

Confidential Filing

Food Safety

FOOD

Part 1: Jan 1989

Part 4: May 1990

In attached folder (The Committee on the Microbiological Safety & Food Report - Pt 2).

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
9.5.90							
11.5.90							
14.5.90							
15.5.90							
31.5.90							
19.6.90							
2.7.90							
PT4 ✓							
GWOS							

PREM 19/3332

PART 4 ends:-

DOH to GOVT. DGFTS. 9.8.91

PART 5 begins:-

AT to MAFF. 3.3.92

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

The Microbiological Safety of Food, Part II.
Report of the Committee on the Microbiological Safety of Food
Published by HMSO
ISBN 0 11 321347 6

Audit Commission: Environmental Health Survey of Food Premises.
The Audit Commission for Local Authorities in England and Wales.
Number 2, June 1990
Published by HMSO
ISBN 0 11 886027 5

Signed

J. Gray

Date

21/2/2017

PREM Records Team

Department of Health

Green House 80-94 Newington Causeway London SE1 6EF

Telephone 071-972 2000
2846

C1418

10a

To All Government Departments,
Agencies and Other Occupiers
of Crown Premises

Your reference

Our reference

Date

9 August 1991

APPLICATION OF FOOD SAFETY LEGISLATION TO CROWN PREMISES

You may already know that, from 1 April 1992, the Food Safety Act 1990 and Regulations made or having effect under it will apply to Crown premises. I am writing to ask you to consider the implications for your Department, Agency or other premises and to let me know of any potential problems you can foresee.

Application of the Food Safety Act to Crown premises will mean that local authority environmental health and trading standards officers will be able to enter any premises where food is supplied, handled, stored or sold. They will not be able to prosecute the Crown for non-compliance with the Act or with Regulations made under it, but they will be able to issue statutory notices. These will be improvement notices, issued where contraventions of hygiene or processing regulations are found and requiring certain measures to be taken to put matters right, and, in extreme circumstances, emergency prohibition notices closing down all or part of the food premises because it poses an imminent risk to public health. The Food Safety Act does provide for the High Court in relation to England and Wales, and the Court of Session in relation to Scotland, to declare unlawful any act or omission of the Crown which constitutes a contravention of food safety legislation on an application of a local authority.

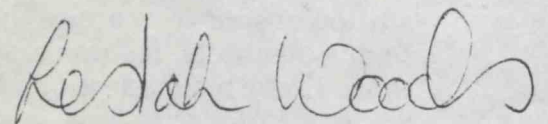
We do recognise that some provisions of the legislation cannot be applied in Crown premises in the same way as they apply to private food businesses. In particular, it is clear that the implications for security in many Crown buildings will not allow local authority staff to exercise their powers of entry without some form of prior notice and it seems desirable in some cases that the local authority officer should be accompanied throughout his inspection. We have the power under the Food Safety Act to issue a Code of Practice to local authorities giving guidance on the enforcement of the Act and we intend to issue one covering the subject of inspections of Crown premises. The objective of the Code of Practice is to ensure even application of the law across the country. It can cover matters such as the timing of inspections, security arrangements, and how to deal with any contraventions of the legislation which are found during an inspection. Codes of Practice must be issued for public consultation before they are finally published and we intend to issue the draft Code on Crown premises in the autumn of this year. The Code must come into force by 1 April 1992 so that it will be applicable as soon as the law itself applies.

The Food Safety Act allows some premises to be exempt from the powers of entry provided to local authority staff on grounds of national security. We would envisage this exemption being applied where it is essential for the security of the State that local authority officers do not become aware of the whereabouts of a particular building. We would hope that with the safeguards of prior notice and for local authority staff to be accompanied during their visit (which of course will be confined to food areas only) there will be no need to seek exemption for premises simply because the subject matter they deal with is confidential. Where the personal security of the occupant of a building is an issue, the Code of Practice can provide that local authority staff should not carry out inspections in such a way as to compromise the security of that individual. We do not therefore see the need for large numbers of exemptions on grounds of national security, but you will wish to consider whether any of the premises for which you are responsible should be exempt on these grounds. The legislation provides for a Certificate of Exemption to be issued by any Secretary of State.

Regulations are being made under the Food Safety Act to require owners of food businesses to register the premises they use with the appropriate local authority. The aim of these regulations is to provide local authorities with information on all the food businesses in their area so that they can target their inspection resources on those which represent the highest risk to health. We will be extending the registration provisions to Crown premises used for food purposes after April 1992. Premises for which a national security exemption has been granted will be exempted from registration. There may, however, be other categories of Crown premises which need to be exempted from registration and I should be grateful if you could let me have details of any within your field of responsibility.

I should be grateful if you could let me know of any potential problems which the application of the legislation, both the Food Safety Act itself and Regulations having effect under it, may cause for premises for which you are responsible. This will allow us to cover such problems in the proposed Code of Practice. I should be grateful for your reply by 30 August.

I am copying this letter to the people named on the attached list. If there is anyone else to whom you feel it should be copied, perhaps you would be kind enough to let me know or forward it to them on my behalf. We are most concerned that everyone affected by this legislation should be involved at the earliest possible stage.



MS LESLAH WOODS
Environmental Health
and Food Safety Division

ENC

MRS HOGG

19 February 1991

cc Mr Turnbull

Mr Potter

Mr Rosling

MAIL ORDER SMOKED FISH ETC

Bernard Levin's tirade against the "smoked salmon ban" is fortunately not quite right. MAFF, with the agreement of the Department of Health, are proposing to behave more sensibly than his article would suggest.

When MAFF proposed to make new Food Hygiene Regulations covering the temperature at which food is stored and moved around, they did not think that the regulations would cover mail order food. Lawyers subsequently told them that mail order food was caught. Because the postal system cannot guarantee cool temperatures throughout transit, this will make it illegal, from 1 April, to transport perishable food by post.

This could have a devastating effect on small mail order companies supplying smoked salmon and other delicacies. Scotland would be particularly hard hit. (The fact that the regulations are not yet being applied in Scotland is only a partial help. The law applies to the carrier, so the Post Office moving smoked salmon from Scotland to an address in England would be at fault.)

MAFF are looking at a way through to help the industry. They are going out to consultation shortly arguing that mail order food should be exempt from the regulations for a period of two years while ways are found of reducing the risk of posting food. Options include more salt, more smoking, drier consistency and preservatives. There is an obvious trade off between consumer

taste and people's dislike of preservatives versus the risk of pathogens in food which is not kept cool.

The mail order business thus has a reprieve. One proposal which will probably worry them, however, is having to apply labels during the two year interregnum pointing out the possible dangers of eating perishable food sent by post. But I doubt if we could really argue against this. I suspect devotees will pay no attention.

It is unclear, incidentally, how high the level of risk is. Apparently there have been cases of food poisoning linked to mail order smoked fish in Scandinavia and North America. This may be linked to the processes used in those countries. There seem to have been few established cases in the UK.



CAROLYN SINCLAIR

197.CS



Bernard Levin swims against the official tide on a smoked salmon ban

It is notoriously difficult to mark precisely the moment at which a country's freedom has been so eroded by ministers and their officials that serious thought must be given to pelting these pestilent busybodies with offal in the streets or putting rat-poison in their coffee. But I think it is now time for the rat-poison.

A year or two ago (I have referred to this several times, and I still receive letters from correspondents who clearly believe it is a joke, *which it isn't*), legislation was passed under which it was made a serious criminal offence to evict from your home, however gently and lovingly — nay, with a bag of insects for each parting guest — any bat or bats that had taken up residence there. (And keep your voice down, or the bastards will get you into court for the insects.)

"The appetite doth grow by what it feeds on": Shakespeare didn't know the half of it, for only a couple of months ago a new law was coined which went in impudence much further than the bat-impudence, if only because the fine for breaking this one is £2,000, double the bat-impost. Now, we are criminals if we stamp on an adder — a poisonous snake which kills a child from time to time, though to the people who thought this one up an adder is much more important than a child, *and that isn't a joke either*. But what they have done now must surely signal the point at which we must take a stand or resign ourselves to a life of endlessly multiplying regulations, mostly dreamed up by civil servants with overworked ministers who cannot scrutinise everything put before them and indeed who might even be horrified when they discover what they are now obliged to defend. The rat-poison, please, and a spoon.

In a number of items — not many, but a satisfactory list — British food, which was once the despair of the world, can now challenge that of almost any other country. Among the most notable of these triumphs is the quality and variety of smoked fish we produce. Nowhere, certainly not in France (which deservedly car-

ries off more culinary prizes than any other nation), is there smoked salmon to touch ours for succulence and flavour; the same goes for smoked trout and other aquatic beasties, including eels.

Many years ago, there was a shop in Old Compton Street which sold every kind of smoked product, including the finest kippers I have ever tasted in my life. The fame of the shop (it had the devastatingly inappropriate name of Hamburger) had spread very widely; when I found it and its treasures it had been there for a long time; its excellent products and the knowledge of them had led to a considerable mail-order business all over the country.

Well, that source of feastworthy foods is no more, but I am happy to say — or, as you shall learn, I was until a few days ago happy to say — that the practice of sending such goodies through the post has flourished mightily, to the mutual satisfaction of the firms that provide such delicacies and the customers who consume them with delight; for one Hamburger and Co there are today scores of such suppliers. But we are now in danger of losing the lot, because the pestilent busybodies with whom I started have decreed that the entire trade is to be abolished.

You think I jest, or exaggerate? You are wrong on both counts.

"They" have decided that such enjoyment must cease, and the pretence they are maintaining (for even they are not yet ready to tell the truth in these matters, which is indeed that enjoyment must be stamped out wherever it is found) is that there is a health risk. No matter that there is *not* a health risk. No matter that this admirable postal service has been going on for decades without any harm accruing to anyone. No matter that as the business has grown so have the methods by which cleanliness, freshness and purity have been guaranteed. No matter that the modern policy governing "sell-by dates" provides yet another safeguard for the recipient. No matter — oh, no matter at all — that the customers want the business to continue. Some weevil in the Department of Health has found a legal means of reducing pleasure, and he is about to achieve his aim.

Do you realise that it is all Mrs Thatcher's fault? Oh, she hasn't had anything to do with it directly, and if she reads this it will surely be the first inkling she will have had, but it is her fault, for switching Kenneth Clarke from the Department of Health; do you suppose that that glorious advertisement for pleasure, never seen

without a mini-cigar in mouth and a beer-belly hanging over his belt, would have listened for more than five seconds to the weevil who brought him the proposal before kicking him down the stairs?

You only have to take one look at his successor as secretary of state — the etiolated William Waldegrave — to see that he has never been drunk in his life, and that if you offered him a very ripe pheasant, perfectly cooked, his first action would be to pour a bottle of Dettol over it.

There is a robust MP, Anthony Steen, from Devon, a robust place, who has gone to war on this nonsense. He showed the nonsense for what it was in these robust words:

I would point out that smoking is an ancient way of preserving food. If it did cause harmful bacteria to multiply, I doubt the population would have survived one winter in the early Middle Ages, let alone centuries. This could put paid to very successful businesses. We are getting neurotic in this country about food. We ought to get it in perspective.

And not only in perspective, but also on our plates. A more than ordinarily hapless minister called Dorrell, from the Department of Health, was put up to tell Mr Steen about the forthcoming regulations and the wholly imaginary dangers, but when Mr Steen asked how

many cases there had been of food poisoning caused by posting smoked fish, the answer was none. Later, the department said that micro-organisms *could* grow in smoked salmon; I dare say they could grow in what Mr Dorrell uses for a head, and they could certainly grow in the fur on Kenneth Clarke's tongue, though there they would be welcomed as an extra taste and consumed with relish.

There is an additional lunacy to this business; the proposed regulations do not yet apply to Scotland, which does the greater part of this trade; it is not clear whether imaginary micro-organisms don't grow north of the border, or whether the Department of Health has noticed that there is already hardly a Scottish Tory MP with a safe seat and that ruining an entire Scottish industry might be unwise.

The last thing heard from the Department of Health was that they were "trying to act before anyone is seriously ill". No they aren't; they are trying to act before people seriously enjoy themselves. Later: The EC is about to abolish the whole of the British smoked fish trade, not just the postal service, because the hooks used for smoking are, it says, insufficiently corrosion-resistant. And that isn't a joke, either.

**PRESS
RELEASE**

Richmond House
79 Whitehall
London SW1A 2NS

Telephone 071-210 5963

H91/9

14 January 1991

**REPORT OF THE RICHMOND COMMITTEE ON THE
MICROBIOLOGICAL SAFETY OF FOOD - PART TWO PUBLISHED**

The Government today published its response to the Richmond Committee's second report on the Microbiological Safety of Food.

The report was addressed to the Secretary of State for Health, the Minister of Agriculture Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland.

In reply to a Parliamentary Question from Sir Anthony Grant MP for Cambridgeshire South West, Stephen Dorrell, Parliamentary Secretary for Health said:-"Sir Mark Richmond has submitted Part two of his Committee's Report to the Secretary of State for Health, the Minister of Agriculture Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland. It is being published today.

"In this, the final part, the Committee has examined arrangements in Scotland and Northern Ireland, red meat production, milk and milk products, fish and shellfish, transport, retailing and wholesaling, catering, the consumer and the home, education and training, and research. Part two together with Part one, surveys authoritatively a wide range of microbiological safety issues and recommends technical, scientific, legal and educational measures to reduce the risk of microbiological food poisoning.

"In this context my colleagues and I welcome the Report as a useful and constructive document. It makes many useful recommendations which we shall follow up in a positive way; and as with Part one of the Committee's Report, we trust that others to whom the recommendations are addressed, in particular the food industry and environmental health authorities, will similarly examine it to see how the level of food safety in this country can be further improved. We shall certainly draw it to the attention of interested bodies.

"As with Part one of the Committee's Report, the Government has decided to publish its immediate response to the Committee's recommendations. This is set out in a paper which is being put into the libraries of both Houses.

[MORE]

"The Government and I are most grateful to the Committee for the hard work it has put into producing both parts of the report."

The Committee's recommendations together with the Government's responses are annexed to this Press Release.

NOTES TO EDITORS

The setting up of the Committee on the Microbiological Safety of Food was announced by Kenneth Clarke, the then Secretary of State for Health, on 21 February 1989. Its terms of reference were:

"To advise the Secretary of State for Health, the Minister of Agriculture, Fisheries and Food and the Secretaries of State for Wales, Scotland and Northern Ireland, on matters remitted to it by Ministers relating to the Microbiological safety of food and on such matters as it considers need investigation."

Ministers went on to say:

"The work of the Committee will be to look at the specific questions relating to the increasing incidence of microbiological illnesses of foodborne origin, particularly for salmonella, listeria and campylobacter; to establish whether this is linked to changes in agriculture and food production, food technology and distribution, retailing, catering and food handling in the home; and to recommend action where necessary."

The Chairman of the Committee, Sir Mark Richmond, was at the time of his appointment, Professor of Molecular Microbiology and Vice Chancellor of the University of Manchester. Since October 1990 Sir Mark has been Chairman of the Science and Engineering Research Council.

Membership of the Committee combined a high degree of expertise (in microbiology, epidemiology, environmental health, food science and veterinary medicine) with practical experience (members included a farmer, food scientists with experience in food production, distribution and catering, and a consumer representative.)

Part I of the Committee's report and the Government response to the recommendations were published in February 1990. Part I dealt chiefly with the incidence of food poisoning, outbreak management, surveillance arrangements and the general legislative framework and also included a chapter each on manufacturing processes and poultry meat.

[END]

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NBPM
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CCFO

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon John Gummer MP
Minister of Agriculture, Fisheries and Food
Whitehall Place
London
SW1A 2HH

14 January 1991

RICHMOND REPORT PART II

Thank you for sending me a copy of your letter of 21 December 1990 to David Waddington.

2. I agree with the proposed Government's response to the recommendations in Part II of the Report and the publication of the summary of recommendations and the Government's response. You confirm in your letter that the implications of the Government's response for central and local government and for industry, have been taken into account in our consideration of the Food Safety Act 1990 and Part I of the Report.

