

To: Interested Parties on the attached list (Annex B)

**APPLICATION OF THE NEW EU FOOD HYGIENE, OFFICIAL FEED AND FOOD CONTROLS AND MICROCRITERIA REGULATIONS INTO UK LAW: CURRENT POSITION AND NEXT STEPS**

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

To give effect to new EU regulations on food hygiene and official controls, the Food Hygiene (Wales) Regulations 2005 (SI No.3293 (W.252) and the Official Feed and Food Controls (Wales) Regulations 2005 (SI No. 3254 (W.247) were approved by the National Assembly for Wales and will apply from 1 January 2006. Both are now available on the OPSI website at <http://www.opsi.gov.uk/legislation/wales/w-stat.htm>

You may be aware that the Commission subsequently brought forward a number of additional measures, detailed in Annex A. The Agency has consulted on these additional measures and the draft Statutory Instruments (the 2005 “No. 2” Regulations) that will be necessary to apply them, and on some consequential changes to the Official Feed and Food Controls Regulations.

Unfortunately, although these measures were adopted by the Commission earlier in the year, the legislation contains the formula that they enter into force on the 20<sup>th</sup> day after publication in the *Official Journal of the European Union (OJ)*. The last possible date for publication in order for the new Commission measures to apply from 1



January 2006 would have been 12 December 2005. This did not happen and, as they were not published until 22 December, they will not enter into force and apply until 11 January 2006.

This has subsequently delayed the making of the associated Statutory Instruments (SIs) which will not now be made until 2006. The Food Hygiene (Wales) Regulations 2005 will come into force on 1 January 2006 and will remain in force until they are revoked by the 2006 Regulations. The Food Hygiene (Wales) Regulations 2006 (formerly referred to as the No2 Regulations 2005) will come into force on the same day as the Commission legislation applies, namely 11 January 2006. The effects of the delay in making the second SI is below.

### **Food Hygiene (Wales) Regulations 2006**

The key changes to be introduced by the second SI relate to the application of the measures detailed in Annex A.

The second SI was sent out for consultation (as the draft Food Hygiene (Wales) (No. 2) Regulations) on 20 September 2005 and the proposals contained a small number of additional amendments. The Agency received around a hundred responses across the UK to the consultation, which closed on 13 December. The majority of views endorsed the draft SI, apart from the proposal to extend the use of Remedial Action Notices (and of Detention Notices), an issue which generated strong arguments both for and against. Having considered these comments and the polarisation of views, the proposal to extend the use of Remedial Action Notices (and of Detention Notices) will not be included in the Food Hygiene (Wales) Regulations 2006 at this stage. The provision will therefore continue to apply only in premises approved under EC Regulation 853/2004.

The Agency will reach a final view on the possible extension of Remedial Action Notices after a more detailed consideration of the consultation responses. The Regulatory Appraisal for this measure will also be reviewed.

## Official Feed and Food Controls (Wales) Regulations 2006

The EU implementing and transitional measures extend the period that certain official laboratories have to meet required European standards, and specify requirements for Member States regarding publication of lists of approved food business establishments. The measures will themselves be given effect at national level by means of administrative action rather than by legal instrument but the definitions of Community legislation used in the SI must be updated to refer to the new Commission Regulations. However, the opportunity has also been taken to make amendments to reflect recent changes in other domestic legislation that is referred to. Further, two policy issues that arose after the first set of Regulations were made have been addressed. Firstly, the right of food business operators to continue to use establishments pending appeal is to be extended to decisions by the enforcement authority to refuse approval as well as decisions to withdraw approval. Secondly, the definition of 'relevant feed law' in Schedule 2 is corrected to include the Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Wales) Regulations 2005. The introduction of these other changes will be delayed until the Official Feed and Food Controls (Wales) Regulations 2006 come into force, which is expected to be in March.

