

**ANNEX I - DRAFT TEXT & EXPLANATORY NOTES**

**EXTRACT FROM V14**

**Food Safety and Security Bill**

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**Bill No. /2024.**

*Read the first time on* 2024.

**FOOD SAFETY AND SECURITY ACT 2024**

**(No. of 2024)**

**ARRANGEMENT OF SECTIONS**

**PART 1**

**PRELIMINARY**

**Section**

1. Short title and commencement
2. Purposes of Act
3. General interpretation
4. Meaning of “food”
5. Meaning of “food business”
6. Meaning of “licensable food business”
7. Meaning of “publish in Singapore”, “advertise” and associated terms
8. Meaning of “sell” and “supply”
9. Meaning of “handling” food
10. Meaning of “manufacturing” and “preparing” food
11. Meaning of “unsafe” food
12. Meaning of “unsuitable” food
13. Meaning of “defined food”
14. Meaning of “primary produce” and “unsafe primary produce”
15. Meaning of “primary production activity”
16. Meaning of “animal feed” and associated terms
17. Meaning of “associate”

PART 2  
STRENGTHENING RESILIENCE OF FOOD SUPPLIES IN SINGAPORE

*Division 1 — Interpretive provisions*

18. Definitions for Part 2
19. When an entity holds stocks of MSR product

*Division 2 — Minimum stockholding requirement or MSR*

20. What is minimum stockholding requirement or MSR
21. Quantity of MSR product to be held
22. Entity subject to minimum stockholding requirement
23. Triggering the minimum stockholding requirement
24. Ceasing to be subject to MSR
25. Decision-making criteria for triggering MSR, etc.
26. Temporary suspension of MSR by Minister
27. Determination of assumption or division of MSR
28. Reporting on capacity to hold, etc.
29. Average MSR default — civil penalty
30. Daily MSR default — civil penalty
31. Daily MSR default — offence

*Division 3 — Information about agri-food supply chain*

32. Requirement to provide information
33. Subject of section 32 requirement
34. Other content of section 32 requirement
35. Limits to disclosure of information provided due to section 32 requirement
36. Compliance and non-compliance with section 32

*Division 4 — General provisions*

37. Interest in case of civil penalty default
38. Recovery of civil penalty
39. Remission
40. Part 2 Rules
41. Saving and transitional provisions for food security

PART 3  
IMPORT, EXPORT AND TRANSHIPMENT

*Division 1— Interpretive provisions*

42. Definitions for Part 3
43. Matter to which Part 3 applies
44. Meaning of import for “private consumption”

## *Division 2 — Import, export and transshipping offences*

45. Importing knowingly prohibited food, etc.,
46. Importing prohibited food, etc. — strict liability
47. Unlicensed import of import controlled item knowingly
48. Unlicensed import of import controlled item — strict liability
49. Importing non-conforming consignment of import controlled item
50. Importing non-conforming consignment of import controlled item — strict liability
51. Unlicensed export of export controlled item
52. Unlicensed export of export controlled item — strict liability
53. Exporting non-conforming consignment of export controlled item
54. Exporting non-conforming consignment of export controlled item — strict liability
55. Unlicensed transshipment of certain controlled item
56. Unlicensed transshipment of certain controlled item — strict liability
57. Export or transshipment of controlled item without inspection advice
58. Export or transshipment of controlled item without inspection advice — strict liability

## *Division 3 — Import controlled items offences*

59. Importing knowingly item not meeting applicable standard, etc
60. Importing item not meeting applicable standard, etc. — strict liability
61. Dealing with imported examinable matter without inspection advice
62. Dealing with imported examinable matter without inspection advice — strict liability
63. Dealing with failing food, etc.
64. Possession for supply knowing that prohibited food, etc.
65. Possession for supply knowing, etc., applicable standard not met
66. Possession for supply where applicable standard not met — strict liability

## *Division 4 — Defence and presumption*

67. Defence of due diligence
68. Presumption as to possession, etc.

## *Division 5 — Prohibitions, inspection schemes and holding orders*

69. Prohibited food, prohibited animal feed, etc.
70. Import prohibition of live food producing animals
71. Regulations for inspection schemes
72. Inspection advice
73. Holding orders
74. Treatment, destruction and re-export of failing food, etc.
75. Recognised foreign government certificates, etc.

### *Division 6 — Licensing*

76. Types of licence and permits
77. Application of Division 4 of Part 14 (general licensing procedures)
78. Criteria for grant, etc., of licence
79. Criteria for grant, etc., of consignment permit
80. Conditions of licence or consignment permit
81. Validity of licence and consignment permit
82. Modifying conditions of licence
83. Grounds for regulatory action concerning licence or consignment permit
84. Grounds for cancelling consignment permit
85. Effect of revocation, or suspension, etc., of licence or permit

### *Division 7 — Traceability obligations for importers*

86. Application of Division
87. Information licensed importer must keep or have ready access to
88. Identification, location, and tracing of import controlled items
89. Providing information — importer

## PART 4

### FOOD BUSINESSES

#### *Division 1 — Interpretive provisions*

90. Definitions for Part 4

#### *Division 2 — Food business licence*

91. Application of Division 5 of Part 14 (general licensing procedures)
92. Criteria for grant of food business licence
93. Conditions of food business licence
94. Validity of food business licence
95. Modifying conditions of food business licence
96. Grounds for regulatory action concerning food business licence
97. Effect of revocation or suspension of food business licence

#### *Division 3 — Traceability obligations for licensable food businesses*

98. Application of Division
99. Information food business proprietor must keep or have ready access to
100. Identification, location, and tracing of food
101. Providing information — food business proprietor

#### *Division 4 — Offences*

102. Unlicensed licensable food business, etc.
103. Deployment of untrained food workers in licensable food business

104. Disallowed activities in non-licensable food business

## PART 7

### FOOD SAFETY AND SUSTAINABLE PRIMARY PRODUCTION MEASURES

#### *Division 1 — General provisions*

118. Acting in name of Director-General  
119. Persons to whom Part 7 directions may be given  
120. Content and effect of Part 7 directions — general  
121. Service of Part 7 directions  
122. When Part 7 direction takes effect

#### *Division 2 — Food safety directions*

123. Direction relating to food premises  
124. Direction for food vending machines and other equipment  
125. Direction to deal with hazard or source of contamination  
126. Movement control direction — content  
127. Declaration direction — content  
128. Direction to recall food or regulated food contact article  
129. Direction to manage food or regulated food contact article  
130. Direction relating to food workers  
131. Direction to publish statement  
132. Privileged statements  
133. General preventative or corrective action direction

#### *Division 3 — Animal feed and primary production directions*

134. Direction to impose movement controls, etc. for animal feed  
135. Direction to recall animal feed  
136. Direction to manage animal feed  
137. Direction to address threats to primary production, etc.  
138. General corrective or preventative directions

#### *Division 4 — Miscellaneous*

139. Non-compliance with Part 7 direction  
140. Tampering with affixed copy of Part 7 direction  
141. Compensation

## PART 8

### OFFENCES RELATING TO FOOD SAFETY

#### *Division 1 — General matters*

142. Application of Part 8  
143. Meaning of “hazardous food contact article”

### *Division 2 — Offences*

144. Knowingly handling food in unsafe manner
145. Handling food in unsafe manner — strict liability
146. Knowingly supplying unsafe food
147. Supplying unsafe food — strict liability
148. Handling food knowingly making it unsuitable
149. Handling food making it unsuitable — strict liability
150. Knowingly supplying unsuitable food
151. Supplying unsuitable food — strict liability
152. Handling food knowingly making it defined food
153. Handling food making it defined food — strict liability
154. Unsafe primary produce from primary production activity
155. Unsafe primary produce from primary production activity — strict liability
156. Knowingly producing primary produce that is unsuitable food
157. Producing primary produce that is unsuitable food — strict liability
158. Knowingly producing primary produce that is defined food
159. Producing primary produce that is defined food — strict liability
160. Supplying food imported for private consumption
161. Supplying food imported for private consumption — strict liability
162. Supplying hazardous food contact article knowingly
163. Supplying hazardous food contact article — strict liability

### *Division 3 — Defences*

164. General defence of due diligence
165. Defence in respect of handling food
166. Defence of relying on warranty, etc.
167. Defence in respect of food for export
168. Defence in respect of hazardous food contact article
169. Defence for offence by employer
170. Liability of employees and agents
171. Non-defences

## PART 11

### CERTAIN AGRI-FOOD PRODUCTION INPUTS

#### *Division 1 — Application and interpretive provisions*

189. Definitions for Part 11
190. Application of Part 11

#### *Division 2 — Animal feed*

##### Sub-division (1) — Licensing of animal feed production

191. Application of Division 4 of Part 14 (general licensing procedures)
192. Criteria for grant, etc., of animal feed production licence
193. Conditions of animal feed production licence
194. Validity and non-transferability of animal feed production licence
195. Modifying conditions of animal feed production licence
196. Grounds for regulatory action concerning animal feed production licence
197. Post-revocation of animal feed production licence directions

Sub-division (2) — Traceability obligations for animal feed production

198. Application of Division
199. Information animal feed production licensee must keep or have ready access to
200. Identification, location, and tracing of animal feed
201. Providing information — animal feed production licensee

Sub-division (3) — Animal feed offences

202. Unauthorised production of animal feed
203. Producing animal feed that is not fit for purpose
204. Producing animal feed that is not fit for purpose — strict liability

*Division 3 — Plant pesticides*

Sub-division (1) — Registration

205. Registration of plant pesticide products
206. Evaluation of plant pesticide product for registration
207. Evaluation of label for approval — labelling criteria
208. Validity of registration and approved label
209. Cancellation or suspension of registration

Sub-division (2) — Certified pesticide operators

210. Application of Division 4 of Part 14 (general licensing procedures)
211. Criteria for appointment
212. Tenure of appointment
213. Grounds for regulatory action concerning certified pesticide operator

Sub-division (3) — Plant pesticide offences, defences and presumptions

214. Unauthorised carrying on prescribed pesticide work
215. Unregistered plant pesticide use
216. Unregistered plant pesticide use — strict liability
217. Improper plant pesticide use
218. Improper plant pesticide use — strict liability
219. Keeping plant pesticide in container without approved label
220. Interference with approved labels
221. Defence to offence of unregistered plant pesticide use

- 222. Defence to offence of improper plant pesticide use
- 223. Presumptions as to use

## PART 12 APPEALS

- 224. Right to appeal to Minister
- 225. Appeal procedure
- 226. Decision on appeal
- 227. Effect of appeal on appealable decision
- 228. Designation of others to hear appeals
- 229. Rules

## PART 13 MONITORING AND ENFORCEMENT

### *Division 1— General*

- 230. Definitions for this Part
- 231. Saving for other laws

### *Division 2 — Monitoring powers*

- 232. Monitoring powers: who can exercise
- 233. Monitoring powers: why
- 234. Monitoring powers: what
- 235. Monitoring powers: where
- 236. Power to enter premises for monitoring
- 237. Powers after entering premises
- 238. Power to get documents and information
- 239. Power to identify and hold food, plant pesticide, etc.
- 240. Power to require presentation of live animals
- 241. Power to take and sample
- 242. Power to test samples
- 243. Power in relation to conveyances

### *Division 3 — Investigating powers*

- 244. Investigating powers: who can exercise
- 245. Investigating powers: why
- 246. Investigating powers: what
- 247. Investigating powers: where
- 248. Special powers of entry
- 249. Special information gathering powers
- 250. Power to seize

- 251. Detaining food, food contact article, etc. seized
- 252. Power to obtain disclosure of identity

*Division 4 — Offences relating to enforcement*

- 253. Obstructing entry, etc.
- 254. Interfering with seals or markings of authorised officer, etc.
- 255. Impersonating
- 256. Forging inspection advice, certificates, etc.
- 257. Offence of providing false information, etc.

*Division 5 — Evidential and ancillary matters of general application*

- 258. Obligation to give information
- 259. Self-incrimination
- 260. Presumption as to contents and labels
- 261. Presumption as to supply of food
- 262. Presumption as to sample
- 263. Presumption as to import for purpose of sale
- 264. Proof of exemptions or reasonable excuse
- 265. Disclosure by witnesses
- 266. Court may order corrective advertising, etc.
- 267. Liability of person charged for certain expenses
- 268. Handling of seized items
- 269. Forfeiture, etc., of seized items by court in criminal proceedings
- 270. Immediate forfeiture by Agency
- 271. Offences by corporations
- 272. Offences by unincorporated associations or partnerships
- 273. Compoundable offences

PART 14

ADMINISTRATION AND GENERAL PROVISIONS

*Division 2 — Outsourced enforcement officers*

- 285. Outsourced enforcement officers
- 286. Powers of outsourced enforcement officers

*Division 4 — General provisions on licences, permits, etc*

- 291. Interpretive provisions
- 292. Application for authorisation
- 293. Grant of authorisation
- 294. Conditions of authorisation

- 295. Procedure to modify authorisation conditions or for regulatory action against authorisation holders
- 296. Non-transferable authorisation
- 297. Conviction as ground for regulatory action
- 298. Disqualification from holding authorisation
- 299. Financial penalties

*Division 5 — Miscellaneous*

- 300. Reasonable belief by authorised officer, etc.
- 301. Protection of confidential commercial information
- 302. Service of documents
- 303. Protection from personal liability
- 304. Jurisdiction of courts

PART 17

AMENDMENTS TO OTHER ACTS AND FINAL PROVISIONS

*Division 1 — Animals and Birds Act 1965*

- 320. Amendment of section 8
- 321. New section 8A
- 322. Amendment of section 41
- 323. Amendment of section 59
- 324. Amendment of section 62
- 325. Amendment of section 80

*Division 4 — Control of Plants Act 1993*

- 328. Amendment of long title
- 329. Amendment of section 2
- 330. Amendment of section 3
- 331. Deletion of Part 2
- 332. Amendment of section 9
- 333. Deletion of sections 11, 12, 13, 14, 15 and 16
- 334. Amendment of section 28
- 335. Amendment of section 31
- 336. Amendment of section 34
- 337. Deletion of sections 39, 40 and 41
- 338. Amendment of section 49

*Division 5 — Environmental Public Health Act 1987*

- 339. Amendment of section 2
- 340. Amendment of Part heading
- 341. Replacement of section 31W

- 342. Deletion of section 32
- 343. Replacement of section 33
- 344. Amendment of section 34
- 345. Replacement of section 35 and new section 35A
- 346. Deletion of sections 36, 37, 38, 39, 40 and 41
- 347. Amendment of section 41A
- 348. Amendment of section 42
- 349. Amendment of section 42A
- 350. Deletion of Part 9
- 351. Amendment of section 82
- 352. Amendment of section 84A
- 353. Amendment of section 99
- 354. Amendment of section 108A
- 355. Deletion of First Schedule

*Division 6 — Feeding Stuffs Act 1965*

- 356. Amendment of long title
- 357. Amendment of section 1
- 358. Amendment of section 2
- 359. New section 2A
- 360. Amendment of section 3
- 361. Amendment of section 4
- 362. Amendment of section 6
- 363. Amendment of section 8
- 364. Amendment of section 9
- 365. Amendment of section 10
- 366. Amendment of section 11

*Division 15 — Wildlife Act 1965*

- 388. Amendment of section 2

First Schedule — Licensable food businesses

## PART 1

### PRELIMINARY

#### Short title and commencement

1. This Act is the Food Safety and Security Act 2024 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

#### Purposes of Act

2. The purposes of this Act are —

- (a) to improve food security in Singapore through maintaining in Singapore a minimum quantity of stocks of certain foods and agri-food production inputs, and measures to mitigate the impact of agri-food supply chain disruptions on Singapore;
- (b) to increase production of primary produce on a sustainable basis in Singapore so as to contribute to food security in Singapore;
- (c) to ensure that food in Singapore is safe and suitable for human consumption and that non-packaged drinking water in Singapore is not unwholesome;
- (d) to improve traceability systems to enable food to be more efficiently and effectively recalled due to food safety concerns;
- (e) to ensure provision of adequate information relating to food to enable consumers to make informed choices and to prevent misleading conduct in connection with the supply of food;
- (f) to provide for the compliance of food imported with Singapore's food standards and requirements of public health and safety;
- (g) to ensure that food that is exported meet relevant importing country requirements to enable and maintain overseas market access for food exported from Singapore;
- (h) to minimise and manage the risks to human health from plant pesticides and animal feed in primary production activities; and
- (i) to support national nutritional standards or national dietary recommendations directed at preventing diet-related non-communicable diseases among the general public or at promoting health and well-being at all ages.

#### General interpretation

3.—(1) In this Act —

“advertise” or “advertising” as a verb, has the meaning given by section 7(2);

“advertisement” has the meaning given by section 7(5);

“Agency” means the Singapore Food Agency established by the Singapore Food Agency Act 2019;

“agri-food production input” means any of the following to the extent that it is essential in undertaking any primary production activity:

- (a) any animal feed;
- (b) any plant pesticide;
- (c) any other animal reproductive material from a food producing animal;
- (d) any young of a food producing animal;
- (e) any seed, spore, bulb, root, cutting or other part of a plant from which plants grow or further plants grow;
- (f) any veterinary biologics, or any vaccines, antitoxins or other preparations made from living organisms, which are suitable for use in diagnosing, treating or immunising animals;
- (g) any vitamin or mineral substance or other substances suitable for, or used for, administration or application to an animal or plant by any means, or consumption by an animal, as a way of directly or indirectly improving growth or modifying the physiology of the animal or plant so as to alter its natural development, productivity, quality or reproductive capacity,

and excludes any primary produce;

“agri-food supply chain” and “agri-food supply chain participant” have the meanings respectively given in section 18(1);

“aircraft” includes an unmanned aircraft;

“analysis” includes any examination or testing of food or any other thing;

“animal” means —

- (a) any fish;
- (b) any reptile;
- (c) any amphibian;
- (d) any bird;
- (e) any mammal (other than man);
- (f) any invertebrate, regardless of the stage of development it is in; or
- (g) any eggs, or any reptile eggs, amphibian eggs, fish eggs, invertebrate eggs or monotreme eggs;

“animal feed” has the meaning given by section 16;

“animal feed production licence” means a licence granted under Division 2 of Part 11 authorising the holder of the licence to produce animal feed in the course of a business;

“animal feed regulations” means regulations made under section 311;

“animal reproductive material” means —

- (a) an embryo, egg or ovum, or roe, semen or sperm, of a food producing animal; or
- (b) any other part, or product, of a food producing animal from which another food producing animal could be produced;

“applicable standard” has the meaning given by section 42(1);

“aquaculture” means doing any of the following on land in, or in the sea within the territorial waters of, Singapore:

- (a) cultivating fish or marine vegetation for the purposes of harvesting the fish or marine vegetation or their progeny with a view to sale;
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose (such as a grow-out pond or tank),

but does not include any of the following:

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially);
- (d) doing anything for the purposes of maintaining a collection of fish or marine vegetation otherwise than for a commercial purpose;
- (e) keeping any fish in or on any premises for the purpose of serving the fish as meals to the general public, or otherwise for the purpose of consumption, in or on those premises;

“associate” has the meaning given by section 17;

“authorised analyst” means an individual appointed under section 287(1) as such;

“authorised officer”, in relation to a provision of this Act, means —

- (a) the Director-General; or
- (b) an individual appointed under section 278 as an authorised officer for the purposes of that provision;

“biosecurity carrier” and “biosecurity matter” have the meanings given, respectively by section 125(2);

“business” includes —

- (a) a venture or concern in trade or commerce, whether or not conducted on a regular, repetitive or continuous basis;
- (b) carrying out an activity as a self-employed person, but not as an employee; and
- (c) any business, whether or not carried on for profit,

and the fact that an unincorporated association provides services to its members does not prevent those services from being services provided in the course of a business;

“catalogued insect-like species” means an insect-like species which is declared a catalogued insect-like species under section 13(2);

“code of practice” means a code of practice issued or approved under section 313;  
“computer” and “data” have the meanings given by section 2(1) of the Computer Misuse Act 1993;

“consignment permit” means —

- (a) an import consignment permit mentioned in section 76(2);
- (b) an export consignment permit mentioned in section 76(3); or
- (c) a transshipment consignment permit mentioned in section 76(4);

“contaminant”, for any particular food, has the meaning given by section 12(4);

“content” means any information or material —

- (a) whether in the form of text;
- (b) whether in the form of speech, music or other sounds;
- (c) whether in the form of colours or visual images (animated or otherwise), pictorial or graphic form (for example, an anthropomorphic or a humanlike depiction);
- (d) whether in electronic or digital form; or
- (e) whether in any other form,

and includes information or material in any combination of forms;

“controlled item” has the meaning given by section 42(1);

“conveyance” means any of the following (but not while it is goods imported or exported):

- (a) an aircraft;
- (b) a vessel;
- (c) a vehicle;
- (d) a train (including railway rolling stock);
- (e) any other mode of transport, whether of goods, people or both goods and people;

“cooking” includes air-frying, deep-frying, baking, roasting, grilling, sauteing, searing, stir-frying, boiling, steaming, blanching, simmering, braising and stewing;

“corporation” means a body corporate formed or incorporated or existing in or outside Singapore, and includes any foreign company within the meaning of section 4(1) of the Companies Act 1967;

“country” includes a territory, and any part of a country;

“courier” means a person who, in the normal course of a business, transports objects or things on behalf of another person;

“cultivate” —

- (a) for any animal, includes propagate, hatch, breed, rear and farm the animal;  
or
- (b) for any plant, includes —
  - (i) plant a seed, seedling or cutting of the plant or transplant the plant;
  - (ii) nurture, tend or grow the plant;
  - (iii) harvest the plant;
  - (iv) hydroponically cultivate the plant; and
  - (v) cultivate the plant with the application of an artificial source or light or heat;

“current”, in relation to any licence or permit granted under Part 3, 4 or 11, any registration or appointment made under Part 11, or any pre-market approval, means a licence, permit, registration, appointment or pre-market approval that is in effect and is neither suspended, revoked nor cancelled;

“deal with”, in relation to any thing, includes —

- (a) moving, altering or interfering with the thing in any physical manner; and
- (b) supplying the thing or otherwise entering into a transaction whereby the ownership of the thing, or of any beneficial interest in the thing, passes from one person to another;

“defined food” has the meaning given by section 13(1);

“director” has the meaning given by section 4(1) of the Companies Act 1967;

“Director-General” means the Director-General, Food Administration appointed under section 277(1);

“Director-General, Food Security” means the Director-General, Food Security appointed under section 274(1);

“Director-General of Health” has the meaning given by section 2 of the Infectious Diseases Act 1976;

“disclose” in relation to information, includes make available to or provide access to the information;

“disruptive event” means any of the following occurrences happening in Singapore or outside Singapore, whether natural or caused by human acts or omissions:

- (a) an epidemic or a pandemic, the spread of any disease affecting food producing animals, an infestation of pests or a similar health hazard to humans, animals or plants;
- (b) a storm, storm tide, tsunami, flood, drought, an eruption or earthquake, a landslide or other occurrence of a similar kind;
- (c) an explosion or a fire, a chemical, fuel or oil spill, a gas leak or a poor air quality episode involving smoke;

- (d) a war, civil war, revolution, rebellion, insurrection or civil unrest arising therefrom, any hostile act by or against a belligerent power, any act of terrorism or other act of serious violence;
- (e) an export ban of any goods (identifiable or in general) by a foreign country of indeterminate length;
- (f) a strike, lockout, restraint of labour or other labour disturbance from any cause, whether partial or general;
- (g) an accident associated with the operation of a conveyance that causes widespread or severe damage to the environment, widespread or severe property loss or damage, or widespread deviations in the international transport of goods;

“document” means any thing in which content (in whatever form) is recorded;

*Examples*

A letter, a menu, a catalogue, an email, a painting, a thumbdrive, a film and a sound recording.

“donate” means —

- (a) a person giving to another any thing for a charitable, benevolent, or philanthropic purpose without receiving any money or money’s worth; or
- (b) a person giving for a charitable, benevolent, or philanthropic purpose, and without the person receiving any money or money’s worth, any thing donated by another;

but excludes an individual giving any thing to another individual as part of a personal relationship between them that is not commercial in nature;

“dressed” means the removal of parts of an animal after slaughter to prepare it for human consumption as food;

“drinking water” means —

- (a) water that is intended for human consumption or for purposes connected with human consumption (such as the washing, preparation or cooking of food or the making of ice intended for human consumption, or for the preservation of unpackaged food), whether or not the water includes use for other purposes; or
- (b) water held out as water in paragraph (a),

but does not include any water intended for consumption solely by animals;

“drinking water producer” has the meaning given by section 114;

“edible plant” means a species of plant that is capable of being consumed as food;

“egg” means the egg of any avian species that is capable of being consumed as food;

“egg product” means —

- (a) the whole or part of the content of an egg with the shell removed, and in any form (including frozen, liquid, or dried); or
- (b) any egg that is subject to a process of preserving or pickling;

“engage in conduct” means —

- (a) to do an act or omit to do an act —
  - (i) on a single occasion; or
  - (ii) on a number of occasions over a period of time; or
- (b) to both do an act and omit to do an act —
  - (i) on a single occasion; or
  - (ii) on a number of occasions over a period of time;

“entity” means —

- (a) a body corporate (including a limited liability partnership);
- (b) an unincorporated association;
- (c) a partnership;
- (d) a business trust;
- (e) a body of individuals who together form a body; or
- (f) a person other than an individual;

“examine” includes weigh, count, test and measure;

“export” does not include the taking out of Singapore of —

- (a) any goods in transit without landing in Singapore; or
- (b) any goods that are being transhipped;

“export” and “export controlled item” have the meanings given by section 42(1);

“failing”, for a controlled item, has the meaning given by section 42(1);

“farm management plan” has the meaning given by section 90;

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

- (a) crustacea, shellfish, echinoderm, molluscs or any other form of aquatic life; and
- (b) the roe or young of any fish;

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

- (a) part of any fish;
- (b) any product derived from processing or preserving fish;
- (c) any product containing fish;

“food” has the meaning given by section 4;

“food additive” means any substance not normally consumed as a food in itself and not normally used as a characteristic ingredient of food, whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing, preparation, treatment, packaging, transport or storage of such food results, or may be reasonably expected to result, in it or its by-products becoming directly or indirectly a component of such foods;

“food business” has the meaning given by section 5;

“food business licence” means a licence granted under Part 4 to carry on a licensable food business at premises stated in the licence;

“food business licensee” means a holder of a current food business licence;

“food contact article” means the whole or any part of any utensil, machinery, instrument, device, apparatus, packaging, appliance or article that —

(a) is used, or is designed or intended for use, in or in connection with the handling of food; and

(b) has or may have a direct contact with food when it is used, in or in connection with the handling of food,

but excludes any pipe, water fitting, apparatus or appliance used for the supply of water by the Public Utilities Board;

“food control plan” has the meaning given by section 90;

“food inspector”, in relation to a provision of this Act, means an individual who is appointed under section 279 as a food inspector for the purposes of that provision;

“food premises” means premises in, on or from which a food business is carried on, even on an occasional basis, and includes —

(a) a tent, stall or other structure that is not permanently fixed to a site when it is used to carry on a food business (called a temporary food premises);

(b) any premises that is a vehicle; and

(c) a food vending machine,

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

“food producing animal” means a species of animal that may be bred, raised or kept, or slaughtered, trapped or harvested —

(a) to produce food; or

(b) to be used as food,

but excludes any such animal when kept as a pet;

“food production substance” has the meaning given by section 12(3);

“food regulations” means any regulations made under section 308, and includes any subsidiary legislation made under the repealed Sale of Food Act 1973 and in force on the date immediately before the commencement of section 308;

“food safety scheme” means regulations made under section 309;

“food security” means a reasonable access to a range of foods that are safe, suitable and not defined food, and are of a sufficient quantity to meet the basic nutritional needs of Singapore’s communities;

“food security factors” has the meaning given by section 18(1);

“food security officer”, in relation to a provision of this Act, means —

- (a) the Director-General, Food Security; or
- (b) an individual appointed under section 275 as a food security officer for the purposes of that provision;

“food vending machine” means a machine or mechanical device that is used or capable of being used for selling or supplying any kind of food directly to a customer without the personal manipulation or attention of the seller, or the seller’s employee or agent, at the time of sale, but does not include a driverless vehicle that is capable of, by reason of its construction, carrying or serving ready-to-eat food for consumers’ immediate consumption at a place or premises where the food was prepared;

“food worker” means an individual who is or is to be employed by, or works or is required to work with or for, a proprietor of a food business in any capacity involving any of the following activities in the course of the operations of the food business:

- (a) manufacturing food;
- (b) preparing food;
- (c) dishing up or plating (and not merely serving) food;
- (d) any other activity that is prescribed by the Minister by order in the *Gazette* for the purposes of this Act;

