

23/5/89

M.H. 7265
Reference
Sent we agreed the text mentioned by Mr Cockbill

BSE AND THE USE OF OFFALS IN MEAT PRODUCTS

Following on the Minister's acceptance of the Southwood Report on BSE, we have prepared the attached draft regulations prohibiting the use of certain specified offals in baby foods and I am about to submit them to the Parliamentary Secretary (Mr Ryder) for permission to circulate them for public comment as required by Section 118(6) of the Food Act 1984. We have also notified the Commission in Brussels of our intentions as required to do by Directive 83/189 (as amended by 88/182) which requires prior notification of all technical measures that Member States propose to take unilaterally.

The Secretary will recall that Southwood did not positively recommend this prohibition but suggested it would be a sensible and cautious move given the paucity of information on BSE and the fact that babies are the most vulnerable of human beings to the possibilities of infection. Southwood did not identify any general need to extend the prohibition to meat products intended for general human consumption. Nevertheless we have been aware that one of the likely issues that would come from the public consultation exercise on baby foods would be suggestions that the ban should be applied to all meat products. We have therefore already made some enquiries against that possibility, which recent newspaper articles confirm as becoming a probability.

According to medical advice from DoH the organs most likely (by analogy with scrapie) to be involved in the possible transmission of BSE are lymph glands, spleen, thymus, spinal cord, brain and intestine. According to information that the Bacon and Meat Manufacturers Association (BMMA) has recently obtained from a survey of its members (who cover the vast bulk of meat product manufacture) none of these organs are currently used in meat products apart from intestines. Intestines, which are cleaned and scraped, are used as sausage casings etc. Recent newspaper articles, such as that in The Times by Geoffrey Cannon, are thus being unduly alarmist in suggesting that all meat products contain these offals. The BMMA has also led us to understand that it is considering whether its members will adopt a voluntary ban on the use of certain offals in all meat products. I believe however any such plans are at a very preliminary stage.

The Meat Products and Spreadable Fish Products Regulations already provide for some measure of control in the use of offals in meat products. They classify offals into two groups as follows:-

- (i) Diaphragm, head meat (muscle only), heart, kidney, liver, pancreas, tail meat, thymus, tongue.
- (ii) Brains, feet, intestine, lungs, oesophagus, rectum, spinal cord, spleen, stomach, testicles udder.

Group (i) can be used in all meat products and can count toward the meat content of those products; group (ii) can only be used in cooked meat products and cannot count towards meat content. Suggestions therefore that sausages (uncooked) contain brains and are thus potentially dangerous, as appears in Mr Cannon's article,

are, not only probably untrue but also such products are illegal.

The Food Labelling Regulations 1984 also apply to meat products, particularly as regards the ingredients that must be listed on the labels thereof. Offals in group (i) may be referred to generically in the ingredients list as meat unless a particular offal is present in sufficient quantity that it affects the nature of the food. In that case it must be specifically referred to both in the name of the food and in the ingredients list eg steak and kidney pie. Group (ii) offals may be referred to generically as offals in the ingredients list, but they can of course only be present in cooked products.

I have already had some informal discussions with colleagues in Animal Health Division about possible reactions should the public consultation exercise result in suggestions for extension of the prohibition to all meat products. We have agreed that we must endeavour to ensure that, in the absence of any further scientific evidence which the public consultation exercise would be unlikely to reveal, we do not by any actions appear to cast doubt upon the conclusions of the Southwood Report. Furthermore there are other reasons apart from BSE why amendments to the Meat Products Regulations, which are something of a Pandora's Box, are inopportune at the moment.

I would suggest therefore that the public consultation exercise on the baby food prohibition proceeds. If, as is possible, the exercise reveals concerns about offals in meat products generally we could look at the provisions in the Labelling Regulations with a view to moving from the generic to the specific. This would stay with our policy of ensuring that the consumer has sufficient detail to make informed choice but at the same time would maintain the scientific base currently in Southwood that there is no reason for a general prohibition.

If the Secretary is agreeable to that course of action, I would be grateful if you would forward the attached submission and covering minute to Mr Ryder's office. If at the same time you could let me know I will arrange for the full circulation of the submission which we have held back for the present.



