



# 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 a designating authority—

- (a) there has been or may have been an escape of substances of such descriptions and in such quantities and such circumstances as 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—

- " designating authority " means the Ministers or either of them;
- " escape ", in relation to substances, includes their release or expulsion by human agency or by any other cause ;
- " emergency order " means an order under this section—
  - (a) which designates an area ; or
  - (b) which amends or re-enacts an order which designated an area;

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" emergency prohibitions " means the prohibitions specified in Schedule 1 to this Act; and

"designated area " means an area designated by an emergency order.

- (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 such feeding stuff was derived,
- and references in this Act to anything from which food could be derived shall be construed accordingly.
- (4) The Ministers may jointly by order made by statutory instrument amend Schedule 1 to this Act.
- (5) An emergency order shall refer to the escape or suspected escape of substances 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 incident" means the escape or suspected escape 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.
- (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.

## **2 Powers of Ministers when emergency order has been made**

- (1) Either of the Ministers may consent, either unconditionally or subject to any condition that the Minister 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—
- (a) that consent had been given under subsection (1) above to the contravention of the emergency prohibition ; and
  - (b) that any condition subject to which that consent was given was complied with.
- (3) Either of the Ministers—
- (a) may give any person such directions as appear to the Minister to be necessary or expedient for the purpose of preventing human consumption of food which the Minister believes, on reasonable grounds, is, or may be, or may become, unsuitable for human consumption in consequence of a designated incident; and
  - (b) may do anything which appears to the Minister 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—
- (a) fails to comply with a direction under this section; or
  - (b) causes or permits any other person to do so,
- shall be guilty of an offence.
- (5) If either of the Ministers does anything by virtue of this section in consequence of a failure on the part of any person to comply with such a direction, the Minister may recover from that person any expenses reasonably incurred by the Minister under this section.
- (6) If either of the Ministers 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, the Minister may recover from the person who caused or permitted the failure to comply any expenses reasonably incurred by the Minister under this section.

### *Investigation and enforcement*

## **3 Authorisation of investigating officers and enforcement officers**

- (1) Either of the Ministers 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;

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- (b) persons (in this Act referred to as " enforcement officers ") to enforce—
  - (i) emergency orders ; and
  - (ii) directions under section 2 above.
- (2) Either of the Ministers may authorise an investigating officer or an enforcement officer who is not an officer of his department to perform any of the Minister's functions under this Part of this Act which he could perform if he 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.

#### **4 Powers of officers**

- (1) An investigating officer may enter any land, vehicle, vessel, aircraft, hovercraft or marine structure—
  - (a) if he has reasonable grounds to suspect that food—
    - (i) which is on 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 an escape of substances ; or
  - (b) if he has reasonable grounds to suspect that there is present on or in it any food—
    - (i) which has been in a designated area at any time before or after the making of the emergency order that designated the area ; and
    - (ii) which is, or may be, or may become, so affected by the designated incident 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 the designated incident 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 present 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

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- (c) if he has reasonable grounds to suspect that it is for any other reason necessary for him to enter it for the purpose 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.
- (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 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 of 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.