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 or recess for more than four days.

S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2003 No. 260

PUBLIC HEALTH

CONTAMINATION OF FOOD

The Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (Scotland) Order 2003

Made *27th May 2003*

Coming into force in accordance with article 1(1)

Laid before the Scottish Parliament *29th May 2003*

The Scottish Ministers, in exercise of the powers conferred by section 1(1) and (2) and section 24(3) of the Food and Environment Protection Act 1985(**a**) 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 and interpretation

1.—(1) This Order may be cited as the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (Scotland) Order 2003 and shall come into force at 1600 hours on 27th May 2003.

(2) In this Order–

(a) "scallops" means scallops of the species of *Pecten maximus*; and

(b) "relevant time" means 0001 hours on 27th May 2003.

Designated circumstances

2. In the opinion of the Scottish Ministers, scallops in the area designated in article 3 below may be affected by the toxins which cause 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.

(a) 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), Schedule, paragraph 10(2) and (3), the Food Standards Act 1999 (c.28), Schedule 5, paragraph 6 and the Scotland Act 1998 (Consequential Modifications) Order 2000 (S.I. 2000/2040), Schedule, Part I, paragraph 12.

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; or

(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.

Tom McCabe
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
27th May 2003

Article 3

SCHEDULE

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 58º47’ North latitude 3º17.5’ West longitude; then due south to a point at 58º45’ North latitude 3º17.5’ West longitude; then due east to a point on the mainland of South Ronaldsay at 58º45’ N 3º00’ West longitude; then north along the shoreline of South Ronaldsay to a point at 58º50’ North latitude 3º00’ West longitude; then north to point on the mainland at 58º57’ North latitude 3º00’ West longitude; then west and north along the Mainland shoreline to Breck Ness to 58º58’ North latitude 3º21’ West longitude; then south and west to the Kame of Hoy on Hoy at 58º55.5’ North latitude 3º24’ West longitude; then east, south and west along the shoreline of Hoy to the point of beginning.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which forms part of Scots law only, 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 toxins which cause amnesic shellfish poisoning in human beings.

The Order designates an area of sea around Orkney 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 (article 6).

It is an offence, 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 Act as inserted by paragraph 10(13) of the Schedule to the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), to contravene any of the prohibitions contained in this Order anywhere in the United Kingdom or United Kingdom waters.

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.

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