

2003 No. 1895

FOOD, ENGLAND AND SCOTLAND

The Food Safety (Ships and Aircraft) (England and Scotland) Order 2003

Made - - - - - *17th July 2003*

Laid before Parliament *24th July 2003*

Coming into force - - *18th August 2003*

The Secretary of State, in exercise of the powers conferred on him by sections 1(3) and 48(1) of the Food Safety Act 1990(a), having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and (4B) of that Act and as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(b), makes the following Order:

Title, commencement and extent

1. This Order may be cited as the Food Safety (Ships and Aircraft) (England and Scotland) Order 2003; it comes into force on 18th August 2003 and extends to England and Scotland only.

Interpretation

2.—(1) In this Order—

“the Act” means the Food Safety Act 1990;

“exempt ship or aircraft” means any sovereign immune ship or aircraft or any ship of a State other than the United Kingdom which is exercising the right of innocent passage through that part of the United Kingdom territorial sea adjacent to England or Scotland;

“home-going ship” means a ship which is engaged exclusively in—

(a) plying in internal waters, or

(b) excursions which last not more than one day, start and end in Great Britain and do not involve calling at any place outside Great Britain;

“innocent passage” has the same meaning as it has for the purposes of Part II Section 3A of the United Nations Convention on the Law of the Sea;

“internal waters” has the same meaning as it has for the purposes of Article 8(1) of the United Nations Convention on the Law of the Sea;

(a) 1990 c. 16. Functions formerly exercisable by “the Ministers” under section 1(3) of the 1990 Act are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) and paragraph 21 of that Schedule amends section 48 of the 1990 Act. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act and those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46) as read with section 40(2) of the 1999 Act. This Order is, however, extended to Scotland pursuant to section 57(1) of the Scotland Act 1998 (c. 46).

(b) OJ No. L131, 1.2.2002, p. 1.

“the principal Hygiene and Temperature Control provisions” means—

- (a) in relation to England, the Food Safety (General Food Hygiene) Regulations 1995(a), except regulation 4A of and Schedule 1A to those Regulations (licences for butchers’ shops), and the Food Safety (Temperature Control) Regulations 1995(b), except regulations 4 to 9 and 12 and Part III of those Regulations; and
- (b) in relation to Scotland, the Food Safety (General Food Hygiene) Regulations 1995(c), except regulation 4A of and Schedule 1A to those Regulations (licences for butchers’ shops), and the Food Safety (Temperature Control) Regulations 1995(d) except Part II and regulations 13 to 15 of those Regulations;

“sovereign immune ship or aircraft” means a ship or aircraft belonging to a State other than the United Kingdom and which is not in use for commercial purposes;

“territorial sea” has the same meaning as it has for the purposes of the Territorial Sea Act 1987(e).

Ships and aircraft as premises for specified purposes

3. “Premises” shall include any ship or aircraft of a description specified in the Schedule to this Order for any purpose of the Act or regulations or orders made under it as is specified in that Schedule in relation to that ship or aircraft.

Signed by authority of the Secretary of State for Health

Melanie Johnson
Parliamentary Under-Secretary of State,
Department of Health

17th July 2003

(a) S.I. 1995/1763 amended as they apply in England by S.I. 1995/2148, 1995/3205, 1996/1699, 1997/2537, 1998/994, 1999/1360, 1999/1540, 2000/656 and 2000/930.
(b) S.I. 1995/2200 amended as they apply in England by S.I. 1995/3205, 1996/1499, 1998/994, 1998/1398 and 2000/656.
(c) S.I. 1995/1763 amended as they apply in Scotland by S.I. 1995/2148, 1995/3205, 1996/1699, 1997/2537, 1998/994, 1999/1360, 1999/1540 and by S.S.I. 2000/62 and 2000/93.
(d) S.I. 1995/2200 amended as they apply in Scotland by S.I. 1995/3205, 1996/1499, 1998/994, 1998/1398 and by S.S.I. 2000/62.
(e) 1987 c. 49.

SCHEDULE

Article 3

SHIPS AND AIRCRAFT WHICH ARE PREMISES FOR SPECIFIED PURPOSES

1. Any home-going ship for the purpose of applying the Act and any regulations or orders made under it.
2. Any other ship or any aircraft, which is not an exempt ship or aircraft—
 - (a) for the purpose of ascertaining whether there is in the ship or aircraft any food imported as part of the cargo in contravention of the provisions of regulations made under Part II of the Act;
 - (b) for the purpose of applying the principal Hygiene and Temperature Control provisions; and
 - (c) for the purpose of applying sections 11 and 12 of the Act;

and references to “premises” in sections 2, 3, 29, 32 and 50 of the Act shall include any ship or aircraft of a description specified in this paragraph in relation to any purposes specified in this paragraph.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends to England and Scotland, specifies ships and aircraft and purposes for which they are “premises” in and under the Food Safety Act 1990.

The Order—

- (a) replaces provisions formerly made by section 59(3) of and Schedule 4 paragraph 1 to the 1990 Act for home-going ships and for import cargo inspections of ships and aircraft (article 3 and Schedule paragraphs 1 and 2(a));
- (b) in further implementation of Council Directive 93/43/EEC on the hygiene of foodstuffs (a) and Council Directive 89/397/EEC on the official control of foodstuffs (b), specifies certain ships and aircraft for the purpose of applying provisions of the Food Safety (General Food Hygiene) Regulations 1995 and the Food Safety (Temperature Control) Regulations 1995 and for certain related sections of the Act (article 3 and Schedule paragraph 2(b) and (c));
- (c) provides that references to “premises” in sections 2, 3, 29, 32 and 50 of the Food Safety Act 1990 shall include those other ships and aircraft for the purposes specified in paragraph 2(a), (b) and (c) of the Schedule (article 3 and Schedule paragraph 2).

No Regulatory Impact Assessment has been prepared in respect of this Order. A Transposition Note setting out how the main elements of the European Community legislation referred to above are transposed in this Order has been placed in the Library of each House of Parliament. Copies may be obtained from the Local Authority Enforcement Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

(a) OJ No. L175, 19.7.93, p. 1, as amended by Directive 96/3 (OJ No. L21, 27.1.96, p. 42) and Directive 98/28 (OJ No. L140, 12.5.98, p. 10).

(b) OJ No. L186, 30.6.89, p. 23, as completed by Council Directive 93/99/EEC on the subject of additional measures concerning the official control of foodstuffs (OJ No. L290, 24.11.1993, p. 14).

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