

FLOW DIAGRAM TO DETERMINE IF APPROVAL IS REQUIRED

London Food Co-ordinating Group's Approvals Sub Group

nigel.whiteley@hackney.gov.uk. 020 8356 4917. 4Jan08

Scope

This impartial simplified guidance covers the general rules in the regulations and published official guidance that apply to nearly all food of animal origin.

For the specific categories of products of animal origin in Reg 853, Ann III, this guidance only covers the detailed rules for primary products handled in premises, (in dark blue font).

On-line version

An interactive on-line version of this diagram has been developed by ABC Courses and is available free on their website at www.abc-courses.com.

See the 'approval determinator' link on the home page.

Key

Abbreviations

FoAO - food of animal origin. **PoAO** - product of animal origin. **FBO** - food business operator.

Ann - Annex. **Art** - Article. **pt** - point. **para** - paragraph.

Reg 178 - Regulation (EC) 178/2002. **Reg 852** - Regulation (EC) 852/2004. **Reg 853** - Regulation (EC) 853/2004. **FH Regs** - Food Hygiene (England) Regulations 2006. **CoP** - Food Law Code of Practice (England).

GD 852 - EC Guidance Document on Regulation (EC) 852/2004. **GD 853** - EC Guidance Document on Regulation (EC) 853/2004. **PG** - Food Law Practice Guidance (England).

Font

- In normal font - Requirements of the Regulations, and the Food Law Code of Practice.

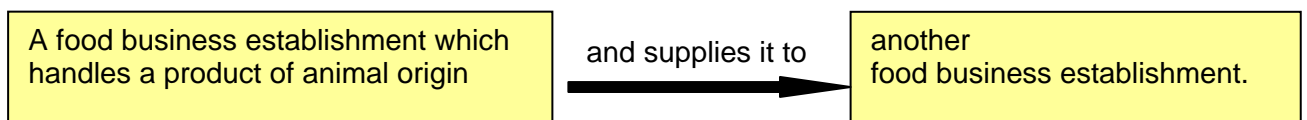
- In italics - Guidance from the EC, the FSA, and other sources.

- In dark blue font. The detailed rules for primary products of animal origin handled in premises.

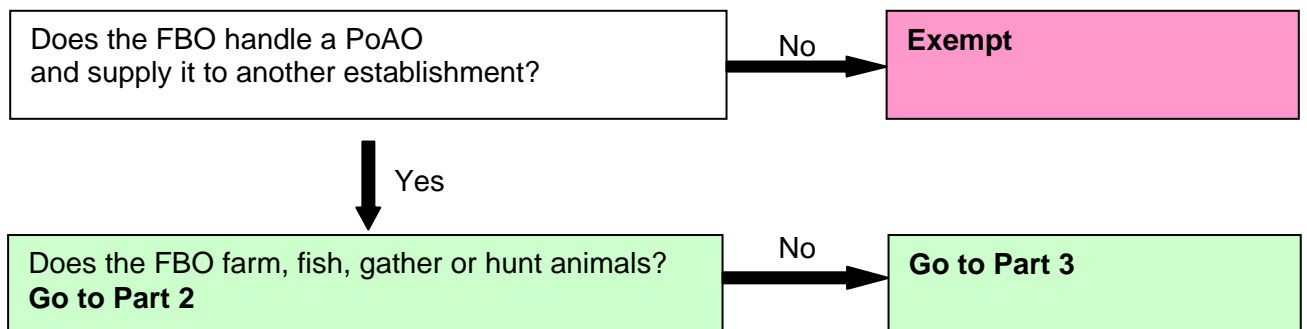
Note. The status of the Food Law Code of Practice - Food authorities 'shall have regard to ... any such code'. (FH Regs, reg 24(3)(a)). By contrast - 'Food Authorities should take account of [the Practice Guidance], as well as any appropriate Guidance issued by the European Commission'. (Stated in the Preface to the Code of Practice).

