

## SCHEDULES

### 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 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.”

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*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 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.

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- (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)

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.”

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- 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
  - (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

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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

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- (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.

*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.

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- 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;”; 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”.

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- 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—



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- “(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—
- “(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

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(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;

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- (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.
- (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.

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- (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.”.