“foreign country” means a country outside Singapore;

“foreign food authority” means a national food authority of a foreign country whose functions correspond to that of the Agency under this Act;

“foreign government” means —

- (a) the government of a foreign country;
- (b) an authority or instrumentality of the government of a foreign country; or
- (c) a foreign regional government body;

“fresh fruits and vegetables” means unprocessed and raw fruits and vegetables that are intended for human consumption as food;

“general public” means the general public in Singapore and includes a section of the general public;

“genetically modified food” has the meaning given by section 13(3);

“goods” includes any food, food contact articles, animal feed and plant pesticides;

“goods in transit” means goods that are brought into Singapore solely for the purpose of taking them out of Singapore and that which remains at all times on the conveyance that brought them into Singapore;

“grant”, for any licence, permit, registration or appointment under any provision of this Act, includes the following:

- (a) granting on renewal of the licence, permit, registration or appointment;
- (b) treating under the Second Schedule as granted under any provision of this Act;

“handling”, in relation to food, has the meaning given by section 9;

“hazard” has the meaning given by section 125(2);

“holder”, for a licence or permit granted under this Act, means the person to whom the licence or permit is granted;

“home”, of an individual, means the individual’s ordinary place of residence in Singapore;

“identification card” —

- (a) in relation to a food security officer, means an identification card issued under section 281(1) to the officer; or
- (b) in relation to an authorised officer or food inspector, means an identification card issued under section 282(1) to the authorised officer or food inspector;
- (c) in relation to an outsourced enforcement officer, means an identification card issued under section 285(3) to the outsourced enforcement officer; or
- (d) in relation to a Part 9 enforcement officer, means an identification card issued under section 175(4) to the Part 9 enforcement officer;

“import” and “import controlled item” have the meanings given by section 42(1);

“insect-like species” means a form of animal life within the biological classification Insecta, Arachnida, Myriapoda or Clitellata, and includes an insect-like species at a particular stage of its development;

“inspection scheme” means an inspection scheme set out in any inspection scheme regulations;

“inspection scheme regulations” means regulations made under section 71;

“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”, in relation to any goods, includes any tag, brand, stamp, mark, stencil or written statement, any representation or design, or any descriptive matter, that —

- (a) is attached to, annexed or affixed to the goods or any container or packaging of or thing used in connection with the goods;
- (b) is written, printed, stamped or located on the goods or any container or packaging of or thing used in connection with the goods;
- (c) is determined on the basis of anything encoded on or in relation to the goods;
- (d) is displayed or used in connection with, or is accompanying, the goods or anything on which the goods are mounted for display or exposed for supply; or
- (e) is otherwise applied to the goods or any container or packaging of or thing used in connection with the goods in a manner from which it may reasonably be inferred that it is applicable to those goods,

and includes a label that is partly obscured by another label that is written, stamped or located partly over the firstmentioned label;

“land” includes —

- (a) any structure or premises in, under or over land;
- (b) any foreshore;
- (c) any land that is underwater; and
- (d) any open space;

“licensable food business” has the meaning given by section 6;

“licence” means a licence granted or deemed granted under this Act;

“licensable activity” has the meaning given by section 230;

“licensed exporter” has the meaning given by section 42(1);

“licensed importer” has the meaning given by section 42(1);

“limited liability partnership” has the same meaning given to it by the Limited Liability Partnerships Act 2005;

“lot” has the meaning given by section 42(1);

“meal” means food that —

- (a) is, or is intended to be, eaten by an individual sitting at a table, or a fixed structure used as a table; and
- (b) is of adequate substance as to be ordinarily accepted as a meal;

“meat” means raw food that is the whole or any part of the carcass of a slaughtered animal (including edible offal) after it is dressed, whether fresh or after freezing

or chilling, but does not include any hide, tallow, meat product, fish or fish product;

“meat processing” means —

- (a) the production of meat products from slaughtered animals —
  - (i) by mixing meat with another meat or any other substance; or
  - (ii) by cutting, mincing, curing, boning, drying, smoking, preserving, salting, fermenting or otherwise treating, meat after slaughter;
- (b) the storage or packing of any meat or meat product; or
- (c) any other activity that is prescribed for the purpose of this definition where the activity involves meat;

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

- (a) any product wholly or partially prepared or made from meat;
- (b) any product in paragraph (a) which is partially processed, prepared for further processing or fully processed, by any method mentioned in paragraph (a) in the definition of “meat processing”,

but does not include any of the following:

- (c) fish or a fish product;
- (d) the whole or part of an animal, or a product resulting from the processing or preserving of meat, that is or of a class excluded by regulation from this definition;

“medical practitioner” means an individual who is a legally qualified medical practitioner;

“menu” means a menu, in printed or electronic form, that —

- (a) lists or otherwise shows one or more items of food; and
- (b) is either —
  - (i) on a board, screen, poster, leaflet or similar thing in or at the premises from which the items of food shown on the menu are sold; or
  - (ii) displayed on an online location of a person who sells, or causes to be sold, the items of food online,

and includes any other document that is prescribed in any regulations made under this Act;

“Minister” means —

- (a) except as provided in paragraph (b), the Minister charged with the responsibility for food safety and food supply resilience and sustainability; or

(b) for the purposes of Part 9 and any Part 9 regulations, the Minister charged with the responsibility for health promotion;

“mobile home” means a conveyance, other than a vessel —

(a) that is ordinarily used as an individual’s home; and

(b) that is permanently or semi-permanently stationary in a single place in Singapore;

“modification” or “modify”, in relation to the conditions of a licence under this Act, includes deleting, or varying and substituting a condition, and adding a condition;

“motor vehicle” means a vehicle that —

(a) is propelled wholly or partly by a motor or by any means other than human or animal power; and

(b) is used or intended to be used on any road,

and includes a motor vehicle that is constructed to drive itself, and a mobility scooter, motorised wheelchair, power-assisted bicycle or personal mobility device within the respective meanings given by the Active Mobility Act 2017;

“movement control direction” means a written direction described in section 126 that is given —

(a) under section 125; or

(b) under section 134 in relation to animal feed;

“MSR” or “minimum stockholding requirement” has the meaning given by section 18(1);

“MSR activity” and “MSR product” have the meanings given respectively in section 18(1);

“MSR charge” means an amount calculated in accordance with section 29(3) or 30(3);

“non-retail food business” means a food business that is not a retail food business, and includes a food business a component of which involves a retail food business provided that the component is ancillary or incidental to the non-retail food business;

“notice” does not include giving notice orally;

“novel food” has the meaning given by section 13(3);

“offence under this Act” includes an offence under any subsidiary legislation made under this Act;

“officer” —

(a) in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

- (i) any person purporting to act in any such capacity; and
  - (ii) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —
- (i) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and
  - (ii) any person purporting to act in any such capacity;
- (c) in relation to a partnership (including a limited partnership), a partner of the partnership,

and includes any person carrying out the duties of any such office referred to in paragraph (a), (b) or (c) if the office is vacant;

“officer of customs” has the same meaning given by the Customs Act 1960;

“online location” means any internet domain, website, webpage, chatroom, channel, group, forum or any other location, that can be accessed by means of the internet;

“online material” means content (including any computer program, machine code and internet link) that can be accessed at an online location by means of the internet;

“outdated”, in relation to any food in or from a package, has the meaning given by section 12(3);

“outsourced enforcement officer” means an individual who is appointed under section 285(1) as an outsourced enforcement officer;

“owner”, in relation to any food, includes any person (other than an officer of customs or an authorised officer) being or holding himself or herself out to be the owner, importer, consignee, agent or person having control of, a beneficial interest in, or the power of disposition over, the food;

“pack” includes re-pack;

“packaged food” means food that is encased, covered, enclosed, wrapped, bottled, contained or packed in a closed packaging intended for retail sale;

“packaging” as a noun and in relation to goods, includes any thing in or by which goods intended for supply is wholly or partly encased, covered, enclosed, wrapped, bottled, contained or packed; and if the goods are carried or supplied or intended to be carried or supplied in more than one packaging, includes each of the packaging, but does not include any of the following:

- (a) bulk cargo containers;
- (b) pallet overwraps;

- (c) crates and packaging that do not obscure labels on the goods;
  - (d) vehicles;
- “Part 7 direction” means a direction made by the Director-General under Part 7;
- “Part 9 enforcement officer”, in relation to a provision of this Act, means an individual appointed under section 175 as a Part 9 enforcement officer for the purposes of that provision;
- “Part 6 Regulations” means any regulations made under section 310;
- “Part 9 Regulations” means regulations made under section 174;
- “Part 2 Rules” means any rules made under section 40;
- “partner”, in relation to a limited partnership, includes a limited partner in the limited partnership;
- “pest”, in relation to a plant, means any invertebrate, plant or other living thing (other than a human) that injuriously affects or is capable of injuriously affecting the physical condition, worth or utility of the firstmentioned plant;
- “pesticide control regulations” means regulations made under section 312;
- “pet” means any animal which —
- (a) is in a domesticated state or under the control of humans, regardless of whether animals of its species are classified at common law as being of a tame or domestic nature (such as pet herpetofauna);
  - (b) is a species ordinarily kept by an individual in his or her private residence; and
  - (c) is not kept for the purpose of human consumption;
- “physical harm” includes any illness and any injury;
- “place” means any land, premises or conveyance, or a part of any land, premises or conveyance;
- “plant” means any species of plant or any part of a species of plant (whether living or dead) and includes —
- (a) any vegetable, fruit, flower, leaf, stem, branch, spore, seed, root, cutting, graft, scion and any other part (whether severed or attached) intended for propagation or from which further plants may be propagated; and
  - (b) any mushroom or cyanobacteria;
- “plant pesticide” means a substance or a mixture of substances that is represented, imported, supplied, or prepared, or used in the course of cultivating plants, as a means of directly —
- (a) destroying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, any pest in relation to a plant;
  - (b) destroying a plant;

- (c) modifying the physiology of a plant or pest so as to alter its natural development, productivity, quality or reproductive capacity; or
- (d) attracting a plant pest for the purpose of destroying it;
- “plant pesticide product” means an item of plant pesticide that is manufactured for sale or to be made available for sale;
- “poultry” means a chicken, turkey, duck, geese, quail, squab, guinea fowl or pheasant;
- “pre-market approval” has the meaning given by section 105;
- “premises” means —
- (a) any place in Singapore —
- (i) whether enclosed or not;
- (ii) whether built on or not; and
- (iii) whether underground or underwater; or
- (b) any conveyance in Singapore,  
and includes a part of such a place or conveyance;
- “prepacked”, in relation to food, means food that is sealed or packed in the package in which the food is to be supplied;
- “prepare”, in relation to food, has the meaning given by section 10(3);
- “prescribed infectious disease” means —
- (a) any disease set out in the First or Second Schedule to the Infectious Diseases Act 1976;
- (b) any skin disease which is likely to be contagious; or
- (c) any other disease prescribed to be an infectious disease for the purposes of this Act;
- “prescribed pesticide work” has the meaning given by section 189;
- “primary produce” has the meaning given by section 14;
- “primary production activity” has the meaning given by section 15;
- “private consumption”, for imported food, has the meaning given by section 44;
- “private residence” means any of following that is ordinarily used as an individual’s home, regardless that it is uninhabited from time to time:
- (a) a building, structure or tent, or part of a building, structure or tent;
- (b) a mobile home,
- and includes any lawn, garden or surfaced or unsurfaced open space abutting that building, structure, tent or mobile home which is used or capable of being used lawfully and exclusively by the individual as part of the enjoyment of his or her home;

“proprietor”, for a food business, means —

- (a) the person carrying on the food business; or
- (b) if the person in paragraph (a) cannot be identified, the person in charge of the food business;

“proscribed substance”, in relation to a particular animal feed, means a substance that is prohibited under the animal feed regulations with respect to the particular animal feed;

“provision of this Act” includes a provision of any subsidiary legislation made under this Act;

“public authority” means any body established or constituted by or under any public Act to perform a public function, but excludes a Town Council;

“public interest of Singapore” includes in the interest of the security of Singapore or any part of Singapore;

“public place” means —

- (a) any place in Singapore (open to the air or otherwise) to which members of the general public have access as of right or by virtue of express or implied permission, whether or not on payment of a fee, and whether or not access to the place may be restricted at particular times or for particular purposes; or
- (b) a part of a place in Singapore that the occupier of the place allows members of the general public to enter, but only while the place is ordinarily open to members of the general public;

“Public Utilities Board” means a public authority of that name continued under section 3 of the Public Utilities Act 2001;

“ready-to-eat”, in relation to food, means food that does not necessarily require any further preparing before human consumption as food, and includes cup noodles, fruit juice cordial, squash or syrup, powdered beverages and other concentrated food which are meant to be reconstituted or diluted with fluids before consumption;

“registered”, in relation to a food worker, means registered by the Agency as a trained food worker, either generally or in relation to a particular licensable food business;

“registered plant pesticide product” means a plant pesticide product that is registered under Division 3 of Part 11;

“regulated food contact article” means a food contact article prescribed by the Minister, by order in the *Gazette*, as a regulated food contact article;

“repealed Act” means any of the following:

- (a) the Sale of Food Act 1973 repealed by this Act;
- (b) the Wholesome Meat and Fish Act 1999 repealed by this Act;

“requirement of this Act” means —

- (a) a requirement of or under any provision of this Act;
- (b) a requirement of a Part 7 direction or any other provision of this Act; or
- (c) a requirement of a notice given under any provision of this Act;

“restrict” includes allow on conditions;

“retail food business” means a food business involving —

- (a) the preparation of food for direct retail sale to consumers (other than as part of paragraph (b) or (c));
- (b) the sale, or preparation or serving, of food that is ready-to-eat for consumers’ immediate consumption at the place, on delivery, when taken away, or from mobile or vehicle-based businesses that prepare such food;
- (c) the sale, or preparation or serving, of —
  - (i) ready-to-eat food for consumers’ immediate consumption at a place or premises other than where the food was prepared; or
  - (ii) food at a place or premises of the consumer’s choosing for the consumer’s immediate consumption at that place or premises; or
- (d) the handling (without any preparation) of food for direct retail sale to consumers (other than as part of paragraph (b) or (c)) at the place or when taken away;

“sample” includes —

- (a) a specimen; and
- (b) a part of a sample (including a part of sample mentioned in paragraph (a));

“service”, as a verb and in relation to a food vending machine, means to stock or replenish that machine with food;

“SFA officer” means —

- (a) an employee of the Agency; or
- (b) a public officer, or an employee of another public authority, for the time being performing duties in the Agency under a contract, or under an arrangement (such as a secondment) making available temporarily to the Agency the services of the public officer or the other public authority’s employee;

“Singapore-connected person” means —

- (a) in the case of an individual, if he or she is physically resident in Singapore for 183 consecutive days or more in a year (ignoring temporary absences from Singapore as may be reasonable and not inconsistent with a claim by such person to be resident in Singapore); or
- (b) in the case of an entity, if the entity has a permanent establishment (within the meaning of section 2(1) of the Income Tax Act 1947 in Singapore;

“slaughter”, for an animal, means to kill the animal for human consumption, and includes the killing of the animal in the process of capturing, taking or harvesting it for the purposes of preparing it for use as food;

“standard” means a standard made under section 307;

“structure” does not include a conveyance;

“substance” includes —

- (a) any gas, liquid or solid;
- (b) an organism or part of an organism;
- (c) any material that is produced from an organism;
- (d) any matter whose production involves the use of an organism;
- (e) any radioactivity or electromagnetic radiation; and
- (f) a combination of substances;

“supervising”, in relation to the engaging in any conduct or carrying out of work (including an analysis) by an individual (called *A*), means —

- (a) observing or monitoring the conduct being engaged in or work being carried out by *A* to the extent necessary to enable the observer or monitor to form an opinion as to whether the conduct or work is being engaged in or carried out properly; and
- (b) being available to give advice to, and answer questions about the work from, *A* when he or she is engaging in that conduct or carrying the work out;

“temporary fair” means a fair, function or activity the promoting, organising or staging of which requires a permit under section 35 of the Environmental Public Health Act 1987;

“tranship” means bringing any goods into Singapore by land, sea or air from any place which is outside Singapore and then removing those goods from the conveyance in which they were brought into Singapore and —

- (a) returning those goods to that same conveyance; or
- (b) transferring those goods to another conveyance for the purpose of them being taken out of Singapore,

whether those goods are to be transferred directly between conveyances or whether they are to be landed in Singapore after they were brought into Singapore and stored, pending their being taken out of Singapore;

“transshipment controlled item” has the meaning given by section 42(1);

“transport”, as a verb, means to carry on any conveyance in the course of a business, and includes any operation incidental to the whole course of carriage, such as loading, unloading and storage in transit;

“unincorporated association” means a society or body unincorporate which, under any written law, may sue or be sued, or hold property, in the name of an officer of the society or body duly appointed for that purpose;

“unmanned aircraft” has the meaning given by section 2(1) of the Air Navigation Act 1966;

“unmanned vessel” means a vessel equipped wholly or substantially with an autonomous system (such as an unmanned surface vehicle and a saildrone) and includes a barge drawn by an unmanned vessel;

“unregistered plant pesticide” means a plant pesticide that is not a registered plant pesticide product, and includes a plant pesticide product the registration of which is wholly suspended under section 209(2);

“unsafe” —

(a) in relation to food, has the meaning given by section 11; and

(b) in relation to primary produce, has the meaning given by section 14(3);

“unsuitable” in relation to food, has the meaning given by section 12;

“unwholesome”, in relation to non-packaged drinking water, has the meaning given by section 115(4);

“use”, for a plant pesticide, means use in such a way that one or more plants are exposed to it, and includes —

(a) applying, spraying, spreading or dispersing the plant pesticide by any means;

(b) keeping the plant pesticide for any activity in paragraph (a); or

(c) preparing the plant pesticide for any activity in paragraph (a);

“vehicle” means any vehicle (whether mechanically propelled or otherwise) that runs on wheels and is designed to transport goods, people or goods and people, on land, but excludes a train or rolling stock;

“vessel” means a boat, launch or floating craft used in navigation by water, however propelled or moved, and includes an unmanned vessel and a floating facility;

“veterinary drug” has the meaning given by section 12(3).

(2) For the purposes of this Act and without limiting the generality of the definition of “content” in subsection (1) —

(a) any content consisting of or including a hyperlink is taken to include the content that may be accessed directly via the hyperlink; and

(b) any content consisting of or including an image or item on which data is stored electronically (such as a QR code) is taken to include content that may be accessed directly by means of the image or item.

(3) For the purposes of this Act and without limiting the generality of the definition of “label” in subsection (1), the following content is taken to be a label:

- (a) any content that may be accessed directly via a hyperlink comprised in any content on or in a label;
- (b) any content that may be accessed directly by means of an image or item on or in a label on which data is stored electronically (such as a QR code).

(4) For the purposes of this Act, a label is attached to a container or packaging of goods if the label is securely attached or affixed to, appears on, or is included with, the container or packaging, and —

- (a) a reference to a label attached to a container or packaging includes a reference to writing appearing on the container or packaging; and
- (b) a reference to attaching a label to a container or packaging includes a reference to putting writing on the container or packaging.

(5) In this Act, the power to require a person to provide any information includes the power —

- (a) to require that person to produce or grant access to the information;
- (b) to require that person to provide an explanation of the information;
- (c) if the information is not produced, to require the person to state, to the best of the knowledge and belief of that person, where it is;
- (d) if the information is recorded otherwise than in legible form, to require the information to be made available in legible form; and
- (e) if the information required to be provided is not in English, to require the person to arrange for an accurate translation to be done at the cost of the person.

(6) Where —

- (a) by or under any provision in this Act or any direction given under this Act, an act or thing is required or directed to be done within a particular period or before a particular time;
- (b) failure to do that act or thing within the period or before the time mentioned in paragraph (a) constitutes an offence; and
- (c) that act or thing is not done within the period or before the time mentioned in paragraph (a),

the obligation to do that act or thing continues, even though that period has expired or that time has passed, until that act or thing is done.

(7) In this Act, an officer of a public authority includes a public officer, or an employee of another public authority, for the time being performing duties in the firstmentioned public authority under a contract, or under an arrangement (such as a secondment) making available temporarily to the firstmentioned public authority the services of the public officer or the other public authority's employee.

(8) In determining for the purposes of this Act whether a person is physically present in Singapore, it is to be assumed that the person will not falsify or conceal the person's identity or location.

## Meaning of “food”

4.—(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);
  - (b) any substance or thing of a kind used, capable of being used, or represented as being for use, as an ingredient or food additive in a substance or thing referred to in paragraph (a);
  - (c) any substance used in preparing a substance or thing referred to in paragraph (a) (other than a substance used in preparing a living thing);
  - (d) chewing gum or an ingredient or food additive in chewing gum, or any substance used in preparing chewing gum;
  - (e) any substance or thing declared by the Minister by order in the *Gazette* to be a food.
- (2) Without limiting subsection (1), “food” includes —
- (a) fresh fruits and vegetables;
  - (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;
  - (c) packaged drinking water;
  - (d) anything that is or is intended to be mixed with or added to any food or drink;
  - (e) meat and meat products;
  - (f) fish and fish products; and
  - (g) eggs and egg products.
- (3) Despite subsection (1), this Act does not apply to any of the following:
- (a) any health product within the meaning of section 2(1) of the Health Products Act 2007;
  - (b) any substance that is a medicinal product within the meaning of section 3 of the Medicines Act 1975;
  - (c) any thing that is or contains any controlled drug, psychoactive substance, controlled material or controlled substance within the meaning of the Misuse of Drugs Act 1973;
  - (d) any poison within the meaning of the Poisons Act 1938, and which is represented for use, in a manner not ordinarily associated with food for human consumption or with supplementing human dietary intake;
  - (e) any cosmetics;

- (f) any thing that is or contains any tobacco product or tobacco substitute within the meaning of section 2(1) of the Tobacco (Control of Advertisements and Sale) Act 1993;
- (g) any packaging (except edible packaging);
- (h) any thing that is or contains any animal feed;
- (i) any thing that is or contains 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) To avoid doubt, “food” may include live animals and plants.

### **Meaning of “food business”**

**5.**—(1) In this Act, “food business” means a business or an undertaking or activity that involves —

- (a) the production of primary produce;
- (b) the handling of food intended for supply or for export; or
- (c) the supply of food,

regardless of whether the business, undertaking or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or the supply of food on one occasion only.

(2) To avoid doubt, a “food business” includes a food business carried out as a home business or that is an occupation carried on by an individual within the individual’s private residence.

(3) However, a “food business” does not include a business or an undertaking or activity —

- (a) that carries on any other business besides 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, premises or a place (including mobile premises) or services (such as an internet service provider or an online auction location);
- (b) that provides, for reward, services in connection with or for the purpose of trading in food (such as an event organiser or an organiser of a market at which food is sold);
- (c) that consists of producing and providing non-packaged drinking water as a drinking water producer; or
- (d) that is declared by the Minister by order in the *Gazette* not to be a food business for the purposes of this Act.

(4) A reference in this Act to the proprietor of any food business is a reference to —

- (a) in the case of a licensable food business at any premises — the holder of a food business licence to carry on the licensable food business at those premises; and

- (b) in the case of any other food business at any premises — the occupier of those premises at, on or from which that food business is carried on.

### **Meaning of “licensable food business”**

**6.—**(1) In this Act, a “licensable food business” means a food business in Singapore that falls within a class of retail food business or non-retail food business that is specified in the First Schedule.

(2) The Minister may by order in the *Gazette*, amend the First Schedule —

- (a) by deleting a class of food business in the First Schedule;
- (b) by varying the description of a class of food business or replacing a class of food business in the First Schedule; or
- (c) by adding a class of food business to the First Schedule.

(3) Before amending the First Schedule with respect to any class of food business, the Minister must take into account the following factors:

- (a) the risk to public health and the need to prevent or reduce the possibility of a serious danger to public health if the class of food business is not specified in the First Schedule;
- (b) whether there are other sufficient safeguards under this Act or any other written law, or by other means, to minimise any risk to public health if the class of food business is not specified in the First Schedule;
- (c) the kind of food handled or likely to be handled, and the manner and scale of food handling, when carrying on the class of food business;
- (d) the components ordinarily operated as part of that class of food business;
- (e) the type and number of ultimate consumers ordinarily sold or supplied food by or from the class of food business;
- (f) any other matter or evidence as may be relevant the purposes in section 2(c).

### **Meaning of “publish in Singapore”, “advertise” and associated terms**

**7.—**(1) In this Act, “publish in Singapore”, in relation to any content, means communicating, distributing, or making available or making known, the content to the general public, in whatever form and by whatever means, such as (but not limited to)

- (a) including the content in a newspaper, magazine, leaflet, brochure, ticket or other document that is available, or distributed, to the general public;
- (b) including in a film, video, television programme or radio programme that is, or is intended to be, seen or heard by the general public;
- (c) publicly displaying the content, or something that contains the content, in Singapore;

*Examples*

A blimp, a gas-inflated balloon or other like object which is attached or anchored to the ground and upon which content is displayed.

An animated billboard.

A computer monitor, screen or digital display panel or similar appliance designed to be used primarily for the reception and display of any content capable of being received, or received and displayed, as visual images (whether moving or still) with or without sound, from a broadcasting service, where the monitor, screen, panel or appliance is situated in common property.

- (d) leaving the content, or something containing the content, in such a position in a public place and in such circumstances as to indicate that it is intended to be available for collection by members of the general public who are in a public place;
- (e) selling, hiring out or supplying the content, or something containing the content, to the general public, or offering the content, or something containing the content, for sale or supply to, or hire by, the general public;
- (f) posting the content as online material, to which any person physically present in Singapore is capable of having access through the internet;
- (g) providing the content on or by any service that —
  - (i) is a social media service, a relevant electronic service or a telecommunication service (such as but not limited to SMS and MMS); and
  - (ii) is —
    - (A) between a point in Singapore and one or more other points in Singapore; or
    - (B) between a point and one or more other points, where the firstmentioned point is outside Singapore and at least one of the other points is inside Singapore,so that the content is accessible to or delivered to, one or more users of the service who are physically present in Singapore;
- (h) direct marketing of the content to any individuals physically present in Singapore; or
- (i) publishing the content on an app (including a smartphone or tablet app) to which any person physically present in Singapore is capable of having access through the internet.

(2) In this Act, “advertise”, or “advertising” as a verb, means to publish, or to cause or authorise to be published, in Singapore any advertisement.