Overview - Reg 853

Approval is required for all 'establishments handling products of animal origin' (Art 4.2), which 'supply' them to 'another establishment' (Art 1.5(b)) unless they are exempt. (The rest of this flow diagram deals with these exemptions).



Part 1 - PRODUCTS OF ANIMAL ORIGIN & ESTABLISHMENT - Reg 853, Art 4.2 & Art 1.5(b)



Part 1 - Notes

- **'Products of animal origin'** means: 'food of animal origin, including honey and blood; live bivalve molluscs, live echinoderms, live tunicates and live marine gastropods intended for human consumption; and other animals destined to be prepared with a view to being supplied live to the final consumer'. Reg 853, Ann I, pt 8.1.

- Many types of PoAO are defined in Reg 853, Ann I.

- *Several types of PoAO are listed in GD 853, Ann I & II.*

- The PoAO for which an establishment may be subject to approval are: 'those products of animal origin for which Annex III of (Reg 853) lays down requirements'. Reg 853, Art 4(2).

- *Honey is exempt. GD 853, para 3.2.*

- *Put very simply, PoAO for which an establishment may require approval include: meat, fish (killed), shellfish (alive or killed), milk, eggs, frogs' legs, snails, and products made from any of these, and also rendered animal fat, treated intestines, gelatine, collagen, etc.*

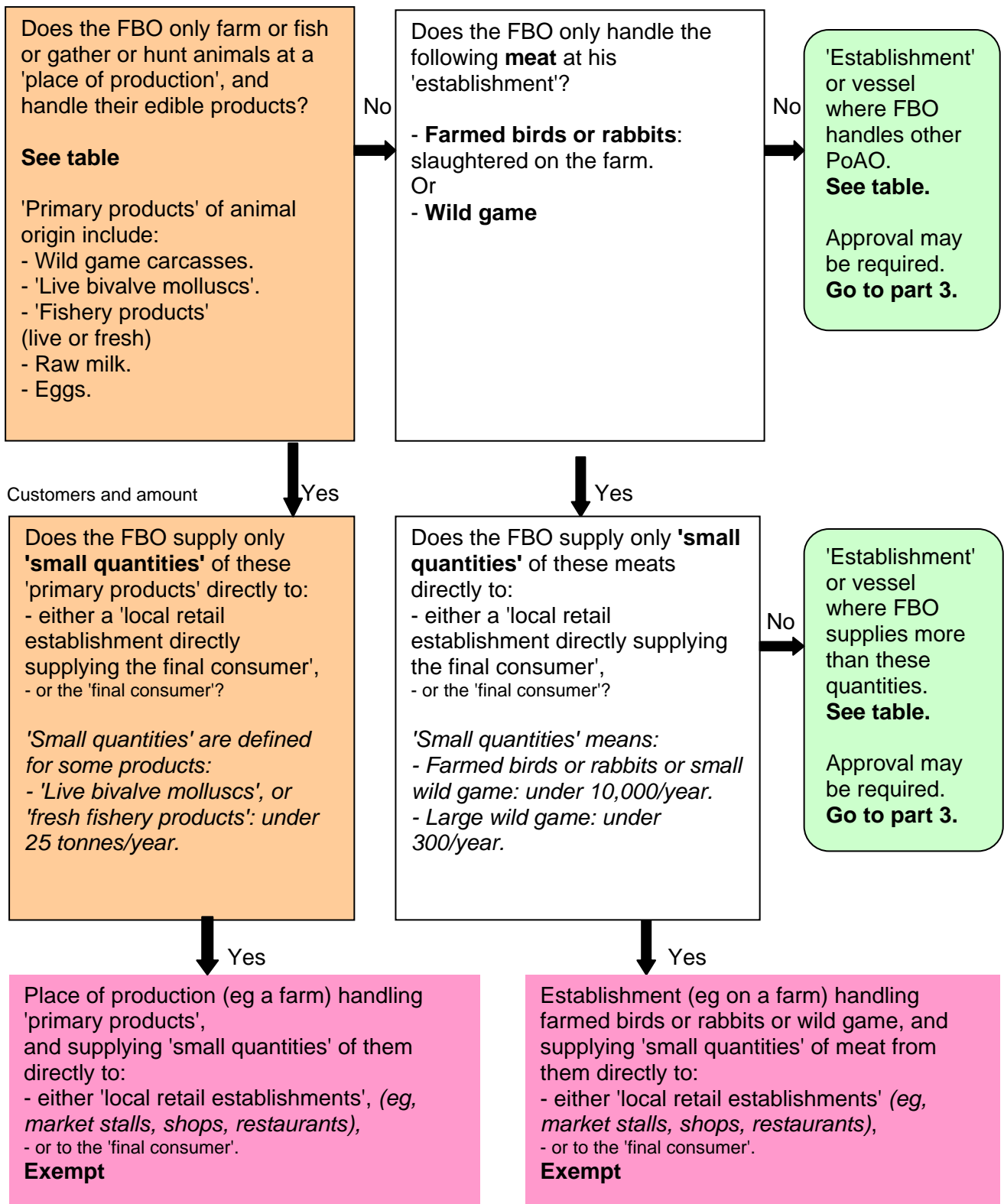
- **'Establishment'** means 'any unit of a food business'. Reg 852, Art 2.1(c).

