



# Food Standards Act 1999

## 1999 CHAPTER 28

An Act to establish the Food Standards Agency and make provision as to its functions; to amend the law relating to food safety and other interests of consumers in relation to food; to enable provision to be made in relation to the notification of tests for food-borne diseases; to enable provision to be made in relation to animal feedingstuffs; and for connected purposes. [11th November 1999]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *The Food Standards Agency*

#### **1 The Food Standards Agency**

- (1) There shall be a body to be called the Food Standards Agency or, in Welsh, yr Asiantaeth Safonau Bwyd (referred to in this Act as “the Agency”) for the purpose of carrying out the functions conferred on it by or under this Act.
- (2) The main objective of the Agency in carrying out its functions is to protect public health from risks which may arise in connection with the consumption of food (including risks caused by the way in which it is produced or supplied) and otherwise to protect the interests of consumers in relation to food.
- (3) The functions of the Agency are performed on behalf of the Crown.

#### **2 Appointment of members etc**

- (1) The Agency shall consist of a chairman and deputy chairman and not less than eight or more than twelve other members, of whom—
  - (a) one member shall be appointed by the National Assembly for Wales;
  - (b) two members shall be appointed by the Scottish Ministers;

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- (c) one member shall be appointed by the Department of Health and Social Services for Northern Ireland; and
  - (d) the others shall be appointed by the Secretary of State.
- (2) The chairman and deputy chairman shall be appointed by the appropriate authorities acting jointly and, before appointing a person as one of the other members of the Agency the authority making the appointment shall consult the other appropriate authorities.
- (3) Before appointing a person as chairman, deputy chairman or member of the Agency, the authorities or authority making the appointment shall—
- (a) have regard to the desirability of securing that a variety of skills and experience is available among the members of the Agency (including experience in matters related to food safety or other interests of consumers in relation to food); and
  - (b) consider whether any person it is proposed to appoint has any financial or other interest which is likely to prejudice the exercise of his duties.
- (4) Schedule 1 (constitution etc. of the Agency) has effect.

### **3 Appointment of chief executive and directors**

- (1) A chief executive shall be appointed for the Agency.
- (2) The chief executive shall be responsible for (among other things) securing that the activities of the Agency are carried out efficiently and effectively.
- (3) The first appointment under subsection (1) shall be made by the appropriate authorities acting jointly; and subsequent appointments shall be made by the Agency, subject to the approval of each of those authorities.
- (4) Directors shall be appointed for Wales, for Scotland and for Northern Ireland, each of whom shall be responsible under the chief executive for (among other things) securing that the activities of the Agency in Wales, Scotland or Northern Ireland (as the case may be) are carried out efficiently and effectively.
- (5) The first appointment under subsection (4) for Wales, for Scotland and for Northern Ireland shall be made by the appropriate authority for that part of the United Kingdom; and subsequent appointments shall be made by the Agency, subject to the approval of that authority.
- (6) The chief executive and the directors appointed under subsection (4) shall hold and vacate office in accordance with the terms of their appointments.

### **4 Annual and other reports**

- (1) The Agency shall prepare a report on its activities and performance during each financial year.
- (2) The Agency shall, as soon as possible after the end of each financial year, lay its report for that year before Parliament, the National Assembly for Wales, the Scottish Parliament and the Northern Ireland Assembly.
- (3) The Agency may from time to time lay other reports before any of those bodies.

## **5 Advisory committees**

- (1) There shall be established an advisory committee for Wales, an advisory committee for Scotland and an advisory committee for Northern Ireland for the purpose of giving advice or information to the Agency about matters connected with its functions (including in particular matters affecting or otherwise relating to Wales, Scotland or Northern Ireland, as the case may be).
- (2) The Secretary of State may, after consulting the Agency, direct that an advisory committee for, or for any region of, England shall be established for the purpose of giving advice or information to the Agency about matters connected with its functions (including in particular matters affecting or otherwise relating to the area for which the committee is established).
- (3) The Agency may, after consulting the appropriate authorities, establish other advisory committees for the purpose of giving advice or information to the Agency about matters connected with its functions.
- (4) Schedule 2 (which contains supplementary provisions about advisory committees) has effect.

### *General functions in relation to food*

## **6 Development of food policy and provision of advice, etc. to public authorities**

- (1) The Agency has the function of—
  - (a) developing policies (or assisting in the development by any public authority of policies) relating to matters connected with food safety or other interests of consumers in relation to food; and
  - (b) providing advice, information or assistance in respect of such matters to any public authority.
- (2) A Minister of the Crown or government department, the National Assembly for Wales, the Scottish Ministers or a Northern Ireland Department may request the Agency to exercise its powers under this section in relation to any matter.
- (3) It is the duty of the Agency, so far as is reasonably practicable, to comply with any such request.

## **7 Provision of advice, information and assistance to other persons**

- (1) The Agency has the function of—
  - (a) providing advice and information to the general public (or any section of the public) in respect of matters connected with food safety or other interests of consumers in relation to food;
  - (b) providing advice, information or assistance in respect of such matters to any person who is not a public authority.
- (2) The function under subsection (1)(a) shall be carried out (without prejudice to any other relevant objectives) with a view to ensuring that members of the public are kept adequately informed about and advised in respect of matters which the Agency considers significantly affect their capacity to make informed decisions about food.

## **8 Acquisition and review of information**

- (1) The Agency has the function of obtaining, compiling and keeping under review information about matters connected with food safety and other interests of consumers in relation to food.
- (2) That function includes (among other things)—
  - (a) monitoring developments in science, technology and other fields of knowledge relating to the matters mentioned in subsection (1);
  - (b) carrying out, commissioning or co-ordinating research on those matters.
- (3) That function shall (without prejudice to any other relevant objectives) be carried out with a view to ensuring that the Agency has sufficient information to enable it to take informed decisions and to carry out its other functions effectively.

### *General functions in relation to animal feedingstuffs*

## **9 General functions in relation to animal feedingstuffs**

- (1) The Agency has the same general functions in relation to matters connected with the safety of animal feedingstuffs and other interests of users of animal feedingstuffs as it has under sections 6(1), 7(1) and 8 in relation to matters connected with food safety and other interests of consumers in relation to food.
- (2) Section 6(2) and (3) apply in relation to the Agency's powers under this section corresponding to those under section 6(1).
- (3) Section 7(2), in its application to the Agency's function under this section corresponding to that under section 7(1)(a), applies with the substitution, for the words "members of the public" and "food", of the words "users of animal feedingstuffs" and "animal feedingstuffs".
- (4) In this section "safety of animal feedingstuffs" means the safety of animal feedingstuffs in relation to risks to animal health which may arise in connection with their consumption.

### *Observations with a view to acquiring information*

## **10 Power to carry out observations**

- (1) The Agency may, for the purpose of carrying out its function under section 8 or its corresponding function under section 9, carry out observations (or arrange with other persons for observations to be carried out on its behalf) with a view to obtaining information about—
  - (a) any aspect of the production or supply of food or food sources; or
  - (b) any aspect of the production, supply or use of animal feedingstuffs.
- (2) Without prejudice to the generality of subsection (1), the information that may be sought through such observations includes information about—
  - (a) food premises, food businesses or commercial operations being carried out with respect to food, food sources or contact materials;
  - (b) agricultural premises, agricultural businesses or agricultural activities;
  - (c) premises, businesses or operations involved in fish farming; or

- (d) premises, businesses or operations involved in the production, supply or use of animal feedingstuffs.
- (3) In this section—
  - “agricultural activity” has the same meaning as in the Agriculture Act 1947 or, in Northern Ireland, the Agriculture Act (Northern Ireland) 1949;
  - “agricultural business” has the same meaning as in section 1 of the Farm Land and Rural Development Act 1988 or, in Northern Ireland, Article 3 of the Farm Business (Northern Ireland) Order 1988;
  - “agricultural premises” means any premises used for the purposes of an agricultural business; and
  - “fish farming” means the breeding, rearing or keeping of fish or shellfish (which includes any kind of crustacean or mollusc).

## **11 Power of entry for persons carrying out observations**

- (1) The Agency may authorise any individual (whether a member of its staff or otherwise) to exercise the powers specified in subsection (4) for the purpose of carrying out any observations under section 10 specified in the authorisation.
- (2) No authorisation under this section shall be issued except in pursuance of a decision taken by the Agency itself or by a committee, sub-committee or member of the Agency acting on behalf of the Agency.
- (3) An authorisation under this section shall be in writing and may be given subject to any limitations or conditions specified in the authorisation (including conditions relating to hygiene precautions to be taken while exercising powers in pursuance of the authorisation).
- (4) An authorised person may, if it appears to him necessary to do so for the purpose of carrying out the observations specified in his authorisation—
  - (a) enter any premises at any reasonable hour;
  - (b) take samples of any articles or substances found on any premises;
  - (c) take samples from any food source found on any premises;
  - (d) inspect and copy any records found on any premises which relate to a business which is the subject of the observations (and, if they are kept in computerised form, require them to be made available in a legible form);
  - (e) require any person carrying on such a business to provide him with such facilities, such records or information and such other assistance as he may reasonably request;but in this subsection “premises” does not include a private dwelling-house.
- (5) An authorised person shall on request—
  - (a) produce his authorisation before exercising any powers under subsection (4); and
  - (b) provide a document identifying any sample taken, or documents copied, under those powers.
- (6) The references in subsection (4)(d) and (e) to records include any records which—
  - (a) relate to the health of any person who is or has been employed in the business concerned; and

- (b) were created for the purpose of assessing, or are kept for the purpose of recording, matters affecting his suitability for working in the production or supply of food or food sources (including any risks to public health which may arise if he comes into contact with any food or food source).
- (7) If an authorised person who enters any premises by virtue of this section discloses to any person any information obtained on the premises with regard to any trade secret he is, unless the disclosure is made in the performance of his duty, guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) A person who—
  - (a) intentionally obstructs a person exercising powers under subsection (4)(a), (b), (c) or (d);
  - (b) fails without reasonable excuse to comply with any requirement imposed under subsection (4)(e); or
  - (c) in purported compliance with such a requirement furnishes information which he knows to be false or misleading in any material particular or recklessly furnishes information which is false or misleading in any material particular;
 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) In this section “authorised person” means a person authorised under this section.

*Monitoring of enforcement action*

**12 Monitoring of enforcement action**

- (1) The Agency has the function of monitoring the performance of enforcement authorities in enforcing relevant legislation.
- (2) That function includes, in particular, setting standards of performance (whether for enforcement authorities generally or for particular authorities) in relation to the enforcement of any relevant legislation.
- (3) Each annual report of the Agency shall contain a report on its activities during the year in enforcing any relevant legislation for which it is the enforcement authority and its performance in respect of—
  - (a) any standards under subsection (2) that apply to those activities; and
  - (b) any objectives relating to those activities that are specified in the statement of objectives and practices under section 22.
- (4) The Agency may make a report to any other enforcement authority on their performance in enforcing any relevant legislation; and such a report may include guidance as to action which the Agency considers would improve that performance.
- (5) The Agency may direct an authority to which such a report has been made—
  - (a) to arrange for the publication in such manner as may be specified in the direction of, or of specified information relating to, the report; and
  - (b) within such period as may be so specified to notify the Agency of what action they have taken or propose to take in response to the report.

