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trading standards law explained

Disposal of surplus food

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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.

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.

This guidance is for Scotland

There are laws affecting food retailers, distributors and manufacturers (and in certain circumstances caterers) that, in the course of their business, are left with food material consisting of or containing products originating from animals, which are no longer intended for human consumption - for example, raw meat or fish past its use-by date, milk and milk products, and eggs and egg products.

The Animal By-Products (Enforcement) (Scotland) Regulations 2013 lay down rules for the collection, handling, transport, storage and disposal of animal by-products. They aim to control the risks, including disease, to both animals and the public. Food material consisting of or containing products originating from animals becomes an animal by-product (ABP) when the food business manager decides, for whatever reason, that the product is no longer to be used for human consumption. Once this decision is made, it is irreversible. The material then becomes a low risk (category 3) ABP, and the origin and nature of this food material determines how it can be disposed of or used - for example, as animal feed.

Can surplus food be fed to livestock?

In some instances, former foodstuffs may be used for feeding to livestock, as long as the material does not contain (and there is no risk whatsoever that it could have been in contact with) materials of animal origin - for example, raw meat, fish, eggs or products derived from or incorporating meat or fish. Products that can be fed to farmed animals may include eligible bakery, biscuit and confectionery products, and fruit and vegetables, subject to very strict controls.

Food businesses handling ABPs and former foodstuffs that wish to send eligible material for feeding to livestock must have an HACCP ('hazard analysis and critical control points') plan in place to effectively control the separation, identification and storage of feed material in order to prevent any cross-contamination and unsafe feed materials from entering the feed chain. An unsafe feed is one that could have an adverse effect on human / animal health or the environment, or make the food from food-producing animals unsafe for human consumption.

All former foodstuffs to be used as animal feed must be safe and wholesome for the intended species and must not be mouldy or contaminated with foreign bodies etc.

All stages in the chain need to be registered with their local authority under assimilated Regulation (EC) No 183/2005 *laying down requirements for feed hygiene*; this includes the food business, the livestock producer and the haulier.

Surplus food originating from retailers, distributors, wholesalers and manufacturers

The following two types of food products fall into the lowest category of animal by-product material (category 3) and, therefore, must be disposed of in accordance with the Animal By-Products (Enforcement) (Scotland) Regulations 2013; they are not eligible to be fed to livestock under any circumstances.

Raw meat and fish. Products that require cooking before consumption, including meat and fish off-cuts - for example, scampi, fish fingers, raw sausages, chicken kiev, bacon. These products must be disposed of at approved premises by one of the prescribed methods - for example, by rendering, incineration or disposal at an approved biogas or composting plant, or as prescribed by assimilated Regulation (EC) No 1069/2009 *laying down health rules as regards animal by-products and derived products not intended for human consumption*.

Former foodstuffs. Uncooked and lightly cooked meat, poultry and fish products that are no longer intended for human consumption (for example, due to commercial reasons or manufacturing / packaging defects, as well as out-of-date foods). This includes rare cooked meat (pink meat), beef jerky, Parma and Serrano ham, raw eggs and smoked salmon. These products must also be disposed of by one of the prescribed methods.

However, small quantities of raw or partially cooked meat, fish or shellfish from retailers' premises (up to 20 kg) may be disposed of to landfill, with no requirement for commercial documentation or labelling. This derogation applies to businesses generating no more than 20 kg of these types of category 3 ABP each week. This does not mean that a business generating 50 kg a week can put 20 kg in landfill and then treat the remaining 30 kg as ABP. The 20 kg derogation is a weekly limit, not an average limit over a number of weeks.

Any small business taking advantage of this derogation will need to keep detailed records to show the type and total weight of each batch of category 3 material sent to landfill each week - for example, '17 June 2024: five bags of raw mince, weighing in total 15 kg'.

Two flow charts are attached to help you decide how to dispose of your surplus food:

- animal by-products regulations flow chart
- disposal of waste foods containing animal by-products flow chart

For additional information see disposing of ABPs and how food businesses must dispose of food and former foodstuffs on the GOV.UK website.

In certain, strictly controlled, circumstances, ABPs can be used to make pet food. For more information, see the guidance on using animal by-products to make pet foods on the GOV.UK website and the pet food guidance on the Food Standards Scotland website (scroll down to the third heading).

What must I do with surplus food that cannot go to landfill?

Storage

Store all category 3 animal by-product material covered in a safe place, separately from other waste and away from vermin, wild birds or livestock.

