

FOOD SAFETY ORDINANCE, 2016

FOOD SAFETY (PROCEDURE AND FEES) REGULATIONS, 2017
(Section 7)

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PART 1
PRELIMINARY AND INTERPRETATION

Citation and commencement

1. These Regulations may be cited as the Food Safety (Procedure and Fees) Regulations, 2017 and come into force on 1st April 2017.

Interpretation

2. Any word or expression to which a meaning has been assigned in the Ordinance, or any other subsidiary legislation made under it, bears the meaning so assigned and for purposes of these Regulations—

“**documentary check**” includes, but is not limited to, the examination of health certificates, commercial documents and bill of lading or air freight documents accompanying a consignment;

“**identity check**” means a check by visual examination to ensure that the certificates or other documents provided coincide with the product itself;

“**physical check**” means a check on the product itself, which may include checks on packaging and temperature and also sampling and laboratory testing.

PART 2 OFFICIAL CONTROLS RELATING TO FRESH MEAT

Ante-mortem inspection

3. (1) An authorised officer or an operator authorised by him or her must carry out ante-mortem inspection of all animals before slaughter within 24 hours of arrival of such animals at the slaughterhouse and less than 24 hours before slaughter: but the authorised officer may require inspection at any other time.

(2) Ante-mortem inspection must in particular determine whether, as regards the particular animal inspected, there is any sign—

(a) that welfare has been compromised; or

(b) of any condition which might adversely affect human or animal health, paying particular attention to the list of notifiable diseases and detection of zoonotic diseases.

(3) In addition to routine ante-mortem inspection, the authorised officer must carry out a clinical inspection of all animals that the food business operator or an official auxiliary may have put aside.

Animal welfare

4. The authorised officer must verify compliance with relevant rules on animal welfare, such as rules concerning the protection of animals at the time of slaughter and during transport.

Post-mortem inspection

5. (1) Carcasses and accompanying offal must be subjected, without delay, after slaughter to post-mortem inspection. All external surfaces must be viewed. Minimal handling of the carcass and offal or special technical facilities may be required for that purpose.

(2) Additional examinations must take place, such as palpation and incision of parts of the carcass and offal and laboratory tests, whenever considered necessary—

(a) to reach a definitive diagnosis; or

(b) to detect the presence of—

(i) an animal disease;

(ii) residues or contaminants in excess of the levels laid down under legislation;

- (iii) non-compliance with microbiological criteria; or
- (iv) other factors that might require the meat to be declared unfit for human consumption or restrictions to be placed on its use, particularly in the case of animals having undergone emergency slaughter.

(3) Subject to sub-regulation (3A), the authorised officer must require carcasses of bovine animals over 6 months old, and domestic swine over 4 weeks old to be submitted for post-mortem inspection split lengthways into half carcasses down the spinal column and if the inspection so necessitates, the authorised officer may also require any head or any carcass to be split lengthways.

(3A) Taking account of particular eating habits, technological developments or specific sanitary situations, the Regulatory Authority may authorise the submission for inspection of carcasses of bovine animals over 6x months old, and domestic swine over 4 weeks old, not split in half.

(4) During the inspection, precautions must be taken to ensure that contamination of the meat by actions such as palpation, cutting or incision is kept to a minimum.

(5) In the event of an emergency slaughter, the carcass must be subjected to post-mortem examination as soon as possible in accordance with sub-paragraphs (1) to (4) before it is released for human consumption.

Specified risk material and other animal by-products

6. The authorised officer must—
- (a) check the removal, separation and, if appropriate, marking of specified risk material and other animal by-products; and
 - (b) ensure that the food business operator takes all necessary measures to avoid contaminating meat with specified risk material during slaughter (including stunning) and removal of specified risk material.

Laboratory testing

7. (1) The authorised officer must ensure when necessary that sampling takes place and that samples are appropriately identified and handled and sent to the appropriate laboratory within the framework of—

- (a) the monitoring and control of zoonoses and zoonotic agents;
- (b) the detection of unauthorised substances or products and the control of regulated substances;
- (c) the detection of symptoms suggestive of disease.

(2) The authorised officer must ensure that any other necessary laboratory testing takes place.

Health marking

8. (1) The authorised officer must supervise health marking and the marks used.

- (2) The authorised officer must ensure, in particular, that—

- (a) the health mark is applied only to animals (domestic ungulates, farmed game mammals other than lagomorphs) having undergone ante-mortem and post-mortem inspection in accordance with these Regulations and when there are no grounds for declaring the meat unfit for human consumption; and
- (b) health-marking takes place on the external surface of the carcass, by stamping the mark in ink or hot branding, and in such a manner that, if carcasses are cut into half carcasses or quarters, or half carcasses are cut into 3 pieces, each piece bears a health mark.

