

### Supplying surplus food and co-products as feed

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#### **This guidance is for England**

Businesses (including retailers) may supply surplus food products that do not meet commercial standards, or by-products from the manufacturing process (known as co-products) for use in animal feed.

All businesses that supply any surplus food and/or co-product of food for animal feed must be registered with their local authority (generally the trading standards service) as a feed business operator and must comply with current feed labelling, documentation and hygiene requirements. This applies whether food products are supplied via a food processor or sent direct to farms. Businesses providing food products for pet food are also covered by these requirements.

Where appropriate, it is particularly important that systems are in place to ensure that products prohibited for use in animal feeds (in particular, animal products such as meat and fish) do not enter the farmed livestock feed chain.

#### **What is a co-product?**

A co-product is an ingredient that has been extracted or used during the manufacturing process, and is not used in the final product. Examples include rape seeds from oil production or spent grain from the brewing industry.

#### **What is a surplus food product?**

A surplus food product is an item of food that is being disposed of by a business for commercial reasons. Examples include foods that have not sold before their best-before date or potatoes not

meeting commercial standards.

## What are the main feed law requirements?

There are risks associated with the supply of surplus food and co-products for a number of reasons - for example:

- businesses are likely to handle a range of products, many of which are not permitted in animal feed
- food businesses focus on their core functions relating to food production and the risks relevant to animal feed may not be fully understood
- material destined for animal feed is often managed alongside other disposal streams and therefore creates an added risk around separation, contamination, storage and transportation

Businesses that dispose of co-products and surplus food as animal feed must ensure:

- compliance, where appropriate, with Annex II to EU Regulation (EC) No 1831/2003 *laying down requirements for feed hygiene* as required by the Animal Feed (Hygiene, Sampling, etc and Enforcement (England) Regulations 2015 (please see the link in '**Key legislation**' below). The main requirements of EU Regulation (EC) No 1831/2003 are:
  - registration as a feed business operator with the local authority, usually the trading standards service
  - a feed safety management system based upon the principles of HACCP (see below) must be in place, which relates to the manufacture (where applicable), storage, transport and supply of animal feed
  - a quality control system must be in place with appropriate checks to ensure surplus food and co-products are of the required quality and are not contaminated. Risks must be minimised to avoid contamination, cross-contamination and adverse effects generally on the safety and quality of the product. A person responsible for production and quality control must be designated
  - the presence of prohibited and undesirable substances as well as other contaminants must be monitored and controlled
  - traceability must be maintained from the receipt of raw goods through to the onward supply of animal feed to other businesses
  - feed businesses must have sufficient staff with clearly documented and communicated roles and the necessary skills to ensure that only safe and legal feed is supplied. An organisational chart must be in place
  - storage and transport facilities should be clean and protected from environmental risks / contamination
  - a complaint and recall procedure must be in place. The recall system must include the need to notify the Food Standards Agency and the local authority of any product recalls or risks to animal or human health
  - facilities and equipment must support the safe, clean production of feed and permit adequate cleaning and/or disinfection. Drainage facilities must be adequate so as to avoid the risk of contamination. All facilities, including equipment, storage and their surroundings should be kept clean and the design and layout of the premises should allow appropriate cleaning and disinfection. Facilities must have adequate natural and/or artificial lighting. Scales and metering devices must be tested for accuracy regularly
  - an effective pest control programme is required, including steps to minimise access for pests
  - water used in feed manufacture is required to be suitable for animals
  - the isolation, identification and disposal of waste must be adequate to prevent adverse contamination of feed
- food intended to be supplied as feed must be safe for the intended species and must not be mouldy or contaminated with foreign bodies etc

- surplus food and co-products must be correctly labelled as required by the Animal Feed (Composition, Marketing and Use) (England) Regulations 2015 and EU Regulation (EC) No 767/2009 *on the placing on the market and use of feed*
- the use and supply of animal by-products (ABP) as farm animal feed may be subject to separate registration and approval requirements (including milk and dairy products)
- the processing of ABP as pet food is subject to separate approval requirements

## **Feed safety**

Feed is deemed to be unsafe for its intended use if it is considered to:

- have adverse effects on human and animal health
- make food derived from food-producing animals unsafe for human consumption

Only approved additives may be used in animal feed to a limit specified by the European Commission. For more information on additives please see the European Commission website.

Undesirable substances such as arsenic, lead, mercury, and cadmium, as well as dioxins, aflatoxins, certain pesticides and botanical impurities are restricted by the Animal Feed (Composition, Marketing and Use) (England) Regulations 2015.

Prohibited materials include faeces, urine, separated digestive tract content, hide treated with tanning substances, seeds and other similar material treated with plant protection products, wood (including sawdust), urban / household waste and packaging from the use of products from the agri-food industry, and parts thereof.

## **HACCP (Hazard Analysis and Critical Control Point)**

Feed businesses must have in place a written plan, based upon the principles of HACCP. This plan must be maintained and kept up to date.