C A Cockbill
23 May 1989

Miss Phillips + 1
cc Mr Capstick
Mr Meldrum
Mr Cruickshank
Mrs Attridge
Mr Lawson
Dr Denner
Mr Lawrence - AH
Dr Woolfe
Mr Millar

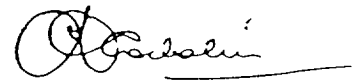
Morris
Annex

11

89/5.23/4.2

THE BABY FOOD (PROHIBITED OFFAL) REGULATIONS 1989

1. I attach a submission to the Parliamentary Secretary (Commons) seeking his approval to the issue for public consultation of proposals for Baby Food (Prohibited Offal) Regulations and an accompanying press release.
2. Ministers asked officials to prepare draft regulations following the announcement of their response to the Southwood Report on Bovine Spongiform Encephalopathy (BSE) - please see sixth paragraph of attached MAFF News Release. All the organs considered "high risk" in terms of the likely presence of BSE agent in sub-clinical infection (based on the analogy of scrapie) have been included in the ban, as recommended by the Southwood Report. Other offal listed has been included for the sake of consistency with existing regulations specifying offal. For this same reason, the draft regulations would control the use of mammalian offal and not just ruminant offal as addressed by the Southwood Working Party.
3. The proposals are unlikely to be controversial as offal (other than heart, kidney and liver which are not being banned) is not used in the manufacture of baby foods. However, the proposals are likely to attract a lot of public interest following the extensive media coverage given to this subject at the end of February and may stimulate suggestions that the ban should be extended to all meat products. We shall of course report the results of the public consultation to the Parliamentary Secretary.
4. Similar proposals will be issued by the responsible departments in Scotland and Northern Ireland.
5. We are recommending only a short consultation period in view of the urgency which Ministers attach to this exercise, and the fact that the proposals are unlikely to have any serious effect on trade.
6. We have notified the European Commission of our intentions as required by EC Directive 83/189 and will send a copy of the draft regulations once approved. We are seeking recourse to the emergency procedure contained in the Directive which would allow us to ignore the three month standstill period which would otherwise come into operation on the date the Commission receives the draft regulations. Legal Department have commented that the Commission may think this is not an emergency measure in the true sense of the word and thus may challenge us on this point. Since however, the Minister has stated that he wants the Regulations made quickly, there is no alternative but to adopt the 'urgent measure' approach and deal with any Commission challenge as and when it arises.



C A Cockbill

Mr Hill PS/Mr Ryder + 1
ccs overleaf.....



ccs.....

- PS/MIN
- PS/Mr Thompson
- PS/PERM SEC
- Mr Gueterbock
- Mr Capstick
- Mrs Attridge
- Mr McKinley
- Mr Garnett
- Mr M J Griffiths
- Mr Lawson - AH
- Dr Denner FScII
- Mr Atwood - Legal
- Mr Neilson
- Mr Coe
- Mr Derton - Parliamentary Clerk
- Dr Wolfe - FSc
- Mr Horton
- Mr Millar
- Mrs Morris
- Mr McBride - INF
- Mrs Buckenham - ECII A
- Mr Weir - DH)
- Mr Thomson - DAFS)
- Miss E Jones - WO)
- Mr McMurray - DHSS/NI)

By Fax

THE 'BABY FOOD (PROHIBITED OFFAL) REGULATIONS 1989

SUBMISSION TO THE PARLIAMENTARY SECRETARY (COMMONS) MR RYDER

PURPOSE

1. To seek the approval of the Parliamentary Secretary (Mr Ryder) to the issue for public consultation of proposals for Baby Food (Prohibited Offal) Regulations (annex I) and to the publication of the Press Notice at Annex V.

BACKGROUND

2. In April 1988 the Minister and the Secretary of State for Health appointed Sir Richard Southwood to chair the Working Party on Bovine Spongiform Encephalopathy (BSE) to examine and advise on the implications of BSE in relation to both animal health and any possible human risks. The Working Party's Report which was published on 27 February (Annex II) concludes that the risk of transmission of BSE to humans appears remote and it is therefore most unlikely that BSE will have any implications for human health. However, the Report suggests that manufacturers of baby foods should avoid the use of ruminant thymus and offal. The term 'offal' in the Report refers to brain, spinal cord, spleen and intestines (tripe).

3. Although these offals are not in fact used in the manufacture of baby foods, Ministers announced (Annex III: MAFF News Release 4/89 sixth paragraph) their intention to introduce as a precautionary measure secondary legislation prohibiting anyone to sell baby food containing such products in future.

DRAFT REGULATIONS

4. All the organs considered "high risk" in terms of the likely presence of BSE agent in sub-clinical infection (based on the analogy of scrapie) have been included in the ban as recommended by the Southwood Report. For ease of enforcement and for the sake of consistency with other regulations made under the Food Act, the list of prohibited offal has been made wider than the limited list in the Southwood Report. It includes offal from all mammalian species and covers a number of items which although not likely to be significant in BSE terms, are equally not used in baby foods. The extent of the proposed list has been agreed with medical officers at the DoH.

