

# Guidance for Local Authorities on Grey Market Goods

May 2026

## Version Control

| Version | Date    | Last review conducted | Next review due | Comments          |
|---------|---------|-----------------------|-----------------|-------------------|
| 1.0     | 05/2026 | N/A                   | 05/2027         | First publication |
| 2.0     |         |                       |                 |                   |

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## 1. Summary

The term ‘Grey Market Goods’ is used to describe products that are not formulated, labelled, or intended to be sold on the market in Great Britain (GB), and which may therefore be non-compliant with GB domestic and assimilated European Union (EU) legislation. Not all Grey Market Goods are non-compliant.

This guidance is intended to help Scottish Local Authority (LA) Authorised Officers with the interpretation and enforcement of relevant food law for these ‘Grey Market Goods’ arriving to and placed on the market in Scotland.

For the purposes of this information, the term ‘officer’ refers to Local Authority officers authorised to enforce food law.

This document does not constitute legal advice and should not be taken as an authoritative statement or interpretation of the law, as only the courts have this power. It is the responsibility of individual Local Authorities to decide how they will enforce food law, and they are encouraged to seek their own legal advice on a case-by-case basis.

This guidance refers to food law as it applies in Scotland. Similar guidance has been produced by the Food Standards Agency (FSA) to cover the rest of the United Kingdom (UK).

Any reference in this document to EU law or “EC regulation” etc., unless otherwise stated, should be considered a reference to law that was assimilated into domestic legislation by the Retained EU Law (Revocation and Reform) Act 2023. This document will be updated as and when required with any new information that is made available relating to Grey Market Goods. Local Authorities will be able to find the most up-to-date version of this document on the [Enforcement Knowledge Hub page](#).

## 2. Background

An increasing area of concern in terms of Grey Market Goods is the use of food additives present within these products. As set out in Regulation (EC) No. 1333/2008, food additives must be authorised and meet any conditions of use, such as labelling specifications or restrictions on ingredient usage. However, many goods that do not meet these conditions are still being placed on the market in Scotland and are presenting issues for enforcement authorities. The most common areas of non-compliance officers are finding in terms of food additives are:

- Labelling issues, such as failure to include a warning of hyperactivity in children on the label as required for some food colourings, or labels not being in English.
- The use of authorised additives exceeding their maximum permitted levels as set out in domestic legislation.
- The inclusion of additives that are not authorised for use within the particular food category they are in.

These compliance issues are being seen across a range of different food products. The most commonly identified Grey Market Goods in terms of food additives include, but are not limited to:

- Confectionery.
- Flavoured soft drinks.
- Ready to eat savoury snacks, including breakfast cereals and potato snacks.
- Food supplements.

In some cases, Grey Market Goods may also be unauthorised novel foods, however, this is out-with the scope of this guidance.

## 3. Aims

The aim of this document is to assist officers with the enforcement of Grey Market Goods.

We aim to achieve this by:

- Developing a consistent approach across all 32 Scottish LAs in efficiently dealing with the enforcement of Grey Market Goods.
- Clarifying the enforcement powers that officers have at their disposal to remove non-compliant products from the market in Scotland and, where appropriate, to take enforcement action against those involved in the importation and placing on the market of Grey Market Goods.
- Encouraging the recording and sharing of intelligence to identify the principal importers/distributors of Grey Market Goods.
- Maintaining a UK-wide approach to enforcement by working alongside the FSA and other UK enforcement authorities.

## 4. Intended Audience

This guidance is intended to be used by officers acting on matters arising under food law, within the 32 LAs across Scotland.

## 5. Legislation

### Food Additives

[Regulation \(EC\) No 1333/2008](#) lays down the rules on food additives used in foods. For the purposes of this guidance document, some of the key Articles within this Regulation are:

- [Article 4](#) – Requirement for food additives to be authorised before being placed on the market and used in food.
- [Article 5](#) – Requirement for food additives, or any food in which such a food additive is present, to only be placed on the market if the use complies with this Regulation.
- [Article 14B](#) – Requirement for FSS/FSA to include content of authorisations in the domestic list.
- [Article 24](#) and [Annex V](#) - Additional labelling requirements for certain food colours.

Similar but separate legislation covers flavourings ([Regulation \(EC\) 1334/2008](#)), enzymes ([Regulation \(EC\) 1332/2008](#)) and smoke flavourings ([Regulation \(EC\) 2065/2003](#)).

[Regulation \(EC\) No 1331/2008](#) establishes a common authorisation procedure for food additives, food enzymes and food flavourings:

- Article 2C - Requires publication of a 'domestic list' of regulated products, including authorised additives.
- For Scotland, this can be found in the [Register of Food Additives Authorisations](#);
- [Guidance on the use of the register](#) is also available.

[The Food Additives, Flavourings, Enzymes and Extraction Solvents \(Scotland\) Regulations 2013](#) provide for the enforcement in Scotland of Regulation (EC) 2065/2003, Regulation (EC) 1332/2008, Regulation (EC) 1333/2008 and Regulation (EC) 1334/2008

- [Regulation 3](#) (as read with [schedule 1](#)) – Offence to contravene Regulation 1333/2008.
- [Regulation 16](#) - Interpretation of 'food safety requirements' for the purposes of section 9 of the [Food Safety Act 1990](#) in so far as it relates to this legislation.

