

Annex 2 – Transitional Arrangements (Food Standards)

This Annex sets out the transitional arrangements which apply during the transitional period.

The transitional period ends on 31 March 2025, or such time (if earlier) that the Competent Authority notifies the FSA that it is in a position to apply the food standards set out in section 4 (delivery of interventions), section 6.5 (revisits) and Annex 1, section A1.2 (Food Standards Scoring System) of this Code (“the Transitional Period”).

During the Transitional Period, in place of the sections of the Code set out in column 1 of the table below, a Competent Authority may have due regard to the sections in Annex 2 set out in column 2.

Column 1	Column 2
Section of the Code that a Competent Authority does not need to have due regard to where it applies the corresponding section listed in column 2	Section of Annex 2 that a Competent Authority must have due regard to in place of the section listed in column 1
Section 4.2.4.2	Section AA4.2.4 (insofar as it applies to Food Standards matters)
Section 4.3.1	Section AA4.3.1 (insofar as it applies to Food Standards matters)
Section 4.3.2.2	Section AA4.3.2 (insofar as it applies to Food Standards matters)
Section 4.3.3	Section AA4.3.3
Section 4.4.2	Section AA4.4.2
Section 6.5.2	Section AA6.5.2
Glossary Terms: Alternative Enforcement Strategies Broadly Compliant (Food Standards) Confidence in Management (CIM)	AA Glossary Terms: Alternative Enforcement Strategies Broadly Compliant (Food Standards) Confidence in Management (CIM)
Annex 1 Section A1.2	Annex 2 Section AA1.2

AA4.2.4 Initial inspections

This section does not apply to establishments at the level of primary production, with the exception of food business establishments subject to the requirements of Regulation (EU) No 210/2013 on the approval of establishments producing sprouts.

This section applies:

- to new food business establishments who come to the attention of the Competent Authority for the first time
- to food business establishments that have no historical risk-rating
- where there is a change in FBO

Competent Authorities must:

- determine the intervention rating(s) following an initial inspection
- ensure initial inspections take place within 28 days of registration or from when the Authority becomes aware that the establishment is in operation, whichever is the sooner
- use information supplied by FBOs when registering their food business establishments to determine when to carry out an initial inspection

AA4.3.1 Frequency of interventions and the requirements of a risk-based approach

Competent Authorities responsible for enforcing food law must ensure:

- that for food businesses within their area they determine the type of official control method or technique and frequency¹⁴³ using the relevant intervention rating scheme, food hygiene, food standards or food hygiene at the level of primary production, set out in section 4.4¹⁴⁴ and Annex 1, unless otherwise advised by the FSA in accordance with paragraph 2.3 of the Code
- that intervention programmes are planned so that establishments receive an intervention no later than 28 days after the due intervention date. In circumstances outside the control of the Competent Authority such as seasonal business closures, Competent Authorities have the discretion to defer an intervention
- their officers utilise the full range of scores available within the relevant intervention rating scheme at Annex 1

¹⁴³ Chapter 2, paragraph 7.1 of the Framework Agreement

¹⁴⁴ Where the Competent Authority is responsible only for food standards enforcement, or where food hygiene and food standards enforcement is carried out by the same Competent Authority, the food standards risk assessment may be based on the Trading Standards risk assessment scheme but only while it continues to reflect the same frequencies of inspection as those stated in Annex 1.

- where businesses fall into more than one scoring category for a scoring factor, they must be allocated the highest score of those that are applicable
- interventions for higher risk businesses or those that are likely to be high risk always take priority over interventions for lower risk businesses
- their officers when determining the intervention rating of an establishment consider information supplied by others, including:
 - other Competent Authorities
 - other sources such as trade bodies
 - primary authorities or Home Authorities
 - third party audits

AA4.3.2 Revision of intervention ratings

Competent Authorities must ensure their officers:

- only revise the intervention rating(s) of a food business establishment at the conclusion of an inspection or audit, partial or full, and in accordance with section 4.4 and Annex 1 (or any amendment thereto that has been notified to Competent Authorities by the FSA)
- have gathered sufficient information to justify the revision of the intervention rating
- record the intervention rating, and justification for its revision

When new information becomes available, that might suggest the nature of an FBOs activities has changed or the level of compliance has deteriorated the Competent Authority must:

- reconsider both the intervention rating and appropriateness of the next planned intervention for that establishment
- decide whether it is appropriate to conduct an inspection, partial inspection, or audit to investigate further
- revise the intervention rating as necessary
- record the intervention rating, and justification for its revision

AA4.3.3 Alternative Enforcement Strategy

Every Competent Authority must devise an Alternative Enforcement Strategy to determine how they will conduct official food controls at premises rated as low risk in accordance with the requirements set out in Section AA1.2.