### **13 Power to request information relating to enforcement action**

- (1) For the purpose of carrying out its function under section 12 in relation to any enforcement authority the Agency may require a person mentioned in subsection (2)—
  - (a) to provide the Agency with any information which it has reasonable cause to believe that person is able to give, or
  - (b) to make available to the Agency for inspection any records which it has reasonable cause to believe are held by that person or otherwise within his control (and, if they are kept in computerised form, to make them available in a legible form).
- (2) A requirement under subsection (1) may be imposed on—
  - (a) the enforcement authority or any member, officer or employee of the authority, or
  - (b) a person subject to any duty under relevant legislation (being a duty enforceable by an enforcement authority) or any officer or employee of such a person.
- (3) The Agency may copy any records made available to it in pursuance of a requirement under subsection (1)(b).

### **14 Power of entry for persons monitoring enforcement action**

- (1) The Agency may authorise any individual (whether a member of its staff or otherwise) to exercise the powers specified in subsection (4) for the purpose of carrying out its function under section 12 in relation to any enforcement authority.
- (2) No authorisation under this section shall be issued except in pursuance of a decision taken by the Agency itself or by a committee, sub-committee or member of the Agency acting on behalf of the Agency.
- (3) An authorisation under this section shall be in writing and may be given subject to any limitations or conditions specified in the authorisation (including conditions relating to hygiene precautions to be taken while exercising powers in pursuance of the authorisation).
- (4) An authorised person may—
  - (a) enter any premises mentioned in subsection (5) at any reasonable hour in order to inspect the premises or anything which may be found on them;
  - (b) take samples of any articles or substances found on such premises;
  - (c) inspect and copy any records found on such premises (and, if they are kept in computerised form, require them to be made available in a legible form);
  - (d) require any person present on such premises to provide him with such facilities, such records or information and such other assistance as he may reasonably request.
- (5) The premises which may be entered by an authorised person are—
  - (a) any premises occupied by the enforcement authority;
  - (b) any laboratory or similar premises at which work related to the enforcement of any relevant legislation has been carried out for the enforcement authority; and
  - (c) any other premises (not being a private dwelling-house) which the authorised person has reasonable cause to believe are premises in respect of which

the enforcement powers of the enforcement authority are (or have been) exercisable.

- (6) The power to enter premises conferred on an authorised person includes power to take with him any other person he may consider appropriate.
- (7) An authorised person shall on request—
- (a) produce his authorisation before exercising any powers under subsection (4); and
  - (b) provide a document identifying any sample taken, or documents copied, under those powers.
- (8) If a person who enters any premises by virtue of this section discloses to any person any information obtained on the premises with regard to any trade secret he is, unless the disclosure is made in the performance of his duty, guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) Where—
- (a) the enforcement authority in relation to any provisions of the Food Safety Act 1990 (in this Act referred to as “the 1990 Act”) or orders or regulations made under it is (by virtue of section 6(3) or (4) of that Act) a Minister of the Crown, the National Assembly for Wales, the Scottish Ministers or the Agency, or
  - (b) the enforcement authority in relation to any provisions of the Food Safety (Northern Ireland) Order 1991 (in this Act referred to as “the 1991 Order”) or orders or regulations made under it is (by virtue of Article 26(1A), (1B), (2), (3) or (3A) of that Order) a Northern Ireland Department or the Agency,
- this section applies to that authority (in relation to its performance in enforcing those provisions) with the omission of subsection (5)(a).
- (10) In this section “authorised person” means a person authorised under this section.

## 15 Meaning of “enforcement authority” and related expressions

- (1) In sections 12 to 14 “relevant legislation” means—
- (a) the provisions of the 1990 Act and regulations or orders made under it;
  - (b) the provisions of the 1991 Order and regulations or orders made under it; and
  - (c) the provisions of Part IV of the Agriculture Act 1970 and regulations made under that Part of that Act, so far as relating to matters connected with animal feedingstuffs.
- (2) In those sections “enforcement authority” means—
- (a) in the case of provisions of the 1990 Act or regulations or orders made under it, the authority by whom they are to be enforced (including a Minister of the Crown, the National Assembly for Wales, the Scottish Ministers or the Agency itself if, by virtue of section 6(3) or (4) of the 1990 Act, that authority is the enforcement authority in relation to those provisions);
  - (b) in the case of provisions of the 1991 Order and regulations or orders made under it, the authority by whom they are to be enforced (including a Northern Ireland Department or the Agency itself if, by virtue of the Order, it is the enforcement authority in relation to those provisions); and
  - (c) in the case of provisions of Part IV of the Agriculture Act 1970 (or regulations made under it), an authority mentioned in section 67 of that Act;



and “enforcement”, in relation to relevant legislation, includes the execution of any provisions of that legislation.

- (3) Any reference in those sections (however expressed) to the performance of an enforcement authority in enforcing any relevant legislation includes a reference to the capacity of that authority to enforce it.

## **16 Offences relating to sections 13 and 14**

- (1) A person who—
- (a) intentionally obstructs a person exercising powers under section 14(4)(a), (b) or (c);
  - (b) fails without reasonable excuse to comply with any requirement imposed under section 13(1) or section 14(4)(d); or
  - (c) in purported compliance with such a requirement furnishes information which he knows to be false or misleading in any material particular or recklessly furnishes information which is false or misleading in any material particular;
- is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### *Other functions of the Agency*

## **17 Delegation of powers to make emergency orders**

- (1) Arrangements may be made between the Secretary of State and the Agency authorising the Agency to exercise on behalf of the Secretary of State the power to make orders under—
- (a) section 1(1) of the Food and Environment Protection Act 1985 (emergency orders); and
  - (b) section 13(1) of the 1990 Act (emergency control orders).
- (2) The authority given by any such arrangements is subject to any limitations and conditions provided for in the arrangements.
- (3) Where by virtue of any such arrangements the Agency is authorised to exercise a power, anything done or omitted to be done by the Agency in the exercise or purported exercise of the power shall be treated as done or omitted by the Secretary of State.
- (4) Nothing in any such arrangements prevents the Secretary of State exercising any power.
- (5) This section applies with the necessary modifications—
- (a) to any power mentioned in subsection (1) so far as it is exercisable by the National Assembly for Wales or the Scottish Ministers, and
  - (b) to the power of a Northern Ireland Department to make orders under section 1(1) of the Food and Environment Protection Act 1985 or Article 12(1) of the 1991 Order,
- as it applies to a power exercisable by the Secretary of State.

**18 Functions under other enactments**

- (1) Schedule 3 (which contains provisions conferring functions under certain enactments on the Agency) has effect.
- (2) Any amendment made by Schedule 3 which extends to Scotland is to be taken as a pre-commencement enactment for the purposes of the Scotland Act 1998.

**19 Publication etc. by the Agency of advice and information**

- (1) The Agency may, subject to the following provisions of this section, publish in such manner as it thinks fit—
  - (a) any advice given under section 6, 7 or 9 (including advice given in pursuance of a request under section 6(2));
  - (b) any information obtained through observations under section 10 or monitoring under section 12; and
  - (c) any other information in its possession (whatever its source).
- (2) The exercise of that power is subject to the requirements of the Data Protection Act 1998.
- (3) That power may not be exercised if the publication by the Agency of the advice or information in question—
  - (a) is prohibited by an enactment;
  - (b) is incompatible with any Community obligation; or
  - (c) would constitute or be punishable as a contempt of court.
- (4) Before deciding to exercise that power, the Agency must consider whether the public interest in the publication of the advice or information in question is outweighed by any considerations of confidentiality attaching to it.
- (5) Where the advice or information relates to the performance of enforcement authorities, or particular enforcement authorities, in enforcing relevant legislation, subsection (4) applies only so far as the advice or information relates to a person other than—
  - (a) an enforcement authority, or
  - (b) a member, officer or employee of an enforcement authority acting in his capacity as such.
- (6) Expressions used in subsection (5) and defined in section 15 have the same meaning as in that section.
- (7) Except as mentioned above, the power under subsection (1) is exercisable free from any prohibition on publication that would apply apart from this section.
- (8) In this section “enactment” means an enactment contained in, or in subordinate legislation made under, any Act, Act of the Scottish Parliament or Northern Ireland legislation.
- (9) The Agency may also disclose to another public authority any advice or information mentioned in subsection (1); and the other provisions of this section apply in relation to disclosure under this subsection as they apply in relation to publication under that subsection.

## **20 Power to issue guidance on control of food-borne diseases**

- (1) The Agency may issue general guidance to local authorities or other public authorities on matters connected with the management of outbreaks or suspected outbreaks of food-borne disease.
- (2) Guidance issued under this section must identify the authority or authorities to which it is addressed.
- (3) The Agency shall publish any guidance issued under this section in such manner as it thinks fit.
- (4) Any authority to whom guidance under this section is issued shall have regard to the guidance in carrying out any functions to which the guidance relates.
- (5) In this section “food-borne disease” means a disease of humans which is capable of being caused by the consumption of infected or otherwise contaminated food.
- (6) This section has effect without prejudice to any other powers of the Agency.

## **21 Supplementary powers**

- (1) The Agency has power to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of its functions.
- (2) Without prejudice to the generality of subsection (1), that power includes power—
  - (a) to carry on educational or training activities;
  - (b) to give financial or other support to activities carried on by others;
  - (c) to acquire or dispose of any property or rights;
  - (d) to institute criminal proceedings in England and Wales and in Northern Ireland.
- (3) The Agency may make charges for facilities or services provided by it at the request of any person.

*General provisions relating to the functions of the Agency*

## **22 Statement of general objectives and practices**

- (1) The Agency shall prepare and publish a statement of general objectives it intends to pursue, and general practices it intends to adopt, in carrying out its functions.
- (2) The statement shall include the following among the Agency’s general objectives, namely—
  - (a) securing that its activities are the subject of consultation with, or with representatives of, those affected and, where appropriate, with members of the public;
  - (b) promoting links with any of the following authorities with responsibilities affecting food safety or other interests of consumers in relation to food, namely—
    - (i) government departments, local authorities and other public authorities;

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- (ii) the National Assembly for Wales (and its staff) and Assembly Secretaries, the Scottish Administration and Northern Ireland Departments;

with a view to securing that the Agency is consulted informally from time to time about the general manner in which any such responsibilities are discharged;

- (c) securing that records of its decisions, and the information on which they are based, are kept and made available with a view to enabling members of the public to make informed judgments about the way in which it is carrying out its functions,

and any other objectives (which may include more specific objectives relating to anything mentioned in paragraphs (a) to (c)) which are notified to the Agency by the appropriate authorities acting jointly.