(3) For the purposes of this Act and without limiting the generality of the definition of “advertise” or “advertising” in subsection (2), a person is to be treated as causing or authorising to be published, content in Singapore if the person —

- (a) pays for, commissions, or authorises the content, or something that contains the content, to be published in Singapore; or

- (b) receives consideration for the display, placement or location of the content, or something that contains the content, in a manner described in subsection (1) and the display, placement or location of the advertisement is determined by systems or processes that are agreed between the parties entering into the contract relating to the advertisement.
- (4) However, none of the following, of itself, amounts to advertising by an individual or a person concerned:
- (a) an individual communicating —
- (i) to the general public of his or her personal opinion in relation to any goods or services or any person who provides goods or services; and
  - (ii) without the individual receiving or agreeing to receive, and without the individual contracting for, any money or money's worth, for or in connection with his or her communication;
- (b) an individual communicating any content, or something that contains content, that is online material produced entirely by another person —
- (i) by using —
    - (A) a social media service;
    - (B) a relevant electronic service; or
    - (C) a telecommunication service (such as but not limited to SMS and MMS); and
  - (ii) by —
    - (A) forwarding the content, or the something that contains the content, to; or
    - (B) sharing the content or the something that contains the content with, other users of the service without altering the content; and
  - (iii) without the individual receiving or agreeing to receive, and without the individual contracting for, any money or money's worth, for or in connection with his or her communication;
- (c) an individual expressing through a functionality of a social media service or a relevant electronic service, his or her view about any content, or something that contains any content, that is content produced entirely by another person, being a functionality which enables an end-user of the service to do anything as follows:
- (i) apply a “like” or “dislike” button or other similar button;
  - (ii) apply an emoji or symbol of any kind;
  - (iii) engage in yes/no voting;
  - (iv) rate or score the content in any way;

- (d) a person providing a service (such as a search engine service) that enables end-users of a social media service, a relevant electronic service or a telecommunication service to search online locations or online material, index search results or otherwise retrieve information or material from the search results;
  - (e) a proprietor of any food business displaying or exhibiting, or causing or allowing to be displayed or exhibited, any words or symbols that appear in or on any premises occupied by the proprietor and that relate to the food business, including a menu relating to that food business;
  - (f) 2 or more persons communicating content between themselves that is of a private or domestic nature, by using —
    - (i) a social media service;
    - (ii) a relevant electronic service; or
    - (iii) a telecommunication service (such as but not limited to SMS and MMS);
  - (g) engaging in any other conduct specified or described by the Minister in an order in the *Gazette*.
- (5) In this section —
- “a point” includes a mobile or potentially mobile point, whether on land, underground, in the atmosphere, underwater or anywhere else;
- “access”, in relation to any content that is online material or an online location, means to read, view, hear or otherwise experience the content, and includes —
- (a) access that is subject to a precondition, such as the use of a password;
  - (b) access by way of push technology;
  - (c) access by way of a standing request; and
  - (d) access for a limited period of time only;
- “advertisement” means any content that can reasonably be regarded as intended to promote, directly or indirectly —
- (a) the sale of any goods or services; or
  - (b) the sale of any brand of goods or services,
- but excludes a label unless included as an “advertisement” by regulations made under this Act;
- “direct marketing” means the sending of direct marketing material directly to an individual by direct means (such as an email or SMS) other than by an excluded electronic service;
- “direct marketing material” means any content where, having regard to the nature of the content, the way in which the content is presented, and the content that can be located using the URLs, telephone numbers or contact information (if any) set out in the content, it would be concluded that the purpose, or one of the purposes, of the content is an advertisement to promote —

- (a) the sale of any goods or services; or
- (b) the sale of any brand of goods or services;

“excluded electronic service” means —

- (a) an electronic service where the only user-generated content enabled by that service is one-to-one live aural communications;
- (b) an electronic service where the only user-generated content enabled by that service is communication between 2 or more persons that is of a private or domestic nature; or
- (c) an electronic service where the user-generated content enabled by that service is accessible substantially or only to a closed group of persons employed or engaged in a business (whether or not carried on for profit) and solely for their use as a tool in the conduct of that business;

“MMS” means a service that enables the transmission of multimedia messages (such as visual or voice communication) from an end-user on a mobile telephone to another mobile telephone through a telecommunication service;

“point-to-multipoint service” means an electronic service which allows a person to transmit material to more than one end-user simultaneously;

“posting”, by a person of any content as online material, means the person causing the content to be accessible to, or delivered to, one or more other persons who can access the content through the internet;

“publicly display”, for any content, means to display, exhibit, screen or project the content —

- (a) in a public place in order that another person may see the content;
- (b) in or on a conveyance (whether mobile or stationary) which is used to provide a public passenger transport service and is in a public place, in order that another person may see the content; or
- (c) in any place in a way so that anyone in a public place can see the content from inside or outside the firstmentioned place;

“public passenger transport service” means a service involving the transport of passengers within, or partly within, Singapore for hire or reward, by —

- (a) a motor vehicle;
- (b) a train (including rolling stock); or
- (c) a vessel,

but does not include a service that provides transport by a motor vehicle that is generally conducted on land that is not a road;

“relevant electronic service” means any of the following electronic services that is supplied to the general public, and is not an excluded electronic service:

- (a) an electronic service that enables end-users to communicate, by means of email, with other end-users;

- (b) an online instant messaging service that enables end-users to communicate with other end-users;
- (c) a service that specialises in providing links or facilitating access to, or information about, online locations, such as (but not limited to) a search engine, directory service or web browser;
- (d) a point-to-multipoint service;

“SMS” means a service that enables the transmission of short text messages from an end-user on a mobile telephone to another mobile telephone through a telecommunication service;

“social media service” has the meaning given by section 45T of the Broadcasting Act 1994;

“telecommunication service” has the meaning given by section 2 of the Telecommunications Act 1999.

(7) For the purposes of this section, whether any communication of content on or by a service is or is not of a private or domestic nature must be determined by having regard to all or any one of the following factors:

- (a) the number of individuals in Singapore who are able to access the content by means of the service;
- (b) any restrictions on who may access the content by means of the service (such as a requirement for approval or permission from a user, or the provider, of the service);
- (c) the relationship between the persons that the content is being or has been communicated;
- (d) any other relevant factor.

### **Meaning of “sell” and “supply”**

**8.—**(1) In this Act, “sell”, in relation to food, means to do, cause or permit the doing of, offer to do, or attempt to do, any of the following (or a combination thereof) in Singapore in relation to food for handling or for human consumption:

- (a) sell or re-sell;
- (b) barter;
- (c) receive, or having in possession, for sale;
- (d) display for sale;
- (e) send, forward or deliver for sale;
- (f) dispose of by any method for valuable consideration;
- (g) dispose of to an agent for sale on consignment;
- (h) provide as a refreshment or 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;

- (i) offer or give away for the purpose of advertising or in furtherance of any trade or business;
- (j) provide 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 provided and the accommodation, service or entertainment;
- (k) provide food (whether or not for consideration) in the course of providing services —
  - (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 provider by virtue of any Act; or
  - (iii) to prisoners or inmates in prisons or other places for the detention of individuals under any Act;
- (l) dispose of by way of raffle, lottery or other game of chance;
- (m) offer as a prize or reward.

(2) In this Act, “sell”, in relation to any other object or thing which is not food, means to do, cause or permit the doing of, offer to do, or attempt to do, any of the following (or a combination thereof) in Singapore in relation to the object or thing:

- (a) sell or re-sell;
- (b) barter;
- (c) receive, or having in possession, for sale;
- (d) display for sale;
- (e) send, forward or deliver for sale;
- (f) dispose of by any method for valuable consideration;
- (g) dispose of to an agent for sale on consignment;
- (h) offer or give away for the purpose of advertising or in furtherance of any trade or business;
- (i) dispose of by way of raffle, lottery or other game of chance;
- (j) offer as a prize or reward.

(3) In this Act, “supply” —

- (a) in relation to food, includes to do, cause or permit the doing of, offer to do, or attempt to do, any of the following in Singapore in relation to food for handling or for human consumption:
  - (i) sell;

- (ii) donate, or give to another without receiving any money or money's worth;
  - (b) in relation to non-packaged drinking water, has the meaning given by section 114(1); and
  - (c) in relation to an object or thing not in paragraphs (a) and (b), includes to do, cause or permit the doing of, offer to do, or attempt to do, any of the following in Singapore in relation to the object or thing:
    - (i) sell;
    - (ii) donate, or give to another without receiving any money or money's worth.
- (4) For the purposes of this Act —
- (a) food, an object or a thing that is displayed for the purpose of being offered as a prize or reward or given away for the purpose of advertising or in the furtherance of trade or business is taken to have been displayed for sale by the owner of the food, object or thing;
  - (b) food, an object or a thing that is donated to a person who distributes food, objects or things for a charitable, benevolent or philanthropic purpose is not to be taken to be food, an object or a thing that was given away for the purpose of advertising or in furtherance of trade or business;
  - (c) food, an object or a thing 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.
- (5) Despite subsections (1), (2) and (3), this Act does not extend to the following:
- (a) exchanging food for food or other goods or services as part of a personal relationship between individuals that is not commercial in nature;
  - (b) giving of food, an object, or a thing to another individual as part of a personal relationship between individuals that is not commercial in nature;
  - (c) providing food together with accommodation to an individual residing at another individual's private residence in exchange for services or labour by the firstmentioned individual.

### **Meaning of “handling” food**

**9.** In this Act, “handling”, in relation to food, includes any one or more of the following activities:

- (a) preparing or manufacturing the food;
- (b) processing the food;
- (c) storing, packing or labelling the food;
- (d) transporting or delivering the food;
- (e) displaying the food;
- (f) dishing up or plating the food;
- (g) serving the food;
- (h) supervising the performance of any activity in paragraph (a), (b), (c), (d), (e), (f) or (g) by another individual;
- (i) any other activity that is prescribed by the Minister, by order in the *Gazette*, for the purposes of this section.

### **Meaning of “manufacturing” and “preparing” food**

**10.**—(1) In this Act, “manufacture”, in relation to food, includes any one or more of the following:

- (a) making food by combining ingredients;
- (b) significantly changing the condition or nature of food by any process;

#### *Illustration*

Preserving or pickling vegetables.

Milling flour.

Peeling, cutting or freezing fruits.

Extracting oil from seeds.

Baking.

Extraction of protein from cells.

- (c) bottling or canning food, including bottling water;
- (d) packing unpackaged food, other than unprocessed primary produce;
- (e) making ice;
- (f) sterilising, fermenting, pasteurising or freeze-drying food;
- (g) dismembering, filleting, peeling or shucking of seafood;
- (h) boiling of crustacea;
- (i) dairy processing;
- (j) meat processing or other processing of food.

(2) However, “manufacture”, in relation to food, does not include any of the following:

- (a) preparing food at a particular place for retail sale at the place, including sale for immediate consumption;

*Examples*

Cooking food at a restaurant for sale to a diner in the restaurant.

Assembling and packing sandwiches in a package at a fast-food outlet for retail sale at the outlet.

- (b) preparing food in the course of a food business that is or consists of a catering service;
- (c) making ice at a particular place for use at the place;
- (d) changing the condition of food merely by changing its temperature.

*Example*

The retail sale by a convenience store of a chilled or frozen meal that is pre-prepared by an entity other than the convenience store proprietor, after the meal is heated by the convenience store proprietor, or the consumer on the premises of the convenience store, according to the instructions of the entity.

- (3) In this Act, “prepare”, in relation to food, means —
  - (a) to undertake any activity mentioned in subsection (2)(a), (b) or (c); or
  - (b) to cut, chop, mince, grate, cook, thaw, heat, dry or wash food, or engage in any conduct mentioned in subsection (1) to food, at a particular place in order to prepare it for sale or supply by retail at the place.

*Examples*

Cutting, or crushing of fruit or vegetables for juice, at a place for sale for immediate consumption or to takeaway.

Mixing or brewing of tea or coffee on the order of a customer for immediate consumption or to takeaway.

Cooking carried out in premises for sale, and served, on the order of a customer, predominantly for immediate consumption.

- (4) In subsection (1) —
  - “dairy processing” includes —
    - (a) the storage of milk on the premises at which the animals were milked for further processing;
    - (b) the manufacture of dairy products; and
    - (c) the pasteurisation or homogenisation of milk;
  - “dairy product” includes —
    - (a) milk;
    - (b) colostrum;
    - (c) a liquid milk product;

- (d) cream and thickened cream;
- (e) butter, butter concentrate, buttermilk, concentrated buttermilk, dairy blend, ghee and anhydrous milk fat (butter oil);
- (f) casein, caseinate and cheese;
- (g) whey, whey cream and concentrated whey cream;
- (h) cultured milk and yoghurt;
- (i) ice-cream and ice-cream mix; and
- (j) buttermilk powder, lactose powder, milk sugar, powdered milk, skim milk powder, whey powder, milk protein powder and other milk concentrates.

### **Meaning of “unsafe” food**

**11.**—(1) For the purposes of this Act, food is unsafe at a particular time if it would be likely to cause physical harm to an individual who might later consume it, assuming —

- (a) it was, after that particular time and before being consumed by the individual, properly subjected to all processes (if any) that are relevant to its reasonable intended use;
  - (b) nothing happened to it after that particular time and before being consumed by the individual that would prevent it being used for its reasonable intended use; and
  - (c) it was consumed by the individual 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;
  - (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
  - (d) its presence or consumption is unhealthy for any individual who has an allergy or other personal health condition.
- (3) In subsection (1), the reference to processes includes a reference to processes involving storage.

### **Meaning of “unsuitable” food**

- 12.**—(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 —
    - (i) any damaged, deteriorated, perished or contaminated substance or thing, to an extent that affects its reasonable intended use; or

- (ii) any thing which is inedible, or is otherwise alien to the particular food;
  - (c) is the product of a diseased animal, or an animal that —
    - (i) has died otherwise than by slaughter; and
    - (ii) has not been declared by or under this Act or another Act to be safe for human consumption;
  - (d) has packaging that is damaged, deteriorated, perished, or contaminated to the extent of affecting the food's reasonable intended use; or
  - (e) is outdated food, or consists of or has as an ingredient that is outdated food;
  - (f) contains a food production substance which is not an approved food production substance for that food;
  - (g) contains an approved food production substance at a greater level than permitted under the standards where a maximum level is so prescribed in any standard for that food production substance;
  - (h) contains —
    - (i) a proscribed contaminant or any residue of a proscribed contaminant; or
    - (ii) a restricted contaminant at a greater level than permitted under the standards where a maximum level is so prescribed in any standard for that restricted contaminant.
- (2) However, food is not unsuitable for the purposes of this Act merely because —
- (a) at any particular time before it is sold for human consumption it contains an agricultural chemical or a veterinary drug;
  - (b) any individual objects to it because of personal preference;
  - (c) any part of the community objects to it on moral, ethical, cultural, spiritual, or religious grounds;
  - (d) its consumption in inappropriate quantities may damage an individual's health; or
  - (e) its presence or consumption is unhealthy for any individual who has an allergy or other personal health condition.
- (3) In this section —
- “approved food production substance” means a food production substance which is prescribed in any standard as approved for food generally or for a particular food;
- “contaminant”, for any particular food, means a substance not intentionally added to the food but is present in the food as a result of —
- (a) the manufacture or preparation of the food, or its production if the food is primary produce;
  - (b) the transport or storing of the food; or
  - (c) environmental contamination,

but excludes any food production substance for that food and any whole or part of an insect, rodent hair and other like matter;

“food production substance”, for food, means any substance which —

- (a) is intentionally added to food during the manufacture or preparation of the food, or its production if the food is primary produce; and
- (b) is one of the following:
  - (i) a food additive;
  - (ii) a plant pesticide;
  - (iii) a veterinary drug,

and includes the residue of such a plant pesticide or veterinary drug;

“outdated”, in relation to any food in or from a package, means food that is unused or not consumed —

- (a) within the period recommended by the manufacturer of the food; or
- (b) before the end of the period that is required by any regulations made under Part 15 to be specified on the package of that food under a prescribed date marking requirement;

“proscribed contaminant”, for any particular food, means a contaminant that is prohibited under any standard with respect to the particular food;

“restricted contaminant”, for any particular food, means a contaminant that is allowed to be present in the particular food at no greater a level prescribed in any standard for that food;

“veterinary drug” means a substance that is represented as being suitable for, or is manufactured, supplied or used for, administration or application to an animal by any means, or consumption by an animal, as a way of directly or indirectly—

- (a) preventing, diagnosing, curing or alleviating a disease or condition in the animal or an infestation of the animal by a pest;
- (b) curing or alleviating an injury suffered by the animal;
- (c) modifying the physiology of the animal —
  - (i) so as to alter its natural development, productivity, quality or reproductive capacity; or
  - (ii) so as to make it more manageable; or
- (d) modifying the effect of another veterinary drug.

### **Meaning of “defined food”**

**13.—**(1) For the purposes of this Act, food is defined food if the food —

- (a) is, consists of or has as an ingredient a novel food in respect of which no pre-market approval is granted;

- (b) is, consists of or has as an ingredient a genetically modified food in respect of which no pre-market approval is granted; or
- (c) is, consists of or has as an ingredient, in any form (whether whole or in parts and whether fresh, chilled, frozen, dried, smoked, salted or in brine, or as flour) an edible insect-like species which is not a catalogued insect-like species.

(2) The Agency may, with the approval of the Minister, by order in the *Gazette*, declare an edible insect-like species as a catalogued insect-like species where the Agency is satisfied that the insect-like species, where made available for consumption by the general public, is not food of higher regulatory concern.

(3) In this section —

“engineered nanomaterial” means any intentionally produced material that has one or more dimensions of the order of 100 nm or less or that is composed of discrete functional parts, either internally or at the surface, many of which have one or more dimensions of the order of 100 nm or less, including structures, agglomerates or aggregates, which may have a size above the order of 100 nm but retain properties that are characteristic of the nanoscale;

“genetically modified food” means a food coming from an organism that has been altered using any of the following techniques, such that the resulting organism contains a combination of heritable genetic material that could not have occurred naturally or could not have been produced by traditional breeding and selection:

(a) in vitro nucleic acid techniques, including recombinant nucleic acids and direct injection of nucleic acid into cells or organelles;

(b) fusion of cells beyond the taxonomic family,

and excludes any novel food and any food that is, consists of or has as an ingredient an insect-like species which has not been so altered;

*Illustration*

An animal, plant or micro-organism which is modified by genetic engineering.

“novel food” means —

(a) a substance (which may consist of, be isolated from or produced from, cell culture or tissue culture derived from animals, plants, micro-organisms, fungi or algae) that has not been used to a significant degree as food for a period of at least 20 years, whether within or outside Singapore;

(b) a food that has been manufactured, prepared or preserved by a process that has not been previously used in food production for a period of at least 20 years, whether within or outside Singapore;

(c) a food consisting of, isolated from or produced from material of mineral origin; or

(d) a food that contains or consists of engineered nanomaterials,

but does not include any food that is, consists of or has as an ingredient an insect-like species in any form.

### Meaning of “primary produce” and “unsafe” primary produce

**14.**—(1) Primary produce means—

- (a) food produced by any primary production activity;
- (b) an animal, plant or other organism intended for human consumption as food;
- (c) raw material taken from an animal, a plant or any other organism intended for food; or
- (d) a substance other than food —
  - (i) that is labelled as not intended for human consumption or for consumption by animals;
  - (ii) that the Minister is satisfied —
    - (A) is likely to be consumed by humans or animals; and
    - (B) if consumed by humans or animals — poses a hazard to the humans or animals; and
  - (iii) that is prescribed, by the Minister by order in the *Gazette*, to be primary produce for the purpose of this definition.

(2) However, primary produce does not include a raw material mentioned in subsection (1)(c) unless the raw material is in substantially the same condition as when it was taken from the animal, plant or other organism.

#### *Example*

A whole apple is an example of a raw material in substantially the same condition as when it was taken from a plant.

(3) In this Act, “unsafe”, for primary produce, means —

- (a) if the primary produce is ready for immediate human consumption as food — the primary produce, or food produced by a process involving a substantial change to the primary produce, is likely to cause harm to an individual who consumes the primary produce or food if it is prepared, stored or consumed according to its reasonable intended use; or
- (b) if the primary produce is not ready for immediate human consumption as food — food produced by the production of the primary produce, or another process involving a substantial change to the primary produce, is likely to cause harm to an individual who consumes the food if it is prepared, stored or consumed according to its reasonable intended use.

(4) For the purposes of this section and section 15, the nature of primary produce is substantially changed if —

- (a) any thing done to the primary produce markedly increases its shelf life; or

- (b) any food is added to it.

### Meaning of “primary production activity”

15.—(1) In this Act, “primary production activity” means the production of primary produce and includes the following:

- (a) the growing, raising, cultivating, picking, harvesting, collecting or catching of animals, plants or other organisms intended for human consumption as food;

#### *Examples*

Engaging in agriculture, animal husbandry, aquaculture, orcharding, apiculture, or farming or harvesting of edible molluscs or catalogued insect-like species.

- (b) the sorting or grading of primary produce on the premises on which it was grown, raised, cultivated, picked, harvested, collected or caught, or on premises that are associated with those premises;
- (c) the treating, freezing, packing, refrigeration, storage or washing of primary produce on the premises on which it was grown, raised, cultivated, picked, harvested, collected or caught, or on premises that are associated with those premises;
- (d) the management and breeding of live animals for the production of primary produce;
- (e) the transporting or delivery of primary produce within premises on which it was grown, raised, cultivated, picked, harvested, collected or caught;
- (f) any other activity that is prescribed, by the Minister by order in the Gazette, for the purposes of this definition,

but excludes the slaughter of animals to produce meat or meat products, meat processing, manufacturing animal feed and pet food production.

(2) However, primary production activity does not include —

- (a) any process involving significantly changing the condition or nature of food (for example, manufacturing or canning), regardless of whether the process is carried out in the premises on which the food was grown, raised, cultivated, picked, harvested, collected or caught;
- (b) the sale or service of food directly to the general public; or
- (c) any other food production activity that is prescribed, by the Minister by order in the *Gazette*, for the purposes of this subsection.

(3) In subsection (1)(c), treating of primary produce means —

- (a) enhancing the appearance of the primary produce (such as by washing, waxing or oiling it) without substantially changing its nature; or
- (b) dealing with the primary produce solely —
  - (i) to eliminate or control pathogenic organisms, toxins and contaminants in the primary produce; or

(ii) to ripen it.

### **Meaning of “animal feed” and associated terms**

**16.—(1)** In this Act, “animal feed” means —

(a) a live animal; or

(b) a material or a mix of materials (whether processed, semi-processed or raw),

which is intended to be fed directly to any food producing animal, and includes any feed additive.

(2) To avoid doubt, “animal feed” excludes pet food.

(3) For the purposes of this Act, an animal feed is not fit for purpose if it —

(a) spreads organisms or pathogenic agents to a level or in a manner that could be harmful to humans;

(b) contains a proscribed substance for the animal feed or any residue of the proscribed substance;

(c) results in food production substances or restricted contaminants in food at a greater level than permitted under any standard, where a maximum level is so prescribed in the standard for that food production substance or restricted contaminant;

(d) is toxic to an extent that causes unnecessary pain or distress to animals that consume it; or

(e) transmits disease, results in physical harm, or causes unnecessary pain and distress to animals that consume it.

(4) In this section —

“basic animal feed” means grain, seeds, hay, meat, fish or milk used as animal feed, or in the preparation of animal feed;

“feed additive” means a substance or combination of substances that —

(a) is or are not normally consumed as animal feed by itself;

(b) is or are intentionally added as an ingredient to basic animal feed; and

(c) affects the characteristics of the animal feed or animal products,

whether or not the substance or combination of substances has any nutritional value or other effect on the animal;

#### *Examples*

Micro-organisms, enzymes, pH regulators, trace elements and vitamins.

“pet food” means a material or a mix of materials (whether processed, semi-processed or raw) which is produced for consumption by pets.

## Meaning of “associate”

**17.—(1)** For the purposes of this Act, a person (A) is an associate of another person (B) if —

- (a) A is B’s spouse;
- (b) A is a relative of B or B’s spouse;
- (c) A is the spouse of a relative of B, or B’s spouse;
- (d) A is a partner of B with whom A is in a partnership or limited liability partnership;
- (e) A is a spouse or relative of any individual with whom B is in partnership;
- (f) A is an employer of B or an employee of B, and for this purpose, any director or other officer of a company is treated as employed by that company; or
- (g) A has a relationship with B in a manner prescribed under subsection (3).

(2) For the purposes of subsection (1), a person is a relative of an individual if the person is that individual’s brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, treating —

- (a) any relationship of the half blood as a relationship of the whole blood, and the stepchild or adopted child of any person as that person’s child; and
- (b) an illegitimate child as the legitimate child of the child’s mother and reputed father.

(3) The Minister may make rules in the *Gazette* providing that any person or class of persons is an associate of another person for the purposes of subsection (1)(g).

## PART 2

### STRENGTHENING RESILIENCE OF FOOD SUPPLIES IN SINGAPORE

#### *Division 1 — Interpretive provisions*

#### **Definitions for Part 2**

**18.—(1)** In this Part —

“agri-food supply chain” means a supply chain for providing individuals with items of food for personal consumption (each called in this Act an ultimate consumer) where the items of food consist of or include, or have been produced using (directly or indirectly, and whether or not exclusively), the whole or part of —

- (a) any food;
- (b) any primary produce;
- (c) any creature or other thing taken from the wild; or
- (d) any agri-food production input;

“agricultural and food supply chain” means the supply chain relating to agricultural and food products

“agri-food supply chain participant” means any of the following:

- (a) any ultimate consumer in Singapore;
- (b) any person engaged in primary production activities in Singapore;
- (c) any person engaged in taking any animal, plant (which includes fungi) or other thing from the wild in Singapore for the purposes of consumption by humans or food producing animals;
- (d) any person in the agri-food supply chain in Singapore between persons mentioned in paragraph (b) or (c) and the ultimate consumers, such as —
  - (i) any person engaged in producing, manufacturing, preparing, processing any food or agri-food production input in Singapore;
  - (ii) any person selling, distributing, transporting, supplying or storing any food or agri-food production input in Singapore; and
  - (iii) a person making any food or agri-food production input available in Singapore, or providing the food or agri-food production input to another person in Singapore;

“average MSR” has the meaning given by section 20(b);

“daily MSR” has the meaning given by section 20(a);

“food security factors” means all the following:

- (a) global food availability;

- (b) supply sources for food, including the range of supply sources and the availability to the ultimate consumers of food from local and other sources;
- (c) the resilience of the agri-food supply chain in response to natural or man-made disasters, climate change, severe disturbances in agricultural markets and other disruptions in the supply of food;
- (d) food safety and consumer confidence in food;

“minimum stockholding requirement” or “MSR” means a requirement described in section 19;

“MSR activity”, in relation to an MSR product, means undertaking in the course of business any activity involving the MSR product, being an activity that is prescribed by the Part 2 Rules for the purposes of this definition in relation to that MSR product;

“MSR product” means —

- (a) any food that is prescribed by the Minister by the Part 2 Rules, to be an MSR product; or
- (b) any agri-food production input that is prescribed by the Minister by the Part 2 Rules, to be an MSR product;

“MSR product shortfall” has the meaning given by section 31;

“relevant period” means a period (not less a month) that is prescribed by, or to be determined in accordance with, the Part 2 Rules;

“Singapore public sector agency” has the meaning given by section 2(1) of the Public Sector (Governance) Act 2018;

“subject to a minimum stockholding requirement” has the meaning given by section 22;

“trigger notice” means a written notice given under section 23, and includes a trigger notice given by the Minister under section 226(3)(c) on appeal against an original trigger notice given under section 23.

(2) In this Part, stocks of any food or agri-food production input are stored in Singapore if the stocks are stored —

- (a) on land in Singapore;
- (b) on a vessel that —
  - (i) is in a port in Singapore; or
  - (ii) is moored in Singapore territorial waters waiting to enter a port in Singapore; or
- (c) in other circumstances prescribed by the Part 2 Rules for the purposes of this subsection.

(3) A reference in section 23, 24, 27 or 32 to the Director-General, Food Security includes a reference to a food security officer duly appointed by the Director-General, Food Security to act for him or her.

## **When an entity holds stocks of MSR product**

**19.**—(1) For the purposes of this Act, an entity holds stocks of an MSR product if —

- (a) the entity is the holder of the stocks under subsection (2), (3) or (4); and
- (b) the stocks are none of the following:
  - (i) any stock which is being kept for the exclusive use of the Singapore Armed Forces or the visiting forces;
  - (ii) any stock which is kept wholly or principally for personal or domestic consumption;
  - (iii) any stock being stored in the food premises of a retail food business;
  - (iv) any stock which is being stored in a seagoing vessel for the consumption of crew or passengers or both;
  - (v) any stock which is unsuitable, unsafe or defined food.

(2) An entity is the holder of stocks of an MSR product under this subsection if —

- (a) the entity owns the stocks;
- (b) the stocks are being stored in Singapore by the entity or by another entity on behalf of the firstmentioned entity; and
- (c) no other entity is the holder of the stocks by virtue of this subsection.

(3) However, if more than one entity would be the holder of the same stock of MSR product under subsection (2), then —

- (a) which of those entities is the holder of the stock; and
- (b) the share of the stock each entity is the holder of,

must be as agreed between the entities but, in the absence of any such agreement, must be determined by the Director-General, Food Security in accordance with the method prescribed by the Part 2 Rules.

### *Division 2 — Minimum stockholding requirement or MSR*

## **What is minimum stockholding requirement or MSR**

**20.** An entity that is subject to a minimum stockholding requirement in relation to an MSR product must hold —

- (a) each day at least the quantity of stocks of the MSR product designated for the entity for the day (called the daily MSR); and
- (b) for each relevant period, at least the average quantity of stock of the MSR product designated for the entity for the relevant period (called the average MSR).

## **Quantity of MSR product to be held**

**21.**—(1) For the purposes of section 20(a), the daily MSR for an MSR product designated for an entity on a day, is the quantity specified in the trigger notice that —

- (a) is in force for that day; and
- (b) was given to the entity in relation to that MSR product.

(2) For the purposes of section 20(b), the average MSR for an MSR product designated for an entity for a relevant period applicable to an entity, is the quantity that

- (a) is worked out in accordance with section 23(3) for the relevant period and the entity; and
- (b) is specified in the trigger notice that —
  - (i) is in force for the whole of that relevant period; and
  - (ii) was given to the entity in relation to that MSR product.

### **Entity subject to minimum stockholding requirement**

**22.**—(1) An entity is subject to a minimum stockholding requirement in relation to an MSR product if —

- (a) the minimum stockholding requirement has been triggered for the entity in relation to the MSR product because of section 23; and
- (b) the entity has not ceased to be subject to the minimum stockholding requirement in relation to the MSR product because of section 24.

