food businesses on the registration and approval requirements is being drawn up.

Q26. What are the responsibilities with regard to registration?

A26. These are set out in detail at Article 31.1 of Regulation 882/2004. In summary, these are:

- to establish a procedure for feed and food business operators to follow when applying for registration; and,
- to keep an up-to-date list of registered establishments.

In the UK, each local authority, district council (in Northern Ireland) or other authority responsible for registration, will maintain a list of registered premises in their area. Where available, existing lists of establishments may be used.

Q27. What are the responsibilities with regard to approvals?

A27. These are set out in detail at Article 31.2 of Regulation 882/2004. In summary, these are:

- to establish a procedure for feed and food business operators to follow when applying for approval;
- to grant approval, after an on-the-spot visit, only if the necessary requirements are met; or,
- to grant conditional approval if infrastructure and equipment requirements are met, but only for a maximum of six months;
- to keep approval under review and suspend or withdraw if necessary; and,
- to keep an up-to-date list of approved establishments.

In the UK, lists of approved premises will be kept centrally by the Food Standards Agency.

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[4] Regulation (EC) No 183/2005 of the European Parliament and of the Council laying down requirements for feed hygiene. Official Journal L 35, 8.2.2005, 1-22.

[5] Regulation (EC) No 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs . Official Journal L 226 , 25.6.2004, 3-21.

[6] Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin. Official Journal L226, 25.6.2004, 22-82.

Q28. Will the lists of registered and approved establishments be published and, if so, who will publish the list?

A28. Lists of establishments that have been approved under the EU Feed Hygiene Regulation and the EU Food Hygiene legislation must be published. It is not necessary to publish lists of establishments that only require to be registered. The Commission is to develop more detailed rules on the specific mode of publication but it is envisaged that these will require that the lists are made available through the websites of the central authorities (the Food Standards Agency in the UK).

Requirements for sampling and analysis and for official laboratories

Q29. What are the requirements for sampling and analysis?

A29. The requirements are set out at Article 11 and Annex III of the Regulation. As now, methods of sampling and methods of chemical analysis and microbiological examination that are used for official control purposes should, wherever possible, be recognised by international organisations and should be validated in accordance with Community legislation or with internationally accepted protocols.

Q30. What are official laboratories?

A30. These are laboratories that are appointed by the competent authorities to undertake chemical analysis or microbiological examination of samples that have been taken for official control purposes. In the UK, these include Public and Agricultural Analysts, and Health Protection Agency and hospital trust laboratories that undertake work for local authorities or district councils. It also includes other laboratories that undertake work for the central authorities e.g. for the Pesticides Safety Directorate and the Veterinary Medicines Directorate.

Q31. What are the requirements for official laboratories?

A31. These are set out at Article 12 of the Regulation. Official laboratories must be designated as such by the competent authorities. Designation may only be given if the laboratory meets certain specified standards (i.e. is accredited to the European Standards specified in Regulation 882/2004). In the UK, accreditation is undertaken by the United Kingdom Accreditation Service (UKAS). This will be a new requirement for official laboratories analysing feed and will bring them into line with existing requirements for those analysing food.

Q32. Which UK laboratories are official laboratories?

A32. A list of official feed and food laboratories that undertake chemical analysis or microbiological examination of samples on behalf of local authorities and district councils is published on the FSA website at:

http://www.food.gov.uk/enforcement/public_analysts/foodcontrollabs

Official controls of imports of feed and food from outside the EU (i.e. from third countries)

Q33. What are the arrangements for checking feed and food of animal origin (POAO)?

A33. The existing rules set for POAO in Council Directive 97/78/EC[7] are being retained (see Article 14 of the Regulation). These rules are implemented in the UK by the Products of Animal Origin (Third Country Imports) (England) Regulations 2004[8] (and parallel legislation in Scotland, Wales, and Northern Ireland). Checks will continue to be carried out at Border Inspection Posts, where all consignments are subject to documentary and identity checks and to prescribed levels of physical checks.

Q34. Who is responsible for carrying out these checks?

