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.

SCOTTISH STATUTORY INSTRUMENTS

2005 No. 575

PUBLIC HEALTH

CONTAMINATION OF FOOD

The Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 15) (Scotland) Order 2005

Made - - - - 10th November 2005

Coming into force in accordance with article 1(1)

Laid before the Scottish Parliament 14th November 2005

The Scottish Ministers, in exercise of the powers conferred by sections 1(1) and (2) and 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 areas 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) (West Coast) (No. 15) (Scotland) Order 2005 and shall come into force at 1630 hours on 10th November 2005.

(2) In this Order–

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

(b) "relevant time" means 0001 hours on 10th November 2005.

(**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.

Designated circumstances

2. In the opinion of the Scottish Ministers, scallops in the areas 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 areas

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

Activity prohibited in the designated areas

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

Prohibited movement of scallops

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

Restrictions

6. No person shall–

(a) use any scallops taken out of the designated areas 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 areas after the relevant time;

(c) supply, or have in possession for supply, any scallops which were in the designated areas 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.

PAM WHITTLE
A member of the staff of the Scottish Ministers

St Andrew's House,
Edinburgh
10th November 2005

SCHEDULE

Article 3

THE DESIGNATED AREAS

AREA 1

The area of sea below mean high water springs enclosed by a line starting at the point at (56.25°) 56°15' North latitude (-6°) 6° West longitude; then east to a point on the west coast of the island of Dun Chonnuill at (56.25°) 56°15' North latitude (-5.74735°) 5°44'50" West longitude; then south, east and north along the shoreline to a point at (56.25°) 56°15' North latitude (-5.74339°) 5°44'36" West longitude; then east to a point on the west coast of Luing at (56.25°) 56°15' North latitude (-5.65469°) 5°39'17" West longitude; then south, east and north along the shoreline to a point at (56.25°) 56°15' North latitude (-5.62298°) 5°37'23" West longitude; then east to a point on the west coast of the Scottish Mainland at (56.25°) 56°15' North latitude (-5.59693°) 5°35'49" West longitude; then south, east and north along the shoreline to a point at (56.25°) 56°15' North latitude (-5.57897°) 5°34'44" West longitude; then east to a point on the west coast of the Scottish Mainland at (56.25°) 56°15' North latitude (-5.511°) 5°30'40" West longitude; then west and south along the shoreline including Arduaine Point, Craobh Haven, and Craignish Point, then continuing east, north, south, and west along the shoreline including Loch Craignish and Loch Crinan to a point at (56°) 56° North latitude (-5.67496°) 5°40'30" West longitude; then west to a point on the east coast of Jura at (56°) 56° North latitude (-5.80342°) 5°48'12" West longitude; then east, north, west and south along the shoreline including Lussa Bay, Glengarrisdale Bay and Corpach Bay to a point at (56°) 56° North latitude (-5.99019°) 5°59'25" West longitude; then west to (56°) 56° North latitude (-6°) 6° West longitude; then north to the point of beginning.

AREA 2

The area of sea below mean high water springs enclosed by a line starting at the point on the west coast of the Scottish Mainland at (56°) 56° North latitude (-5.63149°) 5°37'53" West longitude; then north, east, west, and south along the shoreline to a point on the east shore of Loch Sween at (56°) 56° North latitude (-5.60631°) 5°36'23" West longitude; then west 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 toxin which causes amnesic shellfish poisoning in human beings.

The Order designates areas of sea off the west coast of Scotland within which taking scallops is prohibited (articles 3 and 4 and the Schedule). It prohibits the movement of scallops out of those areas (article 5). Other restrictions are imposed in relation to the use of any scallops taken from those areas (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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