- (3) Nothing in subsection (2) prevents the inclusion in the statement of more specific objectives relating to anything mentioned in that subsection.
- (4) The statement shall be submitted in draft to the appropriate authorities for their approval before it is published.
- (5) The appropriate authorities acting jointly may approve the draft statement submitted to them with or without modifications (but they must consult the Agency before making any modifications).
- (6) As soon as practicable after a statement is approved under subsection (5), the Agency shall—
  - (a) lay a copy of the statement as so approved before Parliament, the National Assembly for Wales, the Scottish Parliament and the Northern Ireland Assembly; and
  - (b) publish that statement in such manner as the appropriate authorities acting jointly may approve.
- (7) The first statement under this section shall be submitted to the appropriate authorities within the period of three months beginning with the date of the first meeting of the Agency.
- (8) The Agency may revise its current statement under this section; and subsections (2) to (6) apply to a revised statement as they apply to the first statement.

## **23 Consideration of objectives, risks, costs and benefits, etc**

- (1) In carrying out its functions the Agency shall pay due regard to the statement of objectives and practices under section 22.
- (2) The Agency, in considering whether or not to exercise any power, or the manner in which to exercise any power, shall take into account (among other things)—
  - (a) the nature and magnitude of any risks to public health, or other risks, which are relevant to the decision (including any uncertainty as to the adequacy or reliability of the available information);
  - (b) the likely costs and benefits of the exercise or non-exercise of the power or its exercise in any manner which the Agency is considering; and
  - (c) any relevant advice or information given to it by an advisory committee (whether or not given at the Agency's request).

- (3) The duty under subsection (2)—
- (a) does not apply to the extent that it is unreasonable or impracticable for it to do so in view of the nature or purpose of the power or in the circumstances of the particular case; and
  - (b) does not affect the obligation of the Agency to discharge any other duties imposed on it.

## **24 Directions relating to breach of duty or to international obligations**

- (1) If it appears to the Secretary of State that there has been a serious failure by the Agency—
- (a) to comply with section 23(1) or (2), or
  - (b) to perform any other duty which he considers should have been performed by it,
- he may give the Agency such directions as he may consider appropriate for remedying that failure.
- (2) The power under subsection (1) may also be exercised—
- (a) so far as it is exercisable in relation to Wales, by the National Assembly for Wales;
  - (b) by the Scottish Ministers (in so far as it is exercisable by them within devolved competence or by virtue of an Order in Council made under section 63 of the Scotland Act 1998); and
  - (c) so far as it is exercisable in relation to Northern Ireland, by the Department of Health and Social Services for Northern Ireland.
- (3) Directions under subsection (1) must include a statement summarising the reasons for giving them.
- (4) The Secretary of State may give the Agency such directions as he considers appropriate for the implementation of—
- (a) any obligations of the United Kingdom under the Community Treaties, or
  - (b) any international agreement to which the United Kingdom is a party.
- (5) The power under subsection (4) may also be exercised—
- (a) by the National Assembly for Wales (in relation to implementation for which it is responsible);
  - (b) by the Scottish Ministers (in relation to implementation within devolved competence or for which they have responsibility by virtue of an Order in Council under section 63 of the Scotland Act 1998); and
  - (c) by the Department of Health and Social Services for Northern Ireland (in relation to implementation for which a Northern Ireland Department is responsible).
- (6) An authority proposing to give directions under this section shall consult the Agency and the other appropriate authorities before doing so.
- (7) If the Agency fails to comply with any directions under this section, the authority giving the directions may give effect to them (and for that purpose may exercise any power of the Agency).

- (8) If the Agency fails to comply with directions under subsection (1), the Secretary of State may, with the agreement of the other appropriate authorities, remove all the members of the Agency from office (and, until new appointments are made, may carry out the Agency's functions himself or appoint any other person or persons to do so).
- (9) Any directions given under this section shall be published in such manner as the authority giving them considers appropriate for the purpose of bringing the matters to which they relate to the attention of persons likely to be affected by them.
- (10) In this section "devolved competence" has the same meaning as in the Scotland Act 1998.

## **25 Power to modify enactments about disclosure of information**

- (1) If it appears to the Secretary of State that an enactment prohibits the disclosure of any information and is capable of having either of the effects mentioned in subsection (5) he may by order make provision for the purpose of removing or relaxing the prohibition so far as it is capable of having that effect.
- (2) If it appears to the Scottish Ministers that an enactment prohibits the disclosure of any information and is capable of having either of the effects mentioned in subsection (5) the Scottish Ministers may by order make provision for the purpose of removing or relaxing the prohibition so far as it is capable of having that effect.
- (3) The power under subsection (2) may not be exercised to make provision which would not be within the legislative competence of the Scottish Parliament.
- (4) If it appears to the First Minister and deputy First Minister acting jointly that any enactment dealing with transferred matters (within the meaning of section 4(1) of the Northern Ireland Act 1998) prohibits the disclosure of any information and is capable of having either of the effects mentioned in subsection (5) they may by order make provision for the purpose of removing or relaxing the prohibition so far as it is capable of having that effect.
- (5) The effects mentioned in subsections (1), (2) and (4) are that the enactment in question—
  - (a) prevents the disclosure to the Agency of information that would facilitate the carrying out of the Agency's functions; or
  - (b) prevents the publication by the Agency of information in circumstances where the power under section 19 would otherwise be exercisable.
- (6) An order under this section may—
  - (a) make provision as to circumstances in which information which is subject to the prohibition in question may, or may not, be disclosed to the Agency or, as the case may be, published by the Agency; and
  - (b) if it makes provision enabling the disclosure of information to the Agency, make provision restricting the purposes for which such information may be used (including restrictions on the subsequent disclosure of the information by the Agency).
- (7) This section applies in relation to a rule of law as it applies in relation to an enactment, but with the omission of—
  - (a) subsection (5)(b) and any reference to the effect mentioned in subsection (5)(b); and

- (b) in subsection (6)(a), the words from “or, as” to the end.
- (8) In this section “enactment” means an enactment contained in any Act (other than this Act) or Northern Ireland legislation passed or made before or in the same Session as this Act.

*Miscellaneous provisions*

**26 Statutory functions ceasing to be exercisable by Minister of Agriculture, Fisheries and Food and Department of Agriculture for Northern Ireland**

- (1) The functions of the Minister of Agriculture, Fisheries and Food under—
  - (a) Part I of the Food and Environment Protection Act 1985;
  - (b) the 1990 Act; and
  - (c) the Radioactive Substances Act 1993,shall cease to be exercisable by that Minister.
- (2) The functions of the Department of Agriculture for Northern Ireland under—
  - (a) Part I of the Food and Environment Protection Act 1985; and
  - (b) Part II of the 1991 Order (except Articles 8(7), 10(5) to (7), 11(5) to (10), 18(1), 22 and 25(2)(e) and Schedule 1),shall cease to be exercisable by that Department.
- (3) Subsections (1) and (2) do not affect enforcement functions under directions or subordinate legislation under the enactments mentioned in those subsections (or any power under those enactments to confer such functions in directions or subordinate legislation).

**27 Notification of tests for food-borne disease**

- (1) Regulations may make provision for requiring the notification of information about tests on samples taken from individuals (whether living or dead) for the presence of—
  - (a) organisms of a description specified in the regulations; or
  - (b) any substances produced by or in response to the presence of organisms of a description so specified.
- (2) A description of organisms may be specified in the regulations only if it appears to the authority making the regulations that those organisms or any substances produced by them—
  - (a) are capable of causing disease in humans; and
  - (b) are commonly transmitted to humans through the consumption of food.
- (3) The power to make the regulations is exercisable for the purpose of facilitating the carrying out of functions of the Agency or any other public authority which relate to the protection of public health.
- (4) The regulations shall, as respects each specified description of organisms—
  - (a) specify the information to be notified about them and the form and manner in which it is to be notified;
  - (b) make provision for identifying the person by whom that information is to be notified; and

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- (c) specify the person to whom that information is to be notified;  
but the regulations may not require a person to notify information which is not in his possession, or otherwise available to him, by virtue of his position.
- (5) The regulations may—
- (a) make provision as to the tests about which information is to be notified;
  - (b) require or permit the person specified under subsection (4)(c) to disclose any information to any other person or to publish it;
  - (c) restrict the purposes for which any information may be used (whether by the person so specified or by any other person);
  - (d) make provision with a view to ensuring that patient confidentiality is preserved;
  - (e) create exceptions from any provision of the regulations;
  - (f) create summary offences, subject to the limitation that no such offence shall be punishable with imprisonment or a fine exceeding level 5 on the standard scale.
- (6) Before making regulations under this section the authority making them shall consult the Agency and such organisations as appear to the authority to be representative of interests likely to be substantially affected by the regulations.
- (7) Any consultation undertaken before the commencement of subsection (6) shall be as effective, for the purposes of that subsection, as if undertaken after that commencement.
- (8) The power to make regulations under this section is exercisable—
- (a) as respects tests carried out in England, by the Secretary of State;
  - (b) as respects tests carried out in Wales, by the National Assembly for Wales;
  - (c) as respects tests carried out in Scotland, by the Scottish Ministers; and
  - (d) as respects tests carried out in Northern Ireland, by the Department of Health and Social Services for Northern Ireland.

## **28 Arrangements for sharing information about food-borne zoonoses**

- (1) The Agency and each authority to which this section applies with responsibility for any matter connected with food-borne zoonoses shall make arrangements with a view to securing (so far as reasonably practicable) that any information relating to food-borne zoonoses in the possession of either of them is furnished or made available to the other.
- (2) The authorities to which this section applies are Ministers of the Crown, the National Assembly for Wales, Scottish Ministers and Northern Ireland Departments.
- (3) Arrangements under this section may also include arrangements for co-ordinating the activities of the Agency and the authority concerned in relation to matters connected with food-borne zoonoses.
- (4) Arrangements under this section shall be kept under review by the Agency and the authority concerned.
- (5) In this section “food-borne zoonosis” means any disease of, or organism carried by, animals which constitutes a risk to the health of humans through the consumption of, or contact with, food.



## **29 Consultation on veterinary products**

- (1) The Minister of Agriculture, Fisheries and Food, and each Secretary of State having responsibility for any matters connected with the regulation of veterinary products, shall consult the Agency from time to time about the general policy he proposes to pursue in carrying out his functions in relation to those matters.
- (2) In this section “veterinary products” means—
  - (a) veterinary drugs, as defined in section 132(1) of the Medicines Act 1968;
  - (b) veterinary medicinal products, as defined in Article 1(2) of Council Directive [81/851/EEC](#) (including products manufactured from homeopathic stock);
  - (c) medicated feedingstuffs, as defined in Article 1(2) of Council Directive [81/851/EEC](#);
  - (d) zootechnical products, as defined in regulation 2(1) of the Feedingstuffs (Zootechnical Products) Regulations 1999.
- (3) The Minister or the Secretary of State concerned may disclose any information to the Agency (including information obtained by or furnished to him in pursuance of any enactment) relating to matters connected with the regulation of veterinary products.
- (4) This section applies to the Department of Health and Social Services for Northern Ireland and the Department of Agriculture for Northern Ireland as it applies to the Minister of Agriculture, Fisheries and Food.

