



Food and Environment Protection Act 1985

1985 CHAPTER 48

PART I

CONTAMINATION OF FOOD

Emergency orders etc.

1 Power to make emergency orders.

(1) If in the opinion of the designating authority—

[^{F1}(a) there exist or may exist circumstances which are likely to create a hazard to human health through human consumption of food;]and

(b) in consequence food which is or may be in the future in an area—

(i) of land in the United Kingdom ;

(ii) of sea within British fishery limits ; or

(iii) both of such land and of such sea,

or which is or may be in the future derived from anything in such an area, is, or may be, or may become, unsuitable for human consumption,

that designating authority may by statutory instrument make an order designating that area and containing emergency prohibitions.

(2) In this Act—

[^{F2} “^{F2}designating authority” in relation to England and Wales means [^{F3}the Secretary of State] and, in relation to Scotland and the Scottish zone means the [^{F4}Scottish Ministers]; and the functions of that authority in relation to Scotland and the Scottish zone shall be treated as exercisable in or as regards Scotland and may be exercised separately]

^{F5}

.....
“emergency order” means an order under this section—

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- (a) which designates an area; or
 - (b) which amends or re-enacts an order which designated an area;
 - “emergency prohibitions” means the prohibitions specified in Schedule 1 to this Act; ^{F6} . . .
 - “designated area” means an area designated by an emergency order [^{F7}; and.
 - “Scottish zone” has the meaning assigned to it by section 126(1) of the Scotland Act 1998.]
- (3) Food derived from any creature is to be treated for the purposes of this Act as also derived—
- (a) from any feeding stuff which that creature has eaten ; and
 - (b) from anything from which any feeding stuff was derived,
- and references in this Act to anything from which food could be derived shall be construed accordingly.
- (4) [^{F8}A designating authority may]by order made by statutory instrument amend Schedule 1 to this Act.
- [^{F9}(5) An emergency order shall refer to the circumstances or suspected circumstances in consequence of which in the opinion of the designating authority making it food such as is mentioned in subsection (1)(b) above is, or may be, or may become, unsuitable for human consumption; and in this Act “ designated circumstances ” means the circumstances or suspected circumstances to which an emergency order refers in pursuance of this subsection.]
- (6) Subject to subsection (7) below, and to section 2(2) below, any person who—
- (a) contravenes an emergency prohibition ; or
 - (b) causes or permits any other person to do so,
- shall be guilty of an offence.
- (7) It shall be a defence for a person charged—
- (a) with contravening an emergency prohibition contained in an emergency order by virtue of paragraph 2 or 3 of Schedule 1 to this Act ; or
 - (b) with causing or permitting any other person to contravene such a prohibition, to show—
 - (i) that the contravention took place on a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure ; and
 - (ii) that nothing to which the prohibition related was landed from it in the United Kingdom.
- (8) An emergency order—
- (a) shall be laid before Parliament ; and
 - (b) shall cease to have effect at the expiry of a period of 28 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new order.
- (9) In reckoning for the purposes of subsection (8) above any period of 28 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.

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- (10) An order under this section which—
- (a) wholly or partly revokes an emergency order ; and
 - (b) does nothing else, or nothing else except make provision incidental or supplementary to the revocation,
- shall be laid before Parliament after being made.
- (11) No order under subsection (4) above shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- [^{F10}(12) Where an order under this section is made by the Scottish Ministers, [^{F11}or is made on their behalf by the Food Standards Agency in accordance with an arrangement made under section 17 of the Food Standards Act 1999]^{F12}, this section shall have effect subject to the following modifications—
- (a) any reference to Parliament or to a House of Parliament shall be construed as a reference to the Scottish Parliament; and
 - (b) in subsection (9), for “Parliament is dissolved or prorogued or during which both Houses are adjourned” there shall be substituted “the Scottish Parliament is dissolved or is in recess”.]

Textual Amendments

- F1** S. 1(1)(a) substituted (*retrosp.*) by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **ss. 51(1)(2)(a)**, 54
- F2** Words in s. 1(2) substituted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 10(2)** (with art. 8); S.I. 1998/3178
- F3** Words in s. 1(2) substituted (1.4.2000) by 1999 c. 28 s. 40(1)(2), Sch. 5 para. 6(3) (with s. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F4** Words in s. 1(2) substituted (27.7.2000) by S.I. 2000/2040, art. 2, **Sch. Pt. I para. 12**
- F5** Definition of “escape” repealed (*retrosp.*) by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **ss. 51(1)(2)(b)**, 54, 59(4), **Sch. 5**; and expressed to be repealed (N.I.) (21.5.1991) by S.I. 1991/762 (N.I. 7), art. 51(4), **Sch. 4**; S.R. 1991/175, **art. 2(1)**.
- F6** Words in s. 1(2) repealed (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 10(3)** (with art. 8); S.I. 1998/3178
- F7** Words in s. 1(2) inserted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 10(3)** (with art. 8); S.I. 1998/3178
- F8** Words in s. 1(4) substituted (30.6.1999) by S.I. 1999/1756, art. 2, **Sch. para. 10(4)** (with art. 8); S.I. 1998/3178
- F9** S. 1(5) substituted (*retrosp.*) by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **ss. 51(1)(2)(c)**, 54
- F10** S. 1(12) inserted (27.7.2000) by S.I. 2000/2040, art. 2, **Sch. Pt. I para. 12**
- F11** Words in s. 1(12) repealed (S.) (1.4.2015) by Food (Scotland) Act 2015 (asp 1), s. 63(2), **Sch. para. 2(2)** (with s. 62); S.S.I. 2015/99, art. 2
- F12** 1999 c.28.

