



**Bed & Breakfast
and Guesthouses
Food Law Guidance**

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Who is this Guidance for?

This guidance is provided in good faith and is intended for anyone who is running or thinking about running a Bed and Breakfast or Guest House. It also applies to those who provide wrapped food as part of accommodation offers.

Food Standards Scotland (FSS) have produced a publication called *Advice for New Businesses* which you may wish to read in conjunction with this document and it can be found at: www.foodstandards.gov.scot

Orkney Islands Council is a “food law authority” and responsible for regulating food law throughout Orkney. Food law applies from a single vending machine to an international food manufacturer and everything in between where food is provided to the public. The Council’s environmental health team are responsible for delivering the council’s food law regulatory activities and you can always contact them for help and advice. Officers from Environmental Health are regularly out and about throughout Orkney and may call at your premises to undertake a “food law inspection” - this will usually be unannounced and the officer will always have photographic identification.

Contact details for Orkney Islands Council environmental health team:

Environmental Health
School Place
Orkney
KW15 1NY

Telephone 01856 873535 extension 2877

Email: environmental.health@orkney.gov.uk

The environmental health team have produced this guidance booklet to help you comply with the law. It is however not a definitive statement of law and if in doubt you should seek further advice e.g. by contacting the environmental health team, Food Standards Scotland, a trade association, professional body or legal advisor.

- **Further Information**

Further information can be found on the Food Standards Scotland website at: www.foodstandards.gov.scot, or by visiting the environmental health section on the Council’s website www.orkney.gov.uk

Food law

Running a guest house, bed and breakfast or small hotel means you need to be aware of which pieces of food law apply to you. Food law has been in place for very many years and every now and then it gets updated. The Environmental Health Service at the council can help you identify which pieces of food law apply and there are also plenty of online resources.

- **What is food law?**

In simple terms “food law” is a general term which can be thought of as meaning the rules and regulations which cover:

Food safety - how safe the food is to eat.

Food hygiene - how hygienic the premises are where food is made, prepared, stored or sold.

Food standards - the composition of the food, what it contains and how it is labelled.

- **Why does this matter?**

Sadly, every year there are cases of food poisoning, illness and allergic reactions from people who eat food supplied by others. Sometimes these can be nothing more than an unpleasant minor inconvenience perhaps spoiling a holiday or putting someone off work for a bit, but sometimes they can result in serious illness or even death. Therefore, in undertaking your activities you must be aware of the requirements in food law that apply to you and follow them. This booklet aims to give you a few pointers to help.

- **Other rules and regulations**

As well as food law there may other legislation or rules relevant for your activities, and we have included some suggestions to be aware of in the last part of this guidance booklet.

- **Food Safety Law – the legal bit**

The laws on food safety apply in the same way to a business run from home as they do to all other commercial premises. You will be liable to inspections by officers from the Council's environmental health team which may be unannounced, and you may face legal action if you are found to be breaking food law. In addition, you may also have to meet the requirements of the Food Information (Scotland) Regulations 2014. These Scottish regulations enact Regulation (EU) 1169/2011 (retained law) on the Provision of food information to consumers (FIC). FIC details the information which must be provided to consumers when they buy food and how this information must be preserved. For example, breaking down multipacks may require labels on products. Or if you are providing packed lunches which are pre-ordered, you must still be able to clearly convey allergen information to the people who are ordering the lunches.

Registration

It is a requirement of UK food law that all food businesses are registered. The term “business” used in this context is very wide and if you are providing a B and B, Guesthouse or small hotel where you provide food to your guests then you will need to be registered with the Council as a food business. We have tried to explain the definition of a food business in more detail on the council’s website. There are of course exemptions – but these tend to relate to large or high risk manufacturing premises who must be “approved” rather than registered or very infrequent activities such as making a cake every now and then for a Kirk bake sale or annual show.

Registration is free and there is only a simple form to fill in, but it is a legal requirement to register a food business, unless you are exempt.

Strictly speaking you must register at least 28 days before you start your activities. The Council is required to have an up to date register of food businesses in Orkney, so we may occasionally contact you to review your details.

Therefore, if you have not registered and need to do so, please visit www.orkney.gov.uk to download an application form or phone on 01856 873 535 ext. 2081 to request a registration form is sent to you.

Once registered you *do not* need to wait for an inspection to take place before you start trading.

Registration also means we can send you updates, information and pass on “food hazard” warnings which will help you keep your customers safe.