(3) Meat from animals having undergone emergency slaughter outside the slaughterhouse must bear a special health mark, which cannot be confused either with the health mark provided for in this Chapter or with the identification mark provided for in the Food Safety (Products of Animal Origin) Regulations, 2017.

Communication of inspection results

9. (1) The authorised officer must record and evaluate the results of inspection activities.

(2) The authorised officer —

- (a) must inform the food business operator and senior veterinary officer if inspections reveal the presence of any disease or condition that might affect public or animal health, or compromise animal welfare;
- (b) if the problem identified arose during primary production, must inform—
 - (i) the authorised officer attending the holding of provenance;
 - (ii) the food business operator responsible for the holding of provenance (provided that such information would not prejudice subsequent legal proceedings); and
 - (iii) if appropriate, the competent authority responsible for supervising the holding of provenance or the hunting area.

(3) The results of inspections and tests are to be included in relevant databases.

(4) When the authorised officer, while carrying out ante-mortem or post-mortem inspections or any other inspection activity, suspects the presence of an infectious disease, the authorised officer must immediately notify the Agricultural Authority appointed under section 2A of the Animals (Diseases) Ordinance, 1944, and both must take all necessary measures and precautions to prevent the possible spread of the infectious agent.

Decisions concerning live animals

10. (1) The authorised officer must verify compliance with the food business operator's duty under the Food Safety (Products of Animal Origin) Regulations, 2017 to ensure that animals that have such hide, skin or fleece conditions which pose an unacceptable risk of contamination of the meat during slaughter, are not slaughtered for human consumption unless they are cleaned beforehand.

(2) Animals with a disease or condition which may be transmitted to animals or humans through handling or eating meat and, in general, animals showing clinical signs of systemic disease or emaciation, must not be slaughtered for human consumption. Such animals must be killed separately, under conditions such that other animals or carcasses cannot be contaminated, and must be declared unfit for human consumption.

(3) The slaughter of animals suspected of having a disease or condition that may adversely affect human or animal health must be deferred and such animals must undergo detailed ante-mortem examination in order to make a diagnosis. The authorised officer may in addition require sampling and laboratory examinations to supplement post-mortem inspection. If necessary, the animals must be slaughtered separately or at the end of normal slaughtering, taking all necessary precautions to avoid contamination of other meat.

(4) Animals that might contain residues of veterinary medicinal products due to a failure to observe licensed withdrawal periods as laid down in the product data sheets, or residues of forbidden substances, must be dealt with as unfit for human consumption.

(5) The authorised officer must impose the conditions under which animals must be dealt with under a specific scheme for the eradication or control of a specific disease, such as brucellosis or tuberculosis, or zoonotic agents such as salmonella, under his or her direct supervision. The Food Authority must determine the conditions under which such animals may be slaughtered which conditions must have the aim of minimising contamination of other animals and the meat of other animals.

(6) Animals that are presented to a slaughterhouse for slaughter must be slaughtered there: except that in exceptional circumstances, such as a serious breakdown of the slaughter facilities, the authorised officer may allow direct movements to another slaughterhouse.

Decisions concerning animal welfare

11. (1) When the provisions concerning the protection of animals at the time of slaughter or killing are not respected, the authorised officer must verify that the food business operator immediately takes necessary corrective measures and prevents recurrence.

(2) The authorised officer must take a proportionate and progressive approach to enforcement action, ranging from issuing directions to slowing down and stopping production, depending on the nature and gravity of the problem.

Decisions concerning meat

12. (1) Meat is to be declared unfit for human consumption if—
- (a) it derives from animals that have not undergone ante-mortem inspection;
 - (b) it derives from animals the offal of which has not undergone post-mortem inspection;
 - (c) it derives from animals which are dead before slaughter, stillborn, unborn or slaughtered under the age of 7 days;
 - (d) it results from the trimming of sticking points;
 - (e) it derives from animals showing symptoms of disease;
 - (f) it exhibits parasitic infestation;
 - (g) without affecting more specific legislation, it derives from animals or carcasses containing residues of forbidden substances or from animals that have been treated with forbidden substances;
 - (h) it has been treated illegally with decontaminating substances;
 - (i) it has been treated illegally with ionising or UV-rays;
 - (j) it contains foreign bodies;

- (k) it indicates patho-physiological changes, anomalies in consistency, insufficient bleeding or organoleptic anomalies, in particular a pronounced sexual odour;
- (l) it derives from emaciated animals;
- (m) it contains specified risk material;
- (n) it shows soiling, faecal or other contamination;
- (o) it consists of blood that may constitute a risk to public or animal health owing to the health status of any animal from which it derives or contamination arising during the slaughter process;
- (p) in the opinion of the authorised officer, after examination of all the relevant information, it may constitute a risk to public or animal health or is for any other reason not suitable for human consumption.

(2) The authorised officer may impose requirements concerning the use of meat derived from animals having undergone emergency slaughter outside the slaughterhouse.