EC IMPLICATIONS

5. The EC Commission has been notified of our intention to introduce legislation.

TIMING

6. Subject to the Parliamentary Secretary's approval, the proposals for Baby Food (Prohibited Offal) Regulations will be circulated to interested parties under cover of the letter at Annex IV with a request for comments within 3 weeks. It is hoped that the Statutory Instrument, which is subject to a Negative Resolution Procedure, could be laid before Parliament shortly thereafter.

OBJECTIVES AND RESOURCES

7. If approved the proposals will not result in any additional staff or costs for central or local Government. The implications of the proposals have been taken into account in the compilation of the MINIM. We are advised that these offal are not currently used in baby foods and the industry will be unaffected. Therefore a Compliance Cost Assessment has not been prepared. The Departmental Deregulation Unit has agreed to this course of action.

VIEWS OF OTHER GOVERNMENT DEPARTMENTS

8. The Department of Health, the Welsh Office, the Department of Agriculture and Fisheries for Scotland and The Department of Health and Social Services for Northern Ireland having responsibility for food legislation have been consulted and agree with this submission. The Department of Health is making its own submission on this draft Directive to the Parliamentary Under Secretary of State (Mr Freeman). Similar Regulations will be made in Scotland and Northern Ireland.

RECOMMENDATION

9. The Parliamentary Secretary is recommended to:

- (a) approve the circulation of these proposals under the covering letter at Annex IV; and
- (b) approve the issue of the draft Press Release at Annex V.

FOOD STANDARDS DIVISION
MAY 1989

89/5.23/4.7

PROPOSALS FOR BABY FOOD (PROHIBITED OFFAL) REGULATIONS

INTRODUCTION

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, propose to make Baby Food (Prohibited Offal) regulations. The regulations would be made under Sections 4 and 118 of the Food Act 1984 and would apply to England and Wales.

The Secretary of State for Scotland proposes to make similar regulations under Sections 4 and 56(6) of the Food and Drugs (Scotland) Act 1956, as amended which would apply to Scotland, and the Department of Health and Social Services for Northern Ireland proposes to make similar regulations under Sections 4 and 68 of the Food and Drugs (Northern Ireland) Act 1959, as amended, to apply to Northern Ireland.

The proposed regulations are set out below.

TITLE AND COMMENCEMENT

1. These Regulations may be cited as the Baby Food (Prohibited Offal) Regulations 1989 and shall come into force on 1989.

Interpretation

2. In these Regulations, unless the context otherwise requires -

"the Act" means the Food Act 1984;

"baby food" means any food intended for sale for human consumption which is specially prepared for babies or for babies and young children;

"prohibited offal" means any part of an animal carcase which is not normally used for human consumption or which is specified in the Schedule to these Regulations and includes any product derived from such a part, but does not include gelatine or rennet;

"sell" includes have in possession for sale or offer or expose for sale and

"sale" and "sold" shall be construed accordingly.

Offal prohibited in baby food

3.-(1) No person shall use or permit to be used any prohibited offal as an ingredient in the composition or preparation of baby food.

(2) No person shall sell any baby food which contains any prohibited offal.

Penalties and enforcement

4.-(1) If any person contravenes or fails to comply with any of the foregoing provisions of these Regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,000.

(2) Each food and drugs authority shall enforce within its area the provisions of these Regulations.

Application of various sections of the Act

5.-(1) Subject to paragraph (2) of this regulation, the following provisions of the Act shall apply for the purposes of these Regulations as if references therein to proceedings, or a prosecution, under or taken or brought under the Act included

references to proceedings, or a prosecution, as the case may be, taken or brought for an offence under these Regulations -

- (a) section 95(5) and (6) (which relates to prosecutions);
- (b) section 97(1), (2) and (3) (which relates to evidence of analysis);
- (c) section 99 (which relates to the power of a court to require analysis by the Government Chemist);
- (d) section 100 (which relates to a contravention due to some person other than the person charged);
- (e) section 102(2) which relates to the conditions under which a warranty may be pleaded as a defence); and
- (f) section 103 (which relates to offences in relation to warranties and certificates of analysis).

(2) Section 99 shall apply for the purposes of these Regulations as if the reference therein to section 95(6) of the Act included a reference to that sub-section as applied by paragraph (1) of this regulation.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 1989.

(L.S.)