3. This is on the clear understanding that any further resource implications for local authorities of implementing the acceptable recommendations in Part II, which you confirm in paragraph 12 of the background note should not be significant, are contained within the £30 million which Norman Lamont agreed would be allowed for in the local authority revenue support grant for 1991-92.

4. I am copying this letter to the Prime Minister, Stephen Dorrell, members of HS Committee and Sir Robin Butler.

DAVID MELLOR

Food Safety Nr 4





Ministry of Agriculture, Fisheries and Food
Whitehall Place, London SW1A 2HH

NB/n
2/12

cc PH
(don't copy the whole report,
you can collect it this
way)

M 2/12

From the Minister

The Rt Hon The Lord Waddington QC
Lord Privy Seal
Privy Council Office
Whitehall
London
SW1A 2AT

21 December 1990

RICHMOND REPORT PART II

In attached folder

attached
The Committee on the Microbiological Safety of Food under Sir Mark Richmond has now completed its work and submitted Part II of its report. The Government is committed to publishing the report, and Part I of the report was published on 15 February 1990 along with the Government's response, which had been cleared with MISC 138. The attached note sets out the background of the Committee, details of Part I and summarises the main points of Part II and their implications. The chapters of most interest are the general conclusions (Chapter 2) and summary of recommendations (Chapter 13).

In its general appraisal the Committee concludes that there are many reasons for the increase in food poisoning and all have a role to play in its reduction. At the same time it points to poultry and their products as the most important source of infection. Its report contains a large number of practical recommendations which the Government can accept. The one major exception is the reiteration of the Committee's recommendation that catering and butchery premises should be licensed. We consider that this should again be rejected, but that the Government should otherwise welcome the report. The implications for central and local government and for industry have already been taken into account in considering the Food Safety Act 1990 and Part I of the Committee's report, but it will remain necessary to scrutinise individual measures as they come forward.

Officials in DH and MAFF have agreed with officials in other interested Departments (the territorial departments, the Treasury, DOE, DTI, DES and Department of Transport) a detailed

response to the recommendations (Annex 2). We seek colleagues' agreement to this response, to the publication of Part II of the report on 14 January and, as with Part I, to the simultaneous publication of the Government response. The text of the proposed PQ and Answer is attached.

We are sending copies of these papers to the Prime Minister, to all members of His Committee and to Sir Robin Butler. If we are to meet the proposed publication date we need clearance by 9 January. Unless we hear to the contrary by that date we will assume that colleagues are content.

John Gummer

John

JOHN GUMMER



Stephen

STEPHEN DORRELL

POLICY IN CONFIDENCE

Question

To ask the Secretary of State when Part II of the Report of the Committee on the Microbiological Safety of Food will be published.

Answer

Sir Mark Richmond submitted Part II of his Committee's Report to the Secretary of State for Health, the Minister of Agriculture Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland. It is being published today.

In this, the final part, the Committee has examined arrangements in Scotland and Northern Ireland, red meat production, milk and milk products, fish and shellfish, transport, retailing and wholesaling, catering the consumer and the home, education and training, and research. Part II together with Part I, surveys authoritatively a wide range of microbiological safety issues and recommends technical, scientific, legal and educational measures to reduce the risk of microbiological food poisoning. In this context my colleagues and I welcome the Report as a useful and constructive document. It makes many useful recommendations which we shall follow up in a positive way; and as with Part I of the Committee's Report, we trust that others to whom the recommendations are addressed, in particular the food industry and environmental health authorities, will similarly examine it to see how the level of food safety in this country can be further improved. We shall certainly draw it to the attention of interested bodies.

As with Part I of the Committee's Report, the Government has decided to publish its immediate response to the Committee's recommendations. This is set out in a

POLICY IN CONFIDENCE

paper which is being put into the libraries of both Houses.

My Rt. Hon Friends and I are most grateful to the Committee for the hard work it has put into producing both parts of the Report.

The Report is addressed to the Secretary of State for Health, the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland, the Secretary of State for Wales and the Secretary of State for Northern Ireland.

REPORT OF THE COMMITTEE ON THE MICROBIOLOGICAL SAFETY OF FOOD

("RICHMOND COMMITTEE") PART II

Background

1. In February 1989, the Government announced the establishment of the Committee on the Microbiological Safety of Food, under the Chairmanship of Sir Mark Richmond, with the following terms of reference:-

"To advise the Secretary of State for Health, the Minister of Agriculture, Fisheries and Food and the Secretaries of State for Wales, Scotland and Northern Ireland, on matters remitted to it by Ministers relating to the microbiological safety of food and on such matters as it considers needs investigation."

Ministers went on to say:

"The work of the Committee will be to look at specific questions relating to the increasing incidence of microbiological illnesses of foodborne origin, particularly for salmonella, listeria and campylobacter; to establish whether this is linked to changes in agriculture and food production, food technology and distribution, retailing, catering and food handling in the home; and to recommend action where necessary."

2. The Committee submitted Part I of its Report in February 1990 which was considered by colleagues in MISC 138 who agreed to its publication together with the Government's response MISC 138(90 1st). In general the report and response were well accepted. Part I dealt chiefly with the incidence of food poisoning, outbreak management, surveillance arrangements and the general legislative framework. It also included a chapter each on manufacturing processes and poultry meat. The Government has taken forward some of the recommendations in the Food Safety Act 1990; it is implementing the major recommendations for an expert Advisory Committee and a Steering Group to ensure adequate microbiological surveillance of food and of foodborne illness.

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Report, Part II

3. The Committee has now completed its work, submitted Part II of its report and been wound up. Part II contains chapters on each of the following:-

- Arrangements in Scotland and Northern Ireland
- Red Meat Production
- Milk and Milk Products
- Fish and Shellfish
- Transport
- Retailing and Wholesaling
- Catering
- The Consumer and the Home
- Education and Training
- Research

4. Eggs are not covered. The Committee concludes (paragraphs 1. 12-13) that it is too early to draw firm conclusions about the Government's approach to the problem of salmonella in eggs, and recommends that this topic should be considered by the new Steering Group and Advisory Committee as soon as possible in their programmes of work.

General Conclusions of Part II

5. Part II brings together an appraisal of the diverse factors bearing on microbiological food poisoning. Overall, the Committee concludes (in Part II, Paragraph 2.18):

"In summary, therefore, we see the present level of foodborne illness in the UK as reflecting many different causes and as part of an international problem. Factors relevant in increasing the risk of foodborne illness, range from changes in agricultural practice, changes in the pattern of food consumption, changes in the way food is processed and handled, and changes in the lifestyle of consumers. No one of these areas is predominant: no one category of participants in the food chain has sole blame or sole responsibility. All those involved in the food chain have their part to play in minimising the risks."

We agree with this conclusion; and most people are likely to accept it.

6. Within that general conclusion the Committee does, however, point to poultry and their products as the most important source of infection and considers that, as the handling and preparation of foodstuffs will not always be perfect, the growth in popularity of poultry meat must be associated with the increased incidence of food poisoning. This conclusion will not be welcome to the egg and poultry industry

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but it is doubtful whether they will seriously try to refute it. The media may well seize on these findings but we can point to the tough and wide-ranging measures the Government has already taken.

The Recommendations of Part II

7. Many of the recommendations in Part II are directed to central Government but nearly half are directed to others, notably various branches of the food industry. The Government is urged to improve its surveillance arrangements in Scotland and Northern Ireland, as in the recommendations for England and Wales in Part I. The main thrust, however, is towards advice and guidelines on good practice and training. Thus, most of the recommendations are either addressed directly to sectors of the food industry or invite Government to promote the preparation of guidelines or codes of practice. Only a few recommendations call for regulatory initiatives, and in most of these cases the Government is already committed to action. We can therefore respond positively to most of the recommendations.

Training

8. The Committee emphasises the importance of training, both of food handlers and of enforcement officers. This is in line with our own intention of introducing training requirements under the Food Safety Act. We are now considering the responses to a consultation exercise and will take account of the Committee's recommendations in this process.

Licensing and Registration

9. The Committee welcomes the Government's proposals for registration of food businesses. However, it reiterates its recommendations for licensing, particularly of catering premises and those premises carrying out butchery and processing of meats, which have been associated with a number of outbreaks of foodborne illness.

10. The Government rejected the recommendations for licensing in Part I. The considerations have not altered since then. Theoretically licensing provides control on two fronts: prior approval of a new business, ensuring that it is set up to operate hygienically; and the ability to withdraw a licence and so close the business if operating standards are poor. The controls in the Food Safety Act provide ample powers to achieve the latter in other ways, while the registration procedures will enable local authorities to inspect a new business before it opens to give advice.

11. There are about 300,000 catering outlets in England and Wales alone. Licensing those and the large numbers of premises handling meat would therefore be a considerable extra burden on local authorities which would require extra funds. It would also be a burden on business and, by controlling market entry, it is bound to have an inhibiting effect on enterprise and competition. Given that the objective

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can be achieved by less onerous means, it is unnecessary. As in the response to Part I, this is the only issue on which we think the Government should wholly reject the Committee's recommendations.

Finance and Regulatory Implications

12. Central Government - the action indicated in the Government response can be financed within the Departmental provision agreed in this year's Public Expenditure Survey.

Local Authorities - for some months local authorities have argued that they may be unable to implement the Food Safety Act, mainly because of charge-capping. Nevertheless, the further resource implications of Part II for the enforcement authorities should not be significant.

Businesses - the recommendations for better design of premises and equipment should not entail expenditure beyond what would be expected in the normal course of replacement. Training requirements were foreshadowed in the Food Safety Act but the burdens on businesses will be carefully considered when regulations are drawn up. Ministers have already made clear that the regulatory burden of registration will be minimal.

Publication

13. In line with the procedure followed for Part I, it is proposed that publication of Part II should be announced by means of a written PQ and a press conference to be taken by Sir Mark Richmond. The aim is to do this on 14 January when Parliament resumes.

Conclusion

14. Colleagues are asked to:-
- a. endorse the Government's response set out in Annex 2
 - b. agree to publish Part II of the Report simultaneously with a summary of its recommendations and the Government's response.

Secretary of State for Health
Minister of Agriculture, Fisheries and Food

Annex 1 - Part II of the Richmond Committee's Report

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Annex 2 - Summary of recommendations in Part II and the proposed Government response.

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LM

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

30 July 1990

Dear Andy,

FOOD IRRADIATION

The Prime Minister has seen Mr Gummer's minute of 27 July. She has noted, in particular, the description in the note which was attached of the various safeguards that will be built into the draft regulations. She was content, therefore, to go out to consultation on the two proposed regulations.

I am copying this letter to the Private Secretaries to members of MISC 138.

Yours sincerely

Andrew Turnbull

ANDREW TURNBULL

Andy Lebrecht Esq
Ministry of Agriculture, Fisheries
and Food

A large, stylized handwritten mark or signature, possibly a checkmark or a flourish, located in the bottom right area of the page.

CONFIDENTIAL



Ministry of Agriculture, Fisheries and Food
Whitehall Place, London SW1A 2HH

CCP
Prime Minister
To note position reached
No need to go through the note though
you might like to look at para
6 which sets out the
safeguards

AS
27/7

ms

From the Minister

CONFIDENTIAL

PRIME MINISTER

FOOD IRRADIATION

You may recall that a little over a year ago, MISC 138 concluded that we should delay the introduction of food irradiation, until powers had been taken in the Food Safety Bill to establish a system of central Government licensing of irradiation plants. The Bill has now received Royal Assent. We propose to go out to consultation this month on two regulations which will lift the current ban, introduce the proposed licensing system and provide for the labelling of irradiated food to ensure consumers can choose whether or not to buy it.

Since the subject of food irradiation has proved, and no doubt will continue to prove, particularly controversial, colleagues may find it useful to have a short report on the current position including the Community dimension. This is attached.

Copies of this letter go to MISC 138 colleagues.

Ministry of Agriculture
Fisheries and Food

27 July 1990

JSG

J S G



FOOD IRRADIATION

NOTE BY THE MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
AND THE DEPARTMENT OF HEALTHBackground

1. Food irradiation was considered by MISC 138 on 22 March 1989. The Group agreed that food irradiation should be authorised in the United Kingdom under a control system, the broad lines of which were outlined in MISC 138(89)7. The Group agreed however that authorisation should be delayed until the necessary full powers were available under the Food Safety Act 1990, which has just received Royal Assent.

European Community Action

2. A Commission proposal to introduce Community arrangements for food irradiation (as part of progress towards the Single Market) was put forward in December 1988. Due largely to political opposition to the process from some member states, progress has been disappointing. In December 1989 the Council could not agree on the basic questions of whether to allow irradiation throughout the Community and, if so, for what products. The Irish left the issue alone until the end of their Presidency, but then managed to obtain the Council's agreement (Germany and Luxembourg dissenting) to work on a compromise under which herbs and spices could be irradiated throughout the Community and individual member states could decide what other products to permit. It is questionable whether such an outcome is compatible with the Treaty of Rome and it remains unclear if and when a Directive can be agreed.



3. Any proposals for UK regulations will have to be notified to the Commission. It is open to them to object on the grounds that a proposal is before the Council. However irradiation of food is already permitted in six other member states and the German Democratic Republic. It is generally accepted that irradiation should be permissible for herbs and spices by 1 January 1991, when a derogation permitting an alternative treatment expires. In response to a French notification to permit the irradiation of certain types of egg white the Commission has commented that "it would be suitable for member states to refrain from legislation on the subject pending adoption of the Community provisions". It has not however given formal notice to desist. It is unlikely that the Commission would object, except possibly on product coverage.

Parliamentary Debate

4. The House of Lords Select Committee on the European Communities examined the Commission proposal thoroughly and reported in December 1989, shortly before the Council discussion. It concluded that irradiation should be approved, but that the Government should not go ahead until the draft Directive had been agreed. Its detailed conclusions were generally in line with the Commission's and the Government's proposals, except on one point. The Commission originally suggested a wide product coverage, but then proposed a much more limited list. The Select Committee found that there was no scientific justification for limiting the list, but thought that, subject to the addition of whole poultry, the limitation would enable the effects of irradiation to be monitored and the regulations to be tested in practice.

5. Irradiation was extensively debated in both Houses during proceedings on what is now the Food Safety Act 1990. Consonant with media coverage, much opposition was expressed, mainly on grounds which the Select Committee had already examined and found to be either unfounded or insufficient reason for delay. The



Government obtained the necessary enabling powers without too much difficulty, but it is clear that the implementing regulations will be closely scrutinised.

Draft Regulations

6. It is proposed to publish two draft Statutory Instruments for consultation at the end of July with a view to having them made and laid in time to come into effect on 1 January, with the main provisions of the Food Safety Act. The first will deal with the general controls on irradiated food and the second with the labelling of irradiated food. The general regulations will lay down the detailed controls as previously agreed by the Group, namely:

- (a) food irradiation facilities to be subject to licensing by MAFF, DH and where appropriate territorial Ministers;
- (b) provisions to ensure that only food of sound microbiological quality is treated;
- (c) premises to be subject to regular inspections;
- (d) full commercial records to be kept for five years;
- (e) sufficient details to accompany the treated produce to allow tracing back;
- (f) imported irradiated food only accepted from officially recognised plants.

7. It is proposed that the draft regulations should specify the wide product coverage originally proposed by the Commission's Scientific Committee for Food, but should provide for an assessment of the need for the process in individual cases in terms of food



hygiene or other technological benefit. The licences would then specify the particular foods and doses. This approach is consistent with the basis on which discussion is currently taking place in Brussels, but the Commission may balk at provisions going wider than the amended proposal which remains on the table. It may therefore be necessary to reconsider the point in the light of EC and domestic consultations, but at this stage it seems right to go for the least restrictive approach.

8. The labelling regulations will introduce mandatory labelling - to ensure the fullest possible consumer choice. They are in any case required to implement Directive 89/395/EEC amending the Food Labelling Directive (due by 16 December 1990). The draft regulations go further than strictly required by the Directive, by extending the requirement to label irradiated foods in catering outlets. This rule does not apply to other food processes. However, public debate about irradiation has made it very clear that there will be strong opposition to any proposal which does not allow individual consumers to choose whether or not to eat irradiated food.