## **30 Animal feedingstuffs: Great Britain**

- (1) The Ministers may, for the purpose of regulating any animal feedingstuff or anything done to or in relation to, or with a view to the production of, any animal feedingstuff, make an order under this section.
- (2) An order under this section is one which applies, or makes provision corresponding to, any provisions of the 1990 Act (including any power to make subordinate legislation or to give directions), with or without modifications.
- (3) Such an order may be made by reference to the 1990 Act as it stands immediately before this Act is passed or as it stands following any amendment or repeal made by this Act.
- (4) Such an order under this section may make provision with a view to protecting animal health, protecting human health or for any other purpose which appears to the Ministers to be appropriate.
- (5) The provision which may be made in an order under this section by virtue of section 37(1)(a) includes provision amending or repealing any enactment or subordinate legislation.
- (6) Before making such an order, the Ministers shall—
  - (a) consult such organisations as appear to them to be representative of interests likely to be substantially affected by the order; and
  - (b) have regard to any advice given by the Agency.
- (7) Any consultation undertaken before the commencement of subsection (6) shall be as effective, for the purposes of that subsection, as if undertaken after that commencement; and any consultation undertaken by the Agency may be treated by the Ministers as being as effective for those purposes as if it had been undertaken by them.

- (8) In this section “the Ministers” means—
- (a) in the case of an order extending to England and Wales, the Secretary of State and the Minister of Agriculture, Fisheries and Food, acting jointly;
  - (b) in the case of an order extending to Scotland, the Scottish Ministers.

### **31 Animal feedingstuffs: Northern Ireland**

- (1) The Department of Agriculture for Northern Ireland and the Department of Health and Social Services for Northern Ireland acting jointly shall have the same power to make provision by order for Northern Ireland by reference to the 1991 Order as the Ministers have by virtue of section 30 to make provision by order for England and Wales or Scotland by reference to the 1990 Act.
- (2) Subsections (6) and (7) of section 30 apply in relation to an order under this section as they apply to an order under that section.

### **32 Modification of certain provisions of this Act**

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for modifying—
  - (a) the functions exercisable under this Act by any of the appropriate authorities (including functions exercisable jointly by two or more of them);
  - (b) the powers under this Act of either House of Parliament, the Scottish Parliament or the Northern Ireland Assembly; or
  - (c) the constitution of the Agency.
- (2) Without prejudice to the generality of subsection (1), provision made under paragraph (a) or (b) of that subsection may—
  - (a) confer on any one or more of the appropriate authorities functions (including powers to make subordinate legislation) which relate to anything connected with the Agency or its activities;
  - (b) confer powers on either House of Parliament, the Scottish Parliament or the Northern Ireland Assembly.
- (3) Where provision is made under subsection (1)(a) or (b), the provision which may be made in the Order by virtue of section 37(1)(a) includes provision modifying functions of, or conferring functions on, the Agency or any other person in connection with any one or more of the appropriate authorities or with any body mentioned in subsection (1)(b).
- (4) For the purposes of subsection (1)(c) the reference to the constitution of the Agency is a reference to the subject-matter of sections 2 to 5 and 39(7) (together with Schedules 1, 2 and 4).
- (5) The provision which may be made by an Order under this section does not include provision modifying this section or section 33 (except that where provision is made under subsection (1)(c) the Order may make consequential amendments to subsection (4)).
- (6) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless the Agency has been consulted.

### **33 Consequences of Agency losing certain functions**

- (1) This section applies if—
  - (a) the Scottish Parliament passes an Act providing for any functions of the Agency to be no longer exercisable in or as regards Scotland; or
  - (b) the Northern Ireland Assembly passes an Act providing for any functions of the Agency to be no longer exercisable in or as regards Northern Ireland.
- (2) Her Majesty may by Order in Council make provision—
  - (a) modifying this or any other Act as She considers necessary or expedient in consequence of the functions concerned being no longer exercisable by the Agency in or as regards Scotland or Northern Ireland;
  - (b) for the transfer of any property, rights and interests of the Agency falling within subsection (3);
  - (c) for any person to have such rights or interests in relation to any property, rights or interests falling within subsection (3) as She considers appropriate (whether in connection with a transfer or otherwise); or
  - (d) for the transfer of any liabilities of the Agency falling within subsection (4).
- (3) Property, rights and interests fall within this subsection if they belong to the Agency and appear to Her Majesty—
  - (a) to be held or used wholly or partly for or in connection with the exercise of any of the functions concerned, or
  - (b) not to be within paragraph (a) but, when last held or used for or in connection with the exercise of any function, to have been so held or used for or in connection with the exercise of any of the functions concerned.
- (4) Liabilities of the Agency fall within this subsection if they appear to Her Majesty to have been incurred wholly or partly for or in connection with the exercise of any of the functions concerned.
- (5) An Order under this section may make provision for the delegation of powers to determine anything required to be determined for the purposes of provision made under subsection (2)(b), (c) or (d).
- (6) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless the Agency has been consulted.

### **34 Duty to take account of functions of the Food Safety Promotion Board**

- (1) The Agency must—
  - (a) take account of the activities of the Food Safety Promotion Board in determining what action to take for the purpose of carrying out its functions; and
  - (b) consult that Board from time to time with a view to ensuring so far as is practicable that the activities of the Agency do not unnecessarily duplicate the activities of the Board.
- (2) Nothing in this Act affects the functions of the Food Safety Promotion Board.

### **35 Devolution in Scotland and Northern Ireland**

- (1) For the purposes of—

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- (a) section 23(2)(b) of the Scotland Act 1998 (power of Scottish Parliament to require persons outside Scotland to attend to give evidence or produce documents); and
  - (b) section 70(6) of that Act (accounts prepared by cross-border bodies),
- the Agency shall be treated as a cross-border public authority (within the meaning of that Act).
- (2) It is not outside the legislative competence of the Scottish Parliament, by virtue of the reservation of matters relating to the constitution mentioned in paragraph 1 of Schedule 5 to that Act, to remove, alter or confer relevant functions of the Agency which are exercisable in or as regards Scotland.
  - (3) Nothing in subsection (2) affects any legislative competence of the Scottish Parliament apart from this section.
  - (4) Relevant functions of the Agency in relation to Northern Ireland shall be regarded as functions of a Minister of the Crown for the purposes of paragraph 1(a) of Schedule 2 to the Northern Ireland Act 1998 (excepted matters).
  - (5) In this section “relevant functions of the Agency” means functions relating to, or to matters connected with—
    - (a) food safety or other interests of consumers in relation to food; or
    - (b) the safety of animal feedingstuffs or other interests of users of animal feedingstuffs.

### *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)—

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- (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—

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- (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;
  - (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.

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## SCHEDULES

### SCHEDULE 1

Section 2(4).

#### CONSTITUTION ETC. OF THE AGENCY

##### *Status*

1 The Agency is a body corporate.

##### *Tenure of office of members of the Agency*

- 2 (1) A person appointed as chairman or deputy chairman or as one of the other members shall hold and vacate office in accordance with the terms of his appointment and, on ceasing to hold that office, is eligible for re-appointment.
- (2) The terms of appointment of the chairman, deputy chairman and other members shall be determined by the appropriate authorities acting jointly.
- 3 (1) The person holding office as chairman or deputy chairman—
- (a) may resign his office by giving notice to any of the appropriate authorities (and on doing so ceases to be a member of the Agency); and
  - (b) may be removed from office by the appropriate authorities acting jointly if they are satisfied that he is eligible to be removed under paragraph 4.
- (2) A member other than the chairman or deputy chairman—
- (a) may resign his office by giving notice to the authority by which he was appointed; and
  - (b) may be removed from office by that authority if it is satisfied that he is eligible to be removed under paragraph 4.
- 4 A person may be removed from office as chairman, deputy chairman or other member only if—
- (a) he has been adjudged bankrupt, has had his estate sequestrated or has made a composition or arrangement with, or granted a trust deed for, his creditors; or
  - (b) he is failing to carry out the duties of his office or is otherwise unable or unfit to carry out those duties.

##### *Remuneration, pensions, etc. of members of the Agency*

- 5 (1) The Agency shall pay its members such remuneration, and such travelling and other allowances, as may be determined by the appropriate authorities acting jointly.
- (2) The Agency shall, if so required by the appropriate authorities acting jointly—
- (a) pay such pensions, allowances or gratuities as may be determined by the appropriate authorities acting jointly,

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- (b) make such payments as may be so determined towards provision for the payment of pensions, allowances or gratuities, or
  - (c) provide and maintain such schemes (whether contributory or not) as may be so determined for the payment of pensions, allowances or gratuities,
- to or in respect of persons who are or have been members.

- 6 If, when a person ceases to hold office as a member, the appropriate authorities acting jointly determine that there are special circumstances which make it right that he should receive compensation, the Agency shall pay to him a sum by way of compensation of such amount as may be so determined.

#### *Disqualification*

- 7 (1) In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted at the appropriate place the words “The Food Standards Agency.”
- (2) In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted at the appropriate place the words “The Food Standards Agency.”

#### *Staff*

- 8 (1) The Agency may, with the approval of the Minister for the Civil Service as to numbers and terms and conditions of service, appoint such staff as it may determine.
- (2) Sub-paragraph (1) is subject to section 3 in the case of the chief executive and the directors for Wales, Scotland and Northern Ireland.

#### *Proceedings etc.*

- 9 (1) The Agency may regulate its own procedure (including quorum) and shall, in particular, establish and maintain a system for the declaration and registration of private interests of its members.
- (2) The entries recorded in the register of members' interests shall be published by the Agency.
- 10 The validity of any proceedings of the Agency is not affected by a vacancy amongst its members or by a defect in the appointment of a member.
- 11 A document purporting to be—
- (a) duly executed under the seal of the Agency, or
  - (b) signed on behalf of the Agency,
- shall be received in evidence and shall, unless the contrary is proved, be taken to be so executed or signed.

#### *Delegation of powers*

- 12 (1) Anything authorised or required to be done by the Agency (including the exercise of the power conferred by this paragraph) may be done by any member of the Agency who, or any committee (or sub-committee) of the Agency which, is authorised for the purpose by the Agency, whether generally or specially.

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- (2) Sub-paragraph (1) does not affect the rule of law by virtue of which functions of the Agency may be carried out through members of its staff.

## SCHEDULE 2

Section 5(4).

### ADVISORY COMMITTEES

#### *Advisory committees for Wales, Scotland and Northern Ireland*

- 1 (1) This paragraph applies to any advisory committee established under section 5(1).
- (2) Such a committee shall consist of—
- (a) a chairman appointed by the appropriate authority from among the members of the Agency;
  - (b) such other persons as may be appointed by the appropriate authority, after consulting the Agency.
- (3) No more than one member appointed under sub-paragraph (2)(b) may be a member of the Agency.
- (4) The basic terms of reference of a committee to which this paragraph applies are to carry out the purpose mentioned in section 5(1); but the Agency may, with the approval of the appropriate authority, supplement the terms of reference of any such committee.
- (5) In this paragraph “appropriate authority”, in relation to any committee, means the appropriate authority for the part of the United Kingdom for which the committee is established.