### Food Information

[Regulation \(EU\) No 1169/2011](#) on the provision of Food Information to Consumers (FIC) provides the basis for the assurance of a high level of consumer protection in relation to food information and establishes the general principles, requirements and responsibilities governing food information, in particular food labelling. For the relevance of this guidance document, some of the key Articles within this Regulation are:

- [Article 15](#) – Requirement for mandatory food information to be in English.
- [Article 18](#) and [Annex VII Part C](#) – Requirement for food additives in a list of ingredients to be designated by their category followed by name or E-number.

[The Food Information \(Scotland\) Regulations 2014](#) provide for the enforcement in Scotland of Regulation (EU) 1169/2011:

- [Regulation 10](#) – Offence to fail to comply with any FIC provision

## 6. Authorisation of additives

Since 1st April 2025, [The Register of Food Additive Authorisations](#) has been the primary source of information on food additives authorised for use in Great Britain. This is the domestic list referred to in Regulation (EU) 1331/2008 and Regulation (EU) 1333/2008.

Authorisations were previously detailed in Annex II and Annex III of Regulation (EC) 1333/2008, however, the [Food and Feed \(Regulated Products\) \(Amendment, Revocation, Consequential and Transitional Provision\) Regulations 2025](#) had the effect of revoking these in Great Britain from 1<sup>st</sup> April 2025 while preserving the terms of authorisation. The register directs officers to a version of Annex II and Annex III in effect prior to the revocation, which details the conditions of use for each authorisation.

Authorisations for food additives use a product categorisation system. The categories used are outlined in the [guidance on using the register](#). By identifying the category a product falls into, an officer should then be able to use the register to determine whether a specific additive is authorised for use and, if so, what its conditions of use are.

In determining whether use of an additive is authorised, consideration will also require to be given to the carry over principle outlined in Article 18 of Regulation (EU) 1333/2008.

Annex 1 to this guidance includes some examples of product categories where non-compliance has been previously identified for certain additives.

## 7. Labelling of Grey Market Goods

Labelling has been identified as one of the main causes of non-compliance in Grey Market Goods. Examples include:

- Mandatory food information not in English.
- The name and GB address of the importer not included on the product label.
- Mandatory food information, such as ingredients list or nutritional information, not compliant with FIC requirements.
- Allergens not emphasised.
- Absence of additional labelling information in relation to certain additives or ingredients.

Over-stickering can be a solution to resolve some of these matters, for example by providing mandatory food information in English and in the correct format. However, over-stickered information cannot be used to conceal the presence of unauthorised additives in a product.

## 8. Enforcement Options

Officers have a variety of enforcement options available to them to address food law non-compliance. Some of these options are discussed in more detail below, with specific reference to Grey Market Goods.

LAs should consider the most appropriate course of action on a case-by-case basis, in accordance with their enforcement policy.

### Proactive Engagement with Food Business Operators (FBOs)

LAs may wish to consider the provision of information to FBOs to raise awareness and understanding of the legal requirements, assisting with compliance. An example letter to FBOs can be found in Annex 2.

### Compliance Notices

[The Food \(Scotland\) Act 2015 \(Compliance Notices\) Regulations 2023](#) provide officers with the power to serve a compliance notice where there is a relevant offence. The Schedule to the regulations details relevant offences, which include those in relation to food additives and food information referred to earlier in this guidance.

The notice requires to include details of the steps to be taken to ensure that the person to whom the notice is issued ceases to commit the relevant offence. These steps will be dependent on the offence, however, may include:

- Reformulation by the manufacturer where a product includes an ingredient which is not permitted or is present above permitted levels. (This is unlikely to be relevant to Grey Market Goods as the manufacturer will not be based in GB).
- Relabelling a product where the composition is in compliance with legislation as it applies in Scotland, but the labelling is not, e.g. where a product contains any of the 'Southampton Six' colours without the additional required labelling of 'may have an adverse effect on activity and attention in children.'
- Removal from the market where compliance cannot be achieved through other means.

Compliance notices may be a proportionate enforcement tool in many cases, however, as they require the officer to allow a minimum compliance period of 14-days, they would not be appropriate for offences that pose an immediate risk to consumer safety.

Further details are available in the [Compliance Notices Guidance](#).

### Detention and Seizure

Where it appears to an officer that a product fails to meet food safety requirements, detention and seizure powers are available under section 9 of the Food Safety Act 1990.

[Regulation 16 of the Food Additives, Flavourings, Enzymes and Extraction Solvents \(Scotland\) Regulations 2013](#) provides detail on the interpretation of 'food safety requirements' in so far as it relates to products containing such ingredients which are not in compliance with the relevant EU regulations.

In effect this means that food additives or foods containing food additives placed on the market, where the use of the food additive does not comply with Regulation 1333/2008, do not meet food safety requirements for the purposes of section 9 of the Food Safety Act 1990.

