

To: Heads of Environmental Health Services, England

**cc: Directors of Trading Standards
LACORS
APHA
CIEH**

19 December 2005

Reference: **ENF/E/05/056**

Dear Sir / Madam

APPROVAL OF MEAT ESTABLISHMENTS UNDER THE FOOD HYGIENE REGULATIONS FROM 1 JANUARY 2006

1. I wrote to you on 1 June and 13 July to ask for your assistance in identifying the catering/retail butchers and game handling establishments that will require approval under the new food hygiene regulations in 2006. To date we have received replies from only 55% of Local Authorities. My thanks to those who have responded, but we still need the outstanding response, as the establishments in question need to be identified in order for the UK to meet its obligations under EU law.
2. I would therefore be grateful if those who have not replied yet could do so by **20 January 2006**, including Nil responses please. Also, can I ask those who did reply to review their returns, because the exemption criteria have changed a little since my earlier letters, as a result of consultation responses and the need to reflect EU Commission guidance.
3. I am providing in this letter a summary of the approval requirements for catering butchers and game handling establishments, as well as updated information on cold stores which, contrary to previous advice, will require approval by Food Authorities (FAs). To assist you with any queries you may have, I attach a Q&A on catering butchers at **Annex A**, but please do not hesitate to call if you have further queries.
4. The contents of this letter have been discussed and agreed with LACORS.

Approval and Enforcement

5. In the meat sector, approval and enforcement responsibilities will lie:

- with the Agency (MHS for enforcement) for slaughterhouses, cutting plants and game handling establishments; and
- with FAs for other establishments processing meat, except when co-located with an establishment under MHS control.

6. Article 4.5 of Regulation 853/2004 provides that establishments in operation prior to 1 January 2006 may continue to operate until the “first subsequent inspection”. For those catering/retail butchers and game handling establishments that require approval, this will be a specific inspection by a Veterinary Meat Hygiene Adviser (VMHA) of the FSA. We estimate that the FSA approval exercise (including the approval of existing licensed plants) will take between 12 to 18 months to complete, although we will endeavour to meet requests from operators for early approval. In view of this, we have agreed with LACORS that:

(a) Establishments due to transfer from FA to MHS control:

- catering butchers/retail butchers and (wild) game handling establishments that require approval for the first time will remain under FA enforcement until they are approved by the FSA. FAs will be asked to provide relevant enforcement information in advance of the approval visit and will be invited to attend;
- until the currently licensed wild game plants can be approved by the FSA, the current dual enforcement arrangements will continue, whereby the MHS enforces when production is destined for export and the FA enforces when it is destined for the domestic market. Enforcement will transfer solely to the MHS as individual plants are approved by the FSA;
- Meat products plants co-located with cutting plants will remain under FA enforcement until approved by the FSA. Enforcement in the meat products part of the establishment will transfer to the MHS as individual establishments are approved.

Please note that the FSA will liaise with the relevant FAs about the approval of individual plants, to ensure that there can be no confusion about the date that each plant is approved and transfers to MHS control.

(b) Establishments due to transfer from MHS to FA control:

- currently licensed stand-alone cold stores will transfer to FA enforcement on 1 January 2006 and will need to be approved by FAs (see further advice at paragraphs 13 to 19), unless co-located with a slaughterhouse, cutting plant or game handling establishment, when enforcement and approval responsibilities will remain with the MHS.

- you should be aware, however, that we have just received a request from the European Commission for an exceptional inspection of all cold stores storing food of animal origin to be carried out. Further discussion is needed as to which enforcement body should do this work and we will consult LACORS as necessary. I will let you have further information as soon as possible.

Catering butchers

7. Catering butchers and retail butchers supplying food of animal origin to the catering trade and/or other establishments will require approval by the FSA under regulation 853/2004, unless that supply is on a marginal, localised and restricted basis. These terms should be interpreted as below. You should however note that the European Commission Guidance on the application of Regulation 853/2004 makes the point that, in general terms, the notion of “marginal, localised and restricted” should allow current practices to continue. It would therefore be appropriate for FAs to use their discretion in exceptional circumstances when compliance with the interpretation of these terms is not compatible with current practices, having taken into account all relevant factors. An example of this is outlined under the interpretation of the term “localised” below.

- (a) “**marginal**” is a small part of the establishment’s business or a small amount of food of animal origin in absolute terms. In turn, we are interpreting :
- (i) “a small part of the establishment’s business” as the supply of food of animal origin to other establishments being “**up to a quarter of the business in terms of food**”; and
 - (ii) “a small amount of food of animal origin as, in relation to **meat** (fresh or processed, excluding wild game and wild game meat), **up to two tonnes per week**, subject to the establishment having a genuine retail element to its operation, supplying the final consumer with part of its production of meat.

If either applies, the establishment will be exempt from the requirements of Regulation 853/2004.

