

## THE CHURCH OF SCOTLAND LAW DEPARTMENT

### Circular on Food Safety legislation and relevant regulations

This circular provides guidance in relation to legislation affecting Church Congregations which provide catering from their premises.

There have been no recent major legislative changes in the law, the relevant legislation and regulation being made under the Food Safety Act 1990, the Food Standards Act 1999, the principal purpose of which was to establish a Food Standards Agency, and European legislation. There is a summary of all the general food law requirements:-  
<http://www.food.gov.uk/foodindustry/regulation/foodlaw>.

The main responsibilities in terms of the law are to ensure that you do not include anything in food, remove anything from food or treat food in any way that means it would be damaging to the health of people eating it; to ensure that the food you serve or sell is of the nature, substance or quality which consumers would expect and to ensure that the food is labelled, advertised and presented in a way that is not false or misleading.

- **Requirement to register premises**

In terms of the Regulations made under the Food Safety Act 1990, premises used for a food business (whether or not carried on for profit) must be registered if they are used for this purpose on five or more days in any period of five consecutive weeks. However, premises used for voluntary or charitable organisations where no food is stored for sale are exempt from registration as are:-

- (a) Premises where the only commercial operations comprise the sale of food from automatic vending machines;
- (b) The supply of beverages, biscuits etc. where the principal activity of the business is not the sale of food; and
- (c) The supply of food in the course of a religious ceremony.

Many Church premises may, therefore, be exempt from the requirement to register. However, it is strongly recommended that, in all cases (and particularly if there is any doubt as to whether any activity could constitute the storage of food), contact should be made with officials of the Local Authority Environmental Health Department, who should be invited to inspect the premises. Irrespective of any requirement to register, Congregations should be diligent in following up promptly any recommendations made by Environmental Officers as to improvements to be made to the facilities and in regard to cleaning and general hygiene.

- **Requirement for food hygiene training**

Additionally, the law requires that "food handlers" (i.e. those who are involved in food preparation in any form more sophisticated than the making of tea/coffee and the

provision of biscuits) "should be trained, instructed and supervised in food hygiene according to the work that they do". The Regulations lay down no specific form of training but obviously, those who handle food will be expected to observe good personal hygiene, to wash their hands when handling food and never to smoke in food handling areas.

It is, however, strongly recommended that Congregations should arrange for structured training for volunteers and that they should be encouraged to ensure that as a minimum, there is at least one holder of an elementary Food Hygiene Certificate present when food in any form (beyond tea/coffee and biscuits) is being prepared on Church premises by members of the Congregation. It is also recommended that each Congregation appoints a Food Safety Co-ordinator with the appropriate level of training.

Some Presbyteries have been pro-active in the matter and this policy is to be commended. The Frequently Asked Questions section at the end of this circular gives information about where to find suitable food hygiene courses. As an example, there is attached a useful summary of appropriate steps sent by the Presbytery of Edinburgh to the Clerks of all Financial Boards.

- **Food Hygiene Regulations**

New food hygiene regulations came into force on 1st January 2006. While on the one hand, they relate to food business operators, on the other they are intended to cover all activities apart from the domestic handling, preparation and storage of food for private domestic consumption. They will therefore apply to Congregational operations no matter how limited. However, in practice, they should not be particularly onerous so far as the bulk of Congregations is concerned.

It should be borne in mind that they do not introduce new hygiene requirements as such. Food should be stored, handled and processed safely and hygienically and premises should continue to be kept clean and hygienic. The hygiene principles underpinning the Regulations are as follows;

- Compliance with microbiological criteria for foodstuffs;
- Compliance with temperature control requirements;
- Maintenance of the cold chain;
- Appropriate sampling of foodstuffs to ensure compliance (e.g. use of temperature probe);
- Keeping premises (kitchens and all other accommodation used for the preparation or processing of food) clean and in good condition, with adequate facilities for cleaning food stuffs, washing utensils etc;
- Keeping temporary premises such as marquees or stalls clean, with adequate provision for hygienic preparation of food stuffs and washing utensils etc.

The principle innovation in the Regulations relates to the managing of food safety in line with what are known as HACCP (Hazard And Critical Control Point) principles. Essentially, these requirements relate to the minimising or managing of risk. HACCP is a food safety management system. Its main aim is to focus attention on critical points in an operation and to take measures to ensure that problems do not occur. The approach

should be familiar to anyone with food safety training and should not involve anything unfamiliar to Congregational Food Safety Co-ordinators who have been on a training course.

