



International Carriage of Perishable Foodstuffs Act 1976

1976 CHAPTER 58

General provisions as to regulation of international carriage of perishable foodstuffs

1 Regulation of standards

- (1) The Secretary of State may make regulations as to the standards for transport equipment used or intended to be used for the international carriage of perishable foodstuffs where the journey is or is to be effected by road or rail or by a sea crossing of less than 150 kilometres or any combination thereof.
- (2) Without prejudice to the generality of subsection (1) above regulations under this section may—
 - (a) prescribe foodstuffs or classes of foodstuffs as perishable foodstuffs for the purposes of this Act;
 - (b) prescribe temperature limits for the international carriage of perishable foodstuffs;
 - (c) make different provision for different classes of perishable foodstuffs or as respects the same class in different circumstances;
 - (d) prescribe classes of transport equipment to be used for the international carriage of prescribed classes of perishable foodstuffs;
 - (e) prescribe different standards for different classes of transport equipment or as respects the same class in different circumstances;
 - (f) exempt prescribed classes of transport equipment or prescribed classes of perishable foodstuffs from all or any of the provisions of the regulations either generally or in prescribed circumstances.

2 Provisions as to examination and testing

- (1) The Secretary of State may by regulations make provision for the examination and testing of transport equipment by persons authorised in that behalf by the Secretary of

State (in this Act referred to as "qualified persons") for the purpose of ascertaining whether the prescribed standards are complied with; and—

- (a) for the issue by such persons as may be appointed or authorised in that behalf by the Secretary of State (in this Act referred to as "certifying officers"), where it is found that the standards are complied with, of a certificate certifying that the equipment has been approved for use in the international carriage of perishable foodstuffs as equipment of the class specified in the certificate;
 - (b) for the refusal by a certifying officer of a certificate where the transport equipment is found not so to comply;
 - (c) for prescribing marks (in this Act referred to as "designated marks") to be affixed to transport equipment in respect of which a certificate under this section has been issued.
- (2) A person aggrieved by a decision of a certifying officer under this section may appeal to the Secretary of State who may make such determination as he thinks fit.
- (3) The Secretary of State may—
- (a) provide and maintain stations where examination and testing under this Act may be carried out;
 - (b) designate premises (in this Act referred to as "designated stations") where examination and testing under this Act may be carried out;
 - (c) provide and maintain apparatus for the carrying out of examination and testing.
- (4) Testing of transport equipment for the purposes of this section shall be carried out with such apparatus as may be approved for that purpose by the Secretary of State.
- (5) Regulations under this section may make provision for the keeping of records by designated stations, qualified persons and certifying officers authorised as such by the Secretary of State and the furnishing by them of examination and test reports and information to the Secretary of State.

3 Provisions supplementary to section 2

- (1) Without prejudice to the generality of section 2(1) of this Act, the Secretary of State may make regulations with respect to any of the following matters—
- (a) the authorisation of qualified persons and of certifying officers, the imposition of conditions to be complied with by such persons and the withdrawal of authorisations;
 - (b) the manner in which and conditions under which testing is or is to be carried out, and the inspection of premises at which and apparatus with which testing is or is to be carried out;
 - (c) the conditions to be complied with as respects designated stations and the withdrawal of approval of designated stations;
 - (d) the manner in which application may be made for examination and testing, the manner in which and time within which appeals may be brought and the fees to be paid in connection with examination and testing;
 - (e) the form of and particulars to be contained in examination and test reports;
 - (f) the form of and particulars to be contained in certificates issued under section 2 of this Act and notifications of the refusal or cancellation thereof;

- (g) the issue of certified copies of certificates issued under section 2 of this Act, and the fees to be paid therefor;
 - (h) the position and the manner in which designated marks are to be affixed;
 - (i) the period of validity of a certificate issued under section 2 of this Act;
 - (j) the carrying of a certificate issued under section 2 of this Act on transport equipment in such manner and in such place as may be prescribed ;
 - (k) the circumstances in which and the conditions under which a certificate issued under section 2 of this Act may be renewed, cancelled, transferred or surrendered ;
 - (l) the notification of alterations made to or damage suffered by transport equipment in respect of which a certificate has been issued under section 2 of this Act;
 - (m) the periodic examination and testing of equipment in respect of which a certificate has been issued under section 2 of this Act.
- (2) Regulations under this section may exempt prescribed classes of transport equipment from all or any of the provisions of the regulations either generally or in prescribed circumstances ; and different provision may be made by the regulations for different cases or classes of case.
- (3) Regulations under this section may also make provision for the recognition of prescribed documents issued outside the United Kingdom or issued by such bodies as may be authorised in that behalf by the Secretary of State.

