Food (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Food Standards Scotland: functions relating to, and representation of, consumer interests
49, 51, 52, 56, 58, 62, 64

Promotion of best practice in enforcement of food legislation
50

Meetings of Food Standards Scotland to be public
53, 54

Members of Food Standards Scotland: number, disqualification, method and period of appointment etc.
55, 36, 37, 57, 59, 60, 61, 38, 39, 40

Validity of proceedings of Food Standards Scotland
1, 2

Delegation of functions to staff of Food Standards Scotland
3, 4, 5, 6

Electronic publication and laying of annual reports etc., and other electronic communications
41, 42, 43, 44, 45, 46, 48

Power of Food Standards Scotland to charge for facilities and services
47

Application of legislation relating to public bodies to Food Standards Scotland
7, 8, 9
Power to require provision of testing data etc.
63

Revision and publication of guidance
10, 18, 19, 20, 21

Establishment of Food Standards Scotland: consequential changes
11, 24, 25, 27, 28, 29, 30, 31, 32

Power to regulate animal feeding stuffs
12, 13

Administrative sanctions: power to make supplementary etc. provision
14, 15, 16, 17, 33, 34

Meaning of “food” and “animal feeding stuffs”
22, 23, 26, 35
Amendments in debating order

Food Standards Scotland: functions relating to, and representation of, consumer interests

Aileen McLeod

49 In section 3, page 2, line 7, leave out <significantly>

Aileen McLeod

51 In section 4, page 2, line 27, at end insert—
<(< ) treats the interests of consumers as its primary consideration,>

Aileen McLeod

52 In section 4, page 2, line 35, at end insert—
<(< ) consulting consumers and representatives of consumers,>

Aileen McLeod

56 In section 6, page 3, line 31, at end insert—
<(< ) At least 2 of the members appointed under subsection (1)(b) must be persons who appear to the Scottish Ministers to have particular experience or knowledge of consumer affairs.>

Aileen McLeod

58 In section 6, page 4, line 3, at end insert—
<(< ) In appointing members of Food Standards Scotland, the Scottish Ministers must have regard to the balance of expertise, skills and experience required by members to ensure that Food Standards Scotland operates in a way which treats the interests of consumers as its primary consideration.>

Aileen McLeod

62 In section 12, page 5, line 31, at end insert—
<(< ) A committee established by Food Standards Scotland must include as a member at least one person who appears to have particular experience or knowledge of consumer affairs.>

Aileen McLeod

64 In section 54, page 26, line 22, at end insert—
<(< ) wider social and ethical considerations relevant to food.>
Promotion of best practice in enforcement of food legislation

Aileen McLeod
Supported by: Michael Matheson

50 In section 3, page 2, line 12, after <of> insert <, and promote best practice by.>

Meetings of Food Standards Scotland to be public

Aileen McLeod

53 In section 4, page 2, line 37, at end insert—

<( ) unless subsection (2A) applies, holding all meetings of Food Standards Scotland, and all meetings of any committee established by it, in public.>

Aileen McLeod

54* In section 4, page 2, line 39, at end insert—

<(2A) Food Standards Scotland or any committee established by it may decide to hold all or part of any meeting in private where—

(a) the matter under discussion relates to personnel issues, or

(b) it considers that other exceptional circumstances apply.

(2B) Where a decision is taken under subsection (2A) to hold all or part of a meeting in private, the grounds for that decision must be made publicly available.>

Members of Food Standards Scotland: number, disqualification, method and period of appointment etc.

Aileen McLeod

55 In section 6, page 3, line 30, leave out <3> and insert <5>

Dr Richard Simpson

36 In section 6, page 3, leave out line 37

Dr Richard Simpson

37 In section 6, page 3, leave out line 38

Aileen McLeod

57 In section 6, page 4, line 2, after <Scotland> insert—

<( ) based on merit through an open appointment procedure, and

( )>
The Scottish Ministers must make the names of all applicants for membership of Food Standards Scotland publicly available.

Aileen McLeod

60 In section 6, page 4, line 6, leave out <such period> and insert <a period not exceeding 4 years specified in the appointment>

Aileen McLeod

61 In section 6, page 4, line 9, after <re-appointed> insert <once>

Dr Richard Simpson

38 In section 7, page 4, leave out line 28

Dr Richard Simpson

39 In section 7, page 4, leave out line 29

Dr Richard Simpson

40 In section 7, page 4, line 34, at end insert—

\langle( ) \text{ has, without good reason, been absent from at least one third of the meetings held in any 12 month period,} \rangle

Validity of proceedings of Food Standards Scotland

Michael Matheson

1 In section 11, page 5, line 26, leave out subsection (2)

Michael Matheson

2 After section 12, insert—

\langle\textbf{Validity of things done} \rangle

The validity of anything done by Food Standards Scotland or its committees is not affected by—

(a) a vacancy in membership,

(b) a defect in the appointment of a member,

(c) a person’s membership having ended under section 7.

