

Sale of Food (Amendment) Bill

Bill No. 42/2017.

Read the first time on 2 October 2017.

A BILL

intituled

An Act to amend the Sale of Food Act (Chapter 283 of the 2002 Revised Edition) and to make consequential and related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Sale of Food (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of long title

2. The long title to the Sale of Food Act (called in this Act the principal Act) is amended by deleting the words “for securing wholesomeness and purity of food and fixing standards for the same; for preventing the sale or other disposition, or the use of articles dangerous or injurious to health; to provide for the regulation of food establishments” and substituting the words “for regulating food to ensure that food for sale is safe and suitable for human consumption and to promote public health, for ensuring the provision of information relating to food to enable consumers to make informed choices and for preventing misleading conduct in connection with the sale of food”.

Amendment of section 2

3. Section 2 of the principal Act is amended —

(a) by deleting the definition of “advertisement” and substituting the following definition:

““advertisement” means any of the following where used or apparently used to promote, directly or indirectly, the sale of food:

(a) any words, whether written or in an audible message;

(b) any still or moving picture, sign, symbol or other visual image or representation;

(c) any combination of 2 or more of those things in paragraph (a) or (b),

but does not include communications of personal opinion made by an individual (for no commercial gain) to the public or a section

of the public in relation to any goods or services, brand of goods or services, or person who provides goods or services;”;

(b) by deleting the definition of “appliance”;

(c) by deleting the definitions of “food” and “food establishment” and substituting the following definitions: 5

“fish” means any species of fish (whether marine or freshwater), and includes —

(a) crustacea, shellfish, echinoderm and molluscs; and 10

(b) the eggs and young of any fish;

“fish product” means any of the following intended for human consumption:

(a) part of any fish;

(b) any product derived from processing or preserving fish; 15

(c) any product containing fish;

“food” has the meaning given by section 2A;

“food business” has the meaning given by section 2B; 20

“food contact article” means the whole or any part of any utensil, machinery, instrument, device, apparatus, container, appliance or article that is used, or that is designed or intended for use, in or in connection with the handling of food, but does not include any pipe, water fitting, apparatus or appliance used for the supply of water by the Public Utilities Board; 25

“food premises” means any premises at, on or from which food is sold, or handled with the intention that it be sold, and includes — 30

(a) a food vending machine; or

(b) any premises used for a primary food production business,

but does not include any description of premises declared by the Minister by order in the *Gazette* not to be a food premises;

“food regulation” means any regulation made under section 56;

“handling”, in relation to food for sale, includes any one or more of the following:

(a) making or manufacturing the food;

(b) processing or preserving the food;

(c) cooking, defrosting, heating or preparing the food;

(d) storing, packing or labelling the food;

(e) transporting or delivering the food;

(f) displaying the food;

(g) serving the food,

but does not include primary food production;”;

(d) by deleting the definition of “label” and substituting the following definitions:

“ “intended use”, in relation to food, means the use of the food that is specifically stated, or could reasonably be presumed to be intended, taking into account the food’s nature, labelling, packaging and identification;

“label” includes any tag, brand, mark or statement in writing or any representation or design or other descriptive matter on or attached to or used or displayed in connection with or accompanying any food or package containing food;

“licence” means a licence issued under Part IV;

“licensee” means a person who is the holder of a licence;

“manufacturing”, in relation to food for sale, includes any one or more of the following: 5

(a) making food by combining ingredients;

(b) significantly changing the condition or nature of food by any process, such as milling flour or peeling, cutting and freezing fruits; 10

(c) bottling or canning food, including bottling water;

(d) making ice,

but does not include — 15

(i) cooking or otherwise preparing food at a particular place for retail sale at the place, including sale for immediate consumption; or

(ii) making ice at a particular place for use at the place; 20

“meat” includes any part of slaughtered poultry, bovine animal, ovine animal, caprine animal, porcine animal, game or other animal, that is intended for human consumption; 25

“meat product” means any of the following intended for human consumption:

(a) offal or other part of a carcass;

(b) any product derived from processing or preserving meat; 30

(c) any product containing meat;

“non-retail food business” has the meaning given by section 2F;”;

(e) by deleting the definitions of “premises”, “sale” or “sell” and “substance” and substituting the following definitions:

5 “ “premises” includes —

(a) land (whether or not vacant);

(b) the whole or any part of a building, tent, stall or other structure (whether of a permanent or temporary nature);

10 (c) a vehicle; and

(d) a pontoon;

“prepare” includes manufacture, process and treat;

15 “primary food production” means the growing, raising, cultivation, picking, harvesting, collection or catching of food, and includes the following:

20 (a) the transport or delivery of food on, from or between premises on which it was grown, raised, cultivated, picked, harvested, collected or caught;

25 (b) the packing, treating (for example, washing) or storing of food on the premises on which it was grown, raised, cultivated, picked, harvested, collected or caught;

30 (c) the storage of food in a silo that is not connected with a food processing operation and the transport or delivery of food from, between or to such silos;

(d) the sale of livestock at sale yards and the transport of livestock to and from sale yards;

(e) any other food production activity that is prescribed as primary food production for the purposes of this Act, 5

but does not include —

(i) any process involving the substantial transformation of food (for example, manufacturing or canning), regardless of whether the process is carried out on the premises on which the food was grown, raised, cultivated, picked, harvested, collected or caught; 10 15

(ii) the sale or service of food directly to the public; or

(iii) any other food production activity that is declared by the Minister by order in the *Gazette* not to be primary food production for the purposes of this Act; 20

“primary food production business” means a business or an undertaking or activity that involves, in whole or part, primary food production; 25

“proprietor” means —

(a) for a food business —

(i) the person carrying on the food business; or 30

(ii) if the person in sub-paragraph (i) cannot be identified, the person in charge of the food business; and

(b) for any food premises — the proprietor of the food business that operates at, on or from the premises;

“public health” means the health of —

5

(a) the people in Singapore; or

(b) a community or section of those people;

“requirement of this Act” means —

10

(a) a requirement of or under a provision of this Act;

(b) a requirement of or under any food regulation;

15

(c) a requirement of a notice or order given by the Director-General under this Act;

(d) a requirement of a direction given by the Authority under Part IIA; or

(e) a condition imposed by or under this Act or any food regulation;

20

“retail food business” means a business or an undertaking or activity at a food establishment within the meaning of the Environmental Public Health Act (Cap. 95) which is used for a purpose specified in the First Schedule to that Act;

25

“sell” has the meaning given by section 2E;

“statutory authority” means a body corporate established or constituted by or under a public Act to perform or discharge a public function, and includes a Town Council;

30

“substance” includes any liquid, mixture or compound;

“unsafe”, in relation to food, has the meaning given by section 2C;

“unsuitable”, in relation to food, has the meaning given by section 2D;

“vehicle” means any means of transport, whether self-propelled or not, and whether used on land or sea or in the air, such as an aircraft, a vessel, train, motor vehicle or personal mobility device.”; and 5

(f) by deleting the section heading and substituting the following section heading: 10

“General interpretation”.

New sections 2A to 2F

4. The principal Act is amended by inserting, immediately after section 2, the following sections: 15

“Meaning of “food”

2A.—(1) In this Act, “food” includes the following:

- (a) any substance or thing of a kind used, capable of being used, or represented as being for use, for human consumption (whether it is live, raw, prepared or partly prepared); 20
- (b) any substance or thing of a kind used, capable of being used, or represented as being for use, as an ingredient or additive in a substance or thing mentioned in paragraph (a); 25
- (c) any substance used in preparing a substance or thing mentioned in paragraph (a) (other than a substance used in preparing a living thing);
- (d) chewing gum or an ingredient or additive in chewing gum, or any substance used in preparing chewing gum; 30

(e) any substance or thing declared by the Minister by order in the *Gazette* to be food.

(2) Without limiting subsection (1), “food” includes —

5 (a) unprocessed and raw fruits and vegetables that are intended for human consumption;

(b) seeds, plants, or plant material intended for human consumption, including seeds that are intended to be sprouted and consumed as sprouts, but not other seeds, plants, or plant material intended for planting;

10 (c) drinking water;

(d) any thing that is or is intended to be mixed with or added to any food or drink;

(e) milk and dairy products;

(f) meat and meat products;

15 (g) fish and fish products; and

(h) eggs.

(3) However, food does not include —

(a) any health product within the meaning of the Health Products Act (Cap. 122D);

20 (b) any substance that is a medicinal product within the meaning of the Medicines Act (Cap. 176);

(c) any controlled drug, controlled material or controlled substance within the meaning of the Misuse of Drugs Act (Cap. 185);

25 (d) any poison within the meaning of the Poisons Act (Cap. 234);

(e) any cosmetics;

30 (f) any tobacco product or tobacco substitute within the meaning of the Tobacco (Control of Advertisements and Sale) Act (Cap. 309);

(g) any package (except edible packaging);

- (h) any fodder or feeding stuffs for animals; or
- (i) any substance or thing declared by the Minister by order in the *Gazette* not to be food for the purposes of this Act.

(4) A substance, thing or chewing gum described in subsection (1) is food regardless of whether or not it is in a condition fit for human consumption. 5

(5) To avoid doubt, “food” may include live animals and plants.