- **Food Safety management requirements**

Under the existing law those responsible for any sort of operation where food is prepared and served should carry out risk assessments and, as stated, premises should continue to be operated in a safe and hygienic way, but a more structured approach to managing the operation may be required and records may require to be kept. The requirements will vary depending on the level of operation. Congregations which provide café facilities or the like will be most affected. Congregations who have monthly or fortnightly events such as lunch clubs will be less affected, but nonetheless appropriate procedures will require to be in place and records kept (as detailed below). The food hygiene Regulations apply in all circumstances where food is brought on to premises but in the case of “low risk” activities, simplified procedures and record keeping should suffice.

The basic Food Safety management requirements are as follows:-

1. Identifying risks to food safety which might be present or occur within your operation (“What can go wrong, when and where?”).
2. Putting controls in place which will deal with the risks (“What can I do about it?”).
3. Ensuring that controls are carried out and that if something does go wrong, it is clear to all involved what should be done to rectify the problem (“What is acceptable?”, “How can I check?”, “What can I do about it?”).
4. Ensuring that the procedures are kept up to date (“How do I confirm that the procedures are still working?”).
5. Keeping the documents and records necessary to show health inspectors that the procedure is working and is reviewed where necessary (“What documents and records do I need?”).

Guidance should be available from the Environmental Health Department of the relative local authority and it is strongly recommended that such advice is obtained and acted upon. Details of the HACCP documentation for record keeping are provided in the Food Standards Agency Cooksafe publication which should be available from local authorities. It can also be accessed at the FSA website:

<http://www.food.gov.uk/foodindustry/regulation/hygleg/hyglegresources/cookretailscotland/cooksafe/>

The publication provides detailed advice which is tailored for commercial operations and in most cases “slimmed down” versions of the example documentation should suffice. While references to record-keeping may appear daunting, once the basic documentation (such as flow charts and check lists) is in place, monitoring by the Congregation’s Food Safety Co-ordinator should be fairly straightforward.

*It is recommended that each Congregation has a Food Safety Co-ordinator with the appropriate level of training and that he or she is responsible for implementing the risk assessment, reviewing the procedures and keeping records.*

- **Home preparation of food**

The Law Department frequently receives enquiries as to whether or not it remains open to Congregations to allow food which has been prepared at home to be brought to the Church for consumption or sale. It remains the case that there is no outright ban on this. However, assessments as to risk do require to be carried out. While there would normally be no problem with cakes which do not have high risk ingredients, such as fresh cream, there may be a degree of risk with all other foods and, as a general rule, it is safer to avoid bringing in high risk foods which have been prepared at home. Such items should therefore be prepared within the church premises or be bought in from commercial sources. Whether procedures require to be applied and documentation kept in respect of low risk items such as cakes will depend on the circumstances. If "home cooking" is being donated in connection with an event, then it may be appropriate to record the source and, of course, items should then be handled and stored safely.

There may be labelling requirements (see below) so far as items such as jams and cakes sold at Church fetes and the like are concerned.

- **Labelling of Food containing Genetically Modified ("GM") Soya or Maize**

Regulations have been introduced which apply to "businesses", which are defined to include the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not. The Regulations, accordingly, cover the supply of food by charities or voluntary organisations and have applicability to Church circumstances. Businesses are required to notify customers of the presence of GM ingredients by way of a menu, notice, ticket or label at the premises. This can be done in two ways:-

- (1) The indicating by notice or otherwise precisely which food products contain GM soya or maize; or
- (2) The use of a less specific notice and the providing of information via one or more nominated serving staff. An example of the notice would be in the following terms:-

"Some of our foods may contain ingredients produced from genetically modified soya and/or maize. Please ask the staff for further details."

It should be noted, however, that whilst businesses are required to take all reasonable precautions and exercise all due diligence in regard to the labelling of products, what will be considered reasonable will depend on all the circumstances, including the size and the resources of the business concerned. Additionally, the level of enforcement is a matter for Local Authorities and, bearing in mind the demands on Environmental Health Officers, it seems unlikely that the issue will be given high priority so far as Church catering is concerned.

- **Food Allergies (Anaphylaxis)**

Although no specific Regulations have been enacted, most people nowadays have become aware that a small but significant proportion of the population suffers from potentially fatal food allergies, particularly with regard to nuts (especially peanuts). For some, seeds and shellfish can also be a hazard. Those involved in Church catering should be aware of such allergies and procedures should be in force so that, if asked, information can be provided as to food ingredients. An added problem is cross-contamination as even a tiny trace of a life-threatening ingredient may prove a danger. Where such ingredients feature in food served on Church premises, it may be felt appropriate to put up a notice or include a reference on menus or similar documentation that some of the food served may contain nuts or are not suitable for those suffering from nut allergies.

The Food Standards Agency has an area of its website devoted to its labelling work - [www.food.gov.uk](http://www.food.gov.uk)

- **Liability and Insurance**

Congregations should also be aware that, although any civil claim for damages arising from a case of food poisoning would, it is anticipated, be covered by a Congregation's public liability policy, such a policy does exclude deliberate acts or omissions. There is, therefore, a possibility that the insurance cover might be withdrawn by the company and personal liability would attach to individual office-bearers in cases where those office-bearers were aware that standards were such in the Church kitchen that the food supplied was manifestly unsafe for human consumption.