9. The Statutory Instruments will be subject to negative resolution of either House of Parliament but given the level of public and Parliamentary interest in the issue of food irradiation there is every likelihood of Parliamentary debates.

Timing

10. As explained above, it is necessary at least to provide an alternative treatment for herbs and spices by 1 January 1991. The industry is developing alternative treatments, in order to avoid having to irradiate, but these may not be suitable for all herbs and spices because of their effect on the flavour. There are also public health reasons for making irradiation available, even though



initial uptake is likely to be low. It is therefore proposed to go ahead without delay.

Compliance costs

11. Compliance Cost Assessments for the two regulations are attached as appendices 1 and 2. The costs of prior assessment, licensing and inspection of plants which will be chargeable to plant operators are small - £8,000 non-recurring costs as against £5 million for constructing a purpose-built plant and £5,000 estimated annual costs against running expenses of £0.5 million for replacing the radionuclide source alone.

Recommendation

12. The Group is invited to note progress towards the authorisation of irradiation in the United Kingdom.

Ministry of Agriculture,
Fisheries and Food

Department of Health

July 1990

COST COMPLIANCE ASSESSMENT

THE FOOD (CONTROL OF IRRADIATION) REGULATIONS 1990

1. Purpose and Benefits

The Regulations will permit the sale of irradiated foods in Great Britain and provide for a system of licensing for food irradiation facilities. These measures will give consumers and industry the opportunity to benefit from a process that can enhance food safety, and ensure that the treatment is correctly applied.

2. Business sectors affected

The sale of irradiated foods in the UK has been banned since 1967, there are therefore no domestic companies in the business of irradiating food. In the short term, lifting the ban will provide scope for the main UK contract irradiation company (primarily in the business of sterilising medical supplies) to diversify into the treatment of low volume/high cost foods such as dried herbs and spices. Operations on a larger scale would require new purpose built facilities - these are costly and time consuming to construct (around £5 million over 18-24 months) and expensive to operate (renewal of the radioactive source alone would cost up to £500K annually). These economic factors and the degree of uncertainty over consumer reaction to irradiated foods suggest that the industry may be slow to develop, with perhaps 4 or 5 plants operational by the end of the decade. It is most unlikely that small businesses will be able to invest in this area.

3. Costs to business

(a) additional annual costs: £5,000 for each plant (assuming 3 routine inspections by experts from the licensing authority each year) plus a minimal sum to comply with record keeping and documentation requirements.

(b) non recurring costs : £8,000 for each plant (the cost of prior assessment, inspection and licensing).

The above are estimated using 1990/91 staff costs.

4. Amelioration of costs

Food irradiation is a controversial process, new to Great Britain and there have been strong demands from consumers and industry representatives for the process to be introduced under strict controls in order to foster consumer confidence.

5. Review

The frequency of routine inspections by the licensing authority will be reviewed in the light of experience with the first operational facilities.

6. Alternative approaches

The intended licensing system is in line with a proposed EC Directive on food irradiation, the recommendations of the Codex Alimentarius Commission and the regulatory controls of the 21 countries throughout the World that already have commercial food treatment facilities. A system of registration for irradiation plants was considered, but rejected because it would not have provided the same degree of control on the safety and quality of treated foods. It would also have been out of line with the Codex recommended controls and the likely future EC regulatory regime and may have restricted GB exports of treated foods.

COST COMPLIANCE ASSESSMENTTHE FOOD LABELLING (AMENDMENT) REGULATIONS 19901. Purpose and Benefits

The regulations will require irradiated foods to bear an indication of treatment in the form of "irradiated" or "treated with ionising radiation". The regulations in part implement Council Directive 89/395/EEC in respect of prepacked foods delivered to the ultimate consumer or to a catering establishment. National measures in respect of non-prepacked food and food sold by caterers are included in the regulations under a derogation to Member States contained in the Community Food Labelling Directive 79/112/EEC. The regulations will ensure that, irrespective of where food is purchased, consumers are given clear, standard information that foods, and listed ingredients of compound foods, have been irradiated, and can therefore exercise freedom of choice.

2. Business Sectors Affected

The measures will affect all businesses involved in providing irradiated food to the ultimate consumer or to caterers. It is likely that, in the short to medium term, irradiation will be limited to those foods for which treatment brings a readily identifiable food safety benefit. Moreover consumer reaction to irradiated foods is uncertain; they may well approach them with caution. Irradiated foods will therefore not be available across the whole range of food manufacturing and preparation businesses. In practice only certain dried herbs and spices, poultry and some seafoods are likely to be treated.

3. Costs to Businesses

For businesses involved in the preparation and labelling of prepacked foods, the costs of providing information about irradiation on the label depends upon the notice given. Few businesses carry more than six months' stock of labels and packaging. Those who are likely to be the first to use



irradiation (herbs and spices) are well aware that it will be accompanied by a labelling requirement. There should be ample time to use up existing labels and the costs in these businesses (essentially for minor redesign of the label) are therefore expected to be negligible.

Some costs will arise for those selling irradiated foods loose and for caterers, where labelling requirements are more restrictive than at present. For loose sales, the cost of a set of the necessary notices should not be more than a few pounds. For food sold by caterers where businesses may need to make most adjustment, the requirements have been carefully framed in consultation with the catering industry so as to fit in as far as possible with current practices on displaying information. It will be possible to meet the labelling requirements by practices as simple as hand-written notes on menus and the costs of including the necessary information when menus are re-printed will be negligible. A separate notice in the restaurant might cost a few pounds, but again the cost per shop will be low.

4. Amelioration of Costs

No business will be obliged to handle irradiated foods and many will choose not to do so at first. Those who wish to do so will have time to prepare to meet the labelling requirements.

5. Review

The regulations will be reviewed by 1995, along with the regulations authorising irradiation.

6. Alternative Approach

The provisions for prepacked food are necessary to implement EC Directive 89/395/EEC. The detailed rules for labelling non-prepacked foods and foods sold by caterers are, under the Community Food Labelling Directive, at Member State's discretion. It would be possible to rest on exhortation, but this would fail to meet the Government's commitment to full and clear labelling of all irradiated foods, in order to give the consumer freedom of choice.



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The Rt Hon Nicholas Ridley MP
Secretary of State for Trade and Industry
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Telephone 071 210 3000
From the Secretary of
State for Health

12 JUL 1990

Mr. Ridley,

FOOD HYGIENE (AMENDMENT) REGULATIONS

attached

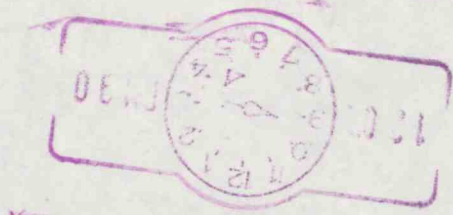
Thank you for your letter of 27 June. We are clearly not going to agree on the need to introduce Regulations on temperature control.

I am of course aware of your views on the need to avoid introducing further regulatory burdens and as I have already said these have been taken into account in preparing these Regulations.

In view of your reiteration that you will not oppose the laying of the Regulations I will be laying them before the summer recess.

Copies of this letter go as before to the MISC 138 colleagues.

KENNETH CLARKE



MR TURNBULL

2 July 1990

NDFM
HT
217
JPM

FOOD SAFETY: AUDIT COMMISSION SURVEY OF FOOD PREMISES

You will recall that the Audit Commission were asked to look at the role of Environmental Health Officers in enforcing food safety standards. One aim was to find out whether there is an overall shortage of EHOs. This is important

- for the practical success of the Food Safety Bill; and
- in the context of new burdens on Local Authorities.

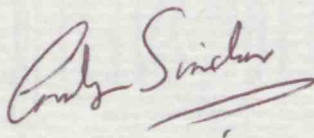
The Commission have produced the first results of their work (attached). This looks at the present state of food premises, categorising them as high or low risk in terms of food safety. The survey was carried out by EHOs on the basis of a questionnaire drawn up by the Commission.

The results show

- that 46% of all premises inspected presented negligible risk; 42% minor risk; and around 12% high risk.
- within this there were variations. Less than 5% of educational establishments were classed as high risk, compared with 19% of take-aways.
- take-aways, food manufacturers and restaurants had more high risk premises than butchers or bakers. The latter had more high risk premises than supermarkets. Hospitals and educational establishment were best of all (reassuring).

- the number of people employed appears to have no bearing on the level of risk. But training and awareness of hygiene are important factors. Training is the main reason for the low health risk in hospitals compared, for example, with take-aways.

This report has not attracted much attention (the headline, of course, was the 12% of food premises classed as high risk). The real meat will come in the reports due this autumn and in the spring of next year. These will look at the effectiveness of the present arrangements for environmental health, including food safety. Apart from giving some pointers on numbers, these later reports may question the concept of an omnicompetent (and expensively trained) EHO equally versed in the problems of damp housing and unhygienic take-aways. The split of responsibility between EHOs and Trading Standards Officers - which has no basis except history - may also come under discreet fire.



CAROLYN SINCLAIR

The Rt. Hon. Nicholas Ridley MP
Secretary of State for Trade and Industry

The Rt Hon Kenneth Clarke QC MP
Secretary of State
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Our ref JW2ATP
Your ref
Date 27 June 1990

Dear Ken

FOOD HYGIENE (AMENDMENT) REGULATIONS *flap*

Thank you for letter of 19 June summarising the advice from the Chief Medical Officer of Health of the importance of listeriosis in public health terms.

Listeriosis is an unpleasant and serious disease but two facts remain. First, it is very rare; the risk to individuals of death or serious disability is far smaller than many others to which we expose ourselves with less concern. Second, pregnant women are identifiable and can be given effective advice on reducing the risk, as can others at special risk and those who are merely concerned.

Also, the data in the table you attach suggest to me that action to prevent the growth of listeria in food such as pate and soft cheeses whilst in commercial chiller cabinets is probably negated by cross-contamination, before and after sale, from common foods that are far more likely to be infected. This confirms me in my view that the key to the problem is better general education in food hygiene so that individuals can take responsibility for their own well-being and know what they must do to protect that of others.

I was interested to see that surveys show about one third of retail outlets are not conforming to the current standard of 10 degrees C for storage cabinets. It seems that better enforcement of existing regulations might be as effective as introducing new ones.



I have said that I do not oppose the laying of the regulations but I am still unconvinced of the need for this particular approach.

In earlier exchanges, both John Redwood and I have suggested the possibility of a trade-off between shelf life and storage temperature as an alternative to insisting on lower storage temperatures. You doubted there was an efficient and safe way of permitting this. The attached press report suggests that it is possible. I hope the way will be left open for such innovations if they prove to be effective and commercially acceptable.

I am copying this letter to recipients of yours.

John Redwood
Ward



Hitting the fresh food target

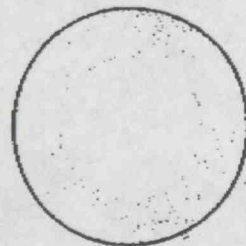
By JACKI DAVIS
Consumer Affairs Correspondent

A NEW labelling system said to guarantee that the food on your plate is fresh could be on store shelves within a month.

The labels, which have a colour indicator to tell consumers whether items are safe to eat, are being tested by a leading supermarket chain.

Fresh-Check, already in use in America, contains a chemical which monitors the lifespan of perishable foods from the factory to the table.

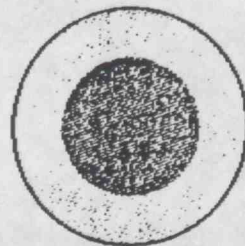
An indicator — usually in a bull's-eye pattern — gradually changes colour depending on the age



Safe to eat

of the product and the temperature at which it is stored. It changes faster if the storage temperature is too warm, warning the consumer to eat the product earlier than the sell-by date.

If the product is kept below recommended temperatures, the colour changes more slowly and may reassure the consumer that it can be safely eaten after the sell-by date. All the customer has to do is check the colour indicator. As long as the



Past its best

inner ring is not darker than the outer one, the food is safe to eat.

The makers of Fresh-Check say it will reassure customers about the quality of the food they buy, and enable retailers to check that their products are fresh and have been stored properly by suppliers.

The new labels can also educate consumers about the need to store chilled foods properly at home. They can be used on pre-packed salads, recipe dishes, pâtés, cooked meats

Bull's-eye labels warn shoppers about risky goods

and seafood — where bacteria and the listeria bug thrive if products are kept above recommended temperatures.

'Using this system, the retailer wears his reputation on his sleeve,' said Tony Ellis, who is marketing the labels in the UK for American manufacturer Lifelines. 'He can say to customers, "Come and shop with us — our food is fresh and we can prove it".'

Mr Ellis said that the labels also

underlined the importance of storing food properly after it left the supermarket. Surveys had shown that many people bought food and then carried it around or left it in their car for hours before putting it in the fridge. Most people did not know what their fridge temperature should be.

'This system would tell them they are not keeping food at the right temperature because the label changes colour faster than it should,' added Mr Ellis.

He said the labels cost about 1p each. Research in the US had revealed that many people were prepared to pay more for a product with a 'freshness' label.

Ann Foster, of the National Consumer Council, commented: 'It looks a promising indicator if it can get the message through on a simple label.'

But more research was needed to make sure the labels worked and that people understood them properly, she added.

Ate

PRIME MINISTER

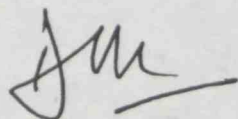
John Gummer has written to seek your clearance as Chairman of E(A) to add two provisions to the Agriculture and Forestry (Financial Provisions) Bill which is one of the smaller measures for next session's programme.

The first is to empower MAFF to recover the full cost of inspection in slaughter houses for the grading of beef, sheep and pig carcasses (the grading scheme is required under EC agriculture regulations and assesses the ratio of lean to fat meat so determining how much the farmer gets paid for the carcass). The other change is a purely technical one to replace the Appropriation Act as the statutory basis for two measures already in force.

The charging proposals will add only a few pence to the cost of each animal slaughtered and the provisions can be wrapped up in a single, uncontroversial clause. The Chancellor and Lord President are content.

Malcolm Rifkind has also asked to use the Bill to deregulate the Scottish equivalent of the Agricultural Mortgage Corporation, to free it to undertake wider commercial activities. There is no remaining financial link between the Government and this Scottish body. No other colleagues have objected to Malcolm Rifkind's proposal.

Content that these proposals be incorporated in the Bill?



DOMINIC MORRIS

19 June 1990

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NXTM
8/19/6

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 Secretary of State
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From the Secretary of
 State for Health

19 JUN 1990

Dear Nick,

FOOD HYGIENE REGULATIONS

As promised in my letter of ¹⁹29 May, I am writing with a summary of the Chief Medical Officer's ¹⁹advice to me on the importance of listeriosis in public health terms. I was pleased to see from your letter of 31 May that you will not stand against the Regulations but disappointed that you remain unhappy about it. I hope the details below, which in my view present a very strong public health case, will convince you that you have reached the right decision.

I will deal first of all with the points raised in the second and third paragraph of your minute of 1 May, which are, I think based on a misunderstanding of the way the statistics are collected and of the nature of the disease listeriosis.

Listeriosis has not, until recently, been recognised as a foodborne disease and is not therefore included in the 'food poisoning' statistics; the data is collected separately and the cases are therefore additional to the food poisoning cases.

Listeriosis does not cause the usual symptoms (diarrhoea and sickness) associated with 'food poisoning' rather it often causes the more severe symptoms of meningitis and septicaemia (bacterial infection in the blood. It also causes abortions, stillbirths and miscarriages in pregnant women and can result in brain damage in the newborn baby



It is estimated that about 1 in 7000 pregnancies end in abortion due to listeriosis.

Whilst it is true that there are many fewer cases of listeriosis reported (around 300 per year) than the approximately 40,000 cases of food poisoning reported each year, listeriosis is very much more lethal. Thus the number of deaths each year is about the same (about 40 in each disease). In addition there is the mental distress for a woman who suffers a miscarriage or stillbirth due to listeriosis and the serious consequences to the family and to society when a brain damaged child is born.

It is for these reasons that we regard listeriosis as a serious public health problem and wish to introduce this legislation.