A34. Local authorities and port health authorities (DARD Veterinary Service and district councils in Northern Ireland) at sea and air ports with relevant designated Border Inspection Posts.

Q35. Will the new Regulation make any difference to arrangements for checks on POAO?

A35. The Regulation requires that the authorities undertaking veterinary checks on POAO also check that other requirements of feed and food law are met. These include, for example, checks on labelling and composition.

Q36. What are the arrangements for checking feed and food of non-animal origin (non-POAO)?

A36. New rules are introduced for non-POAO. These are included at Articles 15 to 25 of the Regulation and require that checks are organised on the basis of a national control plan (see Q50 to Q53). In general, there should be a systematic check of documentation with additional random identity and physical checks. The frequency of physical checks should take into account the risks associated with the product, the history of compliance, controls applied by the importer, and any guarantees given by the competent authority of the third country. These checks may take place at any appropriate place but will usually be at the point of entry to the UK. This requirement is consistent with the current arrangements in the UK under existing national legalisation[9]. However, for products considered to be of 'high risk' (see Q38), the new requirements will be similar to those for POAO. This means that importers will have to pre-notify the relevant authorities that 'high risk' non-POAO is expected. In addition, they will have to present these products at specific ports that have been designated specially to deal with particular 'high risk' products. The products themselves will be subject to an increased level of checks in much the same way as products covered by Commission Emergency Safeguard measures are at present.

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[7] Council Directive 97/78/EC laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries. Official Journal L24, 30.1.98, 9-30.

[8] Statutory Instrument 2004, No 3388.

[9] The Imported Food Regulations 1997- Statutory Instrument 1997/2537. These Regulation will be revoked by new domestic legislation implementing the imports provisions of Regulation 882/2004.

Q37. Who is responsible for carrying out these checks?

A37. Local authorities and port health authorities are responsible in GB and, in Northern Ireland, checks will be undertaken by district councils and DARD.

Q38. What are 'high risk' non-POAO feed and food?

A38. These are products where there is a known or an emerging risk to human or animal health. They are to be identified by means of a list that is to be drawn up at EU level and which will be kept under review. The list will be made effective (and amended, as necessary) probably by means of Commission Regulations or Decisions. The list is likely to include, for example, peanuts or pistachio nuts from areas where there have been problems with aflatoxin contamination.

Q39. Which ports will 'high risk' non-POAO feed and food need to be checked at?

A39. These ports will be designated by Member States (in the case of the UK, this will be the Food Standards Agency) as and when a product is identified at EU level. They will be designated on the basis of their ability to handle the particular type of commodity and the specific testing required.

Q40. What level of checks will these products be subject to?

A40. The frequency and nature of the checks to be carried out will depend on the commodity and food safety issue and will be specified at the same time as products are included on the 'high risk' list.

Financing of official controls

Q41. What are the requirements for financing of controls?

A41. These are set out in detail at Articles 26 to 29 of the Regulation. These place a general obligation on Member States to ensure that official controls are properly financed but, in broad terms, it is left to the Member State to decide how. In doing so, however, the Member State must operate within a certain framework. This requires mandatory fees in some sectors with an option to charge in other sectors.

Q42. In which sectors are fees mandatory?

A42. Fees are mandatory in those sectors where this is already required under existing EU legislation. These are for:

- checks on products of animal origin, both those produced within the EU and those from third countries, e.g. hygiene inspections of meat and fish, for which charging arrangements are currently set out in Directive 85/73/EEC[10]; and,
- approvals of feed establishments (currently required under Council Decision 98/728/EC[11]);

[10] Council Directive 85/73/EEC on the financing of health inspections and controls of fresh meat and poultrymeat. Official Journal L32, 5.2.1985, 14-15.

[11] Council Decision 98/728/EC concerning a Community system of fees in the animal feed sector. Official Journal L346, 22.12.1998, 51-53.

They are also required for 'excess controls' (see Q44).

Q43. How will fees be calculated?

