

Selling and buying food online – Q&A

This question and answer document supplements the FSA's advice on selling food online. These guides help businesses selling food online to understand their obligations under food law, and to help consumers purchase food online safely.

1. I don't sell much food: what defines a food business?

EU law [Regulation \(EC\) No 178/2002](#) defines a food business as:

Regulation (EC) No 178/2002, Article 2 (2)

'Food Business' means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of production, processing and distribution of food.

This means even if you are only selling a little bit of food for a short period, you are still considered a food business. As a food business you will be required to register those food-related operations or activities. You can register as a [food business on Gov.uk](#) or by contacting your local authority.

In certain circumstances – such as the occasional handling, preparation, storage and serving of food by private persons at events such as church, school or village fairs – are not required to register. Further information can be found in the FSA's [Community and charity food provision: guidance on the application of EU food hygiene law](#).

You should contact your local authority for advice on food business registration.

2. When is a Food Business Operator (FBO) regarded as an importer?

Importers are those businesses that bring food into the European Union (EU) from third countries. A third country is the term used by the European Commission to define any country of the world that is **not** one of the 28 EU member States and EEA-EFTA States (European Economic Area - European Free Trade Association) (namely, Iceland, Liechtenstein, Norway). An up to date list of member states of the EU can be found here: http://europa.eu/about-eu/countries/index_en.htm

A business which only trades in food from other member states is not importing food and should not be described as an importer.

Importers have increased responsibilities for the legal compliance of the food which are not covered in this guidance. Further information on imports can be found here:

www.food.gov.uk/business-industry/imports

3. Where are the hygiene requirements laid down in law?

The food hygiene regulations for your business are:

- [Regulation \(EC\) No. 852/2004](#), Annex II, on the hygiene of foodstuffs
- In [England, the Food Safety and Hygiene \(England\) Regulations 2013](#)
- In Northern Ireland, the [General Food Regulations \(Northern Ireland\) 2004 No.505](#) and the [Food Hygiene Regulations \(Northern Ireland\) 2006](#) (as amended)
- In Wales, the [General Food Regulations 2004 No.3279](#) and the [Food Hygiene \(Wales\) Regulations 2006](#) (as amended)

Regulation (EC) No. 852/2004 sets out the basic hygiene requirements for all aspects of your business, from your premises and facilities to the personal hygiene of your staff.

One of the key requirements of the law is that any food you make, pack or sell is safe to eat and, where necessary, you have written procedures to ensure this.

The regulations are designed to be flexible, so these **food safety management procedures** can be in proportion to the size of your business and the type of work you do. They must however, be based on the principles of [Hazard Analysis and Critical Control Point \(HACCP\)](#).

4. Are there any specific hazards to be aware of when selling online?

Yes, you should have controls to ensure the food is safe when it is delivered to the consumer.

The [Food Industry Guide to Good Hygiene Practice – Mail Order Food \(2008\)](#) gives detailed advice on the application of how to comply with the law including model food safety management charts based on the principles of HACCP and discusses the hygiene issues that arise when delivering food.

Key considerations:

- Suitable temperature requirements for the food you supply - although the guide makes clear that food does not need to be chilled during transit to the ultimate consumer, it must not be transported at temperatures that could cause a risk to health. The business may need to take additional steps in the warmer months.
- Is the packaging adequate to prevent cross contamination or maintain safe temperature?

- Is the delivery service fast and reliable?
- Is the package marked with a dispatch date and an instruction to the consumer that the package contains perishable items?

5. I have a procedure on what to do in the event of an incident – what else could I do?

It is good practice to test your systems and personnel from time to time to ensure you are able to carry out an effective withdrawal of unsafe food. For example assume that you receive a complaint about the safety of a food product, perhaps your biggest line, can you identify everyone you supplied with the product? Does the size of the batch purchased match the total amount supplied?

Consider signing up to [Food Standards Agency Food Alerts](#) as this will ensure you are updated about current matters affecting the food supply chain and alert you to potential hazards in your own business:

6. What are the key points about traceability?

You must record details of those who supplied you with every batch of food or ingredients as well as any businesses that you supply. Note you do not need to keep records of every consumer who has bought food from you.

Traceability records should include:

- addresses of the suppliers and business customers
- nature and quantity of products
- date of the transaction and delivery

This requirement does not mean that businesses need a dedicated traceability system. It is likely that you already retain this type of information for accounting purposes. It is the need to produce information that is important, not the format in which it is kept. As the purpose of the traceability provision is to assist with withdrawals and recalls of unsafe food, food businesses should have their records sufficiently organised and available to be produced within the short timescale needed for them to be of use in any such withdrawal or recall. This information should be kept for at least the shelf life of the products. You should also have a mechanism for identifying business customers as this would aid recall and processes.

Good Practice

To aid traceability it can be helpful to record the batch number or durability indication (where applicable). This may help to limit the extent of a recall / withdrawal and therefore the impact on the business.

Consider implementing an industry-recognised food safety management standard, such as the British Retail Consortium's (BRC) Global Food [Safety Standard or Safe and Local Supplier Approval \(SALSA\) for small businesses](#).

You could test the system from time to time, for example randomly choose a date in the previous year and determine which food products were supplied by you to your customers on or about that date. Can you ascertain the name and address of who supplied you with each batch? Can you also ascertain to whom you sold them?

It's a good idea to possibly retain copies of labelling (scanned in and stored with invoices).