Detention and seizure powers are also available under section 15B of the Food Safety Act 1990 for contraventions of food information law. This allows for the detention or seizure of food where it appears to an officer that food information law has been contravened.

Further information on the use of detention and seizure powers can be found in section 19 of the [Food Law Code of Practice](#).

## Voluntary Surrender

Where a business offers to voluntarily surrender products which do not meet food safety requirements, officers may consider this as an alternative to pursuing formal action.

An officer should only suggest voluntary surrender as an option where they have evidence that the products fail to meet food safety requirements.

Further information on voluntary surrender can be found in section 19.8 of the [Food Law Code of Practice](#).

## Imported Food Controls

[Article 44 of Regulation \(EU\) 2017/625](#) allows for checks to be carried out on goods entering Great Britain (GB) to determine compliance with food law. These checks are not restricted to the point of entry and may be carried out, for example, on consignments at the premises of the operator responsible for the consignment or the place of destination.

Where a consignment does not comply with domestic food law, [Article 66](#) outlines the powers available to officers to place it under official detention and require either its destruction, re-dispatch outside of GB, or special treatment.

[The Official Feed and Food Controls \(Scotland\) Regulations 2009](#) provide for the enforcement of these powers in Scotland and require the service of a notice under [Regulation 32](#) where an officer proposes to place a consignment under official detention.

## Report an Offence to the Procurator Fiscal (PF)

In cases of repeated or serious non-compliance, a report to the Procurator Fiscal may be appropriate.

## Product Recall and Withdrawal

In addition to dealing with affected product found during an inspection, consideration should be given to whether the business is required to initiate procedures to recall product from consumers or withdraw product from the market in accordance with Article 19 of [Regulation 178/2002](#).

Depending on the nature of the non-compliance and scale of distribution, it may also be necessary to [report the incident to Food Standards Scotland](#). Further guidance on whether the incident requires to be reported can be found in section 8.1 of the [Food Law Code of Practice \(Scotland\)](#).

## 9. Recording and Sharing of Intelligence

As Grey Market Goods are manufactured out-with GB, addressing non-compliance at manufacturing level is not an option available to Local Authorities. Therefore, the first opportunity for intervention will generally be at importer or distributor level, before the product is further distributed to retailers.

Where Grey Market Goods have reached GB retailers, investigation to establish the supply chain is important to assist in identifying the principal importers and distributors. Where officers identify non-compliant product at retail level, in addition to taking their own enforcement action as considered appropriate, officers should also therefore investigate the supply chain. Regulation 178/2002 requires FBOs to identify the supplier of any food and to have procedures in place to make this information available to the Local Authority.

Where the supplier is out-with the officers' own Local Authority area, they should refer the information to the enforcing authority where the supplier is located. Depending on the nature of the non-compliance, it may also be appropriate to submit the information as an intelligence log on CLUE.

If the intervention by the Local Authority relates to an incident logged on CLIO, relevant information should be updated on this system.

For more information or any questions, please contact [enforcement@fss.scot](mailto:enforcement@fss.scot)

## 10. Annexes

### 10.1 Annex 1 – Table of product categories and additives where non-compliance has previously been identified as a concern.

These include:

- 04.2.2 Fruit and vegetables in vinegar, oil, or brine.
- 05.2 Other Confectionery including breath freshening micro-sweets.
- 05.4 Decorations, coatings and fillings, except fruit-based fillings covered by category 4.2.4.
- 14.1.4 Beverages - Flavoured Drinks.
- 15.1 Ready-to-eat savouries and snacks (Potato, cereal, flour, or starch-based snacks).

| Additive Name                         | Additive Name (Outside GB) | Product Category  | Maximum Level Permitted (mg/l) or (mg/kg) | Additive Group, including exclusions from category   | Additional Labelling Requirements   | Relevant Legislation and Notes  |
|---------------------------------------|----------------------------|---|---|--|---|---|
| <a href="#">Allura Red AC</a><br>E129 | Red 40                     | 14.1.4 Flavoured Drinks<br><br>(Excluding chocolate milk and malt products) | 100                                       | Group III: Food colours with combined maximum limit of 100mg/l:<br><br><a href="#">E 100</a> , <a href="#">E 102</a> , <a href="#">E 120</a> , <a href="#">E 122</a> , <a href="#">E 129</a> , <a href="#">E 131</a> , <a href="#">E 132</a> , <a href="#">E 133</a> , <a href="#">E 142</a> , <a href="#">E 151</a> , <a href="#">E 155</a> , <a href="#">E 160e</a> , <a href="#">E 161b</a> | 'Name or E number of the colour(s): May have an adverse effect on activity and attention in children' | <b>Conditions of Use in Product Category:</b><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2501-2750</a><br><b>Labelling:</b><br>Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a> |
|                                       |                            | 05.2 Other Confectionery including breath                                   | 300                                       | Group III: Food colours with combined maximum limit of 300mg/l:<br><br><a href="#">E 100</a> , <a href="#">E 102</a> , <a href="#">E 120</a> , <a href="#">E 122</a> ,   | 'Name or E number of the colour(s): May have an   | <b>Conditions of Use in Product Category:</b>   |