Meaning of “food business” 10

2B.—(1) In this Act, “food business” means a business or an undertaking or activity that involves, in whole or part —

- (a) the handling of food intended for sale;
- (b) the sale of food (on the Internet or otherwise); or
- (c) primary food production, 15

regardless of whether the business, undertaking or activity concerned is of a commercial, charitable or community nature, or whether it involves the handling or sale of food on one occasion only, and whether part of a non-retail food business or a retail food business. 20

(2) However, a food business does not include a business or an undertaking or activity —

- (a) that is part of a business other than trading in food and, in the course of which doing so, acts as an intermediary between persons who trade in food by providing, for reward, a place (including mobile premises) or services (such as an Internet service provider or an auction site on the Internet); 25
- (b) that consists exclusively of letting for hire marquees, tables, chairs and other similar furniture; or 30
- (c) that is declared by the Minister by order in the *Gazette* not to be a food business for the purposes of this Act.

Meaning of unsafe food

5 **2C.**—(1) For the purposes of this Act, food is unsafe at a particular time if it would be likely to cause illness or injury or other physical harm to a person who might later consume it, assuming —

(a) it was, after that particular time and before being consumed by the person, properly subjected to all processes (if any) that are relevant to its reasonable intended use;

10 (b) nothing happened to it after that particular time and before being consumed by the person that would prevent it being used for its reasonable intended use; and

15 (c) it was consumed by the person according to its reasonable intended use.

(2) However, food is not unsafe for the purposes of this Act merely because —

(a) any individual objects to it because of personal preference;

20 (b) any part of the community objects to it on moral, ethical, cultural, spiritual, or religious grounds;

(c) its consumption in inappropriate quantities may damage an individual's health; or

25 (d) its presence or consumption is unhealthy for any individual who has an allergy or other personal health condition.

(3) In subsection (1)(a), a reference to processes includes a reference to processes involving storage and preparation.

Meaning of unsuitable food

30 **2D.**—(1) For the purposes of this Act, food is unsuitable if it is food that —

- (a) is damaged, deteriorated or perished to an extent that affects its reasonable intended use;
- (b) contains, or has attached to it or enclosed with it, any damaged, deteriorated, perished or contaminated substance or thing to an extent that affects its reasonable intended use; 5
- (c) is the product of a diseased animal, or an animal that has died otherwise than by slaughter, and has not been declared by or under another Act to be safe for human consumption; 10
- (d) contains a biological or chemical agent, or other matter or substance, that is foreign to the nature of the food and the presence of which would be unexpected and unreasonable in food prepared or packed for sale in accordance with good trade practice; or 15
- (e) has packaging that is damaged, deteriorated, perished or contaminated to the extent of affecting the food's reasonable intended use.

(2) However, food is not unsuitable for the purposes of this Act merely because — 20

- (a) at any particular time before it is sold for human consumption it contains an agricultural or veterinary chemical;
- (b) when it is sold for human consumption it contains an agricultural or veterinary chemical or other contaminant, so long as it does not contain the chemical or contaminant in an amount that contravenes any food regulations; 25
- (c) any individual objects to it because of personal preference; 30
- (d) any part of the community objects to it on moral, ethical, cultural, spiritual, or religious grounds;
- (e) its consumption in inappropriate quantities may damage an individual's health; or

(f) its presence or consumption is unhealthy for any individual who has an allergy or other personal health condition.

5 (3) In this section, a reference to slaughter of an animal includes a reference to the killing of an animal in the process of capturing, taking or harvesting it for the purposes of preparing it for use as food.

Meaning of “sell”

10 **2E.**—(1) In this Act, “sell” includes carrying on any of the following activities, or a combination of those activities, in relation to food for human consumption or to a food contact article:

- (a) bartering;
- (b) offering for sale or attempting to sell;
- 15 (c) receiving, or having in possession, for sale;
- (d) displaying for sale;
- (e) causing or permitting to be sold or offered or displayed for sale;
- (f) sending, forwarding or delivering for sale;
- 20 (g) disposing of by any method for valuable consideration;
- (h) disposing of to an agent for sale on consignment;
- (i) supplying as a meal or part of a meal to an employee or other individual in accordance with an employment agreement or an agreement for services under a contract of service for consumption by the employee or individual at the employee’s or individual’s place of work;
- 25 (j) disposing of by way of raffle, lottery or other game of chance;
- 30 (k) offering as a prize or reward;

- (*l*) offering or giving away for the purpose of advertisement or in furtherance of any trade or business;
 - (*m*) supplying under a contract (whether or not the contract is made with the consumer of the food), together with any accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment; 5
 - (*n*) supplying food (whether or not for consideration) in the course of providing services — 10
 - (i) to patients in hospitals, hospices and other residential care facilities like nursing homes;
 - (ii) to children or other individuals in the care or custody of the supplier by virtue of any Act; or 15
 - (iii) to prisoners or inmates in prisons or other places for the detention of individuals under any Act;
 - (*o*) supplying anything of which any food forms a part;
 - (*p*) selling for the purpose of resale for handling or human consumption. 20
- (2) Despite subsection (1), in this Act, “sell”, in relation to food, does not include —
- (*a*) exchanging food for food or other goods or services as part of a personal relationship between individuals that is not commercial in nature; or 25
 - (*b*) supplying food together with accommodation to a person residing at a private residence in exchange for services or labour by the person.
- (3) For the purposes of this Act —
- (*a*) food that is displayed for the purpose of being offered as a prize or reward or given away for the purpose of advertisement or in furtherance of trade or business is 30

taken to have been displayed for sale by the owner of the food;

- (b) food that is donated for a charitable or benevolent purpose is not to be taken to be food that was given away for the purpose of advertisement or in furtherance of trade or business;
- (c) food which is exposed or deposited in any premises for the purpose of being so offered as a prize or reward or given away is taken to have been exposed for sale by the occupier of the premises;
- (d) food that is sold for the purpose of being mixed with any other food is to be treated, unless the contrary is proved, as sale if the bulk or product produced by the mixing, or any part of the bulk or product, is intended to be sold; and
- (e) food that is sold, offered for sale, or displayed for sale is to be treated, unless the contrary is proved, as a sale, offer for sale or display for sale of the food for human consumption.

Meaning of “non-retail food business”

2F.—(1) In this Act, “non-retail food business” means a food business that is —

- (a) not carried out for a purpose specified in the First Schedule to the Environmental Public Health Act (Cap. 95); and
- (b) not a primary food production business,

but includes a food business a component of which is a business, an undertaking or activity carried out for a purpose specified in the First Schedule to the Environmental Public Health Act.

(2) Without limiting subsection (1), a non-retail food business includes (but is not limited to) any of the following food businesses:

- (a) a factory, plant or other premises where meat products or fish products are processed for sale to wholesalers or retail food businesses, or for export;
- (b) the preparing or packing of ready-to-eat salads for the purpose of sale to wholesalers or retail food businesses, or for export; 5
- (c) the manufacturing, preparing or packing of chilled, frozen and shelf-stable meals, condiments or prepared foods for sale to wholesalers or retail food businesses, or for export; 10
- (d) the manufacturing, preparing (including by cutting, mincing, boning, drying, smoking or fermentation after slaughter or harvesting) or packing of meat, poultry or fish products for the purpose of sale to wholesalers or retail food businesses, or for export; 15
- (e) the manufacturing of bottled drinking water or non-alcoholic beverages, for the purpose of sale to wholesalers or retail food businesses, or for export;
- (f) brewers and distillers of vinegar, soya sauce or fish sauce for the purpose of sale to wholesalers or retail food businesses, or for export; 20
- (g) wholesale bakeries supplying food prepared to wholesalers or retail food businesses;
- (h) the processing or packing of herbs or spices for the purpose of sale to wholesalers or retail food businesses, or for export; 25
- (i) manufacturing or preparing (including by blending and packing) dry mix products such as cake mix, drinking chocolate, tea bags and powdered soup for sale to wholesalers or retail food businesses, or for export; 30
- (j) a wholesale market where any animal, meat product, fish or fish product is sold wholesale or through auction;

(*k*) central kitchens supplying food prepared, cooked and packed for the purpose of distribution to retail food businesses;

5 (*l*) an operator of a warehouse or cold storage facility for the storage of food intended for sale, whether by wholesalers or retail food businesses.

(3) In subsection (2)(*c*), “shelf-stable”, in relation to food, means that —

10 (*a*) the food can be stored at room or ambient temperature before its packaging is opened; and

(*b*) the food may or may not require refrigeration after its packaging is opened.”.

Amendment of section 4

5. Section 4 of the principal Act is amended —

15 (*a*) by deleting the word “appliance” in subsections (1)(*a*), (*b*), (*d*), (*e*) and (*f*) and (4) and substituting in each case the words “food contact article”;

20 (*b*) by deleting the words “contrary to this Act” in subsection (1)(*d*) and (*e*) and substituting in each case the words “contrary or not in compliance with an applicable requirement of this Act with respect to food or food contact articles”;

(*c*) by deleting the word “making” in subsection (1)(*f*) and substituting the word “manufacturing”; and

25 (*d*) by deleting the words “in Form 1 in the First Schedule” in subsection (4) and substituting the words “in the form prescribed or designed under section 53”.