- **Food Hygiene Information Scheme**

Have you seen stickers in shop windows that say “FOOD HYGIENE PASS”? These are issued by the council as part of a national scheme and customers can look up ratings for businesses anywhere in the country using a website provided by Food Standards Scotland. <https://www.foodstandards.gov.scot/consumers/food-safety/buying-food-eating-out/food-hygiene-information-scheme>

The scheme, which applies to most food businesses which are public facing, rates a business so customers can make a choice which businesses to use. Once registered and prior to inspection, if the scheme applies to you, then will be allocated an “Awaiting Inspection” rating.

This rating changes once you have had your food law inspection and, depending on how the inspection went, you will receive either a “Pass” or “Improvement Required” rating and a certificate.

Passing the food law inspection is a great achievement and you can show it off as such! You will receive your Pass certificate and a window sticker, both great advertising tools for your business. Promoting the fact that your business now complies with the relevant food laws will give your customers confidence in you and your business.

If you receive an Improvement Required rating, you will be given clear and detailed information on what you must do and a time scale to complete this by before a revisit takes place. Remember that you can contact the Environmental Health Team for help, advice or to have your revisit brought forward.

Your rating will be automatically published on Food Standards Scotland's Food Hygiene Information Scheme's website: <https://www.foodstandards.gov.scot/consumers/food-safety/buying-food-eating-out/food-hygiene-information-scheme>

Food Law Inspections

The council is required to maintain a list (register) of all food businesses in Orkney and Officers from environmental health will undertake inspections of these premises on a risk assessment basis. This means that those businesses which present a greater risk (for example because of what they do, or the way they do it) will be visited more frequently. Low risk premises may only be visited once every 5 years, and very low risk premises may not need a visit at all. Visits are generally unannounced as per the requirements placed on the council by the national food law code of practice.

The key regulations that regulate catering from any domestic residence are the Food Hygiene (Scotland) Regulations 2006, Regulation (EC) No 852/2004, 178/2002, 1169/2011 (retained laws).

These Regulations lay down the requirements relating to persons engaged in the handling of food, the methods and practices used in food businesses and structural matters in food premises.

This is broken down into the following:

1. Management
2. Hygiene
3. Structure
4. Composition and labelling

The standards you will have to meet depend upon a number of factors, such as the type and quantity of food you intend to prepare, and what else the kitchen is used for. The following information is a guide on what is expected in most cases to meet the requirements of food law and covers the topics we find often come up during an inspection.

Management

- **Training**

The law requires you to have suitable and sufficient knowledge to ensure that you prepare food safely and are able to comply with food law. A good way to achieve this is to undertake a food hygiene training course.

You can also undertake free online allergen training available on Food Standards Scotland's website: <https://www.test.fss.wsdev.org/business-and-industry/safety-and-regulation/food-allergies-2/allergen-training-tool>

All courses can be done online or in person, for instance at Orkney College <https://www.orkney.uhi.ac.uk/business-and-community/short-courses/hospitality/>, but it is strongly advised that you choose your course carefully, ensuring it is the right course for you and your needs.

- **Food Safety Management System**

All food businesses are required to think about how they will prevent the food that they prepare from being contaminated and ensure it is safe to eat. Contamination falls into four categories:

1. Chemical
2. Microbiological
3. Physical and
4. Allergen

Hazard	Example
Chemical Contamination	Using cleaning materials that are not 'food safe' / storing chemicals around food.
Microbiological Contamination	Not cooking food properly / leaving high- risk food (such as smoked salmon, soft boiled eggs) out at room temperature / storing baked goods below raw foods causing cross contamination.
Physical Contamination	Items falling into food (hair/nail varnish) / poor structure of the kitchen (peeling paint/damaged sink seals) / pest control.
Allergen	Not fully understanding your ingredients and the ingredients within them can lead to you mislabelling a product and unintentionally causing illness or even death to your customer.

You are required to have a simple written system in place which shows how you will control these problems. This system must be based on Hazard Analysis and Critical Control Point (HACCP), which basically means that you document how you ensure that the foods you are making are kept safe at all stages of production from purchase of ingredients to storage, cooking, packaging, labelling and selling.

- **Traceability**

You need to make sure that you can show where all of your ingredients have come from. Keep a record of your supplier details for ingredients and keep a record of your customers and dates they visited, such as in your booking system.

- **Use By/Best Before Dates**

Use by dates are about safety. They are applied to higher risk foods which can support the growth of food poisoning organisms. These foods should not be eaten, cooked or frozen past these dates.