4 Approval of type equipment

- (1) Where the Secretary of State is satisfied in respect of a vehicle of a particular class, that the prescribed standards are complied with in respect of that vehicle, he may, on payment of the prescribed fee, approve that vehicle as a type vehicle of that class (in this section referred to as a " type vehicle ").
- (2) The Secretary of State shall not approve a vehicle as a type vehicle unless he is satisfied that adequate arrangements have been made to secure that other vehicles purporting to conform with that vehicle as respects the prescribed standards will so conform.
- (3) Where a type vehicle has been approved under this section, a certifying officer may, if he is satisfied, after examination if he thinks fit, that any other vehicle conforms with the type vehicle, issue a certificate certifying that that vehicle does so conform and such a certificate shall for the purposes of this Act be deemed to be a certificate issued under section 2 of this Act and shall have effect accordingly.
- (4) The Secretary of State may at any time withdraw approval given under this section.
- (5) Any person aggrieved by the determination of a certifying officer under this section may appeal to the Secretary of State who may make such determination as he thinks fit.
- (6) The Secretary of State may make regulations specifying the manner in which and time within which appeals may be brought under subsection (5) above.
- (7) In this section " vehicle " means a goods vehicle, railway wagon or container.

Loans for designated stations

5 Loans for designated stations

The Secretary of State may, with the consent of the Treasury, make loans to the owner or occupier of—

- (a) designated stations,
- (b) premises considered suitable by the Secretary of State to be designated stations,

on such terms and conditions as the Secretary of State may, with the consent of the Treasury, determine.

Enforcement

6 Powers of entry and inspection

- (1) For the purpose of ascertaining whether regulations under this Act are being observed, the Secretary of State shall appoint such examiners as he considers necessary; and in this Act " examiner" means an examiner appointed under this section.
- (2) An examiner may—
 - (a) at any time, on production if so required of his authority, enter and inspect any transport equipment which he reasonably believes is being used for the international carriage of perishable foodstuffs and, in the case of a goods vehicle or any container carried by it, detain that vehicle or container during such time as is required for the inspection;
 - (b) on production if so required of his authority, at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe transport equipment in respect of which a certificate of compliance is in force is kept, and enter and inspect that equipment and, in the case of a goods vehicle or any container carried by it, detain that vehicle or container during such time as is required for the inspection;
 - (c) at any time, on production if so required of his authority, require the driver of a goods vehicle being used for the international carriage of perishable foodstuffs to produce a certificate of compliance in respect of the vehicle or any container carried by it, and may detain that vehicle or container for the purpose of inspecting and copying the certificate.
- (3) Any person who wilfully obstructs an examiner in the performance of his duty under subsection (2)(a) or (b) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (4) A driver of a goods vehicle who refuses or fails without reasonable excuse to comply with the requirement in subsection (2)(c) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Offences

7 Offences as to use of transport equipment

- (1) If any person without reasonable excuse uses or causes or permits to be used transport equipment for the international carriage of perishable foodstuffs, being equipment required to comply with regulations under this Act—
 - (a) without there being in force a certificate of compliance for that equipment,
 - (b) without exhibiting the designated mark for that equipment, or
 - (c) in contravention of any regulations made under this Act,he shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £100.
- (3) In any proceedings for an offence under this section, it shall be a defence for the person charged to prove that—
 - (a) he is the carrier for hire or reward of the perishable foodstuffs to which the charge relates ; and
 - (b) it is a term of the contract for the carriage that he does not undertake to comply or to secure compliance with the requirements of the regulation to which the charge relates.