Amendment of section 5

6. Section 5 of the principal Act is amended —

30 (*a*) by deleting the words “For the purpose of discharging his functions and duties under this Act, an” in subsection (1)

and substituting the words “Subject to subsection (6), an”;
and

(b) by inserting, immediately after subsection (5), the following subsection:

“(6) The powers conferred under subsection (1) may only be exercised by an authorised officer — 5

(a) to determine whether an applicable requirement of this Act with respect to food, food contact articles or food businesses has been, or is being, complied with; 10

(b) to ensure that an applicable requirement of this Act with respect to food, food contact articles and food businesses has been, or is being, or will be, complied with; 15

(c) to investigate anything that may have, or might potentially have, contaminated food or a food contact article;

(d) to determine whether food or a food contact article is safe or suitable; 20

(e) to determine whether food or a food contact article poses a risk to human life or public health; or

(f) to investigate any offence under this Act or any contravention of or non-compliance with an applicable requirement of this Act.”. 25

Amendment of section 10

7. Section 10(1) of the principal Act is amended by deleting the words “in Form 2 in the First Schedule” and substituting the words “in the form prescribed or designed under section 53”. 30

New Part IIA

8. The principal Act is amended by inserting, immediately after section 10, the following Part:

“PART IIA

FOOD SAFETY MEASURES

Division 1 — General provisions

Persons to whom directions may be given

10A. The Authority may give a direction under this Part to all or any of the following, individually or as a class:

- (a) a licensee;
- (b) a proprietor of a food business or food premises, if not a licensee;
- (c) an importer of any food or food contact article;
- (d) an exporter of any food or food contact article;
- (e) a manufacturer of any food contact article;
- (f) a person carrying on a business of selling or supplying (by wholesale or retail) any food contact article;
- (g) a person in control of, or reasonably appearing to be in control of, food or any thing that may become food.

Content and effect of directions

10B.—(1) A direction under this Part is binding on —

- (a) the person to whom it is addressed; and
- (b) if applicable, the personal representatives, successors and assignees of the person to whom it is addressed to the same extent as it applies to that person.

(2) A direction under this Part must be in writing, or be confirmed in writing as soon as practicable after being given orally.

(3) In making a direction under this Part, it is not necessary for the Authority to give any person who may be affected by the direction a chance to be heard before the direction is given.

(4) A direction under this Part must state —

(a) whether the person to whom it is given must — 5

(i) advise the Authority of the details of the manner in which the person proposes to comply with the direction;

(ii) keep information about the matters that are the subject of the direction; 10

(iii) regularly notify the Authority about the steps being taken towards compliance with the direction; or

(iv) give written notice to the Authority when the person has complied with the direction; 15

(b) that it is an offence under this Act to fail to comply with the direction;

(c) that if the person to whom the direction is given fails to comply with it, the Authority may carry out the direction; and 20

(d) that if the Authority carries out the direction, the Authority may recover the costs reasonably incurred in carrying out the direction from the person to whom the direction was given.

(5) A direction under this Part continues in force until the earlier of the following occurs: 25

(a) the expiry date (if any) stated in the direction is reached;

(b) the Authority revokes the direction.

(6) A direction under this Part may — 30

(a) be amended or revoked at any time; and

(b) be extended or renewed, if the Authority is satisfied that the circumstances warrant it.

(7) If a person to whom the direction is given fails or refuses to comply with it, the Authority may carry out the direction, and recover the costs and expenses reasonably incurred in carrying out the direction as a debt due from the person to whom the direction was given.

(8) If satisfied that a direction under this Part has been complied with, the Authority must —

(a) revoke the direction; and

(b) give written notice of the revocation in the same manner in which the direction was given or served.

(9) Subsection (5) does not prevent a further direction being made in the same terms as a direction that has expired.

Service of directions under this Part

10C.—(1) A direction under this Part that is addressed to a person is sufficiently served if it is —

(a) delivered personally to the person by an authorised officer;

(b) served in the manner prescribed in section 44; or

(c) if the name and address of the proprietor of any food premises is unknown, affixed to the food premises.

(2) A direction under this Part that is addressed to a class of persons is sufficiently served if it is —

(a) served on each of the persons in the class in accordance with subsection (1); or

(b) published both —

(i) in a daily newspaper circulating in Singapore or in any other news media that, in the opinion of the Authority, will be most likely to bring the direction to the attention of the persons who belong to the class; and

(ii) on the Authority’s official website.

(3) A direction under this Part that is addressed to a statutory authority is sufficiently served if it is served on the chief executive (however described) of the statutory authority in accordance with subsection (1).

5

(4) A direction under this Part that is served —

(a) in accordance with subsection (1) takes effect when it is served;

(b) in accordance with subsection (2)(a) takes effect when it is served on all the persons in the class in question; and

10

(c) in accordance with subsection (2)(b) takes effect at the beginning of the day after the date on which subsection (2)(b) has been complied with.

Division 2 — Directions

15

General corrective action direction

10D.—(1) The Authority may give a direction to any of the persons described in section 10A about the taking of preventative or corrective action in respect of food or a food contact article that the Authority reasonably believes is necessary (whether or not from the report of an authorised analyst or authorised officer) to ensure compliance with an applicable requirement of this Act with respect to food or food contact articles.

20

(2) Without limiting subsection (1), “corrective action”, in the case of a direction given to a food business, includes requiring the proprietor of the food business to do any one or more of the following:

25

(a) take specified steps to ensure that food raised, cultivated, harvested, caught, prepared, sold or otherwise handled at the premises at which the food business is carried out is safe and suitable;

30

(b) take specified steps to ensure that those premises, or any vehicle, plant, food contact article, machinery or

equipment used on those premises in connection with any food raised, cultivated, harvested, caught, prepared, sold or otherwise handled at those premises is cleaned and disinfected or put into an altered condition to the satisfaction of an authorised officer;

(c) ensure that any applicable requirement of this Act with respect to food or food contact articles is complied with;

(d) until the corrective action in paragraph (a), (b) or (c) is complied with, ensure that —

(i) the premises at which the food business is carried out, or a specified area of the premises, is not used for the raising, cultivation, harvesting, catching, preparation, sale or other handling of food or an activity connected with food specified in the direction;

(ii) any vehicle, plant, food contact article, machinery or equipment on those premises is not used in connection with the raising, cultivation, harvesting, catching, preparation, sale or other handling of food or an activity connected with food specified in the direction; or

(iii) any food or class of food specified in the direction is not removed from those premises, for any purpose (including any purpose specified in the direction) or in any circumstances specified in the direction, for the period of time that is specified in the direction.

Direction to impose movement controls

10E.—(1) The Authority may give a direction in subsection (2) if it reasonably suspects (whether or not from the report of an authorised analyst or authorised officer) —

(a) that food or any thing that may become food, or a food contact article, does not comply with an applicable requirement of this Act; or

(b) the existence of a hazard or a source of contamination that may affect food or any thing that may become food. 5

(2) The direction may impose movement or related controls to determine, minimise, manage, or control the risk to human life or public health created by the suspected non-compliance or suspected existence of the hazard or the source of contamination. 10

(3) A direction under this section must specify the suspected non-compliance, hazard or source of contamination, including by reference to —

(a) a thing described in subsection (4);

(b) a place (where, for example, there may be contamination from the land or the environment); or 15

(c) a particular person or food business or a specified class of food business (where, for example, the contamination may have been caused by a human act or omission). 20

(4) The controls may be imposed on all or any of the following:

(a) activities;

(b) areas or premises;

(c) food contact articles;

(d) vehicles; 25

(e) food;

(f) any thing that may become food;

(g) food businesses;

(h) anything else that the Authority suspects relates to the suspected non-compliance or the suspected hazard or the source of suspected contamination. 30

(5) The controls on those things described in subsection (4) may do all or any of the following in relation to a food contact article, or food or any thing that may become food:

5 (a) restrict its movement, sale, production, manufacturing or handling;

(b) apply conditions to its movement, sale, production, manufacturing or handling;

(c) prohibit its movement, sale, production, manufacturing or handling;

10 (d) require the taking of specific actions such as sampling and testing to determine the risk (if any) to human life or public health;

(e) require the taking of specific actions to minimise, manage, or control the risk to human life or public health;

15 (f) do anything else that is necessary to achieve the purpose described in subsection (2).

(6) A direction under this section may —

20 (a) direct the keeping of information about the matters that are the subject of the direction;

(b) direct the provision of reports about matters that are the subject of the direction; or

(c) direct the person to whom the direction is given to notify the Authority when —

25 (i) the non-compliance, hazard, or source of contamination has been identified;

(ii) the non-compliance, hazard, or source of contamination has been minimised or removed; or

30 (iii) no non-compliance, hazard, or source of contamination has been identified.

(7) In this section, “hazard” means a biological, chemical or physical agent that —

- (a) is in food or has the potential to be in food, or is a condition of food, or has the potential to affect the condition of food; and 5
- (b) causes or could cause an adverse or injurious effect on human life or public health.

Direction to recall food or food contact article

10F.—(1) The Authority may give any direction in subsection (2) to persons described in section 10A — 10

- (a) for the purpose of examining, rectifying, controlling, or disposing of food or a food contact article, after taking into account any relevant information or warnings about food or a food contact article that the Authority has received from authorised officers, or an international organisation or authority; or 15
- (b) if the Authority has reasonable grounds to believe that the direction is necessary —
 - (i) to prevent or reduce the possibility of a serious danger to public health; or 20
 - (ii) to mitigate the adverse consequences of a serious danger to public health.

(2) The directions are —

- (a) to recall food or a food contact article that is not safe or suitable or the safety or suitability of which is in doubt; 25
- (b) to recall a food contact article that has, or for which there is doubt about whether it has, contaminated food or caused food to be no longer safe or suitable;
- (c) to recall a food contact article if there is doubt about whether it may contaminate food; 30

(*d*) to recall food or a food contact article that is mislabelled or incorrectly identified;

(*e*) to take food or a food contact article recalled under any of paragraphs (*a*) to (*d*) to —

5 (i) a place specified in the directions; or

(ii) a place agreed to between the Authority and the person to whom the directions are given; or

(*f*) any directions that may be given under section 10G, as appropriate.