Best before dates are about quality not safety and are generally applied to lower risk foods. These will be safe to eat after this date but may not be of good quality.

Both types of dates will only be accurate if the food is stored according to the instructions on the packaging.

Sandwiches sold in supermarkets are often full of preservatives and may have special packaging to allow the products to have an extended shelf life.

Use by/best before dates can only be established by microbiological testing of a product. As this is something which is costly, we suggest a short shelf life erring on the side of caution.

As a general rule, we would recommend that products are given a shelf life of day of production +2 days.

Hygiene

- **Hygiene, Sinks and Hand Washing**

Even though you may not have a separate wash hand basin in your kitchen, you still must ensure that you have “adequate facilities for the cleaning of foods, utensils and maintaining adequate personal hygiene”. If you are fortunate enough to be having a new kitchen or sink fitted, we recommend that you install a 1½ or double sink unit. One of these units can then be designated solely for hand washing.

If you only have one sink, you need to consider how you can meet this requirement. One option may be time separation between tasks. For instance, disinfect your sink first, use it as a food prep sink for washing any fruit and veg that you are using, then disinfect again and use as a handwash basin, putting dirty utensils to one side. After cooking, disinfect and use as a washup sink.

If you will be using your sink in your household's day to day activities, you must ensure before you start undertaking any food preparation that you thoroughly clean and disinfect the sink, taps and surrounding area. It can then be used for hand washing whilst you prepare and cook for example breakfasts for guests.

If utensils are washed in the sink, you must ensure that again the procedures for cleaning and sanitising the sink after use are implemented.

Whatever system and method you decide on, you should document it in your food safety management system.

- **Norovirus And Fitness To Work**

You do not want to be the cause of an out- break of norovirus or food poisoning (sickness and diarrhoea illness). If you suffer from sickness and/or diarrhoea, you must ensure that you are symptom free (no sickness and/ or diarrhoea) for 48 hours before you undertake any food handling or preparation.

Take the time to consider in advance what you would do if you came down with an illness that meant you could not undertake work with food for a few days.

- **Fridge**

Any items being kept in the fridge must be stored in a way which does not cause contamination. Ideally, you should keep the food for your business fully separate from your personal foods.

You must ensure that your fridge is well organised and running at a temperature of 8°C or below. Please be aware that some manufacturers require storage at the temperature not exceeding 3°C. You should always follow the manufacturers guidance if you have this type of food in your fridge. Use a fridge thermometer to check the temperature regularly.

Don't overload your fridge. The efficiency of the fridge will suffer if the cooling air circulating within it cannot flow freely.

If you prepare a large amount of food that needs to be kept in the fridge, you may need a separate fridge which is only used for your business.

- **E. Coli**

E coli (*Escherichia coli*) is a particularly nasty bacteria which can cause severe illness, and in the case of vulnerable persons or young children kidney damage and death. It can often associated with common foods such as raw meat.

If you prepare raw meat and unwashed salad and vegetables in your home, you could be causing an E. coli risk. You must take care when preparing your food at home to reduce the risk of cross contamination.

You must make sure before you begin work that your kitchen is prepared to be your "working kitchen". This will generally mean removing anything not required in the kitchen and thoroughly cleaning and sanitising the surfaces.

E. coli bacteria and other food poisoning bacteria can grow on the smallest food source on a dirty work surface. Proper cleaning and sanitising should also remove all the bacteria from surfaces and equipment involved in food preparation.

- **Cleaning Chemicals**

You must ensure that you have appropriate cleaning chemicals to keep the kitchen clean and sanitise surfaces and equipment. Antibacterial sprays and sanitisers should meet a certain

British Standard (BS EN: 1276 or 13697). There is also a British Standard for antiviral sprays (BS EN 14476) and you can get disinfectant sprays which have both properties. If antibacterial and antiviral claims are being made, the chemical should have the BS EN number(s) printed on the label or on the manufacturer's website. Different types of disinfectants require different dilutions and contact times. These are specified and validated by the manufacturer, and you must follow the manufacturer's instructions for dilution and contact time to ensure the product is effective. These are usually stated on the label.

- **Temperature probes**

Please make sure that you always clean your temperature probe after use. You can use detergent and hot water or food probe wipes.

Structure

- **Your Kitchen**

You must ensure that the structure of your kitchen is kept clean and maintained in good repair and condition so as to avoid the risk of contamination.

