



FOOD
STANDARDS
AGENCY

SCOTLAND
Buidheann
Inbhe-Bidhe
an Alba

To: interested parties

Our ref:

28 December 2005

Dear stakeholder

APPLICATION OF THE NEW EU FOOD HYGIENE, OFFICIAL FEED AND FOOD CONTROLS AND MICROBIOLOGICAL CRITERIA REGULATIONS.

Background

This letter updates you on the current position regarding the above legislation and highlights a number of effects resulting from a delay in publication of a number of related European Commission regulations.

1. To give effect to the EU regulations, the Food Hygiene (Scotland) Regulations 2005 (SI 2005 No. 505) and the Official Feed and Food Controls (Scotland) Regulations 2005 (SI 2005/616) will apply from 1 January 2006.
2. As you may be aware the Commission subsequently brought forward a number of additional measures. These European Commission Implementing Measures¹ and Transitional Arrangements² Regulations which were adopted earlier this year (and assist with the implementation of Regulations (EC) Nos. 882/2004, 853/2004, 854/2004 and amend Regulations (EC) Nos. 853/2004 and 854/2004), and the Commission Microbiological Criteria Regulation³, were published in the Official Journal of the European Union on 22 December, and can be found at the following internet address:
<http://europa.eu.int/eur-lex/lex/JOHtml.do?uri=OJ:L:2005:338:SOM:EN:HTML>
3. These Regulations contain the formula that they must enter into force on the 20th day after publication in the Official Journal and will therefore require to be given effect on 11 January. A full list of the additional measures can be found at Annex A.

¹ Commission Regulation (EC) No 2074/2005 of 5 December 2005 laying down implementing measures for certain products under Regulation (EC) No 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No 854/2004 of the European Parliament and of the Council and Regulation (EC) 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004

² Commission Regulation (EC) No 2076/2005 of 5 December 2005 laying down transitional arrangements for the implementation of Regulations (EC) No 853/2004, (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004

³ Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs

6th Floor, St. Magnus House, 25 Guild Street, Aberdeen AB11 6NJ

Tel: 01224 285189 Fax: 01224 285110 Email: peter.midgley@foodstandards.gsi.gov.uk

Our Website address is: www.food.gov.uk

4. As a consequence, the Food Hygiene (Scotland) Regulations 2005 (SSI 2005 No. 505) and the Official Feed and Food Controls (Scotland) Regulations 2005 (SI 2005 No. 616) will come into force on 1 January 2006. SSI 2005/505 will remain in force until revoked and replaced by the Food Hygiene (Scotland) Regulations 2006.
5. You will wish to be aware that further to the public consultation on the draft Food Hygiene (Scotland) (No. 2) Regulations 2005 which ended on 13 December, the Agency has decided to give further consideration to its proposal to extend the use of Remedial Action Notices (RANs) from establishments subject to approval under Regulation 853/2004 to all food establishments. The proposed extension will not, therefore, be reflected in the further legislation to be submitted for Ministerial signature. Hence, from 1 January 2006, RANs may only be used in respect of establishments subject to approval under Regulation 853/2004⁴, in accordance with the provisions of the Food Hygiene (Scotland) Regulations 2005.
6. The new regulations also apply certain hygiene provisions at the level of primary production. Discussions will continue in the new year as to the nature and frequency of an enforcement regime for this sector.

Agency Guidance

7. Specific guidance in relation to some of the new measures is outlined in Annex B. In addition to the annexed guidance, you will wish to be aware that additional Guidance on the new food hygiene law for both food businesses and food law enforcers has been published by the Agency and can be found on the website at:

<http://www.food.gov.uk/foodindustry/guidancenotes/foodguid/fhlguidance/>

8. This guidance includes links to the most recent drafts of Commission guidance on Regulations 852/2004 and 853/2004, which have not yet been formally published.

Yours sincerely,

Bill Adamson
Food Standards Agency Scotland

⁴ Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin

LIST OF COMMUNITY IMPLEMENTING AND TRANSITIONAL MEASURES

- ❖ Commission Regulation (EC) No 1688/2005 of 14 October 2005 implementing Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs.
- ❖ Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs.
- ❖ Commission Regulation (EC) No 2074/2005 of 5 December 2005 laying down implementing measures for certain products under Regulation (EC) No 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No 854/2004 of the European Parliament and of the Council and Regulation (EC) No 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004
- ❖ Commission Regulation (EC) No 2075/2005 of 5 December 2005 laying down specific rules on official controls for *Trichinella* in meat.
- ❖ Commission Regulation (EC) No 2076/2005 of 5 December 2005 laying down transitional arrangements for the implementation of Regulations (EC) No 853/2004, (EC) Nos 854/2004 and 882/2004 of the European Parliament and of the Council and amending Regulations (EC) Nos 853/2004 and 854/2004.

ANNEX B - APPLICATION OF THE NEW EU FOOD HYGIENE, OFFICIAL FEED AND FOOD CONTROLS AND MICROBIOLOGICAL CRITERIA REGULATIONS: UPDATE / GUIDANCE.

Transitional Arrangements

1. This section highlights some provisions of the Commission Transitional Arrangements Regulation (references to legislation are given in square brackets) and to provide Agency guidance on a number of other issues:

Regulation (EC) No. 2076/2005 (Transitional Arrangements)

- a) Food of animal origin produced before 1 January 2006 and health marked in accordance with the relevant requirements at the time of manufacture may be placed on the market after 1 January 2006 [Regulation 2076/2005, Article 2].
- b) Establishments which are currently approved and will continue to be subject to approval from 1 January 2006 under Regulation 853/2004 may use, until 31 December 2007, existing stocks of wrapping, packaging and labelling materials bearing pre-printed health or identification marks purchased by them before 1 January 2006 [Regulation 2076/2005, Article 5].
- c) Food business operators may continue to use marking equipment on 31 December 2005 until its replacement or until the end of the transitional period (31 December 2009) at the latest, provided that the approval number of the establishment concerned remains unchanged. [Regulation 2076/2005, Article 6].

Approved Establishments

- d) In respect of establishments, which are currently approved and continue to be subject to approval under Regulation 853/2004 from 1 January 2006, the existing approval may continue. Food produced in such establishments may, subject to food safety requirements, continue to be placed on the market until the establishment is reassessed, at the next programmed inspection visit, against the requirements of the new legislation and approved (if appropriate) under Regulation 853/2004.
- e) Establishments which are not currently approved which will be subject to approval under Regulation 853/2004 from 1 January 2006, will be subjected to a primary inspection as soon as possible after that date.