10 (3) A direction to recall food or a food contact article may specify the manner in which, and must specify the period within which, the recall is to be conducted and completed.

(4) A person who is required by a direction to recall food or a food contact article must give written notice to the Authority of the completion of the recall as soon as practicable after that completion.

(5) If a person to whom the direction is given under this section fails or refuses to comply with it, the Authority may —

20 (*a*) take any reasonable steps necessary to ensure control of the food or food contact article (including entry by authorised officers to a place under a warrant); and

(*b*) recover the costs and expenses reasonably incurred in assuming control of the food or food contact article as a debt due from the person to whom the direction was given.

(6) This section does not prevent the Authority exercising its power under section 10I.

Direction to manage food or food contact article

30 **10G.**—(1) The Authority may give any direction in subsection (2) to persons described in section 10A if the Authority —

- (a) reasonably believes that food or a food contact article that is already the subject of a direction under section 10E is not safe or suitable and further controls are required; or
 - (b) recalls food or a food contact article under section 10F. 5
- (2) The direction may be about doing or not doing any of the following to the food or food contact article:
- (a) condemning or destroying it;
 - (b) disposing of or re-exporting it;
 - (c) identifying it; 10
 - (d) handling, or re-processing it;
 - (e) labelling or relabelling it;
 - (f) storing it;
 - (g) transporting it;
 - (h) sampling or testing it; 15
 - (i) advertising or selling it.

Direction to publish statement

10H.—(1) The Authority may give to persons described in section 10A a direction about publishing a statement to the public, or to a class of persons specified in the direction, for the purpose of protecting the public or class of persons, as the case may be. 20

(2) The Authority may specify that the statement must include all or any of the following:

- (a) the nature of the problem, including (where applicable) — 25
 - (i) the particular food or type of food or food contact article to be recalled or disposed of;
 - (ii) the reasons why the food or food contact article is considered to be unsafe or unsuitable; and 30

(iii) the circumstances in which the consumption of the food is unsafe;

(b) the remedy that the person will provide;

(c) the way in which the person will prevent the problem arising in future.

(3) The Authority may specify the actual words to be used in the statement or any part of it.

(4) The Authority may specify all or any of the following:

(a) who must publish the statement;

(b) where the statement must be published;

(c) the date on which the statement must be published.

(5) Statements published under this section are protected by absolute privilege.

Division 3 — Supplementary provisions

Compensation

10I.—(1) A person bound by a direction under this Part who suffers loss as a result of the making of the direction may apply to the Authority for compensation if the person considers that there were insufficient grounds for the making of the direction.

(2) If there were insufficient grounds for the making of the direction, the Authority is to pay just and reasonable compensation to the applicant.

(3) The Authority must send written notification of the Authority's determination as to the payment of compensation under this section to each applicant for the payment of compensation.

(4) If the Authority has not determined an application for compensation under this section within 28 days after receiving the application, the Authority is taken to have refused to pay any compensation.

(5) An applicant for the payment of compensation under this section who is dissatisfied with a determination by the Authority as to the refusal to pay compensation or as to the amount of compensation may apply to the District Court for a review of the determination —

5

(a) within 14 days after the day on which notification of the determination was received; or

(b) in a case to which subsection (4) applies, within 14 days after the 28-day period mentioned in that subsection ends.

10

(6) If the amount of compensation sought exceeds the jurisdictional limit of the District Court, the application under subsection (5) is to be made to the High Court.

(7) No application for the payment of compensation may be made under this section after the 14-day period mentioned in subsection (5)(a) or (b) ends.

15

Appeal to Minister

10J.—(1) A person mentioned in section 10A to whom a direction under this Part is given and who is aggrieved by the direction may appeal to the Minister.

20

(2) An appeal under this section must be in writing and specify the grounds on which it is made, and be made within a prescribed period after the date of receipt of the decision that is appealed against.

(3) The Minister's decision on appeal is final.

25

(4) The Minister may designate to hear and determine, in his place, any appeals or a specific appeal under this section —

(a) any Senior Minister of State or Minister of State, for his Ministry; or

(b) any Senior Parliamentary Secretary or Parliamentary Secretary, for his Ministry,

30

and any reference in this section to the Minister includes a reference to the Senior Minister of State or Minister of State, or

Senior Parliamentary Secretary or Parliamentary Secretary so designated for that appeal.

Non-compliance with food safety measures

10K.—(1) A person to whom a direction under this Part is addressed must not, without reasonable excuse —

- (a) carry on an activity in contravention of the direction;
- (b) neglect or refuse to comply with any such direction; or
- (c) fail to comply with a condition specified in such a direction.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) A person must not remove the copy of any direction affixed to any food premises under section 10C(1)(c) while that direction remains in force.

(4) A person who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Interface with other written laws

10L. To avoid doubt, nothing in this Part derogates from any requirement imposed by or under —

- (a) the Animals and Birds Act (Cap. 7);
- (b) the Cattle Act (Cap. 34);
- (c) the Control of Plants Act (Cap. 57A);
- (d) the Control of Vectors and Pesticides Act (Cap. 59);
- (e) the Environmental Public Health Act (Cap. 95);
- (f) the Feeding Stuffs Act (Cap. 105);
- (g) the Fisheries Act (Cap. 111);

- (h) the Health Products Act (Cap. 122D);
- (i) the Medicines Act (Cap. 176);
- (j) the Misuse of Drugs Act (Cap. 185);
- (k) the Poisons Act (Cap. 234); or
- (l) the Wholesome Meat and Fish Act (Cap. 349A).” 5

Repeal and re-enactment of sections 15 and 16 and new section 16A

9. Sections 15 and 16 of the principal Act are repealed and the following sections substituted therefor:

“Selling unsafe or unsuitable food 10

15.—(1) A person must not sell food that the person knows or ought reasonably to know is unsafe.

(2) A person must not sell food that the person knows or ought reasonably to know is unsuitable.

(3) For the purposes of subsection (2), it is immaterial whether the food concerned is safe. 15

Offences concerning labelling

16.—(1) A person must not sell any food that is packaged or labelled in a manner that does not comply with all applicable requirements of this Act relating to identification and labelling of that food. 20

(2) In a prosecution for an offence under section 20 for contravening subsection (1), it is not necessary for the prosecution to prove that the defendant intended to commit the offence. 25

Offences involving non-compliant advertising

16A.—(1) This section applies to an advertisement relating to any food or prescribed food contact article that —

- (a) does not comply with all applicable requirements of this Act relating to advertisements promoting the food or that prescribed food contact article;
- 5 (b) is false as to the age, composition, effects, nature, origin, purity, quality or strength of the food or the safety or suitability of the food or that prescribed food contact article;
- 10 (c) is likely to deceive a buyer as to the age, composition, effects, nature, origin, purity, quality or strength of the food or the safety or suitability of the food or that prescribed food contact article;
- 15 (d) is prohibited by an applicable requirement of this Act from being marked or attached to the kind of food or that prescribed food contact article, or packages containing that kind of food;
- (e) makes a statement prohibited by an applicable requirement of this Act to be made in an advertisement relating to the kind of food or that prescribed food contact article;
- 20 (f) expressly or impliedly qualifies, or is contrary to, details required by an applicable requirement of this Act to be marked or attached to the kind of food, or packages containing that kind of food or that prescribed food contact article;
- 25 (g) omits from the name or description of the food or the prescribed food contact article any word or words required by an applicable requirement of this Act to be included in the name or description marked on or attached to the kind of food or that prescribed food contact article, or packages containing that kind of food;
- 30 (h) fails to make a statement required by an applicable requirement of this Act to be made in an advertisement relating to the kind of food or that prescribed food contact article; or
- 35

(i) fails to show, in an advertisement shown on a screen, a word or words required by paragraph (g) or (h) in clearly legible lettering for a sufficient length of time for an ordinary viewer to read them.

(2) A person who is —

5

(a) the person selling, promoting the sale, or appearing to promote the sale of any food or prescribed food contact article; or

(b) the agent or employee of the person selling, promoting the sale, or appearing to promote the sale of any food or prescribed food contact article,

10

must not publish an advertisement described in subsection (1) relating to the food or that prescribed food contact article.

(3) In a prosecution for an offence under section 20 for contravening subsection (2), it is not necessary for the prosecution to prove that the defendant intended to commit the offence.

15

(4) In a prosecution for an offence under section 20 for contravening subsection (2) concerning an advertisement of a kind mentioned in subsection (1)(b), the advertisement is taken to be false as to the relevant matter in that subsection unless evidence is adduced by the defendant to the contrary.

20

(5) To avoid doubt, subsection (4) does not —

(a) have the effect that, merely because such evidence to the contrary is adduced, the advertisement is not false as to the relevant matter in subsection (1)(b); or

25

(b) have the effect of placing on any person the onus of proving that the advertisement is not false as to the relevant matter in subsection (1)(b).

(6) Without affecting section 32, in any proceedings for an offence under section 20 in relation to the publication of an advertisement in contravention of subsection (2), it is a defence to the charge for the defendant to prove, on a balance of probabilities —

30

(a) that —

- (i) the defendant was acting in the course of a business of delivering, transmitting or broadcasting communications (in whatever form or by whatever means) or making data available; and
- (ii) the nature of the business is such that persons undertaking it have no control over the nature or content of the communications or data; or

(b) that the defendant —

- (i) carried on the business of publishing or arranging for the publication of advertisements; and
- (ii) published or arranged for the publication of the advertisement in question in the ordinary course of that business.

