

To: Lead Food Officers.
Heads of Service.

Cc:, REHIS, SFELC, SOCEHOS

24-04-2018

FSS-ENF-09-2018.

Dear Colleague,

***Advice to Local Authorities on new powers to detain and seize
suspected unauthorised Novel Food***

I am writing to inform you of an amendment to section 9 of The Food Safety Act 1990 as read with The Novel Foods (Scotland) Regulations 2017, in relation to new powers for authorised officers of a Food Authority, in respect of contravention of Article 6(2) of Regulation (EU) 2015/2283.

Background

Following the Food Standards Scotland consultation on the draft national legislation carried out between June to August 2017, The Novel Foods (Scotland) Regulations 2017 came into force on 01 January 2018, providing Food Authorities with the necessary powers to enforce Regulation (EU) 2015/2283 on Novel Foods which also applied from 01 January 2018.

The new EU Regulation requires that the Commission shall establish and update a Union list of Novel Foods authorised to be placed on the market within the EU, implementing Regulation (EU) 2017/2470 of 20 December 2017. Only Novel Foods authorised and included in the Union list may be placed on the market within the EU or used in or on foods, in accordance with conditions of use and the applicable labelling requirements.

Scope of the new powers

The new approach gives powers to authorised officers to detain food which is suspected of not complying with the EU requirements pending further investigation where suspicions of non-compliance require to be verified. It also allows authorised officers to seize the food to be dealt with by a Sheriff. The Sheriff may then order the destruction of non-compliant novel food products or that information relating to the food be modified, destroyed or disposed of where any alternative remedy is not or cannot be applied within a reasonable period to render products compliant with the EU Regulation. A modification of section 9 of the Food Safety Act 1990 (as amended) has been provided in The Novel Food (Scotland) Regulations 2017 in this regard.

Authorised Officer Guide and Model Notices

Please find attached an authorised officer guide and the relevant model notices. The regulations can be adopted as of now and accordingly we recommend officers familiarise themselves with the guide and accompanying model notices. The details of the new powers will also be included in the forthcoming Food Law Code of Practice (Scotland) 2018.

If you require any further information on the new enforcement powers, please contact me or the Enforcement Delivery branch at the contact details above.

Yours faithfully



Bryan Campbell

Senior Enforcement Manager

Food Standards Scotland