- *Many establishments subject to approval are listed in GD 853, Ann IV. 'Small establishments ... must be approved'. GD 853, para 4.2.*

- **'Supply to another establishment'** - *whether in the same ownership or not. PG, Ann 7, App 1, Qu 14.*

Part 2 - FARMING, FISHING, GATHERING & HUNTING - Reg 853, Art 1.3(c-e)
 'Place of production' or 'establishment' handling 'primary products' of animal origin.

Products and operations



Part 2 - Table giving simplified examples of premises and vessels which handle 'primary products', and which are either used for primary production only, or are subject to approval.

'Primary products' of animal origin	Premises or vessels for primary production only	Establishments or vessels subject to approval
	All are exempt	Some are exempt
live farmed mammals or birds, (before slaughter)	- farm for animals	- 'Slaughterhouse' (Some are exempt - small quantities of farmed birds or rabbits)
'Wild game' carcasses, (before skinning or plucking)	- Building for chilling carcasses.	- 'Game handling establishment' (for preparing carcasses & meat). (Some are exempt - hunter's premises)
'Live bivalve molluscs' (eg, cockles, mussels, also winkles, whelks), (before arrival at a purification or dispatch centre)	- fishing vessel	- 'Purification centre' (for reducing contamination). - 'Dispatch centre' (for conditioning, cleaning wrapping, etc).
'Fishery products' - live, (eg fish, crabs), or - fresh (eg headed, gutted, wrapped & chilled).	- fishing vessel - quayside for unloading fishery products - fish farm	- 'Freezer vessel' (for freezing). - 'Factory vessel' (for filleting, shelling, processing, etc).
'Raw milk'	- 'Milk production holding' (farm building for milking, or storing raw milk).	- <i>milk collection centre (for storing raw milk after collection from farms)</i>
'Eggs' (before grading or processing)	- farm building for producing or collecting eggs.	- 'Packing centre' (for grading eggs by quality etc)
- live frogs - live 'Snails' (before slaughter)	- farm for frogs. - farm for snails.	- establishment (for killing & preparing): - 'Frogs legs', or - snails
'Primary products' of animal origin generally	- many premises or vessels	- establishments preparing or processing 'primary products' of animal origin. (Many are exempt).
	- market for animals	- 'Wholesale market' (for selling food) (Some are exempt). - cold store (Some are exempt).

Part 2 - Notes

- Foods and establishments in inverted commas in the table are defined in Reg 853, Ann I.