Delegation of functions to staff of Food Standards Scotland

Michael Matheson

3 In section 13, page 6, line 11, at end insert <, or

(c) (subject to subsection (3)) a member of its staff.>
Michael Matheson

4 In section 13, page 6, line 12, leave out subsection (2)

Michael Matheson

5 In section 13, page 6, line 16, leave out <(2)> and insert <(1)(c)>

Michael Matheson

6 In section 13, page 6, line 19, leave out <subsection (1) or (2)> and insert <this section>

Electronic publication and laying of annual reports etc., and other electronic communications

Dr Richard Simpson

41 In section 14, page 6, line 25, after <publish> insert <online>

Dr Richard Simpson

42* In section 14, page 6, line 37, leave out from <, and> to end of line 38

Dr Richard Simpson

43 In section 14, page 7, line 3, leave out <a> and insert <an electronic>

Dr Richard Simpson

44 In section 14, page 7, line 4, leave out <a> and insert <an electronic>

Dr Richard Simpson

45 In section 14, page 7, line 5, leave out <may> and insert <must>

Dr Richard Simpson

46 In section 14, page 7, line 5, leave out <a> and insert <an electronic>

Dr Richard Simpson

48* In section 57, page 27, line 15, at end insert <(including an electronic communication),>

Power of Food Standards Scotland to charge for facilities and services

Dr Richard Simpson

47 In section 15, page 7, line 12, at beginning insert <unless otherwise approved by the Scottish Ministers,>
Application of legislation relating to public bodies to Food Standards Scotland

Michael Matheson

7 In section 16, page 7, line 38, at end insert—

<( ) In the Public Records (Scotland) Act 2011, in the schedule (authorities to which Part 1 applies), after the entry relating to the Drinking Water Quality Regulator for Scotland insert—

“Food Standards Scotland”.

Michael Matheson

8 In section 16, page 7, line 38, at end insert—

<( ) In the Regulatory Reform (Scotland) Act 2014, in schedule 1 (regulators for the purposes of Part 1), before the entry relating to Healthcare Improvement Scotland insert—

“Food Standards Scotland”.

Michael Matheson

9 In section 16, page 7, line 38, at end insert—

<( ) In the Procurement Reform (Scotland) Act 2014, in Part 1 of the schedule (contracting authorities: Scottish Administration and Scottish Parliament), after paragraph 13A insert—

“13B Food Standards Scotland”.

Power to require provision of testing data etc.

Aileen McLeod

63 In section 20, page 9, line 26, at end insert—

<( ) requiring any person carrying on a business which is the subject of the observations to provide testing data, analysis and results generated or used by the business, and information on the source of such data, analysis and results,

Revision and publication of guidance

Michael Matheson

10 In section 29, page 14, line 8, at end insert—

<( ) The power in subsection (1) includes power to issue revised guidance (and references in this section to guidance are to be construed accordingly).

Michael Matheson

18 In section 50, page 25, line 25, leave out <, and from time to time revise,
THIS IS NOT THE MARSHALLED LIST

Michael Matheson
19 In section 50, page 25, line 27, at end insert—

<(1A) The Lord Advocate must publish any such guidance (in such manner as the Lord Advocate considers appropriate).

(1B) Subsection (1A) does not apply to the extent that the Lord Advocate considers that publication would, or would be likely to, prejudice—

(a) the effective exercise of the functions of enforcement authorities, or their authorised officers, under this Part,

(b) the prevention or detection of crime,

(c) the apprehension or prosecution of offenders, or

(d) the administration of justice.>

Michael Matheson
20 In section 50, page 25, line 29, leave out <or revised guidance>

Michael Matheson
21 In section 50, page 25, line 29, at end insert—

<( ) The power in subsection (1) includes power to issue revised guidance (and references in this section to guidance are to be construed accordingly).>

Establishment of Food Standards Scotland: consequential changes

Michael Matheson
11 In section 31, page 15, line 3, leave out <under> and insert <conferred by>

Michael Matheson
24 In the schedule, page 31, line 3, at end insert—

<Agriculture Act 1947

In section 80 of the Agriculture Act 1947, after paragraph (e) insert—

“(f) to Food Standards Scotland for purposes connected with the carrying out of any of its functions,”.>

Michael Matheson
25 In the schedule, page 31, line 3, at end insert—

<Agricultural Statistics Act 1979

In section 3(2) of the Agricultural Statistics Act 1979, after paragraph (g) insert—

“(ga) to Food Standards Scotland for purposes connected with the carrying out of any of its functions,”.>

Michael Matheson
27 In the schedule, page 31, line 22, at end insert—
<( ) In section 6, after subsection (4) insert—

“(4A) In the application of subsections (3) and (4) to Scotland, the references to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

( ) In section 13, after subsection (7) insert—

“(8) In the application of this section to Scotland, the references to the Food Standards Agency are to be ignored.”.