(7) However, subsection (6) does not apply if the defendant concerned —

- (a) ought reasonably to have known that the publication of the advertisement was an offence under this Part;
- (b) had previously been informed in writing by or on behalf of the Authority that publication of such an advertisement would constitute an offence under this Part; or
- (c) is the proprietor of a food business or is otherwise engaged in the conduct of a food business for which the advertisements concerned were published.”.

Deletion and substitution of heading to Part IV

10. Part IV of the principal Act is amended by deleting the Part heading and substituting the following Part heading:

“NON-RETAIL FOOD BUSINESS”.

Repeal and re-enactment of section 21

11. Section 21 of the principal Act is repealed and the following section substituted therefor:

“Non-retail food business must be licensed

21. A person must not carry on a non-retail food business except in accordance with a licence issued to the person by the Director-General under this Part.”. 5

Amendment of section 38

12. Section 38 of the principal Act is amended by deleting the words “, composition fines and moneys collected under this Act” and substituting the words “and moneys collected under this Act (except financial penalties and composition sums collected under sections 46 and 50)”. 10

Amendment of section 40

13. Section 40 of the principal Act is amended — 15

(a) by deleting the word “appliance” in subsections (1) and (2) and substituting in each case the words “food contact article”;

(b) by inserting, immediately after subsection (3), the following subsections: 20

“(4) Without affecting section 32, in any proceedings for an offence under subsection (3) in relation to the publication of an advertisement in contravention of subsection (2), it is a defence to the charge for the defendant to prove, on a balance of probabilities — 25

(a) that —

(i) the defendant was acting in the course of a business of delivering, transmitting or broadcasting communications (in whatever form 30

or by whatever means) or making data available; and

- (ii) the nature of the business is such that persons undertaking it have no control over the nature or content of the communications or data; or

(b) that the defendant —

- (i) carried on the business of publishing or arranging for the publication of advertisements; and

- (ii) published or arranged for the publication of the advertisement in question in the ordinary course of that business.

(5) However, subsection (4) does not apply if the defendant concerned —

- (a) ought reasonably to have known that the publication of the advertisement was an offence under subsection (3); or

- (b) had previously been informed in writing by or on behalf of the Authority that publication of such an advertisement would constitute an offence under subsection (3).”; and

(c) by deleting the word “appliance” in the section heading and substituting the words “food contact article”.

Amendment of section 44

14. Section 44(1) of the principal Act is amended by deleting the words “post in a pre-paid letter” in paragraph (c) and substituting the words “registered post”.

Amendment of section 45

15. Section 45 of the principal Act is amended —

- (a) by deleting the words “section 46(13)” in subsection (1) and substituting the words “sections 10J and 46(13)”; and
 (b) by inserting, immediately after subsection (2), the following subsection: 5

“(3) The Minister may designate to hear and determine, in his place, any appeals or a specific appeal under this section —

(a) any Senior Minister of State or Minister of State, or Senior Parliamentary Secretary or Parliamentary Secretary, for his Ministry; or 10

(b) any public officer in his Ministry not subordinate to the person whose decision is appealed against, 15

and any reference in this section to the Minister includes a reference to the Senior Minister of State or Minister of State, or Senior Parliamentary Secretary or Parliamentary Secretary or public officer so designated for that appeal.”. 20

Amendment of section 46

16. Section 46 of the principal Act is amended —

- (a) by deleting paragraph (b) of subsection (12) and substituting the following paragraph: 25

“(b) fails to comply with an applicable requirement of this Act, the non-compliance with which is not an offence under this Act;”;

- (b) by inserting, immediately after subsection (12), the following subsection: 30

“(12A) All financial penalties collected under this section are to be paid into the Consolidated Fund.”; and

(c) by inserting, immediately after subsection (13), the following subsection:

“(13A) The Minister may designate to hear and determine, in his place, any appeals or a specific appeal under subsection (13) —

(a) any Senior Minister of State or Minister of State, or Senior Parliamentary Secretary or Parliamentary Secretary, for his Ministry; or

(b) any public officer in his Ministry not subordinate to the person whose decision is appealed against,

and any reference in that subsection to the Minister includes a reference to the Senior Minister of State or Minister of State, or Senior Parliamentary Secretary or Parliamentary Secretary or public officer so designated for that appeal.”.

Amendment of section 50

17. Section 50 of the principal Act is amended by inserting, immediately after subsection (3), the following subsection:

“(4) All sums collected under this section are to be paid into the Consolidated Fund.”.

Repeal and re-enactment of sections 54 and 55

18. Sections 54 and 55 of the principal Act are repealed and the following sections substituted therefor:

“Exemption from Act

54. The Minister may, by order in the *Gazette*, exempt any class of persons, food businesses, premises, food or activities

from the operation of all or any of the provisions of this Act or the food regulations.

Administrative exemption from Act

55.—(1) The Director-General may exempt, for a period specified in the exemption, a particular person, food business, premises, food or activity from the operation of all or any of the provisions of this Act or the food regulations where the Director-General is personally satisfied that all of the following apply:

- (a) the risk to public health of providing the exemption is negligible;
- (b) there are other sufficient safeguards under this Act or any other written law, or by other means, to minimise any risk to public health in providing the exemption;
- (c) there are requirements in other written law or there are other means that deal with the matter to be exempted besides the applicable requirements of this Act;
- (d) the exemption is necessary or desirable to avoid unnecessary restrictions on trade.

(2) An exemption under this section —

- (a) must be in writing and given to the particular person concerned; and
- (b) need not be published in the *Gazette*.”.

Amendment of section 56

19. Section 56 of the principal Act is amended —

- (a) by deleting the word “appliance” wherever it appears in subsections (1)(b) and (c) and (5) and substituting in each case the words “food contact article”;
- (b) by deleting the word “appliances” wherever it appears in subsections (1)(d) and (i) and (2) and substituting in each case the words “food contact articles”;

(c) by deleting paragraph (e) of subsection (1) and substituting the following paragraphs:

5 “(e) regulating the identification and labelling of food or food contact articles for sale, including specifying the matter that must or must not be contained in any such label and the manner of labelling;

10 (ea) setting out standards for the maintenance, cleanliness, sanitation and hygiene of premises at which a non-retail food business is carried out;

15 (eb) setting out requirements and procedures for document control and recording by food businesses to achieve the safety and suitability of food, including —

(i) the information that must be collected about food or a food contact article;

(ii) the periods for which the information must be kept; and

20 (iii) how, when and to whom that information must be reported;

25 (ec) setting out requirements that apply to imported food or food contact articles to ensure that the food or food contact article is safe and suitable, including keeping of records in relation to the source or traceability and handling of the food or food contact article imported;”;

30 (d) by deleting paragraph (h) of subsection (1) and substituting the following paragraph:

“(h) prohibiting or regulating the promotion and advertising of food and food contact articles, including specifying the matter that must or must not be contained in any

advertisement and the manner of promotion and advertising;”;

(e) by inserting, immediately after paragraph (j) of subsection (1), the following paragraph:

“(ja) requiring, regulating or prohibiting the display or distribution, by a prescribed class of retail food businesses, in relation to a prescribed class of food which is sold by retail or displayed for sale by retail at the premises where the food business is carried out, of information of a kind prescribed, including providing for —

(i) nutritional information that must be determined in a prescribed manner; and

(ii) display in the manner (such as in a menu in printed or electronic form or a label), and at locations in those premises, prescribed for nutritional information of that kind;”;

(f) by deleting paragraph (l) of subsection (1) and substituting the following paragraphs:

“(l) prescribing the fees to be paid in connection with the administration of this Act, and the waiver, reduction or refund of fees charged;

(la) providing for such saving, transitional and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient;”;

(g) by inserting, immediately after subsection (3), the following subsections:

“(3A) Any food regulation may adopt or incorporate by reference, with or without modification specified in the regulation, any matter contained in any code,

standard, rule, requirement, specification or other document, as in force at a particular time or from time to time, which relates to any matter with which the food regulation deals, even if the code, standard, rule, requirement, specification or other document does not yet exist when the food regulation is made.

(3B) Any material applied, adopted or incorporated in any food regulation by reference under subsection (3A) is to be treated for all purposes as forming part of the food regulation; and, unless otherwise provided in the food regulation, every amendment to any material incorporated by reference under subsection (3A) that is made by the person or organisation originating the material is, subject to subsection (3C), to be treated as being a part of the food regulation.

(3C) Where any material mentioned in subsection (3A) is applied, adopted or incorporated by reference in any food regulation, the Minister must give notice in the *Gazette* stating —

- (a) that the material is incorporated in the food regulation and the date on which the relevant provision in the food regulation was made;
- (b) that the material is available for inspection during working hours, free of charge;
- (c) the place where the material can be inspected;
- (d) that copies of the material can be purchased;
- (e) the place where the material can be purchased; and
- (f) if copies of the material are available in other ways, the details of where or how the material can be accessed or obtained.”.

Repeal of First and Second Schedules

20. The First and Second Schedules to the principal Act are repealed.

Miscellaneous amendments

21. The principal Act is amended —

5

- (a) by deleting the word “making” in section 6(1) and substituting the word “manufacturing”; and
- (b) by deleting the word “appliance” wherever it appears in the following provisions and substituting in each case the words “food contact article”:

10

Sections 6(1), (2) and (3), 8, 10(2), 26, 27(a), 28(1), 30(3)(a), 31, 32, 33(1)(a), (b) and (c), (4) and (5), 37(1), 41(2)(a) and 42(1) and section heading.