A43. Where charges are made (either mandatory or optional), full cost recovery is permitted but is not obligatory, and certain general principles must be followed to take account of the effects on small businesses etc. For meat and fish hygiene inspections, flat rate minimum fees are specified. These rates will be updated every two years to take account of inflationary increases in the costs incurred by the enforcement authorities. In the case of intra-Community checks, transitional arrangements are included such that minimum charges under the current legislation may be applied until 1 January 2008. Notwithstanding the flat rates, Member States may recover up to and including full costs or may reduce fees below the minimum rates where actual costs are less.

Q44. What are 'excess controls'?

A44. These are extra checks that are needed following detection of infringements or non-compliance with feed or food law requirements. However, the intention is not that all such 'excess controls' will be the subject of fees but rather that this will apply only in the case of major and significant incidents. The Commission is to establish detailed rules to clarify when this requirement will apply.

Q45. Will there be fees for third country imports checks of non-POAO?

A45. For 'high risk' non-POAO, mandatory fees *may* be introduced when these products are included on the Community list (see Q38) which may be before 1 January 2007. However, if mandatory fees are not established, the Member States may use the optional provisions of the Regulation to introduce charging from 1 January 2007 if they wish. The optional provision, may also be used to introduce charges for other non-POAO ('low risk') import inspections.

Q46. Will these provisions mean changes to UK funding arrangements?

A46. The provisions on financing do not come into effect until 1 January 2007. At that time, however, the EU Regulation will become the legal basis for any charges or fees that are imposed and UK implementing legislation will be needed. A review of current charging arrangements is being undertaken and options for implementation are being identified. Any proposed changes will be subject to full public consultation with stakeholders and detailed guidance will be developed.

Administrative assistance and co-operation with other Member States and with the Commission

Q47. What arrangements are there for liaising with the competent authorities in other Member States and with the Commission?

A47. Detailed arrangements are set out in Articles 34 to 40 of Regulation 882/2004. These aim to continue and improve existing arrangements whereby the competent authorities of the different Member States may work together and with the Commission, where the results of enforcement controls indicate that action is needed in more than one country. To facilitate assistance, each Member State is required to designate a 'liaison body' but this does not preclude direct contacts by individual authorities.

Q48. What is the role of the 'liaison body' and which body performs this function in the UK?

A48. The liaison body can be used as the first point of communication for transmission and reception of requests for assistance. It is proposed that in the UK, the Food Standards Agency will perform this role. This continues existing arrangements for feed matters but will mean a change for food matters as these are currently handled by LACORS (Local Authorities Coordinators of Regulatory Services).

Note for consultation

Stakeholders, particularly enforcement stakeholders, are asked to comment on the proposal for the liaison body function to be undertaken by the Agency.

Q49. Will the competent authorities of other Member States be able to undertake investigations in the UK or take action against UK businesses?

A49. No. Any investigation or action taken will be by officials of the UK authorities. Officials of other competent authorities may, however, accompany UK officials in undertaking any enquiries.

National Control Plans and annual reports to the Commission

Q50. What are the requirements for control plans and reports?

A50. Each Member State will be required to prepare a 'multi-annual' national control plan (Articles 41 to 43 of the Regulation are relevant). This is essentially a strategic plan setting out the national enforcement arrangements and details of how the various requirements of the Regulation are being met. This must be a single integrated plan covering arrangements for enforcement not only of feed and food law but also animal health and animal welfare rules, as well as plant health controls. The plan must be in place by 1 January 2007 and must be updated regularly thereafter. In addition, Member States are required to report annually to the Commission on implementation of the plan (see Article 44 of the Regulation).

Q51. Who will produce the UK plan and reports and who needs to contribute to it?

A51. The plan and reports will be prepared by the central authorities – the Food Standards Agency, Defra and the devolved Agriculture Departments. Information about the enforcement activities of local authorities, port health authorities and district councils will need to be incorporated. It is envisaged that this will be achieved by means of the existing monitoring returns with any necessary amendments to meet the new EU requirements.

Q52. What information will be included in the plan and annual reports?

A52. The Commission are to develop guidelines on what information should be included in the national control plan and on what enforcement activity data will be required for the annual reports.

Q53. Will the UK plan and reports be published?

A53. It is proposed that summaries will be published for UK consumers and other stakeholders.

