
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 16

AGRICULTURE

**The Animal Feedingstuffs from Belgium
(Control) (Scotland) Regulations 2000**

Made - - - - 24th January 2000
*Laid before the Scottish
Parliament* - - - - 27th January 2000
Coming into force - - 17th February 2000

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, extent and interpretation

1.—(1) These Regulations may be cited as the Animal Feedingstuffs from Belgium (Control) (Scotland) Regulations 2000 and shall come into force on 17th February 2000.

(2) These Regulations extend to Scotland only.

(3) In these Regulations—

“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 product or material which is excluded from the definition of “relevant animal product” in the Order solely by reason that it is not food; and

“the Order” means the Food (Animal Products from Belgium) (Emergency Control) (Scotland) Order 2000⁽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 does not apply to—

(1) 1972 c. 68; section 2(2) was amended by the Scotland Act 1998 (c. 46) (“the 1998 Act”), Schedule 8, paragraph 15(3). The functions conferred upon a Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) 1990 c. 16.

(3) S.S.I. 2000/15.

- (a) the importation into Scotland 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 activity described in regulation 3(1) in Scotland in relation to any controlled entity imported into the United Kingdom, 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 4 of the Commission Decision, of any controlled entity.

(2) Regulation 5 of these Regulations does 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 may sell any controlled entity 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 does not 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 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months.

Enforcement

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

(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 is 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 has the same powers of entry for the purposes of the exercise of that duty as an authorised officer of an enforcement authority under section 32 of the Act for purposes connected with the Act or regulations or orders under the Act, and also has, in relation to any business producing material to feed to animals, the same powers as an authorised officer of an enforcement authority 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 as they may request in connection with the implementation of 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) applies 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 reference to the Scottish Ministers;
- (b) subsections (1) and (2) extend to any product or material which appears to an authorised officer to come within the definition of “controlled entity”;
- (c) subsections (3), (4), (5)(a) and (6) to (9) apply—
 - (i) to any 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,

provided that each reference to human consumption is to be taken as a reference to animal consumption and that a court shall decline to condemn any product or material falling within sub-paragraph (b) above under subsection (6) thereof if and only if it is proved 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 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) (No. 2) (Scotland) Regulations 1999(5) are hereby revoked.

St Andrew’s House, Edinburgh
24th January 2000

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) (No. 2) (Scotland) Regulations 1999 (S.S.I. 1999/33) (“the revoked Regulations”) and implement in Scotland, in relation to products for animal feeding, 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).

Like the revoked Regulations, these Regulations define ‘controlled entity’ (regulation 1(3)), 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 changes to the revoked Regulations, these Regulations, by referring to Decision 1999/788/EC, make the following changes of substance—

- (a) they extend only to products derived from pigs and poultry;
- (b) the controls imposed relate only to products derived from animals slaughtered, or eggs laid, before 20th September 1999;
- (c) they alter the certification requirements for controlled entities imported from Belgium; and
- (d) the requirements as to return to Belgium now only apply to products derived from animals slaughtered, or eggs laid, before 20th September 1999.