
SCOTTISH STATUTORY INSTRUMENTS

1999 No.33

FOOD

**The Animal Feedingstuffs from Belgium
(Control) (No.2) (Scotland) Regulations 1999**

<i>Made</i>	- - - -	<i>19th August 1999</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>30th August 1999</i>
<i>Coming into force</i>	- -	<i>20th August 1999</i>

The Scottish Ministers in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Animal Feedingstuffs from Belgium (Control) (No.2) (Scotland) Regulations 1999 and shall come into force on 1999.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the Food Safety Act 1990⁽²⁾ and any expressions used both in these Regulations and in the Act have the meaning they bear in the Act;

“controlled entity” means any creature, product or material which is excluded from the definition of “relevant animal or animal product” in the Order solely by reason that it is neither food nor a food source; and

“the Order” means the Food (Animals and Animal Products from Belgium) (Emergency Control) (No.2) (Scotland) Order 1999⁽³⁾ and any expressions used both in these Regulations and in the Order have the meaning they bear in the Order.

Exemptions

2.—(1) Regulation 3 of these Regulations shall not apply to—

(1) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The functions of a Minister of the Crown under that section so far as within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of that Act.

(2) 1990 c. 16.

(3) S.S.I.1999/32.

- (a) the importation of any controlled entity, if when imported, that controlled entity is accompanied by valid certification relating to it, as specified in paragraph (3) below;
- (b) any subsequent activity in relation to the controlled entity, if it can be proved by the person carrying out the activity that at the time of importation it was so accompanied; or
- (c) the return to Belgium, under cover of an official certificate in accordance with Article 5 of the Commission Decision, as read with Article 2 of the amending Commission Decision of any controlled entity.

(2) Regulation 5 of these Regulations shall not, save for sub-paragraphs (a) and (b) of paragraph (1) thereof, apply to any imported controlled entity which is accompanied by valid certification relating to it as specified in paragraph (3) below.

(3) The certification to which paragraphs (1)(a) and (b) and (2) above apply is the certification which would have applied in relation to the controlled entity by virtue of article 2 of the Order, had the Order extended to controlled entities.

Prohibitions and offence

3.—(1) Subject to paragraph (2) below—

- (a) no person shall sell any controlled entity which is not a live creature for the purpose of its being used to feed to an animal or in the manufacture of a product for such use;
- (b) no person shall possess, offer, expose, advertise, prepare, present, label, wrap, store or transport any such controlled entity for sale for that purpose;
- (c) no person shall consign, deliver or serve any such controlled entity by way of sale for that purpose;
- (d) no person shall derive material from any controlled entity for that purpose; and
- (e) no person shall import or export any controlled entity.

(2) Paragraph (1) above shall not be taken to prohibit the bringing into Scotland from a member State of any controlled entity in free circulation in that member State.

(3) Any person who knowingly contravenes paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment not exceeding three months.

Enforcement

4.—(1) These Regulations shall be enforced and executed by each relevant authority, namely the Scottish Ministers and each food authority within its area, as appropriate.

(2) For the purposes of the return to Belgium of any product as specified in regulation 2(1)(c) of these Regulations the competent authority for the purposes of the official certificate shall be the Scottish Ministers, any authorised officer of a food authority or any inspector appointed by such an authority, where it is also an authority with responsibilities under section 67 of the Agriculture Act 1970(4)

(3) An authorised officer of a relevant authority shall have the same powers of entry for the purposes of the exercise of that duty as are bestowed on an authorised officer of an enforcement authority by section 32 of the Act for purposes connected with the Act or Regulations or Orders under the Act and shall also have, in relation to any business producing material to feed to animals, the same power as an authorised officer of an enforcement authority has under that section in relation to a food business.

(4) 1970 c. 40.

(4) Each food authority shall give such assistance and information to the Scottish Ministers and as they may request for the purpose of implementing the Commission Decision in relation to controlled entities.

