
S T A T U T O R Y I N S T R U M E N T S

1999 No. 2798

FOOD, ENGLAND AND WALES

The Food (Animals and Animal Products from Belgium)
(Emergency Control)
(England and Wales) (No. 3) Order 1999

<i>Made</i> - - - - -	<i>11th October 1999</i>
<i>Laid before Parliament</i>	<i>11th October 1999</i>
<i>Coming into force</i> - -	<i>12th October 1999</i>

Whereas it appears to the Minister of Agriculture, Fisheries and Food that the carrying out of commercial operations with respect to animals and animal products originating from Belgium may involve imminent risk of injury to health, now therefore the said Minister, in exercise of the powers conferred on him by sections 6(4), 13(1) and 48(1) of the Food Safety Act 1990(a), and of all other powers enabling him in that behalf, hereby makes the following Order:

Title, commencement, extent and interpretation

1.—(1) This Order may be cited as the Food (Animals and Animal Products from Belgium) (Emergency Control) (England and Wales) (No. 3) Order 1999, shall come into force on 12th October 1999 and shall extend to England and Wales.

(2) In this Order—

“the Act” means the Food Safety Act 1990;

“animal” includes any bird;

“the Commission Decision” means Commission Decision 1999/640/EC on protective measures with regard to contamination by dioxins of certain products of porcine and poultry origin intended for human or animal consumption(b);

“free circulation” shall be construed in accordance with Article 23.2 of the Treaty establishing the European Community;

“member State” means a member State of the European Community other than Belgium or the United Kingdom;

“port health authority” includes a port local authority and a joint port local authority; and

“relevant animal or animal product” means an entity coming within any of the following descriptions—

(a) live animals and hatching eggs as referred to in Article 3 of the Commission Decision;

(b) products of Belgian origin covered by Article 1.4 of the Commission Decision, and

(a) 1990 c. 16; “the Minister” is defined in section 4(2); section 6(4) of the Act was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40). See also paragraph 5 of Schedule 3 to the Government of Wales Act 1998 (c. 38).

(b) OJ No. L253, 28.9.1999, p. 19.

- (c) products which are derived or partly derived from live animals or hatching eggs referred to in sub-paragraph (a) above or contain any of the products referred to in sub-paragraph (b) above,
but only includes food and food sources.

(3) Other expressions used both in this Order and in the Commission Decision have, in so far as the context admits, the same meaning in this Order as they bear in that Decision.

Exemptions

2.—(1) Article 3 hereof shall not apply to—

- (a) the importation of any food or food source if, when imported, that food or food source is accompanied by valid certification relating to it, as specified in paragraph (3) below;
- (b) any subsequent commercial operations in relation to the food or food source if it can be proved by the person carrying out the operation that at the time of importation it was so accompanied; or
- (c) the return to Belgium, in accordance with Article 5 of the Commission Decision, of any product covered by this Order.

(2) Article 5 hereof shall not, save for sub-paragraphs (a) and (b) of paragraph (1) thereof, apply to any imported food or food source 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—

- (a) in the case of live poultry or hatching eggs as referred to in Article 2.2 of the Commission Decision, an official declaration signed by the Belgian competent authority in the form called for by that Article, as read with Article 2.4 of that Decision;
- (b) in the case of pigs as referred to in Article 2.3 of the Commission Decision, an official declaration signed by the Belgian competent authority in the form called for by that Article, as read with Article 2.4 of that Decision;
- (c) in the case of products referred to in Article 2.1 of the Commission Decision, an official certificate signed by the Belgian competent authority in the form called for by that Article, as read with Article 2.4 of that Decision.

Prohibitions

3.—(1) Subject to paragraph (2) below, no person shall carry out commercial operations with respect to any relevant animal or animal product.

(2) Paragraph (1) above shall not be taken to prohibit the bringing into England and Wales, from a member State, of any relevant animal or animal product in free circulation in that member State.

Enforcement

4.—(1) This Order shall be enforced and executed by the Minister of Agriculture, Fisheries and Food, the Secretary of State and by each food authority and port health authority within its area or district as appropriate.

