

Order made by the Secretary of State, laid before Parliament under section 1(8) of the Food and Environment Protection Act 1985, for approval by resolution of each House of Parliament within twenty-eight days beginning with the day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2004 No. 2040

PUBLIC HEALTH, ENGLAND

CONTAMINATION OF FOOD

The Food Protection (Emergency Prohibitions) (Scallops) (Irish Sea) Order 2004

Made - - - - 14.30 hours on 29th July 2004

Coming into force in accordance with

article 1(1) 14.31 hours on 29th July 2004

Laid before Parliament 30th July 2004

The Secretary of State, in exercise of the powers conferred on him by sections 1(1) and (2) and 24(3) of the Food and Environment Protection Act 1985^(a) 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 scallops in the area described in the Schedule to this Order is, or may be, or may become, unsuitable for human consumption, makes the following Order:

Title, commencement and interpretation

1.—(1) This Order may be cited as the Food Protection (Emergency Prohibitions) (Scallops) (Irish Sea) Order 2004 and shall come into force at 14.31 hours on 29th July 2004.

(2) In this Order —

- (a) “designated area” means the area designated in article 3 and the Schedule;
- (b) “scallops” means scallops of the class of *Pecten maximus*; and
- (c) “the relevant time” means 0001 hours on 28th July 2004.

^(a) 1985 c. 48; section 1(2) defines “designating authority”; section 1(1) and (2) was amended by section 51(1) and (2)(a) and (b) of the Food Safety Act 1990 (1990 c. 16); section 1(2) was further amended by the Scotland Act (Modification of Functions) Order 1999 (S.I. 1999/1756) and by paragraph 6 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28).

Designated circumstances

2. The relevant circumstances or suspected circumstances for the purposes of section 1(5) of the Food and Environment Protection Act 1985 are that scallops in the designated area 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 area

3. The area described in the Schedule is designated for the purposes of Part I of the Food and Environment Protection Act 1985.

Activities prohibited in the designated area

4. No person shall fish for and take any scallops in the designated area.

Prohibition on movement

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

Prohibitions applicable throughout the United Kingdom

6. No person shall in the United Kingdom or United Kingdom waters —
- (a) use any scallops taken from the designated area after the relevant time in the preparation or processing for supply to purchasers or others of food or anything from which food could be derived;
 - (b) land any scallops taken from waters in the designated area after the relevant time;
 - (c) supply, or possess for supply, any scallops which were in the designated area after the relevant time;
 - (d) feed to any creature any feeding stuff prepared or processed from scallops taken from the designated area after the relevant time; or
 - (e) supply, or possess for supply, to purchasers or others any food or anything from which food could be derived in the preparation or processing of which any scallops that were taken from the designated area after the relevant time were used.

Signed by authority of the Secretary of State for Health

14.30 hours on 29th July 2004

Melanie Johnson
Parliamentary Under Secretary of State,
Department of Health

SCHEDULE

DESIGNATED AREA

That area of the sea enclosed by a line starting at a point where the boundary of the Scottish Zone crosses 4°30' West longitude; then in a generally north-easterly direction along the boundary of the Scottish Zone to the point where it crosses 4° West longitude; then south to a point at 54°30' West latitude 4° North longitude; then west to 54°30' North latitude 4°30' West longitude; then north to the point of beginning.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order contains emergency prohibitions restricting various activities in order to prevent human consumption of scallops or food which is derived from scallops originating in the area described in the Schedule (“the designated area”), which scallops have or may have been rendered unsuitable for human consumption in consequence of their having been affected by the toxin which causes amnesic shellfish poisoning in human beings (*articles 2 and 3*).

Fishing for and taking scallops and the movement of scallops out of the designated area is prohibited (*articles 4 and 5*). The preparation or processing of food or feeding stuffs derived from scallops that were in the designated area on or after 0001 hours on 28 July 2004 is also prohibited (*article 6*). The designated area extends south from the limit of “the Scottish Zone”. For the purposes of the Food and Environmental Protection Act 1985, the Scottish Zone is as defined in section 126(1) of the Scotland Act 1998 (c.46) (“the 1998 Act”). Detailed co-ordinates for the purposes of that definition are contained in the Scottish Adjacent Wales Boundaries Order 1999 (S.I. 1999/1126), made under section 126(2) of the 1998 Act.

Any person who contravenes the provisions of this Order is guilty of an offence and is liable, on summary conviction, to a fine not exceeding the statutory maximum (at present £5,000) or on conviction on indictment to a fine, to imprisonment for a term of not more than 2 years or to both.

No Regulatory Impact Assessment has been prepared in respect of this Order.

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