Unfortunately it is not possible to eliminate the listeria organism from all foods, and it is difficult to restrict its multiplication on food once contamination has occurred because the organism can grow even at temperatures below 8°C temperatures that are normally sufficient to significantly inhibit the growth of most other food poisoning organisms (such as salmonella). This is why it is necessary to require certain foods to be held at less than 5°C. The foods that have been placed in this category in the proposed regulations are those for which we have good evidence for listeria contamination and multiplication to high levels; and also are foods where there is not going to be a heating stage before consumption. Fortunately listeria is not particularly heat resistant and so does not need any special cooking procedures.

I attach a table showing the results of surveys of various foods which were carried out by the Public Health Laboratory Services. From this you will see that 10 per cent of samples of pate and soft cheese and up to 24 per cent of samples of cooked and chilled foods were found to be positive for listeria. This is the reason why these items are specifically placed in the "less than 5°C category.

I also attach a graph showing the growth of listeria in chicken broth. You will see that at 8.7°C there is rapid growth of the organism, at 3.5°C growth is delayed until about day 6 but then proceeds quite quickly whilst at 1.5°C a period of about 12 days elapses before significant growth occurs.

From this I hope you will agree that even 5°C (with a 2°C tolerance which means that the food will spend some time at temperatures as high as 7°C) is very much a compromise between what would be ideal on public health grounds and what we feel is practical for the retailers.

I hope these data indicate that what the Department is proposing is both necessary on public health grounds and takes due account of the need to be pragmatic.



I now turn to your request for information on the relative risk from small and large businesses.

It is not possible to produce reliable statistics on the relative risk of food poisoning outbreaks from small versus large retailers because the larger volume of food sold and the bigger batches of food sold by a large retailer is more likely to produce a detectable (because large) outbreak. Therefore a statistically sound comparison is not possible. However, it is perhaps worth remembering that there were a number of serious outbreaks of food poisoning last summer linked to small producers and distributors of cold cooked meats. Between May and September last year there were 11 outbreaks of salmonella food poisoning attributed to these sources. About 1500 people became ill; one particular episode involved nearly 600 cases of illness.

A particular problem in small outlets relates to the possibility of cooked and uncooked meat coming into contact. Because uncooked meat is frequently contaminated with food poisoning organisms this permits the transfer of these organisms onto cooked meats that will not be subsequently reheated. Poor temperature control can then permit these organisms to multiply and increase the chance that they will cause illness when the food is consumed. This is much more likely to occur in a small retailer eg a butchers also selling cold meats (where the same person may sell, and the same counter may be used to display, both cooked and uncooked food) than in a large retail outlet where the two classes of food and sales staff are usually separated.

There have also been a number of surveys of the temperatures at which food is held in retail outlets. They have all concluded that the situation in both small and large retail outlets is generally unsatisfactory. A survey of 97 outlets in Southwark showed that in 34 per cent of outlets food was stored above 10°C; in 44 per cent it was stored at 5-10°C and in 22 per cent it was stored at less than 5°C (showing that this can be done at a retail outlet if the will is there!). A Hounslow survey of 48 shops showed that 66 per cent of shops were keeping cook-chill foods at over 5°C and 29 per cent at more than 10°C. this survey was carried out after the Council had sent the retail outlets leaflets warning them of the dangers of storing food at high temperatures, suggesting that the problem is not just ignorance of the risks and that legislation is necessary.

I am sure you will agree that these facts hardly present a reassuring picture of the status quo in small businesses and underline the need for these regulations to require better temperature controls at retail outlets.



In summary therefore I would stress the particularly serious and distressing nature of listeriosis; the fact that the regulations are targeted to control those foods most particularly presenting a hazard and aimed to reduce the burden on small businesses to the minimum consistent with the protection of the health of the public.

If you have any further questions I will, of course, be pleased to answer them.

Copies of this letter go to recipients of yours.

A handwritten signature in black ink, consisting of a large, stylized initial 'K' followed by the name 'Clarke' in a cursive script.

KENNETH CLARKE

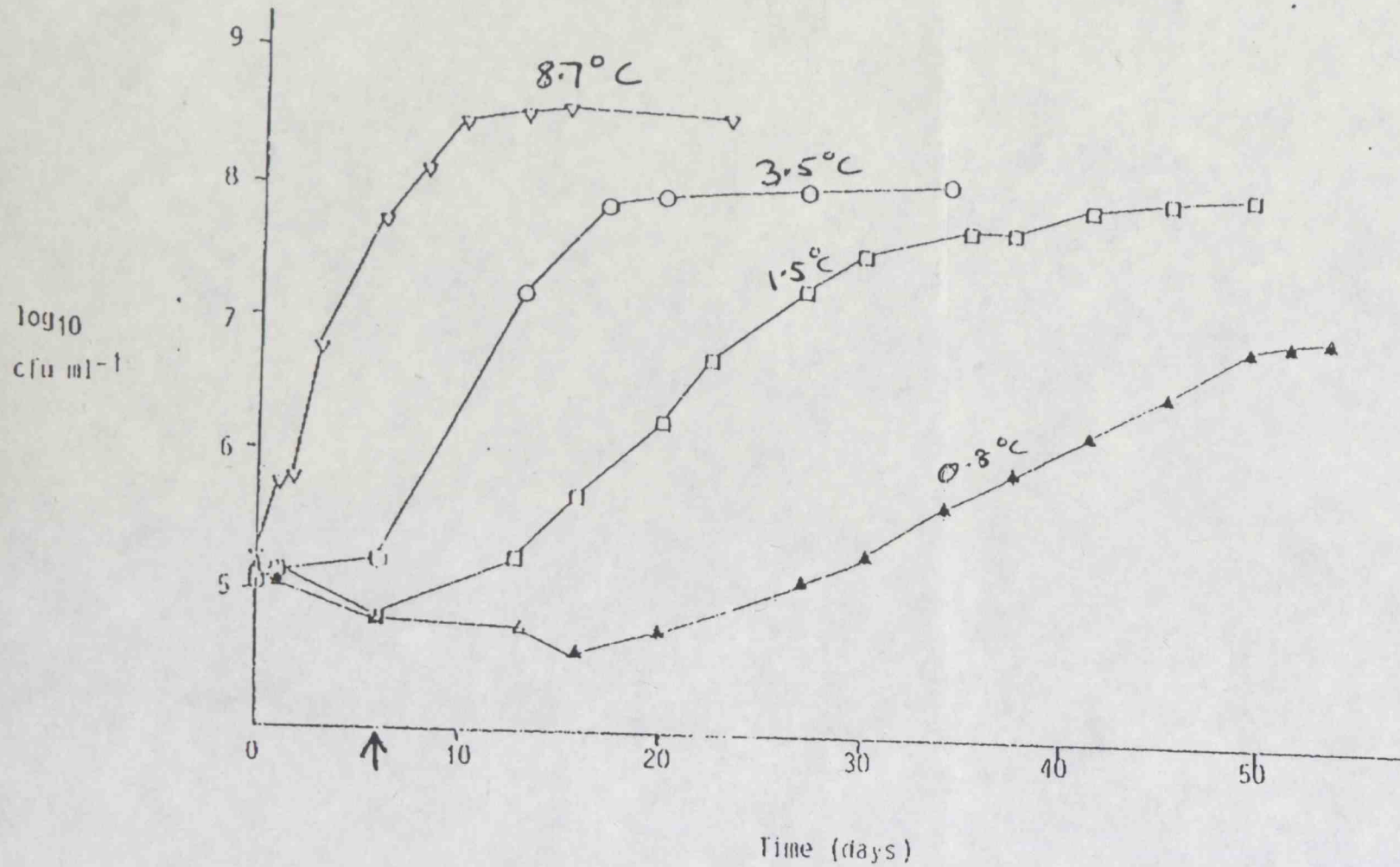
FOODS SURVEYED FOR LISTERIA MONOCYTOGENES

<u>Food</u>	<u>% +vt</u>	<u>No. Tested</u>
*Raw Chicken .	60	100
Soft Cheese	10	222
Prepacked Salads	7	60
Cooked Chilled Foods	24	21
Salami and Continental Sausage	16	67
Cooked, Cured, Smoked Meat	7	29
Cooked Prawns, Shrimps, Cockles	0	40
*Raw Pork Sausages	49	59
Pre-cooked Ready-to-eat Poultry	12	527
Chilled Meals, mainly Poultry	18	74
Pate	10	1834

* Should be cooked before consumption

NOT FOR PUBLICATION

Figure 1: Growth of *L. monocytogenes* CRA 433 in chicken broth when incubated at 8.7, 3.5, 1.5 and 0.8°C (∇ , \circ , \square and \blacktriangle respectively)



Food : Salazn PT4.

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the department for Enterprise

NDRM

MS 416

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The Rt. Hon. Nicholas Ridley MP
Secretary of State for Trade and Industry

The Rt Hon Kenneth Clarke QC MP
Secretary of State for Health
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Our ref

Your ref

Date

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PE3ANU

31 May 1990

Dear Kenneth

FOOD HYGIENE (AMENDMENT) REGULATIONS

Thank you for your letter of 29 May.

My letter of 20 April made clear that I doubt that registration will bring to light many food businesses previously unknown to the authorities. However, if registration is politically unavoidable, as you suggest, I welcome your intention to consult further before deciding how far it should extend. I shall be pleased to comment on the draft regulations before they are published for wider consultation.

On the Food Hygiene (Amendment) Regulations, I look forward to seeing how Sir Donald Acheson will justify such costly measures to counter what is, on the face of it, a very small part of the problem of food poisoning. I should have thought the risks arising between manufacture and retail sale were small compared with those arising from subsequent mishandling by the customer (eg the people who leave freezer goods in the back of the car and go off to complete their shopping). In my view, more consumer education rather than controls on food businesses is what is needed to get to the heart of the problem.



Recycled Paper



the department for Enterprise

I recognise that you have resisted some of the pressures to impose even higher compliance costs on food businesses. However, I am still not convinced that the proposals and their associated high compliance costs are proportionate to the problem.

I am copying this letter to recipients of yours.

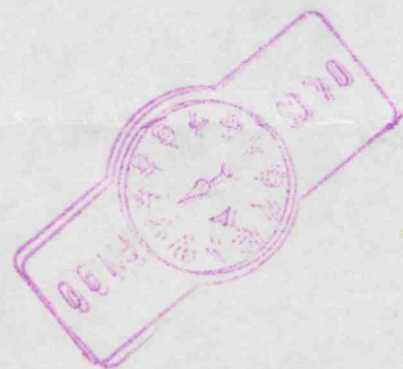
I remain unhappy, but will not stand in your way any further.

Yours ever

Andrew



Food: safety 114



NDRM
M 2915

clb



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*From the Secretary of
State for Health*

29 MAY 1990

Dear Nick,

FOOD HYGIENE (AMENDMENT) REGULATIONS

On Wednesday 2 May Roger Freeman met with John Redwood and David Maclean to discuss the impact on small businesses of the provisions of the Food Safety Bill and the proposed Food Hygiene (Amendment) Regulations. This letter draws on their discussion and hopefully will serve as a response to your minute of 1 May to the Prime Minister.

On the question of the new registration of food premises I understand you are primarily concerned about the scope of the provisions. Final decisions on whether certain categories of business should be exempt from the new requirements will not, of course be taken until we have undertaken extensive public consultation and provided an opportunity for all interested parties to suggest whether there should be exemptions. In accordance with the undertaking given by Roger Freeman I shall ensure that you see the draft Regulations on registration for comment before they are circulated for wider consultation. Having given this undertaking I now propose to make a general statement about the registration provisions at Report Stage of the Food Safety Bill (probably in the week commencing 21 May).

The meeting also discussed the Food Hygiene (Amendment) Regulations. First I should apologise that as a result of an administrative oversight my minute of 26 April implied that we wished to bring the regulations into effect from 1 January 1991. The proposed implementation dates remain at 1 April 1991 for the



8° requirement for retailers, 1 April 1992 for the 8° requirement for small vans and 1 April 1993 for the 5° requirement for retailers.

Your minute of 1 May queries whether the measures proposed are commensurate with the problem being addressed. I have asked Sir Donald Acheson, the Chief Medical Officer, to set out the public health justification for the controls we seek to introduce and I shall copy this to MISC 138 colleagues when it is complete which I hope will be soon.

We have carefully considered all the options John Redwood has suggested for reducing the potential burden on small businesses but have concluded that none of them are workable in practice. The suggestion of dual 'sell by' dates according to the temperature at which food is to be kept needs to be looked at in the context of the EC Directive on labelling and UK labelling law. The majority of foods covered by the proposed temperature controls will fall into the category of highly perishable foods which will be required to carry a 'use by' date. As Roger Freeman said in his letter of 25 April to John Redwood the presence of two dates on each package would be open to abuse, unworkable from the point of view of enforcement officers and confusing for the consumer. In any case, since food labelling is harmonised throughout the EC, the UK cannot act unilaterally to make changes to the date marking provisions.

Similarly it would not be acceptable for shops to advise consumers that their chiller cabinets did not operate to 5°C and they should therefore use the food before the 'use by' date. Date markings on food are set by the manufacturers and should not be tampered with in such an arbitrary way. We do not believe such a system would provide adequate protection for consumers and would rightly be open to considerable criticism from the public.

Finally I understand Roger Freeman, John Redwood and David Maclean discussed the possibility of phasing in the temperature requirements on the 'seat belts' model, ie that any replacement cabinets bought in the future had to comply with the provisions. Not only might this provide an incentive to delay the replacement of cabinets, giving an unacceptably long phasing in period, but also it would lead to uncertainty and confusion amongst consumers who would have not automatic reassurance that the shop they were using complied with the temperature requirements.

Although I recognise your concern about compliance costs, the majority of representations we have received have in fact pushed us to go further and the Social Services Select Committee has already published a report calling for a 3°C limit. Furthermore we have already conceded a longer lead-in time for the 5°C provisions in response to those who expressed concern about the 1 year period originally suggested. We are now proposing the phasing in of this requirement over 3 years for all retailers. This should produce a workable compromise between the protection of public health (which demands immediate action) and the practicalities for businesses



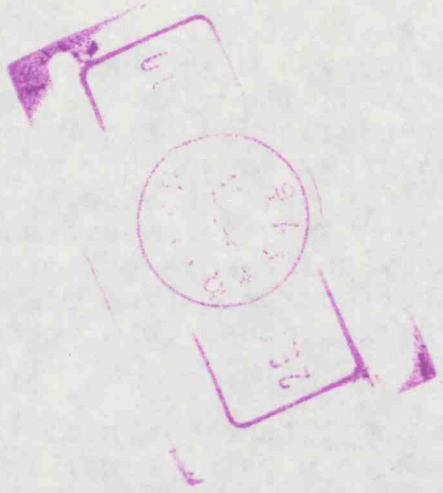
which requires the time proposed to spread the additional costs. I suggest that the alternatives might have a more harmful effect on small businesses than complying with the temperature requirements as consumers would be confused about the temperature controls operating in small shops and would take their custom elsewhere. We should not forget that there is considerable demand for us to bring forward these regulations and the retail and refrigeration industries are anxiously awaiting a pronouncement. Accordingly, unless I receive further comments from members of MISC 138 colleagues by May 1990, I propose to proceed to lay the Regulations as soon as possible.

More generally on the compliance costs of the Food Safety Bill, David Maclean undertook to provide a working list of the Regulations which we would intend to bring forward within one year of Royal Assent. This is now attached.

I am copying this letter to the Prime Minister, members of MISC 138, Sir Robin Butler, John Redwood and David Maclean.

KENNETH CLARKE

Food: Safety Pt 4.