|   |        |  |               |  |   |   |
|---|--------|--|---------------|--|---|---|
|   |        | freshening microsweets<br><br>(Excluding candied fruit and vegetables)   |               | <a href="#">E 129</a> , <a href="#">E 131</a> , <a href="#">E 132</a> , <a href="#">E 133</a> , <a href="#">E 142</a> , <a href="#">E 151</a> , <a href="#">E 155</a> , <a href="#">E 160e</a> , <a href="#">E 161b</a>  | adverse effect on activity and attention in children' | Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 751-1000</a><br><b>Labelling:</b><br>Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a> |
| Bleached Flour                              |        | All Food Categories  | Not permitted |  |   | Bleached flour is not authorised in GB, however, this has been found in some imported bakery products   |
| <a href="#">Brilliant Blue FCF</a><br>E 133 | Blue 1 | 14.1.4 Flavoured Drinks  | 100           | Group III: Food colours with combined maximum limit of 100mg/l:<br><br><a href="#">E 100</a> , <a href="#">E 102</a> , <a href="#">E 120</a> , <a href="#">E 122</a> , <a href="#">E 129</a> , <a href="#">E 131</a> , <a href="#">E 132</a> , <a href="#">E 133</a> , <a href="#">E 142</a> , <a href="#">E 151</a> , <a href="#">E 155</a> , <a href="#">E 160e</a> , <a href="#">E 161b</a> |   | <b>Conditions of Use in Product Category:</b><br><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2501-2750</a>  |
|   |        | 05.2 Other Confectionery including breath freshening microsweets<br><br>(Excluding candied fruit and vegetables) | 300           | Group III: Food colours with combined maximum limit of 300mg/l:<br><br><a href="#">E 100</a> , <a href="#">E 102</a> , <a href="#">E 120</a> , <a href="#">E 122</a> , <a href="#">E 129</a> , <a href="#">E 131</a> , <a href="#">E 132</a> , <a href="#">E 133</a> , <a href="#">E 142</a> , <a href="#">E 151</a> , <a href="#">E 155</a> , <a href="#">E 160e</a> , <a href="#">E 161b</a> |   | <b>Conditions of Use in Product Category:</b><br><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 751-1000</a>   |

|  |             |                         |               |  |  |   |
|--|-------------|-------------------------|---------------|--|--|---|
|  |             |                         |               |  |  |   |
| Brominated Vegetable Oil (BVO)   |             | All Food Categories     | Not permitted |  |  | Not authorised for use in GB but has been found in some imported drinks   |
| <a href="#">Butylated Hydroxytoluene</a><br>(BHT)<br>E 321                         |             | 14.1.4 Flavoured Drinks | Not permitted |  |  | Has been found in some imported drinks  |
| <a href="#">Calcium Disodium Ethylene Diamine Tetra-Acetate</a><br>(EDTA)<br>E 385 |             | 14.1.4 Flavoured Drinks | Not permitted |  |  | Has been found in some imported drinks  |
| <a href="#">Erythorbic Acid</a><br>E 315   |             | 14.1.4 Flavoured Drinks | Not permitted |  |  | Has been found in some imported drinks  |
| <a href="#">Erythrosine</a><br>E 127   | Red 3       | 05 Confectionary        | Not permitted |  |  | Only authorised for use in cocktail cherries in GB, but has been found in breakfast cereals, coloured cake sprinkles and various confectionery. |
| Mineral Oil  | Mineral Oil | All Food Categories     | Not permitted |  |  | Not authorised in GB but has been found in some imported confectionery.   |

|   |   |     |  |   |
|---|---|-----|--|---|
| <u>Potassium Sorbate</u><br>E 202           | 14.1.4 Flavoured Drinks<br>Where E210-213 Benzoic acid — benzoates have also been used as an ingredient | 250 | Maximum applies to group:<br>E 200 – 202: Sorbic acid – potassium sorbate (SA)<br><a href="#">E 200</a> , <a href="#">E 202</a>  | Conditions of Use in Product Category:<br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2751-300</a>  |
|   | 14.1. 4 Flavoured Drinks<br>(Excluding dairy-based drinks)  | 300 | Maximum applies to group:<br>E 200 – 202: Sorbic acid – potassium sorbate (SA)<br><a href="#">E 200</a> , <a href="#">E 202</a>  | Conditions of Use in Product Category:<br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2751-3000</a> |
| <u>Sodium Benzoate</u><br>E 211             | 14.1. Flavoured Drinks<br>(Excluding dairy-based drinks)  | 150 | Maximum applies to group:<br>E 210–213: Benzoic acid — benzoates (BA)<br><a href="#">E 210</a> , <a href="#">E 211</a> , <a href="#">E 212</a> , <a href="#">E 213</a> | Conditions of Use in Product Category:<br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2751-3000</a> |
| <u>Sucrose Acetate Isobutyrate</u><br>E 444 | 14.1. 4 Flavoured Drinks<br>(Only cloudy drinks)  | 300 |  | Conditions of Use in Product Category:<br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2751-3000</a> |