(2) An entity is also subject to a minimum stockholding requirement in relation to an MSR product if —

- (a) a determination is made under section 27 that —
  - (i) the entity has assumed another entity's minimum stockholding requirement in relation to the MSR product; or
  - (ii) another entity's minimum stockholding requirement in relation to the MSR product has been divided with the entity; and
- (b) the entity has not ceased to be subject to the minimum stockholding requirement in relation to the MSR product because of section 24.

### **Triggering the minimum stockholding requirement**

**23.**—(1) The Director-General, Food Security may, by written notice (called a trigger notice) given to an entity, trigger the minimum stockholding requirement for the entity in relation to an MSR product if —

- (a) the entity is an agri-food supply chain participant but not an ultimate consumer; and
- (b) in a period prescribed by the Part 2 Rules —
  - (i) the entity undertakes any MSR activity in relation to the MSR product; and
  - (ii) in doing so, the entity exceeds the quantity prescribed by the Part 2 Rules for undertaking the MSR activity in relation to that MSR product.

- (2) The trigger notice must specify —
- (a) the days for which the notice is in force and the quantity of stocks of the MSR product the entity must hold on those days;
  - (b) the relevant periods for which the trigger notice is in force, and the average quantity of stocks of the MSR product the entity must hold for each of those relevant periods; and
  - (c) the place or places in Singapore where those stocks must be held.
- (3) The average quantity of MSR product in relation to a relevant period applicable to an entity must be worked out by dividing —
- (a) the total minimum quantity of stocks of the MSR product which the Director-General, Food Security determines the entity must hold during the relevant period; by
  - (b) the number of days constituting that relevant period.
- (4) Trigger notices may specify different quantities or average quantities of stocks —
- (a) in respect of different MSR products or different entities; or
  - (b) on the basis of different MSR activities undertaken in relation to the same MSR product.
- (5) The Director-General, Food Security must determine the quantity or average quantity of stocks in accordance with section 25.
- (6) A trigger notice given under this section is in force for the days or relevant periods which occur within the period —
- (a) starting the date specified in the trigger notice as the day the trigger notice comes into force (which must be at least 6 months after the day the trigger notice is given) except as provided otherwise by section 39(3); and
  - (b) ending the day before —
    - (i) the trigger notice is cancelled under section 24; or
    - (ii) another trigger notice given under this section to the same entity in relation to the same MSR product comes into force,whichever first happens.
- (7) Subsection (5) is subject to section 26(2).
- (8) In giving a trigger notice under this section, it is not necessary for the Director-General, Food Security to give any person who may be affected by the trigger notice a chance to be heard before the trigger notice is given.
- (9) The quantity or average quantity (as the case may be) of stocks of MSR product may be specified in a trigger notice in any of the following terms:
- (a) a fixed quantity;
  - (b) a rate or formula by which a quantity is to be calculated.

### **Ceasing to be subject to MSR**

**24.**—(1) An entity ceases to be subject to the minimum stockholding requirement in relation to an MSR product if the Director-General, Food Security cancels the trigger notice given to the entity.

(2) The Director-General, Food Security must, upon being satisfied that the entity has permanently or indefinitely stopped undertaking all MSR activities in relation that MSR product, cancel the trigger notice given to the entity.

(3) An entity ceases to be subject to the minimum stockholding requirement in relation to an MSR product if a determination is made under section 27 that another entity has assumed the entity's MSR in relation to that product.

### **Decision-making criteria for triggering MSR, etc.**

**25.**—(1) The Director-General, Food Security must have regard to, and give such weight as the Director-General, Food Security considers appropriate to, all of the matters in subsection (2) —

- (a) in deciding whether or not to give a trigger notice under section 23;
  - (b) in determining under section 23(3) the total minimum quantity of stocks of an MSR product that an entity must hold during a relevant period; or
  - (b) in determining under section 23(5) the quantity or average of stocks of MSR product to be specified in a trigger notice.
- (2) The matters for the purposes mentioned in subsection (1) are as follows:
- (a) the food security factors;
  - (b) the need to enhance resilience of the agri-food supply chain for Singapore;
  - (c) local eating patterns and preferences;
  - (d) local food production capacity.

### **Temporary suspension of MSR by Minister**

**26.**—(1) The Minister may, by order in the *Gazette*, suspend section 20(a) or (b) or section 20(a) and (b) in relation to a specified MSR product for a period (not exceeding 6 months) specified in the order (called a suspension period) if the Minister is satisfied that —

- (a) a disruptive event which directly affects the supply of the MSR product in Singapore is occurring or has occurred, or there is a threat of such a disruptive event; and
  - (b) a suspension under this section is necessary to substantially prevent, or substantially assist in mitigating, the impact of the disruptive event or the threatened disruptive event, on the supply of the MSR product in Singapore.
- (2) During the period an order made under subsection (1) has effect, entities are not required to comply with section 20(a) or (b) or section 20(a) and (b) (as the case may be) in relation to the specified MSR product.

(3) An order made under subsection (1) has effect for the suspension period specified in it or until the day it is earlier revoked under subsection (4).

(4) An order made under subsection (1) may be revoked at any time by the Minister before the expiry of the suspension period specified in that order.

(5) However, the cessation of an order made under subsection (1) having effect (whether or not by revocation or expiry of a suspension period) does not prevent a further order being made under subsection (1) by the Minister if the Minister is satisfied that the circumstances warrant it under subsection (1).

### **Determination of assumption or division of MSR**

**27.**—(1) The Director-General, Food Security may make a determination that he or she is satisfied that an entity's (called the divesting entity's) minimum stockholding requirement in relation to an MSR product is being assumed by, or divided with, another entity or entities (called the receiving entity or entities).

(2) The Director-General, Food Security may make the determination on the application of a divesting entity or receiving entity or on the Director-General, Food Security's own initiative.

(3) The determination must specify the effect the determination is to have on trigger notices in force under section 23.

### **Reporting capacity to hold, etc.**

**28.**—(1) If an entity is subject to the minimum stockholding requirement in relation to an MSR product, and the entity intends —

- (a) to undertake another MSR activity in relation to the same MSR product;
- (b) to permanently or indefinitely cease undertaking an MSR activity in relation to the same MSR product; or
- (c) to cease undertaking an MSR activity in relation to the same MSR product in circumstances in which paragraph (b) does not apply,

the entity must give the Director-General, Food Security a written advice in advance in accordance with subsection (2).

(2) The written advice must —

- (a) set out details of the situation to which the advice relates;
- (b) set out any matters that might affect the entity's capacity to meet any minimum stockholding requirement in relation to an MSR product;
- (c) be in accordance with any other requirements prescribed by the Part 2 Rules; and
- (d) be given to the Director-General, Food Security within the period (if any) prescribed by the Part 2 Rules for the situation.

(3) An entity that intentionally or negligently contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

### **Average MSR default — civil penalty**

**29.**—(1) If —

- (a) an entity is subject to a minimum stockholding requirement in relation to an MSR product; and
- (b) the entity contravenes section 20(b) by not holding, for a relevant period for which a trigger notice given to the entity is in force, at least the average MSR of stock of the MSR product designated for the entity for that relevant period,

the entity shall be liable to pay an MSR charge of an amount that is in subsection (5).

(2) The MSR charge payable under subsection (1) must be paid to the Director-General, Food Security not later than the 14th day after a written demand to pay that MSR charge is given by the Director-General, Food Security to the entity in question.

(3) For the purposes of subsection (1), the MSR charge, for each relevant period which is the subject of the written demand given under subsection (2), is as follows:

$$(M_a \times K_a)$$

where —

$M_a$  is the rate prescribed by the Part 2 Rules for the MSR product concerned and in force on the last day of the relevant period; and

$K_a$  is the MSR product average shortfall for the relevant period, calculated in accordance with subsection (4).

(4) For the purposes of subsection (3), “MSR product average shortfall”, for an entity that is subject to a minimum stockholding requirement in relation to an MSR product for a relevant period, means the quantity calculated by subtracting —

- (a) the average quantity of the stocks of the MSR product specified in a trigger notice which the entity is required to hold during a relevant period; from
- (b) the average quantity of the stocks of the MSR product actually held by the entity concerned during that relevant period where lower than the quantity in paragraph (a).

(4) Where an entity subject to a minimum stockholding requirement in relation to an MSR product becomes liable under subsection (1) to pay an MSR charge for a relevant period, the entity’s liability continues despite the entity ceasing to be subject to that minimum stockholding requirement.

(5) Any liability under this section is in addition to and does not affect any liability under section 30.

(6) This section is subject to a remission under section 39.

### **Daily MSR default — civil penalty**

**30.**—(1) If —

- (a) an entity is subject to a minimum stockholding requirement in relation to an MSR product; and

- (b) the entity contravenes section 20(a) by not holding at least the daily MSR of stocks of the MSR product designated for the entity for any day for which a trigger notice given to the entity is in force,

the entity shall be liable to pay an MSR charge of an amount that is calculated in relation to that day using the formula in subsection (4).

(2) The MSR charge payable under subsection (1) must be paid to the Director-General, Food Security not later than the 14th day after a written demand to pay that MSR charge is given by the Director-General, Food Security to the entity in question.

(3) For the purposes of subsection (1), the formula, for each day which is the subject of the written demand given under subsection (2), is as follows:

$$(M \times K)$$

where —

M is the rate prescribed by the Part 2 Rules for the MSR product concerned and in force on the day; and

K is the MSR product shortfall for that day, calculated in accordance with subsection (4).

(4) For the purposes of subsection (3), “MSR product shortfall”, for an entity that is subject to a minimum stockholding requirement in relation to an MSR product on a day, means the quantity calculated by subtracting —

- (a) the quantity of the stocks of the MSR product specified in a trigger notice which the entity is required to hold on the day; from
- (b) the quantity of the stocks of the MSR product actually held by the entity concerned on that day where lower than the quantity in paragraph (a).

(5) Where an entity subject to a minimum stockholding requirement in relation to an MSR product becomes liable under subsection (1) to pay an MSR charge for any day or days, the entity’s liability continues despite the entity ceasing to be subject to that minimum stockholding requirement.

(6) Any liability under this section is in addition to and does not affect any liability under section 29.

(7) This section is subject to a remission under section 39.

### **Daily MSR default — offence**

**31.**—(1) An entity commits an offence if —

- (a) the entity is subject to a minimum stockholding requirement in section 20(a) in relation to an MSR product on any day for which a trigger notice given to the entity is in force; and
- (b) the entity intentionally or recklessly holds less than the daily MSR of stocks of the MSR product designated for the entity for any day for which a trigger notice given to the entity is in force.

(2) An entity that is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding one of the following amounts, whichever being the higher:

- (a) \$25,000;
- (b) an amount that is calculated in relation to that day using the formula in subsection (3).

(3) For the purposes of subsection (2), the formula for the day which is the subject of the charge, is as follows:

$$(N \times K)$$

where —

N is the rate prescribed by the Part 2 Rules for the MSR product concerned and in force on the day; and

K is the MSR product shortfall for that day, calculated in accordance with subsection (4).

(4) For the purposes of subsection (3), “MSR product shortfall”, for an entity that is subject to a minimum stockholding requirement in relation to an MSR product on a day, means the quantity calculated by subtracting —

- (a) the quantity of the stocks of the MSR product specified in a trigger notice which the entity is required to hold on the day; from
- (b) the quantity of the stocks of the MSR product actually held by the entity concerned on that day where lower than the quantity in paragraph (a).

### *Division 3 — Information about agri-food supply chain*

#### **Requirement to provide information**

**32.**—(1) Subject to sections 33 and 34, the Director-General, Food Security may require a person —

- (a) who —
  - (i) is an agri-food supply chain participant; or
  - (ii) is closely connected with, an agri-food supply chain; and
- (b) who falls within any class of persons prescribed in the Part 2 Rules for the purposes of this section,

to provide information to the Director-General, Food Security, within a reasonable period specified in that requirement.

(2) For the purpose of subsection (1), a person is “closely connected” with an agri-food supply chain if the person is any of the following:

- (a) anybody supplying any agri-food production inputs to any person who is in such an agri-food supply chain for use in the production of primary produce;

- (b) anybody providing, to any person mentioned in subsection (1)(a) or (b), services related to —
    - (i) the health of food producing animals, or plants, involved in the agri-food supply chain; or
    - (ii) the safety or quality of any food to be provided to the ultimate consumers;
  - (c) any person carrying on activities capable of affecting a matter mentioned in paragraph (b)(i) or (ii);
  - (d) any body representing persons mentioned in subsection (1)(a) or (b) or paragraph (a), (b) or (c) of this subsection.
- (3) To avoid doubt, it does not matter whether the person required under subsection (1) is subject to a minimum stockholding requirement in relation to an MSR product.
- (4) However, subsection (1) does not apply in relation to individuals in an agri-food supply chain so far as they are in the agri-food supply chain by reason of them, or members of their households, being the ultimate consumers.
- (5) In giving a requirement under this section, it is not necessary for the Director-General, Food Security to give any person who may be affected by the requirement a chance to be heard before the requirement is given.
- (6) A requirement under this section is binding on the person to whom it is addressed and given, and that person is bound to state truly what the person is required.

### **Subject information of section 32 requirement**

**33.—**(1) The power in section 32 may be exercised only in relation to any information

- (a) about matters connected with a person's activities connected with the agri-food supply chain so far as the activities are in or relate to Singapore;
- (b) which the Director-General, Food Security considers necessary for all or any of the following purposes:
  - (i) to determine what is an MSR product and the MSR activity for an MSR product, and holdings of an MSR product;
  - (ii) to determine whether there are grounds to exercise any power under section 23, 24, 25, 26 or 27, or under any other provision of this Act directed at mitigating the impact on Singapore of agri-food supply chain disruptions or the impact of disruptive events on the supply of food or agri-food production inputs in Singapore;
  - (iii) to monitor or analyse markets connected with agri-food supply chains;
  - (iv) to monitor the resilience of the agri-food supply chain in response to natural or man-made disasters, climate change, severe disturbances in agricultural markets and other disruptions in the supply of food and agri-food production inputs; and

(c) that is —

- (i) within the knowledge of the person to whom a requirement under section 32 is given; or
- (ii) in the custody or under the control of that person.

(2) However, nothing in this section requires a person to provide any information subject to legal privilege.

### **Other content of section 32 requirement**

**34.** A requirement under section 32 must specify —

- (a) the purpose or purposes for which the required information is required;
- (b) how and when the required information is to be provided, including (in particular) —
  - (i) the form in which it is to be provided;
  - (ii) the means by which it is to be provided; and
  - (iii) the time or times at which, or by when, it is to be provided; and
- (c) that it is an offence under this Act to fail to comply with the requirement.

### **Limits to disclosure of information provided due to section 32 requirement**

**35.—**(1) Subsection (2) applies to —

- (a) the Director-General, Food Security to whom any information is provided because of a requirement under section 32; and
- (b) a Singapore public sector agency or other person to whom the information is disclosed by or under the authority of the Director-General, Food Security under this section.

(2) Information provided because of a requirement under section 32 must not be disclosed to a person who is not a Singapore public sector agency —

- (a) except as required by an order of court or for the purposes of any criminal proceedings for an offence under this Part or any Part 2 Rules; or
- (b) in any other form than in anonymised form.

(3) If —

- (a) a person discloses, or the person's conduct causes disclosure of, information provided because of a requirement under section 32;
- (b) the disclosure is not authorised by this section; and
- (c) the person does so —
  - (i) knowing that the disclosure is not in accordance with this section; or
  - (ii) reckless as to whether the disclosure is or is not in accordance with this section,

the person 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 2 years or to both.

(4) In proceedings for an offence under subsection (3), it is a defence for the person charged to prove, on a balance of probabilities, any of the following:

- (a) the information was, at the time of its disclosure by the person charged, information that consists of readily observable matter, including information that consists of deductions, conclusions or inferences made or drawn from readily observable matter;
- (b) the person charged disclosed or caused the disclosure of information as authorised or required by an order of court.

(5) In subsection (2), “anonymised form”, for any information or particulars, means any form that will not identify, and is not reasonably capable of being used to identify, any person to which the information or particulars relate.

(6) To avoid doubt, this section does not affect the authorisation to share the information under the control of a Singapore public sector agency with another Singapore public sector agency to the extent permitted by the data sharing direction given under the Public Sector (Governance) Act 2018.

### **Compliance and non-compliance with section 32**

**36.**—(1) Where —

- (a) any information which is required by a section 32 requirement to be given to the Director-General, Food Security is not given within the time delimited in the requirement; or
- (b) information which is required by a section 32 requirement to be given to the Director-General, Food Security is given to the Director-General, Food Security, but the information does not comply with the requirements of section 34(b) as regards the form of the information,

then the person required to give the information shall be guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(3) Subsection (1) does not apply if the person required to give the information has a reasonable excuse.

(4) The ordinary meaning of “reasonable excuse” is affected by section 254.

## *Division 4 — General provisions*

### **Interest in case of civil penalty default**

**37.** If any MSR charge is not paid before the end of the time delimited by or under section 29(2) or 30(2), the entity concerned is liable to pay to the Director-General, Food Security interest, at the rate prescribed in the Part 2 Rules, on the amount of MSR charge unpaid, calculated on a daily basis from the end of the time so delimited until the day the MSR charge is paid.

### **Recovery of civil penalty**

**38.—(1)** Any MSR charge is deemed, when it becomes due and payable at the expiry of the time so delimited by or under section 29(2) or 30(2), to be a debt due to the Government from the person from whom the MSR charge is due and payable, and must be collected and received by the Director-General, Food Security in accordance with this Act.

(2) Any MSR charge that is unpaid may be recovered as a debt in any court of competent jurisdiction in the name of the Agency.

(3) Any action or remedy for recovery of any MSR charge and any interest under section 37 may be taken at any time, any written law to the contrary notwithstanding.

(4) All MSR charges collected or recovered under this Part, and all interest imposed under section 37, must be paid into the Consolidated Fund.

### **Remission**

**39.—(1)** Where it is shown to the satisfaction of the Minister —

- (a) that payment of any MSR charge payable is likely to cause substantial hardship to an entity; or
- (b) that payment of any MSR charge payable by a particular entity is not compatible with the purposes of this Part having regard to the peculiar facts of the case,

the Minister may remit the payment of the MSR charge, either wholly or in part.

(2) This section also applies to any interest imposed under section 37.

### **Part 2 Rules**

**40.—(1)** The Minister may make rules which are required or permitted to be prescribed by this Part or are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) In particular, the Minister may make rules —

- (a) prescribing for the purposes of section 23(1)(b), the period and quantity for undertaking an MSR activity in relation to an MSR product;
- (b) providing for procedures that an entity subject to a minimum stockholding requirement in relation to an MSR product must comply with in order to ensure

that the MSR product does not become unsafe or unsuitable when held, including requirements as to the manner of storage, and the maximum length of holding of the MSR product before supplying it in Singapore;

- (c) prescribing requirements to ensure that the location where an MSR product is held by an entity subject to a minimum stockholding requirement in relation to the MSR product, is secure from loss, theft, sabotage or unauthorised access;
- (d) providing that any contravention of any provision of the rules is an offence and that the penalty for which on conviction may be a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months or both; and
- (e) providing for any saving, transitional, and other consequential, incidental and supplemental provisions that are necessary or expedient for rules made under this section.

(3) Part 2 Rules may prescribe for the purposes of section 23(1)(b) different periods or different quantities —

- (a) in respect of different MSR products;
- (b) on the basis of different MSR activities undertaken in relation to the same MSR product; or
- (c) on the basis of 2 or more entities undertaking similar MSR activities in relation to the same MSR product being corporations that are related to each other under section 6 of the Companies Act 1967, and entities that are not so related to each other.

### **Saving and transitional provisions for food security**

**41.**—(1) Any food that, on the date immediately before the date of commencement of this Part, is a controlled article under the Price Control Act 1950 is to be treated as an MSR product for the purposes of this Act until the Minister, by the Part 2 Rules, disapplies this subsection.

(2) The Director-General, Food Security may give a trigger notice to any person who immediately, before the date of commencement of this Part, holds a licence granted by the Price Controller or a Deputy Price Controller or an Assistant Price Controller under the Price Control Act 1950 —

- (a) that authorises the person to import, carry on any wholesale dealing or export a controlled article which is food; and
- (b) that is in force immediately before that date.

(3) However, where a trigger notice is given in the circumstances in subsection (2) —

- (a) the trigger notice starts to be in force on the date specified in the trigger notice as the day the trigger notice comes into force, which need not be at least 6 months after the day the trigger notice is given; and
- (b) a person to whom the trigger notice is given has no right of appeal under Part 12.

(4) For a period of 2 years after the date of commencement of this Part, the Minister may, by regulations in the *Gazette*, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of this Part as the Minister may consider necessary or expedient.

EXPOSURE DRAFT

## PART 3

### IMPORT, EXPORT AND TRANSHIPMENT

#### *Division 1 — Interpretive provisions*

#### **Definitions for Part 3**

**42.—(1)** In this Part —

“agri-food production input” excludes the following even if essential in undertaking any primary production activity:

- (a) any other animal reproductive material from a food producing animal;
- (b) any young of a food producing animal;
- (c) any seed, spore, bulb, root, cutting or other part of a plant from which plants grow or further plants grow;
- (d) any veterinary biologics, or any vaccines, antitoxins or other preparations made from living organisms, which are suitable for use in diagnosing, treating or immunising animals;

“applicable standard” —

- (a) in relation to a particular food, at a particular time, means the standard in force in relation to the food at that time that relates to —
  - (i) the composition or nature of food (including food production substances and contaminants in it, the maximum amounts of food production substances and contaminants, or residues thereof, that may be present in the food, and its microbiological status and safety) and the method of sampling and testing the food to determine its composition or nature;
  - (ii) food packaging;
  - (iii) the handling of the food, including the method of handling; or
  - (iv) the content of labels for food;
- (b) in relation to particular regulated food contact article, at a particular time, means the standard in force in relation to that regulated food contact article at that time that relates to the construction of that regulated food contact article;
- (c) in relation to particular animal feed, at a particular time, means the standard in force in any animal feed regulations in relation to that animal feed at that time that relates to —
  - (i) the composition of the animal feed and the method of sampling and testing the animal feed to determine its composition;
  - (ii) the manufacture or production, storage, keeping or transporting of the animal feed; or

(iii) the content of labels for packages of the animal feed; or (d) in relation to a particular agri-food production input (except any animal feed or plant pesticide), or a particular matter affecting the agri-food production input, at a particular time, means the standard in force in relation to that agri-food production input or matter at that time that relates to —

(i) the composition of the agri-food production input and the method of sampling and testing the agri-food production input to determine its composition;

(ii) its manufacture or production, storage, keeping or transporting of the agri-food production input; or

(iii) the content of labels for packages of the agri-food production input;

“application”, for a licence or consignment permit, means —

(a) an application for or to renew the licence; or

(b) an application for the consignment permit;

“consignment”, in relation to any controlled item, means a controlled item —

(a) of a particular kind (according to the Agency’s classification); and

(b) in one or more lots that is imported by or exported or transhipped for —

(i) the same owner of those lots;

(ii) at the same time; and

(iii) on a single and the same conveyance;

“controlled item” means an import controlled item, an export controlled item or a transshipment controlled item;

“examinable matter” means a controlled item —

(a) of a kind that is prescribed under any inspection scheme regulations that if imported, exported or transhipped, must be —

(i) inspected, or inspected and analysed, under this Part; or

(ii) covered by a recognised foreign government certificate;

(b) of a kind that is the subject of a holding order;

(c) that, despite the fact that it is not of a kind referred to in paragraph (a) or (b), is nevertheless required to be inspected, or inspected and analysed, under any inspection scheme regulations; or

(d) that is other than a controlled item of a kind referred to in paragraph (a) or (b) or a controlled item in paragraph (c) and —

(i) that an authorised officer has reasonable grounds to believe may be failing; and

(ii) in respect of which the authorised officer has notified that belief to an owner of that import controlled item;

“export”, in relation to any object or thing, means to bring, or cause to be brought, out of Singapore the object or thing by any means to a place outside Singapore other than an object or thing in transit in Singapore, and does not include doing so by reason only of being a courier of the object or thing;

“export controlled item” means any transshipment controlled item, any rice, any other food, or any agri-food production input that the Minister declares, by order in the *Gazette*, to be an export controlled item;

“failing”, for a controlled item, means examinable matter that, as a result of an inspection, or inspection and analysis, under any inspection scheme regulations, is found to be one of the following:

- (a) a food that —
  - (i) does not meet an applicable standard for that food;
  - (ii) is unsuitable food, unsafe food or a defined food; or
  - (iii) if imported, is not covered by a recognised foreign government certificate where the inspection scheme regulations identify the food as one that, if imported, must be covered by a recognised foreign government certificate;
- (b) a regulated food contact article that does not meet an applicable standard for that regulated food contact article;
- (c) an animal feed that —
  - (i) does not meet an applicable standard for that animal feed; or
  - (iii) is not fit for purpose;
- (d) an agri-food production input that does not meet an applicable standard for that agri-food production input;
- (e) a prohibited food, a prohibited food contact article or a prohibited animal feed;

“holding order” means an order made under section 70;

“identifying detail”, in relation to any consignment of an import controlled item or export controlled item, means any of the following:

- (a) the maximum mass or weight of the consignment or controlled item;
- (b) the place outside Singapore from which the consignment or import controlled item originates or to which the consignment or export controlled item is to be exported;
- (c) the composition, method of manufacture or production, grade or quality of the controlled item;
- (d) the import controlled item having the approval of a specified foreign government of a particular foreign country or a foreign food authority of a specified foreign country, or the export controlled item having the

approval of the Agency, a foreign government or foreign food authority as required by any inspection scheme regulations, as the case may be;

“import”, in relation to any object or thing, means to bring, or cause to be brought, into Singapore the object or thing by any means from any place outside Singapore other than an object or thing in transit in Singapore, and does not include doing so by reason only of being a courier of the object or thing;

“import controlled item” means any of the following:

- (a) any of the following food:
  - (i) meat and meat products;
  - (ii) fish and fish products;
  - (iii) fresh fruits and vegetables;
  - (iv) eggs;
  - (v) any other food except a food additive as such;
- (b) any prepacked food additive preparation;
- (c) any regulated food contact article;
- (d) any animal feed;
- (e) any agri-food production input that the Minister declares, by order in the *Gazette*, to be an import controlled item;

“inspection advice” means an advice issued under section 72;

“licence” means a licence that may be granted under this Part;

“licensed exporter” means a person who is the holder of a current licence under this Part to export in the course of business any export controlled item specified in the licence;

“licensed importer” means a person who is the holder of a current licence under this Part to import in the course of business any import controlled item specified in the licence;

“lot” means a quantity of an object or a substance or thing that —

- (a) is —
  - (i) uniform in composition and method of manufacture; and
  - (ii) made in one cycle of manufacture or, in the case of a controlled item that is sterilised, pasteurised or freeze-dried, sterilised, pasteurised or freeze dried, in one cycle; or
- (b) is of a particular kind made or packed in a distinct manner;

“permit” means a consignment permit that may be granted under this Part;

“prepacked food additive preparation” means any food additive, or any mix consisting mainly of any food additive, that —

- (a) is in a packaging of not more than 2 kilograms each; or

(b) is imported for retail sale;

“procurement plan”, for any import controlled item, means a plan —

- (a) identifying the risks (including assessments thereof) to food security in Singapore from any disruption occurring to the import of the controlled item from the foreign markets from which they are to be procured, including (but not limited to) financial risks, non-financial trading risks, climatic risks, and risks of or from disease or pollution; and
- (b) stating any plan of action (including preventive strategies) for the purpose of managing those risks and —
  - (i) ensuring, so far as is reasonably practicable, that the applicant can still provide a secure and reliable supply in Singapore of the import controlled item of acceptable quality; or
  - (ii) otherwise preventing or mitigating the impact of disruptive events on the supply of the import controlled item on food security in Singapore;

“prohibited animal feed” means an animal feed, or a brand of animal feed, the import of which is prohibited by the Minister under section 69(3);

“prohibited food” means —

- (a) a food, or a brand of food, the import of which is prohibited by the Minister under section 69(1);
- (b) a food, or a brand of food, the import of which is prohibited by any Part 9 Regulations;
- (c) any food the import of which is prohibited under any written law other than this Act or subsidiary legislation made under this Act;
- (d) any defined food which is, consists of or has as an ingredient, in any form (whether whole or in parts and whether fresh, chilled, frozen, dried, smoked, salted or in brine, or as flour) an insect-like species which is not within any class of catalogued insect-like species; or
- (e) any other defined food;

“prohibited food contact article” means a regulated food contact article the import of which is prohibited by the Minister under section 69(2);

“recognised foreign government certificate” means a certificate covered by a determination in force under section 75(1);

“trading activity” means any of the following activities:

- (a) to import any import controlled item;
- (b) to export any export controlled item;
- (c) to tranship any transshipment controlled item;

“transshipment controlled item” means any of the following:

- (a) any meat or meat product;
- (b) any fish or fish product;
- (c) any egg;
- (d) any other food or any agri-food production input that the Minister declares, by order in the *Gazette*, to be a transshipment controlled item.