FOOD SAFETY ACT 1990: WORKING LIST OF SUBSIDIARY LEGISLATION
NEEDED WITHIN ONE YEAR OF ROYAL ASSENT (AS AT MAY 1990)

<u>Purpose</u>	<u>Compliance Costs</u>
<u>I Coming into force on 1 January 1991</u>	
Commencement Order	No
Transitional Provisions	No
<u>Codes of Practice</u> for enforcement authorities interpreting main provisions of the Bill	No
Prescribe licensing requirements for food <u>irradiation</u> premises	Yes
Order dividing enforcement responsibilities	No
Qualifications for enforcement officers public analysts food examiners	(((No (
Sampling and Analysis (General) including referee role of Laboratory of the Government Chemist	(((
Controls over sale of milk from diseased cows (E and W)	(((Possible
Transfer offences under milk and dairies legislation from Food Act 1984 to secondary legislation	(((
<u>II Coming into force on 1 April 1991</u>	
Require compulsory <u>registration</u> of all permanent commercial food premises with local authorities	Yes - CCA already submitted
Prescribe charges for milk and dairies inspections differentiated by herd	No additional costs for industry as a whole but will shift balance from small to larger producers

<u>Purpose</u>	<u>Compliance Costs</u>
<u>III Coming into force on 1 July 1991</u>	
Prescribe <u>training</u> requirements for people handling food commercially	Yes
<u>IV Coming into force as soon as possible on 1 January, 1 April or 1 July 1991</u>	
Controls over quality of water used in food production	Yes
Milk and Dairies (Scotland) - various provisions relating to registration and inspection of dairies and dairy farms	Possible (consultation paper to issue shortly)
Sampling and Analysis from animals and fresh meat	No
Allow Ministers to set statutory maximum residue levels for hormones, veterinary drugs etc. independently of EC. Controls over veterinary drugs and hormones in live animals and carcasses on farms and at slaughterhouses	(((No (((

1. All instruments apply to Great Britain unless stated otherwise.

2. There are also some (approx. 7) instruments to be made under the Bill to implement EC requirements in the UK. Some will have compliance costs (eg arrangements for approving novel foods). These should not be ascribed to the Bill since they would have to be made in any case under the European Communities Act if this Bill was not available. The timing will depend on progress in Brussels, but it may be possible to make some to coincide with those listed above.

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NDPM

BT 1715

CCPL



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon John Gummer MP
 Minister of Agriculture, Fisheries and Food
 Whitehall Place
 London
 SW1A 2HH

16 May 1990

Dear Minister

FOOD SAFETY BILL: EMERGENCY MEASURES AND COMPENSATION

Thank you for your letter of 9 May.

2. I welcome the progress you have made on securing Lord Stanley's and the NFU's support for deleting Clause 14 of the Food Bill. It is clearly important that we get rid of this potentially very expensive provision.

3. I note what you say about the need for a sympathetic statement at Report Stage in the Commons, in acknowledgement of the success of Clause 14 in the Lords. However, I very much hope that you will not need to give any undertakings about future Government action. I would certainly not want you to go beyond ~~point~~ (vii) of the suggested Government line in your letter, entirely agree that you should avoid being specific about the options for future action should this ultimately appear necessary. This would be bound to create expectations which might then be difficult and costly to fulfil.

4. I am copying this letter to the Prime Minister, to other members of MISC 138, James Mackay, John Belstead, Chris Patten, Patrick Mayhew, Peter Fraser, Nicholas Lyell, Timothy Renton, Bertie Denham and Sir Robin Butler.

Yours sincerely

Isleen Campbell

NORMAN LAMONT

Approved by the Chief Secretary
and signed in his absence



From: Sakets P4

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ccps.

*NBPH
AT
15/5*



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon John Gummer MP
Minister of Agriculture, Fisheries and Food
Whitehall Place
London
SW1A 2HH

16 May 1990

Dear Minister

MICROBIOLOGICAL SAFETY OF FOOD: ESTABLISHMENT OF A NATIONAL MICROBIOLOGICAL SURVEILLANCE SYSTEM

at flat

Thank you for copying to me your and Kenneth Clarke's letter of 8 May to the Prime Minister.

2 I can confirm that I am content with the draft announcement attached to your letter.

3 I note what you say about the likely costs of the new arrangements. As paragraph 33 of the report attached to your letter indicates, the additional costs are very small in relation to your and Kenneth's existing provision. I hope very much that, in view of our difficult public expenditure situation, you will both be willing to absorb these additional costs and will not put forward bids in this year's Survey.

4 I am copying this letter to the Prime Minister, Kenneth Clarke, other members of MISC 138, Richard Luce and Sir Robin Butler.

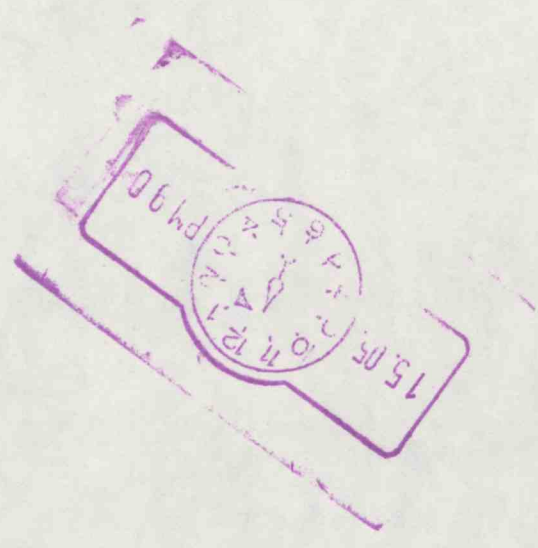
Yours sincerely

Norman Lamont

NORMAN LAMONT

*Approved by the Chief Secretary
and signed in his absence*

Food: Safety 194





NDIN
15/5
CCPU

Northern Ireland Office
Stormont Castle
Belfast BT4 3ST

The Rt Hon John Selwyn Gummer MP
Minister of Agriculture, Fisheries
and Food
Whitehall Place
LONDON
SW1A 2HH

14 May 1990

Dear John,

Thank you for copying to me your letter of 9 May to Norman Lamont about Clause 14 of the Food Safety Bill.

As I explained in my recent letter to Norman Lamont, the provisions of the Bill do not extend to Northern Ireland but, if enacted, will be replicated here in due course under the Northern Ireland Order-in-Council procedure. I, therefore, felt it necessary to express my concern both from an Agriculture and Health standpoint, that the compensation provisions in Clause 14 should be removed.

I am very pleased to note that you have been largely successful in agreeing with Lord Stanley and his supporters that the offending provisions should be deleted. I share your view that we should now do all we can without undermining the overall objective to demonstrate the Government's appreciation of the concerns of the industry. Your proposed line to take at the Report Stage (which should go a long way towards doing just that) has my support.

I am copying this letter to the Prime Minister, other members of MISC 138, James Mackay, John Belstead, Chris Patten, Patrick Mayhew, Peter Fraser, Nicholas Lyell, Timothy Renton and Bertie Denham and to Sir Robin Butler.

Levin

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FOOD:
Food safety
P4





pa

10 DOWNING STREET

Prime Minister

You asked for an account of the existing structure of advisory committees. You implied question of whether new committees are needed on top of the existing one was dealt with explicitly in paras 9-19 of the attached report.

The Working Group concluded they were as the existing committees are now focussed on chemical contamination rather than microbiological contamination

AT
#15
JWB



FILE DAS

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

11 May 1990

Dear Andy,

MICROBIOLOGICAL SAFETY OF FOOD: ESTABLISHMENT OF A NATIONAL
MICROBIOLOGICAL SURVEILLANCE SYSTEM

The Prime Minister has seen the minute from the Minister of Agriculture and the Secretary of State for Health recommending the establishment of a Steering Group and an Advisory Committee. She has also seen the further letter you sent me explaining the limited role Research Councils could play in the surveillance function. The Prime Minister has now endorsed the establishment of the two committees and is content for this to be announced in the terms proposed.

I am copying this letter to the Private Secretaries to members of MISC 138, Martin Le Jeune (Office of the Minister for the Civil Service) and to Sir Robin Butler.

*Yours sincerely
Andrew Turnbull*

ANDREW TURNBULL

Andy Lebrecht, Esq.
Ministry of Agriculture, Fisheries and Food

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the department for Enterprise

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John Redwood MP
Parliamentary Under Secretary of State for
Corporate Affairs

The Rt Hon John Gummer MP
Ministry of Agriculture,
Fisheries and Food
Whitehall Place
LONDON
SW1A 2HH

Department of
Trade and Industry

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Enquiries
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Telex 8811074/5 DTHQ G
Fax 071-222 2629

Direct line 071-215 5622
Our ref PE4AUJ
Your ref
Date 11 May 1990

Dear Minister

FOOD SAFETY BILL : EMERGENCY MEASURES AND COMPENSATION *flap.*

You sent Nicholas Ridley a copy of your letter of 9 May to Norman Lamont.

In Nicholas' absence I think I ought just to inject a note of caution into what you say about insurance. I agree that this would be the best way to fill any gap. But it is too soon to state with confidence that insurance in this area will be commercially attractive to the industry. Our initial soundings met with a very guarded response, and whilst we shall as you say be pressing the matter further there are genuine difficulties (particularly in the lack of relevant claims experience) which should not be underestimated.

I am sending copies of this letter to the recipients of yours.

Yours sincerely
John Redwood

By JOHN REDWOOD
(Approved by the Minister and signed in his absence)



Recycled Paper



Food Safety pt 4



Ministry of Agriculture, Fisheries and Food
Whitehall Place, London SW1A 2HH

~~XXXXXXXXXXXX~~
071-270 8709/8667

Prime Minister
I raised with MAFF you query as whether
this function could be more economically
carried out by the AFRC. The note below
explains that the function involved goes
beyond research, and the expertise
required beyond the resource of the AFRC
Content, in the light of this,
to proceed as originally proposed
with the Steering and Advisory Committees?

From the Minister's Private Office

Andrew Turnbull Esq
10 Downing Street
London

Yes - but how many
10 May 1990

HT
10/5

Independent Adv. Comm's have
we got now - and when were they
created?

Dear Mr Turnbull

MICROBIOLOGICAL SAFETY OF FOOD : ESTABLISHMENT OF A NATIONAL
MICROBIOLOGICAL SURVEILLANCE SYSTEM

You told me that the Prime Minister had enquired why the AFRC could not perform the functions for which a new committee structure is proposed in the note of 8 May signed jointly by my Minister and the Secretary of State for Health.

The AFRC is, of course, a research body. While the proposed new arrangements would have some bearing on food research they are not proposals for research but are essentially concerned with surveillance of human and animal disease as well as of foodstuffs, and with establishing a source of independent advice to Government on the microbiological safety of food.

The surveillance envisaged is not the same as research and development, but rather the routine application of existing methods in order to monitor the microbiological safety of food as an aid to determining Government policy on food safety. The Steering Group will have two key functions. One would be to coordinate surveillance which is government-funded. The other would be to assess the results of their surveillance and, in conjunction with advice from the Advisory Committee of experts, interpret the findings and develop proposals for policy in the area of food safety. The Steering Group would therefore predominantly comprise officials from the Funding Departments, MAFF and DH. We envisage that the Steering Group would place contracts with various suitably qualified bodies, and if on any occasion research, as distinct from surveillance, is involved these might include the AFRC. However, as far as routine surveillance is concerned, the AFRC no longer has a remit to perform this type of function but is only concerned in new science research and development.

The proposed new Advisory Committee on the Microbiological Safety of Food is intended to provide a source of independent expert advice to ministers. Its role would complement that of existing independent committees which advise on non-microbiological food safety matters. The Committee would need a wide range of expertise, including medical and public health specialists, veterinarians, food technologists (particularly those practising in the food industry) and consumers. While it is by no means impossible that experts from the AFRC might appropriately be invited to serve on the Committee, the breadth of expertise required extends well beyond what is available in the AFRC alone.

I am copying this letter to Helen Shirley-Quirke in Department of Health.

My Minister has not had an opportunity to speak to the Secretary of State for Health about it but I understand that Department of Health officials are content with it.

Michael Harris

PP A J Lebrecht
Principal Private Secretary

1005 9:19 PM '90

A purple ink stamp is located in the upper right quadrant of the page. It consists of a rectangular border containing a circular clock face. The clock face shows the time 9:19. To the left of the clock, the number '1005' is printed. To the right, the time '9:19 PM '90' is printed. The stamp is slightly tilted and has some faint, illegible markings around it.



NBRH

ST
9/5

CCP

Ministry of Agriculture, Fisheries and Food
Whitehall Place, London SW1A 2HH

From the Minister

The Rt Hon Norman Lamont MP
Chief Secretary to the Treasury
HM Treasury
Parliament Street
LONDON
SW1P 3AO

9 May 1990

Dear Chief Secretary

FOOD SAFETY BILL: EMERGENCY MEASURES AND COMPENSATION

I was grateful for your letter of 25 April ^{Map.} and for those from other colleagues responding to my letter.

As you will already know we had an amicable meeting with Lord Stanley and his supporters on 24 April and I drew on the arguments in Nicholas Lyell's helpful letter of 20 April. Lord Stanley and the NFU were very disappointed that we were planning to delete Clause 14 which they felt plugged a serious gap in the legal protection available to those affected by Government action responding to an emergency. We succeeded in securing their acceptance that in the circumstances Clause 14 would have to be deleted and I have now tabled an amendment to this effect for Commons Report Stage. But in doing so it was necessary to agree to investigate further one point which was clearly in large measure responsible for the strength of feeling on the issue in the House of Lords.

This point was the claim that it was proving more difficult for all of those affected by last year's lead emergency measures to obtain damages from the feed companies responsible than might have been expected from the assurances the then Minister of State gave during the passage of the Food and Environment Protection Bill in 1985 (Hansard extract attached). The NFU would like compensation under Clause 14 to fill any such gap which tends to confirm our view that Clause 14 was not as narrow as Lord Stanley implied when introducing it. However, I agreed that our lawyers should look at the provisions in question again with the NFU to see if any broadening of the law was called for to impose a greater degree of liability on the supplier.

A meeting has now taken place and both sides have concluded that it would not be possible to devise anything in time for the Food Safety Bill. Moreover, although the NFU agreed to consider the matter carefully and let us have further suggestions, they thought their membership might not be entirely behind a proposal to extend legal liability in case they had to pay enhanced damages to supermarkets or manufacturers needlessly subject to emergency restrictions.

I understand the NFU stressed that if Clause 14 was to be deleted and this was to be accepted on the Bill's return to the Lords, they would be looking for a sympathetic statement from the Government at Report Stage in the Commons in acknowledgement of their success in the Lords.

We must obviously do what we can without undermining our overall objectives and I suggest that the Government's line at Report Stage might be as follows:

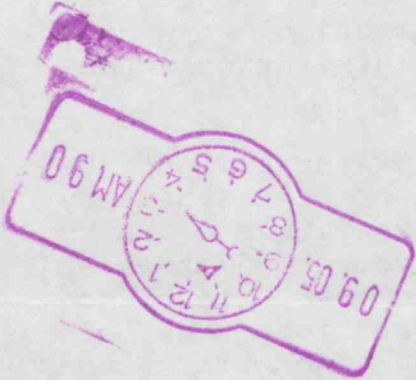
- (i) for legal policy reasons, which are important both domestically and in a European Community context, we cannot accept the principle underlying Clause 14 - that the Ministers should compensate businesses where, with the benefit of hindsight, emergency restrictions made in good faith turn out to be wider than strictly necessary;
- (ii) that we must have a system of emergency restrictions that enable Ministers to take effective and timely action to protect the consumer. Farmers and food businesses benefit from the public confidence that results, as the lead emergency showed;
- (iii) it is up to the Courts to determine how far the perpetrator of an act that leads to the emergency restrictions is responsible for losses incurred by those subject to the restrictions, for example in cases where contaminated produce has been recovered by the supplier before use by the recipient or where the plaintiff suffers economic loss as opposed to physical damage;
- (iv) we cannot accept that the Government should be responsible for the costs that fall on businesses in these circumstances. Public health considerations must be paramount when the Government is taking action. All gain from effective action in emergencies. Other similar legislation, such as the Health and Safety at Work etc Act and the Consumer Protection Act do not provide for compensation where Ministers take preventative measures in the interest of public safety;

- (v) where the Government itself has made an administrative error, ex-gratia payments to cover losses incurred by those subject to restrictions can be made. For example DoH made an ex-gratia payment in respect of Maltese steak which was needlessly withdrawn. Government action is also subject to judicial review and to examination by the Parliamentary Commissioner for Administration where maladministration is alleged;
- (vi) but the best way to fill any gap that there might be is clearly through insurance. With new statutory provisions, the growing practical experience of such emergencies and the potential involvement of at least three-quarters of a million businesses, insurance should now be a commercial proposition. We are discussing the possibilities with the DTI, the Association of British Insurers and Lloyds' to see what can be done to provide cover for the sort of eventually envisaged in Lord Stanley's amendment. This is an option which the industry itself needs to examine as well;
- (vii) the current cases before the Courts on lead in feedingstuffs will help to confirm the extent of suppliers' liability. If there should turn out to be a large area of risk not protected by the Courts and not capable of being tackled by insurance and if we conclude that this is likely to be unreasonably burdensome on small businesses caught up by events outside their control, then the Government will consider whether anything should be done.

