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trading standards law explained

Novel foods (including CBD and hemp)

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In this guide, the words 'must' or 'must not' are used where there is a legal requirement to do (or not do) something. The word 'should' is used where there is established legal guidance or best practice that is likely to help you avoid breaking the law.

Although the United Kingdom left the European Union (EU) in 2021, certain pieces of legislation (known as 'assimilated law') continue to apply until such time as they are replaced by new UK legislation, revoked or permitted to expire. This means that our guidance still contains references to legislation that originated from the EU.

To fully understand this guidance, it is important to note the difference between the United Kingdom and Great Britain:

- UK: England, Scotland, Wales and Northern Ireland
- GB: England, Scotland and Wales

This guidance is for England and Wales

This guidance relates to all food, including food sold prepacked, prepacked for direct sale, non-prepacked, and from mass caterers. Please see 'Labelling of prepacked foods: general', 'Labelling of prepacked-for-direct-sale foods', 'Labelling of non-prepacked foods' and Food labelling for caterers' for more information on the legal definitions and requirements.

What are novel foods?

For the purposes of this guide only, and for highlighting the difference between 'food' and 'novel food', food is defined as:

- Food and food ingredients that come from plants, animals and other sources, that have been produced by traditional growing, raising or propagating methods, and have a history of safe consumption by humans in the EU or the UK before 15 May 1997

By contrast, a novel food is any food or food ingredient that has not been eaten to a significant degree by humans within the EU or the UK prior to 15 May 1997, and also fits into one of the following categories:

- Food / ingredients produced from animals that do not meet the definition of 'food' above
- Food / ingredients produced from plants that do not meet the definition of 'food' above **except** food from plants that **do** have a history of safe consumption in the EU or the UK prior to 15 May 1997, **but** have been produced through **non-traditional** means that **do not** affect the following:
    - The composition / structure of the food
    - The nutritional value
    - How the food is turned into energy by the body (metabolism)
    - The undesirable substances* that the food contains

[*Substances present in food that are not intentionally included and that may adversely affect consumer safety, such as natural toxins, contaminants, residues or other potentially harmful constituents.]

- Food / ingredients that have been subjected to a production process that is not currently being used on that food / ingredient, and significantly changes its composition or structure, nutritional value, how it is turned into energy by the body (metabolism), or the undesirable substances that it contains*
- Food / ingredients with a new or modified molecular structure*
- Food / ingredients that are, or come from, microorganisms, fungi or algae
- Food / ingredients that are, or come from, minerals*
- Food / ingredients that are, or come from, cell culture or tissue cultures from animals, plants, microorganisms, fungi or algae
- Food / ingredients consisting of, or containing, engineered nanomaterials (100 nm or less)*
- Vitamins, minerals and other substances used in food supplements, food intended for infants and young children, food for special medical purposes and foods intended as total diet replacements, that have been subjected to a production process not used in the EU or the UK prior to 15 May 1997*
- Food / ingredients that have only been used in food supplements within the EU or the UK prior to 15 May 1997, when they are intended to be used in foods other than food supplements*

[*See 'Traditional foods' below for more information on the asterisked text.]

What is the significance of being a novel food?

Novel foods cannot be included in food unless they have been through an approval process to check that:

- They do not present a danger to consumers
- Their use does not mislead consumers
- They are not so different from the foods or food ingredients that they are intended to replace that their consumption would be nutritionally disadvantageous to consumers (in other words, that choosing to eat them over traditional foods would not leave consumers lacking in vital nutrients)

These are checked in a process referred to as a safety assessment.

If a food / ingredient you wish to use is a novel food that has not yet been authorised, you must not use it in, or as, food.

When using an ingredient that you know or suspect meets all or part of the definition above, you should research whether the food / ingredient is a novel food. Things to look out for include:

- Unusual ingredients
- Ingredients from outside the EU or the UK (and not in common usage within the EU or the UK)
- Ingredients that are common but are being used in a new or different way (for example, Chia seed oil rather than Chia seed)

Identifying a novel food

If you are concerned that a food / ingredient might be a novel food, you can do the following (preferably in this order) to check its novel status:

1. Check the list of authorised novel foods
2. Check the Novel Food Catalogue
3. Conduct online research

The list of authorised novel foods

The list of authorised novel foods can be found in the Annex to assimilated Regulation (EC) 2017/2470 *establishing the Union list of novel foods* (see 'Key legislation' below).

There is a searchable GB list of authorised novel foods, as well the EU's original Union list of novel foods. Search for the common or scientific name of the food / ingredient on the web page using the search function, or, in the case of the EU list, use Ctrl-F (on Windows computers) or Cmd-F (on Macs).