8 Affixing, etc. of designated marks

- (1) Any person who, without reasonable excuse—
 - (a) affixes or causes or permits to be affixed a designated mark, or
 - (b) permits a designated mark to remain affixed,to transport equipment at a time when there is not in force a certificate of compliance for the equipment, shall be guilty of an offence and on summary conviction liable to a fine not exceeding £100.
- (2) Any person who—
 - (a) with intent to deceive applies to transport equipment a mark so nearly resembling a designated mark as to be calculated to deceive, or
 - (b) fails without reasonable excuse to comply with the direction of an examiner to remove a mark so calculated to deceive,shall be guilty of an offence and on summary conviction liable to a fine not exceeding £100.

9 Forgery of certificates of compliance

- (1) Any person who, with intent to deceive—
 - (a) forges, or alters, or uses or lends to, or allows to be used by, any other person, a certificate of compliance, or
 - (b) makes or has in his possession any document so closely resembling a certificate of compliance as to be calculated to deceive,shall be guilty of an offence and shall be liable—
 - (i) on conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years or to both ;

(ii) on summary conviction, to a fine not exceeding £200.

(2) In the application of this section to England, Wales and Northern Ireland " forges " means forges within the meaning of the Forgery Act 1913.

10 False statements and withholding material information

(1) Any person who knowingly makes a false statement for the purpose of obtaining the issue of a certificate of compliance under this Act to himself or any other person shall be guilty of an offence.

(2) Any person who, in supplying information or producing documents for the purposes of regulations made under this Act, makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or produces, furnishes, sends or otherwise makes use of a document which he knows to be false in a material particular or recklessly produces, furnishes, sends or otherwise makes use of a document which is false in a material particular shall be guilty of an offence.

(3) A person guilty of an offence under subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding £200.

Foreign goods vehicles

11 Power to prohibit driving of foreign goods vehicles

(1) An examiner may prohibit for the purpose of the international carriage of perishable foodstuffs the driving on a road of a foreign goods vehicle if—

(a) the vehicle is required by regulations under this Act to have in force a certificate of compliance and there is not produced to him in respect of the vehicle a certificate of compliance ; or

(b) the vehicle or any container carried by it is required by regulations under this Act to be marked with a designated mark and the vehicle or container is not so marked; or

(c) it appears to the examiner that the vehicle is being used otherwise than in accordance with any conditions specified in the certificate of compliance ; or

(d) the vehicle, or any container being carried by it is being used otherwise than in accordance with regulations under this Act.

(2) Where an examiner prohibits the driving of a vehicle under this section, he may also direct the driver of the vehicle to remove the vehicle (and if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition shall not apply to that removal.

(3) Where an examiner prohibits the driving of a vehicle, under subsection (1) above, he shall forthwith give notice in writing to the driver, specifying the circumstances as mentioned in subsection (1)(a), (b), (c) or (d) above in consequence of which the prohibition is imposed and any direction given under subsection (2) above may be given either in that notice or in a separate notice in writing given to the driver.

(4) An examiner may remove a prohibition if he is satisfied that appropriate action has been taken to remove or remedy the circumstances in consequence of which the

prohibition was imposed ; and on doing so shall forthwith give notice in writing of the removal of the prohibition to the driver.

- (5) Any person who—
- (a) drives a vehicle on a road in contravention of a prohibition imposed under subsection (1) above; or
 - (b) causes or permits a vehicle to be driven on a road in contravention of such a prohibition ; or
 - (c) refuses, neglects or otherwise fails to comply within a reasonable time, with a direction given under subsection (2) above,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.
- (6) A constable in uniform may arrest without warrant any person whom he has reasonable cause to suspect of having committed an offence under subsection (5) above.
- (7) In the exercise of his functions under this section an examiner shall act in accordance with any general directions given by the Secretary of State.
- (8) In this section—
- (a) " road " means any highway and any other road to which the public has access, and includes bridges over which a road passes, and includes any land which forms part of a harbour or which is adjacent to a harbour and occupied wholly or partly for the purposes or harbour operations; and
 - (b) " harbour" and " harbour operations" have in England, Wales and Scotland the meanings assigned to them by section 57(1) of the Harbours Act 1964; and in Northern Ireland, the meanings assigned to them by section 38(1) of the Harbours Act (Northern Ireland) 1970.

