

SCHEDULES

SCHEDULE 1

Section 2(6).

CONSTITUTION ETC. OF THE AGENCY

Status

- 5 1. The Agency is a body corporate.

Tenure of office of members

2. A person shall hold and vacate office as a member of the Agency or as the chairman or deputy chairman in accordance with the terms of his appointment and, on ceasing to be a member, is eligible for re-appointment.

- 10 3.—(1) A member of the Agency may resign his office by giving notice to any of the appropriate authorities.

(2) The chairman or deputy chairman may resign office by giving notice to any of the appropriate authorities (and may do so without resigning office as a member of the Agency).

- 15 4. The appropriate authorities acting jointly may remove a member of the Agency from office if satisfied that the person concerned—

- (a) is failing to carry out the duties of a member;
 (b) has been adjudged bankrupt, has had his estate sequestrated or has made a composition or arrangement with, or granted a trust deed for, his
 20 creditors; or
 (c) is otherwise unable or unfit to carry out the duties of a member.

Remuneration, pensions, etc. of members

- 5.—(1) The Agency shall pay its members such remuneration, and such travelling and other allowances, as may be determined by the appropriate authorities
 25 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,
 30 (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 of the Agency.

- 35 6. If, when a member of the Agency ceases to hold office, the appropriate authorities acting jointly determine that there are special circumstances which make it right that that person should receive compensation, the Agency shall pay to him a sum by way of compensation of such amount as may be so determined.

Disqualification

- 40 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.” 1975 c. 24.

- (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
 45 appropriate place the words “The Food Standards Agency.” 1975 c. 25.

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Staff

8. The Agency shall appoint its own staff (subject to section 3).

Proceedings etc.

9. 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. 5

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 10

(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. 15

(2) Sub-paragraph (1) does not affect any rule of law under which functions of the Agency are exercisable by the Agency's staff. 20

Section 17.

SCHEDULE 2

THE FUNCTIONS OF THE AGENCY UNDER OTHER ACTS

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). 25

Section 6 (enforcement)

2. The Agency—

(a) may be directed to discharge duties of enforcement authorities under section 6(3); 30

(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. 35

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. The Agency may— 40

(a) give and enforce 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) undertake consultation with representative organisations regarding proposals for such codes of practice.

Section 41 (information from food authorities)

- 5 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 as to charges)

- 10 7. The Agency may undertake consultation with representative organisations required by section 48 regarding proposals for regulations or orders under the 1990 Act.

PART II

OTHER FUNCTIONS

Medicines Act 1968 (c. 67)

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- 8.—(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—

- 20 “(5A) Where a committee is established under this section for purposes including the consideration of veterinary medicinal products, 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—

- 25 “(6A) The organisations to be consulted under subsection (6) of this section include, where any provisions of the regulations or order apply to veterinary drugs or to medicated feeding stuff as defined in section 130(3B) of this Act, the Food Standards Agency.”

Food and Environment Protection Act 1985 (c. 48)

- 30 9.—(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)—

- 35 (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—

- 40 “(3A) The Ministers-
 (a) shall consult the Food Standards Agency as to any order they contemplate making under this section; and
 (b) shall from time to time consult that Agency as to the general approach to be taken by them in relation to the granting of approvals and the imposition of conditions under subsections (2)

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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— 5

“(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 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).” 15

(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 20

(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).” 25

(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.” 30

Environmental Protection Act 1990 (c. 43)

10. For section 126 of the Environmental Protection Act 1990 (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— 35

“Exercise of certain functions jointly. 126.—(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. 40

(2) The Agency shall be consulted before any regulations under this Part are made which relate to any matter connected with food safety or other interests of consumers in relation to food.

(3) 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 (4) below). 45

(4) Any function of the Secretary of State under sections 108(8), 110, 111 and 112 above (other than a power to make regulations) is exercisable, where the function is to be exercised in 50

relation to a matter connected with food safety or other interests of consumers in relation to food, by the Secretary of State and the Agency acting jointly or, in a case where subsection (3) above applies, by the Secretary of State, the Minister and the Agency acting jointly.

(5) Accordingly, references in this Part to the Secretary of State shall, where subsection (1), (3) or (4) above applies, be treated as references to the authorities in question acting jointly.

(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 or the Agency 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) or following consultation with the Agency.

(8) In this section—

“the Agency” means the Food Standards Agency; and

“the Minister” means the Minister of Agriculture, Fisheries and Food.”

Radioactive Substances Act 1993 (c. 12)

11. 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 3

Section 31(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Trade Descriptions Act 1968 (c. 29)

1.—(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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Food and Environment Protection Act 1985 (c. 48)

2.—(1) The Food and Environment Protection Act 1985 shall be amended as follows.