Everything on the EU list that was authorised prior to 1 January 2021 (the date that the UK left the EU) appears on the GB list, as do additional novel foods that have been authorised in GB since leaving the EU. Any novel food authorised by the EU since 1 January 2021 may not be authorised for use within GB, and new GB authorisations since 1 January 2021 may not be authorised for use in the EU.

You may need to check both lists, depending on where you intend to sell your products.

The Novel Food Catalogue

The Union list only specifies which novel foods have been approved, while the Novel Food Catalogue identifies foods that are only novel in certain circumstances, and others that have been confirmed as novel, but for which no approval has yet been given.

When searching, you should use the scientific name of the food / ingredient - for example, if you want to find pomegranate, you should search for '*Punica granatum*'. You can find the scientific name by searching 'scientific name of X' online ('X' being the name of the food / ingredient you are searching for).

Each entry will have one of five icons below the text.



Authorised novel food (this food has been confirmed as novel, and been subsequently authorised). It can be used in food and food supplements.



Not novel in food supplements (these foods have a history of consumption in food supplements prior to 1997). They may be used in food supplements. Before they can be used in other foods their novel food status must be assessed.



Not novel in food (these foods have a history of consumption prior to 1997 and may be used in food).



Novel food (this food has no history of consumption prior to 1997; therefore, it is a novel food). This food must be authorised before it can be used in or as food.



This food is in the process of novel foods authorisation. If the process is successful, the food will be an authorised novel food and can be used as / in food. Until the process is complete and the result published, the food cannot be used as or in food.

Conducting online research

If you are unable to find the food / ingredient in the authorised list or the catalogue, you can research it online.

The best place to start is to search 'What is X?' online and use the results to try and determine if the product was commonly eaten in the EU or the UK prior to 15 May 1997.

The European Commission's *Human Consumption to a Significant Degree: Information and Guidance Document* (see 'Related links' at the bottom of the linked page) will help you understand how to assess consumption of the food prior to 15 May 1997.

If your research leaves you in any doubt as to whether the food is novel, you should contact your local Trading Standards service for advice.

If your research shows that the substance is a food additive, you can check the European Food Additives Database to see whether it is listed.

The database specifies what types of food each additive can be used in. If it can be used in categories outside of food supplements, it is not a novel food. If it can only be used in food supplements, it may still be novel; check its status in the Novel Food Catalogue.

There is now a GB list of authorised food additives. Food additives are typically only authorised for use in certain types of foods, and sometimes in limited quantities; the GB list lacks this information (referring the user back to the legislation), whereas the EU list provides the information for ease of use. You may wish to consider checking both lists.

Novel food authorisation

If you want to use an unauthorised novel food, you must apply for authorisation; you must not use the food until authorisation is given.

If an unauthorised novel food or a food with an unauthorised novel ingredient is discovered to have been placed on the market, the food is considered unsafe; it will need to be recalled and destroyed.

The first step will always be to determine whether the food is novel (see 'Identifying a novel food' above).

If your research conclusively shows that the food is not novel, there is nothing more you need to do.

If your research is inconclusive, and you have concerns that the food may be novel, you must go through a consultation process (referred to as an Article 4 request), which will determine whether the food is novel. You can make an Article 4 request through the regulated products application service.

Your local Trading Standards service will be able to offer some advice on whether you need a consultation, but you may ultimately have to discuss it with the Food Standards Agency (FSA) Novel Foods Team (regulatedproducts@food.gov.uk).

If either your research or the consultation process determines that the food is novel, you must apply for authorisation and will need to gather and submit enough evidence to prove that the food meets the three criteria in 'What is the significance of being a novel food?' above.

If you don't provide sufficient evidence to conclusively meet the criteria, the food will not be authorised.

The evidence you submit must be specific to your product; therefore, gathering together publicly available information will not be sufficient. Any business seeking approval for a novel food will probably need to conduct independent scientific research (which will be beyond the technical / financial means of some small and medium-sized businesses).

Making an application is free; however, the process of gathering and submitting the evidence is expensive and takes a long time to complete, although there is a simplified process for traditional foods with a history of safe consumption (see below).

For more information on the authorisation process and what information your application should contain, please see the novel foods authorisation guidance and the guidance on how to use the novel foods authorisation process flowchart on the GOV.UK website.

If you wish to make an application for sale of a novel food on the GB market, you must follow the GB regulated product authorisation process (using the regulated products application service).

If you wish to make an application for sale of a novel food on the EU or Northern Ireland (NI) markets, you must follow the EU novel food authorisation process.