- '**Primary production**' means 'the production, rearing or growing of primary products including harvesting, milking and farmed animal production prior to slaughter. It also includes hunting and fishing and the harvesting of wild products.' Reg 178, Art 3.17. *GD 852, para 3.1-3.7. GD 853, para 3.7.*

- '**Primary products**' means 'products of primary production including products of the soil, of stock farming, of hunting and fishing'. Reg 852, Art 2.1(b).

'Small quantities' of 'primary products' and certain meats. Reg 853, Art 1.3(c-e).

- Farmed birds or rabbits, ('Poultry' or 'Lagomorphs'). *PG A.5.4.5.*

- Wild game - *prepared as carcasses or meat. PG A.5.4.4.*

- Live bivalve molluscs. Primary products - Reg 853, Sec VII, pt 4(a). *PG A.6.2-3.*

- Fishery products. Primary products (live or fresh) - Reg 853, Sec VIII, pt 4. *PG A.7.4.*

- Raw milk. May only be sold to a distributor who sells to the final consumer, or directly to the final consumer. (Simplified). FHR, Sch 6, para 3-4.

- '**Final consumer**' means 'the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity'. Reg 178, Art 3.18. *ie, 'the public'. PG A.5.4.1.*

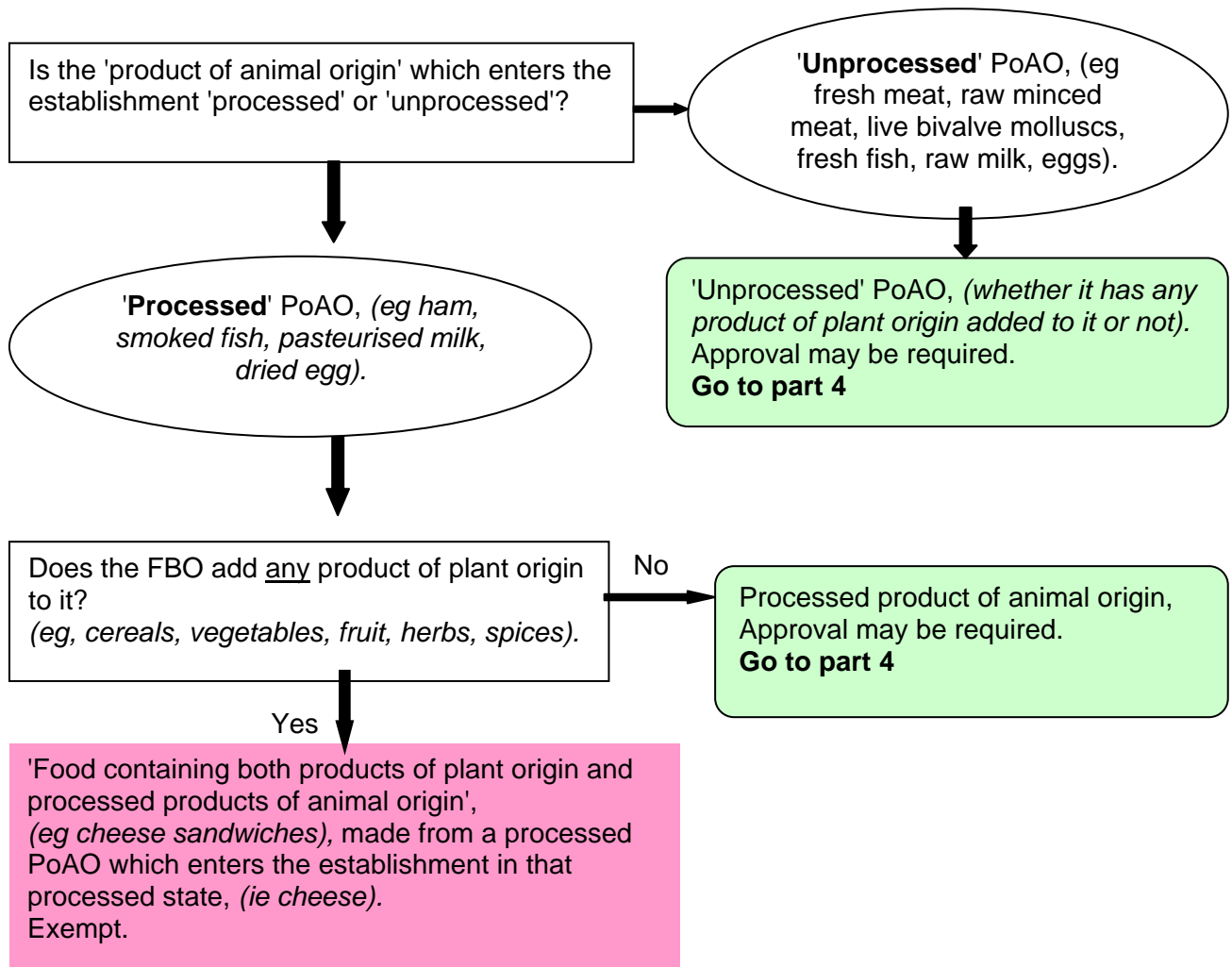
- '**Wholesale market**'. *GD 853, para 4.6. PG Ann 7, App 1, Qu 7.*