Colleagues will want to know what we might do in the circumstances described in (vii). Obviously we hope it will not be necessary to do anything and we should certainly seek to avoid speculating publicly on the options. However, possibilities include extending the liability of the perpetrator of an emergency or an industry compensation scheme funded out of a levy. The legal policy and other implications would of course have to be explored with other departments before any such legislative proposals were developed. Moreover, I think we would all agree that it would be far better to persuade the insurance industry to take up the challenge and I hope that the discussions Nicholas Ridley's officials are chairing on this subject will be successful.

It would be helpful to have any comments by noon on Friday 11 May as Report Stage is expected shortly.

I am copying this letter to the Prime Minister, to other members of MISC 138, James Mackay, John Belstead, Chris Patten, Patrick Mayhew, Peter Fraser, Nicholas Lyell, Timothy Renton, Bertie Denham and Sir Robin Butler.



Yours sincerely
Michael Harris

JOHN GUMMER

Approved by the
Minister and signed in
his absence.

[THE EARL OF ONSLOW.]
 one has to have a case for negligence, lack of duty, or whatever else it may be. Can my noble friend possibly help me on that point?

Lord Monk Bretton: My Lords, these cases are likely to be rare, I am sure, but they could be serious for an individual farmer or grower. I remain concerned about the position of farmers whose crops are affected by emergency orders and where we find that the remedies which they would normally have do not function properly, as in this case. I should like to say just those few words in support of the amendment.

Lord Belstead: My Lords, of course I understand the concern of my noble friends that innocent people should be protected from financial loss in the event of an emergency order being made. They have the absolute right to raise what is a very important point which, indeed, concerns noble Lords in different parts of the House at this stage of the Bill. They chide me with not giving a clear answer, and so I think that what I must now do is try to give an answer which is absolutely clear.

First of all, let us go to what the amendment says. The purpose of the amendment is that the Government should compensate fully where an emergency order is found to be unnecessary. How do we define "unnecessary"? It is in the nature of emergencies that action must be taken quickly to protect the public against the risk of contaminated food, and measures are likely in the first instance to be precautionary. In such circumstances it would only be responsible to act upon the worst estimate of what could be a very difficult and fast-moving situation, rather than trust the lives and the health of thousands and thousands of people to pure chance. It might afterwards well turn out that Ministers can safely reduce the level of the precautions. Indeed, that is specifically provided for in Clause 1(10), and the precautions can all be lifted after a day or two days. That is one way in which the raspberry crop envisaged by my noble friend Lord Onslow could be saved.

Would all that mean that the initial caution and care had been unnecessary? If that is what is in the minds of my noble friends in moving this amendment, and if these really are the circumstances under which the amendment would compel Ministers to compensate those who have been affected by their action, it would be a permanent legal deterrent to the taking of adequate and vital safety measures, and I suggest that it would not be a necessary provision, either. With respect, the Government do not agree that the polluter would not be liable. As I ventured to argue at Report stage, once the Bill becomes an Act, my advice is definitely that the courts will assume that a polluter knows of the existence of the Act and appreciates that emergency orders may cause loss to people who would not otherwise have suffered, so that the polluter could be held responsible not only for pollution caused but also for the cost of safety measures under an emergency order, and that is a second way in which the raspberry grower envisaged by my noble friend could find just recompense.

I know that in moving this amendment my noble friends are thinking of the case where safety measures

are such that they are found to be not merely greater than would have been necessary had there been full prior knowledge of the facts but have clearly been grossly excessive and unreasonable. I have already explained that in such an unlikely case the courts already have power to deal with the matter and Ministers could most certainly be found liable under such circumstances.

May I, in finishing, go back to what is absolutely fundamental in this Bill? We are not trying to do something which is utterly different. All that we are trying to do is to see that, with the co-ordinating power of central Government, everybody pulls together as they always do in an emergency in this country and that precautions and other emergency measures are taken in just the way that they would normally be in an emergency, but with this extra power in Schedule 1 of being able to prevent the movement of crops as they are growing. Secondly, I remind my noble friends that if this amendment were to be made, it would mean once and for all that in the circumstances that they envisage the polluter would simply get off scot-free.

Lord Mackie of Benshie: My Lords, before the noble Lord sits down, may I ask for clarification on his first point? Did I understand him to say that, if an emergency order was made, then automatically the person who is alleged to be polluting would be liable? That appears to me to be very curious and unjust if the emergency order was subsequently found to be unnecessary. However, did the Minister actually say that?

Lord Belstead: My Lords, with the leave of the House, I did not say "automatically". I said that my advice was very clear on this: that the courts will assume that a polluter will have known of the existence of the Act and will appreciate that emergency orders may cause loss to people who would not otherwise have suffered. Therefore, the polluter could be responsible, not only for pollution caused but also for the cost of safety measures under an emergency order.

Lord Mackie of Benshie: My Lords, may I raise a question on that? If it was a mistake, the polluter could not possibly be responsible?

Lord Belstead: My Lords, I do not think I can add to what I have already said.

Lord Stanley of Alderley: My Lords, I am sure we still have not got this matter quite right. I take the point made by the noble Lord, Lord Mackie of Benshie, which differs from that made by my noble friend. For example, supposing that there is a case where there has been no pollution but the Government have taken perfectly correct steps where they thought there was going to be pollution. As I understand my noble friend Lord Belstead, one would not have a case against the Government because their action obviously was necessary in the circumstances. So, as a farmer, I am left on a limb at the end of it. I am sure I am. I cannot go against the Government because their action at that time was legally necessary—or the courts would say so. I agree with the noble Lord, Lord

file

SRW

PRIME MINISTER

**MICROBIOLOGICAL SAFETY OF FOOD: ESTABLISHMENT OF A NATIONAL
MICROBIOLOGICAL SURVEILLANCE SYSTEM**

You asked whether it would be possible, instead of setting up the proposed advisory committee, to achieve the same end through the Agriculture and Food Research Council.

One needs to distinguish the function of the Research Councils (in this case both the AFRC and the MRC are involved) and the proposed advisory committee. The former undertakes basic scientific research; the role of the latter is to mobilise that research and to provide advice on the measures which should be taken. To do this effectively the advisory committee needs to draw on a wide range of expertise including not just scientific researchers but food producers, retailers, caterers and those responsible for monitoring and enforcing the standards set e.g. the Public Health Laboratory Service and the Environmental Health Offices. Although the Research Councils provide an important input they could not alone cover all these aspects.

Agree, therefore, that a more wide-ranging advisory committee of the kind proposed is required?

AS

(ANDREW TURNBULL)

9 May 1990

a:\pps\micro (srw)

ADAM
AF 9/15
copy



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GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
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071-270 (Llinell Union)
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WELSH OFFICE
GWYDYR HOUSE
WHITEHALL LONDON SW1A 2ER
Tel. 071-270 3000 (Switchboard)
071-270 (Direct Line)
Fax: 071-270 0568

IAN GRIST MP

Oddi wrth yr Is-Ysgrifennydd Seneddol

From The Parliamentary Under-Secretary

CT/5164/90

8 May 1990

Dear Ken,

Thank you for the copy of your note dated ~~26~~ ¹⁷ April to the Prime Minister seeking endorsement to the laying of the Food Hygiene (Amendment) Regulations. I was also grateful for sight of Roger Freeman's recent letter to David Maclean on the specific question of small delivery vehicles being exempted from the 5°C temperature requirement.

This is simply to confirm I am fully content with the Regulations as drafted and therefore to agree the proposals for implementation described in the paper.

I also fully support the proposal to publicise the Regulations and to offer guidelines for enforcement officers. It is important our officials continue to liaise closely about this.

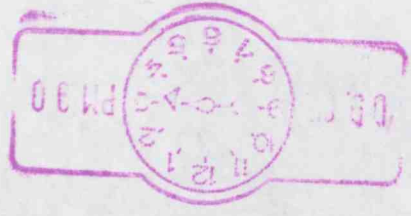
Finally, as for the future I note the Regulations and their operation are to be kept under close review. There is once again a need to ensure this effort is co-ordinated between all interested Departments.

I am copying this to the Prime Minister and to all members of MISC 138.

*Yours ever,
IAG*

The Rt Hon Kenneth Clarke MP
Secretary of State
Department of Health
Richmond House
79 Whitehall
LONDON

Food: Safety PT3



00

CCFJ



Ministry of Agriculture, Fisheries and Food
Whitehall Place, London SW1A 2HH

Prime Minister
The Working Group set up
to consider how best to
implement the Richmond Committee
recommendations has endorsed
the proposal for a steering group and
an advisory committee.
Content with proposed
announcement?

From the Minister

Can this
be done

PRIME MINISTER

through the
Ag. Res. Council
- in its meeting
some research? not
AT 815

8 May 1990

MICROBIOLOGICAL SAFETY OF FOOD: ESTABLISHMENT OF A NATIONAL
MICROBIOLOGICAL SURVEILLANCE SYSTEM

Colleagues may recall that in Part I of its Report "The Microbiological Safety of Food", the Richmond Committee recommended the establishment of a national microbiological surveillance of food system. In our published response, we accepted in principle the need to strengthen microbiological food surveillance and in particular on the need to coordinate activity and to draw on independent expertise and said we were considering the detailed arrangements for this. Since then, a small Working Group of officials from our two Departments and Machinery of Government Division of the Cabinet Office has met to consider the appropriate form of a new committee arrangement. Their report is attached.

The Richmond Committee's recommendation was for a structure involving two committees:-

- a. a steering group "to coordinate microbiological food safety";
- b. an advisory committee to provide an independent expert view on the public health implications of food safety matters, in particular on the results of surveillance, and to advise on areas where surveillance and other Government activities are needed.

The working group's conclusions on the proposed remits and composition of two such committees are set out in paragraphs 24 and 30 of their report. The conclusions represent a consensus between our two Departments, though there may be room for some further discussion about the precise balance of expertise. Like the other expert advisory committees, the new advisory committee's chairman and membership would all be drawn from outside Government, with officials acting as assessors. We will shortly be considering recommendations from our officials about suitable individuals to be appointed.

- £5.7 million to DH - £5 million to MAFF

The Departments' estimates of likely costs are shown in paragraph 33 of the report which makes clear that these, and the need for discussion in the 1990 PES, are as already noted by MISC 138 when it considered the Government's response to Richmond in February.

We believe that the Working Group's conclusions present the most sensible way of taking forward the Richmond Committee's recommendation. The Committee is due to complete its work by the end of July and we believe it would be sensible to have the Advisory Committee in place by the Autumn. But that does not mean that we should delay the establishment of the Steering Group who can undertake valuable preparatory work and we therefore propose to appoint this Group as soon as possible before then. If colleagues are content with this approach, we propose to take an early opportunity to announce publicly our intentions by means of an arranged written PQ. We may be able to achieve this during the last stages of the passage of the Food Safety Bill; this, if possible, might be helpful in providing the Government with positive points to make on advisory committees when countering unwelcome amendments which have been put down on expert committees and similar bodies. A draft of an arranged PQ and reply is attached.

Richard Luce

Copies of this letter go to all members of MISC 138/and to Sir Robin Butler. Because of the possibility that we might wish to make a public announcement during either Report Stage or Third Reading of the Food Safety Bill, we would hope that we can assume that colleagues are content unless we hear to the contrary by 10 May.

KENNETH CLARKE

JOHN GUMMER

DRAFT ARRANGED QUESTION

To ask The Secretary of State for Health what arrangements the Government intends to introduce to strengthen microbiological surveillance of food as recommended in Part I of the Report of the Committee on the Microbiological Safety of Food.

DRAFT REPLY

My Rt. Hon. Friend the Minister of Agriculture, Fisheries and Food and I have decided to establish a national microbiological food surveillance and assessment system. This will be based on a new, independent Advisory Committee on the Microbiological Safety of Food and a new Steering Group on the Microbiological Safety of Food. These arrangements will complement those which already exist for labelling, composition and chemical safety of food, which are within the remit of the present Food Advisory Committee and Steering Group on Food Surveillance.

The new Steering Group will manage surveillance and research and will present policy conclusions to Ministers. It will consist both of officials and of experts from outside government. The Advisory Committee will bring outside expertise to bear on the interpretation of the results of surveillance and on the policy formation process. The Committee will have an entirely independent membership and chairman, who will be chosen for their expertise and invited from relevant backgrounds, including consumer interests.

These arrangements will give effect to the recommendation of the present Committee on the Microbiological Safety of Food that the Government should set up a system of microbiological surveillance and assessment. This Committee, under the chairmanship of Sir Mark Richmond, has

been invited to complete its work by the end of July. The Government plans to establish the new Advisory Committee in the Autumn. The new Steering Group will be established as soon as possible before then as it can usefully begin preparatory work before the Advisory Committee first meets.

The membership of the new Advisory Committee and Steering Group, and their formal terms of reference, will be announced as soon as possible. The Food Advisory Committee and the existing Steering Group on Food Surveillance will continue to fulfil their present functions but some updating of their terms of reference also is envisaged, to underline the complementary roles of this Committee and the new Advisory Committee.

MICROBIOLOGICAL SAFETY OF FOOD:
MACHINERY AND COMMITTEE STRUCTURE

The Working Party was set up following a recommendation in the report of the Inter-departmental Working Group on Public Health Machinery of Government Issues to draw up proposals on the framework of committees needed to oversee the surveillance of the microbiological safety of food.

2. The working party considered these issues in parallel with the Richmond Committee's interim report, which recommended that a National Microbiological Surveillance and Assessment system should be set up, supervised by a new Steering Group on the Microbiological Safety of Food and an independent Advisory Committee on the Health Aspects of Microbiological Food Safety. A summary of their key findings is at Annex A.

Assessment

3. The working party addressed the following questions with Richmond's proposed committee structure in mind:
- a. what are the main tasks that need to be undertaken?
 - b. is it necessary to approach the problem through committees?
 - c. if so, is it necessary to establish new committees or can the functions of existing committees which do not at present deal with microbiological aspects be extended?
 - d. is Richmond's proposed committee structure the most appropriate? If not, what structure should be recommended?

These questions are addressed in turn below.

WHAT ARE THE MAIN TASKS THAT NEED TO BE UNDERTAKEN?

4. The working party broadly agreed with the Richmond Committee's analysis of the tasks to be undertaken. The purpose of the new arrangements would be to improve surveillance and Government decision making on the microbiological safety of food. More formal structuring of activity and advice in relation to food borne pathogens is needed in order to:

i. (Human Health)

- a. Assess trends in the incidence of relevant human illness and their implications for policy;
- b. review the level of threat posed by known potentially hazardous micro-organisms in food;
- c. identify "new" or "emerging" pathogens;
- d. advise when micro-organisms merit action or intervention, and where applicable the standards or tolerable levels which should form the basis of regulation or advice;

ii. (Food)

- a. monitor trends in the incidence of potentially harmful micro-organisms in food, including imported food;

- b. promote good practice and consistent reporting standards throughout existing local and national surveillance, and through influence, advice and directly commissioned research;
- c. monitor the effectiveness of current production processes by initiating surveys of particular foods and/or of particular micro-organisms in foods;
- d. assess, and identify any failures or weaknesses in, new or changed processes.

iii. (Veterinary aspects)

- a. monitor trends in the incidence of micro-organisms which pose a threat to human health in food animals;
- b. initiate surveys of particular sources of microbiological contamination;
- c. identify hygiene control points in animal production, slaughter and meat handling.

iv. (Advice to Ministers)

Advise Ministers on Government action arising from monitoring and surveillance, including:

- a. the need for new regulations or other legislation (taking into account EC constraints);
- b. the adequacy and consistency of enforcement;
- c. response to consumer concerns;

- d. the need for further monitoring or promotional activity;
- e. relevant aspects of EC and other international matters (subject to the negotiating timetable on directives and regulations).

v. (Research)

Advise Departments on research priorities relating to surveillance in these areas.