AA4.4.2 Food Standards intervention frequency

AA4.4.2.1 Establishments intervention rated category A for food standards

The appropriate planned intervention for an establishment that has been given an

intervention rating of A for food standards, must be an inspection, partial inspection, or audit, which must be carried out at appropriate intervals in accordance with the prescribed frequencies specified in Section AA1.2.

Any other additional intervention, such as sampling or education and training, must be recorded against the establishment for the purpose of monitoring enforcement actions but must not be used as the intervention planned by the intervention frequency as given in Section AA1.2.

AA4.4.2.2 Establishments intervention rated category B for food standards

Establishments that have been given an intervention rating of B for food standards must receive an intervention at appropriate intervals in accordance with the prescribed frequencies specified in Section AA1.2. Such interventions may consist of either an inspection, partial inspection, or audit until such time as the establishment is considered by the Competent Authority to be broadly compliant with relevant food law. Once broad compliance has been achieved, planned interventions may alternate between an inspection, a partial inspection, or an audit or other type of official control.

AA4.4.2.3 Establishments intervention rated category C for food standards

Establishments that have been given an intervention rating of category C for food standards could be subject to an Alternative Enforcement Strategy.

Competent Authorities must ensure that these establishments continue to be subject to official food controls, an important reason being so that complaints can be investigated.

Competent Authorities that decide to subject low-risk establishments to Alternative Enforcement Strategies must set out their strategies for maintaining surveillance of such establishments in their service plan and/or enforcement policy.

These establishments must, as a minimum, be subject to an intervention by the Competent Authority, which could take the form of an Alternative Enforcement Strategy, not less than once every five years for food standards. It is not intended that the flexibility offered to implement Alternative Enforcement Strategies would preclude full inspection, partial inspection, or audit of such establishments, where any of these are the Competent Authority's preferred intervention option, in which case the minimum frequency of intervention is determined by the intervention rating.

Where the establishment in question is subject to approval under Regulation (EC) No 853/2004 the use of Alternative Enforcement Strategies is not an appropriate form of intervention. The intervention for such an establishment must be an official control.

AA6.5.2 Requirement to revisit - food standards

Competent Authorities must carry out a food standards revisit at food business establishments which have the following scores, as set out in the intervention rating scheme in Annex 1 of the Code, a:

- level of (current) compliance score of 40 and/or

- confidence in management/control systems score of 30

Glossary

Alternative Enforcement Strategies (AES)

Methods by which low risk (food hygiene category E and food standards category C in accordance with the Code's intervention rating schemes) establishments are monitored to ensure their continued compliance with food law. AES does not apply to establishments approved pursuant to Regulation (EC) No 853/2004.

Broadly compliant (Food standards)

An establishment that has an intervention rating score of not more than ten points under each of the following parts of Section AA1.2: Food standards scoring system Part 2: Level of (Current) Compliance - Standards; and Part 3, Confidence in Management/Control Systems.

Confidence in Management (CIM)

The Confidence in Management score is part 3 of the Hygiene/Standard Rating Intervention Rating Scheme. The Competent Authority assesses the businesses' food safety management/control procedures using their judgement on the likelihood of satisfactory compliance being maintained in the future. Factors that influence the Competent Authority's judgement include: the previous record of compliance with the FBO; knowledge on food safety; attitude towards hygiene compliance and satisfactory food safety management procedures.

AA1.2 Food standards scoring system

Part 1: The potential risk

A. Risk to consumers and/or other businesses

This factor considers the potential adverse effect on consumers, and the consequences for other businesses, should the business not comply with food standards legislation.

Adverse effects on consumers include safety and economic prejudice. Consequences for other businesses include the economic effects of unfair trading.

Score	Guidance on the scoring system
30	Manufacturers of foods for specific groups. Manufacturers, importers or packers of high value foods, or high-volume foods where there is an incentive for fraudulent adulteration. Manufacturers of foods that contain a wide range of additives; Businesses that make nutrition, nutrient content, or health claims on pre- packed food labels or in advertising. Food businesses including manufacturers and importers that handle imported foods or food ingredients which may be subject to increased risk of chemical contamination.
20	Manufacturers or packers of foods that are subject to statutory compositional standards.
10	Local businesses that use in-store produced labels, window displays, chalk boards, menus etc., for example, butchers, bakers, health food shops, restaurants, takeaways, caterers supplying more than 10 meals per day, and businesses using claims for marketing advantage.
0	Caterers supplying not more than 10 meals per day, for example, bed and breakfast. Any business not included in the categories above.

