

FOOD SAFETY

2013 Food Hygiene Regulations

The Food Safety and Hygiene (England) Regulations 2013 updates the Food Hygiene (England) Regulations 2006 in relation to England. The changes are relatively minor. (For an overview of the history of the Regulations, see the **Appendix** at the end of this document).

The 2013 Regulations provide the framework for Food Hygiene in the EU. All churches are likely to fall within the general requirements of the Act and the regulations. Although the occasional preparation and serving of foods at events (e.g. church meals or fund raisers) are not covered by the scope of the food hygiene regulations, anyone selling or supplying food would be expected to provide food that is safe to eat.

The Food Hygiene (England) Regulations 2013:

- Provide the framework for the EU legislation to be enforced in England. The 2006 FH regulations repackaged many parts of the Food Safety Act 1990 and this remains with this update;
- Have the power to take enforcement action for failing to comply with the regulations;
 - These powers also include powers of entry and the authorisation of officers, the issue of improvement notices, prohibition orders, emergency prohibition notices and emergency prohibition orders;
- Also requires some procedures to have a documented *food safety management* system;
 - The extent of the documentation will depend on the volume and nature of the operation. Sporadic preparation of food by individuals or groups for gatherings or for sale at charitable events does not qualify.
 - A standard *food safety management* procedure requires that:
 - hazards to food safety which might be present are identified;
 - controls are in place to deal with these hazards;
 - controls are carried out and if something does go wrong it is clear what should be done to rectify the problem;
 - procedures are kept up to date;
 - documents are kept to demonstrate what the procedures are;
 - records are kept to show that procedures are working.

Simplified procedures and record keeping should be adequate for recurrent 'low' risk activities where food is brought onto church premises. Comprehensive advice on food safety management from the Food Standards Agency can be sourced from your local environmental health department or at: www.food.gov.uk/sites/default/files/media/document/sfbb-caterers-packed-fixed_0_3.pdf

Food Safety (Temperature Control)

Schedule 4 (Temperature Control Requirements) of the 2013 Food Hygiene Regulations requires that foods which are likely to support the growth of pathogenic micro-organisms or the formation of toxins, be held at or below 8°C, or, at or above 63°C. The general obligation to avoid keeping foods at temperatures which would result in a risk to health applies in Scotland as in the rest of the UK. Similarly, the types of food described as 'foods subject to temperature control' are the same throughout the UK. However, the details of temperature control measures in Scotland do differ significantly from those applying elsewhere in the UK; primarily that no exact chill temperature is given; that food reheated must reach a temperature of 82°C; and that there are no specified tolerance periods for either the chill or hot holding of food

General Hygiene Requirements

Regulation 852/2004 Article 4(2), Annex II, Chapter 1, paragraph 4, requires that food premises are constructed, maintained and designed in accordance with the regulations and includes the construction and cleaning of premises that provide food e.g. toilets do not open off a kitchen, all walls and food contact surfaces must be easy to clean and disinfect.

Do the Regulations affect us?

The answer is an unequivocal “yes”, even if you are giving it free and you are all volunteers. If you prepare and serve food at your church fellowships, anniversaries or pensioners’ lunches etc you have to comply with legislation. The General Food Regulations 2004 (as amended), provide for the enforcement of certain provisions of Regulation (EC) 178/2002 (including imposing penalties); if found guilty, breaches carry a fine of up to £20,000 per offence. Under the regulations, the local Environmental Health Officer (EHO) can call at your premises to ensure you are providing food which is fit for human consumption and that the premises are fit for the purpose.

Food Prepared In Church Premises

If there is regular domestic preparation of food for use at church gatherings, the regulations require the registration of the premises. You need to register if you provide food for more than 5 days in 5 consecutive weeks. The 5 days do not have to be consecutive. Thus any premises used regularly, even once a week, will be included. If the premises are used solely by voluntary or charitable organisations where no food other than dry ingredients for the preparation of beverages and foods such as biscuits, crisps or similar food is stored for sale or donation, registration may not be required.