PART 3 OFFICIAL CONTROLS RELATING TO IMPORTED FOODS

Requirements for official controls

13. (1) The Food Authority must carry out regular official controls on Imported Foods, which must include at least—

- (a) a systematic documentary check;
- (b) a random identity check; and
- (c) if appropriate, a physical check.

(2) Physical checks must be carried out at a frequency depending on—

- (a) the risks associated with different types of food;
- (b) the history of compliance by the exporting country with the requirements of the product concerned, and the history of compliance of the establishment and food business operator importing and exporting the product;
- (c) the controls the food business operator importing the food has carried out;
- (d) any guarantees given by the competent authority of the exporting country.

Action in the case of suspicion

14. In the case of non-compliance, or if there is doubt as to the identity or the actual destination or origin of the consignment, or as to the correspondence between the consignment and the certification, the Food Authority must—

- (a) carry out official controls to confirm or to eliminate the suspicion or doubt; and
- (b) place the consignment concerned under official detention until it obtains the results of such official controls.

Action in the case of non-compliance

15. (1) Any imported food which does not comply with the requirements of the legislation relating to food safety must be placed under official detention by the Food Authority and the Food Authority must, after consultation with the food business operator responsible for importing the food,—

- (a) order that the food be destroyed or re-dispatched;
- (b) if the food has already been placed on the market, monitor or, if necessary, recall or withdraw the food before ordering destruction;

- (c) verify that the food has not given rise to any adverse effects on human health.

(2) The food Business Operator responsible for the consignment is liable for the costs incurred by the Food Authority for any of the activities referred to in sub-paragraphs (1)(a) to (c).

Criteria for physical checks

16. (1) The aim of the physical check of the animal products is to ensure that the products are acceptable for importation into St Helena, by means of—

- (a) sensory examinations: smell, colour, consistency, taste;
- (b) simple physical or chemical tests: cutting, thawing, cooking;
- (c) laboratory tests to detect—
 - (i) residues;
 - (ii) pathogens;
 - (iii) contaminants;
 - (iv) evidence of alteration.

(2) Whatever the type of product, the following must be carried out:

- (a) a check on the conditions and means of transport to identify in particular any shortcomings or breaks in the cold chain;
- (b) the real weight of the consignment and that indicated on the certificate or document must be compared, and the whole consignment weighed if necessary;
- (c) the wrapping materials and all markings (stamps, labels) thereon must be checked to ensure their conformity with legislation relating to food safety;
- (d) the temperature required by legislation relating to food safety must be checked to ensure compliance during transport;
- (e) an entire set of packages, or samples in the case of bulk products must be examined before undergoing sensory examination and physical, chemical and laboratory tests and—
 - (i) these tests must be carried out on a whole range of samples drawn from the entire consignment, which may be partially unloaded if necessary to ensure that all parts of it are reached;
 - (ii) the examination must cover 1% of the items or packages in a consignment, from a minimum of two items or packages to a maximum of ten, but depending on the products and the circumstances, the authorised officer may insist on more extensive checks;
 - (iii) in the case of bulk goods, at least five samples must be taken from various parts of the consignment;
- (f) if random laboratory tests are undertaken which cannot provide immediate results, and there is no immediate danger to public or animal health, the consignment may be released, but if the laboratory tests have been carried out because of a suspicion of irregularity or previous tests have given positive results, the consignments may not be released until the test results are negative;
- (g) the means of transport must be fully unloaded only in the following cases:
 - (i) loading was done in such a way as to make access to the entire consignment impossible by partial unloading alone;
 - (ii) sample checks have revealed irregularities;
 - (iii) the previous consignment has shown irregularities; or
 - (iv) the authorised officer suspects irregularities;

- (h) once the physical check has been completed, the competent authority must certify the check by closing and officially stamping all the opened packages and by resealing all the containers.

**PART 4
FEES AND PENALTY**

Fees and fixed penalty

17. (1) The fees set out in Schedule 1 are payable in respect of the matters set out in it.

(2) The fixed penalty contemplated by section 16 of the Ordinance is as set out in Schedule 2.

**SCHEDULE 1
(Regulation 17(1))**

FEES

Registration of a food business (one-off fee)	
Individual part-time operator	£10
All other food business operators	£27
Licence to carry on a food business (for a period of 12 months):	
Category A – Individual part-time operator	£5
Category B – less than 6 full-time equivalent employees	£20
Category C – between 7 and 11 full-time equivalent employees	£50
Category D - 12 or more full-time equivalent employees	£86
Licence for movable or temporary premises for occasional events including stalls	£2.50 per day
Slaughterhouse certification	£129 per annum
Home slaughter facility approval	£10 per annum
Meat inspection fees (per animal):	
Cattle	£7
Pigs	£4
Goats/Sheep	£2.50

**SCHEDULE 2
(Regulation 17(2))**

Fixed monetary penalty (section 16 of the Ordinance)	£30
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