Modifications etc. (not altering text)

- C1** S. 1(1) amended (1.4.2000) by 1999 c. 28, **s. 17(1)(a)**, (with s. 38); S.I. 2000/1066, **art. 2**
- C2** S. 1(1) functions made exercisable concurrently or jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 1 (as inserted (1.4.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 4 para. 1** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(p))

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2 Powers of Ministers when emergency order has been made.

- (1) [^{F13}A designating authority][^{F14}or the Food Standards Agency] may consent, either unconditionally or subject to any condition that [^{F15}the authority giving the consent] considers appropriate, to the doing in a particular case of anything prohibited by an emergency order.
- (2) It shall be a defence for a person charged with an offence under section 1(6) above to show—
- that consent had been given under subsection (1) above to the contravention of the emergency prohibition ; and
 - that any condition subject to which that consent had been given was complied with.
- (3) [^{F13}A designating authority][^{F16}or the Food Standards Agency]—
- may give any person such directions as appear to [^{F17}the authority giving the directions] to be necessary or expedient for the purpose of preventing human consumption of food which [^{F17}the authority giving the directions] believes, on reasonable grounds, is, or may be, or may become, unsuitable for human consumption in consequence of [^{F18}designated circumstances]; and
 - may do anything which appears to [^{F13} the designating authority][^{F19}or the Agency (as the case may be)]to be necessary or expedient for that purpose ;
- and such directions may be given and such action may be taken after the emergency order has ceased to be in force.
- (4) Any person who—
- fails to comply with a direction under this section ; or
 - causes or permits any other person to do so,
- shall be guilty of an offence.
- (5) If [^{F13}a designating authority][^{F20}or the Food Standards Agency]does anything by virtue of this section in consequence of a failure on the part of any person to comply with such a direction, [^{F21}the authority taking that action] may recover from that person any expenses reasonably incurred by [^{F22}that authority] under this section.
- (6) If [^{F13}a designating authority][or the Food Standards Agency]does anything by virtue of this section in consequence of any person causing or permitting another person to fail to comply with such a direction, [^{F21}the authority taking that action] may recover from the person who caused or permitted the failure to comply any expenses reasonably incurred by [^{F22}that authority] under this section.
- [^{F23}(7) In the application of this section to Scotland, the references to the Food Standards Agency are to be ignored.]

Textual Amendments

- F13** Words in s. 2 substituted (30.6.1999) by S.I. 1999/1756, art. 2, Sch. para. 10(5) (with art. 8); S.I. 1998/3178
- F14** Words in s. 2(1) inserted (1.4.2000) by 1999 c. 28, s. 40(1)(2), Sch. 5 para. 6(4)(a)(i) (with ss. 38, 40(2)); S.I. 2000/1066, art. 2
- F15** Words in s. 2(1) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), Sch. 5 para. 6(4)(a)(ii) (with ss. 38, 40(2)); S.I. 2000/1066, art. 2

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- F16** Words in s. 2(3) inserted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 6(4)(b)(i)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F17** Words in s. 2(3) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 6(4)(b)(ii)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F18** Words substituted (*retrosp.*) by Food Safety Act 1990 (c. 16, SIF 53:1, 2), **ss. 51(1)(2)(d)**, 54
- F19** Words in s. 2 inserted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 6(4)(b)(iii)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F20** Words in s. 2(5)(6) inserted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 6(4)(c)(i)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F21** Words in s. 2(5)(6) substituted (1.4.2000) by 1999 c. 28, s. 40(1)(2), **Sch. 5 para. 6(4)(c)(ii)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F22** Words in s. 2(5)(6) substituted (1.4.2000) by 1999 c. 28, ss. 40(1)(2), **Sch. 5 para. 6(4)(c)(iii)** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F23** S. 2(7) inserted (S.) (1.4.2015) by Food (Scotland) Act 2015 (asp 1), s. 63(2), **Sch. para. 2(3)** (with s. 62); S.S.I. 2015/99, **art. 2**

Modifications etc. (not altering text)

- C3** S. 2 amended (1.4.2000) by 1999 c. 28, s. 18, **Sch. 3 Pt. III para. 16(2)** (with s. 38); S.I. 2000/1066, **art. 2**