Walls	need to be a smooth impervious finish (for example tiled or smooth plaster painted with a gloss or silk vinyl paint).
Floors	need to be smooth, impervious, non-absorbent, washable and of non-toxic material (for example sealed vinyl or sealed floor tiles with waterproof joints).
Ceilings	need to be smooth, impervious, non-absorbent, washable and of non-toxic material.

Domestic equipment and any personal items and normal kitchen clutter on work surfaces should be removed and the area disinfected before you start preparing your guests food.

- **Toilets**

Toilets should not open directly into your kitchen. However, in some houses the toilet leads straight from the kitchen and cannot be avoided. In these situations, you must ensure that the toilet is well ventilated and the door to the toilet kept shut. You should rewash your hands in your allocated hand wash basin after going to the toilet. People should not use the toilet whilst you are preparing or cooking breakfasts.

- **Ventilation**

You must ensure that you have adequate ventilation in place in the kitchen to prevent condensation, mould growth, and damage to decoration – but make sure open windows don't create a problem with flies and pests.

- **Equipment**

All equipment must be in good condition and not be a potential source of contamination due to its condition or cleanliness. All equipment should be carefully cleaned, sanitised and stored. You must regularly check equipment and repair/replace anything damaged.

- **Pest Control**

You must ensure that your kitchen is always pest free. This can be achieved with regular checking of the kitchen for evidence of pests (droppings/nibbled food). Making sure that no food is left out and that the kitchen is kept in a clean condition at all times. Any signs of pest activity should be treated straight away. It is a good idea to record any problems you have and what you did about the problem.

- **Storage**

You need to ensure that at all stages of storage, production and service that you produce are free from microbiological, chemical and physical contamination.

Storing equipment, tins and ingredients should be kept separately from your day to day items wherever possible. Lidded containers are useful for preventing contaminants falling into part used ingredients or equipment whilst it is being stored.

Food in the fridge should be wrapped/covered to prevent items falling/dripping onto others. If space is available, it is a good idea to have separate storage cupboards or shelves for foods and utensils.

- **Transport**

When transporting food, it is important that it is protected from the risk of contamination from pet hair, dust and dirt, insects. If the food products from retail shop contain high risk ingredients, e.g. sausages or smoked salmon, they should be transported in cool boxes to maintain the temperature at 8°C or below.

Composition and labelling

- **Allergens**

All food businesses must inform the customer if any products they provide contain any of the 14 allergens as an ingredient. The methods to convey this information vary depending on various factors the website www.foodstandards.gov.scot/business-and-industry/safety-and-regulation/food-allergies-2 has further information.

- **Hidden Allergens**

When offering food, it is important to have regard to all the ingredients that you use. This includes the ingredients within the main ingredients as these can also contain hidden allergens, also known as compound ingredients. For instance, Worcestershire Sauce contains fish, sausages contain wheat rusk and may contain sulphites etc.

You must therefore be fully aware of all of the ingredients in your goods and be able to communicate this information accordingly to your customers.

- **Precautionary allergen labelling**

These include words such as “may contain traces of...” or “made in a factory handling...” or “made in a kitchen which uses...” They warn the consumer of the possible presence of an allergen which has not been added as an ingredient.

It is not best practice to use these statements and they should not be used as a blanket disclaimer on food products. These statements should only be used after a meaningful risk assessment has been performed and there is considered to be a significant and real risk to customers with allergens.

Precautionary allergen statements should not be used as a substitute for good hygiene and safety practices. If you would like more information on this, Food Drink Europe (FDE) have produced a best practice guidance. <https://www.fooddrinkeurope.eu/resource/guidance-on-food-allergen-management-for-food-manufacturers/>

- **Free-from Claims**

Gluten Free and Very Low Gluten Claims are specifically controlled and can only be used if the final food contains:

Max 20 mg (Micrograms) per kg of gluten for gluten free claims

or

Max 100 mg per kg of gluten for very low gluten claims

In order to make a gluten free or very low gluten claim, you must be able to guarantee that your product contains less than the maximum permitted level of gluten, as above. To achieve this, you will need to put management procedures in place to prevent cross contaminating with gluten and to conduct regular testing to prove that your products contain less than the 20 mg per kg of gluten.

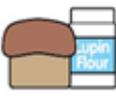
Labelling a product as “*gluten free*” is misleading unless you have followed the above and can prove the levels of gluten in the product are at the set levels.

However, ‘Made with gluten free ingredients’ is acceptable.

Allergen Free and Vegan Claims are two different claims providing different information and are aimed at different consumer groups. It is important not to interchange these, as some allergy sufferers have hypersensitivity to ingredients which may be present in trace amounts. Only name a product as being free from a certain allergen if you can prove the claim. Remember, you must not mislead the consumer.