|  |          |   |    |  |   |   |
|--|----------|---|----|--|---|---|
| <a href="#">Sunset Yellow</a><br><a href="#">FCF/Orange Yellow</a><br><a href="#">S</a><br>E 110 | Yellow 6 | 05.2 Other Confectionery including breath freshening microsweets<br><br>(except candied fruit and vegetables; traditional sugar-coated nut- or cocoa-based confectionery of almond shape or host shape) | 35 |  | ‘Name or E number of the colour(s): May have an adverse effect on activity and attention in children’ | <b>Conditions of Use in Product Category:</b><br><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 751-1000</a><br><br><b>Labelling:</b><br><br>Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a>  |
|  |          | 05.4 Confectionery (Decorations, coatings and fillings, except fruit-based fillings)  | 35 |  | ‘Name or E number of the colour(s): May have an adverse effect on activity and attention in children’ | <b>Conditions of Use in Product Category:</b><br><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 1001-1250</a><br><br><b>Labelling:</b><br><br>Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a> |
|  |          | 14.1.4 Flavoured Drinks   | 20 |  | ‘Name or E number of the colour(s): May   | <b>Conditions of Use in Product Category:</b>   |

|                                     |          |  |               |  |  |  |
|-------------------------------------|----------|--|---------------|--|--|--|
|                                     |          | (Excluding chocolate milk and malt products)   |               |  | have an adverse effect on activity and attention in children'                  | Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2501-2750</a><br><b>Labelling:</b><br>Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a> |
|                                     |          | 15.1 Ready-to-eat savouries and snacks (Potato, cereal, flour, or starch-based snacks) | Not permitted |  |  | The authorisation does not cover crisps, but the colour has been found in imported crisps.   |
| <a href="#">Tartrazine</a><br>E 102 | Yellow 5 | 04.2.2 Fruit and vegetables (Fruit and vegetables in vinegar, oil, or brine)           | Not permitted |  |  | The colour is authorised in GB in certain products. This does not include pickled vegetables, however, the colour has been found in some imported hot/sour pickles.  |
|                                     |          | 05.2 Other Confectionery including breath freshening microsweets                       | 300           | Group III: Food colours with combined maximum limit of 300mg/l:<br><a href="#">E 100</a> , <a href="#">E 102</a> , <a href="#">E 120</a> , <a href="#">E 122</a> , <a href="#">E 129</a> , <a href="#">E 131</a> , <a href="#">E 132</a> , <a href="#">E 133</a> , <a href="#">E 142</a> , <a href="#">E 151</a> , <a href="#">E 155</a> , <a href="#">E 160e</a> , <a href="#">E 161b</a> | 'Name or E number of the colour(s): May have an adverse effect on activity and | <b>Conditions of Use in Product Category:</b><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 751-1000</a><br><b>Labelling:</b>                         |

|  |  |   |     |   |   |   |
|--|--|---|-----|---|---|---|
|  |  | (Excluding candied fruit and vegetables)  |     |   | attention in children'  | Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a>  |
|  |  | 14.1. 4 Flavoured Drinks  | 100 | Group III: Food colours with combined maximum limit of 100mg/l:<br><br><a href="#">E 100</a> , <a href="#">E 102</a> , <a href="#">E 120</a> , <a href="#">E 122</a> ,<br><a href="#">E 129</a> , <a href="#">E 131</a> , <a href="#">E 132</a> , <a href="#">E 133</a> ,<br><a href="#">E 142</a> , <a href="#">E 151</a> , <a href="#">E 155</a> , <a href="#">E 160e</a> ,<br><a href="#">E 161b</a> | 'Name or E number of the colour(s): May have an adverse effect on activity and attention in children' | <b>Conditions of Use in Product Category:</b><br><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 2501-2750</a><br><br><b>Labelling:</b><br><br>Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a> |
|  |  | 15.1 Ready-to-eat savouries and snacks (Potato, cereal, flour, or starch-based snacks)<br><br>extruded or expanded savoury snack products | 200 | Group III: Food colours with combined maximum limit of 200mg/l:<br><br><a href="#">E 100</a> , <a href="#">E 102</a> , <a href="#">E 120</a> , <a href="#">E 122</a> ,<br><a href="#">E 129</a> , <a href="#">E 131</a> , <a href="#">E 132</a> , <a href="#">E 133</a> ,<br><a href="#">E 142</a> , <a href="#">E 151</a> , <a href="#">E 155</a> , <a href="#">E 160e</a> ,<br><a href="#">E 161b</a> | 'Name or E number of the colour(s): May have an adverse effect on activity and attention in children' | <b>Conditions of Use in Product Category:</b><br><br>Regulation (EC) No. 1333/2008 – <a href="#">Annex II Rows 3001-3250</a><br><br><b>Labelling:</b><br><br>Regulation (EC) No. 1333/2008 Article 24 and <a href="#">Annex V</a> |

## 10.2 Annex 2 – Example letter to FBOs on the sale of imported foods.

### **Subject: Sale of Imported Foods**

We are writing to you to make you aware of some common issues which have been identified with certain types of imported food products you may sell. The aim is to help you understand the legal requirements and assist you in complying with these.

