



# Food Standards Act 1999

## 1999 CHAPTER 28

### *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—

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*Status: This is the original version (as it was originally enacted).*

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- (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
  - (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—
- (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.