(2) In this Part, the integrity of a controlled item or an examinable matter is ensured if the identity or composition of the controlled item or examinable matter, in relation to any condition, restriction or other description that applies in relation to the controlled item —

- (a) is ascertainable;
- (b) is maintained without loss, addition or substitution; and
- (c) is not confused with that of any other controlled item or examinable matter or goods.

(3) For the purposes of the definition of “prepacked food additive preparation” in subsection (1), any food additive of a particular kind in a packaging of more than 2 kilograms each is presumed, unless the contrary is proved, to have been imported for retail sale if, on the particular occasion of its bringing into Singapore, the packaging is a container made wholly or principally of breakable and fragile material.

### **Matter to which Part 3 applies**

**43.**—(1) Subject to subsections (2) and (3), this Part applies only to the following:

- (a) the export of any export controlled item;
- (b) the import of any import controlled item;
- (c) the transshipment of any transshipment controlled item.

(2) This Part does not apply to or in relation to —

- (a) any food, or any prepacked food additive preparation, that is imported for private consumption;
- (b) any controlled item that is sea, air or railway stores on board a vessel, an aircraft or a train furnished under section 39(1) or 41(1) of the Customs Act 1960; and
- (c) any eggs that are imported only for poultry breeding, or only for the breeding of egg-laying birds for the purpose of collecting eggs laid by such birds for human consumption.

(3) Subject to section 86, this Part does not apply to or in relation to any of the following:

- (a) any export of an export controlled item before the date of commencement of this Part;
- (b) any import of an import controlled item before the date of commencement of this Part;

- (c) any transshipment of a transshipment controlled item transhipped before the date of commencement of this Part.

### Meaning of import for “private consumption”

**44.**—(1) Food or any prepacked food additive preparation, of a particular kind or different kinds is taken to have been imported for private consumption if on the particular occasion of its bringing into Singapore —

- (a) the food, or prepacked food additive preparation, has not been imported as a trade sample or for use in any food business;
- (b) the food, or prepacked food additive preparation, has not been imported for the purpose of donating it to other persons in Singapore;
- (c) all the following are satisfied:
  - (i) the food, or prepacked food additive preparation, has, or both the food and prepacked food additive preparation have a total weight of not more than 15 kilograms (inclusive of any eggs), or a higher or lower total weight that is prescribed under subsection (5) in substitution;
  - (ii) if any of the food is eggs — it is a clutch of not more than 30 eggs, or a higher or lower number of eggs that is prescribed under subsection (5) in substitution; and
- (d) the food is imported by not more than one individual.

(2) Without limiting the generality of the expression, food of any kind is taken to have been imported as a trade sample if the food is imported —

- (a) for the purposes of scientific or commercial evaluation; or
- (b) for the purpose of manufacturing other food.

(3) However, subsection (1) does not extend to any food of higher regulatory concern.

(4) Each of the following food is a food of higher regulatory concern:

- (a) any meat that is neither —
  - (i) pork, beef, lamb, mutton or venison; nor
  - (ii) meat from a chicken, duck, turkey, goose, quail or domesticated pigeon;
- (b) any meat product wholly or partially derived from meat in paragraph (a);
- (c) any puffer fish, or any fish product wholly or partially derived from puffer fish;
- (d) any live fertilised or embryonated egg;
- (e) any animal blood or blood product, such as blood curd;
- (f) any raw or unpasteurised liquid milk;
- (g) any chewing gum;
- (h) any defined food;
- (i) any other food prescribed by the Minister by an order in the *Gazette*.

- (5) The Minister may make an order in the *Gazette* —
- (a) prescribing, for food other than eggs, a higher or lower volume or a higher or lower weight, for the purpose of subsection (1)(c); or
  - (b) prescribing a higher or lower number of eggs generally, or higher or lower numbers for different kinds of eggs, for the purpose of subsection (1)(c).

*Division 2 — Import, export and transshipping offences*

**Importing knowingly prohibited food, etc.**

**45.**—(1) A person commits an offence if —

- (a) the person imports an object or a thing;
- (b) the object or thing is a prohibited food, a prohibited food contact article or a prohibited animal feed; and
- (c) the person knows, or ought reasonably to know, that the object or thing is a prohibited food, prohibited food contact article or prohibited animal feed, as the case may be.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$50,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$100,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

**Importing prohibited food, etc. — strict liability**

**46.**—(1) A person commits an offence if —

- (a) the person imports an object or a thing; and
  - (b) the object or thing is a prohibited food, a prohibited food contact article or a prohibited animal feed.
- (2) Strict liability applies to the offence in subsection (1).
- (3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$20,000.

### **Unlicensed import of import controlled item knowingly**

- 47.**—(1) A person commits an offence if —
- (a) the person imports an object or a thing;
  - (b) the object or thing is an import controlled item;
  - (c) the person knows, or ought reasonably to know, that the object or thing is an import controlled item; and
  - (d) the person is not one of the following:
    - (i) a holder of a current licence to import and a current import consignment permit for that import controlled item;
    - (ii) a person on whose behalf a person in sub-paragraph (i) is importing the import controlled item;
    - (iii) a person exempt from this section under section 318 or 319 in relation to the import of that import controlled item.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
- (i) under this section;
  - (ii) under section 7(4) of the Control of Plants Act 1993 for importing fresh fruits and vegetables without a licence under that Act, where the current offence involves fresh fruits and vegetables;
  - (iii) under section 8(3) of the Control of Plants Act 1993 for importing fresh fruits and vegetables without a permit under that Act, where the current offence involves fresh fruits and vegetables;
  - (iv) under section 5(2) of the Wholesome Meat and Fish Act 1999 for importing any meat product or fish product without a licence under that Act, where the current offence involves any meat or meat product or any fish or fish product;
  - (v) under section 6(4) of the Wholesome Meat and Fish Act 1999 for contravening section 6(1)(a) of that Act, where the current offence involves any meat or meat product or any fish or fish product; or
  - (vi) under section 8(3) of the Animals and Birds Act 1965 for importing any egg that is food without a licence under that Act, where the current offence involves any egg.

(4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii), (iii), (iv), (v) or vi) may be before, on or after the commencement of this section.

#### **Unlicensed import of import controlled item — strict liability**

**48.**—(1) A person commits an offence if —

- (a) the person imports an object or a thing;
- (b) the object or thing is an import controlled item; and
- (c) the person is not one of the following:
  - (i) a holder of a current licence to import and a current import consignment permit for that import controlled item;
  - (ii) a person on whose behalf a person in sub-paragraph (i) is importing the import controlled item;
  - (iii) a person exempt from this section under section 318 or 319 in relation to the import of that controlled item.

(2) Strict liability applies to the offence in subsection (1).

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or

(b) where the person is not an individual — to a fine not exceeding \$10,000.

### **Importing non-conforming consignment of import controlled item**

**49.**—(1) A person holding a current import consignment permit commits an offence if —

- (a) the person imports a consignment comprising any import controlled item;
- (b) the consignment does not conform to any identifying detail of the consignment that is stated in the import consignment permit;
- (c) the person knows, or ought reasonably to know, that the consignment is non-conforming in a manner mentioned in paragraph (b); and
- (d) the import controlled item is not failing.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
  - (i) under this section;
  - (ii) under section 8(3) of the Control of Plants Act 1993 for contravening section 8(1)(b) of that Act, where the current offence involves fresh fruits and vegetables; or
  - (iii) under section 6(4) of the Wholesome Meat and Fish Act 1999 for contravening section 6(1)(b) of that Act, where the current offence involves any meat or meat product or any fish or fish product.

(4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii) or (iii) may be before, on or after the commencement of this section.

### **Importing non-conforming consignment of import controlled item — strict liability**

**50.**—(1) A person holding a current import consignment permit commits an offence if —

- (a) the person imports a consignment comprising any import controlled item;
- (b) the consignment does not conform to any identifying detail of the consignment that is stated in the import consignment permit; and
- (c) the import controlled item is not failing.

(2) Strict liability applies to the offence in subsection (1).

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

### **Unlicensed export of export controlled item**

**51.**—(1) A person commits an offence if —

- (a) the person exports an object or a thing;
- (b) the object or thing is an export controlled item;
- (c) the person knows, or ought reasonably to know, that the object or thing is an export controlled item; and
- (d) the person is not one of the following:
  - (i) a holder of a current licence to export and an export consignment permit for that export controlled item;
  - (ii) a person on whose behalf a person in sub-paragraph (i) is exporting the export controlled item;
  - (iii) a person exempt from this section under section 318 or 319 in relation to the export of that export controlled item.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or

- (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
  - (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

### **Unlicensed export of export controlled item — strict liability**

**52.**—(1) A person commits an offence if —

- (a) the person exports an object or a thing;
- (b) the object or thing is an export controlled item; and
- (c) the person is not one of the following:
  - (i) a holder of a current licence to export and an export consignment permit for that export controlled item;
  - (ii) a person on whose behalf a person in sub-paragraph (i) is exporting the export controlled item;
  - (iii) a person exempt from this section under section 318 or 319 in relation to the export of that export controlled item.

(2) Strict liability applies to the offence in subsection (1).

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

### **Exporting non-conforming consignment of export controlled item**

**53.**—(1) A person holding a current export consignment permit commits an offence if —

- (a) the person exports a consignment comprising any export controlled item;
- (b) the consignment does not conform to any identifying detail of the consignment that is stated in the export consignment permit;
- (c) the person knows, or ought reasonably to know, that the consignment is non-conforming in a manner mentioned in paragraph (b); and
- (d) the export controlled item is not failing.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

**Exporting non-conforming consignment of export controlled item — strict liability**

**54.**—(1) A person holding a current export consignment permit commits an offence if —

- (a) the person exports a consignment comprising any export controlled item;
  - (b) the consignment does not conform to any identifying detail of the consignment that is stated in the export consignment permit; and
  - (c) the export controlled item is not failing.
- (2) Strict liability applies to the offence in subsection (1).
- (3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$10,000.

**Unlicensed transshipment of transshipment controlled item**

**55.**—(1) A licensed importer or licensed exporter commits an offence if —

- (a) the licensed importer or licensed exporter transships a consignment comprising any transshipment controlled item;
- (b) the licensed importer or licensed exporter knows, or ought reasonably to know, that the consignment comprises the transshipment controlled item; and

- (c) the licensed importer or licensed exporter is not one of the following:
  - (i) a person who is granted a transshipment consignment permit covering the particular consignment;
  - (ii) a person exempt from this section under section 318 or 319 in relation to the transshipment of that consignment.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
  - (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
  - (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

**Unlicensed transshipment of transshipment controlled item — strict liability**

- 56.**—(1) A licensed importer or licensed exporter commits an offence if —
- (a) the licensed importer or licensed exporter transships a consignment comprising any transshipment controlled item; and
  - (b) the licensed importer or licensed exporter is not one of the following:
    - (i) a person who is granted a transshipment consignment permit covering the particular consignment;
    - (ii) a person exempt from this section under section 318 or 319 in relation to the transshipment of that consignment.
- (2) Strict liability applies to the offence in subsection (1).
- (3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

### **Export or transshipment of controlled item without inspection advice**

**57.**—(1) A person commits an offence if —

- (a) the person enters an object or a thing for export or transshipment, or exports or transships an object or a thing;
- (b) the object or thing is examinable matter;
- (c) the person knows, or ought reasonably to know, that an inspection advice has not been issued in respect of the object or thing;
- (d) the person has not obtained the prior approval of an authorised officer to export or transship the object or thing; and
- (e) the person is neither an officer of customs, nor an authorised officer acting in the course of his or her duties.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

(4) In this section and section 58, an object or thing is entered for export or transshipment if, in the course of the preparation or production of the object or thing for export or transshipment, the object or thing is presented to, or information about the object or thing is given to, an officer of customs, or an authorised officer acting in the

course of his or her duties, for the purpose of the officer exercising a power under any written law allowing the export or transshipment of the object or thing.

### **Export or transshipment of controlled item without inspection advice — strict liability**

**58.**—(1) A person commits an offence if —

- (a) the person enters an object or a thing for export or transshipment, or exports or transships an object or a thing;
- (b) the object or thing is examinable matter;
- (c) an inspection advice has not been issued in respect of the object or thing;
- (d) the person has not obtained the prior approval of an authorised officer to export or transship the object or thing; and
- (e) the person is neither an officer of customs, nor an authorised officer acting in the course of his or her duties.

(2) Strict liability applies to the offence in subsection (1).

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

### *Division 3 — Imported controlled items offences*

### **Importing knowingly item not meeting applicable standard, etc.**

**59.**—(1) A person commits an offence if —

- (a) the person imports an import controlled item that is none of the following:
  - (i) a prohibited food;
  - (ii) a prohibited food contact article;
  - (iii) a prohibited animal feed;
- (b) this Part applies to the import controlled item;
- (c) the import controlled item —
  - (i) does not meet an applicable standard; or
  - (ii) is not covered by a recognised foreign government certificate where the inspection scheme regulations identify the import controlled item as one that, if imported, must be covered by a recognised foreign government certificate; and
- (d) the person knows, or ought reasonably to know, that the import controlled item —

- (i) does not meet an applicable standard; or
- (ii) is not covered by a recognised foreign government certificate where the inspection scheme regulations identify the import controlled item as one that, if imported, must be covered by a recognised foreign government certificate.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual —

- (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

- (i) to a fine not exceeding \$30,000; or
- (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) However, where at the trial of a person charged with an offence under subsection (1) it is proved that —

(a) any of the following circumstances apply with respect to the import controlled item imported:

- (i) the food is unsafe;
- (ii) the type of regulated food contact article has or may have contaminated food or caused or may have caused food to no longer be safe; and

(b) the person knew, or ought reasonably to have known, that the relevant circumstances in paragraph (a) apply with respect to the import controlled item,

the person who is convicted or found guilty of the offence shall be liable on conviction instead —

(c) where the person is an individual —

- (i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or

(d) where the person is not an individual —

- (i) to a fine not exceeding \$50,000; or
- (ii) where the person is a repeat offender — to a fine not exceeding \$100,000.

(4) In subsections (2) and (3), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

**Importing item not meeting applicable standard, etc. — strict liability**

**60.**—(1) A person commits an offence if —

- (a) the person imports any import controlled item that is none of the following:
  - (i) a prohibited food;
  - (ii) a prohibited food contact article;
  - (iii) a prohibited animal feed;
- (b) this Part applies to the import controlled item; and
- (c) the import controlled item —
  - (i) does not meet an applicable standard; or
  - (ii) is not covered by a recognised foreign government certificate where the inspection scheme regulations identify the import controlled item as one that, if imported, must be covered by a recognised foreign government certificate.

(2) Strict liability applies to the offence in subsection (1).

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$15,000.

(4) However, where at the trial of a person charged with an offence under subsection (1) it is proved that any of the following circumstances apply with respect to the import controlled item imported:

- (a) the food is unsafe;
- (b) the type of regulated food contact article has or may have contaminated food or caused or may have caused food to no longer be safe,

the person who is convicted or found guilty of the offence shall be liable on conviction instead —

- (d) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or

(e) where the person is not an individual — to a fine not exceeding \$20,000.

### **Dealing with imported examinable matter without inspection advice**

**61.**—(1) A person commits an offence if —

(a) the person —

(i) deals with an object or a thing in a particular manner; or

(ii) has in possession an object or a thing knowing that it is likely to be supplied or offered or displayed for supply;

(b) the object or thing is examinable matter;

(c) the person knows, or ought reasonably to know, that the object or thing was imported;

(d) the person knows, or ought reasonably to know, that an inspection advice has not been issued in respect of the object or thing;

(e) the person has not obtained the prior approval of an authorised officer to deal with the object or thing in that manner; and

(f) the person is neither an officer of customs, nor an authorised officer acting in the course of his or her duties.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or

(ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

(i) to a fine not exceeding \$30,000; or

(ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

(a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

(4) Subsection (1) does not apply to a dealing with prepacked food for the purpose of altering or replacing the label on a package containing the prepacked food in order to meet an applicable standard relating to content in labels for prepacked food.

### **Dealing with imported examinable matter without inspection advice — strict liability**

**62.**—(1) A person commits an offence if —

(a) the person —

(i) deals with an object or a thing in a particular manner; or

(ii) has in possession an object or a thing knowing that it is likely to be supplied or offered or displayed for supply;

(b) the import controlled item is examinable matter;

(c) the person knows, or ought reasonably to know, that the import controlled item was imported;

(d) an imports inspection advice has not been issued in respect of the import controlled item;

(e) the person has not obtained the prior approval of an authorised officer to deal with the import controlled item in that manner; and

(f) the person is neither an officer of customs, nor an authorised officer acting in the course of his or her duties.

(2) Strict liability applies to the offence in subsection (1).

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or

(b) where the person is not an individual — to a fine not exceeding \$10,000.

(4) Subsection (1) does not apply to a dealing with prepacked food for the purpose of altering or replacing the label on a package containing the prepacked food in order to meet an applicable standard relating to information on labels for prepacked food.

### **Dealing with failing food, etc.**

**63.**—(1) A person commits an offence if —

(a) the person deals with an import controlled item in a particular manner;

(b) the import controlled item is examinable matter;

(c) the person knows, or ought reasonably to know, that the import controlled item has been imported;

(d) the person knows, or ought reasonably to know, that the import controlled item has been identified in an imports inspection advice as failing;

- (e) the person has not obtained the approval of an authorised officer to deal with the import controlled item in that manner;
  - (f) the person is neither permitted nor required, in accordance with the imports inspection advice, to deal with the import controlled item in that manner; and
  - (g) the person is neither an officer of customs, nor an authorised officer, acting in the course of his or her duties.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$50,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$100,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
    - (i) under this section; or
    - (ii) under section 23(2) of the Wholesome Meat and Fish Act 1999 where the current offence involves any meat or meat product or any fish or fish product.
- (4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii) may be before, on or after the commencement of this section.

### **Possession for supply knowing that prohibited food, etc.**

**64.**—(1) A person commits an offence if —

- (a) the person has in possession an object or thing knowing that it is likely to be supplied or offered or displayed for supply;
- (b) the object or thing is imported and is a prohibited food, a prohibited food contact article or a prohibited animal feed; and

- (c) the person knows, or ought reasonably to know, that the object or thing is imported, and is a prohibited food, prohibited food contact article or prohibited animal feed, as the case may be.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$50,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$100,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
    - (i) under this section; or
    - (ii) under section 23(2) of the Wholesome Meat and Fish Act 1999 where the current offence involves any meat or meat product or any fish or fish product.

**Possession for supply knowing, etc. applicable standard not met**

- 65.**—(1) A person commits an offence if —
- (a) the person has in possession any object or thing knowing that it is likely to be supplied or offered or displayed for supply;
  - (b) the object or thing is none of the following:
    - (i) a prohibited food;
    - (ii) a prohibited food contact article;
    - (iii) a prohibited animal feed;
  - (c) the object or thing is an import controlled item that was imported;
  - (d) the import controlled item —
    - (i) does not meet an applicable standard; or

- (ii) has been identified in an imports inspection advice as failing;
  - (e) the person knows, or ought reasonably to know, that the import controlled item was imported;
  - (f) the person knows, or ought reasonably to know, that the import controlled item —
    - (i) does not meet an applicable standard; or
    - (ii) has been identified in an imports inspection advice as failing;
  - (g) the person has not obtained the approval of an authorised officer to possess the import controlled item in that manner; and
  - (h) the person is neither an officer of customs, nor an authorised officer acting in the course of his or her duties.
- (2) A person who is guilty of an offence under subsection (4) shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) However, where at the trial of a person charged with an offence under subsection (1) it is proved that —
- (a) any of the following circumstances apply with respect to the import controlled item imported:
    - (i) the food is unsafe;
    - (ii) the type of regulated food contact article has or may have contaminated food or caused or may have caused food to no longer be safe; and
  - (b) the person knew, or ought reasonably to have known, that the relevant circumstances in paragraph (a) apply with respect to the import controlled item,
- the person who is convicted or found guilty of the offence shall be liable on conviction instead —
- (c) where the person is an individual —
    - (i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or

- (ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or
- (d) where the person is not an individual —
  - (i) to a fine not exceeding \$50,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$100,000.
- (4) In subsections (2) and (3), “repeat offender”, in relation to an offence under either subsection, means a person who —
  - (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
    - (i) under the subsection; or
    - (ii) under section 23(2) of the Wholesome Meat and Fish Act 1999 where the current offence involves any meat or meat product or any fish or fish product.

**Possession for supply where applicable standard not met — strict liability**

- 66.**—(1) A person commits an offence if —
- (a) the person has in possession any object or thing knowing that it is likely to be supplied or offered or displayed for supply;
  - (b) the object or thing is none of the following:
    - (i) a prohibited food;
    - (ii) a prohibited food contact article;
    - (iii) a prohibited animal feed;
  - (c) the object or thing is an import controlled item that was imported;
  - (d) the person knows, or ought reasonably to know, that the import controlled item was imported;
  - (e) the import controlled item —
    - (i) does not meet an applicable standard; or
    - (ii) has been identified in an imports inspection advice as failing;
  - (f) the person has not obtained the approval of an authorised officer to possess the import controlled item in that manner; and
  - (g) the person is neither an officer of customs, nor an authorised officer acting in the course of his or her duties.
- (2) Strict liability applies to subsection (1)(e).

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or

(b) where the person is not an individual — to a fine not exceeding \$15,000.

(4) However, where at the trial of a person charged with an offence under subsection (1) it is proved that any of the following circumstances apply with respect to the import controlled item imported:

(a) the food is unsafe;

(b) the type of regulated food contact article has or may have contaminated food or caused or may have caused food to no longer be safe,

the person who is convicted or found guilty of the offence shall be liable on conviction instead —

(c) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or

(d) where the person is not an individual — to a fine not exceeding \$20,000.

### *Division 3 — Defence and presumption*

#### **Defence of due diligence**

**67.**—(1) In a prosecution of a person for an offence under this Part, it is a defence for the person charged to prove, on a balance of probabilities, that —

(a) the commission of the offence was due to —

(i) an act or omission of another person; or

(ii) an accident or some other cause outside the person charged's control;  
and

(b) the person charged took all reasonable precautions and exercised all due diligence to prevent the commission of the offence by the person, or by another person under the person charged's control.

(2) In subsection (1)(a), another person does not include a person who was —

(a) an employee or agent of the person charged; or

(b) if the person charged is an entity, an officer of the entity.

(3) Section 26H(4) of the Penal Code 1871 does not apply in relation to a strict liability offence under this Part.

#### **Presumption as to possession**

**68.** For the purposes of sections 61, 62, 64, 65 and 66, where food is found in any premises that a person uses for —

(a) manufacturing food of the same kind;

- (b) preparing food of the same kind;
- (c) storing, packing or labelling food of the same kind;
- (d) transporting or delivering food of the same kind;
- (e) displaying food of the same kind; or
- (f) selling food, whether or not of the same kind,

then the following presumptions apply:

- (g) the food is presumed to be in the person's possession for the purpose of supply until the contrary is proved;
- (h) the person is presumed, until the contrary is proved, to have known that the food is likely to be supplied or offered or displayed for supply.

*Division 5 — Prohibitions, inspection schemes and holding orders*

**Prohibitions**

**69.**—(1) The Minister may, by order in the *Gazette*, prohibit the import of a food, or a brand of food, because the Minister is satisfied —

- (a) that there is uncertainty or concern about the risk to the safety and suitability of the food, in light of information about —
  - (i) the nature of the food or the source from which it is derived;
  - (ii) the hazards associated with the food;
  - (iii) measures applied during the manufacturing or handling of the food, or its production if the food is primary produce;
  - (iv) the likelihood of a particular contaminant being present in the food at a level determined as unacceptable in accordance with any applicable standard or an international standard, or any science-based criteria; or
  - (v) the likelihood that the food is not safe or suitable; and
- (b) that categorising the food as prohibited food will assist in managing the risk that the food poses to human health in Singapore.

(2) The Minister may, by order in the *Gazette*, prohibit the import of a regulated food contact article because the Minister is satisfied that there are reasonable grounds to believe that it is particularly dangerous to use with food by reason of its construction.

*Illustration*

A container that is made up of materials from which harmful chemicals are likely to migrate into the food at quantities which could endanger human health, whenever the container is used to hold hot and greasy food over short contact times, may be prescribed.

(3) The Minister may, by order in the *Gazette*, prohibit the import of an animal feed, or a brand of animal feed, because the Minister is satisfied —

- (a) that there is uncertainty or concern about the fitness for purpose of the animal feed, or brand of animal feed, in light of information about —
  - (i) the nature of the feed or the source from which it is derived;
  - (ii) the hazards associated with the feed;
  - (iii) measures applied during the manufacturing or handling of the animal feed, or its production if the animal feed is a live animal;
  - (iv) the likelihood that the feed contains a proscribed substance for the animal feed or any residue of the proscribed substance;
  - (v) the potential adverse impact to primary production activity in Singapore as a result of food producing animals consuming such feed; and
- (b) that if it did enter or continue to enter Singapore on import, the animal feed may have a significant adverse impact on any primary production activity in Singapore.

### **Import prohibition of live food producing animals**

**70.**—(1) Subject to subsection (2), the Agency may from time to time and in accordance with subsections (2), (3) and (4), make directives of general application banning the import of any live food producing animal of a particular kind from a particular country or place outside Singapore as may be necessary to alleviate or minimise any risk of the death of, or a serious physical harm to, any individual who might later consume in Singapore the animal, or any meat, meat product or fish product derived from such an animal.

(2) The Agency must not make any directive under subsection (1) with respect to any relevant live food producing animal, unless it is impracticable. in the circumstances of the particular case, for any order under section 7(1) of the Animals and Birds Act 1965 to be made or amended to effectively alleviate or minimise the risk concerned.

(3) Once a directive is made under subsection (1), the Agency must cause to be published a public notice of the directive —

- (a) in the *Gazette*; or
- (b) in any manner that will secure adequate publicity for the directive,

specifying in the public notice the date the ban takes effect, except that where for reasons of national security it is impracticable to notify the directive according to paragraph (a) or (b), the Agency must notify any person or persons that it thinks appropriate or necessary in the circumstances.

(4) Every directive made under subsection (1) comes into force immediately upon its being published according to subsection (3)(a) or (b) or, where notified by service on any person under subsection (3), immediately upon service of the notice upon that person and in respect of that person only.

(5) Any directive made under subsection (1) may be in force for a period not exceeding 90 days unless earlier revoked under subsection (6), and may be renewed by the Agency once only for a further period not exceeding 30 days.

(6) The Agency may, at any time when any directive made under subsection (1) is in force, revoke the directive by publishing notice of that revocation —

- (a) in the *Gazette*; or
- (b) in any manner that will secure adequate publicity for the revoking of the directive.

(7) A directive made under subsection (1) prevails so far as the directive is in force but is inconsistent with any provision of —

- (a) this Act;
- (b) the Animals and Birds Act 1965;
- (c) the Control of Plants Act 1993; or
- (d) the Wildlife Act 1965.

(8) Without limiting subsection (7), where a directive made under subsection (1) is made and in force —

- (a) every of the following licences, permits or approvals cease to have effect to the extent that the licence, permit or approval is inconsistent with that directive:
  - (i) a licence granted under section 8 of the Animals and Birds Act 1965 to import or tranship any animal or bird;
  - (ii) a permit issued under the Control of Plants Act 1993 to import any live insect-like species or any mollusc that is not a fish;
  - (iii) an approval granted under section 9 of the Wildlife Act 1965 to import any living wildlife; and
- (b) an application for any of those licences, permits or approvals mentioned in paragraph (a) must be refused where the licence, permit or approval, if granted or issued, will be inconsistent with that directive.

(9) In subsection (2), “relevant live food producing animal” means a live food producing animal that is neither —

- (a) an insect-like species; nor
- (b) a mollusc that is not fish.

### **Regulations for inspection schemes**

**71.**—(1) The Agency, with the approval of the Minister, may make regulations establishing one or more inspection schemes applicable to any controlled item to which this Part applies —

- (a) identifying controlled items of particular kinds as controlled items of a kind that if imported, exported or transhipped must be inspected, or inspected and analysed, for the purposes of this Part;
- (b) identifying controlled items of particular kinds as controlled items that if imported, exported or transhipped must be covered by a recognised foreign government certificate for the purposes of this Part; or

- (c) classifying controlled items of particular kinds into particular categories.
- (2) Without limiting subsection (1), the regulations setting out an inspection scheme may —
  - (a) specify circumstances in which a controlled item is taken to be failing;
  - (b) specify circumstances in which a controlled item is to be taken to be failing because of its relationship to another controlled item that is found to be failing;
  - (c) set out the circumstances and manner in which a controlled item, other than a controlled item that is the subject of a holding order, is to be held pending the outcome of an inspection, or inspection and analysis; and
  - (d) require the keeping and retention of records for a period prescribed in the regulations, where the records are relevant to a matter that is relevant to monitoring or evaluating, compliance with the requirements of this Part.