Traditional foods

Traditional foods are those from countries outside the UK or EU with a history of safe consumption for 25 years or more. A history of safe consumption is more than anecdotal evidence and must be based on both compositional data and evidence of use.

A traditional food must also meet the definition of novel food in 'What are novel foods?' above, except for those items marked with an asterisk (*); foods that are / contain the asterisk-marked items are not considered to be traditional foods.

Additionally, traditional foods must be the products of primary production (rearing, growing, harvesting, milking, farmed animal production, hunting, fishing and the harvesting of wild products).

A novel food application for a traditional food requires less information to be submitted than a normal novel food application and has a streamlined process of approval.

Guidance on preparing an application for a traditional food can be found in this scientific opinion from the European Food Safety Authority (EFSA).

If you wish to make an application for sale of a traditional food, the same processes for GB and NI / EU apply as in the 'Novel food authorisation' section above.

CBD-based foods and food supplements

Cannabidiol (CBD) is a type of cannabinoid isolated from cannabis plants or produced synthetically.

CBD is increasingly being used in foods and food supplements; this section of the guidance explains the legal status of using CBD in this way.

Are they controlled drugs?

Cannabis sativa L is the most common strain of cannabis in the EU; it contains many cannabinoids, one of which is CBD. The most widely known cannabinoid is tetrahydrocannabinol (THC) which causes the 'high' associated with cannabis use.

THC and other cannabinoids are controlled drugs; their possession, use in manufacture, etc is a criminal offence under the Misuse of Drugs Act 1971 and the Misuse of Drugs Regulations 2001.

CBD can be isolated from other cannabinoids present in *Cannabis sativa L*, and in its pure form it is not a controlled drug.

Extraction and purification of CBD is a complicated and expensive process. If the CBD is contaminated with other controlled cannabinoids, at any detectable level, the product is a controlled drug and its possession, use in manufacture etc, is a criminal offence.

A licence can be obtained to grow low-THC hemp (less than 0.2% THC). However, this does not mean that the final product may contain up to 0.2% THC; if THC is present at any detectable level, the product is a controlled drug.

Are they medicinal products?

The definition of a medicinal product has two parts, as follows:

- Any substance administered to treat or diagnose an illness or medical condition
- Any substance that claims to be able to prevent or treat disease (including pain relief)

Medicinal claims are significantly different to health claims, although the two are often confused. Please refer to 'Nutrition and health claims' for more information.

If the product meets either part of the definition, it is treated as a medicinal product. It will need to be authorised by the Medicines and Health Care products Regulatory Agency (MHRA) and will be subject to strict rules on composition and labelling.

The Department of Health and Social Care (DHSC) has accepted clinical evidence that cannabis and CBD can be used to treat certain illnesses and medical conditions, and cannabis-derived medicinal products (CDMP) are now available on prescription.

However, the levels of CBD recorded in the clinical evidence is usually many times more than is typically present in CBD-based food / food supplements. This means that CBD-based food / food supplements are not typically able to provide the medicinal benefits seen in the evidence. Merely containing CBD is not enough for the product to be classed as a medicinal product.

Provided it makes no claims about treating or preventing illness (including pain relief), the product is not a medicinal product.

Claims can be in any form, including:

- Writing - for example, a statement that states or implies a medical benefit
- Pictures - for example, a picture of a heart or a red cross
- Sounds - for example, the sound of a heart monitor

Claims that are made elsewhere than on the product (website, social media, publications, etc) may result in the product being classed as a medicinal product.

If you have any concerns about whether your product is a medicinal product, you can obtain a regulatory opinion from the MHRA by submitting a medicines borderline advice form. Please refer to the MHRA document *A Guide to What is a Medicinal Product* for further information. (Links to the document and the form can be found in 'Getting advice about your product' on the GOV.UK website.)

Are they novel foods?

The CBD industry has been unable to provide sufficient evidence that CBD and other cannabinoids have been consumed to a significant degree within the EU prior to 15 May 1997.

CBD, and cannabinoids in general, are novel foods and cannot be legally included in food or food supplements until a safety assessment has been completed and their use as a novel food has been authorised. The assessment (and any subsequent authorisation) is specific to the product containing the CBD. Any variation from the authorised product (a different flavour, for example) will require a new authorisation specific to that product.

Are they legal?

Due to their classification as novel foods, CBD foods / food supplements cannot be legally sold until they have been authorised.

New CBD products must not be placed on the market until they have been authorised as novel foods.

If you wish to place your product on the GB market, you must follow the GB regulated product authorisation process (using the regulated products application service).

If you wish to place your product on the EU or NI markets, you must follow the EU novel food authorisation process.

