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17th February 2017

**DRAFT GUIDANCE ON SHELLFISH TOXIN CONTROLS FOR THE SCALLOP SECTOR**

**Summary and Purpose**

1. This consultation provides an opportunity to comment on draft guidance which has been developed by Food Standards Scotland in order to provide greater clarity on the food safety controls that are expected to apply to the scallop sector, with particular reference to shellfish toxins.
2. The draft guidance sets out requirements for both primary producers involved in direct sale to the local market and businesses involved in placing scallops on the wider EU market. It also introduces updated official control approaches for local authorities that will apply to establishments involved in placing whole or shucked product on the market in Scotland.

1. The revised guidance document accommodates responses from a previous consultation in February 2016[[1]](#footnote-1), a local authority workshop in April 2016, as well as discussions that took place with industry and local authorities previously as part of an earlier Food Standards Agency Scotland review which completed in 2015.

The document is intended to bench mark both expected compliance levels by scallop businesses as well as enforcement approaches. It is expected that once finalised local authorities will be audited by FSS against the standard outlined in the guidance document.

**Detail**

1. A copy of the draft guidance document is attached at **Annex 1**. In general terms the document consolidates existing guidance on the requirements applicable to food businesses placing scallops on the market and incorporates new guidance in relation to the sale of primary products direct to the local market. However there are a number of specific issued covered in the draft which have either not been explicitly set out in guidance previously or which have been substantially changed here.

1. **FSS would welcome comments on the document as a whole but have specific questions in relation to the following areas:**
	1. Food Business Operator (FBO) obligations, official controls and action in the event of a failed sample or inadequate HACCP are outlined in the document. In general terms these are not new requirements but FSS would welcome comments from stakeholders as to whether the requirements are clearly explained.

**Question 1. Do you agree that the section on FBO obligations, official controls and action in the event of a failed sample or inadequate HACCP are clearly explained?**

* 1. A model framework for the direct supply, by the producer, of small quantities of primary products to the final consumer or to local retail establishments directly supplying the final consumer is set out in Section 3 and Annex G of the document. This includes suggested amendments to the definition of ‘small quantities’ and ‘local’ for scallops as well as providing an outline of expected documentary procedures which should be followed by FBOs.

**Question 2. Do you agree with the model framework for direct sales under the national market exemption?**

Please provide any information on possible impacts (positive and negative) as to how this proposal may affect you.

* 1. A suggested frequency of official control sampling in relation to pectinidae and enforcement action is provided at Annex B of the document. This is considered to simply align enforcement in this sector with that applicable in other establishment producing products of animal origin.

**Question 3. What would improve the proposed guidance on an enforcement approach outlined in Annex B?**

* 1. A working definition of a ‘batch’ is provided at Annex E of the document. This follows feedback from local authorities and the application by other shellfish producing countries of similar definitions.

**Question 4. Do you agree with the proposed working definition of a batch ? Please explain the rationale behind your answer.**

* 1. Specific information and obligations regarding scallop controls in other EU waters is provided at Annex F of the document. This adds to guidance which is already available on the FSS website but includes specific information regarding powers available to Scottish local authorities in the event that scallops may have been harvested from areas subject to specific controls applicable in other EU countries.

**Question 5. Do you consider the guidance regarding controls that can be used in relation to product harvested in other EU countries to be sufficiently clear?**

1. For each of the questions asked above we would be particularly interested to hear from:
* primary producers supplying or seeking to supply scallops to the local market;
* inshore fishery groups;
* caterers seeking to source such ‘exempt’ supply;
* enforcement authorities for both primary production and caterer sectors.
* The non-exempt trade (i.e. the approved establishment sector).
1. Your views and response to the content of this letter would be most welcome. In your response, please describe the capacity in which you are responding e.g. as a fisherman, caterer, local authority, private individual, shellfish processor or dispatch centre etc. Your response to these questions and any other issues raised in the course of this consultation will assist in ensuring that proportionate and consistent controls apply across Scotland in order to mitigate the risks associated with shellfish toxins in the scallop sector.
2. Please see **Annex 2** for further details on how we handle consultation responses. **Annex 3** contains a consultation feedback form and **Annex 4** contains a Public information form, which you will need to fill in if you do not want your details to be made public when responding to this consultation.
3. Please provide the information requested through the FSS citizen space portal <https://consult.foodstandards.gov.scot/> or directly to me at the address below by 12th May 2017.
4. Thank you on behalf of Food Standards Scotland for your assistance and please do not hesitate to contact me if you have any questions.