### **Inspection advice**

**72.**—(1) After a controlled item that is required under this Part to be inspected, or inspected and analysed, upon import or before export, has been so inspected, or inspected and analysed, an authorised officer or a food inspector must issue a written advice —

- (a) to the owner of the controlled item; and
- (b) if the controlled item is under customs control — to the person having possession of the controlled item at the time,

stating —

- (c) whether the whole or a part of the controlled item dealt with in the advice is identified as failing, and in respect of a controlled item that is so identified, how the controlled item is to be dealt with; or
- (d) whether the consignment comprising the controlled item which is dealt with in the advice is identified as not conforming to any identifying detail of the consignment that is stated in the consignment permit, and in respect of a consignment that is so identified, how the consignment is to be dealt with.

(2) Without limiting subsection (1), an advice issued under this section may indicate that a controlled item identified as failing —

- (a) must be destroyed in accordance with the requirements under section 74(3) or (4); or
- (b) must either be destroyed or re-exported from Singapore in accordance with the requirements under that section; or
- (c) must, if not treated by the owner in accordance with the requirements under section 74(2) —
  - (i) be destroyed; or
  - (ii) be destroyed or re-exported from Singapore;

in accordance with the requirements of that section.

(3) Despite subsections (1) and (2), the owner of a controlled item identified in an advice under subsection (1) as failing may, in the circumstances specified in the inspection scheme regulations, apply, in writing, to an authorised officer or a food inspector for the issue of a further inspection advice in respect of a part of that controlled item.

(4) Neither —

(a) the fact that a controlled item identified as failing under an inspection advice may be the subject of an application for a further such advice; nor

(b) the making of an application for a further such advice in respect of the controlled item,

causes the controlled item to cease to be failing on the basis of the original advice but, if the original advice indicates that the controlled item must be treated, destroyed or re-exported, the controlled item is not required to be so treated, destroyed or re-exported unless —

(c) the circumstances permitting the application for the further advice cease to exist; or

(d) such an application is made and rejected.

(5) If the owner of a controlled item identified in an inspection advice as failing, makes an application for the issue of a further inspection advice in respect of a part of the controlled item, the owner must, if the controlled item to which the application relates is under customs control, inform the person having possession of the controlled item that the owner had made that application.

(6) If an application is made under subsection (3), an authorised officer or a food inspector must —

(a) if he or she is not satisfied that the application is made in accordance with the requirements of the inspection scheme regulations, reject the application and give notice to the applicant of that rejection and of the reasons for the rejection; and

(b) in any other case, consider the application and issue to the applicant a further inspection advice in respect of the controlled item the subject of the application.

(7) If a further advice is issued in respect of the controlled item the subject of an application, this Act has effect as if —

(a) that further advice were substituted for the initial advice issued in respect of that controlled item under subsection (1); and

(b) subsection (3) were not included.

## **Holding orders**

**73.—**(1) If —

- (a) an inspection, or inspection and analysis, of examinable matter of a particular kind indicates the examinable matter, or a part of the examinable matter, to be failing;
- (b) an authorised officer or a food inspector is satisfied that there are reasonable grounds for believing that a controlled item of a particular kind would, on inspection, or inspection and analysis, be so identified as failing;
- (c) it is unclear to an authorised officer or a food inspector that examinable matter of a particular kind is failing and there are discrepancies that suggest that it may be unwise for the authorised officer or food inspector to rely on the documentation accompanying a consignment of the examinable matter, either —
  - (i) in the documentation itself; or
  - (ii) between the documentation and the examinable matter; or
- (d) an authorised officer or a food inspector has reasonable grounds to believe that the integrity of the examinable matter covered by an import consignment permit, export consignment permit or transhipment consignment permit (as the case may be) cannot be ensured,

the authorised officer or food inspector may, by writing, make a holding order —

- (e) stating that, until the revocation of the holding order, the following must be held in a place to be approved by the same or another authorised officer or food inspector in writing, until an inspection, or inspection and analysis, required under the inspection scheme regulations has been completed:
  - (i) that consignment of examinable matter;
  - (ii) any controlled item of that same kind that is imported into Singapore after the making of the holding order;
  - (iii) if the authorised officer or food inspector states that the holding order is being made in connection with the end of another order under subsection (3) — any controlled item of that kind that is being held immediately before the end of the other order; and
- (f) specifying the circumstances in which the holding order will be revoked.

(2) If the authorised officer or food inspector is satisfied, in respect of a holding order made under subsection (1), that the circumstances specified for its revocation have occurred, the authorised officer must, by writing, immediately revoke the holding order.

(3) If —

- (a) an authorised officer or a food inspector is satisfied that there are reasonable grounds for believing that a controlled item may, on inspection, or inspection and analysis, be so identified as failing; and
- (b) the authorised officer or food inspector is satisfied that the risk is serious,

the authorised officer or food inspector may, by writing, make a holding order —

- (c) stating that, until the order ends, a controlled item of that kind that is imported into Singapore or is to be exported or transhipped (as the case may be) after the making of the order must be held in a place approved by an authorised officer or a food inspector in writing; and
- (d) stating that the order ends at the earlier of the following times:
  - (i) at the end of the period of 28 days beginning on the day the order is made or, if that period is extended, the end of the extended period;
  - (ii) the time when the order is revoked; and
- (e) specifying the circumstances in which the holding order will be revoked.

(4) The Agency may, by writing, extend the 28-day period mentioned in subparagraph (3)(d)(i) by a further period of up to 28 days, and the Agency make more than one extension.

(5) Subsection (1) or (3) does not prevent an authorised officer or a food inspector from giving a person an approval to deal with a controlled item of a kind covered by a holding order under that subsection while the holding order is in force.

#### **Treatment, destruction or re-export of failing food, etc.**

**74.**—(1) This section applies to a controlled item that —

- (a) has been identified in an inspection advice as failing; and
- (b) is required, under that advice, to be treated, destroyed or re-exported from Singapore.

(2) If an inspection advice, given in respect of a controlled item to which this section applies, permits the treatment of the controlled item so as to bring it into compliance with this Act or to enable its use for a purpose other than human consumption, an authorised officer or a food inspector may, by written notice given to the owner of the controlled item —

- (a) require the owner to treat the controlled item in a specified manner or in a manner to be agreed between the owner and the authorised officer or food inspector (as the case may be) so as to enable it to be brought into compliance with the Act or to be so used for a purpose other than human consumption; or
- (b) if the owner is unable or unwilling so to treat the controlled item, require either —
  - (i) the destruction of the controlled item in a manner specified in the notice or to be agreed between the owner and the authorised officer or food inspector; or
  - (ii) the destruction of the controlled item in a manner specified in the notice or agreed between the owner and the authorised officer or food inspector, or the re-export of the controlled item.

(3) If an inspection advice requires the destruction of a controlled item to which this section applies, an authorised officer or a food inspector may, by written notice given

to the owner of the controlled item, require its destruction in a manner specified in the notice or in a manner to be agreed between the owner and the authorised officer or food inspector.

(4) If an inspection advice requires the destruction or re-export of a controlled item to which this section applies, an authorised officer or a food inspector may, by written notice given to the owner of the controlled item, require either —

- (a) its destruction in a manner specified in the notice or a manner to be agreed between the owner and the authorised officer or food inspector; or
- (b) its re-export.

(5) A permission to treat or a requirement to destroy or re-export a failing controlled item in a notice under subsection (2), (3) or (4) must specify a period (having regard to the reasons why the controlled item has been identified as failing and to any difficulties associated with arranging for its treatment, destruction or re-export) within which that treatment, destruction or re-export is to be completed.

(6) If the owner of a controlled item arranges for a treatment, destruction or re-export in accordance with a notice under subsection (2), (3) or (4), that treatment, destruction or re-export may be supervised by an authorised officer or a food inspector.

(7) If the owner of a controlled item that is required in a notice under subsection (2), (3) or (4) to be destroyed or re-exported refuses or fails to arrange for the destruction or re-export of the controlled item in accordance with the notice, the Agency may —

- (a) carry out or cause to be carried out the destruction or re-export required in that notice; and
- (b) recover all expenses reasonably incurred by the Agency in the exercise of the powers under this subsection from the person in default.

(8) Without limiting the right of the Agency to exercise any power under subsection (7), the owner of a controlled item that is required in a notice under subsection (2), (3) or (4) to be destroyed or re-exported commits an offence if the owner intentionally refuses or fails to comply with the requirement to destroy or re-export that controlled item.

(9) A person who is guilty of an offence under subsection (8) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(10) Subsection (8) does not apply if the person has a reasonable excuse.

(11) In this section, “owner”, in relation to a controlled item that is permitted to be treated or required to be destroyed or re-exported, means a person having a beneficial interest in the controlled item other than a person who has such an interest only because he or she has been given a mortgage or charge, or has a lien over the goods.

(12) In subsection (9), “repeat offender”, in relation to an offence under that subsection, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under that subsection.

### **Recognised foreign government certificates, etc.**

**75.**—(1) The Agency may determine, in writing, that a report, certificate or other document —

- (a) issued by or under the authority of —
  - (i) a specified foreign government of a particular foreign country; or
  - (ii) a foreign food authority of a specified foreign country; and
- (b) stating that food of a specified kind meets an applicable requirement of the Act, is a recognised foreign government certificate.

(2) The Agency may make a determination under subsection (1) in relation to a particular foreign country if the Agency is satisfied —

- (a) that there is in force an agreement between Singapore and that foreign country; or
- (b) based on an assessment of the food safety systems of Singapore and that foreign country, that —
  - (i) Singapore and the foreign country have equivalent food safety systems; or
  - (ii) the foreign country have schemes for periodic inspection and evaluation, or do conduct equivalent monitoring, of the food or primary production activities the respective countries regulate.

(3) The Agency may revoke a determination under subsection (1) if the Agency has reason to doubt the continued reliability of a statement made in any certificate to which the determination relates.

## *Division 6 — Licensing*

### **Types of licences and permits**

**76.**—(1) A licence may be granted by the Agency under this Part authorising, for a period, the holder of the licence —

- (a) to import in the course of business an import controlled item specified or described in the licence; or
- (b) to export in the course of business an export controlled item specified or described in the licence.

(2) An import consignment permit may be granted by the Agency for each consignment of import controlled items specified or described in the permit.

(3) An export consignment permit may be granted by the Agency for each consignment of export controlled items specified or described in the permit.

(4) A transshipment consignment permit may be granted by the Agency for each consignment of transshipment controlled items specified or described in the permit.

### **Application of Division 4 of Part 14 (general licensing procedures)**

**77.** Division 4 of Part 14 applies to every application for a licence or consignment permit, and to every licence or consignment permit granted under this Part, subject to the modifications in this Part.

### **Criteria for grant, etc., of licence**

**78.**—(1) This section applies where the Agency is deciding any of the following:

- (a) whether an applicant should be granted a licence;
- (b) the conditions to impose on a licence;
- (c) whether to modify any condition of a licence.

(2) When making a decision mentioned in subsection (1), the Agency must have regard, and give such weight as the Agency considers appropriate, to all of the following matters:

- (a) whether the applicant or licensee or an associate of the applicant or licensee is or was disqualified by section 298 from holding the same licence or another licence;
- (b) whether regulatory action under section 83 has been or is being taken or is contemplated against the applicant or licensee;
- (c) any available information whether or not the applicant or licensee has been convicted or found guilty of any relevant offence within the meaning of section 83(3) (whether or not the offence was committed before, on or after the commencement of this section);

- (d) the applicant's or licensee's compliance history with any of the following so far as that relates to the trading activity to be authorised or authorised by the licence:
  - (i) the provisions of this Act or of a code of practice applicable to the applicant or licensee (as the case may be) with respect to the trading activity to be authorised or authorised by the licence;
  - (ii) the conditions of any similar licence granted to the applicant or licensee;
  - (iii) the requirements of a holding order under section 73;
  - (iv) a notice under section 74(3) or (4) requiring a controlled item to be destroyed or re-exported;
- (e) whether there are other grounds for considering that the applicant or licensee is likely in the future to fail to comply with any provision of this Act in connection with the trading activity to be authorised or authorised by the licence;
- (f) the applicant's or licensee's compliance history with Part 2, where applicable;
- (g) whether and how the applicant or licensee prepares to deal with the occurrence of a disruptive event affecting the supply in Singapore of the import controlled item covered by the licence, including (and not limited to) having a procurement plan for that controlled item;
- (h) whether it is otherwise not in the public interest of Singapore for the applicant to be granted a licence.

(3) Subsection (2) applies to an applicant or a licensee which is an entity with the following modifications:

- (a) paragraph (a) of that subsection must be read as if the paragraph refers only to the officers of the entity instead of the entity;
- (b) paragraphs (b), (c), (d) of that subsection must be read as if they refer to the entity and its officers.

(4) To avoid doubt, the Agency is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence that may be relevant.

(5) In granting a person a licence to import in the course of business an import controlled item specified or described in the licence, the Agency also accepts the person's procurement plan submitted under subsection (2)(g).

### **Criteria for grant, etc., of consignment permit**

**79.**—(1) This section applies where the Agency is deciding any of the following:

- (a) whether an applicant should be granted a consignment permit;
- (b) the conditions to impose on a consignment permit;
- (c) whether to modify any condition of a consignment permit.

(2) When making a decision mentioned in subsection (1), the Agency must have regard, and give such weight as the Agency considers appropriate, to all of the following matters:

- (a) in the case of an import consignment permit, whether the import controlled item to be imported is a kind of food that is identified under any inspection scheme regulations as one that, if imported, must be covered by a recognised foreign government certificate;
- (b) whether any regulatory action under section 83 has been or is being taken or is contemplated against the applicant;
- (c) whether there has been a serious failure or repeated failures by the applicant to comply with —
  - (i) the conditions of any previous consignment permit granted to the applicant; or
  - (ii) a notice under section 74(2), (3) or (4) requiring a controlled item to be destroyed or re-exported;
- (d) whether it is otherwise not in the public interest of Singapore for the permit to be granted in respect of the consignment which is the subject of the application.

(3) To avoid doubt, the Agency is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence that may be relevant.

(4) If the owner of controlled item that is required in a notice under section 74(2), (3) or (4) to be destroyed or re-exported fails to comply with the requirement to destroy or re-export the controlled item, the Agency may refuse to grant a consignment permit in respect of any other controlled item imported or to be imported into Singapore by or on behalf of that owner.

### **Conditions of licence or consignment permit**

**80.** Without limiting section 294, in granting a licence or consignment permit to any person, the Agency may impose conditions —

- (a) restricting the import of any import controlled item from any foreign country;
- (b) restricting —
  - (i) the export of any export controlled item to any foreign country; or
  - (ii) the transshipment of any transshipment controlled item, to any foreign country, or from any foreign country;
- (c) requiring the licensee to prepare to deal, and to deal, with any disruptive event affecting the supply in Singapore of the import controlled item covered by the licence in accordance with a procurement plan with which the Agency accepts; or

- (d) requiring the furnishing of a performance bond, guarantee or any other form of security of such amount and on such terms and conditions as the Agency may determine —
  - (i) to secure compliance by the licensed importer or licensed exporter with any condition attached to the licence or any consignment permit granted to that licensed importer or licensed exporter; or
  - (ii) to meet any financial penalty arising out of any regulatory action under section 83 or 84 against the licensed importer or licensed exporter; or
  - (iii) for both sub-paragraphs (i) and (ii).

### **Validity of licence and consignment permit**

**81.**—(1) Every licence granted under this Part is in force for the period (not exceeding 5 years) specified in the licence —

- (a) except when it is wholly suspended under section 83(2); and
- (b) unless it is earlier revoked under section 83(1).

(2) Every consignment permit granted under this Part is in force for the period specified in the permit unless —

- (a) it is earlier cancelled under section 84; or
- (b) the consignment covered by the permit has been imported, exported or transhipped, as the case may be.

### **Modifying conditions of licence**

**82.** Subject to Division 4 of Part 14, it is lawful for the Agency to modify the conditions of a licence without compensating the licensed importer or licensed exporter concerned.

### **Grounds for regulatory action concerning licence**

**83.**—(1) Subject to Division 4 of Part 14, if the Agency is satisfied that —

- (a) a licensed importer or licensed exporter is contravening or not complying with, or has contravened or failed to comply with —
  - (i) any of the conditions of its licence;
  - (ii) any provision of this Act applicable to the licensed importer or licensed exporter so far as that relates to trading activity, the contravention of or non-compliance with which is not an offence under this Act;
  - (iii) any provision of a code of practice applicable to the licensed importer or licensed exporter so far as that relates to trading activity authorised by the licence;
  - (iv) any direction given to the licensee under subsection (2)(d) or (f); or
  - (iv) any requirement in section 88 applicable to the licensee;

- (b) the licensed importer or licensed exporter has ceased to undertake the trading activity authorised by its licence;
- (c) the licensed importer or licensed exporter, or any officer of the licensed importer or licensed exporter, is convicted of a relevant offence committed during the term of the licence or an immediately prior licence;
- (d) there is or has been a serious failure of the operations of the licensed importer or licensed exporter, or there are or have been other matters, that cast doubt on the safety of the food imported, exported or transhipped by the licensed importer or licensed exporter;
- (e) the licence had been obtained by the licensee by fraud or misrepresentation; or
- (f) the public interest of Singapore requires,

the Agency may revoke (without any compensation) the licence of the licensed importer or licensed exporter, with or without forfeiting any performance bond, guarantee or other form of security furnished by the licensed importer or licensed exporter (as the case may be) under this Act.

(2) However, the Agency may, in lieu of revoking under subsection (1) the licence of a licensed importer or licensed exporter, do (without compensation) one or more of the following:

- (a) censure the licensed importer or licensed exporter in writing;
- (b) direct the licensed importer or licensed exporter to do, or to refrain from doing, any thing that is specified in a direction to rectify any contravention or non-compliance that constitutes the ground for regulatory action;
- (c) suspend (in whole or part) the licence for not more than 6 months;
- (d) modify any condition of the licence;
- (e) direct the licensed importer or licensed exporter to pay, within a period specified in a direction, a financial penalty of any amount that the Agency thinks fit, but not exceeding \$5,000 for each contravention of or failure to comply with any matter in subsection (1)(a) or for each other ground of regulatory action;
- (f) direct the furnishing by the licensed importer or licensed exporter of any performance bond, guarantee or other form of security, or an additional performance bond, guarantee or other form of security, for all or any of the following:
  - (i) to secure compliance by the licensed importer or licensed exporter with any condition attached to the licence;
  - (ii) to secure compliance by the licensed importer or licensed exporter with any code of practice applicable to the licensed importer or licensed exporter so far as that relates to trading activity authorised by the licence;

- (iii) for the purpose of meeting any financial penalty arising out of any regulatory action started or likely to start against the licensed importer or licensed exporter.
- (3) In subsection (1)(c), “relevant offence” means —
- (a) an offence under section 45, 47, 51, 55, 58 (involving unsafe food), 61, 63 or 256 (involving a foreign government certificate);
  - (b) an offence under section 139 in relation to any food or food contact article imported by the licensee concerned;
  - (c) an offence under —
    - (i) section 28 or 28A of the Regulation of Imports and Exports Act 1995 in relation to any import controlled item, export controlled item or transshipment controlled item imported, exported or transhipped by the licensee concerned; or
    - (ii) the Regulation of Imports and Exports (Chewing Gum) Regulations (R 4); or
  - (d) an offence —
    - (i) under section 7(4) of the Control of Plants Act 1993 for importing or exporting fresh fruits and vegetables without a licence under that Act;
    - (ii) under section 5(2) of the Wholesome Meat and Fish Act 1999 for importing any meat product or fish product without a licence under that Act;
    - (iii) under section 8(3) of the Animals and Birds Act 1965 for importing any egg that is food without a licence under that Act, where the current offence involves any egg; or
    - (iv) under any other repealed law which corresponds to an offence mentioned in paragraph (a).
- (4) Subsection (2)(e) does not apply where the ground of regulatory action is subsection (1)(c).

### **Grounds to cancel consignment permit**

**84.** Subject to Division 4 of Part 14, the Agency may cancel (without any compensation) an import consignment permit, an export consignment permit or a transshipment permit granted to a licensed importer or licensed exporter if —

- (a) in the case of an import consignment permit, the Agency is of the opinion that —
  - (i) the food to be imported under that permit is or may be unsafe or unsuitable or is or may be defined food;
  - (ii) the type of regulated food contact article to be imported under that permit has or may have contaminated food or caused or may have caused food to no longer be safe; or

- (iii) the animal feed to be imported under that permit is or may be not fit for purpose;
- (b) the Agency reasonably believes that the integrity of the controlled items covered by the import consignment permit, export consignment permit or transshipment consignment permit (as the case may be) cannot be ensured;
- (c) the Agency reasonably believes that the licensed importer or licensed exporter made a false, misleading or incomplete statement in an application for the consignment permit in question;
- (d) the licensed importer or licensed exporter is or is about to be the subject of regulatory action under section 83; or
- (e) the public interest of Singapore requires.

### **Effect of revocation, suspension, etc., of licence or permit**

**85.**—(1) This section applies where —

- (a) the licence of a licensed importer or licensed exporter is revoked or wholly suspended under section 83; or
- (b) a consignment permit granted to a licensed importer or licensed exporter for a consignment is cancelled under section 84.

(2) The Agency may, in any of the circumstances described in subsection (1) —

- (a) direct that any controlled item imported, or handled under any of the operations of the former licensed importer or former licensed exporter or the licensed importer or licensed exporter (as the case may be) affected by the revocation, suspension or cancellation (as the case may be) must not be sold; and
- (b) direct the former licensed importer or former licensed exporter or the licensed importer or licensed exporter (as the case may be) to take appropriate action to deal with the controlled item affected by the revocation, suspension or cancellation, as the case may be.

(3) A person to whom a direction is given under subsection (2) commits an offence if the person fails to comply with the direction, and shall be liable on conviction —

(a) where the person is an individual —

- (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

- (i) to a fine not exceeding \$30,000; or
- (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(4) Subsection (3) does not apply if the person has a reasonable excuse.

(5) In subsection (3), “repeat offender”, in relation to an offence under that subsection, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under that subsection.

*Division 7 — Traceability obligation for importers*

**Application of Division**

**86.**—(1) This Division applies only to a licensed importer who imports any of the following import controlled items:

- (a) any of the following food:
  - (i) meat and meat products;
  - (ii) fish and fish products;
  - (iii) fresh fruits and vegetables;
  - (iv) eggs;
  - (v) any other food except a food additive as such;
- (b) any prepacked food additive preparation;
- (c) any regulated food contact article;
- (d) any animal feed.

(2) This Division applies only in respect of the import made on or after the commencement of this Division of an import controlled item mentioned in subsection (1).

**Information licensed importer must keep or have ready access to**

**87.**—(1) If an import controlled item to which this Division applies is imported, the licensed importer concerned must keep, or have ready access to, the information described in subsection (2) for no shorter than the period prescribed in the regulations for that import controlled item.

(2) The information is —

- (a) the prescribed identity particulars and prescribed contact details of the supplier of the import controlled item;
- (b) the prescribed identity particulars and prescribed contact details of —
  - (i) the manufacturer or primary producer of the import controlled item which is food (other than a food additive as such) or any prepacked food additive preparation; or

- (ii) the manufacturer of the import controlled item which is a regulated food contact article or an animal feed;
  - (c) a description of the identity of the import controlled item by commodity, brand (if any), and lot (if any); and
  - (d) any other information that is prescribed.
- (3) A licensed importer who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$10,000.
- (4) Strict liability applies to the offence in subsection (3).

### **Identification, location, and tracing of import controlled items**

- 88.**—(1) A licensed importer must have procedures for—
- (a) identifying and locating imported import controlled items to which this Division applies; and
  - (b) tracing imported import controlled items to which this Division applies so that the imported import controlled item can be traced —
    - (i) from the supplier of the import controlled item to the licensed importer; and
    - (ii) while it is under the licensed importer’s control; and
    - (iii) from the licensed importer to the next person to whom responsibility for the import controlled item has passed (other than the ultimate consumer).
- (2) A licensed importer must ensure that imported import controlled items are identified, located, and traced in accordance with those procedures.
- (3) The information required under subsection (1) must be accurate.
- (4) The information required under subsection (1) must also be sufficient to allow an effective recall to be carried out under Part 7.
- (5) A licensed importer must —
- (a) have procedures for recalling —
    - (i) food (other than a food additive as such) or any prepacked food additive preparation supplied in Singapore that the importer considers to be not safe or suitable or whose safety or suitability is in doubt;
    - (ii) regulated food contact articles supplied in Singapore that the importer considers to be or might be dangerous to use with food; or
    - (iii) animal feed supplied in Singapore that the importer considers to be not fit for purpose or whose fitness for purpose is in doubt;

- (b) regularly conduct simulations or other tests of those procedures if required by the Agency; and
  - (c) recall, in accordance with those procedures —
    - (i) food (other than a food additive as such) or any prepacked food additive preparation supplied in Singapore that the importer considers to be not safe or suitable or whose safety or suitability is in doubt;
    - (ii) regulated food contact articles supplied in Singapore that the importer considers to be or might be dangerous to use with food; or
    - (iii) animal feed supplied in Singapore that the importer considers to be not fit for purpose or whose fitness for purpose is in doubt.
- (6) If the licensed importer makes a decision to recall any imported import controlled item to which this Division applies on the ground that —
- (a) the food (other than a food additive as such) or any prepacked food additive preparation is or might be unsafe or unsuitable;
  - (b) the regulated food contact article is or might be dangerous to use with food; or
  - (c) the animal feed is or might be not fit for purpose,

the importer must notify the Agency of the following as soon as practicable, but no later than 24 hours after making the decision:

- (d) the import controlled item affected by the recall; and
- (e) the reason for the recall.

### **Providing information — importer**

**89.**—(1) When requested to do so by a food security officer, an authorised officer or a food inspector, a licensed importer is bound to state truly what the person is requested, and must give information about the matters in section 87(1) —

- (a) in a readily accessible format; and
- (b) within 24 hours after the request, or within any reasonable shorter period specified by the food security officer, authorised officer or food inspector, as the case may be.

(2) Where any information which is required by subsection (1) to be given to a food security officer, an authorised officer or a food inspector is not given within the time delimited under subsection (1), then the licensed importer requested to give the information shall be guilty of an offence and shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(3) Subsection (2) does not apply if the person required to give the information has a reasonable excuse.

(4) The ordinary meaning of “reasonable excuse” is affected by sections 259 and 260.

## PART 4

### FOOD BUSINESSES

#### *Division 1 — Interpretive provisions*

#### **Definitions for Part 4**

**90.** In this Part —

“accepted”, in relation to a farm management plan or food control plan, means such a plan with which the Agency last accepts under this Part;

“farm management plan”, for a licensable food business that involves undertaking primary production activity, means a plan identifying how the proprietor of the food business will undertake the primary production activity with reference to all or any of the following matters as the Agency considers relevant:

- (a) the species of animal to be farmed or plants to be cultivated;
- (b) the quantity of animals to be farmed or plants to be cultivated;
- (c) the area of land or waters on or in which the animals are to be farmed or plants are to be cultivated;
- (d) the method of farming the animals or cultivating the plants;
- (e) the primary production equipment to be used;
- (f) proposed stocking densities;
- (g) the carrying capacity of the area to be used for farming the food producing animals;
- (h) for aquaculture —
  - (i) the water quality (including discharged water quality) and relevant response protocols;
  - (ii) the sediment quality and relevant response protocols; and
  - (iii) maximum nutrient loads and response thresholds;
- (i) disease testing, pest monitoring and relevant response protocols in connection with diseases and pests;
- (j) farm waste management protocols;
- (k) biosecurity and quarantine;
- (l) the audit mechanisms for the farm management plan;
- (m) the keeping of records which are sufficient to allow the Agency or an authorised officer or food inspector to assess whether the accepted farm management plan has been complied with;

“food control plan”, for a licensable food business that does not involve undertaking any primary production activity, means a plan identifying how the proprietor of

the food business will carry on the particular licensable food business with reference to all or any of the following matters as the Agency considers relevant:

- (a) the knowledge, skill, health and hygiene requirements for the people handling food in the course of the licensable food business;
- (b) the design, construction, maintenance and cleanliness of the following used, or intended to be used, for the licensable food business:
  - (i) the premises (including layout, fittings and fixtures) at which food is handled;
  - (ii) the plant or equipment (including regulated food contact articles and single use items) used to handle food;
  - (iii) the conveyances used to transport food;
- (c) the systematic identification of the potential hazards that may be reasonably expected to occur in each food handling operation that is to be, or that is being, carried out in the course of the licensable food business;
- (d) how and where each hazard identified under paragraph (c) can be controlled and the means of control;
- (e) the systematic monitoring of those controls in paragraph (d), and the appropriate corrective action when each hazard identified under paragraph (c) is found not to be under control;
- (f) the procedures and practices established by the proprietor so as to monitor and ensure the compliance by the proprietor, and the employees or workers of the proprietor, with —
  - (i) the requirements of the Act with respect to the food business;
  - (ii) any applicable standard as is applicable to the food business;
  - (iii) the conditions of the food business licence relating to the food business, if granted; and
  - (iv) the food control plan accepted by the Agency when granting that food business licence;
- (g) the keeping of records which are sufficient to allow the Agency or an authorised officer or food inspector to assess whether the accepted food control plan has been complied with.