Where products are not formulated, labelled, or intended to be sold on the market in Great Britain (GB), they may contain unauthorised additives and/or may not comply with GB domestic and assimilated European Union (EU) food information requirements, meaning consumers could be at risk from:

- missing or inadequate allergen information.
- the inclusion of ingredients that don't meet GB food safety requirements.
- food additives at levels that exceed the permitted maximum use level in GB.

Non-compliant products must not be placed on the market in Scotland, and we are working with FSS to tackle non-compliance to ensure such products are removed from the market and potentially destroyed. These products can be referred to as 'Grey Market Goods'.

Supplying non-compliant food products can lead to financial, legal and reputational risks for a business, as you may be required to recall and withdraw products from the market, or in some cases risk being the subject of a criminal investigation.

The Annexes from Page 2 onwards provide further information you might find useful:

- [Annex 1](#) provides guidance on common areas of non-compliance associated with certain imported foods and how to ensure that you comply with the legislation.
- [Annex 2](#) provides additional information for importers.
- [Annex 3](#) provides some examples of unauthorised use of ingredients.
- [Annex 4](#) provides examples of what to look for on labels.

If you require any further information or do not fully understand what you need to do after reading this letter, please contact us at (LA to insert contact details).

## Annexes

### Annex 1 – Common Contraventions and Guide to Compliance

| <u>Possible Contravention and Legal Requirement</u>  | <u>Guide to Compliance</u>   |
|--|--|
| <p><b>Products contain ingredients not authorised in Great Britain.</b></p> <p>Offence to place on the market a food additive or any food in which such a food additive is present if the use does not comply with Regulation 1333/2008.<br/><a href="#">Article 5 of Regulation (EC) 1333/2008</a></p>                  | <ul style="list-style-type: none"><li>• Buy from reputable suppliers.</li><li>• Purchase only product that is labelled in English, with details of a manufacturer, importer or distributor based in the British Islands.</li><li>• If you intend to import product directly, you must first ensure that the product does not include any ingredients at levels not permitted in that product in GB.</li><li>• If you discover you have product with unauthorised ingredients, remove this from sale and contact your Local Authority Environmental Health department.</li><li>• Examples of some unauthorised ingredients and uses are given in <a href="#">Annex 3</a>.</li></ul>     |
| <p><b>No English labelling on products.</b></p> <p>This is also a food safety issue as the presence of any allergens will not be clear, presenting a serious risk to consumers with food allergies.</p> <p>Mandatory food information shall appear in English<br/><a href="#">Article 15 of Regulation 1169/2011</a></p> | <ul style="list-style-type: none"><li>• You must not offer for sale any food that does not have English labelling.</li><li>• If you are purchasing in person from a wholesaler, do not purchase products that are not labelled in English</li><li>• Do not accept deliveries of food that does not have English labelling.</li><li>• If you receive any product that is not labelled in English, this should be returned to your supplier or over-stickered with the corresponding information in English if this is available from your supplier (although any over-stickered information cannot be used to conceal the presence of unauthorised ingredients in a product).</li></ul> |

|  |   |
|--|---|
| <p><b>No GB manufacturer or importer details on product label.</b></p> <p>Mandatory food information includes the name or business name and address of the food business operator under whose name the food is marketed or, where they are not based in GB, the importer of the product.</p> <p><a href="#">Articles 8(1)</a> and <a href="#">9(1)(h)</a> of Regulation (EU) 1169/2011</p> | <p>If you have any food products on sale which only have a name and address of an overseas manufacturer on them, they will not be compliant. You should contact your supplier to obtain the compliant food information labels / stickers to put on the products before placing for sale on the market in Scotland.</p> <p>If you import the products directly into GB yourself from overseas, you are responsible for ensuring the food information labels are compliant and include your full business name and address.</p>   |
| <p><b>Any allergens present not emphasised on the product label.</b></p> <p>Allergens require to be emphasised in the list of ingredients.</p> <p><a href="#">Article 21</a> of Regulation (EU) 1169/2011</p>  | <p>Check that any products containing the following allergens have the allergen emphasised in the ingredients list, for example in <b>BOLD</b>, <u>underlined</u> or in a <b>different colour</b>, etc.:</p> <ul style="list-style-type: none"> <li>• Celery.</li> <li>• Cereals containing gluten.</li> <li>• Crustaceans.</li> <li>• Eggs.</li> <li>• Fish.</li> <li>• Lupin.</li> <li>• Milk.</li> <li>• Molluscs.</li> <li>• Mustard.</li> <li>• Peanuts.</li> <li>• Sesame.</li> <li>• Soybeans.</li> <li>• Sulphur dioxide and sulphites.</li> <li>• Tree nuts.</li> </ul> <p>If any of these allergens are not emphasised within the ingredients list, they will not be compliant, and you should contact your supplier to obtain the compliant food information labels / stickers to put on the products before placing for sale on the market in Scotland.</p> |