**Congregations having specific enquiries in regard to the above or with respect to food safety generally, should contact the Law Department on 0131 225 5722 or email [lawdept@cofscotland.org.uk](mailto:lawdept@cofscotland.org.uk) for further guidance.**

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## **FOOD HYGIENE GUIDELINES**

### **WHERE DO WE START?**

#### **Food Hygiene Co-ordinator**

Appoint a Food Hygiene Co-ordinator who should be available from the start until completion of the project, although thereafter there will be a monitoring exercise. This person may be the Property Convener, Halls Convener or other existing Office Bearer.

#### **Local Authority Inspection**

Telephone and arrange for the Environmental and Consumer Services of the local Authority for your area to inspect church premises and provide guideline on Kitchen facilities. Also, ask their Representative for the current leaflet on 'Agencies Offering Food Hygiene Training' and separately a Food Premises Registration Form for completion, if appropriate.

#### **Any alterations required?**

Follow their instructions on any alterations required which will probably be relevant to work surfaces, storage space, sinks, wash hand basin and cleaning schedules. (Not a complete list but likely areas of concern.) This may have financial implications.

#### **Contact Organisations**

Food handlers will need trained. Contact all organisations in writing and advise them of restrictions and requirements.

#### **Arrange Training**

Arrange certificate course (Elementary Food Hygiene) by a Royal Environmental Health Institute of Scotland Licensed Trainer.

Ensure that standards are then maintained.

#### **Outside Caterers**

Only outside caterers who hold the Elementary Food Hygiene Certificate should be used and they have adequate insurance cover.

#### **Church Lets**

Let agreements for outside agencies should include the requirement for Food Hygiene Certificate Holders.

## **Frequently asked questions**

### **Q. Can food prepared at home be served at Church functions?**

A. There is no hard and fast rule about home preparation, which is not outlawed *per se* but it may not be advisable and you do have to fulfil the relevant legal obligations. In all cases, what is required is an assessment of the risk and the guidance given on the Food Hygiene Course should be applied.

### **Q. Where can I attend a Food Hygiene Course?**

A. There are a number of ways to undertake the appropriate training. The course can be run by any provider approved by the Royal Environmental Health Institute of Scotland [www.rehis.com](http://www.rehis.com). The website provides a really useful list of all the Training Centres in Scotland, which can be searched by area, and details of the courses available at each venue.

Some Presbyteries have organised food safety training. It is worth checking with the Presbytery Clerk whether anything is planned in your area.

The Environmental Health Department of your local Council will be able to provide details of accredited courses.

Local Colleges particularly those running courses on domestic science can often provide food hygiene training.

Public and private training companies also provide food hygiene training and your local council may have more information about what is available in your area.

### **Q. How long does the Food Hygiene Certificate last?**

A. There is no time limit for the life of a certificate and no requirement for refresher food hygiene training. However, most authorities recommend that all food handlers update their training every three years. This will be particularly important if there have been any changes in food safety legislation or food handling practice.

### **Q. Could Congregational office bearers or members be personally liable for any claims arising from the provision of food at a Church function?**

A. In the case of any claim for damages arising out of such an incident, in most cases the Congregation's public liability insurance should cover this. The policy does however, exclude deliberate acts or omissions so there is a possibility that the insurance cover might be withdrawn by the company and personal liability would attach to individual office bearers in cases where those office bearers were aware that standards in the Church kitchen were such that the food supplied was unsafe for human consumption. It is therefore essential that the basic guidance on food hygiene is followed.

### **Q. Is there a ban on re-use of jam jars for sale or giving away at Church events?**

A. While European regulations have been in place since 2004, that apply to food businesses, that are designed to protect consumers from the migration of materials that are used to store food, the Food Standards Agency in Scotland has advised that

they are not aware of any evidence of any food safety concern for consumers from cross contamination by re-use of glass jars in this way. They stress the need for good hygiene to be observed in cleaning the jars at adequate temperature and the preparation of the jam or chutney to be put in them. It is for local authority Environmental Health Officers to decide how to enforce the regulations with respect to charities and similar organisations but as far as the FSA is aware there has never been a prosecution for re-using jam jars since the regulations were introduced in 2004. The regulations need to be applied with common sense and good hygiene should be observed at all times.

**Q. Where can I obtain further guidance on food safety?**

- A. The Law Department is happy to answer any specific queries you have relating to food safety. Useful websites are Royal Environmental Health Institute of Scotland [www.rehis.com](http://www.rehis.com) and the Food Standards Agency [www.food.gov.uk](http://www.food.gov.uk)