Michael Matheson

28 In the schedule, page 31, line 37, at end insert—

<( ) In section 40, after subsection (5) insert—

“(6) In the application of this section to Scotland, the references to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

( ) In section 41—

(a) the existing provision becomes subsection (1),

(b) after that subsection insert—

“(2) In the application of this section to Scotland, the references to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

( ) In section 42, after subsection (1) insert—

“(1A) In the application of subsection (1) to Scotland, the reference to the Food Standards Agency is to be read as a reference to Food Standards Scotland.”.

( ) In section 48, after subsection (5) insert—

“(6) In the application of this section to Scotland, the references to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

Michael Matheson

29 In the schedule, page 32, line 2, at end insert—

<Environmental Protection Act 1990

(1) The Environmental Protection Act 1990 is amended as follows.

(2) In section 108, after subsection (10) insert—

“(11) In the application of this section to Scotland, the reference in subsection (7) to the Food Standards Agency is to be read as a reference to Food Standards Scotland.”.

(3) In section 111, after subsection (11) insert—

“(12) In the application of this section to Scotland, the reference in subsection (7) to the Food Standards Agency is to be read as a reference to Food Standards Scotland.”.

(4) In section 126, after subsection (8) insert—

“(9) In the application of this section to Scotland, the reference in subsection (8) to the Food Standards Agency is to be read as a reference to Food Standards Scotland.”.

>
Michael Matheson

30 In the schedule, page 32, line 2, at end insert—

<Radioactive Substances Act 1993

(1) The Radioactive Substances Act 1993 is amended as follows.

(2) In section 16, after subsection (4A) insert—

“(4B) In the application of this section to Scotland, the references in subsection (4A) to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

(3) In section 17, after subsection (2A) insert—

“(2B) In the application of this section to Scotland, the references in subsection (2A) to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

(4) In section 25, after subsection (3A) insert—

“(3B) In the application of this section to Scotland, the references in subsection (3A) to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

>Michael Matheson

31 In the schedule, page 32, line 2, at end insert—

<Environment Act 1995

In section 42 of the Environment Act 1995, after subsection (11) insert—

“(12) In the application of this section to Scotland, the references to the Food Standards Agency are to be read as references to Food Standards Scotland.”.

>Michael Matheson

32 In the schedule, page 32, line 17, at end insert—

<Regulatory Reform (Scotland) Act 2014

In schedule 1 to the Regulatory Reform (Scotland) Act 2014, the entry for the Food Standards Agency is repealed.

>Power to regulate animal feeding stuffs

Michael Matheson

12 In section 34, page 19, line 10, after <equivalent> insert <or reasonably similar>

Michael Matheson

13 In section 34, page 19, line 12, at end insert—

< But an order under subsection (1) may not make provision creating an offence which is—

(a) punishable with imprisonment for a period of more than 2 years, or

(b) punishable on summary conviction with—
(i) imprisonment for a period of more than 12 months, or
(ii) a fine of more than £20,000.

**Administrative sanctions: power to make supplementary etc. provision**

*Michael Matheson*

14 In section 48, page 24, line 18, leave out <this section> and insert <subsection (1)>

*Michael Matheson*

15 In section 48, page 25, line 2, leave out <this section> and insert <subsection (1)>

*Michael Matheson*

16 In section 48, page 25, line 2, leave out second <under> and insert <referred to in>

*Michael Matheson*

17 In section 48, page 25, line 4, at end insert—

< ( ) But regulations under subsection (1) containing provision referred to in subsection (2)(a) may not modify section 37 or 44 in such a way that a person may be convicted of a relevant offence arising out of an act or omission if the person, having been issued with both a fixed penalty notice and a compliance notice—

(a) makes payment in accordance with the fixed penalty notice, and

(b) complies with the requirements of the compliance notice or though failing to comply, does not, by virtue of subsection (2) of section 43, commit an offence under subsection (1) of that section in relation to the notice.>

*Michael Matheson*

33 In section 59, page 29, line 13, at end insert—

< ( ) regulations under section 48(1) which modify section 37 or 44,>

*Michael Matheson*

34 In section 59, page 29, line 13, at end insert—

< ( ) regulations under section 48(5),>

**Meaning of “food” and “animal feeding stuffs”**

*Michael Matheson*

22 Leave out section 52 and insert—

<Meanings of “food” and “animal feeding stuffs”

(1) In this Act—

“food” has the same meaning as in Regulation (EC) No. 178/2002 (as at 7 December 2004),>
“animal feeding stuffs” means feeding stuffs for any description of animal.

(2) The reference in subsection (1) to “feeding stuffs” includes any nutritional supplement or other similar substance which is not administered through oral feeding.>

Michael Matheson

23 In section 57, page 28, line 12, at end insert—


Michael Matheson

26 In the schedule, page 31, leave out lines 14 to 22

Michael Matheson

35 In section 59, page 29, leave out line 14