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STATUTORY INSTRUMENTS

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**1999 No. 3422**

**AGRICULTURE, ENGLAND AND WALES**

**The Animal Feedingstuffs from Belgium (Control)  
(England and Wales) (No. 4) Regulations 1999**

*Made* - - - - 20th December 1999  
*Laid before Parliament* 21st December 1999  
*Coming into force* - - 23rd December 1999

The Minister of Agriculture, Fisheries and Food being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the common agricultural policy of the European Community, acting in exercise of the powers conferred on him by that section and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Title, commencement, extent and interpretation**

1.—(1) These Regulations may be cited as the Animal Feedingstuffs from Belgium (Control) (England and Wales) (No. 4) Regulations 1999, shall come into force on 23rd December 1999 and shall extend to England and Wales.

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

“the Act” means the Food Safety Act 1990<sup>(3)</sup> 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) (England and Wales) Order 1999<sup>(4)</sup> 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—

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(1) S.I. 1972/1811.  
(2) 1972 c. 68.  
(3) 1990 c. 16.  
(4) S.I. 1999/3421.

- (a) the importation into England and Wales 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 into the United Kingdom 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 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 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 England and Wales, 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 Minister of Agriculture, Fisheries and Food, the Secretary of State and 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 regulation 2(1)(c) of these Regulations, the competent authority for the purposes of the official certificate shall be the Minister of Agriculture, Fisheries and Food, the Secretary of State, 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(5).

(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) Each port health authority or food authority, as appropriate, shall give such assistance and information to the Minister of Agriculture, Fisheries and Food or the Secretary of State as he 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) 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 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 any product or material which appears to an authorised officer to come within the definition of “controlled entity”;
- (c) subsections (3) to (8) shall 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,

save that each reference to human consumption shall be taken as a reference to animal consumption, and that a justice of the peace 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 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, subject to paragraph (3) below, 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).

(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 Animal Feedingstuffs from Belgium (Control) (England and Wales) (No. 3) Regulations 1999(6) are hereby revoked.

20th December 1999

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply to England and Wales, revoke, and re-enact with certain changes, the Animal Feedingstuffs from Belgium (Control) (England and Wales) (No. 3) Regulations 1999 (S.I.1999/2799 “the revoked Regulations”) and implement in England and Wales, 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(2)), prohibit (subject to exceptions (regulation 2)) the carrying out of specified operations in relation to them (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 narrow the coverage of the revoked Regulations in that they do not apply to pigs and poultry and hatching eggs, but only to products derived from pigs and poultry;
- (b) the controls in them do not apply in the case of products derived from poultry or pigs slaughtered after 20th September 1999 or from eggs laid after that date;
- (c) they reflect 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 Regulations; and
- (d) they reflect 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 20th September 1999, or from eggs laid before that date, which can lawfully be returned.