- **Cold stores.** CoP 4.3.4. *GD 853, para 4.4. PG A.5.3.3. PG Ann 7, App 1, Qu 15.*

Part 3 - PRODUCTS - Reg 853, Art 1.2

Establishment which handles a PoAO.

(Except for an establishment on a farm which only handles farmed birds or rabbits or wild game, and supplies small quantities of meat from them directly to local retail establishments or to the final consumer).



Notes

- '**Unprocessed products**' means 'foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed.' Reg 852, Art 2(n).

- '**Processing**' means 'any action that substantially alters the initial product, including heating, smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of those processes'. Reg 852, Art 2(m).

- '**Processed products**' means 'foodstuffs resulting from the processing of unprocessed products. These products may contain ingredients that are necessary for their manufacture or to give them specific characteristics'. Reg 852, Art 2(o). Nine types of processed products are defined in Reg 853, Ann I, section 7.

- '**Food containing both products of plant origin and processed products of animal origin**' (Reg 853, Art 1.2) is explained in CoP 5.1.4.2. *Some examples of activities which determine whether an establishment handling such food may be exempt, or may require approval, are listed in GD 853, Ann III.*

(Continued on next page)

- Processed products of animal origin containing ingredients necessary to give them specific characteristics

There is another interpretation of Article 1.2, which is given in GD 853, para 3.3 and Ann II. This takes the definition of 'processed products' (in Reg 852, Art 2(o), quoted above) and interprets it to mean that this definition 'expressly [indicates] to the contrary [that Reg 853 does] not apply to food containing both products of plant origin and processed products of animal origin', (Art 1.2). In other words, GD 853 indicates that Reg 853 does apply to processed products of animal origin, which 'contain ingredients that are necessary ... to give them specific characteristics', and that such ingredients may include products of plant origin. The examples given are: [processed] sausage with garlic, yoghurt with fruit, and cheese with herbs.