Score:	
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A. Extent to which the activities of the business affect any hazard

This factor considers the type of activities that the food business undertakes, the need for those activities to be closely monitored and controlled, and their potential effectiveness in maintaining compliance with food standards legislation. Consider whether the business produces, labels, or advertises products to which food standards law applies. If the business produces its own products, consider the monitoring and control of recipes and ingredients.

The scores below provide examples of food businesses to which a particular score could apply.

Score	Guidance on the scoring system
30	Food manufacturers, processors, importers handling a wide range of goods.
20	Local businesses that label loose goods on display, and/or undertake pre-packing for direct sale.
10	Non-manufacturing retail/catering selling only from their own establishment.
0	Any business not included in the categories above.

Score:

B. Ease of compliance

This factor considers the volume and complexity of food standards law that applies to the business, and with which it has a responsibility to ensure compliance.

Consider the range and complexity of products, processes and services including the consistency of raw materials. Consider the difficulty of the task for the food business operator including how easy it is to recognise a hazard.

Score	Guidance on the scoring system
30	Manufacturer, packer, or importer of a wide range of products.
20	Manufacturer, packer, or importer of a limited range of products.
10	Retailers who apply descriptions to food such as butchers, bakers, and delicatessens. Caterers with complex menus.
0	Any business not included in the categories above.

Score:

C. Consumers at Risk

This factor considers the number of consumers likely to be at risk if the business fails to comply with food standards legislation.

Score	Guidance on the scoring system
20	Manufacturers, producers, and packers of food that is distributed nationally or internationally.
10	Businesses whose trade extends beyond the local area, for example, regional supermarket/hypermarket; small-scale local manufacturer.
5	Businesses supplying the local area, for example, high street or corner shop; local supermarket, local restaurant.
0	Businesses supplying less than 30 consumers each day. Any other business not included in the categories above.

Score:

Part 2: Level of (current) compliance

This factor considers the level of compliance observed during the inspection. Adherence to relevant UK or EU Industry Guides to Good Practice and other similar guidance for example, FSA, Food Advisory Committee and LGA should be considered.

Score	Guidance on the scoring system
40	General failure to satisfy statutory obligations. Standards generally low.
10	A typical business with some minor non-compliance with statutory obligations.
0	High standard of compliance with statutory obligations and industry codes of recommended practice, conforms to relevant trade good practice.

Score:

Part 3: Confidence in management/control systems

The actual performance of management is scored in Part 2, on the basis of the results achieved and observed. A management that achieves good food standards performance, well understood by the workforce, should achieve a good standard in Part 2, and consequently a low score for that factor.

Confidence in Management is not meant to reconsider this aspect. It is to elicit a judgement on the likelihood of satisfactory compliance being maintained in the future.

Factors that will influence the inspector's judgement include:

- the ‘track record’ of the company, its willingness to act on previous advice and enforcement, and the complaint history
- the attitude of the present management towards food standards legislation, and the existence or otherwise of relevant home or originating authority arrangements; internal or external technical knowledge on food standards matters available to the company
- the presence of quality systems, including supplier assessments and performance monitoring, appropriate to the size of the business and the risks involved, with clearly defined responsibilities for managing risk
- for small businesses, consider the checks appropriate to that business

Score	Guidance on the scoring system
30	Little or no technical knowledge. Little or no appreciation of hazards or quality control. No food standards management system. Disproportionate number of justifiable complaints since the last inspection. Poor track record of compliance.
20	Staff have a basic understanding of relevant food law. May not have a food standards management system. Significantly varying record of compliance.
10	Score of 10 or better in Part 2. Staff demonstrates awareness of relevant food law and necessary controls. Appropriate food standards management system. Smaller businesses may have minimal documented system. Satisfactory record of compliance.
0	Technical advice available. Subject to internal audit/checks. Good food standards management system, documented records of critical checks and supplier checks, which may be subject to third party audit. Evidence of compliance with documented management system with few non-conformities. No justifiable complaints since the last inspection. Excellent record of compliance.

Score:

A1.3 Food standards inspection frequencies

Category	Score	Minimum intervention frequency
A	101 to 180	At least every 12 months
B	46 to 100	At least every 24 months
C	0 to 45	Alternative Enforcement Strategy or intervention every five years

Establishments rated as low risk (45 or less) need not be included in the planned inspection programme but must be subject to an Alternative Enforcement Strategy at least once in every 5 years.

