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## SCHEDULES

### SCHEDULE 5

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *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)
- 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

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- (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 <sup>F1</sup>EU provisions)—
  - (a) in subsection (1), for the word “them” there shall be substituted the word “ him ”; and
  - (b) in subsection (2), for the words “their” and “they consider” there shall be substituted respectively the words “ his ” and “ he considers ”.

#### Textual Amendments

- F1** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with [art. 3\(2\)\(3\)4\(2\)6\(4\)\(5\)](#))

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- 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.”
- 18 In section 41 (power to require returns and other information from food authorities)
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- (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 <sup>M1</sup>Food Safety Act 1990 (Consequential Modifications) (England and Wales) Order 1990 (amendments of the <sup>M2</sup>Isles of Scilly (Functions) Order 1979).

#### **Marginal Citations**

**M1** [S.I. 1990/2486.](#)

**M2** [S.I. 1979/72.](#)

- 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 <sup>M3</sup>Food Act 1984 for certain existing byelaws) shall cease to have effect.

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- (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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**Marginal Citations**

**M3** 1984 c. 30.

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