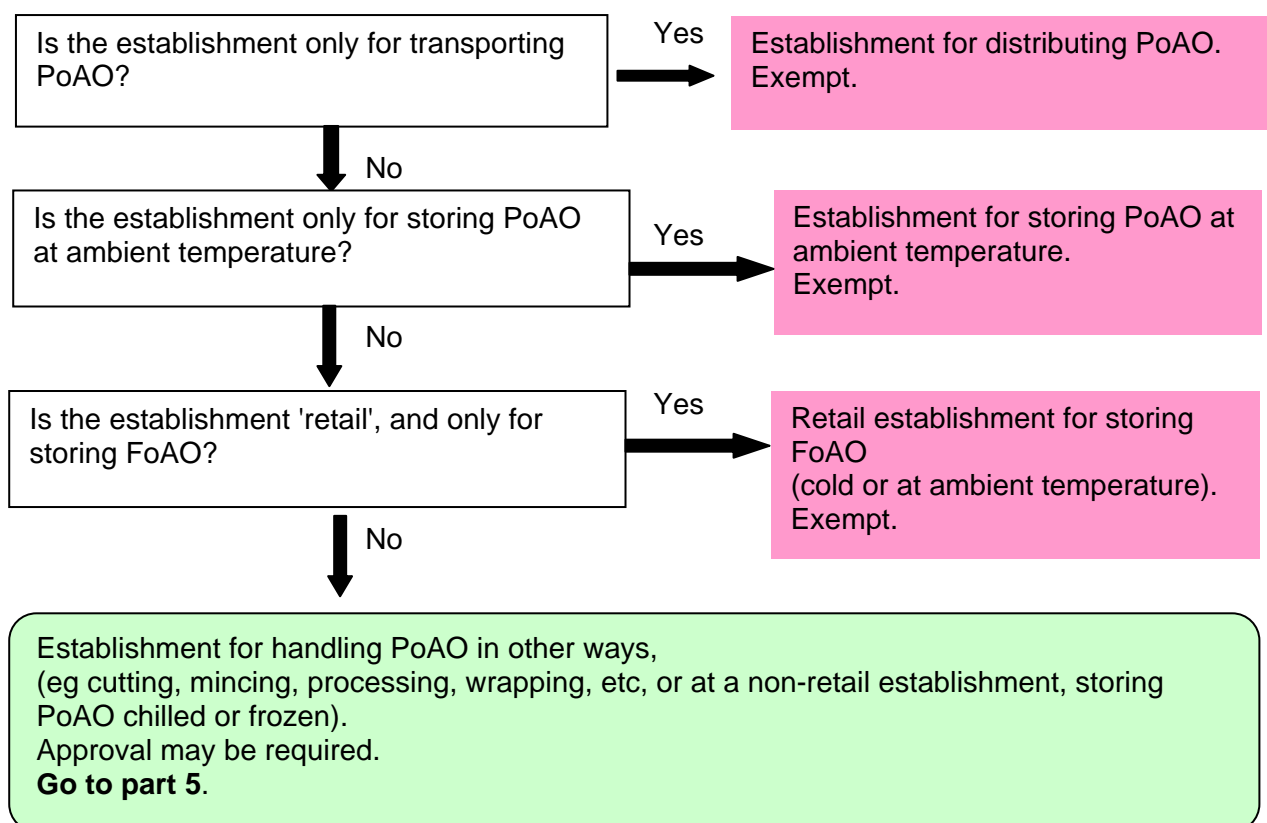
However this Flow Diagram follows the explicit interpretation given in the CoP, (para 5.1.4.2), because food authorities 'shall have regard to... any such code', (FH Regs, reg 24(3)(a)), but they 'should take account of ... any appropriate Guidance issued by the European Commission', (as stated in the Preface to the Code of Practice). Therefore on this one issue the Flow Diagram cannot be impartial.

Part 4 - OPERATIONS (transport & storage) - Reg 853, Art 4.2(b-c) & Art 1.5(b)(i)

Establishment where one of the following PoAO is brought into the establishment:

- Unprocessed product of animal origin, whether it has any product of plant origin added to it or not.
- Processed product of animal origin without any product of plant origin in it.