Containers

Category 3 animal by-product material must be stored in a clean, lidded, leakproof container and must be labelled 'Not for human consumption'.

Storage should not pose a risk of contamination to other foodstuffs, nor be left exposed to animals or wild birds.

Collection and documentation

Collection must be by a licensed carrier (see below for how to find one) and the ABPs taken to approved premises for the correct method of disposal. The carrier must give you a commercial document, specifying as a minimum:

- date of transport*
- description of the material and the category description*

- quantity
- name and address of origin of material
- name and address of transporter*
- name and address of destination and approval / registration number (if applicable)*
- signature of responsible person (generally the person producing the document)

A commercial document template is attached for your use. Ideally, this needs to be carbon-copied so that the carrier and the premises of origin can keep a copy (see below).

If the document is produced by the consignor, it should be signed by the consignor. If the document is produced by the carrier, it should be signed by the carrier.

Each movement of animal by-products and derived products must be accompanied by the top copy of the commercial document, which has to be left at the destination premises. The premises of origin and the carrier each retain a copy also.

Records

As a consignor of animal by-product material, you must keep a record showing the bullet points asterisked* above. In most cases, the copy of the commercial document can serve as your record. However, it is advisable to have additional records in book form or on computer, as appropriate. Both the commercial documents and records are required to be kept for two years; they must be available for inspection by an authorised inspector.

Cleansing and disinfection

After each collection, you must thoroughly clean and disinfect the container.

Emergencies

You are advised to make plans in case of an emergency (such as a freezer breakdown or product recall) when you may have to destroy large amounts of ABP material at short notice.

What about 'sale or return' foods?

You can continue your normal practices with your supplier. However, you cannot use them to dispose of other former foodstuffs - for example, out of date / damaged canned or dried meat products. If the decision is made that they are an ABP, they should be collected / disposed of as detailed above.

Special care and provisions should be taken with 'sale or return' items if you are intending to supply any material into the feed chain. Strict feed safety and hygiene provisions apply to material destined for the animal feed chain; consequently, you should contact your local authority Animal Health and Welfare / Trading Standards service for further advice if you are considering doing this.

Do I have to empty food from its packaging before it is collected?

Any raw meat or raw fish still in packaging cannot be disposed of to landfill.

You should check whether your collector will accept animal by-products in their packaging. If not, then packaging must be properly emptied before the carrier collects the category 3 materials, and the empty and clean packaging is then sent to landfill or recycling, as appropriate. Many processing companies (such as renderers and incinerators) can take, and deal with, packaging.

Any packaging that is significantly contaminated with category 3 material cannot go to landfill and must be disposed of as per category 3 material.

Catering waste

Catering waste means all surplus food (including used cooking oils) originating in restaurants, catering facilities and kitchens, including domestic kitchens. Catering waste is classified as category 3 ABP, except in the case of international catering waste (ICW), which is classified as category 1 ABP.

The disposal of catering waste is only controlled by the Regulations under limited circumstances - for example, if you are sending it for any of the following:

- animal consumption (it is illegal to feed catering waste to livestock)
- use in a biogas plant for composting (ICW is classified as high-risk category 1 ABP and, therefore, cannot be used for biogas or composting)
- use in pet food (it is illegal to use catering waste in the manufacture of pet food)

All other catering waste can continue to be disposed of to landfill in the normal way. However, you must ensure that the material is stored in covered leakproof containers to which wild animals, birds and livestock cannot gain access.

If the catering operation shares premises with another food activity (such as retail, bakery or butchery), the non-catering waste must be disposed of as set out above.

Where can I get a list of approved carriers?

Details of licensed carriers and approved premises to transport and dispose of animal by-product waste can be provided by contacting your local Animal and Plant Health Agency (APHA) office. Further details on animal by-product operating plants can also be found on the GOV.UK website.

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

Clarification of the requirements relating to the disposal of small quantities of raw or partially cooked meat, fish or shellfish waste each week.

Last reviewed / updated: December 2025

Key legislation

- Feed (Hygiene and Enforcement) (Scotland) Regulations 2005
- assimilated Regulation (EC) No 183/2005 *laying down requirements for feed hygiene*
- assimilated Regulation (EC) No 1069/2009 *laying down health rules as regards animal by-products and derived products not intended for human consumption (Animal by-products Regulation)*
- Animal Feed (Scotland) Regulations 2010
- assimilated Regulation (EU) No 142/2011 *implementing Regulation (EC) No 1069/2009 and Directive 97/78/EC*
- Animal By-Products (Enforcement) (Scotland) Regulations 2013

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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