Community controls in the Member States and in third countries

Q54. How will the European Commission ensure that national enforcement arrangements of Member States are effective?

A54. The Commission's Inspection Services, the FVO, will undertake two types of assessment as set out at Article 45 of the Regulation. These are:

- general audits of the national control plans and annual reports; and, where necessary,
- supplementary or specific audits, e.g. where there appears to be emerging or recurring problems.

Q55. Will there be any change to arrangements for FVO missions?

A55. No. As now, the FVO will publish its inspection programmes in advance. The central authorities will be responsible for making arrangements and drawing up the itineraries. Missions, as now, may include on-site visits to local authorities/district councils and to businesses. Again, as now, reports of missions will include recommendations for the Member State concerned and finalised reports will be published on the Commission's website.

Q56. What about assessment of third countries exporting to the EU?

A56. Third countries exporting to the EU will have to supply similar information to that which will be contained in the national plans and reports of Member States. This information will be used by the FVO as the basis of auditing the arrangements in these countries (see Articles 46 and 47 of the Regulation).

Q57. Will the Commission produce lists of approved countries and approved establishments as they do now for POAO?

A57. Yes, if the Commission believe that specific conditions must apply for certain feed or food products, depending on risk, lists of approved third countries and approved establishments will be drawn up (see Article 48 of the Regulation). These may be for non-POAO as well as POAO.

Impact on businesses

Q58. Are there any requirements for businesses in the Regulation?

A58. No. The Regulation is about enforcement arrangements and the responsibilities of authorities responsible for checking that businesses comply with the requirements for them that are set out in feed and food law. The Regulation does not require increased levels of checks or enforcement. However, some businesses may be affected by the financing provisions (see Q41 to Q46) or the new rules on imports of non-POAO (see Q36 to Q40).

Q59. Will the new Regulation be of any benefit to businesses?

A59. The requirements aim to ensure more consistent enforcement across the Community which should, in turn, help to ensure that businesses are not unfairly disadvantaged by the enforcement arrangements in their countries.

Impact on Consumers

Q60. Will the new rules be of any benefit to consumers?

A60. The requirements aim to improve the effectiveness of enforcement throughout the Community and at its borders. This should contribute to improved standards for public health and consumer protection. In addition, the provisions on transparency and publication of information on official controls should ensure that consumers have access to information about enforcement activity and its effectiveness both within the UK and across the Community.

Further information

Further information is available from:

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Appendix 1 – Enforcement instructions

The requirements of Regulation 882/2004 will be reflected in specific enforcement instructions used by particular enforcement authorities. These include:

- Statutory Codes of Practice and associated Practice Guidance for local authorities, port health authorities, and district councils in Northern Ireland;

  These are available on the Food Standards Agency website at:

  http://www.food.gov.uk/foodindustry/regulation/foodlawguidebranch/foodlawguidech01/foodlawguidech0103

  http://www.food.gov.uk/multimedia/pdfs/coppracticeguidance.pdf

  http://www.food.gov.uk/foodindustry/regulation/foodlawguidebranch/foodlawguidech01/revcopsni

- Code of Practice on Animal Feeding Stuffs Law Enforcement in the UK

  This is in development.

- Framework Agreement on Local Authority Food Law Enforcement

  This is available on the Food Standards Agency website at:

  http://www.food.gov.uk/enforcement/frameagree/

- Guidance for Local Authorities on Imported Food Controls
- Guidance for District Councils in Northern Ireland on Imported Food Controls

  These are available on the Food Standards Agency website at

  http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/importedfoodfeedcontrols

- Border Inspection Post Manual – veterinary checks on third country imports of feed and food of animal origin;

  This is available on the Defra website at:

  http://www.defra.gov.uk/animalh/int-trde/prod-im/bipmanual.pdf

- Meat Hygiene Service Manual for Official Controls and DARD Veterinary Service Manual of Official Controls

- Dairy Hygiene Inspectorate Enforcement Instructions (plus DARD equivalent);

- Egg Marketing Inspectorate Operational Guidance (plus DARD equivalent)