Consequential and related amendments to Agri-Food and Veterinary Authority Act

15

22. The Agri-Food and Veterinary Authority Act (Cap. 5, 2012 Ed.) is amended —

- (a) by inserting, immediately after the words “before any court” in section 11(3), the words “to which the Authority would not otherwise be subject”;
- (b) by inserting, immediately after the words “its functions under this Act” in section 12, the words “or any other Act”;
- (c) by deleting the words “may, from time to time, in respect of a specified matter or class of matters, by writing, delegate any of its powers” in section 14(1) and substituting the words “may delegate, either generally or specially and subject to such conditions or restrictions as it thinks fit, any of its functions or powers under this Act or any other Act which are not prescribed to be non-delegable”;
- (d) by renumbering section 17 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

20

25

30

“(2) The members, officers and employees of the Authority are, in relation to their administration, collection and enforcement of payment of —

(a) composition sums under section 43; or

(b) financial penalties or composition sums under the Sale of Food Act (Cap. 283),

deemed to be public officers for the purposes of the Financial Procedure Act (Cap. 109); and section 20 of that Act applies to these persons even though they are not or were not in the employment of the Government.”;

(e) by deleting the words “or composition fines” in section 20; and

(f) by inserting, immediately after subsection (2) of section 43, the following subsection:

“(3) All sums collected under this section are to be paid into the Consolidated Fund.”.

Related amendment to Animals and Birds Act

23. Section 62(1) of the Animals and Birds Act (Cap. 7, 2002 Ed.) is amended by inserting, immediately after the words “under this Act” in paragraph (b)(iii), the words “or by the Authority under Part IIA of the Sale of Food Act (Cap. 283)”.

Consequential amendment to Environmental Public Health Act

24. The First Schedule to the Environmental Public Health Act (Cap. 95, 2002 Ed.) is amended by deleting the words “a food processing establishment as described in the Second Schedule to” in paragraphs 1 and 2 and substituting in each case the words “a non-retail food business within the meaning of”.

Related amendment to Wholesome Meat and Fish Act

25. The Wholesome Meat and Fish Act (Cap. 349A, 2000 Ed.) is amended by inserting, immediately after the words “under this Act or the rules” in the following provisions, the words “or by the Authority under Part IIA of the Sale of Food Act (Cap. 283)”:

5

Sections 8(1)(b)(iii) and 14(1)(b)(iii).

Saving and transitional provisions

26.—(1) Every licence that —

(a) is issued, before the date of commencement of section 11, under Part IV of the principal Act as then in force; and

10

(b) is in force immediately before that date,

is, so far as it is not inconsistent with the provisions of the principal Act as amended by this Act, to continue as if, and is to be treated as, a licence to carry on a non-retail food business issued under the principal Act as so amended.

15

(2) Where —

(a) an application for a licence under Part IV of the principal Act is made before the date of commencement of section 11; and

(b) the application was not granted or approved before that date,

20

the application is, where applicable, deemed to be an application under Part IV of the principal Act as amended by section 11.

(3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

25

EXPLANATORY STATEMENT

This Bill seeks to amend the Sale of Food Act (Cap. 283) mainly —

- (a) to empower the Agri-Food and Veterinary Authority (AVA) to take food safety measures, such as directing the recall of food;
- (b) to extend the licensing of non-retail food businesses in the Act to cover warehouses for the storage of food intended for sale, whether by wholesalers or retail food businesses; and
- (c) to expand the purposes of the Act to regulating food to promote public health, and to ensure the provision of information relating to food to enable consumers to make informed choices.

The Bill also makes consequential and related amendments to the Agri-Food and Veterinary Authority Act (Cap. 5), the Animals and Birds Act (Cap. 7), the Environmental Public Health Act (Cap. 95) and the Wholesome Meat and Fish Act (Cap. 349A).

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title of the Act to expand the purpose of the Act beyond its present scope of securing wholesomeness and purity of food and protecting against short term and acute risk to public safety due to supply of food or related activities, and to remove restrictions in the long title as to how the objects may be achieved.

The long title is rephrased to prescribe, as objects of the Act, that of regulating food to ensure that food for sale is safe and suitable for human consumption and to promote public health. Also included as objects of the Act are to prevent misleading conduct in connection with the sale of food and ensure the provision of information relating to food to enable consumers to make informed choices.

Clause 3 amends section 2 to introduce several new definitions of terms necessary to support the amendments as well as to replace a number of definitions with more updated terms that take into account the developments in the food industry since the Act's enactment in 1973.

The term “advertisement” is modernised and amended to expressly exclude communications of personal opinion made by an individual (for no commercial gain) to the public or a section of the public in relation to any goods or services, brand of goods or services, or person who provides goods or services. This will make clear the situation where a food blog is published, or comments are made on social media, for no commercial gain to the blogger or commentator.

The term “appliance” is replaced with a broader term “food contact article”. A “food contact article” covers any utensil, machinery, instrument, device, apparatus, container, appliance or article designed or used for making, keeping, preparing or supplying food.

Examples of food contact articles are plates, knives, eating or cooking utensils, containers or packaging which can be used for food handling, disposable crockery and cooking appliances.

Clause 3 introduces a new definition of “food premises”, which refers to any premises at, on or from which food is sold, or handled with the intention that it be sold. The definition also includes a food vending machine, and any premises used for a primary food production business. The Minister may, by order in the *Gazette*, declare premises not to be a food premises for the purposes of the Act.

The definition of “food establishment” is also deleted and replaced with a new definition of “food business” (in new section 2B) so as to take into account new business models that do not operate from fixed premises.

The definition of “premises” is replaced with a wider definition that expressly includes vacant land, the whole or any part of a building, tent, stall or other structure (whether of a permanent or temporary nature), a vehicle and a pontoon.

A vehicle is defined to refer to any means of transport, whether self-propelled or not, and whether used on land or sea or in the air. This can include a drone, vessel, train, motor vehicle or personal mobility device.

There is also a new definition of “retail food business”, which means a business or an undertaking or activity at a food establishment within the meaning of the Environmental Public Health Act which is used for a purpose specified in the First Schedule to that Act.

A new definition of “handling” lists (non-exhaustively) the activities connected with handling of food for sale, such as making or manufacturing the food, processing or preserving the food, cooking, defrosting, heating or preparing the food, storing, packing or labelling the food, transporting or delivering the food, displaying the food, and serving the food. Handling food is defined to exclude primary food production.

The term “primary food production” means the growing, raising, cultivation, picking, harvesting, collection or catching of food. The definition also lists activities that come within the definition, such as the packing, treating (for example, washing) or storing of food on the premises on which it was grown, raised, cultivated, picked, harvested, collected or caught, the transport or delivery of food on, from or between the premises on which it was grown, raised, cultivated, picked, harvested, collected or caught, and the sale of livestock at sale yards and the transport of livestock to and from sale yards.

The definition however, excludes any process involving the substantial transformation of food (for example, manufacturing or canning), regardless of whether the process is carried out on the premises on which the food was grown, cultivated, picked, harvested, collected or caught, and the sale or service of food directly to the public. The Minister may, by order in the *Gazette*, prescribe any

other food production activity not to be primary food production for the purposes of the Act.

The definition of “manufacturing” also lists (non-exhaustively) certain activities that constitute manufacturing, such as making food by combining ingredients, significantly changing the condition or nature of food by any process, bottling or canning food, and making ice. For example, milling flour, or peeling, cutting and freezing fruits, and bottling water.

However, “manufacturing” is defined to exclude making ice at a particular place for use at the place, and cooking or otherwise preparing food at a particular place for retail sale at the place, including sale for immediate consumption activities, like preparing and packing sandwiches in a package at a café for retail sale.

The term “label” is replaced by a new definition which is not limited to printed or descriptive matter appearing or attached to any package containing food for sale. The new definition is non-exhaustive and is widened to include any brand or statement or any representation or design on or attached to, or used or displayed in connection with, or accompanying, any food or package containing food.

Finally, the term “public health” is defined to mean the health of the people in Singapore, or a community or section of those people.

Clause 4 introduces new sections 2A to 2F, which define the most important terms used in the Act.

The new section 2A defines what “food” means for the purposes of the Act. The definition is wider than the present definition as it includes live animals and plants, water sold for human consumption by a food business or used by a food business in preparing food for sale to consumers. The new section 2A excludes substances and things which are poisons, cosmetics, medicines and health products.

The new section 2B defines the term “food business” to mean a business or an undertaking or activity (whether of a commercial or charitable nature) that handles food for sale or sells food. The new section 2B makes clear that a business or an undertaking or activity may be a food business even if it handles or sells food on one occasion only.

The new section 2C defines the term “unsafe” as it relates to food. This definition takes into consideration what occurs after a consumer has purchased the food. For example, if a consumer purchased raw meat and left it at room temperature for an extended period, the raw meat would not be considered unsafe when sold. Also, food is not considered unsafe just because it may cause an adverse reaction to a minority of persons. For example, a food product that contains peanuts may cause an allergic reaction in some people, but would be considered safe for the majority of persons.

The new section 2D defines the term “unsuitable” as it relates to food. This new section 2D states that food is unsuitable if, for example, it is damaged or deteriorated to such an extent that it affects its reasonable intended use.

The term “intended use” is defined in clause 3 to mean the use of the food that is specifically stated, or could reasonably be presumed to be intended, taking into account the food’s nature, labelling, packaging and identification.