Legal proceedings

12 Time limit for commencing summary proceedings for certain offences

- (1) Summary proceedings in England, Wales and Northern Ireland for an offence under section 7, 9 10 or 11 of this Act may, subject to subsection (3) below, be commenced at any time within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings comes to his knowledge.
- (2) Summary proceedings in Scotland for any offence as aforesaid may, subject to subsection (3) below, be commenced at any time—
- (a) within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to his knowledge, or
 - (b) where such evidence was reported to him by the Secretary of State within 6 months after the date on which it came to the knowledge of the Secretary of State,
- and subsection (3) of section 331 of the Criminal Procedure (Scotland) Act 1975 shall apply for the purposes of this section as it applies for the purposes of that section.
- (3) Nothing in this section shall authorise the commencement of proceedings for any offence more than 3 years after the date on which the offence was committed.

- (4) For the purposes of this section a certificate signed by or on behalf of the prosecutor or, as the case may be, the Secretary of State and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

13 Offences by corporations

- (1) Where a body corporate is guilty of an offence under this Act or regulations made thereunder and the offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, this section shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

14 Jurisdiction

Any offence under this Act or any regulations made thereunder may be treated, for the purpose of conferring jurisdiction on a court (but without prejudice to any jurisdiction it may have apart from this section) as having been committed in any of the following places, that is to say—

- (a) the place where the transport equipment was being used when evidence of the offence first came to the attention of a constable or an examiner ;
- (b) the place where the person charged resides or is or is believed to reside or be at the time when the proceedings are commenced; or
- (c) the place where at that time that person has his place or principal place of business or his operating centre for the transport equipment in question.

15 Admissibility of records as evidence

- (1) A statement contained in a document purporting to be—
- (a) a part of the records maintained by the Secretary of State for the purposes of this Act; or
 - (b) a copy of a document forming part of those records ; or
 - (c) a note of any information contained in those records,

and to be authenticated by a person authorised in that behalf by the Secretary of State shall be admissible in any proceedings as evidence or, in Scotland, sufficient evidence, of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

- (2) In subsection (1) above, " document" and " statement" have—
- (a) in England and Wales, the same meanings as in section 10(1) of the Civil Evidence Act 1968, and the reference to a copy of a document shall be construed in accordance with section 10(2) of that Act;
 - (b) in Scotland, the same meanings as in section 17(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, and the reference to a copy of a document shall be construed in accordance with section 17(4) of that Act;

- (c) in Northern Ireland, the same meanings as in section 6(1) of the Civil Evidence Act (Northern Ireland) 1971, and the reference to a copy of the document shall be construed in accordance with section 6(2) of that Act;
- but nothing in this subsection shall be construed as limiting to civil proceedings the reference to proceedings in subsection (1) above.
- (3) Nothing in the foregoing provisions of this section shall enable evidence to be given with respect to any matter other than a matter of the prescribed description.

Miscellaneous and supplementary

16 Amendment of ATP

- (1) If, by any International Agreement, the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP) is amended, Her Majesty may, by Order in Council, modify sections 1 to 4, 7(1) and 11(1) to (4) of this Act in such manner as appears to Her Majesty necessary for the purpose of giving effect to the amendments.
- (2) No recommendation shall be made to Her Majesty in Council to make an order under this section unless a draft thereof has been laid before and approved by each House of Parliament.

17 Application to the Bailiwick of Jersey

- (1) Her Majesty may, by Order in Council, direct that this Act shall extend, subject to such exceptions, adaptations and modifications as may be specified in the Order, to the Bailiwick of Jersey.
- (2) An Order in Council made under this section may contain such transitional and supplementary provisions as appear to Her Majesty to be expedient and may be varied or revoked by a subsequent Order in Council made under this section.

18 Financial provisions

- (1) There shall be paid out of moneys provided by Parliament—
- (a) any expenses of the Secretary of State under this Act;
 - (b) such remuneration and such salaries or allowances to certifying officers and examiners as the Secretary of State may, with the consent of the Minister for the Civil Service, determine ; and
 - (c) any sums required by the Secretary of State for making loans under section 5 of this Act
- (2) There shall be paid into the Consolidated Fund any sums received by the Secretary of State under this Act.