5. The arrangements dealing with outbreaks of food-borne disease, and for dealing with emergencies, are generally adequate; in any case it is not appropriate for a standing committee structure to be involved in decision making in the management of acute emergency situations. The new arrangements do not therefore change or affect these.

PROS AND CONS OF REORGANISING WORK THROUGH COMMITTEES

6. When departments have to co-ordinate their use of resources some mechanisms for consultation both with those in other government departments and with relevant outside experts is required. In addition there is a well-established tradition of organising advice on some food safety matters and surveillance through a committee structure. The use of such committees has a number of advantages:

- i. They give Ministers authoritative advice on complex and technical issues.
- ii. They bring in expertise not readily available within the Department, and allow expert outside members to develop experience and give more sustained advice than they might in ad hoc groups

without putting Departments to the cost of recruiting permanent staff to provide all the necessary expertise.

- iii. The advice can be seen to be informed by views independent of the Department, drawing on experience and expertise in a range of fields, including for example the academic world, industry and retailing, and assisted by individuals who can understand the consumers' viewpoint.
- iv. Because advice is broadly based and covers a range of perspectives it may have a credibility which is more likely to carry weight with the public, Parliament, industry, the European Commission, and those involved in enforcement, than would policy decisions based on official advice which was not seen to be so informed. Credibility is enhanced if the committee members are of high standing and the advice of high quality.

7. Operation through committees does, however, have some disadvantages:

- i. As committee members tend to be distinguished individuals, busy in their own fields, they can only move at a certain pace. Once established, it may be difficult to by-pass them on particular issues. They may therefore place constraints on urgent action.
- ii. Committees also have a resource cost. Members tend to be paid expenses only, but there are the costs of servicing them, and preparing papers for them insofar as such work would not be necessary were Departments to take decisions without outside help.

8. The working party agreed that the balance of advantage was clearly in favour of bringing in outside expertise in a systematic way and that the disadvantages could be minimised by careful choice of members and management of business. The existence of a specialist committee structure need not interfere with urgent action in emergencies and had not done so when urgent action had been needed to deal with chemical contamination. Similarly, it need not delay fast moving negotiations in Brussels on the occasions where urgent decisions might be required.

CAN EXISTING COMMITTEES BE USED?

9. There is already an extensive committee network to oversee the surveillance of chemical contamination of food and to offer Ministers advice on such matters as additives, composition and labelling. In broad terms there are three main elements:

- the Steering Group on Food Surveillance and its working parties, which assess surveillance priorities and supervise the collection of data;
- the Committee on Toxicity and similar expert committees, which advise on the biological and toxicological effects of exposure to chemicals and on risk assessment;
- the Food Advisory Committee, which brings a wider range of informed opinion to bear and advises Ministers on the need for legislation.

10. The Steering Group on Food Surveillance is confined in scope at present to chemical matters, and co-ordinates the work of 10 expert working parties whose job is to ensure that

there are no adverse changes in the composition of food or drink. The working parties cover:

- Food wrapping components;
- Metals;
- Veterinary drug residues;
- Additives;
- Pesticides;
- Nitrate, nitrite, and nitrosamines;
- Nutrients;
- Natural toxins;
- Industrial organic contaminants in the environment;
- Radionuclides.

11. Reports of the working parties and of the Steering Group on Food Surveillance itself are published regularly in Food Surveillance papers and their findings, having been assessed by the Food Advisory Committee and the COT can form the basis for policy decisions and legislation.

12. The Steering Group on Food Surveillance is chaired by MAFF's Chief Scientist (Food) and consists mainly of officials from the five departments concerned, but also has five independent members. It is backed by the resources of MAFF's Food Science Divisions. The Steering Group and its working parties clearly have some expertise relevant to surveillance since they have some knowledge of sampling techniques and processes, and experience and contacts with the food industry. However, there are marked differences in the sampling techniques necessary to ensure adequate analysis of food for chemical contamination (which cannot increase or decrease in level once a sample is taken), as compared to microbiological sampling where the organism may multiply or die or contaminate other samples if not properly handled. The range of expertise would have to be considerably widened if microbiological tasks were added.

13. Medical and toxicological advice is provided by three medical committees; the Committee of Toxicity of Chemicals in Food, Consumer Products and the Environment, the Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment, and the Committee on Mutagenicity of Food, Consumer Products and the Environment. These committees provide expert advice on risks to health. There is also an Advisory Committee on Novel Foods and Processes (ACNFP). Each has an independent chairman and members with a predominantly medical or academic background. The Committee on Toxicity (COT) for example has the chairman and five members from hospitals, four from academic life, two veterinarians and two from industry. All these committees have very specific remits which would be of no help on the microbiological side.

14. The Food Advisory Committee (FAC) goes back to 1947 but has existed in its present form since November 1983. Its present terms of reference and membership are given at Annex B. The Committee's main task is to advise Ministers on the exercise of relevant powers in the Food Act 1984 and to make recommendations for legislation on matters within its terms of reference which are confined to chemical additives and contaminants and to the composition, labelling and advertising of food. Reviews are carried out at the request of Ministers, and the advice of the Committee is usually published for public consultation.

15. The FAC is non-statutory. It has a chairman and 14 members appointed for their personal expertise, rather than representing any particular interest. The chairman and four members have an academic background. Four members have had experience relating to the food industry, and one to food retailing. Two have a background in food law enforcement, and three have consumer backgrounds.

16. The public expects food to be safe and probably does not see a sharp distinction between chemical and microbiological

risks. It can be argued that the public is more likely to be reassured if it can look to a single independent and authoritative committee advising Ministers on the action they should take on both aspects. FAC's membership, however, would have to be extended and revised if it assumed responsibility for microbiological aspects of food safety. The Committee would need to be attended by a DH as well as a MAFF assessor and would need to have a joint secretariat. It would need additional members with experience in the fields of medical microbiology, epidemiology, veterinary science, catering and environmental health enforcement. It might be possible to offset this by a reduction in the existing membership and perhaps by finding members with experience relevant to both chemical and microbiological contamination, but both of the methods could detract from the effectiveness of current FAC work by limiting the expertise available even on the chemical front. Although a decline in the existing workload of the FAC is foreseen in the medium term, related to the increasing harmonisation of food law as part of the single market after 1992, the overall workload of the Committee for the near future is heavy and would be significantly increased if it took on responsibilities relating to the microbiological safety of food.

17. The Working Party concluded, in line with the findings of Richmond, that on balance the existing committees could not be used and that additional committees would be needed to deal with microbiological food safety and surveillance. The issues are sufficiently distinct, the expertise required sufficiently different, and the tasks that need doing so extensive, that tackling them by extending the remit and changing the membership of the existing Food Advisory Committee, the Steering Group on Food Surveillance and the Committee on Toxicity would be less efficient. The membership would become over-extended and there would be a risk of overloading the agendas and of reducing expertise in particular areas which could be detrimental to the work in general on both

microbiological and chemical matters. The Working Party accordingly concluded that a new Steering Group and a single new Advisory Committee was needed, to deal with the public health aspects of the **microbiological** safety of food.

18. The new chemical and microbiological committee structures will however have to relate sensibly to each other, refer to each other items that require specialist committee input, avoid duplication, and identify areas where joint arrangements will be more efficient and economical than separate activities carried forward in isolation. Overlapping membership both officials and independent experts, as recommended by Richmond, will be the most important method of achieving the necessary coordination.

MICROBIOLOGICAL FOOD SAFETY; COMMITTEE STRUCTURE

19. The Richmond Committee recommended (Annex A) that there should be two new groups:

a Steering Group on the Microbiological Safety of Food;

an independent Advisory Committee on the Health Aspects of the Microbiological Safety of Food.

20. While broadly acceptable, the main Richmond recommendations need to be refined and clarified. The Working Party considers for example that responsibility for the management of surveillance and research should be allocated clearly to the proposed new Steering Group, rather than to the Advisory Committee. As well as ensuring that surveillance programmes are effectively mounted, the Steering Group should, wherever possible, co-ordinate and pull together the large amount of microbiological sampling and assaying that already takes place. The Steering Group will take into account advice from the Advisory Committee on the areas where surveillance is necessary and will seek the advice of the Advisory Committee

on the interpretation of the results in the public health context. It will then draw policy conclusions from the interpreted results of surveillance and put these directly to Ministers.

21. The Advisory Committee should have the principal function of bringing outside expertise in microbiological aspects of public health to bear on the interpretation of the results of surveillance and on the policy formation process. It would provide expert advice to the Steering Group and identify priorities for its work, where, for example, a new pathogen requiring urgent attention is identified. It would not have a day-to-day responsibility for commissioning, shaping or directing surveillance work, and although free to give Ministers advice on overall priorities, it would have no day-to-day responsibility for budget allocation or management. It would, however see the results of the surveillance work and provide a public health interpretation of them for the Steering Group. The Richmond Committee proposed a number of additional tasks as shown in Annex C. The Working Party considers that on the whole the Advisory Committee should not have a major role in advising on training, health education or legislation, as suggested by Richmond, but it would provide an independent source of public health advice on these topics where relevant. These aspects would be covered by the Committee's general function to advise on public health matters in relation to microbiological food safety.

22. The following paragraphs set out the Working Party's proposals on the new Steering Group and Advisory Committee.

The Steering Group on the Microbiological Safety of Food

23. The terms of reference of the Steering Group might be: "To identify through surveillance the need for action to ensure the microbiological safety of food". The Group would:

- develop a surveillance strategy and maintain an overview of all surveillance activity;
- initiate studies and facilitate the co-ordinated application of the surveillance budgets which are under direct departmental control so that expenditure is consistent with the agreed surveillance strategy;
- co-ordinate surveillance activity undertaken or commissioned by government departments;
- seek to influence surveillance activity of relevant bodies, eg the Public Health Laboratory Service, Environmental Health Departments, Health Authorities and industry, with a view to improving consistency and promoting more useful results;
- consider advice from the Advisory Committee on the areas where food surveillance is needed and on the interpretation of the results of the surveillance work;
- collate and evaluate the findings of surveillance and the advice of the Advisory Group on these results, and advise Ministers on action arising.

24. Because the Steering Group would be heavily concerned with the allocation of departmental resources, it would consist predominantly of officials rather than outside experts. The ratio might be broadly 2:1, as with the Steering Group on the chemical side. The members might include the following or their representatives:

Officials from Government Departments

DH (5): SPMO, Microbiological contamination of food and communicable disease division (MCD)
PMO, MCD division
Under Secretary, Environmental health and food safety division (EHF)
Grade 5, environmental health and food safety division
Departmental environmental health officer

MAFF (5): Chief Scientist (Fisheries and Food)
Grade 5, Food Science Division II
Representative of Chief Veterinary Officer
Under Secretary, Animal health group
Under Secretary, Food safety group

SHHD - 1

DAFS - 1

Outside experts

Public Health Laboratory Service - 1/2
Medical Research Council - 1
Environmental health officers - 1
Food manufacture - 1
Food retailing and other distribution - 1
Catering - 1

The Departmental membership will need to be flexible and the precise spread of outside interests that could be covered in a group of manageable size would depend upon the expertise of the individuals prepared to offer their services.

Consumer representation

25. There are arguments for and against including a consumer representative. To do so might help ensure that resources were directed towards issues of public concern; and there would be presentational advantages. Much however depends on the calibre of the individual. There may also be problems with pressures for premature disclosure of results before their significance has been fully assessed. The Working Party concluded that on balance consumers' interests should be represented on the Advisory Committee network and that there was no need to put consumers on the Steering Group as well.

Chairmanship and Sub-Groups of Steering Committee

26. The Richmond Committee recommended that the Steering Group should be led by the Department of Health. To promote effective co-operation and reflect the spread of expertise and resource commitment, the Working Party recommends that the chairmanship should alternate every two years between the leading DH medical and MAFF food science officials, the deputy chair being from the Department not taking the lead. The Department of Health might take the chair for the first two years. There should also be a joint secretariat.

27. Because of the range of surveillance work, the Working Party agreed that in practice much of the work of the Steering Group should be conducted through sub-groups bringing in specialists on particular topics. These sub-groups might deal with a particular organism (such as listeria), a food (such as poultry meat) or a sector of industry (such as catering). The Working Party agreed that the department with the main interest in the topic should be responsible for chairing the relevant sub-group, in accordance with the priorities agreed by the Steering Group. Resources would preclude operating sub-groups for all topics meriting attention and they should therefore generally be established for a limited period. For

much the same reason it would not be possible to cover through the Steering Group or sub-groups all the matters proposed by the Richmond Committee and where food, food animals or environmental surveillance is not necessary, issues should be left to line management in the department concerned. The existing 'Microbiological Forum', which considers research priorities on an inter-departmental basis, would in future come under the aegis of the Steering Group.

Advisory Committee on the Microbiological Safety of Food

28. It is important that the terms of reference of the new Advisory Committee and the FAC should be complementary. Although some subjects are bound to concern both committees, overlaps and gaps need to be avoided. In addition, in the face of calls for an independent food safety agency, it is helpful to be able to show that independent advisory committees between them cover the whole field. The terms of reference of the Microbiological Advisory Committee might therefore be:

"To assess the risk to humans of micro-organisms which are used or occur in or on food and to advise Ministers on the exercise of powers in the Food Safety Act 1990 relating to the microbiological safety of food".

While those of the Food Advisory Committee might be revised, subject to consultation with the Chairman, to become:

"To assess the risk to humans of chemicals which are used or occur in or on food and to advise Ministers on the exercise of powers in the Food Safety Act 1990 relating to the labelling, composition and chemical safety of food. In exercising its functions the Food Advisory Committee will take the work of the Committee on Toxicity and other relevant advisory committees into account".

The reference to the Committee on Toxicity and other advisory committees in the proposed terms of reference of the Food Advisory Committee reflects an important distinction, in that the FAC takes account of the work of six expert committees. While this is an important distinction, there is a presentational case for dropping the second sentence of the proposed terms of reference for the FAC in order to underline the symmetry of the new arrangements.

29. The principal tasks of the new Advisory Committee would be:

To advise on public health aspects related to microbiological food safety.

To review available information on the incidence of human food-borne illness due to micro-organisms, and provide an expert assessment, including advice on particular consumer concerns.

To provide expert advice on the threat to human health arising from particular pathogens, including newly identified micro-organisms, and on the degree to which the presence of such micro-organisms merit regulatory or other intervention.

To advise on public health-related research matters, including work on virulence, epidemiological needs, and lessons to be learned from outbreaks of food-borne disease.

To advise on the results of food surveillance and the possible human health implications of the results.

As mentioned above, the committee will not give advice on acute outbreaks although it may give advice or guidance on the general approach to the handling of outbreaks or on the implications of certain outbreaks for food safety in general.

30. The Advisory Committee would be chaired by an independent expert of standing. Its members would need to give a balance on the following lines:

- experts in microbiology and epidemiology - 4/5
- food science and veterinary science - 2
- food industry (primary and secondary processing, catering and retail) - 4/5
- local and health authorities - 2
- consumer - 2

The precise numbers and composition would depend upon qualifications and experience of those willing to serve.

Government and non Government Assessors would need to include:-

- Chairman of Steering Group
- Deputy Chairman of Steering Group
- Grade 3 Admin DH/MAFF
- CVO representative
- PHLS representative
- Representatives from the territorial departments.

31. The Secretariat would be led by DH but with MAFF representation. Coordination with the Food Advisory Committee would be achieved partly by the Assessors and Secretariat and partly by overlapping membership of the two committees.

32. The Working Party concluded that arrangements on the above lines would be very close to those recommended by Richmond and give the most effective allocation of functions.

