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 STATUTORY INSTRUMENTS
 

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1979 No. 27

## FOOD AND DRUGS

## The Food Hygiene (Ships) Regulations 1979

*Made* - - - 11th January 1979

*Laid before Parliament* 18th January 1979

*Coming into Operation* 19th February 1979

The Secretary of State for Social Services in relation to England and the Secretary of State for Wales in relation to Wales, in exercise of powers conferred upon them by section 7(2) of the Food and Drugs (Control of Food Premises) Act 1976(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Food Hygiene (Ships) Regulations 1979 and shall come into operation on 19th February 1979.

(2) In these regulations, unless the context otherwise requires—

“the regulations” means the Food Hygiene (General) Regulations 1970(b) made by virtue of section 13 of the Food and Drugs Act 1955(c);

“appropriate authority” means in relation to a ship, the port health authority or local authority which is under regulation 31(2) or (3) or (4) of the regulations, as the case may be, responsible for enforcing and executing the regulations in relation to that ship,

and other expressions have the same meanings as in the regulations.

(3) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

*Closure of catering or other retail food business on ships where danger to health*

2.—(1) Subject to paragraph (2), where on an information laid by an appropriate authority a person is convicted of an offence under the regulations and the offence includes the carrying on of a catering business or other retail food business on or from any insanitary ship or on or from any ship the condition, situation or construction of which is such that food is exposed to the risk of contamination, then, if the court is satisfied that—

(a) food continues or is likely to continue to be prepared, stored, sold or offered or exposed for sale on or from that ship; and

(b) by reason of the situation, construction or insanitary or defective condition of the ship or the insanitary or defective condition of the

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 (a) 1976 c. 37.

(b) S.I. 1970/1172.

(c) 1955 c. 16.

fittings or fixtures or equipment or the infestation of vermin or the accumulation of refuse, the carrying on of a catering business or other retail food business on or from that ship would be dangerous to health, the court may on the application of the appropriate authority, whether or not it makes any other order, by order (hereinafter referred to as "a closure order") prohibit the preparation, storage, sale or offer or exposure for sale on or from that ship of food until the appropriate authority certifies under paragraph (4) that such specified measures as the court considers necessary to remove the danger to health have been carried out.

(2) A closure order shall not be made unless the appropriate authority have, not less than fourteen days before the trial of the information, given—

- (a) the person against whom the information was laid, and
- (b) if he is not that person, the owner of the ship (unless the appropriate authority are unable after reasonable inquiry to ascertain his identity), and
- (c) if he is neither of those persons, the person for the time being in charge of the ship,

written notice of their intention to apply for the order.

(3) The appropriate authority shall in any notice under paragraph (2) specify the measures which, in their opinion, should be taken to remove any danger to health.

(4) Any person who wishes to carry on a catering business or other retail food business on or from any ship with respect to which a closure order is in force may make application to the appropriate authority who, if satisfied that the measures specified by the closure order have been carried out, shall as soon as practicable and in not more than fourteen days give to the applicant a certificate to that effect, and such certificate shall be conclusive evidence of the matters therein stated.

*Emergency order for closing catering or other retail food business on ships where imminent risk of danger to health*

3.—(1) Subject to paragraph (2), where an information is, or has been, laid by an appropriate authority in relation to an offence described in regulation 2(1) and application is made by the appropriate authority for an order under this regulation, the court may, if satisfied—

- (a) by the evidence tendered by the appropriate authority; and
- (b) after affording, if he appears, the person against whom the information is or was laid and,
  - (i) if he is not that person, the owner of the ship, and
  - (ii) if he is neither of those persons, the person for the time being in charge of the ship,

an opportunity to be heard and tender evidence,

that the use of the ship for the preparation, storage, sale or offer or exposure for sale of food involves imminent risk of danger to health, make an order (hereinafter referred to as "an emergency order") prohibiting, either absolutely or subject to conditions, the use of that ship for those purposes until the determination of the proceedings to which the information gave rise or the issue of a certificate by the appropriate authority under paragraph (6), whichever is the earlier.