19 Interpretation

- (1) In this Act, unless the context otherwise requires—
- " Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for such Carriage (ATP) ", means the agreement of that name concluded in Geneva on 1 September 1970;

" certificate of compliance " means a valid certificate issued under section 2 of this Act and includes a certified copy issued under section 3 of this Act and a document recognised under that section ;

" container " means an article of equipment having a minimum volume of 8 cubic metres, designed and constructed for repeated use for the inter-modal carriage of goods by road, rail and water and for interchange between these forms of transport;

" driver "—

(a) in relation to a motor vehicle, includes any person who is in charge of the vehicle and, if a separate person acts as steersman, includes that person as well as any other person in charge of the vehicle or engaged in the driving of it, and

(b) in relation to a trailer, means any person who (in accordance with the preceding paragraph) is the driver of the motor vehicle by which the trailer is drawn;

" enactment " includes an enactment of the Parliament of Northern Ireland or of the Northern Ireland Assembly, and an Order in Council having the same effect as such an enactment;

" foreign goods vehicle " means a goods vehicle which has been brought into the United Kingdom and which, if a motor vehicle, is not registered in the United Kingdom or, if a trailer, is drawn by a motor vehicle not registered in the United Kingdom which has been brought into the United Kingdom ;

" goods vehicle " means a motor vehicle constructed or adapted for use for the carriage or haulage of goods or burden of any description, or a trailer so constructed or adapted;

" international carriage " means carriage either between a place in the United Kingdom and a place outside the United Kingdom, the Channel Islands and the Isle of Man or, if the journey passes through any part of the United Kingdom, between places both of which are outside the United Kingdom, the Channel Islands and the Isle of Man ;

" motor vehicle " means a mechanically propelled vehicle intended or adapted for use on roads ;

" perishable foodstuffs " means foodstuffs prescribed as such ;

" prescribed " means prescribed by regulations made by the Secretary of State;

" trailer " means a vehicle drawn by a motor vehicle ;

" transport equipment " means goods vehicles, railway wagons and containers.

- (2) In this Act any reference to driving a vehicle shall, in relation to a trailer be construed as a reference to driving a motor vehicle by which the trailer is drawn.
- (3) In this Act any reference to a motor vehicle drawing a trailer, or to a motor vehicle by which a trailer is drawn, shall be construed as a reference to a motor vehicle to which a trailer is attached for the purpose of being drawn by it; and where, for the purpose of being drawn by a motor vehicle, two or more trailers (one of which is attached to the motor vehicle) are attached to each other, the motor vehicle shall for the purposes of this Act be treated as drawing each of those trailers.
- (4) For the purposes of this Act a motor vehicle which does not for the time being have exhibited on it a licence or trade plates issued—

- (a) under the Vehicles (Excise) Act 1971 or under an enactment repealed by that Act, or
 - (b) under the Vehicles (Excise) Act (Northern Ireland) 1972 or under any enactment of the Parliament of Northern Ireland repealed by that Act,
- shall be presumed, unless the contrary is proved, not to be registered in the United Kingdom.
- (5) Where, in accordance with subsection (4) of this section, a motor vehicle is presumed not to be registered in the United Kingdom, but is subsequently proved to have been so registered, anything which—
- (a) has been done in relation to the vehicle, or in relation to a trailer drawn by it, by a person relying in good faith on that presumption and purporting to act by virtue of any provision of this Act, and
 - (b) would have been lawfully done by virtue of that provision if the vehicle had not been registered in the United Kingdom,
- shall be treated as having been lawfully done by virtue of that provision.
- (6) Any reference in this Act to an enactment' shall, unless the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act.

20 Regulations

- (1) Any power conferred by this Act on the Secretary of State to make regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any regulations made under this Act may contain such incidental and supplementary provisions as the Secretary of State considers expedient for the purposes of the regulations.

21 Short title, commencement and extent

- (1) This Act may be cited as the International Carriage of Perishable Foodstuffs Act 1976.
- (2) This Act shall come into force on a day appointed by the Secretary of State by order made by statutory instrument; and different days may be appointed under this subsection for different provisions of this Act or for different provisions of this Act so far as they apply to such cases or classes of cases as may be specified in the order.
- (3) The power to make an order under this section includes power to vary or revoke a previous order before the day appointed thereby.
- (4) This Act extends to Northern Ireland.