

To: Interested parties (see attached list)

30 August 2007

Reference: WAL 15 - 1396

Dear Sir/Madam,

**THE DRAFT OFFICIAL FEED AND FOOD CONTROLS (WALES) REGULATIONS 2007 –
PROPOSED AMENDMENT**

1. I wrote to you on 2 July 2007 inviting your views on the above draft Statutory Instrument (SI) which will update and replace the Official Feed and Food Controls (Wales) Regulations 2006 (SI 2006/590 [W.66]).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 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 2006/590 [W.66] gives effect in Wales 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

¹ Details of the relevant public consultation are available on the Agency's website at: <http://www.food.gov.uk/consultations/consultwales/2007/offcwales2007>

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



such 'high-risk' products are not presented for official control but are declared for customs purposes, HMRC is able to 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 2006/590 [W.66], 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 closes on 21 September and, so far, no objections to the additional prohibition have been raised.

Proposed additional amendment

7. My letter of 2 July 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) (Wales) Regulations 2006.³

8. Similar amendments are being proposed for the parallel legislation that is being prepared in England, Scotland 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 2006/767 (W.74) (as last amended by SI 2007/1710 [W.148]) – a copy is available at http://www.opsi.gov.uk/legislation/wales/wsi2006/wsi_20060767_mi.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 England, Scotland 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 on ☎ 029 2067 8908, or email: jayne.griffiths@foodstandards.gsi.gov.uk.

Yours faithfully

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

Jayne Griffiths
Food Standards Agency Wales

LIST OF INTERESTED PARTIES

Jan Fenner	Aberystwyth Farmers' Market
Owen Davies	ADAS
M Howard	Brookfield Foods Limited
M Williams	Cardiff Scientific Services
Mark Elliott	CIEH
Eleri Roberts	Clwyd Young Farmers Club
Wendy Cave	Co-operative Group
V Taylor	Country land & Business Association
John Lloyd Jones	Countryside Council for Wales
Keith Ashcroft	Environment Agency Wales
Nick Fenwick	Farmers' Union of Wales
Gethin Williams	Federation of Small Businesses (South Wales)
John Davies	Food Centre Wales
Alan Horine	Guild of Welsh Lamb & Beef Suppliers
Gwyn Howells	Hybu Cig Cymru (Meat Promotion Wales)
Vicky Hughes	Iceland Foods Plc
Trish Twohig	Iceland Frozen Foods
Gwyneth Beddoe	LACORS
Trevor Johnson	Minton Treharne Davies Ltd
Mary James	National Farmers Union Cymru
William Lloyd-Williams	National Federation of Meat and Food Traders
Rhian Connick	National Federation of Women's Institutes
Rabbi Dafydd Jarrett	NFU Cymru
Kevin Owen	NFU Cymru
John Mercer	NFU Cymru
C R Taylor	RHM Frozen Foods Ltd
David Walters	Royal Welsh Agricultural Society
James Thomas	Royal Welsh Agricultural Society
Jill Finch	Severn Trent Laboratories
Gareth Walters	Trading Standards Institute (Wales)
Susie Hobby	Wales Young Farmers Club
Peter Farley	Welsh Assembly Government
Huw Brodie	Welsh Assembly Government
Don Thomas	Welsh Lamb & Beef Producers
Richard Howells	Welsh Lamb and Beef Promotions
Marilyn James	Welsh Organic Scheme
David Cov	Welsh Quality Meats
Julie M Thomas	Women's Food & Farming Union Livestock Committee
Eleri Evans	YFC Eryri Office
Mark Rhodes	Zorba Foods