(2) The court shall not consider an application under this regulation unless it is satisfied that at least three clear days' notice in writing of intention to make that application and of the time at which it would be made has been given to the person against whom the information is or was laid and,

- (a) if he is not that person, to the owner of the ship, and
- (b) if he is neither of those persons, the person for the time being in charge of the ship.

(3) The appropriate authority shall in any notice under paragraph (2) specify the measures which, in their opinion, should be taken to remove any danger to health.

(4) Notice for the purpose of paragraph (2) may be served in any way, except by post, authorised by rules made under section 15 of the Justices of the Peace Act 1949(a) for the service of a summons issued by a justice of the peace or by leaving it for him with some person who appears to be employed on the ship to which the information relates.

(5) The appropriate authority shall serve a copy of an emergency order made under this regulation as soon as may be after the order has been made on the person against whom the information was laid and

- (a) if he is not that person, on the owner of the ship, and
- (b) if he is neither of those persons, on the person for the time being in charge of the ship,

and shall if practicable affix a copy of it in a conspicuous position on the ship.

(6) Any person who wishes to carry on a catering business or other retail food business on or from any ship, with respect to which an emergency order is in force, may make application to the appropriate authority who, if satisfied there is no longer any risk of danger to health shall as soon as practicable and in not more than fourteen days issue a certificate to that effect.

#### *Right to compensation*

4.—(1) If on the trial of an information relating to an offence described in regulation 2(1) the court, on the application of an interested person—

- (a) determines that on the date of any emergency order the use of the ship did not involve imminent risk of danger to health; and
- (b) is satisfied that loss has been occasioned by the emergency order,

the court may order the appropriate authority to pay to that person compensation of such amount as the court thinks proper.

(2) The following are interested persons for the purposes of paragraph (1) and regulation 5(2), namely—

- (a) the person against whom the information was laid;
- (b) the owner of the ship;
- (c) the person who at the time when the emergency order was made was in charge of the ship;
- (d) any person (not falling within sub-paragraph (a), (b) or (c)) who at the time when the emergency order was made was carrying on a catering business or other retail food business on or from that ship.

*Right of appeal*

5.—(1) Where an application for a closure order is refused or granted—

- (a) if the application is refused, the appropriate authority by whom the application was made may appeal to the Crown Court;
- (b) if the application is granted, any person to whom notice of the application was given under regulation 2(2) may appeal as aforesaid.

(2) Where an application for an order under regulation 4 for the payment of compensation is granted or refused, the following persons may appeal to the Crown Court—

- (a) the appropriate authority by whom the application for the emergency order in question was made; or
- (b) any interested person who applied for the payment of compensation under that regulation in respect of that order.

(3) Where a person applies for a certificate under regulation 2(4) or 3(6), and the appropriate authority refuses or fails to give it, the applicant may appeal to a magistrates' court who may, if satisfied that it is proper to do so, direct the authority to give such certificate.

(4) Section 117 of the Food and Drugs Act 1955(a) (appeals to magistrates' courts) shall apply in relation to appeals under paragraph (3) as it applies in relation to appeals under that Act.

*Penalties*

6.—(1) A person who contravenes a closure order or an emergency order shall be liable on summary conviction to a fine not exceeding £400.

(2) Section 113 of the Food and Drugs Act 1955 (contravention due to default of some other person) shall apply in relation to proceedings under this regulation as it applies in relation to proceedings under that Act.

*David Ennals,*

8th January 1979.

Secretary of State for Social Services.

*John Morris,*

11th January 1979.

Secretary of State for Wales.

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**EXPLANATORY NOTE**

*(This Note is not part of the Regulations.)*

Sections 1 to 6 of the Food and Drugs (Control of Food Premises) Act 1976 empower a magistrates' court to prohibit the carrying on of a food business at insanitary premises or stalls or in circumstances which would be dangerous to health. These regulations apply corresponding provisions, with necessary modifications, to the carrying on of a catering business or other retail food business in boats or craft which are moored or which are plying exclusively in inland waters or engaged exclusively in coastal excursions.

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(a) 1955 c. 16.



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