|  |   |
|--|---|
|  | <p>An example is shown in <a href="#">Annex 4</a>.</p> <p>The Food Standards Scotland website has further <a href="#">guidance on allergens</a>.</p>  |
| <p><b>No advisory statement in relation to the presence of some food colours.</b></p> <p>Foods containing any of the following:</p> <ul style="list-style-type: none"> <li>• Sunset Yellow (E 110).</li> <li>• Quinoline Yellow (E 104).</li> <li>• Carmoisine (E 122).</li> <li>• Allura Red (E 129).</li> <li>• Tartrazine (E102).</li> <li>• Ponceau 4R (E 124)</li> </ul> <p>require to be labelled with the following additional information: <i>'name or E number of the colour(s): may have an adverse effect on activity and attention in children'</i>.</p> <p><a href="#">Article 24</a> and <a href="#">Annex V</a> of Regulation (EC) 1333/2008.</p> | <p>Check that any products containing any of these food colours in the ingredients list have the additional required statement.</p> <p>If they do not, they will not be compliant, and you should contact your supplier to obtain the compliant food information labels / stickers to put on the products before placing for sale on the market in Scotland.</p> <p>Note that these food colours are known out-with GB by other names, for example:</p> <ul style="list-style-type: none"> <li>• Sunset Yellow (E 110) is known as Orange Yellow S, FD&amp;C Yellow 6.</li> <li>• Allura Red (E 129) is known as FD&amp;C Red 40.</li> <li>• Tartrazine (E 102) is known as FD&amp;C Yellow 5.</li> </ul> <p>This is another indication that the product has not been produced for the GB market.</p> |
| <p><b>Nutritional information not in the correct format.</b></p> <p>The mandatory nutrition declaration shall include: Energy Value (kJ and kcal) and the amount (g, mg or µg) of fat, saturates, carbohydrate, sugars, protein and salt, in that order, per 100g or 100ml.</p> <p>Articles <a href="#">9</a>, <a href="#">30</a>, <a href="#">32</a> and <a href="#">Annex XV</a> of Regulation (EU) 1169/2011</p>  | <p>Check that product labels have the nutrition information in the correct order and per 100g.</p> <p>If they do not, they will not be compliant, and you should contact your supplier to obtain the compliant food information labels / stickers to put on the products before placing for sale on the market in Scotland.</p> <p>An example is given in <a href="#">Annex 4</a></p>   |

## **Annex 2: Additional Information for Importers**

If you import food products directly into GB from overseas, you are responsible for ensuring the products meet GB food safety requirements and that the labels are compliant with food information requirements.

This could require the use of over-stickers, which are accurate and compliant with GB food information requirements, applied to each product before they are placed on the market in Scotland. In this situation you, as the importer, would be solely responsible for products meeting food labelling requirements.

The product will require to have the full name and address of the GB importer on the over-sticker label.

The address provided on the label must be a recognised and genuine address at which the responsible business can receive mail, legal documents, etc. to enable them to respond or act as necessary. The business name and address must be traceable and linked to a registered food business. An e-mail address or phone number alone is not sufficient.

Over-stickering cannot be used to conceal the presence of unauthorised ingredients. Before placing any imported products on the market, you are responsible for ensuring that any ingredients are authorised for use in GB and used in accordance with the conditions of their authorisation. This may require further liaison with the manufacturer.

Details of authorised additives can be found in the [Register of Food Additives Authorisations](#). There is also [Guidance on the use of the register](#).

### Annex 3: Examples of Unauthorised use of Ingredients

| Ingredient   | Examples of Unauthorised Use   |
|--|--|
| Brominated vegetable oil (BVO)   | Brominated vegetable oil (BVO) is not authorised in GB but has been found in some imported drinks.   |
| Erythrosine (E 127)  | Erythrosine (shown on US products as Red 3) is only authorised for use in cocktail cherries in GB, but has been found in breakfast cereals, coloured cake sprinkles and various confectionery.   |
| Sunset yellow FCF (E 110)  | <p>The use of the colour is authorised in GB, but with maximum permitted levels in certain products. Fizzy drinks not intended for the GB market in Scotland have been found to contain excess levels of the colour.</p> <p>The authorisation does not cover crisps, but the colour has been found in imported crisps.</p> |
| Tartrazine (E 102)   | The colour is authorised in GB in certain products. This does not include pickled vegetables, however, the colour has been found in some imported hot/sour pickles.  |
| Butylated hydroxytoluene (BHT) (E 321)<br>Calcium disodium EDTA (E 385)<br>Erythorbic acid (E 315) | These additives are not authorised for use in drinks in GB but have been found in a variety of imported soft drinks.   |
| Bleached flour   | Bleached flour is not authorised in GB, however, this has been found in some imported bakery products.   |
| Use of mineral oil in soft candy.  | Mineral oil is not authorised as a glazing agent in GB but has been found in some imported sweets.   |