#### *Advisory committee or committees for England*

- 2 (1) This paragraph applies to a committee established under section 5(2).
- (2) Such a committee shall consist of a chairman and such other persons as may be appointed by the Secretary of State, after consulting the Agency.
- (3) No more than two persons appointed under sub-paragraph (1) may be members of the Agency.
- (4) The basic terms of reference of such a committee shall be to carry out the purpose mentioned in section 5(2); but the Agency may, with the approval of the Secretary of State, supplement the terms of reference of any such committee.

#### *Other advisory committees*

- 3 (1) The members of a committee established under section 5(3) shall consist of such persons as may be appointed by the Agency, after consulting the appropriate authorities.
- (2) The members so appointed may include members of the Agency.
- (3) The terms of reference of such a committee shall be such as the Agency may determine.

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- 4 The Agency may, after consulting the appropriate authorities, abolish a committee established under section 5(3).

*Remuneration of members of advisory committees*

- 5 The Agency may pay to the members of an advisory committee established under section 5 such remuneration or allowances in respect of expenses (or both) as the Agency may determine.

*Expenditure of advisory committees*

- 6 Any expenditure incurred by an advisory committee established under section 5 shall be defrayed by the Agency.

*Transfer of existing non-statutory advisory committees*

- 7 (1) The Secretary of State or the Minister of Agriculture, Fisheries and Food may direct that any advisory committee specified in the direction shall, from such date as may be so specified, be treated as if it had been established by the Agency under section 5 and its members appointed in accordance with paragraph 3(1).
- (2) A direction under this paragraph may be given only if the committee in question is maintained for the purpose of giving advice or information to any one or more public authorities on matters connected with the Agency's functions.
- (3) A direction under this paragraph may not be given in relation to a committee which—
- (a) is established on or after the day on which this paragraph comes into force; or
  - (b) is established, or is required to be established, by any enactment.
- (4) Before giving a direction under this paragraph the person giving it shall consult—
- (a) the Agency; and
  - (b) any public authority which the committee is maintained to give advice as mentioned in sub-paragraph (2).

*Joint committees*

- 8 (1) Without prejudice to the generality of section 21, the Agency may join with one or more other public authorities in making arrangements for establishing a joint committee to advise the Agency and the other authority or authorities on such matters connected with their functions as they may determine.
- (2) The membership, terms of reference and any remuneration or allowances for members shall be in accordance with those arrangements.
- (3) The expenditure of a joint advisory committee shall be defrayed by the Agency and the other authority or authorities in accordance with those arrangements.
- (4) The Agency shall consult the appropriate authorities before making any arrangements under this paragraph.

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

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## SCHEDULE 3

Section 18.

### THE AGENCY'S FUNCTIONS UNDER OTHER ENACTMENTS

#### PART I

##### FUNCTIONS UNDER THE 1990 ACT

1 This Part has effect for conferring functions under the 1990 Act on the Agency (and references to sections are to sections of the 1990 Act).

##### *Section 6 (enforcement)*

2 The Agency—

- (a) may be directed to discharge duties of food authorities under section 6(3);
- (b) may be specified as an enforcement authority for regulations or orders in pursuance of section 6(4); and
- (c) may take over the conduct of proceedings mentioned in section 6(5) either with the consent of the person who instituted them or when directed to do so by the Secretary of State.

##### *Section 13(3) (emergency control orders)*

3 The Agency may grant consent under subsection (3), and give directions under subsection (5), of section 13.

##### *Section 40 (codes of practice)*

4 (1) The Agency may, after consulting the Secretary of State—

- (a) give directions to food authorities under section 40(2)(b) as to steps to be taken in order to comply with codes of practice under section 40; and
- (b) enforce any such directions.

(2) The Agency may undertake consultation with representative organisations regarding proposals for codes of practice under section 40.

##### *Section 41 (information from food authorities)*

5 The Agency may exercise the power to require returns or other information from food authorities under section 41.

##### *Section 42 (default powers)*

6 The Agency may be empowered by an order under section 42 to discharge any duty of a food authority.

##### *Section 48 (regulations and orders)*

7 The Agency may undertake consultation with representative organisations required by section 48 regarding proposals for regulations or orders under the 1990 Act.

## PART II

### FUNCTIONS UNDER THE 1991 ORDER

- 8 This Part has effect for conferring functions under the 1991 Order on the Agency (and references to Articles are to Articles of the 1991 Order).

#### *Article 12 (emergency control orders)*

- 9 The Agency may grant consent under paragraph (3), and give directions under paragraph (5), of Article 12.

#### *Article 26 (enforcement)*

- 10 The Agency—
- (a) may be directed to discharge duties of district councils under Article 26(2);
  - (b) may be specified as an authority to enforce and execute regulations or orders in pursuance of Article 26(3); and
  - (c) may take over the conduct of proceedings mentioned in Article 26(4) either when directed to do so by the Department of Health and Social Services for Northern Ireland or with the consent of the district council which instituted them.

#### *Article 39 (codes of practice)*

- 11 (1) The Agency may, after consulting the Department of Health and Social Services for Northern Ireland—
- (a) give directions to district councils under Article 39(2)(b) as to steps to be taken in order to comply with codes of practice under Article 39; and
  - (b) enforce any such directions.
- (2) The Agency may undertake consultation with representative organisations regarding proposals for codes of practice under Article 39.

#### *Article 40 (information from district councils)*

- 12 The Agency may exercise the power to require returns or other information from district councils under Article 40.

#### *Article 41 (default powers)*

- 13 The Agency may be empowered by an order under Article 41 to discharge any duty of a district council.

#### *Article 47 (regulations and orders)*

- 14 The Agency may undertake consultation with representative organisations required by Article 47 regarding proposals for regulations or orders under the 1991 Order.

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### PART III

#### OTHER FUNCTIONS

##### *Medicines Act 1968 (c. 67)*

- 15 (1) The Medicines Act 1968 shall be amended as follows.
- (2) In section 4 (establishment of committees), after subsection (5) there shall be inserted the following subsection—
- “(5A) Where a committee is established under this section for purposes including the consideration of veterinary products as defined in section 29(2) of the Food Standards Act 1999, one member of the committee shall be appointed by the Ministers establishing the committee on the nomination of the Food Standards Agency.”
- (3) In section 129 (orders and regulations), after subsection (6) there shall be inserted the following subsection—
- “(6A) The organisations to be consulted under subsection (6) of this section include, where any provisions of the regulations or order apply to veterinary products as defined in section 29(2) of the Food Standards Act 1999, the Food Standards Agency.”

##### *Food and Environment Protection Act 1985 (c. 48)*

- 16 (1) The Agency shall have the following functions under the Food and Environment Protection Act 1985.
- (2) The Agency may exercise the following powers under section 2 (powers when emergency order has been made)—
- (a) the power to give consents under subsection (1);
  - (b) the power to give directions or do anything else under subsection (3);
  - (c) the power to recover expenses under subsection (5) or (6).
- (3) In section 7 (exemptions from need for licence under Part II), after subsection (3) there shall be inserted the following subsection—
- “(3A) A licensing authority—
- (a) shall consult the Food Standards Agency as to any order the authority contemplates making under this section; and
  - (b) shall from time to time consult that Agency as to the general approach to be taken by the authority in relation to the granting of approvals and the imposition of conditions under subsections (2) and (3) (including the identification of circumstances in which it may be desirable for the Agency to be consulted in relation to particular cases).”
- (4) In section 8 (licences under Part II), after subsection (11) there shall be inserted the following subsections—
- “(11A) The matters to which a licensing authority is to have regard in exercising powers under this section include any advice or information given to that



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authority by the Food Standards Agency (whether of a general nature or in relation to the exercise of a power in a particular case).

(11B) A licensing authority shall from time to time consult the Food Standards Agency as to the general manner in which the authority proposes to exercise its powers under this section in cases involving any matter which may affect food safety or other interests of consumers in relation to food (including the identification of circumstances in which it may be desirable for the Agency to be consulted in relation to particular cases).”

(5) In section 16 (control of pesticides), after subsection (9) there shall be inserted the following subsection—

“(9A) The Ministers—

- (a) shall consult the Food Standards Agency as to regulations which they contemplate making; and
- (b) shall from time to time consult that Agency as to the general approach to be taken by them in relation to the giving, revocation or suspension of approvals and the imposition of conditions on approvals (including the identification of circumstances in which it may be desirable for the Agency to be consulted in relation to particular cases).”

(6) In Schedule 5 (the Advisory Committee), after paragraph 1 there shall be inserted the following paragraph—

“1A. The committee shall include one member appointed by the Ministers on the nomination of the Food Standards Agency.”

*Environmental Protection Act 1990 (c. 43)*

17 In section 108(7) and section 111(7) of the Environmental Protection Act 1990 (grant of exemptions) after the words “Secretary of State” there shall be inserted the words “, or by the Secretary of State and the Food Standards Agency acting jointly,”.

18 For section 126 of that Act (exercise of certain functions relating to genetically modified organisms jointly by Secretary of State and Minister of Agriculture, Fisheries and Food) there shall be substituted the following section—

**“126 Mode of exercise of certain functions**

- (1) Any power of the Secretary of State to make regulations under this Part (other than the power conferred by section 113 above) is exercisable, where the regulations to be made relate to any matter with which the Minister is concerned, by the Secretary of State and the Minister acting jointly.
- (2) Any function of the Secretary of State under this Part (other than a power to make regulations) is exercisable, where the function is to be exercised in relation to a matter with which the Minister is concerned, by the Secretary of State and the Minister acting jointly (but subject to subsection (3) below).
- (3) Any function of the Secretary of State under sections 108(8) and 110 above is exercisable, where the function is to be exercised in relation to a matter with which the Agency is concerned—

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- (a) if it is a matter with which the Minister is also concerned, by the Secretary of State, the Minister and the Agency acting jointly;
  - (b) otherwise, by the Secretary of State and the Agency acting jointly.
- (4) Accordingly, references in this Part to the Secretary of State shall, where subsection (1), (2) or (3) above applies, be treated as references to the authorities in question acting jointly.
- (5) The Agency shall be consulted before—
- (a) any regulations are made under this Part, other than under section 113 above, or
  - (b) any consent is granted or varied.
- (6) The reference in section 113 above to expenditure of the Secretary of State in discharging functions under this Part in relation to consents shall be taken to include a reference to the corresponding expenditure of the Minister in discharging those functions jointly with the Secretary of State.
- (7) The validity of anything purporting to be done in pursuance of the exercise of a function of the Secretary of State under this Part shall not be affected by any question whether that thing fell, by virtue of this section, to be done jointly with the Minister or the Agency (or both).
- (8) In this section—
- “the Agency” means the Food Standards Agency; and
  - “the Minister” means the Minister of Agriculture, Fisheries and Food.”