Investigation and enforcement

3 Authorisation of investigating officers and enforcement officers.

- (1) [^{F24}A designating authority] may authorise—
- (a) persons (in this Act referred to as “investigating officers”) to conduct investigations for the purpose of determining—
 - (i) whether any of the powers conferred by this Part of this Act should be exercised ; and
 - (ii) the manner in which any such power should be exercised ;
 - (b) persons (in this Act referred to as “enforcement officers”) to enforce—
 - (i) emergency orders ; and
 - (ii) directions under section 2 above.
- (2) [^{F24}A designating authority] may authorise an investigating officer or an enforcement officer who is not an officer of his department to perform any [^{F25}the designating authority’s] functions under this Part of this Act which he could perform if it were an officer of the department ; and an officer performing such functions in pursuance of such an authorisation is to be treated in relation to their performance as if he were an officer of the department.
- (3) An authorisation under subsection (1) or (2) above may be given subject to such limitations as may be specified in the instrument containing it ; and this Act shall be construed, in reference to a person whose authorisation has been given subject to limitations, as subject to those limitations.
- (4) The functions of an investigating officer and of an enforcement officer may also be performed by a British sea-fishery officer, and accordingly any reference to an investigating officer or an enforcement officer in the following provisions of this Act includes a reference to a British sea-fishery officer.

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Textual Amendments

- F24** Words in s. 3 substituted (30.6.1999) by [S.I. 1999/1756, art. 2, Sch. para. 10\(6\)](#) (with [art. 8](#)); [S.I. 1998/3178](#)
- F25** Words in s. 3 substituted (30.6.1999) by [S.I. 1999/1756, art. 2, Sch. para. 10\(6\)](#) (with [art. 8](#)); [S.I. 1998/3178](#)

Modifications etc. (not altering text)

- C4** S. 3(1)(2) functions made exercisable concurrently or jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 1 (as inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), s. 71\(4\), Sch. 4 para. 1](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(p\)](#))

4 Powers of officers.

- (1) An investigating officer may enter land, vehicle, vessel, aircraft, hovercraft or marine structure—
- (a) if he has reasonable grounds to suspect that food—
 - (i) which is in or in it ; or
 - (ii) which is derived from anything on or in it,
 is, or may be, or may become, unsuitable for human consumption in consequence of [^{F26}such circumstances as are mentioned in section 1(1) above]; or
 - (b) if he has reasonable grounds to suspect that there is present on or in it any food—
 - (i) which has been in an designated area at any time before at after the making of the emergency order that designated the area ; and
 - (ii) which is, or may be, or may become, do affected by [^{F27}designated circumstances] as to be unsuitable for human consumption; or
 - (c) if he has reasonable grounds to suspect that there is present on or in it anything from which food could be derived—
 - (i) which has been in a designated area at any such time ; and
 - (ii) which is, or may be, or may become, so affected by [^{F27}designated circumstances] as to cause any food derived from it to be unsuitable for human consumption.
- (2) An enforcement officer may enter any land, vehicle, vessel, aircraft, hovercraft or marine structure—
- (a) if a direction under section 2 above has been given in relation to it or in relation to anything that he has reasonable grounds to suspect to be present on or in it ; or
 - (b) if he has reasonable grounds to suspect that there is anything on or in it any document, book or other record that may assist him in ascertaining the whereabouts of anything in relation to which such a direction has been given ; or
 - (c) if he has reasonable grounds to suspect that it is for any other reason necessary for him to enter it for the purposes of performing his functions under this Part of this Act.
- (3) An investigating officer or an enforcement officer may seize things for the purpose of performing his functions under this Part of this Act.

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- (4) While an emergency order is in force, an investigating officer or an enforcement officer may enter—
- (a) any land, vehicle, vessel, aircraft, hovercraft or marine structure in the designated area ; and
 - (b) any land, vehicle, vessel, aircraft, hovercraft or marine structure not in that area but on or in which he has reasonable grounds to suspect that there is present—
 - (i) any food, or anything from which food could be derived, which has been in that area for at any time either before or after the making of the emergency order ; or
 - (ii) any document, book or other record that may assist him in ascertaining the whereabouts of any such food or thing.
- (5) An investigating officer or an enforcement officer may exercise any powers conferred on him for the purposes of this Part of this Act—
- (a) in relation to a British vessel, British aircraft, British hovercraft or British marine structure, wherever it may be ;
 - (b) in relation to a foreign fishing boat, only if it is within British fishery limits ; and
 - (c) in relation to a foreign vessel other than a fishing boat, or to a foreign aircraft, foreign hovercraft or foreign marine structure, only if—
 - (i) it is in the United Kingdom or United Kingdom waters ; and
 - (ii) the officer has reasonable grounds to suspect that something to which an emergency prohibition contained in an emergency order by virtue of paragraph 2 or 3 Schedule 1 to this Act relates has been or is being landed from it in the United Kingdom.
- (6) Schedule 2 to this Act shall have effect with respect to investigating officers and enforcement officers.

Textual Amendments

F26 Words substituted (*retrosp.*) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), **ss. 51(1)(2)(e)**, 54

F27 Words substituted (*retrosp.*) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), **ss. 51(1)(2)(f)**, 54

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