(2) In section 1 (power to make emergency orders)—

- (a) in subsection (1) for the words “a designating authority” and “that designating authority” there shall be substituted the words “the Secretary of State”;
- (b) in subsection (4), for the words “The Ministers may jointly” there shall be substituted the words “The Secretary of State may”;
- (c) in subsection (5), for the words “the designating authority making it” there shall be substituted the words “the Secretary of State”.

(3) In section 2 (powers of Ministers when emergency order has been made)—

- (a) in subsections (1) and (3), for the words “Either of the Ministers” 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 each place) there shall be substituted the words “the authority giving the consent”; and
- (b) in subsections (5) and (6), for the words “either of the Ministers” 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 each place) there shall be substituted the words “that authority”.

(4) In section 3 (authorisation of investigating officers and enforcement officers), for the words “Either of the Ministers” (in both places) and “the Minister’s” there shall be substituted respectively the words “The Secretary of State” and “his”.

(5) In section 24(1) (interpretation), for the words “and “designating authority” have the meanings assigned to them” there shall be substituted the words “has the meaning assigned to it”.

Food Safety Act 1990 (c. 16)

3. The Food Safety Act 1990 shall be amended as follows. 30

4. In the following provisions—

- section 1(2) and (3)
- section 2(1)
- section 5(4) and (6)
- section 6(6) 35
- section 13(1)
- section 16(1), (2) and (4)
- section 17(1) and (2)
- section 18(1)
- section 19(1) and (2) 40
- section 27(2) and (5)
- section 30(9)
- section 31(1)
- section 40(1) to (4)
- section 41 45
- 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)

5 for the words “the Minister”, “the Ministers” or “the Ministers or the Minister” there shall be substituted the words “the Secretary of State”.

5.—(1) Section 6 (enforcement) shall be amended as follows.

(2) In subsection (3)—

10 (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”.

15 (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,”.

20 (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.

25 (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.”

30 6.—(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”.

35 (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”.

40 (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”.

7. In section 17 (enforcement of Community provisions)—

45 (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”.

50 8. 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”.

9. In section 19(2) (registration and licensing of food premises), for the word “them” there shall be substituted the word “him”.

10. Section 25 (orders for facilitating the exercise of functions) shall cease to have effect. 5

11. After section 36 (offences by bodies corporate) there shall be inserted the following section—

“Offences by 36A. Where an offence under this Act which has been
Scottish committed by a Scottish partnership is proved to have been 10
partnerships. 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.”

12.—(1) Section 40 (codes of practice for food authorities) shall be amended as follows. 15

(2) After subsection (1) there shall be inserted the following subsection—

“(1A) The Food Standards Agency may give a food authority a direction requiring them to take any specified steps in order to comply with a code under this section.” 20

(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 4 has been made, the words “the Secretary of State”) there shall be substituted respectively the words “subsection 25 (1A)” and “the Food Standards Agency”.

(5) 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”. 30

(6) 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 35 undertaken by him.”

13. In section 41 (power to require returns and other information from food authorities) for the words “Minister” (or, if the amendment made in paragraph 4 has been made, the words “Secretary of State”), “him” and “he” there shall be substituted respectively the words “Food Standards Agency”, “the Agency” and 40 “it”.

14. 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”.

15. 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”. 45

16. 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. 50

(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.”

17. 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)”.

18.—(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.

Radioactive Substances Act 1993 (c. 12)

19.—(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)

20.—(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.

(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”;

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- (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)— 5
- (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”. 10
- (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.”

Section 31(2).

SCHEDULE 4

REPEALS

15

Chapter	Short title	Extent of repeal
1968 c. 29	Trade Descriptions Act 1968.	In section 38(2), the words from “agricultural” to “stuffs” (in the second place it appears). 20
1985 c. 48.	Food and Environment Protection Act 1985.	In section 1(2), the definition of “designating authority”. Section 4.
1990 c. 16.	Food Safety Act 1990.	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. In section 26(3), the words “or an order under section 25 above” and the words “or order” (in both places). In section 40(4), the words “them or”. 35
1993 c. 12.	Radioactive Substances Act 1993.	In section 53(2), the entries for “the Minister” and “the Ministers”. In Schedule 4, paragraph 7. Section 16(11). Section 17(5). Section 23(4A). Section 24(4A). Section 25(5). Section 26(5A). Section 27(7A). 40
1995 c. 25.	Environment Act 1995.	In section 42, subsection (3)(b)(ii) and, in subsection (7), the words from “and, if” to the end. 45

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Chapter	Short title	Extent of repeal
1995 c. 25.— <i>cont.</i>	Environment Act 1995.— <i>cont.</i>	In Schedule 22, paragraphs 205(10), 206(3), 211(2), 212(2) and 213(5).