*Genetically Modified Organisms (Northern Ireland) Order 1991 (S.I. 1991/1714 (N.I. 19))*

- 19 In Article 5(7) and Article 8(7) of the Genetically Modified Organisms (Northern Ireland) Order 1991 (grant of exemptions) after the word “Department” there shall be inserted the words “, or by the Department and the Food Standards Agency acting jointly,”.
- 20 (1) For Article 22 of that Order (exercise of certain functions relating to genetically modified organisms jointly by the Department of the Environment and the Department of Agriculture) there shall be substituted the following Article—

*“Mode of exercise of certain functions*

- 22 (1) Any power of the Department to make regulations under this Order (other than the power conferred by Article 10) is exercisable, where the regulations to be made relate to any matter with which the Department of Agriculture is concerned, by the Department and the Department of Agriculture acting jointly.
- (2) Any function of the Department under this Order (other than a power to make regulations) is exercisable, where the function is to be exercised in relation to a matter with which the Department of Agriculture is concerned, by the Department and the Department of Agriculture acting jointly (but subject to paragraph (3)).

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- (3) Any function of the Department under Articles 5(8) and 7 is exercisable, where the function is to be exercised in relation to a matter with which the Food Standards Agency is concerned—
    - (a) if it is a matter with which the Department of Agriculture is also concerned, by the Department, the Department of Agriculture and the Food Standards Agency acting jointly;
    - (b) otherwise, by the Department and the Food Standards Agency acting jointly.
  - (4) Accordingly, references in this Order to the Department shall, where paragraph (1), (2) or (3) applies, be treated as references to the authorities in question acting jointly.
  - (5) The Food Standards Agency shall be consulted before—
    - (a) any regulations are made under this Order, other than under Article 10, or
    - (b) any consent is granted or varied.
  - (6) The reference in Article 10 to expenditure of the Department in discharging functions under this Order in relation to consents shall be taken to include a reference to the corresponding expenditure of the Department of Agriculture in discharging those functions jointly with the Department.
  - (7) The validity of anything purporting to be done in pursuance of the exercise of a function of the Department under this Order shall not be affected by any question whether that thing fell, by virtue of this Article, to be done jointly with the Department of Agriculture or the Food Standards Agency (or both).”
- (2) In consequence of sub-paragraph (1), in the definition of “the Department” in Article 2(2) of that Order, after the word “means” there shall be inserted the words “(subject to Article 22)”.

*Radioactive Substances Act 1993 (c. 12)*

- 21 The Agency shall have the right to be consulted in the circumstances mentioned in subsection (4A) of section 16 or subsection (2A) of section 17 of the Radioactive Substances Act 1993 (proposals for granting or varying authorisations) about the matters mentioned in paragraphs (a) and (b) of that subsection.

SCHEDULE 4

Section 39(7).

ACCOUNTS AND AUDIT

- 1 For the purposes of this Schedule—
- “relevant authorities” means the Treasury, the National Assembly for Wales, the Scottish Ministers and the Department of Finance and Personnel for Northern Ireland;
- “relevant bodies” means the House of Commons, the National Assembly for Wales, the Scottish Parliament and the Northern Ireland Assembly;

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“the Department” means the Department of Finance and Personnel for Northern Ireland.

*Appropriation accounts*

- 2 (1) Where any appropriation accounts of the Agency or report of the Comptroller and Auditor General on such accounts are laid before the House of Commons under the Exchequer and Audit Departments Act 1866, the Comptroller and Auditor General shall send copies to the relevant authorities for Wales, Scotland and Northern Ireland.
- (2) The Scottish Ministers shall present documents received under this paragraph to the Scottish Parliament and the Department shall present such documents to the Northern Ireland Assembly.

*Accounts of Agency relating to sums paid or appropriated under s.39(3)*

- 3 (1) The Agency shall prepare separate accounts for each year of its expenditure in relation to each of the following descriptions of sums, that is to say—
- (a) the sums paid by the National Assembly for Wales under section 39(3)(a);
  - (b) the sums paid out of the Scottish Consolidated Fund under section 39(3)(b);
  - or
  - (c) sums appropriated by Act of the Northern Ireland Assembly under section 39(3)(c).
- (2) Any sum received by the Agency which it applies by virtue of any relevant provision (within the meaning of section 39) shall be regarded as falling within paragraph (a), (b) or (c) of sub-paragraph (1), as the case may require.
- (3) Accounts required under this paragraph relating to sums of any description mentioned in sub-paragraph (1)—
- (a) shall be prepared in such form, and
  - (b) shall be sent to the Comptroller and Auditor General, and to the relevant authority for the accounts, before such time,
- as the relevant authority for the accounts may direct after consulting the Agency and the other relevant authorities.
- (4) The Comptroller and Auditor General shall examine any accounts sent to him under sub-paragraph (3) on behalf of the National Assembly for Wales, the Scottish Parliament or the Northern Ireland Assembly (according to the description of sums to which the accounts relate).
- (5) In carrying out his examination of any such accounts the Comptroller and Auditor General shall, among other things, satisfy himself that the money expended by the Agency has been applied to the purpose or purposes for which the sums in question were intended to provide.
- (6) When the Comptroller and Auditor General has certified and reported on any accounts under this section, he shall—
- (a) send the accounts and report to the relevant authority for the accounts; and
  - (b) send copies to the other relevant authorities.
- (7) The Treasury shall present documents received under sub-paragraph (6) to the House of Commons, the Scottish Ministers shall present such documents to the Scottish

Parliament and the Department shall present such documents to the Northern Ireland Assembly.

- (8) In this paragraph “the relevant authority for the accounts” is—
- (a) in the case of accounts relating to sums within sub-paragraph (1)(a), the National Assembly for Wales;
  - (b) in the case of accounts relating to sums within sub-paragraph (1)(b), the Scottish Ministers; and
  - (c) in the case of accounts relating to sums within sub-paragraph (1)(c), the Department.

*Consolidated accounts*

- 4 (1) The Agency shall prepare consolidated accounts for each financial year showing its income and expenditure and its overall state of affairs for that year.
- (2) Accounts under this paragraph shall—
- (a) be prepared in such form (and include such documents), and
  - (b) be sent to the Comptroller and Auditor General and to the Treasury before such time,
- as the Treasury may direct after consulting the Agency and the other relevant authorities.
- (3) The Comptroller and Auditor General shall examine any accounts sent to him under sub-paragraph (2) on behalf of the House of Commons.
- (4) When any such accounts have been certified and reported on by the Comptroller and Auditor General, he shall—
- (a) send the certified accounts and the report to the Treasury who shall lay them before the House of Commons; and
  - (b) send copies of those documents to the other relevant authorities.
- (5) The Scottish Ministers shall present documents received under sub-paragraph (4) to the Scottish Parliament and the Department shall present such documents to the Northern Ireland Assembly.

*Accounts under s. 5 of the Exchequer and Audit Departments Act 1921*

- 5 (1) Any functions of the Treasury under section 5 of the Exchequer and Audit Departments Act 1921 shall, subject to sub-paragraph (2), be exercisable in relation to the Agency with the consent of the other relevant authorities and after consulting the Agency.
- (2) The consent of a relevant authority is not required if the operations concerned do not include operations carried out in or in relation to the jurisdiction for which it is the relevant authority.
- (3) If a direction under section 5 of that Act is given in respect of the Agency, that section shall have effect as if any reference to Parliament or the House of Commons included a reference to each of the other relevant bodies, other than the relevant body for any jurisdiction referred to in sub-paragraph (2).

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*Functions of Comptroller under s. 9 of the National Audit Act 1983*

- 6 (1) The power of the Comptroller and Auditor General to make reports to the House of Commons under section 9 of the National Audit Act 1983 includes power, in relation to any examination of the Agency under section 6 of that Act, to make reports to any of the other relevant bodies.
- (2) If the Comptroller and Auditor General makes a report to one or more of the relevant bodies under section 9 of that Act in relation to such an examination, he shall lay a copy of the report before each of the other relevant bodies.

SCHEDULE 5

Section 40(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

*Agricultural Returns Act (Northern Ireland) 1939 (c. 35)(N.I.)*

- 1 In section 1(4) of the Agricultural Returns Act (Northern Ireland) 1939 (restriction on disclosure of returns), after paragraph (e) there shall be added the following paragraph—
- “(f) to the Food Standards Agency for purposes connected with the carrying out of any of its functions.”

*Agriculture Act 1947 (c. 48)*

- 2 In the proviso to section 80 of the Agriculture Act 1947 (exceptions to restriction on disclosure of information) after paragraph (d) there shall be inserted the following paragraph—
- “(e) to the Food Standards Agency for purposes connected with the carrying out of any of its functions,”.

*Parliamentary Commissioner Act 1967*

- 3 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) the following entry shall be inserted in the appropriate place—
- “Food Standards Agency.”.

*Trade Descriptions Act 1968 (c. 29)*

- 4 (1) Section 38 of the Trade Descriptions Act 1968 (orders) shall be amended as follows.
- (2) In subsection (2), the words from “agricultural” to “stuffs” (in the second place it appears) shall be omitted.
- (3) After subsection (2) there shall be inserted the following subsections—
- “(2A) Any order under the preceding provisions of this Act which relates to any agricultural, horticultural or fishery produce, whether processed or not, food, feeding stuffs or the ingredients of food or feeding stuffs shall be made by the Board of Trade acting jointly with the following Ministers, that is to say, if the order extends to England and Wales, the Secretary of State concerned

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with health and if it extends to Scotland or Northern Ireland, the Secretary of State concerned.

(2B) Before making an order to which subsection (2) or (2A) of this section applies the Board of Trade shall consult the Food Standards Agency.”

*Agricultural Statistics Act 1979 (c. 13)*

5 In section 3(2) of the Agricultural Statistics Act 1979 (exceptions to restriction on disclosure of information) after paragraph (f) there shall be inserted the following paragraph—

“(g) to the Food Standards Agency for purposes connected with the carrying out of any of its functions,”.

*Food and Environment Protection Act 1985 (c. 48)*

6 (1) The Food and Environment Protection Act 1985 shall be amended as follows.

(2) In section 1(2) (emergency orders: definition of “designating authority”) after “Food” there shall be inserted the words “and the Secretary of State or either of them”.

This sub-paragraph shall come into force on the passing of this Act.

(3) In section 1(2) as so amended, for the words from “the Minister” to “them” there shall be substituted the words “the Secretary of State”.

(4) In section 2 (powers of designating authority when emergency order is made)—

(a) in subsection (1)—

(i) after the words “A designating authority” there shall be inserted the words “or the Food Standards Agency”; and

(ii) for the words “the designating authority” there shall be substituted the words “the authority giving the consent”;

(b) in subsection (3)—

(i) after the words “A designating authority” there shall be inserted the words “or the Food Standards Agency”;

(ii) in paragraph (a), for the words “the designating authority” (in both places) there shall be substituted the words “the authority giving the directions”; and

(iii) in paragraph (b), after the words “the designating authority” there shall be inserted the words “or the Agency (as the case may be)”; and

(c) in subsections (5) and (6)—

(i) after the words “a designating authority” there shall be inserted the words “or the Food Standards Agency”;

(ii) for the words “the designating authority” (in the first place it appears) there shall be substituted the words “the authority taking that action”; and

(iii) for the words “the designating authority” (in the second place it appears) there shall be substituted the words “that authority”.