The new section 2E defines the term “sell”. In addition to activities usually perceived as those of selling food, the new section 2E covers activities like offering food as a prize, supplying a meal to staff, bartering or displaying food, and giving food away for advertising purposes. The definition is broad in order to support the various offences concerning food handling.

Given the breadth of the definition of “sell”, a number of exceptions are made in the new section 2E. The term “sell” will not apply to the preparation and supply of food at a private residence to a person employed at that residence. For example, the preparing and supplying of meals to a live-in housekeeper. The term “sell” also does not include the preparation and supply of food at a private residence for a fee, such as preparing food for a lodger boarding in the home.

The new section 2F defines the term “non-retail food business” to mean a food business that is not a retail food business, and includes a food business a component of which involves non-retail food business. The definition does away with the need to specify a purpose for any food handling activity before the premises at which that activity takes place can be regarded and regulated under Part IV of the Act.

Examples of a “non-retail food business” are a factory, plant or other premises where meat products or fish products are processed for sale to wholesalers or retail food businesses, or for export, the preparing or packing of ready-to-eat salads for the purpose of sale to wholesalers or retail food businesses, or for export, brewers and distillers of vinegar, soya sauce or fish sauce for the purpose of sale to wholesalers or retail food businesses, or for export, wholesale bakeries supplying food prepared to wholesalers or retail food businesses, manufacturing or preparing (including by blending and packing) dry mix products such as cake mix, drinking chocolate, tea bags and powdered soup for sale to wholesalers or retail food businesses, or for export, central kitchens and an operator of a warehouse or cold storage facility for the storage of food intended for sale, whether by wholesalers or retail food businesses.

Clause 5 amends section 4 to make clear that the powers under the provision are exercisable in respect of an instance which is contrary or not in compliance with an applicable requirement of the Act with respect to food or food contact articles.

A requirement of the Act is defined to mean a requirement of or under a provision of the Act or the food regulations, or a requirement of a notice, direction

or order given by the Director-General, Agri-Food and Veterinary Services (the Director-General) or a condition imposed under the Act or the food regulations.

Section 4 is also amended, and the First Schedule is repealed (see clause 20), to secure operational flexibility by doing away with a statutorily prescribed form of notice of seizure. The form may be prescribed instead in food regulations or devised administratively under section 53, which will be quicker to do if there is a need to change the form. Finally, the references in section 4 to “appliance” are replaced by the new term “food contact article”.

Clause 6 amends section 5 to make clear when the power to require information may be exercised by an authorised officer. The circumstances when the power may be exercised are to determine whether an applicable requirement of the Act with respect to food, food contact articles or food businesses, has been, or is being, complied with, to ensure that an applicable requirement of the Act with respect to food, food contact articles and food businesses has been, or is being, or will be, complied with, to investigate anything that may have, or might potentially have, contaminated food or a food contact article, to determine whether food or a food contact article is safe or suitable, to determine whether food or a food contact article poses a risk to human life or public health or to investigate any offence under the Act or any contravention of or non-compliance with an applicable requirement of the Act.

Clause 7 amends section 10(1), and the First Schedule is repealed (see clause 20), to secure operational flexibility by doing away with a statutorily prescribed form of a certificate of the results of an analysis by an authorised analyst. The form may be prescribed instead in food regulations or devised administratively under section 53.

Clause 8 introduces a new Part IIA to the Act, consisting of 12 new sections relating to food safety measures exercisable by the AVA where it is satisfied that a food safety measure (mostly in the form of directions) is necessary to prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of a serious danger to public health.

The new section 10A sets out the persons on whom a direction by the AVA may be binding. It provides that the AVA may give a direction, individually or as a class, to a licensee of a non-retail food business, a proprietor of a food business or food premises, if not a licensee, an importer or exporter of any food or food contact article, or a person in control of, or reasonably appearing to be in control of, food or any thing that may become food.

The new section 10B details what must be contained in directions issued under the new Part IIA. It makes clear that in making a direction under the new Part IIA, it is not necessary for the AVA to give any person who may be affected by the direction a chance to be heard before the direction is given. The new section 10B also provides that if a person to whom the direction is given fails or refuses to

comply with it, the AVA is allowed to carry out the direction, and recover the costs and expenses reasonably incurred in carrying out the direction as a debt due from the person to whom the direction was given.

The new section 10C provides for how directions are to be served or given and specifies when the direction has effect.

In addition to the mode prescribed in section 44, a direction under the new Part IIA given individually may be given by delivering it personally to the person concerned by an authorised officer, or if the name and address of the proprietor of the food premises is unknown, by affixing the direction to the food premises.

For a direction addressed to a class of persons, the new section 10C provides that it is sufficiently served if it is served on each of the persons in the class as earlier provided, or is published both in a daily newspaper circulating in Singapore or in any other news media that, in the opinion of the AVA, will be most likely to bring the direction to the attention of the persons who belong to the class and on the AVA's official website.

The new section 10D describes a general corrective action direction by the AVA. Such a direction is about the taking of preventative or corrective action in respect of food or food contact articles that the AVA reasonably believes is necessary (whether or not from the report of an authorised analyst or authorised officer) to ensure compliance with an applicable requirement of the Act with respect to food or food contact articles.

The corrective action, in the case of a direction given to a food business, includes requiring the proprietor of the food business to do any one or more of the following:

- (a) take specified steps to ensure that food prepared, sold or otherwise handled at the premises at which the food business is carried out is safe and suitable;
- (b) take specified steps to ensure that those premises, or any vehicle, plant, food contact article, machinery or equipment used on those premises in connection with any food prepared, sold or otherwise handled at those premises is cleaned and disinfected or put into an altered condition to the satisfaction of an authorised officer;
- (c) ensure that any applicable requirement of the Act with respect to food or food contact articles is complied with;
- (d) until the corrective action in paragraph (a), (b) or (c) is complied with, ensure that the premises at which the food business is carried out, or a specified area of the premises, is not used for the preparation, sale or other handling of food or an activity connected with food specified in the direction, etc..

The new section 10E provides for a direction by the AVA to impose movement controls. The AVA may give a direction under the new section 10E if it reasonably suspects (whether or not from the report of an authorised analyst or authorised officer) that food or any thing that may become food or a food contact article, does not comply with an applicable requirement of the Act, or the existence of a hazard or a source of contamination that may affect food or any thing that may become food.

The direction may impose movement or related controls to determine, minimise, manage, or control the risk to human life or public health created by the suspected non-compliance or suspected existence of the hazard or the source of contamination. For example, the controls may restrict or prohibit the movement, sale, production, or processing and handling of food or any thing that may become food, or require the taking of specific actions (such as sampling and testing) to determine the risk (if any) to human life or public health or to minimise, manage, or control the risk to human life or public health.

The new section 10F provides for a direction by the AVA to recall food or food contact articles. The direction may be given for the purpose of examining, rectifying, controlling, or disposing of food or a food contact article, after taking into account any relevant information or warnings about food or a food contact article that the AVA has received from authorised officers, or an international organisation or authority, or if the AVA has reasonable grounds to believe that the direction is necessary to prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of a serious danger to public health.

The types of directions under the new section 10F are to recall food or a food contact article that is not safe or suitable or the safety or suitability of which is in doubt, to recall a food contact article that has, or for which there is doubt about whether it has, contaminated food or caused food to be no longer safe or suitable, to recall a food contact article if there is doubt about whether it may contaminate food, to recall food or a food contact article that is mislabelled or incorrectly identified, and to take food or a food contact article recalled to a specified place.

If a person to whom the recall direction is given fails or refuses to comply with it, the AVA may take any reasonable steps necessary to ensure control of the food or food contact article (including entry by authorised officers to a place under a warrant), and thereafter recover the costs and expenses reasonably incurred in assuming control of the food or food contact article as a debt due from the person to whom the direction was given.

The new section 10G provides for a direction by the AVA to manage and control food or food contact articles. A direction under this section may be given where the AVA reasonably believes that food or a food contact article that is already the subject of a direction under the new section 10E is not safe or suitable and further

controls are required, or the AVA has recalled food or a food contact article under the new section 10F.

A direction under the new section 10G may be about doing or not doing any of the following to the food or food contact article, namely, condemning or destroying it, disposing of or re-exporting it, identifying it, handling it or re-processing it, labelling or relabelling it, storing it, transporting it, sampling or testing it, or advertising or selling it.

Under the new section 10H, the AVA is empowered to give a direction about publishing a statement to the public, or to a class of persons specified in the direction, for the purpose of protecting the public or class of persons. The AVA may specify the content of the publication such as the nature of the problem (including the reasons why the food or food contact article is considered to be unsafe or unsuitable), the remedy to the problem and preventative steps to prevent the problem arising in the future. The new section 10H provides that statements published under the section are protected by absolute privilege.

The new section 10I provides that a person bound by a direction under the new Part IIA who suffers loss as a result of the making of the direction may apply to the AVA for compensation if the person considers that there were insufficient grounds for the making of the direction. If there were insufficient grounds for the making of the direction, the AVA has to pay just and reasonable compensation to the applicant.

The new section 10J provides for a right of appeal to the Minister against a direction by the AVA.

The new section 10K makes it an offence if a person to whom a direction under the new Part IIA is addressed, without reasonable excuse, carries on an activity in contravention of the direction, or without reasonable excuse neglects or refuses to comply with any such direction, or without reasonable excuse fails to comply with a condition specified in such a direction. The punishment is a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months or both.

The new section 10K also provides for an offence of removing the copy of any direction affixed to a food premises under the new section 10C(1)(c) while that direction remains in force. The punishment is a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months or both.

