

EXPLANATORY MEMORANDUM TO
THE FOOD SAFETY (GENERAL FOOD HYGIENE) (AMENDMENT)
(ENGLAND) REGULATIONS 2005

2005 No. 2359

1. This explanatory memorandum has been prepared by the Food Standards Agency and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Statutory Instrument amends the Food Safety (General Food Hygiene) Regulations 1995 in relation to England so as to extend the duration of current butcher's shop licences until 31 December 2005. This is necessary because national butchers' licensing legislation is being revoked on 1 January 2006 but the majority of butchers' licences expire around 31 October 2005. This measure will avoid unnecessary costs and administrative burdens on businesses and local authorities while continuing the licensing regime, which ensures that public health remains protected until new EU hygiene legislation applicable to butchers takes effect on 1 January 2006.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Statutory Instrument will amend Schedule 1A of the Food Safety (General Food Hygiene) Regulations 1995¹. Schedule 1A sets out the requirements for the annual licensing of retail butcher's shops in England selling both unwrapped raw meat and ready-to-eat food. Butchers must satisfy specific hygiene conditions before they can obtain a licence from their local authority. The legislation requires the issuing authority to impose a £100 fee for each licence it issues. Licences must be renewed every 12 months.

4.2 These rules will be revoked on 1 January 2006 by the Food Hygiene (England) Regulations 2005. From that date butchers in England will be subject to the requirements of the Food Hygiene (England) Regulations 2005, which provide for the enforcement and execution of the requirements of Regulation (EC) 852/2004 on the hygiene of foodstuffs².

4.3 An issue arises, however, in that the majority of current butchers' licences in England are due to expire on or around 31 October 2005, i.e. two months before the licensing legislation is revoked. This is because butchers in England were first required to obtain licences from 1 November 2000 and to renew them every year. Unless the current licensing system is revised, the majority of

¹ SI 1995 No. 1765, as amended by The Food Safety (General Food Hygiene) (Butchers' Shops) Amendment Regulations 2000. SI 2000 No. 930

² OJ L226, 25.6.2004, p.3

the 9,200 licensed butchers in England will have to obtain new licences around the beginning of November 2005, at a cost of £100 each, even though these licences will cease to be required from 1 January 2006. There will also be administrative costs for local authorities associated with determining licence applications.

- 4.4 The Statutory Instrument will automatically extend the validity of current butchers' licences until 31 December 2005 by removing the need for licences to be renewed annually. As a result, the vast majority of butchers will not have to apply for new licences or pay the £100 fee. Local authorities will not have to spend time determining licence applications. Public health will continue to be protected because butchers will remain subject to the licensing conditions until new EU hygiene rules apply to them on 1 January 2006. This approach will avoid unnecessary costs and administrative burdens on businesses and local authorities.

5. Extent

- 5.1 This instrument applies to England only.

6. European Convention on Human Rights

The Parliamentary Under Secretary of State for Public Health, Caroline Flint, has made the following statement regarding Human Rights:

In my view the provisions of the Food Safety (General Food Hygiene) (Amendment) (England) Regulations 2005 are compatible with the Convention rights.

7. Policy Background

- 7.1 Butcher shop licensing was introduced in England in May 2000 following a recommendation of the Pennington Group³, which examined the fatal outbreak of *E.coli* O157 food poisoning in Central Scotland in 1996. The outbreak occurred because ready-to-eat food became contaminated with food poisoning bacteria from raw meat due to poor hygiene conditions in a butcher shop. The licensing rules addressed this specific problem by requiring butchers to operate improved food safety management procedures based on the HACCP⁴ approach in addition to satisfying general food hygiene and staff training requirements. Licensing was introduced as a temporary measure until such time as EU legislation required all food businesses to operate HACCP-based food safety procedures.
- 7.2 The new EU Regulations taking effect from 1 January 2006 introduce substantially equivalent hygiene controls, including HACCP, to those that apply to butchers now under the current licensing arrangements. In consequence, the Board of the Food Standards Agency decided, at its open

³ The Pennington Group: Report on the circumstances leading to the 1996 outbreak of infection with *E.coli* O157 in Central Scotland, the implications for food safety and the lessons to be learned. The Stationery Office, April 1997.

⁴ Hazard Analysis and Critical Control Point – a structured approach to managing food safety that involves the identification and control of hazards in food operations.

meeting on 10 March, and informed by stakeholder consultation, that national butchers' licensing legislation should not be remade when the new EU hygiene rules take effect and the current licensing requirements are revoked.

- 7.3 The Agency held a full public consultation between 19 May and 11 August 2005 on options to address the issue of butchers whose licences expire at the end of October. In addition to the draft Statutory Instrument option, views were sought on a 'do nothing' option and an option that would entail holding the annual licensing round as normal but waiving the requirement for butchers to pay the £100 licence fee. The 'do nothing' option would have maintained the status quo and required a full licensing round with associated costs. The "no fee" option would have provided consistency and reduced business costs, but would have continued to impose administrative costs on butchers and local authorities associated with submitting and determining licence applications. In addition, it could not be guaranteed that all local authorities would be prepared to forgo the fee they were entitled to charge under the current rules.
- 7.4 The Food Standards Agency recommended the option to extend the duration of current licences because it offered the best balance between protecting public health and responding positively to stakeholder representations that butchers' licensing should be brought to an end with the minimum of cost and bureaucracy. Of the 12 responses received in England, all but one supported the option to amend the current licensing legislation as recommended by the Agency. Those in support include the National Federation of Meat & Food Traders, which is the main trade body for retail butchers in England, and the Local Authority Co-ordinators of Regulatory Services (LACORS). The one respondent who did not support the recommended option, Westminster City Council, proposed re-licensing as normal but with a pro-rata fee arrangement. An option to charge pro-rated licence fees was not included in the consultation because it would add to the administrative burden if fees had to be calculated separately for each butcher's premises and this was not thought to be balanced by potential benefits. Full details of the consultation, including a summary of the consultation responses, are available on the Agency's web site at the following location: www.food.gov.uk/multimedia/pdfs/summrespbutlic.pdf

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact Point

Kieran Power at the Food Standards Agency – telephone 020 7276 8978 or email Kieran.Power@foodstandards.gsi.gov.uk – can answer any queries regarding the Instrument.