

## SCHEDULES

### SCHEDULE 2

#### Application and modification of provisions of the Act

### PART 2

#### Modification of section 9

2. For section 9 of the Act (inspection and seizure of suspected food) substitute—

“(1) This section applies where it appears to any authorised officer of a food authority that Article 6(2) of Regulation (EU) 2015/2283 is being, or has been, contravened in relation to any food which has been placed on the market.

(2) The authorised officer may either—

(a) give notice to the person in charge of the food that, until the notice is withdrawn, the food—

(i) is not to be used for human consumption; and

(ii) either is not to be removed or is not to be removed except to some place specified in the notice; or

(b) seize the food and remove it in order to have it dealt with by a justice of the peace; and any person who knowingly contravenes the requirements of a notice under paragraph (a) above is guilty of an offence and liable on summary conviction to a fine.

(3) Where the authorised officer exercises the powers conferred by subsection (2)(a) above, the authorised officer must, as soon as is reasonably practicable and in any event within 21 days, determine whether or not they are satisfied that the food complies with Article 6(2) of Regulation (EU) 2015/2283, and—

(a) if so satisfied, immediately withdraw the notice;

(b) if not so satisfied, seize the food and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer exercises the powers conferred by subsection (2)(b) or (3)(b) above, the authorised officer must inform the person in charge of the food that it is to be dealt with by a justice of the peace and—

(a) any person who might be liable to a prosecution in respect of the food must, if attending before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses; and

(b) that justice of the peace may, but need not, be a member of the court before which any person is charged with an offence in relation to that food.

(5) If it appears to a justice of the peace, on the basis of such evidence as the justice of the peace considers appropriate in the circumstances, that any food falling to be dealt with under this section fails to comply with Article 6(2) of Regulation (EU) 2015/2283, the justice of the peace must condemn the food and order—

**Status:** This is the original version (as it was originally made).

- (a) the food to be destroyed or to be disposed of as to prevent it from being used for human consumption; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the food.

(6) If a notice under subsection (2)(a) above is withdrawn, or the justice of the peace by whom any food falls to be dealt with under this section refuses to condemn it, the food authority must compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right to or the amount of any compensation payable under subsection (6) above is to be determined by arbitration.

(8) For the purposes of this section, “Regulation (EU) 2015/2283” means Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and [Commission Regulation \(EC\) No 1852/2001](#).”