## Microbiological Criteria Regulations

The impact of the delay in application of the new EU Microbiological Criteria Regulation will be negligible, since the majority of microbiological criteria established under existing Community legislation will continue to apply until the new regime comes into force. In all cases the safety of products placed on the market will continue to be governed by the general hygiene and food safety requirements contained in 852/2004 and 178/2002.

## Code of Practice

Ministerial approval of the final Food Law Code of Practice cannot be undertaken until the Food Hygiene (Wales) 2006 Regulations have been laid before Parliament. Publication of the code, and the accompanying Practice Guidance, has therefore been delayed. Until the Code is approved and published, enforcement officers have

been requested to use, as “guidance”, the draft Code of Practice and Practice Guidance dated October 2005.

### Guidance

The Agency has produced a number of guidance documents on the new regulations to help food businesses understand the legal requirements with which they will have to comply. These are available via the web link below:

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

A number of these documents are published as 'working drafts' and are liable to amendment early in 2006 with additional material, including guidance from the Commission, and will be added to the website when available.

Similar arrangements for consolidated Statutory Instruments are being made in Scotland, England and Northern Ireland to give effect to the Commission implementing and transitional measures and the Micro Criteria Regulations throughout the UK.

A list of interested parties to whom this letter is being sent appears in **Annex B**. Please feel free to pass this document to any other parties with an interest in the subject matter herein, or send us their full contact details and we will arrange for a copy to be sent to them direct. Updates will be posted on the FSA website and a further letter issued once the coming into force date for the 2006 Regulations is finalised.

Yours sincerely

**Owen Davies**  
**Food Standards Agency Wales**

## Annex A

### LIST OF COMMUNITY IMPLEMENTING AND TRANSITIONAL MEASURES

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.

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.

## Annex B

### List of Interested Parties

Abergavenny Fine Foods Ltd  
ADAS Wales  
Alderwicks Soft Drinks  
All Wales Dietetic Advisory Committee  
B Sidoli & Sons Ltd  
Bar and Restaurant Foods Ltd  
Berwyn Bakery  
Biotrace Ltd  
Brookfield Foods Limited  
CARDIFF SCIENTIFIC SERVICES  
Chartered Institute of Environmental  
Health Wales  
Clark's Original Pies  
Co-operative Group (CWS) Ltd  
Country Land & Business Association  
Countryside Council for Wales  
Dairy Strategy Group  
DEE DAIRY SERVICES  
Department of Food Science &  
Technology  
Eurofins Scientific  
Farm Assured Welsh Livestock  
Farmer's Union of Wales  
Federation of Small Businesses  
FOOD SAFETY MICROBIOLOGY  
LABORATORY  
G C Hahn & Co Ltd  
Guild of Welsh Lamb & Beef Suppliers  
Halo Foods Ltd  
Headland Foods  
Hybu Cig Cymru  
Iceland Frozen Foods PLC  
Institute of Grassland & Environmental  
Research  
Kwik Save Group Ltd  
LACORS - Welsh Officer  
MERIDIAN FOODS  
Mid Wales Manufacturing Group  
National Farmers Union (Wales)  
National Federation of Women's  
Institutes  
NPHS  
National Sheep Association (Wales)  
PB Gelatins UK Ltd  
Peters Food Service Ltd  
PHA Cymru  
Rachel's Dairy  
RHM Frozen Foods Limited  
Royal Welsh Agricultural Society  
RUDDOCK & SHERRATT  
SEVERN TRENT LABORATORIES  
South Caernarfon Creameries Ltd  
T/A Source Foods  
The Association of Public Analysts  
THE FEDERATION OF BAKERS  
The Organic Working Group  
TILLERY VALLEY FOODS LTD  
Tovali Ltd  
Trading Standards Institute (Wales)  
Wales Council for Voluntary Action  
Wales Tourist Board  
WDA Agri-Food Development  
WDA Food Directorate  
Welsh Consumer Council  
Welsh Food Alliance  
Welsh Lamb & Beef Promotions  
Woodward Food Service  
Zorba Foods  
  
Directors of Public Protection in Wales