(5) In section 25(2) (application of Act to Northern Ireland)—

(a) before paragraph (a) there shall be inserted the following paragraph—

“(za) in section 1(2), in the definition of “designating authority”, for the words from “in relation” (in the first place

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they appear) to the end there is substituted “means the Department of Agriculture for Northern Ireland;””

- (b) in paragraph (a), after the word “reference” (in the first place it appears) there shall be inserted the words “in Part III”.

This sub-paragraph shall come into force on the passing of this Act.

- (6) In section 25(2) as amended by sub-paragraph (5)—
- (a) for paragraph (za) there shall be substituted the following paragraph—
- “(za) in section 1(2), in the definition of “designating authority”, for the words from “in relation” (in the first place they appear) to the end there is substituted “means the Department of Health and Social Services for Northern Ireland;””
- (b) in paragraph (a), for the word “paragraph” there shall be substituted the words “paragraphs (ab) and”; and
- (c) after paragraph (a) there shall be inserted the following paragraph—
- “(ab) subject to paragraph (b) below, in section 16 for any reference to the Ministers or either of them there is substituted a reference to the Department of Agriculture for Northern Ireland and the Department of Health and Social Services for Northern Ireland acting jointly;”.

*Food Safety Act 1990 (c. 16)*

7 The Food Safety Act 1990 shall be amended as follows.

8 In the following provisions—

- section 1(2) and (3)
- section 2(1)
- section 5(4) and (6)
- section 6(6)
- section 13(1)
- section 16(1), (2) and (4)
- section 17(1) and (2)
- section 18(1)
- section 19(1) and (2)
- section 27(2) and (5)
- section 30(9)
- section 31(1)
- section 40(1) to (4)
- section 41
- section 42(1) to (4)
- section 45(1) and (2)
- section 47
- section 48(1), (2) and (4)
- section 49(2)
- section 53(3)
- section 57(1)
- section 59(2)



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- for the words “the Minister”, “the Ministers” or “the Ministers or the Minister” there shall be substituted the words “the Secretary of State”.
- 9 In section 5(1), after paragraph (c) there shall be inserted—  
“(d) as respects the Isles of Scilly, the council of the Isles of Scilly.”
- 10 (1) Section 6 (enforcement) shall be amended as follows.
- (2) In subsection (3)—
- (a) for the word “Ministers” (in the first place it appears) there shall be substituted the words “Secretary of State”; and
- (b) for the words “the Ministers or the Minister” there shall be substituted the words “the Secretary of State, the Minister of Agriculture, Fisheries and Food” and after those words there shall be inserted the words “or the Food Standards Agency”.
- (3) In subsection (4)—
- (a) the words “the Ministers” shall be omitted; and
- (b) after the word “State,” there shall be inserted the words “the Food Standards Agency,”.
- (4) In subsection (5) the words from “and, in” to the end shall be omitted and after that subsection there shall be inserted the following subsections—
- “(5A) The Secretary of State may take over the conduct of any such proceedings which have been instituted by some other person.
- (5B) The Secretary of State may direct the Food Standards Agency to take over the conduct of any such proceedings which have been instituted by some person other than the Agency.
- (5C) The Food Standards Agency may take over the conduct of any such proceedings which have been instituted by some other person, but (unless the Agency has been directed to do so under subsection (5B) above) only with the consent of the person who instituted them.”
- 11 (1) Section 13 (emergency control orders) shall be amended as follows.
- (2) In subsection (3), for the words “The Minister” there shall be substituted the words “The Secretary of State”, after those words there shall be inserted the words “or the Food Standards Agency” and for the word “he” there shall be substituted the words “the authority giving the consent”.
- (3) In subsection (5), for the words “The Minister” there shall be substituted the words “The Secretary of State”, after those words there shall be inserted the words “or the Food Standards Agency” and for the words “him” (in both places) and “he” there shall be substituted the words “the authority giving the directions”.
- (4) In subsection (7), for the words “the Minister” (in the first place) there shall be substituted the words “the Secretary of State”, after those words there shall be inserted the words “or the Food Standards Agency” and for the words “the Minister” (in the second place) and “him” there shall be substituted the words “that authority”.
- 12 In section 17 (enforcement of Community provisions)—
- (a) in subsection (1), for the word “them” there shall be substituted the word “him”; and

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- (b) in subsection (2), for the words “their” and “they consider” there shall be substituted respectively the words “his” and “he considers”.
- 13 In section 18(2) (special provisions for particular foods) for the words “The Ministers” (in the first place), “the Ministers consider” and “the Minister’s” there shall be substituted respectively the words “The Secretary of State”, “the Secretary of State considers” and “the Secretary of State’s”.
- 14 In section 19(2) (registration and licensing of food premises), for the word “them” there shall be substituted the word “him”.
- 15 Section 25 (orders for facilitating the exercise of functions) shall cease to have effect.
- 16 After section 36 (offences by bodies corporate) there shall be inserted the following section—

**“36A Offences by Scottish partnerships**

Where an offence under this Act which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he, as well as the partnership shall be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.”

- 17 (1) Section 40 (codes of practice for food authorities) shall be amended as follows.
- (2) After subsection (1) there shall be inserted the following subsection—
- “(1A) The Food Standards Agency may, after consulting the Secretary of State, give a food authority a direction requiring them to take any specified steps in order to comply with a code under this section.”
- (3) In subsection (2)(b) for the words from “by” to “and” there shall be substituted the words “under this section and”.
- (4) In subsection (3), for the words “subsection (2)(b)” and “the Ministers or the Minister” (or if the amendment in paragraph 8 has been made, the words “the Secretary of State”) there shall be substituted respectively the words “subsection (1A)” and “the Food Standards Agency”.
- (5) After subsection (3) there shall be inserted—
- “(3A) The Food Standards Agency shall consult the Secretary of State before making an application under subsection (3) above.”
- (6) In subsection (4), the words after “shall” shall be renumbered as paragraph (a) and at the end there shall be added the words “; and
- (b) have regard to any relevant advice given by the Food Standards Agency”.
- (7) After subsection (4) there shall be inserted the following subsection—
- “(4A) If it appears to the Secretary of State that the Food Standards Agency has undertaken any consultation with an organisation that he is required to consult under subsection (4) above, the Secretary of State may treat that consultation as being as effective for the purposes of that subsection as if undertaken by him.”

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- 18 In section 41 (power to require returns and other information from food authorities)  
—  
(a) before the words “such reports” there shall be inserted the words “or to the Food Standards Agency”; and  
(b) after the words “him” and “he” there shall be inserted the words “or it”.
- 19 In section 42 (default powers), in subsection (1), after the words “another food authority” there shall be inserted the words “or the Food Standards Agency”.
- 20 In section 45(1) (power to impose charges for things done by Ministers under the 1990 Act), after the word “done” there shall be inserted the words “or to be done”.
- 21 In section 48 (regulations and orders), after subsection (4) there shall be inserted the following subsections—  
“(4A) Before making any regulations or order under this Act, the Secretary of State shall have regard to any relevant advice given by the Food Standards Agency.  
(4B) If it appears to the Secretary of State that the Food Standards Agency has undertaken any consultation with an organisation that he is required to consult under subsection (4) above, the Secretary of State may treat that consultation as being as effective for the purposes of that subsection as if undertaken by him.”
- 22 (1) Section 57(1) (application of Act to Isles of Scilly subject to modifications) shall cease to have effect.  
(2) The repeal of section 57(1) does not affect Article 20(2) of the Food Safety Act 1990 (Consequential Modifications) (England and Wales) Order 1990 (amendments of the Isles of Scilly (Functions) Order 1979).
- 23 After paragraph 6 of Schedule 1 (provisions which may be included in regulations under section 16) there shall be inserted the following paragraph—  
  

*“Production of food sources*

6A Provision for prohibiting or regulating—  
(a) the possession, sale or offer, exposure or advertisement for sale of any specified substance, or any substance of any specified class, with a view to its use in connection with the production of any food source;  
(b) the use of any specified substance, or any substance of any specified class, in connection with the production of any food source;  
(c) the carrying out of any other activity in connection with, or in a manner likely to affect, the production of any food source.”
- 24 In paragraph 7(2) of Schedule 1 (provisions which may be included in regulations relating to food safety or consumer protection), after the word “falls” there shall be inserted the words “(or is likely to fall)”.
- 25 (1) Paragraph 7 of Schedule 4 (saving from repeal of section 15 of the Food Act 1984 for certain existing byelaws) shall cease to have effect.  
(2) Accordingly, any byelaws which were made (or which have effect as if made) under that section 15 and which have continued in force by virtue of that paragraph are revoked.

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*Food Safety (Northern Ireland) Order 1991 (S.I. 1991/762 (N.I. 7))*

26 The Food Safety (Northern Ireland) Order 1991 shall be amended as follows.

27 In the following provisions—

- Article 8(8)
- Article 11(10)
- Article 12(1)
- Article 15(1)(f) and (4)
- Article 16(1) and (2)
- Article 17(2)(a)
- Article 18(2)
- Article 39(1), (2), (3) and (4)
- Article 41(1), (2) and (3)
- Article 44(2)
- Article 47(1), (2) and (3)
- Article 51(2),

for the words “the Department concerned” or “that Department” there shall be substituted the words “the Department”.

28 In the following provisions—

- Article 8(7) and (9)(b)
- Article 10(5) to (7)
- Article 11(5) to (10)
- Article 18(1)
- Article 22
- Article 33(1)(b)
- Article 37(1)
- Article 42(2)(b)
- Article 44(1) and (3)
- Article 45
- Article 49(2)
- Schedule 1,

after the words “or, as the case may be,” there shall be inserted the words “the Food Standards Agency or”.