RESOURCES

33. The cost of the activity associated with the proposed new Steering Group and Advisory Committee is estimated by the Departments to be of the order of £5-7 million for DH and £5 million for MAFF in a full year. This includes the support costs of the committees but the predominant element is to fund research and surveillance. Departments consider that all of the DH expenditure and £0.75 million of the MAFF expenditure would be additional. Details have yet to be discussed with the Treasury, but it was noted when the Government response to the Richmond Committee was discussed in MISC 138 on 14 February 1990 that costs for both Departments in 1990-91 would be met within existing provision, and costs for the later years would be for discussion in the 1990 Public Expenditure Survey.

34. It would be helpful to announce the proposals in Report Stage or Third Reading of the Food Safety Bill. The Steering Group can be set up immediately but the Advisory Committee should start work in September after the Richmond Committee has finished Part II of its work and has been disbanded. An announcement of the chairmanship and membership of the Advisory Committee could therefore take place in July (after consultation with the FAC over changes in the Terms of Reference of that committee).


RECOMMENDATIONS

35. The Working party recommends that:-

- a. a specialist committee structure should be set up to bring in outside expertise and help carry out the surveillance of the microbiological safety of food; this should not interfere with urgent action in emergencies (paragraph 8);
- b. a new steering group and a new expert advisory committee are needed (paragraph 17);

- c. for both officials and independent experts there should be some overlap between the membership of the chemical and microbiological committee structures (paragraph 18);
- d. the terms of reference, functions and membership of the new steering group should be as set out in paragraphs 23-24;
- e. much of the work of the steering group should be conducted through sub-groups (paragraph 27);
- f. the term of reference, functions and membership of the new advisory committee should be as set out in paragraphs 28-31;
- g. the terms of reference of the Food Advisory Committee should be revised to match those of the new advisory committee, subject to consultation with the chairman of the FAC (paragraph 28);
- h. costs for MAFF and DH in 1990-91 will be met within existing provision, and costs for later years will be for discussion in the Public Expenditure Survey (paragraph 33);
- i. an announcement should be made and the steering group established as soon as possible; the Advisory Committee should be appointed in July and start work in September (paragraph 34).

MAFF, DH, CABINET OFFICE
MARCH 1990



Annex A: Richmond Committee recommendations on main structures.

Annex B: Food Advisory Committee.

Annex C: Additional tasks recommended by Richmond Committee

Richmond Committee's Recommendations on
Microbiological Surveillance System:

PROPOSALS FOR A
NATIONAL
MICROBIOLOGICAL
FOOD SURVEILLANCE
AND ASSESSMENT
SYSTEM

5.19 We therefore see a need for a national microbiological surveillance and assessment system (R5.1).

5.20 The aims of such a system should be:—

- a. to monitor trends in the incidence of potentially harmful microorganisms in food;
- b. to identify "new" potentially hazardous microorganisms (so-called "emerging pathogens");
- c. to initiate appropriate surveys of particular foods;
- d. to identify failures in the application of hygienic production and processing techniques;
- e. to assess the degree of conformity (ie of hygienic practice, testing procedures and levels and extent of contamination) to national and EC standards, where they exist. This will become increasingly important as 1992 and the Single European Market approaches;
- f. to see, as far as the constraints of EC law allow, the development of a more co-ordinated and targeted programme of testing of imported foods under the Imported Food Regulations;
- g. to assess new processes and monitor changes in old processes.

5.21 Such a nationwide system for the surveillance of food, when considered together with epidemiological data on related human illness and animal contamination, would provide the factual basis, which is currently lacking, for public health actions, for policy decisions and for advice to industry.

5.22 We recommend that such a system be set up.

5.23 There will also be a need for a structure to assess the results of this surveillance in the context of the food chain and epidemiological information on human and animal diseases.

Relevance of the above committee structure to the management of the Microbiological Safety of Food

5.28 From our discussions with DH and MAFF it appeared that the system for the chemical surveillance of food works well. Thus we considered the value of an analogous committee structure to be concerned with the microbiological contamination of food. However there are differences between chemical and microbiological contamination of food which any proposed structure proposed must be able to take into account.

5.29 We stress that any Committee structure proposed would not be directly involved in the management of acute outbreaks.

5.30 There are some significant differences between the implications of chemical and microbiological food contamination. In the chemical field gross contamination sufficient to produce an immediate toxic effect is fortunately rare. Thus attention generally focusses on long term effects and on ensuring that levels of chemical contaminants are sufficiently low to prevent toxic effects even after years of chronic exposure. A second major difference is that the level of contamination of the food is often relatively easily ascertained as the residues tend to be stable and often evenly distributed through the food. In addition some chemicals are intentionally added and these are controlled by specific legislation under the Food Act 1984.

5.31 Microbiological contamination, on the other hand, commonly causes illness which has a rapid onset and, furthermore, can be transmissible to others, thus allowing continued dissemination after the initial focus of infection has been eliminated. The level of microbiological contamination in a food can also change rapidly and vary markedly, because time and temperature affect the ability of the microorganisms to multiply. It is also possible for the *properties* of the organism, eg virulence, to change over time.

Proposed Microbiological Food Surveillance System

5.32 In the light of these important differences, the committee structure required for the microbiological surveillance of food is not strictly analogous to that for chemicals in food. Rather it needs to be developed specifically to address the problems peculiar to microbiological food contamination. It will need to develop the necessary long term strategy for dealing with the microbiological safety of food. It must include a group that has the power to initiate executive action and an advisory group to provide an independent input to the decision-making process. We therefore propose a structure which involves two committees:—

(i) A *Steering Group on the Microbiological Safety of Food* to co-ordinate microbiological food safety (RS.2) which consists of officials and experts chaired by a Department of Health Chairman, responsible to and reporting to Ministers. This Committee will have the particular responsibility to carry out surveillance and to co-ordinate inter-departmental action; and

(ii) an *Advisory Committee on the Health Aspects of the Microbiological Safety of Food* to provide an independent expert view on the public health implications of food safety matters and in particular on the results of the surveillance. It will also advise on the areas where surveillance and other Government activities are needed (RS.2). The Committee should have an independent chairman and its membership should include representatives of the public interest.

We expand on the details of these two Committees in paragraphs 5.33 – 5.38 below and in Figure 5.1.

5.33 *The Steering Group on the Microbiological Safety of Food* (ie the Committee identified in 5.32(i) above) would:—

- a. review and collate information relating to the microbiological safety of food. This will include developing a continuing overview of the level and type of microbiological contamination of food relevant to human health in the UK and the incidence of foodborne illness in the human population;
- b. institute surveys and necessary research to allow potential and emerging problems to be identified so that preventative action may be taken at an early stage;
- c. respond to developing trends by setting a surveillance strategy and directing resources as appropriate within the limits available;
- d. co-ordinate inputs and the responses of Departments and relevant bodies eg the Public Health Laboratory Service, the food industry, Environmental Health Departments, and Health Authorities.

5.34 This Committee will therefore be the main route for advice to Ministers on action necessary in relation to the microbiological safety of food and their implications for public health. In formulating such advice it will take especial account of the advice from the "health" committee identified in paragraph 5.32(ii) above.

5.35 The Steering Group will need to form Working Parties to cover particular topics and will need to turn, where necessary, to other expert committees for specialist advice. Its work will require a substantial budget particularly to enable it to discharge its surveillance and research functions. Since some aspects of its surveillance activities will fall to DH (eg surveys at retail outlets) while others will fall to MAFF (eg surveys of slaughterhouses) the budget will need to be jointly provided by DH and MAFF.

5.36 *The independent Advisory Committee on the Health Aspects of the Microbiological Safety of Food* identified in paragraph 5.32(ii) should:—

- a. provide a continuous Independent review of all available information on the microbiological safety of food including the surveillance programme and generate an overall view and advise on any action to be taken, further studies to be carried out, etc;
- b. provide advice to the Steering Group; and advise on matters put to it by Ministers which meet particular consumer concerns (it will not advise directly on labelling matters, since these would more properly be dealt with by the existing Food Advisory Committee);
- c. advise as necessary on training; the implications of proposed EC directives at draft stage; health education; and guidance on the application of Food Hygiene Regulations;
- d. advise Ministers on public health matters such as research on virulence, epidemiological research needs and lessons to be learned from outbreaks of foodborne disease (although it will not have a role in acute outbreak management); and
- e. publish from time to time reports as appropriate.

ANNEX B

1. The Food Advisory Committee's terms of reference are:

To advise the Minister of Agriculture, Fisheries and Food, the Secretary of State for Health, the Secretary of State for Wales, the Secretary of State for Scotland and the Head of the Department of Health and Social Security for Northern Ireland on matters referred to it by Ministers relating to:

- (i) the composition, labelling and advertising of food;
- (ii) additives, contaminants and other substance which are, or may be present in food or used in its preparation; with particular reference to the exercise of powers conferred on Ministers by Sections 4, 5 and 7 of the Food Act 1984 and the corresponding provisions on enactments relating to Scotland and Northern Ireland.

2. The Committee is a non-statutory body comprising a chairman and fourteen members appointed for their personal expertise and not to represent particular interests. The Committee's main task is to review and prepare reports on all matters within its terms of reference and where necessary to make recommendations for legislation. These reviews are carried out at the request of Ministers to whom the Committee gives its advice. Ministers may then decide to make that advice public. Ministers pay high regard to the Committee's recommendations which form the basis of much of the UK legislation.

RICHMOND COMMITTEE RECOMMENDATIONS INVOLVING PROPOSED STEERING GROUP

Recommendations

R.3.11 We therefore recommend that the Steering Group on the Microbiological Safety of Food which we propose in Chapter 5 should consult the Office of Population Censuses and Surveys (OPCS), the PHLS and the SVS with a view to the harmonisation of data collection and reporting wherever this would not result in a loss of useful information. (3.50).

R.3.11 Comment

This need not necessarily be done by the Steering Group; it could be done by either DH or MAFF outside the Group context. However, the Group may well have an interest in the result of the consultation and may need a preliminary working party to examine the availability of existing data. It would be sensible to allocate this task to the Group to ensure that it is carried out.

R.4.4 We recommend the Steering Group on the Microbiological Safety of Food should be asked to consider the matter [introduction of arrangements to aid tracing back] in detail and to make recommendations. (4.32).

R.4.4 Comment

This is not a surveillance issue and is therefore not appropriate for the Steering Group. Nor does it seem appropriate for an expert Advisory Committee. It chiefly entails an assessment of administrative and regulatory procedures and options, and should therefore be carried out by the appropriate officials in MAFF and/or DH.

Government response

R.3.11 The Government agrees with this objective and will consider how best to achieve it wherever possible.

R.4.4 The Government agrees that this should be considered although as the Committee points out practical difficulties will have to be taken into account.

4.5 There is a need for a code of practice giving guidance on the management of outbreaks. We recommend the Steering Group should give early attention to the need to produce this code.

R.4.5 The Government agrees that this should receive early attention.

R.4.5 Comment

This recommendation is made in the context of remarks about clarifying responsibilities for the management of outbreaks by local authorities and health authorities. This is not a surveillance matter and therefore not appropriate for the Steering Group.

R.5.1 We see a need for a national microbiological surveillance and assessment system. (5.19). We recommend that such a system should be set up. (5.22). There will also be a need for a structure to assess the results of this surveillance in the context of food chain and epidemiological information on human and animal diseases. (5.23).

R.5.1-R.5.4 The Government agrees in principle on the need to strengthen microbiological food surveillance and in particular on the need to coordinate the activity and to draw on independent expertise. It is considering the detailed arrangements for this.

R.5.2 We therefore propose a structure which involves two committees:

- (i) a Steering Group to coordinate microbiological food safety.
- (ii) an Advisory Committee to provide an independent expert view on the public health implications of food safety matters and in particular on the results of the surveillance. It will also advise on the areas where surveillance and other Government activities are needed. (5.32).

R.5.1 and R.5.2 Comment

These are the subject of the discussion paper itself.

R.5.5 We recommend that this Steering Group should consider with the food industry what information they can make available to central government. (5.9).

R.5.5 The Government accepts this recommendation in principle.

R.5.5 Comment

is sensible for the Steering Group to do this, as it may reduce the overall cost of surveillance.

R.6.1 We recommend the Government should establish a monitoring programme to determine the extent of contamination with pathogenic bacteria at the successive stages of the poultry meat production chain and in the end product of the abattoir operation. In addition to providing baseline information, this should enable a comparison to be made between the bacterial strains in poultry and those found in humans. We would envisage the Steering Group being involved in devising this programme. (6.7).

R.6.1 The Government will consider what monitoring or surveys can most cost effectively be carried out.

R.6.1 Comment

It seems sensible for the Steering Group to be involved in this as recommended.

R.6.4 We recommend that MAFF's two data series [from the recently introduced legislation] should be kept under close scrutiny by the proposed Steering Group in order to determine whether further action is required. (6.22).

R.6.4 The Government accepts this recommendation in principle; the data will be examined closely to identify changing patterns.

R.6.4 Comment

MAFF will certainly do this in any case as part of its policy evaluation process. The recommendation that the Steering Group should consider the data seems sensible.

R.6.6 We recommend the Government and the industry that urgent consideration should be given to correcting the shortcomings in the feeding stuffs production process. The Steering Group should be involved in this consideration. (6.25).

R.6.6 Codes of Practice for the control of salmonellae have been introduced which include the production of final feed for livestock. Work is almost completed on a survey on contamination of feed ingredients. The need for further measures will be kept under review

R.6.6 Comment

is reasonable for the Steering Group to be informed of the results of any surveillance, even though feedingstuffs ingredient contamination is relatively remote from any risk to humans. However most of the shortcomings identified call for direct action by industry without the need for the Group to be involved.

R.6.8 We recommend that the Government should keep under review the adequacy of the code of practice on rendering; should closely monitor compliance with the code, and be prepared to translate some of its provisions into law if necessary. We see the Steering Group being involved in this monitoring. (6.21).

R.6.8 The Government accepts this recommendation. The Government has doubled the rate of inspections of rendering plants; these visits provide an opportunity to monitor compliance with the code and to identify problem areas.

R.6.8 Comment

To the extent that sampling and surveillance are carried out, the Group has an obvious role.



PRIME MINISTER

FOOD HYGIENE (AMENDMENT) REGULATIONS

Kenneth Clarke sent me a copy of his minute of ²⁶ April on his proposals for amending the Regulations. I welcome his intention to give businesses early warning of his new requirements but am concerned at their high cost (£100 million plus recurring costs), which will bear heavily on small food retailers.

Ken's background paper notes that most existing chiller cabinets should be able to meet the 8 C requirement. As he said in his letter of 5 April on Registration of Food Premises, however: "very few food businesses now sell only low-risk products", so most will probably have to upgrade to the 5 C listeriosis requirement. On Ken's own figures, listeriosis accounts for about 0.75% (300 out of 40,000) of cases of food poisoning notified each year.

Since about half of these are attributable to poor temperature control, the proposals are apparently aimed at less than one half of one per cent of food poisoning cases each year.

The £100 million costs of the proposals seem likely to bear most heavily on small food retailers, though it is not suggested they are a focus of listeriosis outbreaks. It is disappointing, therefore, that Ken has not felt able to act on John Redwood's recent suggestions (to Roger Freeman) for a



the department for Enterprise

longer phasing-in process and for a trade-off between the temperature at which food is held and the time it can be kept on sale. Quite the opposite, since John was invited to comment, the implementation date has been advanced by three months.

I am copying this to members of MISC 138 and Sir Robin Butler.

A handwritten signature in dark ink, appearing to be 'N.R.', is centered below the typed text.

N R

/ May 1990

DEPARTMENT OF TRADE AND INDUSTRY

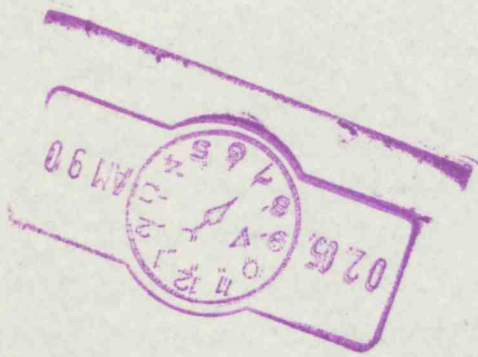
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Food Safety PB

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Department of Health and Human Services



CONSERVATION



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SS/Health to PM 30.4.90

PART 4 begins:-

SS/DTI to PM 1.5.90



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