Church members and others ought not to be inhibited from supplying refreshments for church use on an infrequent basis. Although there is no official ban on home-made food being consumed or sold at a church, a basic risk assessment should be done. With non-high risk foods, such as baked goods, there would normally be no problem, unlike the degree of risk encountered with easily spoiled foodstuffs, in which case it may be prudent to avoid introducing these from home and rather prepare the items on church premises or buy in from trade sources.

Changes to - Prohibition on the Reuse of Containers in the Preparation of New Foodstuffs

In September 2012 we sent a revised Fact Sheet on Food Safety to all the churches. The revision was in regards to the re-use of glass jars in the making and selling of jams and marmalades. At the time, we were advised that the re-use of glass jars was prohibited by the FSA. Subsequently, however, the following statement has been received from the Chief Executive of the FSA:

“There is no intention on the part of the Food Standards Agency to over-regulate or prevent the very good work undertaken by church volunteers or other charities and organisations such as the Women’s Institute. The regulations on food contact materials and the EU hygiene rules apply mainly to businesses, not to private individuals. New domestic enforcement regulations relating to contact materials, which come into force on 20 November, make this clearer. General food law, which includes a requirement not to place unsafe food on the market could apply to private individuals or to organisations that are not businesses. It is for this reason that we stress the importance of hygiene; for example, we would suggest that if jam jars are re-used they should be free from chips and cracks, sterilised and with good-fitting lids, so as to minimise any hygiene risks to the food they contain.

We consider it unlikely that any local authority will take action against the reuse of jam jars but if there are people who remain concerned, they could contact their local authority and seek reassurance. I am confident that they will find that the common sense approach which has been taken to this issue for a number of years, in discussion with organisations such as churches, local WIs and country fairs, will continue.” [Source: FSA – 26 November 2012]

In short, the conclusion seems to be this:

- the matter continues to be governed by EU law which is cast in very general terms;
- it is extremely unlikely that any local authority would seek to prosecute an individual purely for selling or giving away preserves bottled in a re-used jam jar.

Planning Permission

In general, churches do not require Planning Permission for serving food which is supplementary to ordinary church or community activities. Nonetheless, if a regular coffee shop or restaurant is run on church premises this might well require planning permission. Any building modifications may also entail building regulation approval.

Compliance with the Regulations

In summary, all the regulations relating to food safety and hygiene apply where food and drink is served, whether the church is registered or not. Churches should therefore ensure that they do comply with the regulations and not dismiss them as “applying only to restaurants”. A regulation commencing, “the proprietor of a food business...” is just as likely to apply to “a deacon of a church...”.

Penalties

Contravention of the Act or the Regulations could result in a criminal conviction. Ignorance of the law is no excuse, although if a church can demonstrate that the violation was through a temporary error, and had otherwise acted conscientiously, they can use the concept of ‘due diligence’ as a defence against prosecution. If your church is accused (maliciously or not) of serving food that caused food poisoning (after eliminating other potential sources) and you can show that you have taken reasonable precautions (see below), these factors, if not exonerating you, will be taken into consideration. This, however, would not be the case if all reasonable care had not been taken to prevent the specific offence.

Enforcement

Enforcement Officers have authority to close premises not up to standards or to expect improvements to be made. Consequently, if a church does not fulfil the regulations, a hygiene improvement notice may be issued stipulating what is necessary to rectify the situation. If the work is not done, or if there has been a successful prosecution for contravening the regulations and there is public risk, the premises may be subject to a Prohibition Order.

Registration under the Act

Registration is **free** and enables the Council (the authority charged with monitoring and implementing the proper observance of the Act and Regulations) to know what food establishments are operating within its area to ensure that appropriate inspections are carried out. For example, a church registered under the Act simply because it provides teas or coffees after Sunday services will be considered a much lower risk than a church which runs a weekly luncheon club for the elderly. Registration is free with the EHO of the Council in which the church operates. The Council will provide further information on the food safety hygiene regulations which will be useful to the church.

What is the Answer?

