

Consultation Information note

Topic: Proposed national law to exempt certain food businesses* who supply food of animal origin to other food businesses from the requirements of Regulation (EC) No. 853 /2004.

Start date of consultation: Monday 30 August 2010

Closing date of consultation: Thursday 30 September 2010

Consultation details

In 2006, new European regulations on food hygiene were introduced to establish a “farm to fork” approach to food safety. One of these pieces of legislation, Regulation (EC) No. 852/2004 sets out common rules which apply to all food businesses and another, Regulation (EC) No. 853/2004 sets out additional requirements for food businesses which are specifically handling foods of animal origin.

Article 1(5)(c) of Regulation (EC) No. 853 /2004 provides for national measures to be introduced by Member States to exempt ‘retailers’ who also process and supply food of animal origin to other retailers from having to comply with the requirements of Regulation (EC) No. 853 /2004. The definition of a retailer is a broad one and includes any food business supplying direct to the final consumer. Retail includes hotels, restaurants, grocery shops and supermarkets. The possible types of food businesses that these rules might apply to are included in the Appendix to this document.

In order for a retail food business to be exempt from Regulation (EC) No 853/2004 it:

- (i) must supply food of animal origin only to the final consumer and other retail outlets and
- (ii) the trade to other retail outlets must be considered a ‘marginal, localised and restricted activity’ as set out in national law.

Member States need to define ‘marginal, localised and restricted activity’ in national law and the proposed definitions for the Republic of Ireland are set out below:

Marginal and Restricted: An activity may be regarded as ‘marginal’ and ‘restricted’ only if the food business’ total supply of food of animal origin (to all customers including retail establishments) is on average less than 500kg per week, or 1000kg per week if the establishment supplied is under the same ownership.

Localised: An activity may be regarded as ‘localised’ if the food business supplies food of animal origin to other retail establishments only within 100km of the supplying establishment.

Retail food establishments with a trade of food of animal origin to other retail establishments that would not comply with the exemption would be required to comply with Regulation (EC) No. 853/2004. This Regulation includes the requirement to obtain approval for their food activities.

The FSAI welcomes your views and in particular we invite you to submit your comments in relation to the type of food businesses that this exemption might apply to and also the definitions of ‘marginal, localised and restricted activity’.

Responses should be submitted by 5pm on Thursday 30 September 2010 to: consultation@fsai.ie

Or via post to:

Consultations, Food Safety Authority of Ireland, Abbey Court, Lr Abbey Street, Dublin 1.

Or faxed to: 01 8171 301

*This consultation does not deal with butcher shops, as national law ([S.I. No. 340 of 2010](#) – Health (Definition of Marginal, Localised and Restricted Activity) (Butcher Shop) Regulations 2010) is already in place in Ireland which allow some butcher shops to be exempt from Regulation (EC) No. 853/2004.

APPENDIX

Below is a list of possible types of food businesses that, while having to meet the requirements of Regulation (EC) No. 852/2004 may be exempted from Regulation (EC) 853/2004 subject to meeting the ‘marginal, localised and restricted activity’ definitions now to be determined. This list is not exhaustive.

- Retail bakeries manufacturing meat products (with raw meat e.g. sausage rolls) for supply to other retail establishments
 - Retail bakeries using liquid egg e.g. bakeries or catering outlets (not selling directly to the final consumer)
 - Hotels supplying foodstuffs of animal origin to another establishment, under the same ownership or otherwise e.g. pub, restaurant
 - Hotels, restaurants, supermarkets, healthcare establishments supplying local crèches and/or meals-on-wheels
 - Central production units in retail establishments supplying other retail establishments e.g. healthcare establishments, restaurant chains
 - Healthcare establishments e.g. hospitals and nursing homes with central production units serving satellite kitchens outside the same site
 - Restaurant making foodstuffs of animal origin (e.g. lasagne, sandwich filling) in one establishment for supply to other restaurants locally
 - Take-away preparing all products (e.g. battered fish, chips, etc) in one establishment for distribution to branches in the locality
 - Manufacture of food of animal origin in a retail establishment for supply to a retail establishment owned by the same food business operator e.g. retail shop or food stall
 - Supermarkets etc. producing food for supply to local food businesses (e.g. cooking chickens for local pubs, restaurants)
 - Domestic kitchens/ caterers supplying direct to final consumer and wholesaling to food markets/ local shop/ food stall
-