Currently there is no UK legal definition covering the terms “Vegan” and “Plant Based”. Vegan consumers choose not to consume products that intentionally use ingredients of animal origin (e.g meat, fish, crustaceans, molluscs, milk, eggs, and honey). If you are making these claims on your menu, you must not use any ingredients or foods from an animal origin, remembering to check hidden ingredients.

The 14 Allergens:

	Celery		Molluscs
	Cereals Containing Gluten		Mustard
	Crustaceans		Nuts
	Eggs		Peanuts
	Fish		Sesame Seeds
	Lupins		Soya
	Milk		Sulphur Dioxide

Other considerations

- Pets**

Having pets is fine! However, you must consider this as part of how you prevent any animal hair etc from ending up in the food you prepare. Pets must not be allowed in the kitchen when you are preparing food. All surfaces/equipment that they may have come into contact with must be thoroughly cleaned and sanitised prior to you beginning to prepare or handle your guest's food.

- **Washing Machines**

A common query is about having a washing machine in the kitchen. We understand that washing machines are generally in domestic kitchens, you therefore need to consider this and ensure that no washing is undertaken at the same time as you prepare food for the business.

- **Eggs**

It is best practice to keep eggs in the fridge. However, you may prefer to use them when they are at room temperature. If so, take them out of the fridge a few hours prior to use. Leaving eggs out at room temperature in your kitchen exposes the eggs to lots of changes in temperature, keeping them in the fridge keeps them at a constant temperature.

Keeping eggs at a constant temperature is important as the shell on an egg is porous; fluctuations in temperature can cause condensation to form which can be absorbed into the shell and through to the egg inside, carrying bacteria etc with it.

You must also be aware that, as a commercial business, you should only be using Class A eggs, ie eggs which have come from a registered and approved egg packing centre, such as those found in retail shops.

You must not use your own hens or duck eggs for your clients' breakfasts unless these are Class A and you have approval.

- **Cold smoked salmon**

If you offer a cold smoked salmon, please be aware of new Food Standards Scotland advice about the risks to vulnerable persons. This follows on from some recent cases where people have become seriously ill from eating cold smoked salmon. Here is the link to advice <https://www.food.gov.uk/news-alerts/news/vulnerable-consumers-advised-of-ongoing-risk-of-listeria-associated-with-ready-to-eat-smoked-fish>.

Other laws that may be relevant

- **Planning Permission**

You may need planning permission to run a business from home, so take advice from the planning department of the Council. Contact them at planning@orkney.gov.uk.

- **Business Rates**

You may have to pay increased rates if you use part of your property for a business. Contact the business rates on 01856 873 535 ext. 2133 for advice.

- **Waste Disposal**

Even if your business is home-based any commercial waste produced is classed as business waste. This waste must be separated from household waste and a waste transfer note must be completed when it is collected and disposed. When a business has a waste contract with OIC the Waste Transfer note is valid for a full year or the duration of the contract. You are required to dispose of your waste as a commercial waste either through kerbside collection with OIC or by transporting your own waste to Chinglebraes (you have to be registered with SEPA to do that). There aren't any size limits.

Further information can be found on the council website by checking Duty of Care and responsibilities for businesses. If you have any questions or concern regarding the collection and disposal of business waste, please contact Development and Infrastructure on 01856873535 extension 2320 or email Trade.Waste@orkney.gov.uk

- **Insurance**

We strongly recommend you, to take out insurance to cover claims against you in the same way as any other business. You should consult your solicitor or insurance agent about this.

- **Restrictive Covenants**

Especially in older properties, you may find that the deeds contain clauses that prevent you from carrying out certain activities, and running a food business may be one of them. You should consult your own solicitor about this.

- **Mortgage Restrictions**

If you have a mortgage on your property, you should contact your lender and talk to them about your intentions.

- **Building warrant**

If you are extending or modifying your property, perhaps to accommodate an expanding business you may need a building warrant to cover the work. You can contact the building standards team at the council for advice.

- **Alcohol**

If you are selling alcohol then you may need a licensing under the Licensing (Scotland) Act to cover this. It is worth noting that the definition of "sale" within the licensing act when it comes to alcohol is very broad. If in doubt the council's licensing team can be contacted for advice.

- **Short term lets**

Properties used as short term lets now need to be licensed, unless they are exempt. The council's licensing team can provide more information about this.