

To: Interested parties (see attached list)

30 August, 2007

Reference: OCR 0045

Dear Sir/Madam,

**THE DRAFT OFFICIAL FEED AND FOOD CONTROLS (ENGLAND) REGULATIONS 2007
– PROPOSED AMENDMENTS**

1. I wrote to you on 26 April 2007 inviting your views on the above draft Statutory Instrument (SI) which will update and replace the Official Feed and Food Controls (England) Regulations 2006 (SI 2006/15).¹ I highlighted then that the provisions in the SI on third country import controls on feed/food of non-animal origin (non-POAO) were being revised to ensure, amongst other things, that officers of Her Majesty's Revenue and Customs (HMRC) may withhold consignments pending control by local/port health authorities. The purpose of writing now is to bring to your attention a further proposed amendment to the SI which we believe is necessary to ensure effective cooperation between HMRC and local/port health authorities in relation to such consignments, and to provide you with an opportunity to comment.

2. We are also proposing to update further some of the definitions that are required for interpretation of the SI to reflect some recent corrections that have been made to Community legislation.

3. I should be grateful to receive any comments **by close on 21 September 2007** at the latest. My contact details are given below.

Cooperation between HMRC and local/port health authorities

Background and policy aim

4. Part 3 of SI 2006/15 gives effect in England to the provisions in Regulation (EC) No 882/2004 on official controls² relating to non-POAO imported from third countries. As part of the recent consultation on updating and replacing this SI, the Agency proposed some amendments to Part 3 to ensure that the relevant authorities have the powers necessary for effective enforcement of the provisions. This included an amendment which aimed to provide the required legal basis for officers of HMRC to cooperate with the enforcement authorities (local and port health authorities). This cooperation is particularly important in relation to 'high-risk' products which are subject to specific safeguard or emergency control measures in feed/food law. The policy aim is that where consignments of such 'high-risk' products are not presented for official control but are declared for customs purposes, HMRC is able to

¹ Details of the relevant public consultation are available on the Agency's website at: <http://www.food.gov.uk/consultations/consulteng/2007/offceng07>

² Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and welfare rules. Official Journal L191, 28.5.2004, 1-52. The text of the EU Regulation may be downloaded from the European Commission's website at: http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_191/l_19120040528en00010052.pdf

withhold clearance and bring the consignments to the attention of the relevant local/port health authority.

5. In order for HMRC to withhold clearance of consignments, pending official control by local/port authorities, it is necessary to include in the SI a prohibition on the act of introducing/importing goods (feed/food) that do not meet EU feed/food law requirements. The prohibition in SI 2006/15, however, is imposed on the individual introducing/importing the goods. This issue is being addressed in the revised Regulations by replacing that prohibition with a prohibition on the act of introducing/importing the goods (regulation 27). The Regulations nevertheless provide that an individual introducing/importing the goods commits an offence by virtue of the offence provision at regulation 39(1)(b) such that local and port health authorities may still take action where appropriate.

6. The original consultation closed on 20 August and no objections to the additional prohibition were raised.

Proposed additional amendment

7. My letter of 26 April indicated that we would be liaising further with HMRC to ensure that the proposed amendment was appropriate and sufficient. We have done so and now believe that an additional amendment is required in order to achieve the policy aim. We propose to also include in the SI a measure that permits HMRC to pass information to the relevant local/port health authority regarding consignments that have not been cleared for release. This will be achieved by including HMRC in the 'information gateway' that is provided at regulation 4 (other minor consequential amendments may also be needed). This already provides a means for local/port health authorities to exchange information in relation to the execution and enforcement of official controls, and will simply be extended to include HMRC. This will bring the measures in line with those in relation to import controls for products of animal origin where HMRC is included in the 'information gateway' established by regulation 5(7) of the Products of Animal Origin (Third Country Imports) (England) Regulations 2006.³

8. Similar amendments are being proposed for the parallel legislation that is being prepared in Scotland, Wales and Northern Ireland, and the Agency is also writing to interested parties in those countries.

9. We do not consider that the proposed additional amendment will have any impact on racial equality or on social or environmental sustainability issues, or that there are any implications for businesses in terms of new administrative burdens or costs.

Definitions of Community legislation.

10. The European Commission has recently issued corrigenda to three of the EC Regulations that are defined in Schedule 1 of the draft SI - 852/2004, 853/2004 and 882/2004 - the definitions are needed for interpretation. These corrigenda were published in the Official Journal⁴ earlier this month - see link below. The corrections made are simply to the place at which the Regulations were made, i.e. Brussels rather than Strasbourg. We are proposing to update the definitions in Schedule 1 to the SI to reflect the issuing of these

³ SI 2006/2841 (as last amended by SI 2007/1605) – a copy is available at http://www.opsi.gov.uk/si/si2006/uksi_20062841_en.pdf

⁴ Official Journal L204, 4.8.2007, 26 and 29.

corrigenda. Again, similar amendments will be made to the parallel legislation that is being prepared in Scotland, Wales and Northern Ireland.

