

SCHEDULES

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.

Status: This is the original version (as it was originally enacted).

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.

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.

Status: This is the original version (as it was originally enacted).

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).”

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(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 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

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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—
- (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

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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)).

- (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.