All of this may seem “over the top” and intimidating; even positively off-putting for any fellowship meals, but there are ways to address this amount of regulation simply and without great expense.

1. Register: You must register if you dispense food in a way that falls within the requirements.

2. Reasonable Precautions: All the regulations relating to food safety and hygiene, together with the condition of premises, principally kitchen surfaces and floors, washing up facilities etc. will apply to church premises where food is served, whether or not this constitutes full meals or simple refreshments. It is therefore sensible that advice is sought from the Council to ensure that the kitchen facilities comply with regulations when new amenities are being considered or the existing ones renovated.

Apart from what is mentioned above, there are two ways of taking reasonable precautions.

Firstly, look at your church kitchen with a critical eye. Ask yourself questions such as...

- Can it be cleaned easily?
- Can food be stored away?
- Is the floor littered with kitchen utensils and other loose items that rarely get used?
- Are there mice /pests (ants etc.) present?
- How old is the fridge and does it get down to 8°C?

Use some common sense...

- Tidy up and remove unnecessary items that kitchens seem to collect.
- Put one person in charge with overall responsibility (e.g. for throwing out leftovers).
- Don't store the toilet cleaner next to the tea bags.

All of these matters are really basic common sense that the regulations seek to enforce.

Secondly, where a church conducts any substantial food preparation it is sensible to appoint one person (volunteer or paid worker) to oversee food safety, regardless of whether or not food hygiene legislation applies to the church's activities. The person appointed should be familiar with food hygiene regulations, and hold a Level 2 Certificate in Food Hygiene (to be updated every three years).

All activities involving food within the church should be carried out in accordance with the appointed person's directions and guidance; although they do not necessarily have to be present at every event involving food. In addition, the appointed person, aware of what needs to be done and able to apply it to their own circumstances, can teach others in the church to be familiar with basic food hygiene rules.

The cost of a course in Food Hygiene is marginal, and successful candidates receive a certificate which will help if the EHO calls. One such course is the Level 2 Food Hygiene Training Distance Learning Course (www.allsafe.org.uk/acatalog/Food_Hygiene_Training.html) published by Advanced Food Safety Ltd, Jubilee House, 5 Broad O'th Lane, Shevington, Wigan, Lancs, WN6 8EA; Tel: 01257 254999 www.allsafe.org.uk

For the convenience of church officers, copies of The Food Safety and Hygiene (England) Regulations 2013 are obtainable online at: www.legislation.gov.uk/ukxi/2013/2996/contents/made

The equivalent 2013 regulations for Scotland, Wales and Northern Ireland can be located using the same title with the name of the relevant country substituted for 'England'.

In addition, regarding new allergen labelling rules, you may wish to consult the following guide produced by the FSA: www.food.gov.uk/business-guidance/allergen-guidance-for-industry

So be proactive in addressing this issue. Don't wait for a food poisoning outbreak to force you into action.

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APPENDIX

Overview of the Regulations.

In January 2002, EC Regulation 178/2002 on general food safety was issued. This set out the general principles and requirements of food law in EU states, established the European Safety Authority and laid down procedures in matters of food safety across the EU.

This was previously set out in the Food Hygiene (England) Regulations 2006, which repackaged many parts of the Food Safety Act 1990. (There are similar regulations in Wales, Scotland and Northern Ireland). The power to take enforcement action for failing to comply with the regulations has been moved from the Food Safety Act 1990 to these regulations. These powers also include powers of entry and the authorisation of officers, the issue of improvement notices, prohibition orders, emergency prohibition notices and emergency prohibition orders.

In the UK, The Food Safety Act 1990 is amended by the Food Safety Act (Amendment) Regulations 2004 which includes enforcement of certain provisions of Regulation (EC) 178/2002 (including imposing penalties). It also provides the framework for all food legislation and encompasses circumstances in which food and drink is not only sold but also where it is provided at functions whether or not payment is given in exchange.

The Food Hygiene (England) Regulations 2013 and amendments now replaces the 2006 FH regulations. The changes are relatively minor.

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