



# Food Standards Act 1999

## 1999 CHAPTER 28

### *Final provisions*

#### **36 Interpretation**

(1) In this Act—

“Agency” means the Food Standards Agency;

“animal feedingstuff” means feedingstuff for any description of animals, including any nutritional supplement or other similar substance which is not administered through oral feeding;

“appropriate authorities” means the Secretary of State, the National Assembly for Wales, the Scottish Ministers and the Department of Health and Social Services for Northern Ireland;

“Food Safety Promotion Board” means the body of that name established by the agreement establishing implementation bodies done at Dublin on 8th March 1999 between the Government of the United Kingdom and the Government of Ireland;

“the 1990 Act” means the Food Safety Act 1990; and

“the 1991 Order” means the Food Safety (Northern Ireland) Order 1991.

(2) Any reference in this Act to “the appropriate authority”, in relation to Wales, Scotland or Northern Ireland, is a reference to the National Assembly for Wales, the Scottish Ministers or the Department of Health and Social Services for Northern Ireland (as the case may be).

(3) In this Act the expression “interests of consumers in relation to food” includes (without prejudice to the generality of that expression) interests in relation to the labelling, marking, presenting or advertising of food, and the descriptions which may be applied to food.

(4) Expressions used—

(a) as regards England and Wales and Scotland, in this Act and in the 1990 Act, or

(b) as regards Northern Ireland, in this Act and the 1991 Order,

have, unless the context otherwise requires, the same meaning in this Act as in that Act or that Order (except that in this Act “animal” includes any bird or fish).

- (5) The purposes which may be specified in an order under section 1(3) of the 1990 Act (meaning of the term “premises” to include, for specified purposes, ships or aircraft of a description specified by order), or under the corresponding provision of Article 2(2) of the 1991 Order, include purposes relating to provisions of this Act.

### **37 Subordinate legislation**

- (1) Subordinate legislation under section 25, 27, 30, 31, 32 and 33—
- (a) may contain such supplementary, incidental, consequential, transitional or saving provision as the person making it considers necessary or expedient;
  - (b) may make different provision for different purposes.
- (2) Any power under this Act to make an order or regulations is exercisable—
- (a) in the case of an order or regulations made by the First Minister and deputy First Minister or a Northern Ireland Department, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
  - (b) in any other case, by statutory instrument.
- (3) No order under section 25, 30 or 31 shall be made unless a draft of it has been laid before and approved by resolution of—
- (a) each House of Parliament, if it is made by the Secretary of State or the Minister of Agriculture, Fisheries and Food;
  - (b) the Scottish Parliament, if it is made by the Scottish Ministers;
  - (c) the Northern Ireland Assembly, if it is made by the First Minister and deputy First Minister or by a Northern Ireland Department.
- (4) A statutory instrument made under section 27 or 42 is subject to annulment in pursuance of a resolution of—
- (a) either House of Parliament, if it is made by the Secretary of State;
  - (b) the Scottish Parliament, if it is made by the Scottish Ministers;
- and a statutory rule made under that section is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (5) No recommendation shall be made to Her Majesty to make an Order in Council under section 32 or 33 unless a draft of the Order has been laid before and approved by resolution of each House of Parliament, the National Assembly for Wales, the Scottish Parliament and the Northern Ireland Assembly.

### **38 Crown application**

- (1) This Act binds the Crown (but does not affect Her Majesty in her private capacity).
- (2) Subsection (1)—
- (a) does not require subordinate legislation made under this Act to bind the Crown; and
  - (b) is to be interpreted as if section 38(3) of the Crown Proceedings Act 1947 (references to Her Majesty in her private capacity) were contained in this Act.

- (3) If the Secretary of State certifies that it appears to him requisite or expedient in the interests of national security that the powers of entry conferred by sections 11 and 14 should not be exercisable in relation to any premises specified in the certificate, being premises held or used by or on behalf of the Crown, those powers shall not be exercisable in relation to those premises.

### **39 Financial provisions**

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act;
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other Act.
- (2) Any expenditure incurred by the Agency shall be paid out of money provided by Parliament unless it is met from money paid or appropriated under subsection (3) (or from money which the Agency is authorised by virtue of any relevant provision to apply for the purpose).
- (3) Sums may be—
- (a) paid by the National Assembly for Wales;
  - (b) paid out of the Scottish Consolidated Fund; or
  - (c) appropriated by Act of the Northern Ireland Assembly,
- for the purpose of meeting any of the expenditure of the Agency.
- (4) Any sums received by the Agency, other than—
- (a) money provided by Parliament or paid or appropriated under subsection (3);
  - (b) receipts which are, by virtue of provision made by or under any enactment, payable—
    - (i) to the National Assembly for Wales;
    - (ii) into the Scottish Consolidated Fund; or
    - (iii) into the Consolidated Fund of Northern Ireland,or which would be so payable but for any relevant provision relating to those receipts; and
  - (c) other receipts specified, or of a description specified, in a determination under subsection (5),
- shall be paid into the Consolidated Fund.
- (5) The Treasury, the National Assembly for Wales, the Scottish Ministers and the Department of Finance and Personnel for Northern Ireland acting jointly may determine that any sums received by the Agency which are specified, or of a description specified, in the determination shall (instead of being payable into the Consolidated Fund by virtue of subsection (4)) be payable to the National Assembly for Wales, into the Scottish Consolidated Fund or into the Consolidated Fund of Northern Ireland, subject to any relevant provision relating to such sums.
- (6) A determination under subsection (5) may be revoked or amended by a further determination.
- (7) Schedule 4 (accounts and audit) has effect.
- (8) In this section—

