

Consultation Information

Title: Consultation on the definition of marginal and restricted activity for retail caterers and the extension of ‘marginal, localised and restricted activity’ to fish retailers.

Start date of consultation: 4th of July 2018 **Closing date:** 28th of September 2018

Consultation details: (Insert summary details/issues for comment)

European legislation requires that food business operators processing food of animal origin and supplying other retail establishments are approved under [Regulation \(EC\) No. 853/2004](#) laying down specific hygiene rules for food of animal origin. This legislation allows for Member States to provide for certain exemptions from approval in national law.

An exemption in Article 1(5)(b)(ii) of [Regulation \(EC\) No. 853/2004](#) provides that:

“this Regulation shall apply to retail when operations are carried out with a view to the supply of food of animal origin to another establishment, unless: the supply of food of animal origin from the retail establishment is to other retail establishments only and, in accordance with national law, is a marginal, localised and restricted activity.”

NOTE:

The criteria for ‘localised’ is not part of this consultation as it is already defined in both the Health (Definition of Marginal, Localised and Restricted Activity) (Butcher Shop) Regulations 2010 ([S.I. No. 340 of 2010](#)) and in the Health (Definition of Marginal, Localised and Restricted Activity) (Retail Catering Establishments) Regulations 2012 ([S.I. No. 168 of 2012](#)):

“An activity may be regarded as “localised” if the food business operator supplies food of animal origin which is produced in his or her establishment to other retail establishments only within 100km of the supplying establishment.”

The distance of ‘within 100km of the supplying establishment’ will also be used for the definition of ‘localised’ for the purposes of the extension of ‘marginal, localised and restricted activity’ to fish retailers.

The purpose of this consultation is to:

1. Revise the current exemption criteria for ‘marginal and restricted activity’ established under national law ([S.I. No. 168 of 2012](#)) for retail caterers who process food of animal origin for supply to other retailers.
2. Establish the exemption criteria for ‘marginal and restricted activity’ for fish retailers who process fish for supply to other retail establishments as there is currently no exemption.

Part 1: Consultation on the criteria for ‘marginalised and restricted activity’ for retail caterers

A retail caterer is defined in [S.I. No. 168 of 2012](#) as:

“any retail establishment involved in catering including hotels, restaurants, bakeries, public houses providing food, healthcare establishments, catering service providers, takeaway food service outlets, shops and central production units in such establishments.”

In order to be considered for exemption from [Regulation \(EC\) No. 853/2004](#) a retail caterer must be a food business operator supplying less than 50% of the food produced in the establishment to other retail establishments.

Proposal for revised criteria for ‘marginal and restricted’ activity for retail caterers

A retail caterer can avail of either option A or B to qualify for exemption.

An activity may be regarded as ‘marginal and restricted’ only if:

- A. The total amount of food of animal origin bought in for production in the establishment for supply to other retail establishments is on average less than 500 kg per week, or 1,000 kg per week if the retail establishment supplied is under the same ownership;

Or

- B. Less than 25%, by weight, of the food of animal origin bought in is used to produce foods of animal origin in the retail catering establishment for supply to other retail establishments.

Views are invited on this proposal to revise the criteria for ‘marginal and restricted activity’ for retail caterers as defined in [S.I. No. 168 of 2012](#).

Part 2: Consultation on the criteria for ‘marginal and restricted activity’ for fish retailers.

There is currently no exemption from approval for fish retailers that process fish for supply to other retail establishments. This consultation is to determine the criteria for ‘marginal and restricted activity’ for fish retailers to avail of an exemption from approval.

Proposal for criteria for ‘marginal activity’ for fish retailers

A fish retailer can avail of either option A or B to qualify as ‘marginal’.

An activity may be regarded as ‘marginal’ only if either:

- A. the food business operator’s total supply of fish, fishery products and live bivalve molluscs (to all customers including retail establishments) is on average less than 2,000kg per week;

Or

- B. the food business operator’s supply of fish, fishery products and live bivalve molluscs to other retail establishments represents, on average, no more than 25%, by weight, of the total supply of food of animal origin to all customers.

Proposal for criteria for ‘restricted activity’ for fish retailers

An activity may be regarded as ‘restricted’ only if the food business operator does not supply other retail establishments with

live bivalve molluscs,

Or

ready to eat fish or fishery products prepared or processed in their retail establishment

Views are invited on this proposal to establish criteria for ‘marginal and restricted activity’ for fish retailers for inclusion in national legislation.

Submissions to the consultation

If you are making a submission, please state whether the views expressed are personal or are being made on behalf of an organisation. If the views of an organisation are being submitted it should be made clear what organisation is being represented.

Submissions may be e-mailed to: consultation@fsai.ie or may be posted to:

Consultations
Food Safety Authority of Ireland
The Exchange, George's Dock
IFSC
Dublin 1
D01 P2V6

by close of business on the 28th of September 2018.

Personal Data

Any personal data, within the meaning of the Data Protection Acts 1988 and 2003, submitted as part of the consultation process, will be treated in line with the requirements of these Acts.

Personal identifying information contained in submissions will not be published in accordance with the Data Protection Acts 1988 and 2003 and the Freedom of Information Act 2014.