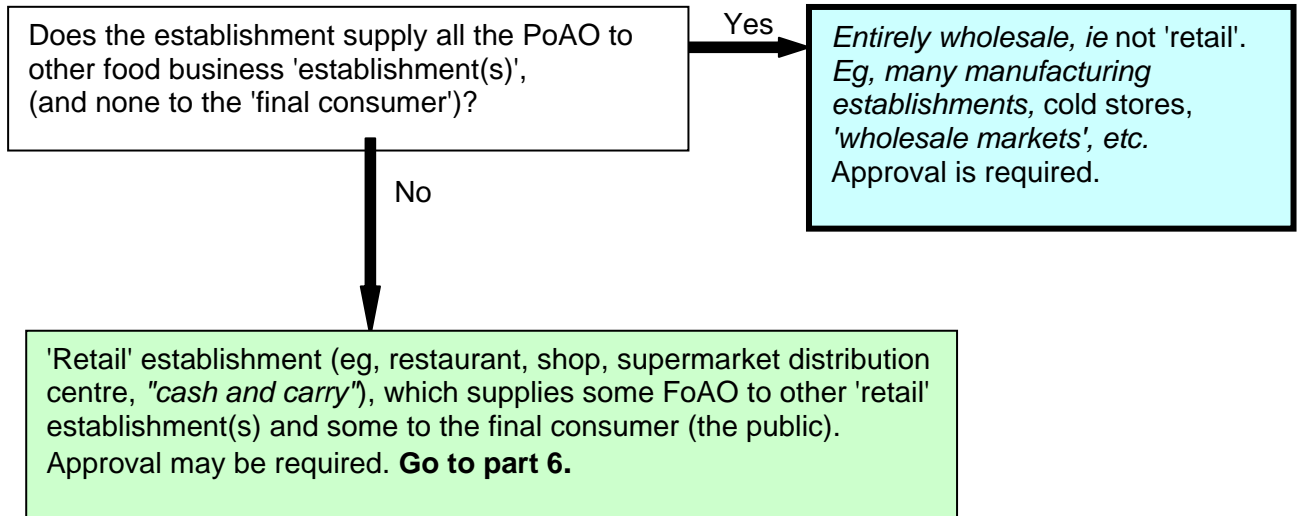
(Except for an establishment where a processed PoAO is brought in, and is added to a product of plant origin).



PART 5 - CUSTOMERS - Reg 853, Art 4.2(d) & Art 1.5

Establishment which handles a PoAO, (eg cutting, mincing, processing, wrapping, etc), or a non-retail establishment which stores PoAO cold.

(Except for an establishment which only transports PoAO, or stores PoAO at ambient temperature, or a retail establishment which only stores FoAO).



Notes.

- **'Retail'** means 'the handling and/or processing of food and its storage at the point of sale or delivery to the final consumer, and includes distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets'. Reg 178, Art 3.7.

- However, *'In the context of food hygiene, retail should generally have a more limited meaning as follows: "activities involving direct sale or supply of FoAO to the final consumer"'. GD 853, para 3.5.*

