EXPLANATORY MEMORANDUM TO

THE AUTHORISED OFFICERS (MEAT INSPECTION) (REVOCATION) (ENGLAND) REGULATIONS 2012

2012 No. 690

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

2. Purpose of the instrument

2.1 To revoke the Authorised Officers (Meat Inspection) Regulations 1987 (S.I. 1987/133) ("the 1987 Regulations"), in order to deregulate the authorisation of local authority officers qualified to inspect, seize and detain fresh meat.

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

3.1 None

4. Legislative Context

4.1 Currently, in the sphere of food law enforcement carried out by local authorities, only officers qualified in accordance with the 1987 Regulations can inspect, seize and detain fresh meat for food safety reasons. Since 1987, a number of additional equivalent qualifications are now available, but those with these new qualifications cannot currently be authorised to seize meat. Revoking these Regulations will allow a greater number of suitably qualified officers to inspect, seize and detain fresh meat.

5. Territorial Extent and Application

5.1 This instrument applies to England. Parallel legislation is being made in Wales. The original legislation was effectively revoked by earlier amending legislation in Northern Ireland and did not apply to Scotland, so no revocation or replacement legislation is needed for Northern Ireland or Scotland.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The 1987 Regulations were introduced to specify the qualification requirements of those persons being authorised by a council to undertake the examination and seizure of fresh meat under the Food Act 1984. For those local authorities involved in the examination and seizure of fresh meat it provides an exhaustive list of qualifications, of which an officer must hold at least one to be appropriately authorised.

7.2 Following the introduction of Regulation (EC) No 882/2004, it is now the competent authority's responsibility to ensure that those carrying out official controls are suitability qualified and experienced. These suitability requirements are laid down within the Food Law Code of Practice for local authority staff and the Food Standards Agency's own policy document for Agency staff involved in meat inspection. These require that to inspect, seize and detain food, officers should be:

- in relation to the Food Law Code of Practice:

- an authorised Environmental Health Officer (EHO)
- an authorised Official Veterinarian
- an appropriately authorised Trading Standards Officer

In order to seize meat the officer **must** hold one of the qualifications listed in the 1987 Regulations. Officers not holding one of these qualifications **cannot** be authorised to seize meat.

- In relation to the Agency's own policy document:

- an Official Veterinarian
- an Official Auxiliary.

7.3 Due to the different qualifications that existed at the time the 1987 Regulations were drafted, an anomaly exists that prevents EHOs holding the Royal Environmental Health Institute of Scotland Diploma in Environmental Health from seizing meat. At the time the 1987 Regulations came into force, EHOs were expected to hold an additional qualification – the Diploma in the inspection of meat and other foods in order to inspect and seize meat.

7.4 In addition, in 2009 the Higher Certificate in Food Control was introduced. This new qualification, which provides for an equivalent standard of learning in relation to seizure and detention as that delivered to EHOs, is designed to allow authorised officers of a local authority who are not EHOs to inspect, seize and detain food. However, due to the more specific requirements of the 1987 Regulations, these officers are currently restricted from exercising this power with respect to fresh meat.

7.5 The revocation of the 1987 Regulations would allow all local authority officers who meet the requirements of the Code of Practice to be authorised to seize fresh meat, including those holding equivalent qualifications. This will enable local authorities to make more effective use of their available qualified and competent resource.

8. Consultation outcome

8.1 A public consultation took place between 17th August and 28th September 2011. It was agreed to carry out a shortened consultation of six weeks because the revocation of the 1987 Regulations was considered to be primarily an administrative change and a non-controversial proposal. It was also an issue that we believed had no negative impact on regulatory burden, in fact it was intended to reduce regulatory burden by enabling the use of equivalently qualified officers to seize and detain raw meat. An informal consultation with the enforcement community, prior to the public consultation, supported this view.

8.2 Only six responses were received to the consultation. Two were from groups of local authorities, two were from trade associations (Association of Meat Inspectors Ltd and Smithfield Market Tenants' Association), one was from a qualification awarding body (CIEH) and one was from a trade union (UNISON). The only substantive comments received related to a desire to safeguard the role of meat inspection to competent and qualified officers – a sentiment with which the Agency agrees. The Food Law Code of Practice will be amended as indicated in paragraph 9.1 below in order to ensure this.

9. Guidance

9.1 The Agency will notify local authorities that the equivalency flexibilities within the Code are extended to include fresh meat for holders of the Higher Certificate in Food Control. The Food Law Code of Practice will also be amended to include the Higher Certificate in Food Control as an appropriate qualification for the inspection, seizure and detention of all foodstuffs.

10. Impact

10.1 There will be no impact on business, charities or voluntary bodies.

10.2 There will be no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Agency has the statutory function of monitoring food law enforcement by local authorities, and the issue of appropriate qualifications for officers dealing with fresh meat will be kept under review as part of that monitoring.

13. Contact

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