

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.

- (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.

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.

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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.

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

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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.

Status: This is the original version (as it was originally enacted).

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

Status: This is the original version (as it was originally enacted).

- 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>