The new section 10L makes it clear that the food safety measures in the new Part IIA do not affect the effect of other written laws.

Clause 9 repeals and re-enacts sections 15 (offence of sale of food which is unsound or unfit for human consumption) and 16 (offence about labelling of food) and introduces a new section 16A on advertisements.

The concepts of what is unsafe food and unsuitable food as defined in the new sections 2C and 2D replace the presently undefined expressions of “unsound or

unfit for human consumption”. Section 15 is thus repealed and replaced by a new prohibition against selling food that the person knows or ought reasonably to know is unsafe.

The new section 15 also prohibits selling food that the person knows or ought reasonably to know is unsuitable. It is immaterial whether the food concerned is safe in this case.

The new section 16 prohibits selling any food that is packaged or labelled in a manner that does not comply with all applicable requirements of the Act relating to identification and labelling of that food. The provision also states that in a prosecution for an offence for contravening new section 16, it is not necessary for the prosecution to prove that the defendant intended to commit the offence.

The new section 16A sets out the prohibition against non-compliant advertising about food or types of food contact articles prescribed in the food regulations. A person who is either the person selling, promoting the sale, or appearing to promote the sale of any food or prescribed food contact article, or the agent or employee of the person selling, promoting the sale, or appearing to promote the sale of any food or prescribed food contact article, must not publish an advertisement relating to the food or prescribed food contact article which is non-compliant.

Advertising is non-compliant if it satisfies the description in the new section 16A. For example, an advertisement relating to any food or prescribed food contact article that —

- (a) does not comply with all applicable requirements of the Act relating to advertisements promoting the food or the prescribed food contact article;
- (b) is false as to the age, composition, effects, nature, origin, purity, quality or strength of the food or the safety or suitability of the food or a prescribed food contact article; or
- (c) makes a statement prohibited by an applicable requirement of the Act to be made in an advertisement relating to the kind of food or prescribed food contact article.

The new section 16A(4) places an evidentiary burden on the defendant who is alleged to have published an advertisement which is false as to age, composition, etc., of the food or the safety or suitability of the food or a prescribed food contact article. Failing to adduce evidence to the contrary when it is alleged that a person has made a false advertisement will result in the advertisement being found to be false. The mere adducing of the evidence does not give a defence to the allegation that the offence has been committed. Also, the defendant does not need to disprove the commission of the offence; just produce evidence to the contrary that the advertisement is false in the aspect in the charge. The provision does not place a legal burden on defendants to prove that the advertisement is not false.

Clause 10 deletes the heading to Part IV and replaces that with “NON-RETAIL FOOD BUSINESS”.

Clause 11 repeals and re-enacts section 21 to provide that a person must not carry on a non-retail food business except in accordance with a licence issued to the person by the Director-General. This is wider than the present prohibition against using or permitting the use of premises for purposes specified in the Second Schedule.

Clause 12 amends section 38 to provide that financial penalties and composition sums collected under sections 46 and 50, respectively, cease to form part of the revenues of the AVA.

Clause 13 amends section 40 (on prohibited food contact articles) to introduce a defence for the offence of advertising a prohibited food contact article, similar to that in the new section 16A(6).

Clause 14 amends section 44 (on service of documents) to modernise the language. Posting by prepaid letter is now called registered post.

Clause 15 amends section 45 (on appeals to the Minister) as a consequence of the introduction of an appeal (against the AVA’s directions) under the new section 10J.

Clause 15 also inserts a new section 45(3) to allow the Minister to delegate the hearing of appeals under the section to a Senior Minister of State or Minister of State, or Senior Parliamentary Secretary or Parliamentary Secretary or public officer in his or her Ministry.

Clause 16 amends section 46 (on regulatory action against licensed non-retail food businesses) to clarify that financial penalties can be imposed with regard to failure to comply with an applicable requirement of the Act, the non-compliance with which is not an offence under the Act. Section 46 is also amended to provide that all financial penalties collected under the section are to be paid into the Consolidated Fund. This is to give effect to a new policy introduced by the Treasury. Finally, section 46 is also amended to allow the Minister to delegate the hearing of appeals under the section to a Senior Minister of State or Minister of State, or Senior Parliamentary Secretary or Parliamentary Secretary or public officer in his or her Ministry.

Clause 17 amends section 50 to provide that all composition sums collected under the section are to be paid into the Consolidated Fund. This is to give effect to a new policy introduced by the Treasury.

Clause 18 repeals section 54 which deals with amendments to the Schedules to the Act. Section 54 is rendered obsolete with the repeal of those Schedules by clause 20.

Clause 18 also replaces the power to grant exemptions in section 55 with 2 provisions on exemption.

The new section 54 provides for a legislative power of exemption vested in the Minister. This Minister has power to exempt any class of persons, food businesses, premises, food, and activities from the operation of all or any of the provisions of the Act or the food regulations. The power is exercisable in the form of an order in the *Gazette*.

The new section 55 confers on the Director-General an administrative power to exempt for a period specified, a particular person, food business, premises, food or activity from the operation of all or any of the provisions of the Act or the food regulations. The exemption may be granted only where the Director-General is personally satisfied that the criteria in the new section 55 are satisfied in the particular case. The criteria include the risk to public health of providing the exemption being negligible, and there being other sufficient safeguards under the Act or any other written law, or by other means, to minimise any risk to public health in providing the exemption.

The exemption by the Director-General must be in writing and given to the particular person concerned, and need not be published in the *Gazette* as it is an administrative act.

Clause 19 amends section 56 concerning the Minister's powers to make food regulations. The power is expanded to provide for regulations that regulate the identification and labelling of food or food contact articles for sale, including specifying the matter that must or must not be contained in any such label and the manner of labelling.

Food regulations can also be made setting out standards for the maintenance, cleanliness, sanitation and hygiene of premises at which a non-retail food business is carried out, and setting out requirements and procedures for document control and recording by food businesses to achieve the safety and suitability of food, including the information that must be collected about food or a food contact article, the periods for which the information must be kept, and how, when and to whom that information must be reported.

For imported food or food contact articles, clause 19 amends section 56 to confer power on the Minister to make food regulations setting out requirements that apply to imported food or food contact articles to ensure that the food or food contact article is safe and suitable, including keeping of records in relation to the source or traceability and handling of the food or food contact article imported.

Food regulations may also be made prohibiting or regulating the promotion and advertising of food and food contact articles, including specifying the matter that must or must not be contained in any advertisement and how the promotion or advertisement is to be made.

There is also a new power to make food regulations requiring, regulating or prohibiting the display or distribution, by a prescribed class of retail food businesses, in relation to a prescribed class of food which is sold by retail or displayed for sale by retail at the premises where the food business is carried out, of nutritional information of a kind prescribed.

For example, as a means of combating obesity within the community and helping people to understand the implications of their purchasing decisions, proprietors of certain retail food businesses may be required by food regulations to disclose the energy or sugar content of food items they sell. The food regulations may also require the information to be on all menu displays, in store and distributed electronically or in print, and to be presented in a certain way so that the information is clear, simple and unambiguous to the customer.

Finally, section 56 is amended to provide that any food regulations made under that section can incorporate some or all of another document without having to reproduce the text of that document as part of the rule. This means that the content of the document becomes part of the law.

As it is a fundamental principle of the rule of law that people must be able to understand their rights and obligations at law, in order to ensure readily accessible law, clause 19 limits the incorporation to circumstances where the documents being incorporated are publicly available for free or at a minimal cost. The Minister, as maker of the food regulations, is required to give notice in the *Gazette* stating the material that is incorporated in the subsidiary legislation and the date on which the relevant provision in the subsidiary legislation was made, and where the material can be inspected during working hours, free of charge or if copies of the material are available in other ways, the details of where or how the material can be accessed or obtained.

Clause 20 repeals the First and Second Schedules as a consequence of the amendments in clauses 5, 7 and 11.

Clause 21 makes amendments to several provisions in the Act principally to replace the word “appliance” wherever it appears with the words “food contact article”.

Clause 22 makes consequential and related amendments to the Agri-Food and Veterinary Authority Act (the AVA Act).

Section 11(3) of the AVA Act is amended to correct a mistake. Section 12 of the AVA Act is amended as a consequence of the amendments in clause 6 which confer on the AVA powers to take food safety measures. The amendment to section 14(1) of the AVA Act will enable the AVA to delegate its powers to take food safety measures to its members or officers.

Section 17 of the AVA Act is amended to provide that the members, officers and employees of the AVA who will be involved in the administration, collection and

enforcement of payment of any composition sum under the AVA Act or any composition sum or financial penalty collected under the Sale of Food Act will be treated as public officers for the purposes of the Financial Procedure Act (Cap. 109). Those moneys are public moneys because they must be accounted for in the Consolidated Fund. Section 20 of the Financial Procedure Act (on disciplinary punishment for loss of public moneys, etc.) applies to these members, officers and employees of the AVA even though they are not or were not in the employment of the Government. Finally, sections 20 and 43(2) are amended so that composition sums cease to be payable to the AVA but must be paid into the Consolidated Fund.

Clauses 23 and 25 make related amendments to the Animals and Birds Act and the Wholesome Meat and Fish Act, respectively, by conferring power on the Director-General to revoke or suspend any licence granted under the respective Acts if the licensee fails to comply with a direction given by the AVA under the new Part IIA of the Sale of Food Act as introduced by the Bill.

Clause 24 makes amendments to the First Schedule to the Environmental Public Health Act as a consequence of the amendments in clause 11.

Clause 26 sets out the saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