Minister of Agriculture, Fisheries and Food

1989

Secretary of State for Health

1989

Secretary of State for Wales

SCHEDULE

Regulation 2

SPECIFIED PROHIBITED OFFAL

| | |
|------------------|-------------|
| Brains | Spinal cord |
| Feet | Spleen |
| Intestine, large | Stomach |
| Intestine, small | Testicles |
| Lungs | Thymus |
| Oesophagus | Udder |
| Rectum | |

MAFFMinistry of Agriculture, Fisheries & Food, Whitehall Place, London SW1A 2HH
Press Office: 01-270 5975 Out of hours: 01-270 5080 Fax: 01-270 5443

News Release

JAW

Joint Announcement by the Agriculture Departments and the
Department of Health

84/89

27 February 1989

THE GOVERNMENT'S RESPONSE TO THE SOUTHWOOD
REPORT ON BSE

The Ministry of Agriculture, Fisheries and Food and the Department of Health today announced their response to the Report of the Southwood Working Party on Bovine Spongiform Encephalopathy (BSE).

In a written reply to a Parliamentary Question from Sir Hal Miller MP (Bromsgrove) the Rt Hon John MacGregor MP, Minister of Agriculture, Fisheries and Food, said:

"The Secretary of State for Health and I are very grateful to Sir Richard Southwood and his colleagues for all their work and for their Report on BSE which was presented to us on 9 February and is published today. We appointed the Working Party in April last year to examine and advise on the implications of BSE in relation to both animal health and any possible human health risks. Before receiving any ~~recommendations~~ from the Working Party I had already banned from 18 July last year the feeding to ruminants of ruminant-derived protein feed immediately this was identified as being the probable source of the problem; and other important parts of the Report have already been acted upon.

"The Report concludes that the risk of transmission of BSE to humans appears remote and it is therefore most unlikely that BSE will have any implications for human health. It points out that the related disease scrapie in sheep has been present in the UK for over 200 years and there has been no evidence of transmission to man. The Report also concludes that from present evidence it is likely that cattle will prove to be a 'dead-end host' for the disease agent.

"However, the Working Party point out that if their assessment proves incorrect the implications would be serious. The Working Party believe that the disease has developed because of feeding practices associated with modern agriculture. They suggest that, in the context of the adjustment of the agricultural policy of the EC in coming years, consideration should be given to changes in present methods. I have discussed this point with Sir Richard Southwood who has said that his Working Party are not recommending a ban on all use of meat and bone meal in animal feeds, but are concerned that if they continue to be used they should be effectively sterilised.

"The Working Party have greatly welcomed the speed with which the Government acted to ban the use of the animal feed rations in question and also to implement their interim recommendations. These measures include the compulsory slaughter of cattle suspected of having BSE and the removal from the food chain of their milk and carcasses. The Working Party believe that the risks as at present perceived would not justify special labelling requirements for products containing either bovine brains or spleen. The Report suggests, however, that manufacturers of baby foods should avoid the use of bovine thymus and offal. Sir Richard Southwood has confirmed that the term 'offal' as it is used in the Report (as defined in the Regulations quoted) refers to brain, spinal cord, spleen and intestines (tripe). The Chief Medical Officer is satisfied that none of these, nor thymus, are used in the manufacture of baby food and advises that mothers ought not to feed these materials to infants of say under 18 months. As a precautionary measure I am however taking steps to ensure through secondary legislation that it will be illegal for anyone to sell baby food containing such products in future. With regard to other meats which people sometimes refer to as offal, like kidney, liver and heart, the Chief Medical Officer advises that there is no need for concern. These are extremely nutritious foods which are beneficial.

"The Government also accepted an earlier recommendation to establish a Consultative Committee on research. This will be under the chairmanship of Dr David Tyrrell of the Medical Research Council. This Committee will advise my Department and the Department of Health on research work in progress or proposed in relation to BSE and the other transmissible spongiform encephalopathies, on any additional work required, and on the priorities for future research. Terms of reference and full membership are now agreed as reported also today to Parliament.

"Although the risk of transmission to humans is very remote there are several further actions the Government proposes to take as a matter of extreme prudence in response to the other recommendations in the Report. These add up to a comprehensive response to all the Working Party recommendations. The measures are as follows:

- we accept the importance the Report attaches to the success of the study to determine whether cattle to cattle transmission can take place; and we are taking expert advice on the most effective way of continuing this study;

- the Committee on the Safety of Medicines and the Veterinary Products Committee have considered the comments of the Working Party on the implications of BSE for the manufacture of pharmaceutical products from bovine material; and agree that any risks of transmission of BSE through medicinal products to man appear remote; as a precautionary measure however they have advised that additional guidance should be issued to medicine manufacturers on good manufacturing practice;

