

**BEFORE THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**

**Claim No: CO/6923/2012**

**The Honourable Mr Justice Edwards-Stuart**

**B E T W E E N :-**

**THE QUEEN**  
**(On the application of Newby Foods Limited)**

**Claimant**

**v**

**FOOD STANDARDS AGENCY**

**Defendant**

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**ORDER**

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**UPON the hearing of this application for judicial review held on 22-23 May 2013, further hearings held on 20 June 2013 to hear the Claimant's application to amend its Statement of Grounds and for interim relief and on 16 August 2013 to hear the Claimant's application for interim relief;**

**AND UPON hearing Leading Counsel for the Claimant and the Defendant;**

**IT IS ORDERED THAT:**

1. With effect from 12.00 noon on 24 August 2013, the Claimant be permitted to produce desinewed meat from pigs and poultry and to sell such desinewed meat as a meat preparation pursuant to paragraph 1.15 of Annex I of Regulation (EC) 853/2004 ("the Regulation") using the same process and raw materials as it did before the moratorium imposed on 4 April 2012 ("the Moratorium"), provided that the Claimant comply with the following hygiene requirements:

*AS*

- a. Raw material for deboning must be no more than five days old from pack/cut date. However, poultry carcasses must be no more than three days old.
  - b. If not used immediately after being obtained, the product must be wrapped or packaged and then chilled to a temperature of not more than 2 °C or frozen to an internal temperature of not more than -18 °C. These temperature requirements must be maintained during storage and transport.
  - c. The Claimant carries out analyses demonstrating that the product complies with the microbiological criteria for minced meat adopted in accordance with Regulation (EC) NO 852/2004.
2. With effect from 12.00 noon on 24 August 2013, the Defendant suspend the application of, and be restrained from enforcing, using its powers in the Food Hygiene (England) Regulations 2006 (as amended), the Transmissible Spongiform Encephalopathies (England) Regulations 2010, and the Food Labelling Regulations 1996 (as amended) or otherwise, the Moratorium against the Claimant and other Food Business Operators using the Claimant's products, in so far as to do so would prevent or inhibit the Claimant from acting as set out in paragraph 1 above.
  3. The Defendant communicate to other relevant public bodies the limited suspension of the moratorium referred to in paragraph 2 so as to permit the Claimant to act as set out in paragraph 1 above.
  4. The European Commission be granted leave to intervene in these proceedings.
  5. A hearing be fixed for the afternoon of 26 September 2013 commencing at 2 pm.
  6. The European Commission is invited to file written submissions including a full Skeleton Argument and any appropriate evidence by 4 pm on 20

September 2013.

7. The Claimant and Defendant do file their Skeleton Arguments by 12 noon on 25 September 2013.
8. Costs be reserved.
9. The parties have liberty to apply on two clear days' notice to the other parties and the Court.

Dated: 16 August 2013

*AGC* — — — — —  
16. 8. 2013