(2) For the purposes of the return to Belgium of any product as specified in article 2(1)(c) hereof, the competent authority for the purposes of the official certificate shall be the Minister of Agriculture, Fisheries and Food, the Secretary of State or any authorised officer of a food authority.

(3) Each port health authority or food authority, as appropriate, shall give such assistance and information to the Minister as he may request for the purpose of his duties under section 13 of the Act in connection with the implementation of the Commission Decision in relation to food and food sources.

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 this Order, subject to the following modifications—

- (a) the references in subsections (1) and (2) to “food authority” shall be construed as including reference to a port health authority, the Minister of Agriculture, Fisheries and Food and the Secretary of State;
- (b) subsections (1) and (2) shall extend to food and food sources which appear to an authorised officer to come within the definition of “relevant animal or animal product”;
- (c) subsections (3) to (9) thereof shall apply—
 - (i) to any food or food source 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 relevant animal or animal product as if it were food which failed to comply with food safety requirements,

save that where a notice under subsection (3)(a)(i) is given in relation to a food source, the notice is to relate to food which may come to be derived from the food source, that subsection (6) thereof shall apply in relation to the destruction or disposal of a food source so as to prevent food which may come to be derived from it from being used for human consumption, and that a justice of the peace shall decline to condemn food or food sources falling within sub-paragraph (b) above under subsection (6) thereof if and only if it is proved to him that they do not comprise relevant animals or animal products, or that they are to be returned to Belgium as specified in article 2(1)(c) hereof.

(2) The following provisions of the Act shall apply, subject to paragraph (3) below, for the purposes of this Order and any reference in those provisions to the Act shall be construed for the purposes of this Order as a reference to this Order—

- (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).

(3) In section 44 of the Act the references to “food authority” shall be construed as including reference to a port health authority.

Revocation

6. The Food (Animals and Animal Products from Belgium) (Emergency Control) (England and Wales) (No. 2) Order 1999(a) is hereby revoked.

11th October 1999

Hayman
Minister of State,
Ministry of Agriculture, Fisheries and Food

(a) S.I. 1999/2332.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies to England and Wales, revokes, and re-enacts with certain changes, the Food (Animals and Animal Products from Belgium) (Emergency Control) (England and Wales) (No. 2) Order 1999 (S.I. 1999/2332 “the revoked Order”) and implements in England and Wales, in relation to food and food sources, Commission Decision 1999/640/EC on protective measures with regard to contamination by dioxins of certain products of porcine and poultry origin intended for human or animal consumption (OJ No. L253, 28.9.1999, p. 19).

Like the revoked Order, this Order defines ‘relevant animal or animal product’ (article 1(2)), prohibits (with exceptions (article 2)) the carrying out of commercial operations relating to them (article 3), specifies the enforcement authorities (article 4) and applies with modifications provisions of the Food Safety Act 1990 (article 5).

In addition to making minor changes to the revoked Order, this Order, by referring to Decision 1999/640/EC, makes the following changes of substance—

- (a) it narrows the coverage of the revoked Order in that—
 - (i) it does not apply to bovine animals, but only to pigs and poultry, and
 - (ii) in relation to the categories of product derived from pigs and poultry to which it applies, it excludes certain material from the category “meat products and other products of animal origin”;
- (b) as a consequence of the fact that products of bovine origin are no longer controlled, it removes the exclusion of milk fat previously contained in the category “products intended for human consumption which contain other products of porcine or poultry origin, which contain more than 2% of animal fat”;
- (c) the controls in it apply irrespective of whether, in the case of poultry, pigs and eggs, these were reared/produced in holdings placed under restriction by Belgian authorities or, in the case of products derived from poultry or pigs, whether the animals concerned were so reared;
- (d) it reflects changes (consequential on the changes referred to in (a) to (c) above) to the certification requirements for the importation from Belgium of animals and animal products controlled by this Order, including the fact that there are no longer any conditions restricting the issue by Belgium of such certification, and
- (e) because those conditions no longer apply, it reflects the fact that the return of products to Belgium, in accordance with procedures set out in Article 5 of Decision 1999/640/EC, is now again permitted.

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