<http://europa.eu.int/eur-lex/lex/JOHtml.do?uri=OJ:L:2007:204:SOM:EN:HTML>

Further information

11. If you wish to discuss this issue, please get in touch with me (my contact details at are the foot of page 1) or with David Millis (☎ 020 7276 8484, email: david.millis@foodstandards.gsi.gov.uk).

Yours faithfully,

Catriona Stewart
Official Control Regulation Implementation Team

LIST OF INTERESTED PARTIES

ADAS Wolverhampton
Agricultural Industries Confederation
Alliance of Independent Retailers
Allied Bakeries
Allied Domecq PLC
American Peanut Council
Anglian Poultry Processors Action Group
Animal Health Distributors Association (UK)
Ltd
Animal Medicines Inspectorate
Arla Foods UK
ASDA Stores Limited
Ashbourne Biscuits
Associated British Foods PLC
Association of Bakery Ingredients
Manufacturers
Association of British Abattoir Owners
Association of Cereal Food Manufacturers
Association of Cheese Processors
Association of Convenience Stores
Association of Independent Meat Suppliers
Association of Meat Inspectors
Association of Port Health Authorities
Association of Public Analysts
Association of Sea Fisheries Committee of
England and Wales
Association of Unpasteurised Milk Producers
and Consumers
Assured British Meat
Assured Food Standards
BAFSAM
BBSRC
Bacardi Martini
Barbour Index PLC
Barefields Ltd
Bayer PLC
Bee Farmers Association
Belso's (UK) Cereals Ltd
Bernard Matthews Foods Ltd
Berry Ottaway Associates Ltd
Bio Dynamic Agricultural Association
Birds Eye Walls Ltd
Biscuit, Cake, Chocolate & Confectionery
Alliance
Boots PLC
Bourne Salads
Bowyers (Wiltshire) Ltd
Brakes
Brewers and Licensed Retailers Association
British Bakeries Ltd
British Beekeepers Association
British Beer & Pub Association
British Cattle Veterinary Association
British Chambers of Commerce
British Coffee Association
British Deer Farmers Association
British Egg Industry Council
British Equestrian Trade Association
British Fishermen's Association
British Frozen Food Federation
British Goat Society
British Hospitality Association
British Importers Association Ltd
British Independent Fruit Growers
Association
British Institute of Agricultural Consultants
British International Freight Association
British Meat Processors Association
British Medical Association
British Organic Farmers

British Peanut Council	Consumers in Europe
British Pig Association	Co-op
British Ports Association	Co-operative Group (CWS) Ltd
British Potato Council	Corporation of London
British Poultry Council	Country Landowners & Business Association
British Refrigeration Association	Courage Ltd
British Retail Consortium	Crop Protection Association
British Sandwich Association	Dairy Council
British Soft Drinks Association Ltd	Dairy Hygiene Inspectorate
British Sugar PLC	Dairy Industry Federation
British Trout Association	Dairy UK Ltd
British Veterinary Association	Danisco Ingredients UK Ltd
Britvic Soft Drinks Ltd	Danish Bacon Co Plc
Budgens Stores Ltd	DEFRA
Buss Foods Ltd	Del Monte Foods (UK) Ltd
Cabinet Office	Department for Health
Cadbury Schweppes	Diageo
Campden & Chorleywood Food Research Association	Environment Agency
Carp Society	Farley Health Products (Heinz UK)
CBI Small & Medium Enterprise Council	Farm Animal Welfare Council (FAWC)
CEFAS	Farming and Countryside Education UK
Central Public Health Laboratory	Federation of Agricultural Co-operatives UK
Central Science Laboratory	Federation of City Farms and Community
Cereal Ingredient Manufacturers Association (CIMA)	Federation of Oils, Seeds & Fats Association Ltd
Chamber of Shipping	Federation of Small Businesses
Chartered Institute of Environmental Health	Federation of Wholesale Distributors
Chilled Food Association Ltd	Feed Fat Association
Christian Salvessen Distribution Ltd	Findus Ltd
Coca-Cola Company	Food & Drink Federation
COCERAL	Food Commission (UK) Ltd
Coffee Trade Federation Ltd	Food Processors Association
Cold Storage & Distribution Federation	Food Safety Promotion Board
Colmans of Norwich	Foodaware
Compassion In World Farming	Forum of Private Business
CONBA	Freedom Food Limited
Confederation of British Industry	Freight Transport Association Ltd