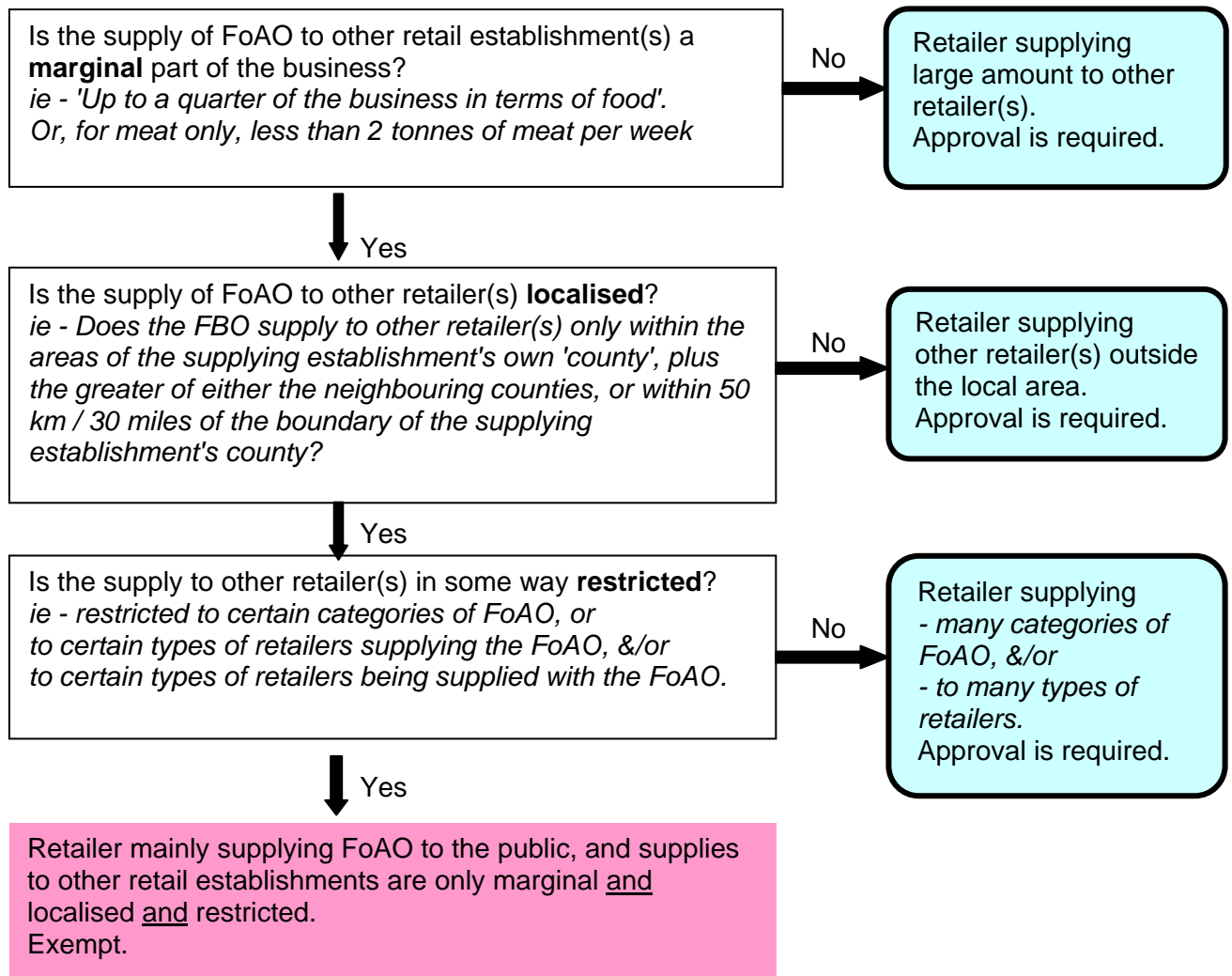
- *'This [definition of retail] means that where cheese is manufactured and sold entirely at the farm or at a local market (e.g. weekly market, farmers market etc.) to final consumers, these activities can be carried out [without approval]'. GD 852, para 3.5. (GD 853, para 4.2).*

- A wholesale establishment is not defined, but is in effect any establishment which is not 'retail'. However a 'wholesale outlet' (eg a "cash and carry" establishment) is included in the definition of 'retail'. PG A.3.3.2.3. PG Ann 7, App 1, Qu 13.

- **'Direct supply to a final consumer'** *'can be via mail order or internet sales as well as by delivery or collection'. PG A.3.3.2.4.*

PART 6 - AMOUNT (& extent) - Reg 853, Art 1.5(b)

Retail establishment supplying some of the FoAO to another retail establishment.



Notes.

- '**Marginal**' - see PG A.3.3.2.7.

Calculation (suggested by the NELAFLSG). The supply of FoAO is 'marginal' if the following amount is less than 25%

$$\frac{\text{Amount of FoAO supplied to other retail establishment(s)} \times 100}{\text{Amount of food of all types supplied to final consumers \& to other retail establishment(s)}}$$

- '**Meat**'. Supplied 'fresh or processed, excluding wild game and wild game meat'. PG A.5.4.2.

- '**Localised**' - see PG A.3.3.2.7.

- '**County**'. Eg Greater London, North Yorkshire. See PG, A.3.3.2.7.

- For a retail establishment in Greater London, 'localised' means the area almost from Cambridge to Brighton, and almost from Oxford to Dover. (See map on next page).

- '**Restricted**' - see PG A.3.3.2.7.

- For wild game etc: *restricted to the game having been examined by a trained person.* PG A.5.4.2.