- (b) “**localised**”: as previously advised, this should be interpreted as supply within the supplying establishment’s own county plus the greater of either the neighbouring county or counties or 30 miles/50 kilometres from the boundary of the supplying establishment’s county.

However, in exceptional circumstances, the interpretation of “localised” may be extended to the whole of the UK, in cases where the geographical distribution of certain farmed or game animals would otherwise significantly restrict the national supply (e.g. rare breeds meat, grouse), or where a traditional, rare or high value product could not find a sufficient and/or specialist market on a local basis as defined above. The FA may wish to exercise discretion in such cases, provided it is satisfied that hygiene is not compromised and adequate records of those supplied are kept. Each case

should be considered on its merits and advice sought from the FSA if required. The FSA is to consult further on this issue and will advise FAs of any change in approach.

(c) **“restricted”**:

- in relation to meat, there are no restrictions further to those under "marginal" and "localised" as above;
- In relation to wild game and wild game meat, the supply is subject to the game having been examined by a trained person, and for large game, being accompanied by a declaration stating that no abnormalities were observed either before or after shooting.

8. I attach at **Annex B** a revised form to be completed and returned **by 20 January** please. If you have no catering butchers that require approval in your area, please submit a Nil return. Our next task will be to write to the operators you identify, so it is very important that the information is accurate. If actual throughput is not known, please include an estimate if possible.

Game Handling Establishments

9. Currently, local authorities are responsible for enforcement in premises processing wild game for wholesale when the production is destined for the domestic market. When production is destined for the export market, the premises are licensed and subject to enforcement by the MHS. Under the new Regulations, all establishments processing wild game for wholesale will need to be approved by the FSA and will be subject to veterinary control, irrespective of their size or whether they supply the domestic or export markets.

10. However, the FSA intends to apply to the EU Commission to vary the requirements for establishments producing small quantities of wild game meat of up to 0.5 tonnes per week. It is proposed that such establishments would still be approved by the FSA and be subject to audit by the MHS, but the requirement for veterinary post-mortem inspection would not apply.

11. Establishments requiring approval for the first time will remain under FA enforcement until approved (please see paragraph 6 above for enforcement in currently licensed establishments).

12. I attach at **Annex C** a revised form to be completed and returned **by 20 January** please. Your return should include the small establishments referred to at paragraph 10. Please submit a Nil return if appropriate.

Cold Stores

Retail cold stores supplying the final consumer or other establishments on a marginal, localised and restricted basis.

13. Cold stores supplying the final consumer exclusively or supplying the final consumer and other establishments (including caterers) on a “marginal, localised

and restricted” basis (see interpretation at paragraph 6) will be subject to the requirements of Regulation 852/2004 and in particular will need to be registered by their FA.

Wholesale cold stores

14. My letter of 1 June stated our view, based on article 1(5)(b)(i) of Regulation 853/2004, that cold stores where the only activity was storage would not require approval, although they would be subject to the temperature requirements in Annex III to the Regulation. However the European Commission has since made it clear that it expects cold stores to be approved, based on the fact that they carry out activities for which Annex III of the Regulation lays down requirements. The Commission has included cold stores on the list of approvable establishments in its guidance, so the approval of cold stores will be a commercial necessity, as importers will expect to see UK cold stores listed there. Based on the fact that every cold store has occasion to re-wrap meat, for example if the original wrapping has been damaged, and re-wrapping is an activity in excess of storage, we conclude that cold stores should be approved. If only a minimal amount of meat is being re-wrapped, it will not be necessary also to approve the cold store as a re-wrapping centre.
15. There is no requirement for veterinary control of meat cold stores. Approval and enforcement will therefore be carried out by local authorities. Approval should be on the basis of compliance with regulation 852/2004, plus the temperature requirements in regulation 853/2004. EU Transitional provisions (SANCO 2536/2005) allow food business operators to continue using until 31 December 2007 stocks of wrapping, packaging and labelling materials bearing pre-printed identification marks purchased before 1 January 2006. Thereafter, identification marks will need to say “EC” rather than “EEC”. Cold stores could therefore continue using their current licence number as identification until the end of 2007. To avoid possible confusion, we suggest that they be allowed to keep their current licence number as an approval number.

Currently licensed cold stores

16. We will shortly provide relevant FAs with a list of the currently licensed cold stores in their area, together with relevant enforcement information. These will need to be approved, but may continue in operation until FAs are able to carry out an approval visit. The timing of this visit should be built into the inspection programme for 2006, taking account of the information received from the FSA. Please note from paragraph 6 above that FAs will be responsible for enforcement between 1 January 2006 and the date of approval. We recommend that such premises are not required to complete an application form for approval, since the relevant information will be provided to FAs by the MHS.