Fresh Produce Consortium	Ivy House Farm
Fruit & Vegetable Canners Association	J Sainsbury PLC
Fruit Importers Association	John Lewis Partnership
Fruit Preparation Manufacturers Association	John West Foods Ltd
Gafta (Grain & Feed Trade Association)	Kellogg Company (GB) Ltd
Games Conservancy Trust	Kerry Foods UK
Geest Limited	Kettle Foods Ltd
General Consumer Council	KP Foods
Greencore Grocery	Kraft Foods UK Ltd
H J Heinz Company Ltd	L & M Food Group Ltd
Haemolytic Uraemic Syndrome Help (HUSH)	Laboratory of the Government Chemist (LGC)
Halal Food Authority	LACORS
Heads of Service at English Local Authorities	Leatherhead Food International
Health and Safety Executive	Lidl UK Gmbh
Health Food Manufacturers Association	Linking Environment and Farming
Health Protection Agency	Livestock Auctioneers Association
HM Revenue & Customs	Local Government Association
HM Treasury	London Chamber of Commerce
Holland & Barrett	Lovering Food PLC
Home Grown Cereals Authority	Lyons Tetley Ltd
Horticultural Trades Association	Majestic Trading Co Ltd
Human BSE Foundation	Maltsters Association of Great Britain
Humane Slaughter Association & Council of Justice	Marks & Spencer PLC
Iceland Frozen Foods PLC	McCain Foods
Imperial Chemical Industries PLC	McCormack Foods
Imperial College	McDonald's Restaurants Ltd
Independent Food Retailers Confederation	McKey Food Services Ltd
Infant & Dietetic Foods Association (IDFA)	Meat & Livestock Commission
Institute of Grocery Distribution	Meat Training Council
Institute of Agricultural Management	Meridian Foods
Institute of Arable Crops Research	Milk Development Council
Institute of Brewing	MNGP
Institute of British Bakers	Mushroom Growers Association
Institute of Food Science and Technology	Muslim Council of Britain
International Meat Trade Association	National Association of Agricultural Contractors
Isotron	National Association of British & Irish Millers

National Association of Catering Butchers	Port of Dover
National Association of Cider Makers	Port of Felixstowe
National Association of Health Stores	Potato Processors Association
National Association of Poultry Suppliers	Provision Trade Federation
National Association of Speciality Food & Drink Producers	Quaker Trading Ltd
National Beef Association	Rank Hovis Ltd
National Consumer Council	Rank Hovis McDougall
National Consumer Federation (NCF)	Rare Breeds Survival Trust
National Council of Schechita Board	RHM Grocery
National Council of Women of Great Britain	Rice Association
National Dairy Council	Road Haulage Association Ltd
National Dried Fruit Trade Association	Romford Wholesale Meats Ltd
National Edible Oil Distributers Association	Rowntree Mackintosh Plc
National Farmers Union	Royal Agricultural Society of England
National Federation of Fishermen's Organisations	Royal College of Veterinary Surgeons
National Federation of Fishmongers Ltd	Royal College of Physicians of the UK
National Federation of Meat & Food Traders	Royal Pharmaceutical Society of Great Britain
National Federation of Women's Institutes	Royal Society for the Prevention of Cruelty to Animals
National Market Traders Federation	Royal Society of Chemistry
National Office of Animal Health	Rural Payments Agency
National Physical Laboratory	Ryvita Co Ltd
National Pig Association	Salmon and Trout Association
National Sheep Association	Samuel Smith Brewery
Nestle UK Ltd	Seafish Industry Authority
Northern Foods PLC	Seafood Laboratories Ltd
Oddbins	Seafood Marketing International PLC
Orangina Group	Seed Crushers & Oil Producers Association
Organic Farmers and Growers Ltd	Seven Seas Ltd
Organic Food Federation	Shellfish Association of Great Britain
Organic Trust	SITPRO
P & O Nedlloyd Ltd	Small Abattoir Federation
Patak's Foods LTd	Small Business Service
Penta Foods	Smithfield Tenants' Association
People 1st	Snack, Nut & Crisp Manufacturers Association
Pet Food Manufacturers Association	Society of Independent Brewers

Soil Association
Somerfield Stores LTD
Southampton Container Terminals
Sovereign Food Group Ltd
Specialist Cheese Makers Association
St. Ivel Ltd
State Veterinary Service
Stilton Cheese Makers Association
Sustain
Tate & Lyle PLC
Tenant Farmers Association
Tesco Stores PLC
The Audit Commission
The Hospital Caterers Association
The Institute of Refrigeration
The National Audit Office
Thorntons PLC
Townswomen's Guild
Trading Standards Institute
Traditional Farm Fresh
Trebtor Bassett Ltd
Transport & General Workers Union
UK Association of Frozen Food Producers
UK Maize Millers' Association
UK Major Ports Group Ltd
Unigate Dairy Group
Unilever UK Limited
Unison
United Biscuits (UK) Ltd
Van Den Bergh Foods Ltd
Vandermoortele (UK) Ltd
Vegan Society
Vegetable Protein Association (VPA)
Vegetarian Economy & Green Agriculture
Veterinary Laboratory Agency
Veterinary Medicines Directorate
Waitrose Ltd
Walker & Sons (Leicester) Ltd
WCF Ltd
Weetabix Limited
Which?
Whitbread PLC
Whitby Seafoods Ltd
Whitworths Foods Group Ltd
William Morrison Supermarket PLC
Wine & Spirits Association
Women's Food and Farming Union
Yorkshire & Lincolnshire Fish Farmers