For further advice on making a novel food application for CBD-based foods / food supplements, please contact the FSA Novel Foods Team (regulatedproducts@food.gov.uk).

CBD foods / food supplements on sale before 31 March 2021, for which a novel foods application for authorisation was received by that date (and which has subsequently been validated or is currently on hold / awaiting evidence), can continue to be sold while the authorisation process is ongoing. Any products for which an application was submitted and are not subsequently authorised must be removed from sale immediately.

The FSA has published a list of CBD products, identifying products for which validated applications have been received and those that have not yet met the full legal requirements for validation but have the potential to become validated within a specified time limit (referred to as 'on-hold' or 'awaiting evidence'). The FSA has advised local authorities that CBD-based products that do not appear on these lists should be removed from sale.

Are they safe?

So far the evidence is inconclusive; however, the Committee on Toxicology (COT) has found evidence of potential adverse health effects, and as a result the FSA has issued safety guidance.

It is particularly important to note that, for healthy adults, the recommended maximum dose is 10 mg a day (approximately 4-5 drops of 5% oil). This recommendation is based on a 70 kg adult (equivalent to 0.15 mg/kg of body weight per day of CBD).

The limit of 10 mg per day is significantly lower than the previous maximum dose of 70 mg per day; manufacturers are encouraged to amend the labelling of new and in-market stock to reflect the current maximum dose.

Furthermore, the FSA does not recommend that people in vulnerable groups consume CBD.

Vulnerable groups include:

- Children (those under the age of 18)
- People taking any medication
- Those trying to conceive
- Those who are pregnant or breast feeding

While not mandatory, the FSA encourages all manufacturers to label their products with an age restriction of 18 years, and warnings not to consume the product if on other medication, pregnant, or breastfeeding.

Food Standards Agency guidance

For more information, please refer to the FSA cannabidiol (CBD) guidance.

Hemp-based foods / food supplements

Hemp / industrial hemp / low-THC industrial hemp is a product of cannabis plants that contain less than 0.2% THC. Licences to cultivate and process such plants can be obtained from the Home Office.

Cannabis is a controlled drug. However, this classification does not apply to certain parts of the cannabis plant; therefore, these parts (and anything made from them) are not controlled drugs. The parts of the plant to which the classification does not apply are:

- Seeds
- Plant fibre
- Mature stalk

The cannabis plant (*Cannabis sativa L*) has a long history of inclusion in food, within the EU, prior to 15 May 1997. Therefore, the cannabis plant is not a novel food; this means that those parts of the plant not controlled by other legislation (seeds / plant fibre / mature stalk) can be used in food, providing the following conditions are met:

- The material comes from low-THC cannabis plants
- The business has any licences necessary to process the product
- The purpose of consuming the product is something other than ingesting a controlled drug - for example, to add flavour, aroma, etc

- The cannabis cannot be extracted from the product and consumed in sufficient quantities to pose a risk to health
- The entire product contains less than 1 mg of THC
- The product is not contaminated with other cannabinoids

'Lab-grown meat' and other cell-cultivated products

Cell-cultivated products are made by non-traditional means using cells isolated from animal, plant and other sources, which are then grown in a nutrient-rich medium.

Cell cultivated products made from cells isolated from animals are often referred to as 'lab-grown meat', although they are actually products of animal origin (they do not satisfy the legal definition of 'meat'). Cell-cultivated 'meats' are not considered to be vegan because they use cells isolated from animals (bear in mind that 'vegan' is not legally defined).

Cell-cultivated products are novel foods, and must be assessed and authorised before being placed on the market as, or in, food.

The FSA has issued extensive guidance on cell-cultivated products to assist you in legally bringing such products to the market.

Trading Standards

For more information on the work of Trading Standards Services and the possible consequences of not abiding by the law, please see 'Trading Standards: powers, enforcement and penalties'.

In this update

Link added to new FSA guidance on how to use the novel foods authorisation process flowchart.

Last reviewed / updated: October 2026

Key legislation

- Misuse of Drugs Act 1971
- Food Safety Act 1990
- Misuse of Drugs Regulations 2001
- Human Medicines Regulations 2012
- Assimilated Regulation (EU) 2015/2283 *on novel foods*
- Novel Foods (Wales) Regulations 2017
- Assimilated Regulation (EU) 2017/2468 *on traditional foods from third countries*
- Novel Foods (England) Regulations 2018

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 go to the legislation.gov.uk website. The site usually updates the legislation to include any amendments made to it. However, this is not always the case. Information on all changes made to legislation can be found by following the above links and clicking on the 'More Resources' tab.

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