

SCHEDULES

SCHEDULE 5

MINOR AND CONSEQUENTIAL AMENDMENTS

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”—

Status: This is the original version (as it was originally enacted).

- (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;” and
 - (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”;
 - (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
- (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.”.

Status: This is the original version (as it was originally enacted).

- (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—
 - “(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 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.