Currently exempt packaged meat cold stores

17. There are also packaged meat cold stores which are currently exempted from veterinary control and licensing and are therefore already under LA control. These will also need to be approved and we suggest this is done at the next scheduled enforcement visit. If required, a sample application form is at Annex 11.1 of the Food Law Practice Guidance.

18. Please note from Chapter 4.3.4 of the *Food Law Code of Practice* that, in respect of enforcement in approved cold stores, the inspection rating system at Annex 5 of the Code should be used. An inspection rating and frequency should be assessed for the premises at the time of the approval visit.
19. Where veterinary certification of exports is required, cold store operators have been advised to seek the services of a Local Veterinary Inspector (LVI) appointed to the appropriate panel for certification of meat exports from cold stores. LVI details are available from local Defra animal health offices at www.svs.gov.uk/ahdo_locations.htm

Summary of action required

- Complete catering / retail butcher form- Annex B.
- Complete game handling establishments form- Annex C.
- Return both (or email Nil return) by 20 January 2006.
- Note that FAs retain responsibility for enforcement in establishments that require approval by the FSA until those establishments are approved or conditionally approved. VMHAs will liaise directly with FAs over approval visits.
- Note that FAs retain responsibility for enforcement in currently licensed wild game processing establishments at times when production is destined for the domestic market, until those establishments are approved or conditionally approved.
- Note that FAs gain responsibility for enforcement in currently licensed cold stores from 1 January 2006 and will be responsible for approving these cold stores.

Contacts:

Thank you in advance for your help. Should you have any queries on the contents of this letter, please contact:

Sylvie Sadowski on 020-7276 8371 or at sylvie.sadowski@foodstandards.gsi.gov.uk or David Walker on 020-7276 8372 or at david.walker@foodstandards.gsi.gov.uk.

Yours faithfully

David Hart
Meat Hygiene and Veterinary Division

NEW EU FOOD HYGIENE REGULATIONS: Q&A ABOUT CATERING BUTCHERS

Q. *Is “Marginal” to be interpreted as up to a quarter or two tonnes whichever is the greater or whichever is the lesser amount?*

A. Catering/retail butchers will be exempt if either the “up to a quarter” or “two tonnes” criterion is met. The ‘small amount’ (two tonnes) alternative is specifically intended to ensure the continued exemption of smaller butchers, who may cut a small quantity of meat but supply a large proportion of it (which may be greater than a quarter of the food business) to caterers. They must however supply part of their production direct to the final consumer.

Q. *Why add the proviso that part of their production must be supplied to the final consumer?*

A. The European Commission Guidance makes special allowance for retailers producing small quantities of food, most of which is supplied to caterers or other retailers. In such cases it is content for marginal to be interpreted as a small amount of food of animal origin in absolute terms, with the intention of enabling traditional methods of distribution to continue. To reflect this, we consider that establishments that benefit from the small amount interpretation should have a genuine retail element to their operation.

Q. *What constitutes “a genuine retail element”?*

A. This could be a shop supplying the final consumer, or mail order or internet sales effected from the premises direct to the final consumer. We do not propose to set a minimum amount and LAs should use their discretion in judging whether there is a genuine retail element to the business.

Q. *How do I calculate “a quarter of the food business”?*

A. By measuring the amount of food of animal origin (FOAO) supplied to other establishments against the entire business in terms of food, whether retail or wholesale (in their conventional meanings), including food of any type, e.g. drink, biscuits etc. Establishments can be exempt from approval provided the amount of FOAO supplied to other establishments does not exceed a quarter of the food business. This should be measured in weight, or value if the various products involved make weight measurement impractical.

Q. *How do I calculate two tonnes?*

A. Bearing in mind that we are here mainly concerned with butchers, whose principal activity is the cutting of meat for supply, the “small amount” has been set in relation to meat (the sum of all fresh or processed meat). “Small amounts” have not been set for other FOAO. If other FOAO (including wild game and wild game meat) bring the amount supplied to more than a quarter of the food business, the establishment would need to be approved for every product handled, including meat. However an individual FOAO could be discounted if it

was only a small element of the total amount of FOAO supplied.

Q. Will there still be dual MHS/LA control in establishments that handle fish or milk as well as meat?

A. Yes. The FSA will be looking at the possibility of one enforcement body having responsibility for all food controls at such premises at a later stage. Meanwhile, where a process in a meat establishment requires veterinary control, all parts of the establishment processing meat will fall under MHS control as a “co-located premises”. However, for an interim period, meat products plants co-located with cutting plants will remain under LA control until they are approved by the FSA.

Q. Will a retail butcher’s shop attached to a slaughterhouse move to MHS control as part of a combined premises?

A. No. The term “co-located premises” should be applied to premises that require approval, e.g. a slaughterhouse and meat products plant. The butcher can be considered a separate establishment from the slaughterhouse and remain under LA control.