“enactment” means an enactment contained in an Act, an Act of the Scottish Parliament or in Northern Ireland legislation;

“relevant provision” means—

- (a) provision made by or under any Act as to the disposal of or accounting for sums payable to the National Assembly for Wales;
- (b) provision made by or under the Scotland Act 1998 or any Act of the Scottish Parliament as to the disposal of or accounting for sums payable into the Scottish Consolidated Fund; and
- (c) provision made by or under any Act or any Northern Ireland legislation as to the disposal of or accounting for sums payable into the Consolidated Fund of Northern Ireland.

#### **40 Minor and consequential amendments and repeals**

- (1) Schedule 5 (minor and consequential amendments) has effect.
- (2) Any amendment made by Schedule 5 which extends to Scotland is to be taken as a pre-commencement enactment for the purposes of the Scotland Act 1998.
- (3) The National Assembly for Wales (Transfer of Functions) Order 1999 shall have effect, in relation to any Act mentioned in Schedule 1 to the Order, as if any provision of this Act amending that Act was in force immediately before the Order came into force.
- (4) The enactments mentioned in Schedule 6 are repealed to the extent specified.
- (5) Her Majesty may by Order in Council direct that any amendment or repeal by this Act of any provision in the 1990 Act shall extend to any of the Channel Islands with such modifications (if any) as may be specified in the Order.

#### **41 Transfer of property, rights and liabilities to the Agency**

- (1) The Secretary of State may make one or more schemes for the transfer to the Agency of such property, rights and liabilities of a Minister of the Crown (in this section referred to as “the transferor”) as appear to him appropriate having regard to the functions conferred on the Agency by provision made by or under this Act, the 1990 Act or the 1991 Order.
- (2) The power conferred by subsection (1) may also be exercised by the National Assembly for Wales, the Scottish Ministers or a Northern Ireland Department in relation to their property, rights and liabilities.
- (3) A transfer scheme—
  - (a) may provide for the transfer of property, rights and liabilities that would not otherwise be capable of being transferred or assigned;
  - (b) may define property, rights and liabilities by specifying or describing them or by referring to all of the property, rights and liabilities comprised in a specified part of the undertaking of the transferor (or partly in one way and partly in the other);
  - (c) may provide for the creation—
    - (i) in favour of the transferor, or of the Agency, of interests in, or rights over, property to be transferred or, as the case may be, retained by the transferor; or

- (ii) of new rights and liabilities as between the Agency and the transferor;
  - (d) may require the transferor or the Agency to take any steps necessary to secure that the transfer of any foreign property, rights or liabilities is effective under the relevant foreign law; and
  - (e) may make such incidental, supplemental and consequential provision as the authority making it considers appropriate.
- (4) On the date appointed by a transfer scheme the property, rights and liabilities which are the subject of the scheme shall, by virtue of this subsection, become property, rights and liabilities of the Agency (and any other provisions of the scheme shall take effect).
- (5) The authority making a transfer scheme may, at any time before the date so appointed, modify the scheme.

#### **42 Power to make transitional provision etc**

- (1) The Secretary of State may by regulations make such transitional and consequential provisions and such savings as he considers necessary or expedient in preparation for, or in connection with, or in consequence of—
- (a) the coming into force of any provision of this Act; or
  - (b) the operation of any enactment repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.
- (2) Such regulations may make modifications of any enactment (including an enactment contained in this Act).
- (3) The power to make regulations under this section is also exercisable—
- (a) by the Scottish Ministers, in relation to provision that would be within the legislative competence of the Scottish Parliament to make;
  - (b) by the First Minister and deputy First Minister acting jointly, in relation to provision dealing with transferred matters (within the meaning of section 4(1) of the Northern Ireland Act 1998).

#### **43 Short title, commencement and extent**

- (1) This Act may be cited as the Food Standards Act 1999.
- (2) This Act (apart from this section and paragraph 6(2) and (5) of Schedule 5) shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.
- (3) The provisions of this Act shall be treated for the purposes of section 58 of the 1990 Act (territorial waters and the continental shelf) as if they were contained in that Act.
- (4) Until the day appointed under section 3(1) of the Northern Ireland Act 1998, this Act has effect with the substitution—
- (a) for references to the First Minister and deputy First Minister acting jointly, of references to a Northern Ireland Department;
  - (b) for references to an Act of the Northern Ireland Assembly, of references to a Measure of the Northern Ireland Assembly; and
  - (c) for references to transferred matters within the meaning of section 4(1) of the Northern Ireland Act 1998, of references to transferred matters within the meaning of section 43(2) of the Northern Ireland Constitution Act 1973;

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*Status: This is the original version (as it was originally enacted).*

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- (d) for references to paragraph 1(a) of Schedule 2 to the Northern Ireland Act 1998, of references to paragraph 1(a) of Schedule 2 to the Northern Ireland Constitution Act 1973.
- (5) This Act extends to Scotland and Northern Ireland.