

To: Group Chief Environmental Health Officers  
District Council Chief Environmental Health Officers

Cc: NIFLG  
CIEH  
LACORS  
NILGA

22<sup>nd</sup> May 2008

Ref:ENF/NI/08/026

## I. Retailers' distribution centres

## II. Supply of food of animal origin by the producer to the final consumer at markets

Dear Sir/Madam

### **I. Retailers' Distribution Centres- approval and temperature control requirements of Regulation (EC) 853/2004**

1. The Agency's view is that retailers' distribution centres, as described below, are not subject to the temperature control requirements for products of animal origin in Regulation (EC) 853/2004, insofar as the Regulation and the accompanying Commission guidance is drafted, nor are they subject to approval under normal circumstances.
2. This advice supplements the Agency's existing guidance on the approval of cold stores, which was contained in a letter to Chief Environmental Health Officers on 22<sup>nd</sup> December 2005 (ENF/NI/05/022)<sup>1</sup>.
3. In this context retailers' distribution centres are physical structures and associated delivery vehicles owned and run by retailers that are not necessarily physically connected to a retail shop (where the final consumer buys food) or even in the local area (the term local having a particular meaning in the context of the scope of the Regulation). They supply and deliver a wide range of foods

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<sup>1</sup> [http://www.food.gov.uk/multimedia/webpage/centralref\\_nireland](http://www.food.gov.uk/multimedia/webpage/centralref_nireland)

and other goods, including foods of animal origin, to retail shops that are owned and run as part of the same business. No handling or cutting etc of open foods of animal origin takes place in retailers' distribution centres and they do not supply any third party with foods of animal origin.

4. This is based on the interpretation that they fall within the definition of retail (in Regulation (EC) 178/2002), which is outside the scope of Regulation (EC) 853/2004. Also, they are not brought back into its scope by Article 1(5)(b) of Regulation (EC) 853/2004 because their relationship with the retail shops they supply, being under the same ownership and overall management, is not characteristic of 'operations are carried out with a view to the supply of food of animal origin to another establishment'. This is consistent with the section 4.4 of the Commission's Guidance<sup>2</sup> on Regulation (EC) 853/2004. The only aspects of Regulation (EC) 853/2004 that would apply at the level of retail are those where it is specified in the regulation that they should.
5. Food retail shops and their distribution centres are, of course, within the scope of other legislation on temperature controls, specifically, the requirements of Annex II of Regulation (EC) 852/2004 and the national temperature control rules in Schedule 4 of the Food Hygiene Regulations (Northern Ireland) 2006 (as amended) and equivalents in England, Scotland and Wales.

## **II. Supply of food of animal origin by the producer to the final consumer at markets**

6. The Agency has reviewed its initial position on the supply of food of animal origin (FOAO) at markets and concluded that premises producing FOAO for supply to the final consumer at farmers' markets, or at other markets supplying the final consumer, should not be subject to approval under Regulation (EC) 853/2004.
7. This is subject to the following provisos:
  - there is no change of ownership of the FOAO (e.g. farmer A cannot cut meat and supply it to farmer B to sell at the market);
  - it does not involve supply to other than the final consumer. Supplies to shops or restaurants would render the premises subject to approval if supply was above the marginal, local and restricted limits.
8. This issue arose specifically in relation to meat cut on the farm, but applies equally to other types of establishments and FOAO.
9. Producers supplying FOAO at farmers' markets or other markets supplying the final consumer should be regarded as if they were supplying the final consumer directly, on the basis that the market can be regarded as an extension of the

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<sup>2</sup> [http://ec.europa.eu/food/food/biosafety/hygienelegislation/guidance\\_doc\\_853-2004\\_en.pdf](http://ec.europa.eu/food/food/biosafety/hygienelegislation/guidance_doc_853-2004_en.pdf)

producer's establishment. Furthermore, such sales should be treated as others sales to the final consumer and not limited to the locality.

If you would like any further information please contact Danielle Gamble on 028 90417705 or email [Danielle.gamble@foodstandards.gsi.gov.uk](mailto:Danielle.gamble@foodstandards.gsi.gov.uk)

Yours faithfully

A handwritten signature in black ink that reads "Joy Cresswell". The signature is written in a cursive style.

**JOY CRESSWELL**  
**Meat Hygiene & Imported Food Unit**