

Draft

Official Feed and Food controls (England) Regulations 2005

Guidance notes for feed and food businesses on the imports provisions

1. **Introduction**

1.1 From 1st January 2006, the rules on enforcement checks and controls for **feed and food of non-animal origin** imported from non-European Union (non-EU) countries into the UK will be changing. While, in practice, many of the rules will not change from the current requirements, there are some key differences.

1.2 These changes are introduced by the EU Official Feed and Food, Animal Health and Animal Welfare Controls Regulation No 882/2004 (The EU Regulation). Both the EU Regulation and the Official Feed and Food Controls (England) Regulations 2005 (The OFFC Regulations), which supplements the EU Regulation, will apply to imports of feed and food from non-EU countries.

1.3 As importers of food products such as vegetables, cereals, nuts, mushrooms, fruit, and products made from these, and drinks, you will need to be aware of the new rules. This guidance outlines how the new arrangements may affect you and summarises what you need to do to comply with the new requirements. This guidance also applies to importers of animal feed products, such as feed materials, compound feedingstuffs and feed additives.

1.4 While this guidance is not legally binding, it nevertheless represents the considered views of the Food Standards Agency. However only the courts can give a definitive view on the law.

2. **Scope**

Why was this new legislation introduced?

2.1 The EU Regulation was introduced to improve the consistency and effectiveness of feed and food controls across the EU and at its borders. It provides a more comprehensive and integrated approach to the official controls that apply to imports of products of non-animal origin.

Does this guidance cover imports of food of animal origin?

2.2 This guidance does not apply to imports of products of animal origin. The Products of Animal Origin (Third Country Imports) (England) (No. 4) Regulations 2004 apply to such imports. However, the OFFC Regulations (and this Guidance) will apply to composite products which may contain a small (or limited) amount of product of animal origin.

What legal requirements do I have to comply with to import feed and food into the UK?

2.3 Your imports of feed and food of non-animal origin must comply with the feed and food safety and feed and food standards requirements set out in UK and EU feed and food law. Feed and food which does not comply cannot be imported. This is to ensure that imported feed and food meet, in effect, the same or equivalent hygiene and compositional standards as feed and food produced in the UK and in other EU Member States. Further information on imported food requirements may be found on the Food Standards Agency's website at www.food.gov.uk/imports.

What are the new arrangements for checks on imports of feed and food?

2.4 Under the EU Regulation, your consignments of feed and food can be subject to checks at the UK port of entry by enforcement officers of the local authority or the port health authority. A systematic documentation check will be carried out, as well as a random identity check, and as appropriate a physical check. Physical checks may include samples being taken for analysis in a laboratory or by a food examiner. Feed and food may be detained when such checks are taking place. As was the case under the Imported Food Regulations 1997, you may need to provide such facilities as will enable enforcement authorities to carry out relevant checks.

Who will carry out checks at point of entry to the UK?

2.5 For food, the enforcement authority will be the local authority or port health authority at the point of entry to the UK. For feed, the enforcement authority will be the trading standards department of the local authority in whose territory the port of entry is located.

Will checks always be made at the point of entry?

2.6 Checks will normally be made at the point of entry. However, enforcement authorities may allow import controls to be deferred inland and to be carried out by a local authority at the point of destination if they consider this to be appropriate. While you may request deferment, the final decision will rest with the enforcement authority at the port of entry.

What powers will the enforcement authorities have when products do not comply with legal requirements?

2.7 Where feed or food does not comply with feed or food safety requirements it will be detained. You can discuss with the enforcement authority what should happen to the product. However, the final decision will rest with the enforcement authority. The enforcement authority may require that the feed or food be re-dispatched outside the EU or destroyed. Feed or food may also be allowed to be used for purposes other than those which were originally intended. Feed or food may be allowed in to the UK to undergo special treatment to make it comply with food safety requirements to bring it in line with UK feed and food requirements, or the requirements of the country outside the EU to which it is being re-dispatched.

2.8 Where feed or food is to be re-dispatched to a non-EU country, you will need to agree the destination with the local UK enforcement authority at the UK point of entry. There are also requirements to notify the authorities in the non-EU country. You must re-dispatch the product to the non-EU country within 60 days of agreeing the destination with the enforcement authority. The product will be held under detention until it is re-dispatched.

Do I have a right of appeal?

2.9 You may appeal to a Magistrate's Court against decisions taken by the enforcement authorities.

Do the Regulations introduce any increase in levels of checks?

2.10 Additional requirements and checks may be required for certain categories of feed and food of non-animal origin deemed to represent a high risk to human or animal health. Such foods are classed as 'specified products' in the Regulations. The European Commission will list the feed and food which will be brought into the 'specified products' category. The increased controls are intended to apply to feed and food products subject to known or emerging risks to public health. As such, they are likely to include "high-risk" products such as peanuts and chilli powder, where emergency control provisions requiring increased checks at ports already apply.

How will importers know whether any feed or food product of non-animal origin is subject to enhanced UK import requirements?

2.11 Decisions to list any feed or food as a 'specified product' for import purposes will be taken at EU level and so will apply to all EU Member States. 'Specified products' will be subsequently listed in a schedule to the OFFC Regulations and on the Food Standards Agency's website www.food.gov.uk/imports. In practice you will also be able to obtain up to date information on products subject to enhanced controls from the relevant enforcement authority.

What particular import controls will 'specified products' be subject to?

2.12 The enhanced controls which will apply to any 'specified product' are in many ways similar to the border controls which have applied for many years to any UK imports of products of animal origin e.g. meat, fish, eggs and dairy products. From 1st January 2006:

- As feed and food business operators responsible for consignments of 'specified products', you will need to pre-notify the enforcement authority for the designated port of entry in advance of their arrival and of the type of food. The notification can be in electronic form, and if it is in more than one language, at least one should be in English.
- Imports of 'specified products' into the UK can only enter through designated points (ports) of entry. Not all UK ports will be designated, as this will depend on the facilities they have in place. A list of designated ports will be listed in a schedule to the OFFC Regulations
- There may be exceptional circumstances where the Food Standards Agency needs to remove a port's designation. This could be by a notice which would take effect immediately. The schedule to the Regulations would be amended as soon as possible to reflect that the port was no longer designated. The list of designated ports will be listed on the Agency's website www.food.gov.uk/imports. You can also check with the port to see if they have the necessary status before bringing any product into the UK.

Are there any costs or fees connected with these new arrangements?

2.13 Costs may be recoverable from you in connection with checks on high risk feed and food (i.e. "specified products") such as sampling and analysis costs, or costs associated with detention.

2.14 For high-risk products of non-animal origin i.e. “specified products” where enhanced controls may be required, any fees relating to the controls would need to be considered by the European Commission and as such have not yet been agreed.

Who should I talk to before importing feed and food products?

2.15 For food, you should liaise with the port health authority at the point of entry as failure to observe the new requirements when importing ‘specified products’ might result in delays, detention or the rejection of relevant goods. For animal feed, you should liaise with the local authority (usually the trading standards department) in whose territory the port of entry is located.