- the Health and Safety Executive will be considering what further action is necessary to ensure that the existing guidance to occupational groups involved with cattle is followed: this guidance outlines hygiene procedures which are considered to be appropriate for BSE;
- although the Report makes it clear that there is no evidence of any link between Creutzfeldt-Jakob Disease in humans and BSE in cattle (or with scrapie in sheep, which has been present in the UK for over 200 years), the Chief Medical Officer is ensuring mechanisms are in place to detect any change in the pattern of Creutzfeldt-Jakob Disease;
- a thorough research programme is under way into the epidemiological background to the disease, and into transmissibility and genetic and microbiological aspects; research expenditure in 1988/89 is likely to amount to almost £1 million; we shall continue encouraging and funding further research in this area, taking into account recommendations made by the Tyrrell Committee;
- as far as the Working Party's recommendations on animal feed are concerned we have already acted to ban the feeding of ruminant-derived material to ruminants; further action will be taken as necessary in the light of research work already under way on the heat-resistance of the agent and of any further research which may be recommended by the Tyrrell Committee."

NOTES FOR EDITORS

1. The setting up of the Working Party on Bovine Spongiform Encephalopathy by MAFF and the Department of Health was announced on 21 April 1988. The members of the Working Party were:

Professor Sir Richard Southwood - Linacre Professor of Zoology, University of Oxford (Chairman)

Professor M A Epstein - Emeritus Professor of Pathology, University of Bristol

Dr W B Martin - formerly Director of the Moredun Research Institute in Edinburgh

Sir John Walton - Warden of Green College, Oxford; formerly Professor of Neurology, University of Newcastle upon Tyne

2. Interim recommendations from the Working Party were announced on 7 July 1988 and on 30 November 1988.

3. Copies of the Report of the Working Party (ISBN 185197 405 9) are available price £2.00 from the Department of Health, Government Buildings, Canons Park, Honeypot Lane, Stanmore, Middlesex HA7 1AY.

PLEASE COULD YOU SEND YOUR COMMENTS TO MISS REEVES (ROOM 306C, EXTENSION 6277) AT THIS ADDRESS BY [3 WEEKS]

TO INTERESTED PARTIES

May 1989

Dear Sir/^{am}Madame

PROPOSALS FOR BABY FOOD (PROHIBITED OFFAL) REGULATIONS

I enclose proposals for Baby Food (Prohibited Offal) Regulations to be made under the Food Act 1984.

The proposed regulations restrict the type of offal to be used in the manufacture of baby foods. As announced by my Minister and the Secretary of State for Health on 27 February these regulations are being introduced as a precautionary measure following the publication of the Southwood Report on Bovine Spongiform Encephalopathy.

Regulation 1 : Title and Commencement

The Regulations would come into force without any transitional period.

Regulation 2 : Definitions

This sets out the scope of the regulations.

Regulation 4

This would attach offences and penalties in England and Wales.

As with all future consultation exercises on food law matters we will be making available a list of those who respond to this letter.

Yours faithfully

C A Cockbill

Head of Food Standards Division

DRAFT PRESS RELEASE

PROPOSALS FOR BABY FOOD (PROHIBITED OFFAL) REGULATIONS

1. Proposals for new regulations prohibiting the use of specified offals in the manufacture of baby foods have been issued today by the Ministry of Agriculture, Fisheries and Food. The Ministry has invited comments on the proposals from interested parties.
2. This action is being taken as a precautionary measure following the suggestion in the Southwood Report on Bovine Spongiform Encephalopathy (BSE) that manufacturers of baby foods should avoid the use of ruminant thymus and offal.

NOTES FOR EDITORS

1. The proposed regulations will be made under the Food Act 1984. Comments on the proposals should be sent to Food Standards Division, Room 306B, MAFF Ergon House, c/o Nobel House, 17 Smith Square, London SW1P 3JR to arrive not later than [].
2. In April 1988 the Minister and the Secretary of State for Health appointed Sir Richard Southwood to chair the Working Party on Bovine Spongiform Encephalopathy (BSE) to examine and advise on the implications of BSE in relation to both animal health and any possible human health risks. The Working Party's Report was published on 27 February (MAFF News Release 84/89 of 27 February 1989).
3. Copies of the Report of the Working Party (ISBN 185197 405 9) are available price £2.00 from PO Box 21, Stanmore, Middlesex HA7 1AY.

4. The Southwood Working Party identified thymus, brains, spinal cord, spleen and intestines as the particular offals which should be avoided. It is understood that ~~more~~^{none} of these are currently used in the manufacture of baby foods. The definition of prohibited offals in the proposed regulations goes wider than those identified by the Southwood Report for the sake of consistency with existing regulations which specify offals.