Application and modification of various provisions of the Act

5.—(1) Section 9 of the Act (inspection and seizure of suspected food) shall apply for the purposes of these Regulations, subject to the following modifications—

- (a) the references in subsections (1) and (2) to “food authority” shall be construed as including references to the Scottish Ministers;
- (b) subsections (1) and (2) shall extend to any creature, product or material which appears to an authorised officer to come within the definition of “controlled entity”;
- (c) subsections (3) to (9) shall apply—
 - (i) to any creature, product or material falling within sub-paragraph (b) above as it applies to food which appears to an authorised officer to fail to comply with food safety requirements or to be likely to cause food poisoning or any disease communicable to human beings, and
 - (ii) to any controlled entity as if it were food which failed to comply with food safety requirements,

save that each reference to human consumption shall be taken as a reference to animal consumption, that where a notice under subsection (3)(a)(i) is given in relation to a live creature, the notice is to relate to material which may come to be derived from the live creature, that subsection (6) thereof shall apply in relation to the destruction or disposal of a live creature so as to prevent any material which may come to be derived from it from being used for animal consumption and that a justice of the peace, the sheriff or a magistrate as the case may be shall decline to condemn any creature, product or material falling within sub-paragraph (b) above under subsection (6) thereof if and only if it is proved to him that it does not comprise a controlled entity or is to be returned to Belgium as specified in regulation 2(1)(c) of these Regulations.

(2) The following provisions of the Act shall apply for the purposes of these Regulations and any reference in those provisions to the Act shall be construed for the purposes of these Regulations as a reference to these Regulations—

- (a) section 33 (obstruction etc. of officers);
- (b) section 35(1) (punishment of offences) in so far as it relates to offences under section 33 as applied by sub-paragraph (a) above; and
- (c) section 44 (protection of officers acting in good faith).

Revocation

6. The Animal Feedingstuffs from Belgium (Control) (Scotland) Regulations 1999(5) are hereby revoked.

St Andrew's House,
Edinburgh
19th August 1999

SUSAN C DEACON
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Scotland revoke and re-enact with certain changes, the Animal Feedingstuffs from Belgium (Control) (Scotland) Regulations 1999 (S.S.I.1999/) (“the revoked Regulations”) and implements in Scotland, in relation to products for animal feeding—

Commission Decision [1999/449/EC](#) on protective measures with regard to contamination by dioxins of certain products of animal origin intended for human or animal consumption (OJNo. L175, 10.7.1999, p.70) and Commission Decision [1999/551/EC](#) amending Decision [1999/449/EC](#) on protective measures with regard to contamination by dioxins of certain products of animal origin intended for human or animal consumption (OJ No. L209, 7.8.1999, p.42).

Like the revoked Regulations, these Regulations define “controlled entity” (regulation 1(2)), prohibit (subject to exceptions (regulation 2)) the carrying out of specified operations in relation to controlled entities (regulation 3), specify the enforcement authorities (regulation 4) and apply with modifications provisions of the Food Safety Act 1990 (regulation 5).

In addition to making minor and drafting changes to the revoked Regulations, these Regulations, by referring to Decision [1999/449/EC](#) and Decision [1999/551/EC](#), make the following changes of substance—

- (a) the definition of “controlled entity” now reflects the following changes made by Decision [1999/551/EC](#)—
 - (i) the extension of the coverage of Commission Decision [1999/449/EC](#) so that it applies not just (as before) to live domestic fowls, hatching eggs and products derived from domestic fowls, pigs and bovine animals, but also to all other poultry, and hatching eggs and products derived therefrom;
 - (ii) alteration of the rearing periods on the basis of which the controls described in paragraph (i) apply, and the disapplication of the closure dates previously applicable to pigs and bovine animals, and products derived from them (3rd June 1999) and to live domestic fowls, and hatching eggs and products derived from them (1st June 1999); and
 - (iii) the extension (to include fresh pig meat and beef meat, and derived products) of the range of products in relation to which the controls contained in Commission Decision [1999/449/EEC](#) as amended do not apply where analysis shows that the level of contamination by dioxins does not exceed the relevant maximum level for PCB set out in Annex A to that Decision as amended; and
- (b) they vary the certification required for the importation of products from Belgium.