*Division 2 — Food business licence for licensable food business*

**Application of Division 4 of Part 14 (general licensing procedures)**

**91.**—(1) Division 4 of Part 14 applies to every application for a food business licence to use any premises to carry on a licensable food business, and to every food business licence granted under this Part, subject to the modifications in this Part.

(2) In addition, every application for a food business licence to use any premises to carry on a licensable food business prescribed by the food regulations must be accompanied by —

- (a) a farm management plan if the food business involves any primary production activity; or
- (b) a food control plan if the licensable food business is not a food business in paragraph (a) but is prescribed in a food safety scheme as requiring a food control plan.

(3) The Agency may require an applicant for a food business licence to amend and re-submit a farm management plan or a food control plan, for the purpose of assessing the application by the applicant.

### **Criteria for grant of food business licence**

**92.**—(1) This section applies where the Agency is deciding any of the following:

- (a) whether an applicant should be granted a food business licence;
- (b) the conditions to impose on a food business licence;
- (c) whether to modify any condition of a food business licence.

(2) When making a decision mentioned in subsection (1), the Agency must have regard, and give such weight as the Agency considers appropriate, to all of the following matters:

- (a) whether the applicant or food business licensee, or an associate of the applicant or food business licensee, is or was disqualified by section 298 from holding the same licence or another licence;
- (b) whether the applicant or food business licensee is a suitable person to be involved in the management or operation of the licensable food business in the application;
- (c) whether regulatory action under section 96 has been or is being taken or is contemplated against the applicant or food business licensee;
- (d) any available information whether or not the applicant or food business licensee has been convicted or found guilty of any relevant offence within the meaning of section 96(3) (whether or not the offence was committed before, on or after the commencement of this section);
- (e) whether the premises at which the licensable food business is or is to be carried on are fit to be used for that type of licensable food business;
- (f) whether —
  - (i) the written permission or authorisation required by the Planning Act 1998 for the use of the premises for that licensable food business has been granted or deemed granted; and
  - (ii) the requirements under any other written law for provisioning of sanitary conveniences in those premises has been complied with;

- (g) whether the applicant or food business licensee has, and will keep and maintain, the following plans relating to the licensable food business:
    - (i) an accepted farm management plan where the licensable food business involves any primary production activity;
    - (ii) an accepted food control plan where the licensable food business is a food business mentioned in section 91(2)(b);
  - (h) the applicant's or food business licensee's compliance history with Part 2, where applicable;
  - (i) whether and how the applicant or food business licensee prepares to deal with any disruptive event occurring;
  - (j) whether the applicant is a Singapore-connected person;
  - (k) whether it is otherwise not in the public interest of Singapore for the applicant to be granted a food business licence.
- (3) Subsection (2) applies to an applicant or food business licensee which is an entity with the following modifications:
- (a) paragraph (a) of that subsection must be read as if the paragraph refers only to the officers of the entity instead of the entity;
  - (b) paragraphs (b), (c) and (d) of that subsection must be read as if they refer to the entity and its officers.
- (4) For the purpose of determining whether or not a person is a suitable person under subsection (2)(b) for a particular licensable food business that is the subject of an application for a food business licence, the Agency must have regard to all of the following matters:
- (a) the person's compliance history with any of the following so far as that relates to the carrying on of that licensable food business:
    - (i) the provisions of this Act and any predecessor law about requirements in respect of manufacturing, preparing or handling to ensure safe and suitable food or in respect of primary production activity to ensure safe primary produce;
    - (ii) the conditions of any food business licence granted to the person;
    - (iii) the provisions of a code of practice applicable to the person;
    - (iv) a Part 7 direction;
  - (b) the person's relevant knowledge, competency and experience in identifying, controlling, managing, and eliminating or minimising hazards for the purpose of achieving safe and suitable food in carrying on that licensable food business.
- (5) To avoid doubt, the Agency is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence that may be relevant.

- (6) In this section, “predecessor law” means any of the following:
- (a) Part 4 of the Environmental Public Health Act 1987;
  - (b) the Wholesome Meat and Fish Act 1999 repealed by this Act;
  - (c) the Sale of Food Act 1973 repealed by this Act;
  - (d) the Control of Plants Act 1993 so far as that Act relates to cultivation of plants intended for human consumption;
  - (e) the Animals and Birds Act 1965 so far as that Act relates to food producing animals;
  - (f) the Fisheries Act 1966 so far as that Act relates to cultivation of fish intended for human consumption.

### **Conditions of food business licence**

**93.**—(1) Without limiting section 294, in granting a food business licence to any person, the Agency may impose conditions requiring the food business licensee —

- (a) to meet all the standards prescribed for the maintenance, cleanliness, sanitation and hygiene of the licensable food business authorised by the licence, or specified in the licence in so far as they are not prescribed;
- (b) to comply with procedures prescribed to achieve the safety and suitability of food or the safety of primary produce, including document control and recording;
- (c) to prepare itself for the following ends:
  - (i) to deal with any disruptive event occurring;
  - (ii) to prevent any intentional engaging in conduct, by any individual, so as to jeopardise the safety of food which is manufactured, prepared or otherwise handled or of primary produce which is produced at the food premises of the food business, including any attempt to do so,by establishing and maintaining procedures and plans directed to those ends, conducting simulations or other tests of those procedures and plans (where necessary) giving effect to those procedures and plans;
- (d) to carry on the licensable food business authorised by the licence in accordance with an accepted farm management plan or an accepted food control plan; or
- (e) to furnish or further furnish a performance bond, guarantee or other form of security of such amount and on such terms and conditions as the Agency considers appropriate;

(2) In granting a person a food business licence for a licensable food business, the Agency also accepts —

- (a) where the food business involves any primary production activity, the person’s farm management plan relating to that food business; or
- (b) in any other case, the person’s food control plan relating to that food business.

### **Validity of food business licence**

**94.**—(1) Every food business licence granted under this Act is to be in any form that the Agency may determine.

(2) Every food business licence granted under this Act is in force for such period as may be specified in the licence (not exceeding 5 years) —

- (a) except when it is wholly suspended under section 96(2); or
- (b) unless it is earlier revoked under section 96(1).

(3) To avoid doubt, a licence to use more than one premises for a licensable food business does not cease only by reason that one of the premises to which it relates stops being used for the licensable food business.

### **Modifying conditions of food business licence**

**95.** Subject to Division 4 of Part 14, it is lawful for the Agency to modify the conditions of a food business licence without compensating the food business licensee concerned.

### **Grounds for regulatory action concerning food business licence**

**96.**—(1) Subject to Division 4 of Part 14, if the Agency is satisfied that —

- (a) a food business licensee is contravening or not complying with, or has contravened or failed to comply with —
  - (i) any of the conditions of its food business licence;
  - (ii) any provision of this Act applicable to the food business licensee so far as that relates to the carrying on of the licensable food business stated in its food business licence, the contravention of or non-compliance with which is not an offence under this Act;
  - (iii) any provision of a code of practice applicable to the food business licensee so far as that relates to the carrying on of the licensable food business authorised by the food business licence;
  - (iv) any direction given to the licensee under subsection (2)(d) or (f); or
  - (v) any requirement in section 100 applicable to the food business licensee;
- (b) the food business licensee has ceased to carry on the food business authorised by the licence;
- (c) the food business licensee, or any officer of the food business licensee, is convicted of a relevant offence committed during the term of the licence or an immediately prior licence;
- (d) the food business licensee is suffering from a prescribed infectious disease, or knowingly employs or engages to handle food in the course of the licensee's licensable food business an individual —
  - (i) who is or is suspected to be suffering from a prescribed infectious disease; or

- (ii) who refuses to be immunised against a prescribed infectious disease where a direction under section 130 is given in relation to the licensee's licensable food business;
- (e) the continued use of the premises for the food business under the food business licence would constitute an unacceptable risk to the safety, welfare or well-being of customers of that licensable food business at the premises;
- (f) there is or has been a serious failure of the operations of the food business licensee, or there are or have been other matters, that cast doubt on the safety of the primary produce produced, or the safety and suitability of the food manufactured, prepared or supplied, by the food business licensee;
- (g) the licence had been obtained by the food business licensee by fraud or misrepresentation; or
- (h) the public interest of Singapore requires,

the Agency may revoke (without any compensation) the food business licence of the food business licensee, with or without forfeiting any performance bond, guarantee or other form of security furnished by the food business licensee under this Act.

(2) However, the Agency may, in lieu of revoking under subsection (1) the food business licence of a food business licensee, do (without compensation) one or more of the following:

- (a) censure the food business licensee in writing;
- (b) direct the food business licensee to do, or to refrain from doing, any thing that is specified in a direction to rectify any contravention or non-compliance that constitutes the ground for regulatory action;
- (c) suspend (in whole or part) the food business licence for not more than 6 months;
- (d) modify any condition of the food business licence;
- (e) direct the food business licensee to pay, within a period specified in a direction, a financial penalty of any amount that the Agency thinks fit, but not exceeding \$5,000 for each contravention of or failure to comply with any matter in subsection (1)(a) or for each other ground of regulatory action;
- (f) direct the furnishing by the food business licensee of any performance bond, guarantee or other form of security, or an additional performance bond, guarantee or other form of security, for all or any of the following:
  - (i) to secure compliance by the food business licensee with any condition attached to the licence;
  - (ii) to secure compliance by the food business licensee with any code of practice applicable to the food business licensee so far as that relates to the carrying on of the licensable food business authorised by the food business licence;

(iii) for the purpose of meeting any financial penalty arising out of any regulatory action started or likely to start against the food business licensee.

(3) In this section, “relevant offence” means —

- (a) an offence under section 102, 103(1) or (2), 144, 147, 148, 150, 152, 154, 157, 158, 162, 179, 180 or 182;
- (b) an offence under section 139, 140, 256 or 257 in relation to any food business of the food business licensee concerned;
- (c) an offence under section 272, 273 or 284 of the Penal Code 1871 involving food or drinking water; or
- (d) an offence under a repealed law which is prescribed in regulations, being an offence corresponding to any offence in paragraph (a).

(4) Subsection (2)(e) does not apply where the ground of regulatory action is subsection (1)(c).

### **Effect of revocation or suspension of food business licence**

**97.**—(1) Where the food business licence of a food business licensee is revoked or suspended (wholly or in part) under section 96, the Agency may —

(a) direct that —

- (i) any food handled; or
- (ii) any primary produce from primary production activity,

under any of the operations of the licensee affected by the revocation or suspension must not be sold or supplied; and

(b) direct the food business licensee or former food business licensee (as the case may be) to take appropriate action to destroy or otherwise dispose of or deal with the affected food or primary produce mentioned in paragraph (a).

(2) A food business licensee or former food business licensee who is given a direction under subsection (1) commits an offence if the food business licensee or former food business licensee (as the case may be) fails to comply with the direction.

(3) Strict liability applies to the offence in subsection (2).

(4) A person who is guilty of an offence under subsection (2) shall be liable on conviction —

(a) where the person is an individual —

- (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

- (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (5) Subsection (2) does not apply if the person has a reasonable excuse.

*Division 3 — Traceability obligations for food businesses*

**Application of Division**

**98.**—(1) This Division applies only to a licensable food business that is prescribed by the Minister, by order in the *Gazette*, as subject to this Division.

(2) Where any licensable food business is prescribed in any order made under subsection (1), this Division does not apply to or in relation to the carrying on of the licensable food business before the date the order comes into force.

**Information food business proprietor must keep or have ready access to**

**99.**—(1) Every proprietor of a licensable food business which this Division applies to must keep, or have ready access to, the information described in subsection (2) for no shorter than the prescribed period after the date that the food is supplied by the proprietor.

(2) The information is —

- (a) the prescribed identity particulars and prescribed contact details of the person to whom the food was supplied by the proprietor;
- (b) the prescribed identity particulars and prescribed contact details of —
  - (i) the manufacturer or primary producer of the food; or
  - (ii) the person from whom the proprietor acquired the food;
- (c) a description of the identity of the food by commodity, brand (if any), and lot (if any); and
- (d) any other information that is prescribed.

(3) A proprietor of a licensable food business who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(4) Strict liability applies to the offence in subsection (3).

**Identification, location and tracing of food**

**100.**—(1) A proprietor of a licensable food business which this Division applies to must have procedures for —

- (a) identifying and locating food supplied, handled or produced by the proprietor; and

- (b) tracing food so that the food can be traced —
  - (i) from the supplier of the food to the proprietor;
  - (ii) while the food is under the proprietor's control; and
  - (iii) from the proprietor to the next person to whom responsibility for the food has passed (other than the ultimate consumer).
- (2) A proprietor of a licensable food business which this Division applies to must ensure that food is identified, located, and traced in accordance with those procedures.
- (3) The information required under subsection (1) must be accurate.
- (4) The information required under subsection (1) must also be sufficient to allow an effective recall to be carried out under Part 7.
- (5) A proprietor of a licensable food business must —
  - (a) have procedures for the recalling of food supplied in Singapore by the proprietor of the licensable food business that the proprietor considers to be not safe or suitable or whose safety or suitability is in doubt;
  - (b) regularly conduct simulations or other tests of those procedures if required by the Agency; and
  - (c) recall, in accordance with those procedures, food supplied in Singapore by the proprietor of the licensable food business that the proprietor considers to be not safe or suitable or whose safety or suitability is in doubt.
- (6) If the proprietor of a licensable food business to which this Division applies makes a decision to recall food on the ground that the food might be unsafe or unsuitable, the proprietor must notify the Agency of the following as soon as practicable, but no later than 24 hours after making the decision:
  - (a) the food affected by the recall; and
  - (b) the reason for the recall.

### **Providing information — food business proprietor**

**101.**—(1) When requested to do so by a food security officer, an authorised officer or a food inspector, a proprietor of a licensable food business which this Division applies to is bound to state truly what the person is requested, and must give information about the matters in section 99(1) —

- (a) in a readily accessible format; and
  - (b) within 24 hours after the request, or within any reasonable shorter period specified by the food security officer, authorised officer or food inspector, as the case may be.
- (2) Where any information which is required by subsection (1) to be given to a food security officer, an authorised officer or a food inspector is not given within the time delimited under subsection (1), then the proprietor of a licensable food business requested to give the information shall be guilty of an offence and shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$10,000.
- (3) Subsection (2) does not apply if the person required to give the information has a reasonable excuse.
- (4) The ordinary meaning of “reasonable excuse” is affected by sections 259 and 260.

*Division 4— Offences*

**Unlicensed licensable food business, etc.**

- 102.**—(1) A person commits an offence if —
- (a) the person is an owner or an occupier of any premises;
  - (b) the person uses, or allows the premises to be used, to carry on a licensable food business; and
  - (c) the person is not one of the following:
    - (i) a holder of a current licence to carry on that licensable food business at the premises;
    - (ii) a person exempt from this section under section 318 or 319 in relation to carrying on that licensable food business at the premises.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
    - (i) under this section;

- (ii) under section 41A of the Environmental Public Health Act 1987 for contravening section 32(1) or 33 of that Act;
- (iii) under section 41A of the Environmental Public Health Act 1987 for contravening section 33 or 34(1) of that Act involving any food;
- (iv) under section 11(2) or 12(2) of the Wholesome Meat and Fish Act 1999; or
- (v) under section 49 of the Sale of Food Act 1973 for contravening section 21 of that Act;

(4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii), (iii), (iv) or (v) may be before, on or after the commencement of this section.

(5) However, a person is not guilty of an offence under subsection (1) if the person proves, on a balance of probabilities, that the person —

- (a) had no knowledge and could not with reasonable diligence have ascertained that the premises is to be used to carry on a licensable food business; and
- (b) as soon as practicable after becoming aware that the premises is or is to be used to carry on a licensable food business, took all reasonable steps to stop that use.

### **Deployment of untrained food workers**

**103.**—(1) A person commits an offence if —

- (a) the person is the holder of a food business licence for a licensable food business;
- (b) the person causes or allows an individual to carry out any work as a food worker in the course of the operations of the licensable food business;
- (c) the individual is not registered as a food worker, generally or in respect of that licensable food business; and
- (d) the person knows, or ought reasonably to know, that the individual is not registered as a food worker, generally or in respect of that licensable food business.

(2) An individual commits an offence if —

- (a) the individual is the holder of a current food business licence for a licensable food business;
- (b) the individual carries out any work as a food worker in the course of the operations of the licensable food business;
- (c) the individual is not registered as a food worker, generally or in respect of that licensable food business; and
- (d) the individual knows, or ought reasonably to know, that he or she is not registered as a food worker, generally or in respect of that licensable food business.

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or

(ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

(i) to a fine not exceeding \$30,000; or

(ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(4) In subsection (3), “repeat offender”, in relation to an offence under this section, means a person who —

(a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

#### **Disallowed activities for non-licensable food business**

**104.**—(1) A proprietor of a food business which is not a licensable food business commits an offence if —

(a) the proprietor engages in conduct, or causes or permits an individual to engage in conduct —

(i) in the course of carrying on the food business at any premises, which is prescribed in any food regulations as prohibited conduct for that food business; or

(ii) in certain circumstances in the course of carrying on the food business at any premises, which are prescribed in any food regulations as disallowed circumstances for that food business; and

(b) the proprietor knows, or ought reasonably to know, that the conduct —

(i) is prescribed in any food regulations as prohibited conduct for that food business; or

(ii) is engaged in circumstances which are prescribed in any food regulations as disallowed circumstances for that food business,

as the case may be.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$5,000.

## PART 7

### FOOD SAFETY AND SUSTAINABLE PRIMARY PRODUCTION MEASURES

#### *Division 1 — General provisions*

#### **Persons acting in the name of Director-General**

**118.** A reference in this Part to the Director-General includes a reference to an authorised officer duly appointed by the Director-General to act for him or her.

#### **Persons to whom Part 7 directions may be given**

**119.**—(1) The Director-General may give a direction under Division 2 of this Part to all or any of the following, individually or as a class:

- (a) a proprietor of a food business, whether or not a food business licensee;
- (b) a licensed importer under Part 3 of an import controlled item other than animal feed;
- (c) a manufacturer or supplier of a regulated food contact article;
- (d) a person carrying on a business of selling or supplying (by wholesale or retail) any regulated food contact article;
- (e) a person in control of, or reasonably appearing to be in control of food or anything that may become food.

(2) The Director-General may give a direction under Division 3 of this Part to all or any of the following, individually or as a class:

- (a) a producer of an animal feed, whether or not a licensee under Part 11;
- (b) a licensed importer under Part 3 of an animal feed;
- (c) a proprietor of a food business involved in a primary production activity;
- (d) a proprietor of a food business that involves the slaughter of animals to produce meat or meat products;
- (e) a person in control of, or reasonably appearing to be in control of, any animal feed.

#### **Content and effect of Part 7 directions — general**

**120.**—(1) A Part 7 direction 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 Part 7 direction must be in writing, or be confirmed in writing as soon as practicable after being given orally.

(3) In making a Part 7 direction, it is not necessary for the Director-General to give any person who may be affected by the direction a chance to be heard before the direction is given.

(4) A Part 7 direction must state —

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

(i) advise the Director-General 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;

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

(iv) give written notice to the Director-General when the person has complied with the direction; and

(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 Director-General may carry out the direction; and

(d) that if the Director-General carries out the direction, the Agency may recover the costs and expenses reasonably incurred by the Director-General in carrying out the direction from the person to whom the direction was given.

(5) A Part 7 direction may —

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

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

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

(7) If satisfied that a direction under this Part has been complied with, the Director-General 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.

(8) Subject to section 141, no compensation is payable in respect of any animal which is destroyed as required by a Part 7 direction.

### **Service of Part 7 directions**

**121.**—(1) A Part 7 direction that is addressed to a person is sufficiently given or served if it is —

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

- (b) served in the manner prescribed in section 302; or
  - (c) if the name and address of the intended recipient is unknown, when it is affixed to —
    - (i) the food premises concerned, or the premises where the regulated food contact article is manufactured or sold, as the case may be; or
    - (ii) in the case of a direction under Division 3, the food premises concerned, or the premises where the animal feed is produced, as the case may be.
- (2) A Part 7 direction 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 on radio and on television, or in any other way that, in the opinion of the Director-General, will be most likely to bring the direction to the attention of the persons who belong to the class; and
    - (ii) on the Agency's official online location.
- (3) A Part 7 direction that is addressed to a public authority is sufficiently served if it is served on the chief executive (however called) of the public authority in accordance with subsection (1).

#### **When Part 7 direction takes effect**

**122.**—(1) Subject to subsections (2), (3) and (4), a Part 7 direction takes effect when it is served on the person to whom it is addressed, and continues in force until the earlier of the following occurs:

- (a) the expiry date stated in the direction is reached;
  - (b) for a direction under section 130 relating to an individual employed or engaged as a food worker by a food business licensee, the date the individual permanently ceases to be employed or engaged as a food worker by a food business licensee;
  - (c) the Director-General revokes the direction.
- (2) A Part 7 direction that is served —
- (a) in accordance with section 121(1) takes effect when it is served;
  - (b) in accordance with section 121(2)(a) takes effect when it is served on all the persons in the class in question; and
  - (c) in accordance with subsection 121(2)(b) takes effect at the beginning of the day after the date on which section 121(2)(b) has been complied with.

(3) However, for a direction under section 123 or 124, if the name and address of the proprietor of the food premises, or the food vending machine or other equipment, is unknown when the direction takes effect is when a copy of it is affixed to a conspicuous

part of the premises, food vending machine or other equipment (as the case may be) as ordered under section 123(4)(a) or 124(4)(a), whichever being applicable.

(4) Where the Director-General gives —

- (a) a movement control direction under section 125 prohibiting or restricting —
  - (i) any movement or relocation by the recipient of any specified food or primary produce into or out of Singapore or a stated area in Singapore; or
  - (ii) undertaking by the recipient of any activity involving the supply of any specified food or primary produce in Singapore;
- (b) a direction under section 128 to recall food that is unsafe or unsuitable or is a defined food, or whose safety or suitability is in doubt; or
- (c) a direction under section 134(1) requiring the recipient to do any thing mentioned in section 134(2)(a), (b) or (c); or

because the Director-General has reasonable grounds to believe that the direction is necessary or desirable to prevent or control a threat (actual or imminent) to food supply or public health, an imminent risk of death or serious illness, or a significant threat to supply sources of food for the general public, that direction takes effect in accordance with subsection (2) but expires 10 days after that date it takes effect.

(5) However, the cessation of a Part 7 direction made and given by the Director-General under a provision in this Part (whether or not by revocation) does not prevent another Part 7 direction being made and given by the Director-General if the Director-General is satisfied that the circumstances warrant it under that same provision.

### *Division 2 — Food safety directions*

#### **Direction relating to food premises**

**123.**—(1) The Director-General may give a direction described in subsection (2) if satisfied (whether or not from the report of an authorised officer or a food inspector) —

- (a) that a food premises is in an unclean or unsanitary condition or in a state of disrepair;
- (b) that the slaughtering of animals to produce meat or meat products or meat processing is carried on in a food premises in a manner that makes the meat or meat products unsafe or unsuitable;
- (c) that primary production activity is undertaken in a food premises in a manner that makes the primary produce unsafe, or likely to be unsafe; or
- (d) that any food is supplied or handled in the food premises in a manner that makes the food unsafe or unsuitable, or likely to be unsafe or unsuitable.

(2) The Director-General may direct the proprietor of the food premises that, within a specified time in the direction, any or all of the following things must be done:

- (a) take steps, to the satisfaction of an authorised officer or a food inspector, for either or both of the following:

- (i) to put the food premises (including any machinery or equipment in it) into a clean and sanitary condition, which may include disinfection;
  - (ii) to alter or improve the food premises;
- (b) take specified steps to ensure that —
  - (i) any meat or meat products from the slaughtering of animals to produce meat or meat products, or meat processing in the food premises are not unsafe and not unsuitable;
  - (ii) any primary produce from primary production activity undertaken in the food premises is not unsafe; or
  - (iii) any food supplied or handled in the food premises are not unsafe and not unsuitable.
- (3) The Director-General may in a direction made under this section, direct that until the matters referred to in subsection (2) are complied with, the proprietor of the food premises concerned —
  - (a) must stop using those premises, or a specified area of those premises, to carry out such activity mentioned in subsection (2)(b) as is specified in the direction; or
  - (b) must not remove, and must prevent and disallow the removal of, any meat or meat product, primary produce or food specified in the direction from those premises for any purpose except with the prior consent of an authorised officer or food inspector.
- (4) If a direction under this section includes a direction under subsection (3)(a) or (b), the Director-General —
  - (a) may order that a copy of the direction be affixed to a conspicuous part of the premises concerned in such a manner that the direction can be read by a member of the general public from outside those premises;
  - (b) may, by notice published in a daily newspaper circulating in Singapore, on radio and on television, or by any other appropriate means, inform the general public that the direction has been made and the terms of the direction; and
  - (c) if the Director-General is not the licensing authority for the premises, must notify the licensing authority of the making of the direction, and any appeal made under Part 12 against the direction and the outcome of the appeal.

### **Direction for food vending machines and other equipment**

- 124.**—(1) This section applies if the Director-General is satisfied from the report of an authorised officer or a food inspector that —
- (a) a food vending machine is in such an unclean or unsanitary condition as to make any food obtained from the machine unsafe or unsuitable, or likely to be unsafe or unsuitable; or
  - (b) an equipment used in —

- (i) any slaughter of animals to produce meat or meat products;
- (ii) any manufacturing of food;
- (iii) any primary production activity; or
- (iv) the supply or handling of food,

is in such an unclean or unsanitary condition or a state of disrepair, as to make the resulting meat or meat products, primary produce or food (as the case may be) unsafe or unsuitable, or likely to be unsafe or unsuitable.

(2) The Director-General may, by written direction given to the owner of the food vending machine or other equipment mentioned in subsection (1), direct the owner to do within a specified time any or all of the following things to the satisfaction of an authorised officer or a food inspector:

- (a) to put the food vending machine or other equipment into a clean and sanitary condition, which may include disinfection;
- (b) to alter, repair or improve the food vending machine or other equipment.

(3) The Director-General may in a direction made under this section, further direct that until the matters referred to in subsection (2) are complied with, the owner of the vending machine or other equipment mentioned in subsection (1) concerned —

- (a) must stop using, and must prevent and disallow the use of, the food vending machine; or
- (b) must stop using, and must prevent and disallow the use of, the other equipment in connection with any slaughter of animals to produce meat or meat products, any meat processing, any primary production activity or any supply or handling of food,

as is specified in the direction.

(4) If the Director-General makes a direction that includes a further direction under subsection (3), the Director-General —

- (a) may order that a copy of the direction be affixed to a conspicuous part of the food vending machine or other equipment concerned in such a manner that the direction can be read by an individual who may intend to use the food vending machine or other equipment; and
- (b) if the Director-General is not the licensing authority for the food vending machine or other equipment, must notify the licensing authority of the making of the direction, and any appeal made under Part 12 against either direction and the outcome of the appeal.

(5) Except with the express approval of an authorised officer, a person must not remove the copy of a direction affixed under subsection (4)(a) to a food vending machine or other equipment while that direction remains in force.

### **Direction to deal with hazard or source of contamination**

**125.**—(1) Where the Director-General —

- (a) reasonably suspects (whether or not from the report of an authorised officer or a food inspector) the existence of a hazard or a source of contamination that may adversely affect —
  - (i) any primary produce or food;
  - (ii) any live food producing animal or other thing that may become food; or
  - (iii) any regulated food contact article; and
- (b) is satisfied on reasonable grounds that a direction under section 126 or 127 is necessary to minimise, manage or eradicate, over a limited period or over an indefinite period, the risk to human health created by the suspected hazard or the suspected source of contamination,

the Director-General may give a written direction described in section 126 (called a movement control direction), a written direction described in section 127 (called a declaration direction), or both those directions, to any person described in section 119(1).