Yours sincerely

Josep Campins

Policy Adviser

Food Standards Scotland

**Annex 2. How we handle consultation responses.**

We need to know how to handle your response and in particular, whether you are happy for it to be made public.  The attached Respondent Information Form at **Annex 3** will ensure that we treat your response appropriately.  If you ask for your response not to be published we treat it as confidential.

You should be aware that Food Standards Scotland is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and must consider any request made to it under the Act for information relating to responses made to this consultation exercise.

***What happens next?***

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on this issue.  We aim to issue a report summarising the outcome of this consultation by the end of June which will then inform any subsequent guidance or instrument considered necessary.

If you have given permission for your response to be made public and after we have checked that it contains no potentially defamatory material, your response will be made available to the public in the Food Standards Scotland website

web pages shortly thereafter.

**Annex 3**

**DRAFT GUIDANCE ON SHELLFISH TOXIN CONTROLS FOR THE SCALLOP SECTOR**

Consultation Feedback Questionnaire

We would be interested in what you thought of this consultation package. We would be grateful if you could spend a few minutes to complete the following questionnaire and return it even if you do not intend to respond to the consultation itself. Please return the questionnaire to:

**Karen McCallum-Smith**

**Food Standards Scotland**

**Head of Private Office**

**Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL**

**01224 285133**

**07866 796697**

**openness@fss.scot**

 **1. How did you become aware of this consultation exercise?**

Our consultation list included your/your organisation’s name……… [ ]

 Other publication (please specify title)…………………………………… [ ]

Other means (please specify)……………………………………………… [ ]

**2. If you / your organisation are / is not responding to the consultation, is it because:**

You are not working on this subject area…………………………………… [ ]

 The consultation topic is not relevant to you……….……………………… [ ]

You do not have the time / resources to reply.…………………………… [ ]

Other reason (please specify) ……………………………………………… [ ]

 **3. Do you feel you were given enough time to respond to the issues / proposals in the consultation?**

 YES [ ]

 NO [ ]

 **4. Were the issues / proposals clearly set out and easy to understand?**

YES [ ]

 NO [ ]

 **5. Do you have any suggestions on how the consultation package could have been improved?**

 **6. Do you have any other comments about this consultation exercise?** (Please continue overleaf if required)

 **7. If you received this consultation direct, were the contact and address details correct?** If not please kindly provide the correct contact details for us to use in the future.

**8. Do you still wish to remain on our consultation list?**

YES [ ]

 NO [ ]

**9. Are there any other subject areas on which you would be interested in receiving future consultations?**

**Name**:………………………………………….

**Organisation**:…………………………………

………………………………………………….

………………………………………………….

**Date**:……………………………………………

**THANK YOU FOR TAKING THE TIME TO COMPLETE AND RETURN THIS FEEDBACK QUESTIONNAIRE**

Annex 5

 **Publication of Personal Data**

Please note that Food Standards Scotland may publish details that you supply in legitimate pursuit of the functions of the organisation.

As the publication of responses in full may include personal data (such as your full name and contact address details), would you please let us know if you object to us using this information.

Please tick the box below, complete the relevant details and return this form (together with your response) to indicate your objection.

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|  |  I **do not** agree to the publication of my personal details.  |

**\* If no objection is received we will assume that you consent to full disclosure of your personal details and these may be published.**

|  |  |
| --- | --- |
| Full Name |  |
|  |  |
| Full postal address |  |

To comply with the *Data Protection Act 1998*, it is essential that we keep our records up to date. Would you therefore please inform us if your personal details change in any way.

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| This form has been issued by: | Food Standards Scotland |
|  |  |
| If you have any queries, please contact: | openness@fss.scotPrivate office, Pilgrim House, Old Ford Road, Aberdeen, AB11 5RL |

*General information about the most recent Data Protection Act can be viewed at* <https://www.gov.uk/data-protection>

1. <http://www.foodstandards.gov.scot/local-sales-small-quantities-live-bivalve-molluscs-review-current-controls> [↑](#footnote-ref-1)