## Annex 4: Checking Labels for Compliance

| <b>Nutrition Facts</b>  |                           |
|---|---------------------------|
| Serving Size 2.07 oz (58.7g)  |                           |
| Servings Per Container 1 package  |                           |
| Amount Per Serving  |                           |
| <b>Calories</b> 280   | Calories from Fat 130     |
| % Daily Value*  |                           |
| <b>Total Fat</b> 14g  | 22%                       |
| Saturated Fat 5g  | 25%                       |
| Trans Fat 0g  | 0%                        |
| <b>Cholesterol</b> 5mg  | 2%                        |
| <b>Sodium</b> 140mg   | 6%                        |
| <b>Total Carbohydrate</b> 35g   | 12%                       |
| Fiber 1g  | 4%                        |
| Sugars 30g  |                           |
| <b>Protein</b> 4g   |                           |
| <b>Vitamin A</b> 0%   | ● <b>Vitamin C</b> 0%     |
| <b>Calcium</b> 4%   | ● <b>Iron</b> 2%          |
| * Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your caloric needs. |                           |
| Calories: 2,000 2,500   |                           |
| Total Fat   | Less Than 65g 80g         |
| Sat Fat   | Less Than 20g 25g         |
| Cholesterol   | Less Than 300mg 300mg     |
| Sodium  | Less Than 2,400mg 2,400mg |
| Total Carbohydrate  | 300g 375g                 |
| Dietary Fiber   | 25g 30g                   |

### Label A: Non-compliant

- No nutrition per 100g/100ml, only per serving.
- Energy not given in kJ and kcal, in calories only.
- Order of nutritional declaration is incorrect.

### Nutrition

| Typical values     | 100g contains    | Each slice (typically 44g) contains | % RI* | RI* for an average adult |
|--------------------|------------------|-------------------------------------|-------|--------------------------|
| Energy             | 985kJ<br>235kcal | 435kJ<br>105kcal                    | 5%    | 8400kJ<br>2000kcal       |
| Fat                | 1.5g             | 0.7g                                | 1%    | 70g                      |
| of which saturates | 0.3g             | 0.1g                                | 1%    | 20g                      |
| Carbohydrate       | 45.5g            | 20.0g                               |       |                          |
| of which sugars    | 3.8g             | 1.7g                                | 2%    | 90g                      |
| Fibre              | 2.8g             | 1.2g                                |       |                          |
| Protein            | 7.7g             | 3.4g                                |       |                          |
| Salt               | 1.0g             | 0.4g                                | 7%    | 6g                       |

This pack contains 16 servings

\*Reference intake of an average adult (8400kJ / 2000kcal)

### Label B: Compliant

- Nutritional information given per 100g.
- Energy given in kJ and kcal.
- Nutritional declaration in correct order in table.
- Includes some voluntary information, such as fibre, % reference intake etc.

### Label C: Compliant

**UK NUTRITION INFORMATION:**  
**TYPICAL VALUES PER 100G CONTAINS:** ENERGY 2243 kJ / 536 kcal, FAT 29g, OF WHICH SATURATES: 14g, CARBOHYDRATE: 60g, OF WHICH SUGARS: 56g, PROTEIN: 8.3g, SALT: 0.58g

- Nutritional information given per 100g.
- Energy given in kJ and kcal.
- Nutritional declaration in correct order in linear format (this is allowed where the label is too small to include the information in a table).

### Label D: Non-compliant

INGREDIENTS: CORN SYRUP, SUGAR, CONTAINS 2% OR LESS OF: MALIC ACID, NATURAL FLAVOR AND ARTIFICIAL FLAVOR, ARTIFICIAL COLOR [ RED 40, YELLOW 5, BLUE 1, YELLOW 6], MINERAL OIL, LECITHIN (SOY).

- Contains mineral oil which is not authorised for use in food in GB.
- Additives Red 40, Yellow 5, Blue 1 and Yellow 6 are not listed by their authorised name in GB.
- Colours Allura Red (Red 40), Tartrazine (Yellow 5) and Sunset Yellow FCF

**INGREDIENTS:** MILK CHOCOLATE (SUGAR, COCOA BUTTER, CHOCOLATE, LACTOSE, SKIM MILK, MILK FAT SOY LECITHIN, ARTIFICIAL FLAVOR), PEANUTS, CORN SYRUP, SUGAR, SKIM MILK, BUTTER, MILK FAT, PARTIALLY HYDROGENATED SOYBEAN OIL, LACTOSE, SALT, EGG WHITES, ARTIFICIAL FLAVOR

### Label E: Non-compliant

- Contains allergens (milk, soy, egg, peanuts) which are not emphasised in the list of ingredients.

INGREDIENTS: SUGAR, PEANUTS, GLUCOSE SYRUP, SKIMMED MILK POWDER, COCOA BUTTER, COCOA MASS, SUNFLOWER OIL, PALM FAT, MILK FAT, LACTOSE, WHEY PERMEATE (FROM MILK), EMULSIFIER (SOYA LECITHIN), SALT, COCONUT OIL, EGG WHITE POWDER, VANILLA EXTRACT. MILK CHOCOLATE CONTAINS MILK SOLIDS 14% MINIMUM.

### Label F: Compliant

- All allergens are emphasised within the list of ingredients.

**END**