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**1999 No. 3421**

**FOOD, ENGLAND AND WALES**

**The Food (Animal Products from Belgium) (Emergency Control) (England and Wales) Order 1999**

<i>Made - - - - -</i>	<i>20th December 1999</i>
<i>Laid before Parliament</i>	<i>21st December 1999</i>
<i>Coming into force - -</i>	<i>23rd December 1999</i>

Whereas it appears to the Minister of Agriculture, Fisheries and Food that the carrying out of commercial operations with respect to 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 (Animal Products from Belgium) (Emergency Control) (England and Wales) Order 1999, shall come into force on 23rd December 1999 and shall extend to England and Wales.

(2) In this Order—

“the Act” means the Food Safety Act 1990;

“the Commission Decision” means the Commission Decision 1999/788/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 product” means an entity coming within any of the following descriptions—

(a) products of Belgian origin covered by Article 1.3 of the Commission Decision, and

(b) products which contain any of the products referred to in sub-paragraph (a) above,

but only includes food.

(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.

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(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. L310, 4.12.1999, p.62.

## Exemptions

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

- (a) the importation into England and Wales of any food if, when imported, that food is accompanied by valid certification relating to it, as specified in paragraph (3) below;
- (b) any subsequent commercial operations in relation to the food if it can be proved by the person carrying out the operation that at the time of importation into the United Kingdom it was so accompanied; or
- (c) the return to Belgium, in accordance with Article 4 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 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 an official certificate signed by the Belgian competent authority as called for by Article 2 of the Commission Decision.

## Prohibitions

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

## 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 which appears to an authorised officer to come within the definition of “relevant animal product”;
- (c) subsections (3) to (8) thereof shall apply—
  - (i) to any food 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 product as if it were food which failed to comply with food safety requirements,

save that a justice of the peace shall decline to condemn food falling within sub-paragraph (b) above under subsection (6) thereof if and only if it is proved to him that it does not come within the definition of “relevant animal product”, or that it is 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. 3) Order 1999(a) is hereby revoked.

20th December 1999

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

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(a) S.I. 1999/2798.

**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. 3) Order 1999 (S.I. 1999/2798 “the revoked Order”) and implements in England and Wales, in relation to food, Commission Decision 1999/788/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. L310, 4.12.1999, p.62).

This Order defines ‘relevant 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 1999/788/EC, makes the following changes of substance—

- (a) it narrows the coverage of the revoked Order in that it does not apply to pigs and poultry and hatching eggs, but only to products derived from pigs and poultry;
- (b) the controls in it do not apply in the case of products derived from poultry or pigs slaughtered after 20 September 1999 or from eggs laid after that date;
- (c) it reflects changes (consequential on the changes referred to in (a) and (b) above) to the certification requirements for the importation from Belgium of animal products controlled by the revoked Order; and
- (d) it reflects the alteration of the requirements as regards the return of products to Belgium, in accordance with procedures set out in Article 4 of Decision 1999/788/EC, namely that—
  - (i) it is no longer a precondition of return that it should be preceded by an unfulfilled request to the Belgian Authorities to provide a certificate as to analysis of the products to be returned, and
  - (ii) it is now only products derived from animals slaughtered before 20 September 1999, or from eggs laid before that date, which can lawfully be returned.

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