
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 14

FOOD

The Food (Animals and Animal Products from Belgium) (Emergency Control) (Scotland) Order 1999

<i>Made</i>	- - - -	<i>28th July 1999</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>30th July 1999</i>
<i>Coming into force</i>	- -	<i>29th July 1999</i>

Whereas it appears to the Scottish Ministers 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 Ministers, in exercise of the powers conferred on them by sections 6(4), 13(1) and 48(1) of the Food Safety Act 1990⁽¹⁾, and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Food (Animals and Animal Products from Belgium) (Emergency Control) (Scotland) Order 1999 and shall come into force on 29th July 1999.

(2) In this Order –

“the Act” means the Food Safety Act 1990;

“animal” includes any bird;

“the Commission Decision” means Commission Decision [1999/449/EC](#) on protective measures with regard to contamination by dioxins of certain animal products intended for human or animal consumption⁽²⁾;

“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; and

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

(1) [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 \(c. 40\)](#). The functions of the Secretary of State in relation to Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).

(2) OJ No. L175, 10.7.1999, p.70.

- (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
- (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, under cover of an official certificate pursuant to and 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 domestic fowls 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 bovine animals or 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 Scotland 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 Scottish Ministers and by each food authority within its area 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 Scottish Ministers or any authorised officer of a food authority.

(3) Each food authority shall give such assistance and information to the Scottish Ministers as they may request for the purpose of their duties under section 13 of the Act in relation to the implementation of the Commission Decision with respect to food or 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 the Scottish Ministers;
- (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, the sheriff or a magistrate as the case may be shall decline to condemn food or a food source falling within sub-paragraph (b) above under subsection (6) thereof if and only if it is proved to him that it does not comprise relevant animals or animal products, 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 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).

Revocation

6. The Food (Animals and Animal Products from Belgium) (Emergency Control) Order 1999⁽³⁾ and the Food (Animals and Animal Products from Belgium) (Emergency Control) (Amendment) Order 1999⁽⁴⁾ are hereby revoked in relation to Scotland.

(3) S.I.1999/1542.

(4) S.I.1999/1763.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St Andrew's House
28th July 1999

IAIN GRAY
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies to Scotland, revokes in relation to Scotland, and re-enacts with certain changes, the Food (Animals and Animal Products from Belgium) (Emergency Control) Order 1999 (S.I.1999/1542) as amended by the Food (Animals and Animal Products from Belgium) (Emergency Control) (Amendment) Order 1999 (S.I.1999/1763) (“the revoked Orders”) both of which applied to Great Britain. The Order also implements in Scotland, in relation to food and food sources Commission Decision 1999/449/EC (“the Decision”) 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) which consolidates with changes Commission Decision 1999/363/EC (OJNo. L141, 4.6.1999, p.24) and Commission Decision 1999/389/EC (OJ No. L147, 12.6.1999, p.26) as amended, in both cases, by Commission Decision 1999/390/EC (OJ No. L147, 12.6.1999, p.29) and Commission Decision 1999/419/EC (OJ No. L159, 25.6.1999, p.60).

Like the revoked orders, this Order defines ‘relevant animal and animal product’ (article 1), prohibits (with exceptions (article 2)) the carrying out of commercial operations relating to relevant animal and animal products (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 and drafting changes to the revoked Orders, the Order, by referring to the Decision, makes the following changes of substance–

- (a) whilst the Decision continues, like its predecessor, to cover live domestic fowls, hatching eggs and products derived from domestic fowl, pigs or bovine animals–
 - (i) it now refers directly to products containing but not exclusively consisting of products of the fowl and animals concerned, but excludes egg whites,
 - (ii) the rearing period in relation to which continuing controls applicable to pigs and bovine animals and products derived from them apply is closed on 3rd June 1999, and
 - (iii) in relation to particular products, the controls contained in the Decision no longer 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 the Decision;
- (b) there is a variation in the certification required for the importation of products from Belgium; and
- (c) the circumstances in which controlled food products may be returned to Belgium now call for information in relation to the return to be exchanged between authorities by fax, and only apply where Belgian authorities are unable to certify the origin of suspect goods under the Decision.