

Order made by the Scottish Ministers, laid before the Scottish Parliament under section 1(8) of the Food and Environment Protection Act 1985, for approval by resolution of the Scottish Parliament within twenty-eight days beginning with the day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

SCOTTISH STATUTORY INSTRUMENTS

1999 No.42

PUBLIC HEALTH

CONTAMINATION OF FOOD

The Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (No.2) (Scotland) Order 1999

Made - - - - 27th August 1999

Laid before the Scottish

Parliament - - - - 3rd September 1999

Coming into force in accordance with article 1(1)

The Scottish Ministers, in exercise of the powers conferred on them by section 1(1) and (2) and section 24(3) of the Food and Environment Protection Act 1985(1) and of all other powers enabling them in that behalf, being of the opinion that there exist or may exist circumstances which are likely to create a hazard to human health through human consumption of food and that in consequence food which is derived or may be in the future derived from bivalve molluscs in the area described in the following Order, is, or may be, or may become, unsuitable for human consumption, hereby make the following Order:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (No. 2) (Scotland) Order 1999 and shall come into force at hours on August 1999.

(2) In this Order “scallops” means scallops of the class of *pecten maximus* and Queen scallops of the class of *chlamys opercularis* and “relevant time” means 00.01 on 27th August 1999.

(3) This Order extends to Scotland and the Scottish zone.

(1) 1985 c. 48; section 1(1) and (2) was amended by section 51(2)(a) and (b) of the Food Safety Act 1990 (c. 16); section 1(2) defines “designating authority”; section 1(2) was further amended by the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756); the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

Designated circumstances

2. In the opinion of the Scottish Ministers, scallops in the area designated in article 3 below may be affected by the toxin which causes amnesic shellfish poisoning in human beings and are likely to create a hazard to human health if they are consumed.

Designated area

3. The area described in the Schedule to this Order is hereby designated for the purposes of Part I of the Food and Environment Protection Act 1985.

Activity prohibited in the designated area

4. No person shall fish for or take any scallops in the designated area.

Prohibited movement of scallops

5. No person shall move any scallops out of the designated area.

Restrictions

6. No person shall—

- (a) use any scallops taken out of the designated area after the relevant time in the preparation or processing for supply of food and anything from which food could be derived,
- (b) land any scallops which were in waters in the designated area after the relevant time,
- (c) supply, or have in possession for supply, any scallops which were in the designated area after the relevant time,
- (d) supply, or have in possession for supply, any food or anything from which food could be derived in the preparation or processing of which anything was used in contravention of paragraph (a) of this article,
- (e) feed to any creature a feeding stuff in the preparation or processing of which anything was used in contravention of paragraph (a) of this article.

Pentland House,
Edinburgh
27th August 1999

J S GRAHAM
A member of the staff of the Scottish Ministers

SCHEDULE

Article 3

THE DESIGNATED AREA

The area of sea around the islands of Orkney below mean high water springs enclosed by a line extending from Tor Ness on the island of Hoy at 58° 47'N 3° 17.5'W; then due south to a point at 58° 45'N 3° 17.5'W; then due east to Barth Head on South Ronaldsay at 58° 45'N 2°59'W; then north and west along the shoreline of South Ronaldsay and the mainland to Breck Ness on the mainland at 58° 58'N 3° 21'W; then south and west to the Kame of Hoy on Hoy at 58° 55.5'N 3° 24'W; then east, south and west along the shoreline of Hoy to the start point at Tor Ness at 58° 47'N 3° 17.5'W.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order contains emergency prohibitions restricting various activities in order to prevent human consumption of food rendered unsuitable for that purpose by virtue of shellfish having been affected by the toxin which causes amnesic shellfish poisoning in human beings.

The Order designates an area within which taking scallops is prohibited (articles 3 and 4 and the Schedule). It prohibits the movement of scallops out of that area (article 5). Other restrictions are imposed in relation to the use of any scallops taken from that area.

It is an offence throughout the United Kingdom and United Kingdom waters to contravene any of the prohibitions by virtue of section 1(6) of the Food and Environment Protection Act 1985 (“the Act”) as read with Schedule 1, paragraph 4 to the Food and Environment Protection Act as inserted by paragraph 10(13) of the Schedule to the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I.1999/1756).

Under section 21 of the Act the penalty for contravening an emergency prohibition is—

- (a) on summary conviction, a fine of an amount not exceeding the statutory maximum (at present £5,000);
- (b) on conviction on indictment, an unlimited fine, or imprisonment for a term of not more than two years, or both.

Powers of enforcement in relation to emergency prohibitions are conferred by section 4 of, and Schedule 2 to, the Act. Obstruction of enforcement officers is an offence under paragraph 10 of that Schedule.