A full HACCP system will analyse every step of the feed activities under the control of the feed business to identify hazards that may occur and implement controls (critical control points). The seven steps to HACCP can briefly be described as follows:

- conduct a hazard analysis to find any potential hazards that could occur during production. A hazard is something that might be harmful and may involve either microbiological, chemical or physical contamination. Determine what controls you can put in place to eliminate the hazards or reduce them to a safe, acceptable level
- determine the critical control points (CCP). Decide which of these controls are critical to ensuring feed safety. A control is critical if the hazard will not be removed at any later stage of production
- establish critical limits applicable to the CCPs - that is, establish criteria to separate acceptability from unacceptability
- establish a system to monitor controls of the CCPs. Once controls have been put in place they should be monitored on a regular basis to ensure they work effectively. It is not necessary to check controls on every occasion a particular process is carried out, provided you are sure that the frequency of checks will enable any problems to be identified before there is a risk to feed safety
- establish the corrective action to be taken when monitoring identifies that a particular CCP is not under control. You and your staff must be clear on what action should be taken when monitoring shows that there may be a problem

- review your system and verify its effectiveness. Once established, the system must be reviewed with procedures in place to ensure that the HACCP system is working and is verified as effective. Reviews and verification should take place on a regular basis when any operations of the business change or when problems are identified
- establish documentation in the form of records and procedures in accordance with these principles

Please refer to the Food Standards Agency guidance for more information. The Agricultural Industries Confederation (AIC) has also produced guidance on HACCP for the agri-supply industry, which is designed for use both by businesses for which HACCP may be a completely new concept and also for those with prior experience of it.

## **Traceability**

The traceability of feed, approved additives and pre-mixtures must be established at all stages of production, processing and distribution. Feed business operators must be able to identify any person from whom they have been supplied with a food, a feed or any substance intended to be, or expected to be, incorporated into a feed. They must also be able to identify the other businesses to which their products have been supplied.

## **Complaints and recall procedures**

Where a business has reason to suspect that a feed is unsafe it must initiate recall procedures and withdraw the feed from the market. The competent authority must also be notified.

Feed business operators must implement a system for registering and processing complaints. They must also have in place, where this proves necessary, a system for the prompt recall of products within the distribution network. A written procedure must be in place that identifies the destination of any recalled products.

Unsafe feed must be destroyed unless other avenues are agreed in advance with the competent authority. The feed must undergo a quality-control reassessment before it is put back into circulation.

More information on food incidents, product withdrawals and recalls can be found on the Food Standards Agency website.

## **Labelling**

Co-products and surplus food usually consist of a single product and therefore classed as a 'feed material'.

Any products supplied must be accompanied with a product label containing the following labelling information:

- the term 'feed material'
- type of feed material, such as 'brewers' grains'
- business name and address
- list of any additives under the title 'additives', including the species or categories of animals for which the feed material is intended (where the additives in question have not been authorised for all

animal species or have been authorised with maximum limits for some species). Instructions for proper use where a maximum amount of the additives in question is set. The minimum storage life for additives (other than technological additives)

- establishment approval number (if available)
- batch or lot reference number
- net quantity
- moisture content, if over 14% (this may vary depending on any compulsory declarations required)
- compulsory declaration as required by EU Regulation (EC) No 767/2009 (Annex V) and EU Regulation (EU) No 68/2013 *on the Catalogue of feed materials* (Part C of the Annex). The links can be found in '**Key legislation**' below

Labelling particulars exemptions:

- in cases where, before each transaction, the purchaser has stated in writing that they do not require the approval number of the business, batch or lot reference number, net quantity, moisture content and compulsory declaration, it does not need to be provided. A transaction may consist of several consignments
- the approval number of the business, batch or lot reference number, net quantity, moisture content and compulsory declaration are not mandatory for feed materials that do not contain additives. There is an exception for preservatives or silage additives that are produced and delivered by a feed business to a feed user involved in primary production for use within their own holding - for example, a farm growing potatoes and supplying for feed to a local cattle farm for use on that farm

If a business chooses to provide labelling information voluntarily it must comply with general labelling principles laid down in EU Regulation (EC) 767/2009.

Separate labelling and record keeping requirements apply to ABPs; more information is available on the GOV.UK website.

## Further information

National Trading Standards (NTS) has produced a flyer for businesses.

## Penalties

Failure to comply with trading standards law can lead to enforcement action and to sanctions, which may include a fine and/or imprisonment. For more information please see 'Trading standards: powers, enforcement and penalties'.

## Key legislation

EU Regulations (EC) No 178/2002 *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*  
EU Regulation (EC) No 183/2005 *laying down requirements for feed hygiene*

EU Regulation (EU) No 767/2009 *on the placing on the market and use of feed*

EU Regulation (EC) No 1069/2009 *laying down health rules as regards animal by-products and derived products not intended for human consumption (Animal by-products Regulation)*

Animal By-Products (Enforcement) (England) Regulations 2013

EU Regulation (EU) No 68/2013 *on the Catalogue of feed materials*

Animal Feed (Composition, Marketing and Use) (England) Regulations 2015

Animal Feed (Hygiene, Sampling, etc and Enforcement) (England) Regulations 2015

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## In this update

New version of NTS flyer

## Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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