All food businesses must withdraw, and/or recall, food from the market if it is not in compliance with food safety requirements and notify the competent authorities (their local Authority and the Food Standards Agency), and collaborate with these authorities on action they should take to avoid or reduce the risks posed by the food.

For further information on traceability, product withdrawal and recall see:
www.food.gov.uk/business-industry/guidancenotes/hygguid/generalfoodlaw

7. What are 'Compositional Standards'?

Whilst all food must be 'as described,' there are certain specific food products that have additional compositional rules applied, such as restrictions on ingredients that can be used in the product or the amount of certain ingredients, for example:

- jam must have a minimum fruit content
- meat products have a minimum meat content for example a pork sausage at least 42% pork
- flour must be fortified with certain vitamins and minerals.

A good source of guidance on trading standards law can be found on a dedicated website called '[Business Companion](#)', supported by the Chartered Trading Standards Institute and the Department for Business, Energy and Industrial Strategy (BEIS).

Good Practice

You can ask your suppliers:

- to provide you with written assurances that the food meets any specified legal requirements in relation to compositional standards
- Ask if they carry out any tests / analysis to ensure it meets specification and to supply you with a copy of these test results.

When dealing with new suppliers, consider having your own analysis carried out until you have gained confidence in them.

8. What is a novel food?

Novel foods are those that do not have a long history of consumption in the EU (namely before 1997) and must undergo a risk assessment process to ensure it is safe for consumption. Access to worldwide markets and innovation are key elements of the food industry but it cannot be assumed that because a foodstuff is sold in third countries that it is allowed to be placed on the market in the EU.

Examples of novel foods include 'clinoptilolite' and 'acacia rigidula'. Once a novel food has been authorised, its use may be restricted to certain uses, such as bread making for 'chia seeds' or to certain forms such as 'raspberry ketone' extracts. If you are offered an unusual food item it might be novel.

For more information on novel foods see: www.food.gov.uk/science/novel

For unauthorised foods or foods undergoing review see www.food.gov.uk/science/novel/unauthorised

You can also check the [European Novel Food Catalogue](#) which has a search facility. Please note that these lists are non-exhaustive.

9. What is meant by 'chemical contamination risk'?

This includes a wide range of both natural and man-made chemicals that can contaminate food at any stage of the supply chain. Natural chemicals include nitrates found in green leafy vegetables and mycotoxins (produced by some moulds) that grow on crops such as cereals. Man-made chemicals include:

- residues, such as pesticides and veterinary medicines from treating food producing animals
- pollutants from emissions in the environment such as dioxins and metals
- by-products of processing, such as acrylamide present in starchy foods after cooking at high temperatures.

Legislation will often set maximum limits for the presence of the above chemicals which can only be detected through analysis. All food business operators in the supply chain must ensure the food, including those to be used as an ingredient, complies with [Commission Regulation \(EC\) No. 1881/2006](#), [Regulation \(EC\) No 396/2005](#) and [Regulation \(EC\) No 470/2009](#).

Further information on contaminants can be found at:

http://ec.europa.eu/food/safety/chemical_safety/contaminants/index_en.htm

Good Practice

You can ask your suppliers to provide you with written assurances that food meets chemical contamination limits. If it is product with a known contamination risk, ask if your supplier has carried out any tests / analysis to ensure it is within maximum limits.

When dealing with new suppliers, consider having your own analysis carried out until you have gained confidence in them. The analyst will be able to give you advice on the types of chemical to test for.

10. What are the requirements for food packaging?

Appropriate packaging must be used to pack and store food to maintain its safety, durability and quality. For example some ingredients will degrade if exposed to moisture or light and their shelf life will be reduced.

Food contact materials (FCM) can also be a source of contamination, as chemicals can migrate from materials into the food they come into contact with. FCM includes packaging, storage containers, food manufacturing equipment, even household kitchen equipment and utensils. [Regulation \(EC\) No. 1935/2004](#) states food contact materials must not endanger the safety of the food nor adversely affect the composition or taste of the food. It also provides requirements regarding FCM labelling and traceability which applies to businesses throughout the supply chain, including food brokers. For example plastic, ceramics and active and intelligent materials (known as AIM) all require a 'Declaration of Compliance' with certain mandatory information. For further information see:

www.food.gov.uk/business-industry/manufacturers/contaminants-fcm-guidance/about-the-regulations

11. What is food fraud and food crime?

We define the terms as:

Food fraud: A dishonest act or omission, relating to the production or supply of food, which is intended for personal gain or to cause loss to another party.

Food crime: Dishonesty relating to the production or supply of food, that is either complex or likely to be seriously detrimental to consumers, businesses or the overall public interest.

Examples include but are not limited to:

- the sale of food which is unfit and potentially harmful, such as:
 - o recycling of animal by-products back into the food chain
 - o illegally slaughtered or stolen meat
 - o packing and selling of beef, poultry and fish with an unknown origin
 - o knowingly selling goods which are past their 'use by' date
 - o using industrial dyes such as sudan 1 in food.
- the deliberate mis-description of food, for example selling farmed salmon sold as wild, Basmati rice adulterated with cheaper varieties and almond powders bulked up with peanut.
- making false statements about the source of ingredients, i.e. their geographic, plant or animal origin.

The National Food Crime Unit (NFCU) wants to hear about both food fraud and food crime. Any dishonesty in the food supply chains within the UK are serious and will need to be addressed, either by the relevant local authority or with the support of the NFCU. Call Food Crime Confidential on **0207 276 8787** or email foodcrime@foodstandards.gsi.gov.uk