29 In Article 2(2) (interpretation)—

- (a) in the definition of “authorised officer”—
  - (i) after paragraph (b) there shall be inserted the following paragraph—
    - “(bb) in the case of functions conferred on the Food Standards Agency, a person who is generally or is specially authorised in writing by the Food Standards Agency for the purposes of this Order;”;
  - (ii) in paragraph (c), for the words “the Department concerned” in both places where they occur there shall be substituted the words “the Department, the Department of Agriculture or the Food Standards Agency”;

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- (b) in the definitions of “order” and “regulations” for the words “the Department concerned” there shall be substituted the words “the Department”.
- 30 (1) Article 12 (emergency control orders) shall be amended as follows.
- (2) In paragraph (3), for the words “The Department concerned” there shall be substituted the words “The Department”, after those words there shall be inserted the words “or the Food Standards Agency” and for the words “that Department” there shall be substituted the words “the authority giving the consent”.
- (3) In paragraph (5), for the words “The Department concerned” there shall be substituted the words “The Department”, after those words there shall be inserted the words “or the Food Standards Agency” and for the words “that Department” in each place where they occur there shall be substituted the words “the authority giving the directions”.
- (4) In paragraph (7), for the words “The Department concerned” there shall be substituted the words “The Department”, after those words there shall be inserted the words “or the Food Standards Agency” and for the words “that Department” in both places where they occur there shall be substituted the words “that authority”.
- 31 Article 24 (orders for facilitating the exercise of functions) shall cease to have effect.
- 32 In Article 25 (regulations and orders: supplementary provisions), in paragraph (2) (e), after the words “district council” there shall be inserted the words “, the Food Standards Agency”.
- 33 (1) Article 26 (enforcement) shall be amended as follows.
- (2) In paragraph (1), for the words “paragraph (1A)” there shall be substituted the words “paragraphs (1A) and (1B)”.
- (3) After paragraph (1A) there shall be inserted the following paragraph—
- “(1B) The Food Standards Agency shall enforce and execute such provisions of this Order as may be specified by order.”.
- (4) In paragraph (2)—
- (a) for the words “Department concerned” there shall be substituted the word “Department”; and
- (b) for the words “that Department” in both places where they occur there shall be substituted the words “the Department, the Department of Agriculture or the Food Standards Agency”.
- (5) After paragraph (3) there shall be inserted the following paragraph—
- “(3A) Regulations or orders under paragraph (3) may specify the Food Standards Agency as an authority to enforce and execute them and references in that paragraph to any authority concerned include references to the Food Standards Agency.”.
- (6) In paragraph (4)—
- (a) for the words “Department concerned” there shall be substituted the word “Department”; and

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- (b) after the words “district council” there shall be inserted the words “or may direct the Food Standards Agency to do so”.
- (7) After paragraph (4) there shall be inserted the following paragraph—
- “(4A) The Food Standards Agency may take over the conduct of any such proceedings but (unless the Agency has been directed to do so under paragraph (4)) only with the consent of the district council which instituted them.”.
- 34 In Article 27 (appointment of public and other analysts), paragraph (6)(a) shall cease to have effect.
- 35 (1) Article 31 (analysis, etc. of samples by authorised officer of the Department of Agriculture) shall be amended as follows.
- (2) After paragraph (1) there shall be inserted the following paragraph—
- “(1A) An authorised officer of the Food Standards Agency who has procured a sample under Article 29 may—
- (a) if he considers that the sample should be analysed by a public analyst or a food analyst, submit it to be so analysed;
- (b) if he considers that the sample should be examined by a food examiner, submit it to be so examined,
- and for the purposes of this paragraph references in Article 27(1) and (6) to functions conferred on district councils or to the functions of the Department of Agriculture include references to functions of the Food Standards Agency.”.
- (3) In paragraph (2), after the words “paragraph (1)” (in the first place they occur) there shall be inserted the words “or (1A)”.
- (4) In paragraph (3)—
- (a) in the definition of “the requisite qualifications”, for the words “Department of Agriculture” there shall be substituted the word “Department”; and
- (b) in the definition of “sample”, after the words “Department of Agriculture” there shall be inserted the words “or the Food Standards Agency”.
- 36 (1) Article 39 (codes of practice) shall be amended as follows.
- (2) After paragraph (1) there shall be inserted the following paragraph—
- “(1A) The Food Standards Agency may, after consulting the Department, give a district council a direction requiring the council to take any specified steps in order to comply with a code under this Article.”.
- (3) In paragraph (2)(b) for the words from “by” to “and” there shall be substituted the words “under this Article and”.
- (4) In paragraph (3), for the words “paragraph (2)(b)” and “the Department concerned” (“the Department” if the amendment in paragraph 27 has been made) there shall be substituted respectively the words “paragraph (1A)” and “the Food Standards Agency”.
- (5) After paragraph (3) there shall be inserted the following paragraph—

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- “(3A) The Food Standards Agency shall consult the Department before making an application under paragraph (3).”
- (6) In paragraph (4), the words after “shall” shall be renumbered as sub-paragraph (a) and at the end there shall be added the words “; and
- (b) have regard to any relevant advice given by the Food Standards Agency”.
- (7) After paragraph (4) there shall be inserted the following paragraph—
- “(4A) If it appears to the Department that the Food Standards Agency has undertaken any consultation with an organisation that the Department is required to consult under paragraph (4), the Department may treat that consultation as being as effective for the purposes of that paragraph as if undertaken by the Department.”.
- 37 In Article 40 (power to require returns), after the word “Department” in each place where it occurs there shall be inserted the words “or the Food Standards Agency”.
- 38 In Article 41 (default powers), in paragraph (1), after the word “empower” there shall be inserted the words “the Food Standards Agency or”.
- 39 In Article 44 (power to impose charges for things done by district councils or Department of Agriculture under the Order), in paragraph (1)—
- (a) after the word “done” there shall be inserted the words “or to be done”; and
- (b) after the words “those councils” there shall be inserted the words “or the Food Standards Agency”.
- 40 In Article 47 (regulations and orders), after paragraph (3) there shall be inserted the following paragraphs—
- “(3A) Before making any regulations or order under this Order, the Department shall have regard to any relevant advice given by the Food Standards Agency.
- (3B) If it appears to the Department that the Food Standards Agency has undertaken any consultation with an organisation that the Department is required to consult under paragraph (3), the Department may treat that consultation as being as effective for the purposes of that paragraph as if undertaken by the Department.”.
- 41 (1) Schedule 1 (provisions which may be included in regulations relating to food safety or consumer protection) shall be amended as follows.
- (2) In paragraph 2(2), after the words “district councils” there shall be inserted the words “or the Food Standards Agency”.
- (3) In paragraph 3(2), after the words “Department of Agriculture” and “Department” (in each place) there shall be inserted the words “or the Food Standards Agency”.
- (4) After paragraph 6 there shall be inserted the following paragraph—
- “Production of food sources*
- 6A Provision for prohibiting or regulating—
- (a) the possession, sale or offer, exposure or advertisement for sale of any specified substance, or any substance of any specified

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class, with a view to its use in connection with the production of any food source;

- (b) the use of any specified substance, or any substance of any specified class, in connection with the production of any food source;
- (c) the carrying out of any other activity in connection with, or in a manner likely to affect, the production of any food source.”.

(5) In paragraph 7(2), after the word “falls” there shall be inserted the words “(or is likely to fall)”.

- 42 (1) Paragraph 5 of Schedule 3 (saving from repeal of Article 17 of the Food (Northern Ireland) Order 1989 for certain existing byelaws) shall cease to have effect.
- (2) Accordingly any byelaws which were made (or which have effect as if made) under that Article and which have continued in force by virtue of that paragraph are revoked.

*Radioactive Substances Act 1993 (c. 12)*

- 43 (1) The Radioactive Substances Act 1993 shall be amended as follows.
- (2) In section 16 (grant of authorisations)—
- (a) in subsection (4A)(a), for the words “relevant Minister” there shall be substituted the words “Food Standards Agency”;
  - (b) in subsection (4A)(b), for the words “relevant Minister” and “that Minister” there shall be substituted respectively the words “Food Standards Agency” and “that Agency”; and
  - (c) subsection (11) shall be omitted.
- (3) In section 17 (revocation and variation of authorisations)—
- (a) in subsection (2A)(a), for the words “relevant Minister” there shall be substituted the words “Food Standards Agency”;
  - (b) in subsection (2A)(b), for the words “relevant Minister” and “that Minister” there shall be substituted respectively the words “Food Standards Agency” and “that Agency”; and
  - (c) subsection (5) shall be omitted.
- (4) Sections 23(4A) and 24(4A) (certain functions exercisable jointly with the Minister of Agriculture, Fisheries and Food) shall be omitted.
- (5) In section 25 (power of Secretary of State to restrict knowledge of applications etc)—
- (a) in subsection (3A), for the words “the relevant Minister” and “that Minister” there shall be substituted the words “the Food Standards Agency”; and
  - (b) subsection (5) shall be omitted.
- (6) Sections 26(5A) and 27(7A) (certain functions exercisable jointly with the Minister of Agriculture, Fisheries and Food) shall be omitted.

*Environment Act 1995 (c. 25)*

- 44 (1) Section 42 of the Environment Act 1995 (approval of charging schemes) shall be amended as follows.



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- (2) In subsection (3)(b)—
- (a) in sub-paragraph (i) for the words “Minister” and “his” there shall be substituted respectively the words “Food Standards Agency” and “its”; and
  - (b) sub-paragraph (ii) shall be omitted.
- (3) In subsection (4)—
- (a) for the words “Minister’s or the Secretary of State’s” there shall be substituted the words “Food Standards Agency’s”;
  - (b) in paragraph (b), for the words from “the Minister” to “be” there shall be substituted the words “or the Food Standards Agency”.
- (4) In subsection (7), the words from “and, if” to the end shall cease to have effect.
- (5) In subsection (9)—
- (a) for paragraphs (a) and (b) there shall be substituted the words “such of the costs and expenses incurred by the Food Standards Agency as fall within subsection (3) above”; and
  - (b) for the words from “to the Secretary” to the end there shall be substituted the words “to the Food Standards Agency”.
- (6) In subsection (10), for the words from “paragraph (a) or” to the end there shall be substituted the words “that subsection shall be determined by the Secretary of State.”

*Government of Wales Act 1998 (c. 38)*

- 45 In Schedule 5 to the Government of Wales Act 1998 there shall be inserted—
- “Food Standards Agency.  
Food Standards Agency advisory committee for Wales.”.

SCHEDULE 6

Section 40(4).

REPEALS

<i>Reference</i>	<i>Title</i>	<i>Extent of repeal or revocation</i>
1968 c. 29.	Trade Descriptions Act 1968.	In section 38(2), the words from “agricultural” to “stuffs” (in the second place it appears).
1990 c. 16.	Food Safety Act 1990.	Section 4.  In section 6, in subsection (4) (a), the words “the Ministers” and, in subsection (5), the words from “and, in” to the end.  Section 25.

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<i>Reference</i>	<i>Title</i>	<i>Extent of repeal or revocation</i>
S.I. 1991/762 (N.I. 7).	Food Safety (Northern Ireland) Order 1991.	<p>In section 26(3), the words “or an order under section 25 above” and the words “or order” (in both places).</p> <p>In section 40(4), the words “them or”.</p> <p>In section 53(2), the entries for “the Minister” and “the Ministers”.</p> <p>Section 57(1).</p> <p>In Schedule 4, paragraph 7.</p> <p>In Article 2(2), the definition of “the Department concerned”.</p> <p>Article 24.</p> <p>In Article 25(3), the words “or an order under Article 24” and in both places where they occur the words “or order”.</p> <p>Article 27(6)(a).</p>
1993 c. 12.	Radioactive Substances Act 1993.	<p>In Schedule 3, paragraph 5.</p> <p>Section 16(11).</p> <p>Section 17(5).</p> <p>Section 23(4A).</p> <p>Section 24(4A).</p> <p>Section 25(5).</p> <p>Section 26(5A).</p> <p>Section 27(7A).</p>
1995 c. 25.	Environment Act 1995.	<p>In section 42, subsection (3)(b)(ii) and, in subsection (7), the words from “and, if” to the end.</p> <p>In Schedule 22, paragraphs 205(10), 206(3), 211(2), 212(2) and 213(5).</p>
S.I. 1996/1633 (N.I. 12).	Food Safety (Amendment) (Northern Ireland) Order 1996.	<p>Article 3(1)(a).</p> <p>Article 7(2)(b)(i).</p> <p>Articles 8 and 9.</p>