(2) In this section and sections 126 and 124 —

“biosecurity carrier” means any animal or plant, or part of any animal or plant, or any other thing —

- (a) that is capable of moving a biosecurity matter attached to, or contained in, the animal, plant or other thing from a place to another place;
- (b) that contains a biosecurity matter that may attach to or enter another animal or plant, or part of another animal or plant, or another thing; or
- (c) that —
  - (i) is infected with a disease or is reasonably believed to be infected with disease; or
  - (ii) may have been in contact with another animal or bird which is infected with disease, or may have been exposed to disease,

but excludes a human or part of a human;

“biosecurity matter” means —

- (a) a living thing, other than a human or part of a human; or
- (b) a pathogen that can cause disease in—
  - (i) an animal; or
  - (ii) a human, by the transmission of the pathogen from an animal to the human; or
- (c) a disease;

“hazard” means an adverse or injurious health effect on humans that arises or may have the potential to arise from any of the following:

- (a) a biosecurity matter, a chemical substance or other matter that —

- (i) is in primary produce, food or a regulated food contact article;
  - (ii) has the potential to be in primary produce, food or a regulated food contact article;
  - (iii) is a condition of primary produce, food or a regulated food contact article; or
  - (iv) has the potential to affect the condition of primary produce, food or a regulated food contact article;
- (b) a biosecurity carrier;
  - (c) a dealing with a biosecurity matter or a biosecurity carrier;
  - (d) a plant pesticide or a residue thereof;
  - (e) a failure to comply with an applicable requirement of the Act relating to the slaughter of animals to produce meat or meat products, meat processing, primary production activity, or the supplying or handling of food;

“manage”, in relation to the risk to human health from a hazard or a source of contamination, includes prevent or control the transmission or spread of the hazard or contamination;

“movement”, in relation any thing or individual , includes —

- (a) the transport of the thing by any conveyance;
- (b) the deployment of equipment in more than one premises; and
- (b) the deployment of the individual to work or attend in person in more than one premises or workplaces;

“thing” —

- (a) means a thing, whether alive, dead or inanimate; and
- (b) includes a human.

### **Movement control direction — content**

**126.**—(1) Every movement control direction must include reference to —

- (a) the suspected hazard or suspected source of contamination, such as (but not limited to) —
  - (i) a thing or activity;
  - (ii) a particular premises (where, for example, there may be contamination from the land or the environment); or
  - (iii) a particular person, or a particular food business or a specified class of food businesses (where, for example, the contamination may have been caused by a human act or omission); and

- (b) the area or areas to which the movement or related controls in the movement control direction apply (where, for example, there may be contamination from the land or the environment).
- (2) Every movement control direction must state the movement or related controls, which may relate to all or any of the following:
- (a) any activity involving —
    - (i) any slaughter of animals to produce meat or meat products,
    - (ii) any meat processing;
    - (iii) any primary production activity;
    - (iv) any supply or handling of food; or
    - (ii) any manufacturing, or supply or use, of a regulated food contact article for use with food;
  - (b) any premises;
  - (c) any food;
  - (d) any live food producing animal or other thing that may become food, whether or not a biosecurity carrier;
  - (e) any food business;
  - (f) any regulated food contact article, or any thing that may become a regulated food contact article;
  - (g) any food worker;
  - (g) any biosecurity matter;
  - (i) any thing else that the Director-General suspects relates to the suspected hazard or the suspected source of contamination.
- (3) The movement or related controls in a movement control direction may —
- (a) prohibit or restrict the movement or relocation of any thing described in subsection (2) into or out of or within Singapore or a stated area in Singapore;
  - (b) prohibit or restrict the completion of a movement or relocation of a type mentioned in paragraph (a) if the movement or relocation is already in progress when the direction under this section is made;
  - (c) prohibit or restrict the undertaking of an activity described in subsection (2) within a stated area in Singapore;
  - (d) require the taking of specific actions —
    - (i) to confirm the presence, or finding out the extent of the presence, in the area to which the direction applies, of the suspected hazard or the suspected source of contamination to which the direction relates;

- (ii) to confirm the absence, in the area to which the direction applies, of the suspected hazard or the suspected source of contamination to which the direction relates;
  - (iii) to monitor the effects of measures taken to minimise, manage or eradicate the risk to human health; or
  - (iv) to monitor compliance with any prohibition or restriction in paragraph (a), (b) or (c) which is imposed by the direction; or
  - (e) require the taking of specific actions or measures as are reasonably necessary to minimise, manage or eradicate the risk to human health created by the suspected hazard or the suspected source of contamination.
- (5) A movement control direction may also —
- (a) direct the keeping of information about the matters that are the subject of the direction;
  - (b) direct the provision of reports to the Director-General about the matters that are the subject of the direction; and
  - (c) direct the person to whom the direction is given to notify the Director-General when —
    - (i) the hazard, or source of contamination has been identified;
    - (ii) the hazard, or source of contamination has been minimised or eradicated; or
    - (iii) no hazard, or source of contamination has been identified.

#### **Declaration direction — content**

**127.**—(1) Every declaration direction must include reference to the suspected hazard or suspected source of contamination, such as (but not limited to) —

- (a) a thing or activity;
  - (b) a particular premises (where, for example, there may be contamination from the land or the environment); or
  - (c) a particular person, or a particular food business or a specified class of food businesses (where, for example, the contamination may have been caused by a human act or omission).
- (2) Every declaration direction must state the information the person to whom the direction is given must complete and give to the Director-General, which may relate to all or any of the following information:
- (a) matters relating to the history of the primary produce, food or a regulated food contact article in question, including, if appropriate —
    - (i) identification or details of any owner or previous owner of the primary produce, food or regulated food contact article in question, or any person who presented or supplied it to the person required to make the declaration; and

- (ii) identification or details of the area or place where the primary produce, food or regulated food contact article food in question was kept or was taken, or procured, and any surrounding area or place at which it was stored:
  - (b) matters relating to treatments or applications applied by way of veterinary drugs or agricultural compounds during production of the primary produce or food in question;
  - (c) information relating to the feeding of an animal, if the primary produce or food in question contains an animal product;
  - (d) information relating to the possible exposure of the primary produce, food or regulated food contact article in question to hazards;
  - (e) the place the primary produce, food or regulated food contact article in question is being moved from, the place it is being moved to, and any previous place it has been moved from;
  - (f) matters relating to the movement of the primary produce, food or regulated food contact article in question.
- (3) Every declaration direction must also state that the information must be completed and given to the Director-General within a reasonable period specified in that direction.
- (4) To avoid doubt, this does not affect any duties imposed under Part 2, Division 7 of Part 3, Division 3 of Part 4 and sub-division (2) of Division 2 of Part 11.

### **Direction to recall food or regulated food contact article**

**128.**—(1) The Director-General may give a written direction in subsection (2) to any person described in section 119(1) —

- (a) for the purpose of examining, rectifying, controlling, or disposing of food or a regulated food contact article, after taking into account any relevant information or warnings about the food or regulated food contact article that the Director-General has received from any authorised officer or food inspector, any international organisation or any foreign food authority; or
  - (b) if the Director-General has reasonable grounds to believe that the direction is necessary to prevent or reduce the likelihood to cause physical harm to humans or to mitigate the adverse consequences of that likelihood.
- (2) The direction is any of the following:
- (a) to recall food that is unsafe or unsuitable or is a defined food, or whose safety or suitability is in doubt;
  - (b) to recall a regulated food contact article that has, when used with food, caused food to be no longer safe or suitable, or for which there is doubt about whether food remains safe or suitable when the regulated food contact article is used with food;
  - (c) to recall a regulated food contact article if there is doubt about whether it may contaminate food;

- (d) to recall food or a regulated food contact article that is mislabelled or incorrectly identified;
  - (e) to take food or a regulated food contact article recalled under any of paragraphs (a) to (d) to —
    - (i) any premises specified in the directions; or
    - (ii) any premises agreed to between the Director-General and the person to whom the direction is given.
- (3) A direction to recall food or a regulated 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 regulated food contact article must give written notice to the Director-General of the completion of the recall as soon as practicable after that completion.
- (5) If a person to whom the direction is given fails or refuses to comply with it, the Director-General may —
- (a) take any reasonable steps necessary to ensure control of the food or regulated food contact article; and
  - (b) recover the costs and expenses reasonably incurred by the Director-General in assuming control of the food or regulated food contact article as a debt due from the person to whom the direction was given.
- (6) This section does not prevent the Director-General exercising his or her power under section 129, 131 or 132.

**Direction to manage food, regulated food contact article, etc.**

**129.**—(1) The Director-General may give a written direction in subsection (2) to any person described in section 119(1) if the Director-General —

- (a) reasonably believes —
    - (i) that food or a regulated food contact article which is already the subject of a direction under section 126 is unsafe or unsuitable, or is a defined food, and further controls are required; or
    - (ii) that a live food producing animal, which is already the subject of a movement control direction, is a biosecurity carrier; or
  - (b) recalls food or a regulated food contact article under section 128.
- (2) The direction may be about doing or not doing all or any of the following to the food, regulated food contact article or live food producing animal:
- (a) condemning or destroying it;
  - (b) disposing of or re-exporting it;
  - (c) identifying it;
  - (d) processing and handling it or re-processing it;

- (e) labelling or relabelling it;
- (f) storing it;
- (g) transporting it;
- (h) examining, sampling or testing it;
- (i) advertising or selling it.

### **Direction relating to food workers in licensable food businesses**

**130.**—(1) Where the Director-General reasonably believes that there is or has been committed, in the course of the carrying on of a licensable food business, a contravention of or non-compliance with an applicable requirement of the Act relating to the handling of food, by an individual employed or engaged by a food business licensee as a food worker in the licensable food business, the Director-General may give a written direction in subsection (2) to —

- (a) the food business licensee who is a proprietor of the licensable food business;
- (b) the individual or any other individual then employed or engaged as a food worker by the food business licensee; or
- (c) both persons in paragraphs (a) and (b).

(2) A direction under this section may require —

- (a) a particular individual or particular individuals employed or engaged as a food worker or food workers by a food business licensee to do one or more of the following within a period stated in the direction:

- (i) to stop handling food in the course of the licensee's licensable food business unless he or she —

- (A) is diagnosed by a registered medical practitioner as not suffering from a prescribed infectious disease or other condition that is liable to render food handled as unsafe or unsuitable; or

- (B) is immunised against a prescribed infectious disease;

- (ii) to undergo specified training or retraining in food safety and food handling, and be assessed as competent in each subject of the training or retraining;

- (iii) to alter or improve the method of handling of food by that individual while in the course of the licensee's licensable food business;

- (b) a food business licensee concerned to do one or more of the following within a period stated in the direction:

- (i) to take specified steps to change or improve the method of handling food by food workers in the course of the carrying on the licensee's licensable food business;

- (ii) to stop one or more individuals handling food in the course of the licensee's licensable food business unless the individual —

- (A) is diagnosed by a registered medical practitioner as not suffering from a prescribed infectious disease or other condition that is liable to render food handled as unsafe or unsuitable;
- (B) is immunised against a prescribed infectious disease;
- (C) undergoes specified training or retraining in food safety and food handling, and is assessed as competent in each subject of the training or retraining; or
- (D) alters or improves the method of handling of food while in the course of the licensee's licensable food business.

(3) A direction under this section may also require a particular individual to engage in conduct, or to refrain from engaging in conduct, specified in a direction relating to his or her personal hygiene and health practices when handling food as a food worker employed or engaged in a licensable food business, including (but not limited to) —

- (a) not expectorating;
- (b) wearing an attire or accessory for the purpose of protecting food that he or she handles against contamination; and
- (c) ensuring that that the individual, or his or her clothing, is put in a clean and sanitary condition.

(4) A direction under this section must be for the purpose of either —

- (a) ensuring the continued competence of a particular individual or particular individuals employed or engaged as food workers in a licensable food business in handling food in such a way that does not make the food unsafe or unsuitable, or likely to be unsafe or unsuitable; or
- (b) minimising or preventing the future personal conduct of a particular individual or particular individuals, when employed or engaged as food workers in a licensable food business, that makes or is likely to make the food unsafe or unsuitable.

(5) An individual who is registered as a food worker by the Agency ceases to be registered when the registration expires or a direction is earlier given to the individual under this section.

### **Direction to publish statement**

**131.**—(1) The Director-General may give to persons described in section 119(1) a direction to publish in Singapore a statement to the general public, or to a class of persons specified in the direction, for the purpose of protecting the general public or class of persons, as the case may be.

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

- (a) the nature of the problem, including (where applicable) —

- (i) the particular food or kind of food or regulated food contact article to be recalled or disposed of;
  - (ii) the reasons why the food or regulated food contact article is considered to be unsafe; and
  - (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 Director-General may specify the actual words to be used in the statement or any part of it.
- (4) The Director-General 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 in accordance with this section are protected by absolute privilege.

### **Privileged statements**

**132.**—(1) The Agency may publish in Singapore a statement for the purpose of protecting human health or informing the general public.

- (2) The statement may be about all or any of the following:
  - (a) the safety or suitability of food or a regulated food contact article;
  - (b) anything contained or implied in advertisements about food or a regulated food contact article, generally or in a particular advertisement, or in a class or classes of advertisements;
  - (c) the performance or non-performance of any function or duty imposed on any person by any provision of this Act.
- (3) The statement is protected by qualified privilege.
- (4) This is not a delegable function of the Agency.

### **General preventative or corrective action direction**

**133.**—(1) Without limiting any other provision in this Division, the Director-General may give a direction in subsection (2) to any of the persons described in section 119(1) if the Director-General is satisfied (whether or not from the report of an authorised officer or a food inspector) that an applicable requirement of the Act with respect to primary produce, food or a regulated food contact article is contravened or not complied with.

- (2) The direction must be about the taking of preventative or corrective action in respect of primary produce, food or a regulated food contact article that the Director-

General reasonably believes is necessary to ensure compliance with the provisions of this Act.

*Division 3 — Animal feed and primary production directions*

**Direction to impose movement controls, etc. for animal feed**

**134.**—(1) The directions mentioned in sections 123, 124 and 125 may be given by the Director-General under this section in relation to an animal feed if the Director-General —

- (a) reasonably suspects (whether or not from the report of an authorised officer or a food inspector) the existence of a hazard or a source of contamination that may affect the animal feed; and
  - (b) is satisfied on reasonable grounds that a movement control direction is necessary to minimise, manage or eradicate, over a limited period or over an extended or indefinite period, the risk to animal health created by the suspected hazard or the suspected source of contamination.
- (2) For the purpose of this section, sections 123, 124 and 125 apply as follows:
- (a) any reference in those sections to food must be read as a reference to animal feed;
  - (b) any reference in those sections to equipment used in meat processing, any primary production activity or the supply or handling of food must be read as a reference to equipment used in the production of animal feed;
  - (c) any reference in those sections to an activity involving meat processing, primary production activity or supplying or handling food must be read as a reference to producing animal feed;
  - (d) any reference in those sections to unsafe or unsuitable food, or likely to be unsafe or unsuitable food must be read as a reference to animal feed that is not fit for purpose or is likely to be not fit for purpose; and
  - (e) any reference in the definition of “hazard” in section 125(2) to an adverse or injurious health effect on humans must be read as a reference to an adverse or injurious health effect on animals.

**Direction to recall animal feed**

**135.**—(1) The Director-General may give a written direction in subsection (2) to any person described in section 119(2) —

- (a) for the purpose of examining, rectifying, controlling, or disposing of any animal feed, after taking into account any relevant information or warnings about the animal feed being not fit for purpose that the Director-General has received from any authorised officer or food inspector, any international organisation or any foreign food authority; and
- (b) if the Director-General has reasonable grounds to believe that the direction is necessary to prevent or reduce the possibility of a serious danger to animal

health or to mitigate the adverse consequences of a serious danger to animal health.

(2) The direction is any of the following:

- (a) to recall an animal feed that is not fit for purpose, or whose fitness for purpose is in doubt;
- (b) to recall an animal feed that is mislabelled or incorrectly identified;
- (c) to take an animal feed recalled under paragraph (a) or (b) to —
  - (i) any premises specified in the directions; or
  - (ii) any premises agreed to between the Director-General and the person to whom the direction is given.

(3) A direction to recall an animal feed 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 an animal feed must give written notice to the Director-General of the completion of the recall as soon as practicable after that completion.

(5) If a person to whom the direction to recall is given fails or refuses to comply with it, the Director-General may —

- (a) take any reasonable steps necessary to ensure control of the animal feed; and
- (b) recover the costs and expenses reasonably incurred by the Director-General in assuming control of the animal feed as a debt due from the person to whom the direction was given.

(6) This section does not prevent the Director-General exercising his or her power under section 136.

### **Direction to manage animal feed**

**136.**—(1) The Director-General may give a written direction in subsection (2) to any person described in section 119(2) if the Director-General —

- (a) reasonably believes that an animal feed that is already the subject of a direction under section 134 containing movement or related controls, is not fit for purpose, and further controls are required; or
- (b) recalls animal feed under section 135.

(2) The direction may be about doing or not doing any of the following to the animal feed:

- (a) condemning or destroying it;
- (b) disposing of or re-exporting it;
- (c) identifying it;
- (d) processing and handling it or re-processing it;
- (e) labelling or relabelling it;

- (f) storing it;
- (g) transporting it;
- (h) sampling or testing it;
- (i) advertising or selling it.

**Direction to address threats to primary production, etc.**

**137.**—(1) The Director-General may give a biosecurity direction in subsection (2) to any person described in section 119(2) if the Director-General considers that —

- (a) an event —
  - (i) has happened or is happening; and
  - (ii) has had or is having an adverse effect on —
    - (A) the production of primary produce in any part of Singapore; or
    - (B) the health of food producing animals or to their habitats in any part of Singapore;
- (b) the event was or is being caused by, or may be or may have been caused by a biosecurity matter; and
- (c) it is necessary to exercise powers under this section to mitigate or prevent a significant threat or likely significant threat to securing or maintaining consumer confidence in supply sources of safe and suitable food for the general public.

(2) A direction under this section may require the recipient to do all or any of the following, at stated premises within the part of Singapore mentioned in subsection (1)(a)(ii) and within a stated period of time:

- (a) prohibit or restrict the movement or relocation of any biosecurity matter or biosecurity carrier —
  - (i) out of or within the stated premises; or
  - (ii) into the stated premises;
- (b) prohibit or restrict the completion of a movement or relocation of a type mentioned in paragraph (a) if the movement or relocation is already in progress when the direction under this section is made;
- (c) isolate a biosecurity matter or a biosecurity carrier at the stated premises in a stated way;
- (d) cull or otherwise destroy, or cause the culling or destruction of, a biosecurity matter or a biosecurity carrier at the stated premises in a stated way;
- (e) dispose of a biosecurity matter or a biosecurity carrier in a stated way, including by burning or burying it or by depositing it at a place where waste is deposited or disposed of;

- (f) treat in a stated way, or refrain from treating, a biosecurity carrier of biosecurity matter so as to control the biosecurity matter, or to stop the spread or lessen the risk of the spread of the biosecurity matter;

*Illustration*

Vaccinate animals not culled.

- (g) clean or disinfect the stated premises, or part of the stated premises, an individual at those premises, or anything on the individual or a biosecurity carrier at those premises, in a stated way;
- (h) stop or restrict using the stated premises, or part of the stated premises, for a stated purpose or a stated period, or until a stated action is taken;
- (i) take such as measures as are reasonably necessary or desirable to prevent the further introduction or spread of any biosecurity matter which is the subject of the direction.

*Illustration*

To keep daily records about the movement of animals not culled.

(3) In addition, the Director-General may direct a food business licensee undertaking any primary production activity —

- (a) to revise the licensee’s farm management plan to prevent or mitigate any significant hazard relating to the primary production activity, or to food producing animals or to their habitats; and
- (b) to submit the revised farm management plan for acceptance by the Agency.

(4) In this section —

“movement”, in relation any thing, includes —

- (a) the transport of the thing by any conveyance; and
- (b) the deployment of equipment in more than one premises;

“thing” means a thing, whether alive, dead or inanimate.

**General corrective or preventative direction**

**138.** The Director-General may give a direction to the persons described in section 119(2) about the taking of preventative or corrective action in respect of —

- (a) the primary production activity; or
- (b) the production of animal feed,

that the Director-General reasonably believes is necessary to ensure compliance with an applicable requirement of the Act with respect to that primary production activity or the production of animal feed.

*Division 4 — Miscellaneous*

**Non-compliance with Part 7 direction**

**139.**—(1) A person to whom a Part 7 direction (except a declaration direction) is addressed and given commits an offence if the person —

- (a) carries on an activity in contravention of the direction;
- (b) fails to comply with a condition specified in the direction; or
- (c) neglects or refuses to comply with the direction (other than a declaration direction).

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

(4) Where any information which is required by a declaration direction to be given to the Director-General is not given within the time delimited under section 127(3), then the person given the direction shall be guilty of an offence and shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(5) Subsections (1) and (4) do not apply if the person has a reasonable excuse.

(6) The ordinary meaning of “reasonable excuse” is affected by sections 259 and 260.

### **Tampering with affixed copy of Part 7 direction**

**140.**—(1) A person commits an offence if the person —

- (a) intentionally removes or causes to be removed;
- (b) intentionally alters or causes to be altered; or
- (c) intentionally defaces or causes to be defaced,

a copy of any direction under section 123 or 124 that is affixed to any premises, food vending machine or other equipment as ordered under section 123(4)(a) or 124(4)(a), while that direction remains in force.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$20,000.

### **Compensation**

**141.**—(1) A person bound by a Part 7 direction who suffers loss as a result of the making of the direction may apply to the Agency 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 Part 7 direction, the Agency is to pay just and reasonable compensation to the applicant.

(3) The Director-General must send written notice of the Agency's determination as to the payment of compensation under this section to each applicant for the payment of compensation.

(4) If the Agency has not determined an application for compensation under this section within 28 days after receiving the application, the Agency 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 Agency 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 —

- (a) within 28 days after the day on which notification of the determination was received; or
- (b) in a case to which subsection (4) applies, within 28 days after the end of the 28-day period referred to in that subsection.

(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 General Division of the High Court.

## PART 8

### OFFENCES RELATING TO FOOD SAFETY

#### *Division 1 — General matters*

#### **Application of Part 8**

**142.** It does not matter in this Part that the food concerned was supplied or intended for supply outside Singapore.

#### **Meaning of “hazardous food contact article”**

**143.** In this Part, a “hazardous food contact article” means a food contact article that, if used for the purposes for which it was designed or intended to be used —

- (a) would render or be likely to render food unsuitable; or
- (b) would put another food contact article, or would be likely to put another food contact article, in such a condition that, if the other food contact article were used for the purposes for which it was designed or intended to be used, the other food contact article would render, or be likely to render, food unsuitable.

#### *Division 2 — Offences*

#### **Knowingly handling food in unsafe manner**

**144.—(1)** A person commits an offence if the person handles food intended for supply in a way that the person knows, or ought reasonably to know, makes, will make, or is likely to make, the food unsafe.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$50,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$100,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —

(i) under this section; or

(ii) under section 20 of the repealed Sale of Food Act 1973 for contravening section 19 of that Act.

(4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii) may be before, on or after the commencement of this section.

### **Handling food in unsafe manner — strict liability**

**145.**—(1) A person commits an offence if the person handles food intended for supply in a way that makes, will make, or is likely to make, the food unsafe.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or

(b) where the person is not an individual — to a fine not exceeding \$20,000.

(3) Strict liability applies to the offence in subsection (1).

### **Knowingly supplying unsafe food**

**146.**—(1) A person commits an offence if the person supplies food that the person knows, or ought reasonably to know, is unsafe.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or

(ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or

(b) where the person is not an individual —

(i) to a fine not exceeding \$50,000; or

(ii) where the person is a repeat offender — to a fine not exceeding \$100,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

(a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —

- (i) under this section;
- (ii) under section 20 of the repealed Sale of Food Act 1973 for contravening section 15 of that Act;
- (iii) under section 41A of the Environmental Public Health Act 1987 for contravening section 40(1) of that Act; or
- (iv) under section 23(2) of the Wholesome Meat and Fish Act 1999 involving any meat or fish product for which is diseased, adulterated or unfit for human consumption.

(4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii), (iii) or (iv) may be before, on or after the commencement of this section.

### **Supplying unsafe food — strict liability**

**147.**—(1) A person commits an offence if the person supplies food that is unsafe.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$20,000.

(3) Strict liability applies to the offence in subsection (1).

### **Handling food knowingly making it unsuitable**

**148.**—(1) A person commits an offence if the person handles food intended for supply in a way that the person knows, or ought reasonably to know, makes, will make, or is likely to make, the food unsuitable.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
  - (i) under this section; or
  - (ii) under section 20 of the repealed Sale of Food Act 1973 for contravening section 19 of that Act.

(4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii) may be before, on or after the commencement of this section.

(5) For the purposes of this section, it is immaterial whether the food concerned is safe.

#### **Handling food making it unsuitable — strict liability**

**149.**—(1) A person commits an offence if the person handles food intended for supply in a way that makes, will make, or is likely to make the food, unsuitable.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$15,000.

(3) Strict liability applies to the offence in subsection (1).

(4) For the purposes of this section, it is immaterial whether the food concerned is safe.

(5) In this section, “handle” in relation to food, excludes the following:

- (a) transporting or delivering the food;
- (b) supervising the transporting or delivering of food by another individual.

#### **Knowingly supplying unsuitable food**

**150.**—(1) A person commits an offence if —

- (a) the person supplies any food; and
- (b) the person knows, or ought reasonably to know, that the food is unsuitable food.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —

- (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
  - (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence —
    - (i) under this section; or
    - (ii) under section 20 of the repealed Sale of Food Act 1973 for contravening section 15 of that Act.
- (4) For the purposes of subsection (3), the conviction or finding of guilt for an offence referred to in subsection (3)(b)(ii) may be before, on or after the commencement of this section.
- (5) For the purposes of this section, it is immaterial whether the food concerned is safe.

### **Supplying unsuitable food — strict liability**

- 151.**—(1) A person commits an offence if the person supplies any unsuitable food.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$15,000.
- (3) Strict liability applies to the offence in subsection (1).
- (4) For the purposes of this section, it is immaterial whether the food concerned is safe.

### **Handling food knowingly making it defined food**

- 152.**—(1) A person commits an offence if the person handles food intended for supply in a way that the person knows, or ought reasonably to know, makes, will make, or is likely to make, the food a defined food.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or

(ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

(i) to a fine not exceeding \$30,000; or

(ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

(a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

(4) For the purposes of this section, it is immaterial whether the food concerned is safe.

#### **Handling food making it defined food — strict liability**

**153.**—(1) A person commits an offence if the person handles food intended for supply in a way that makes, will make, or is likely to make the food, a defined food.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or

(b) where the person is not an individual — to a fine not exceeding \$15,000.

(3) Strict liability applies to the offence in subsection (1).

(4) For the purposes of this section, it is immaterial whether the food concerned is safe.

#### **Unsafe primary produce from primary production**

**154.**—(1) A person commits an offence if —

(a) the person undertakes any primary production activity;

(b) the primary produce from that activity is unsafe; and

- (b) the person knew, or ought reasonably to have known, that the primary produce from that activity would be unsafe.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
  - (a) where the person is an individual —
    - (i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$50,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$100,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
  - (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

### **Unsafe primary produce from primary production — strict liability**

- 155.**—(1) A person commits an offence if the person undertakes any primary production activity resulting in primary produce that is unsafe.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$20,000.
- (3) Strict liability applies to the offence in subsection (1).

### **Knowingly producing primary produce that is unsuitable food**

- 156.**—(1) A person commits an offence if —
- (a) the person undertakes any primary production activity;
  - (b) the primary produce from that activity is unsuitable food; and
  - (b) the person knew, or ought reasonably to have known, that the primary produce from that activity would be unsuitable food.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or

(ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

(i) to a fine not exceeding \$30,000; or

(ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

(a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

(4) For the purposes of this section, it is immaterial whether the primary produce concerned is safe.

### **Producing primary produce that is unsuitable food — strict liability**

**157.**—(1) A person commits an offence if the person undertakes any primary production activity resulting in primary produce that is unsuitable food.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or

(b) where the person is not an individual — to a fine not exceeding \$15,000.

(3) Strict liability applies to the offence in subsection (1).

(4) For the purposes of this section, it is immaterial whether the primary produce concerned is safe.

### **Knowingly producing primary produce that is defined food**

**158.**—(1) A person commits an offence if —

(a) the person undertakes any primary production activity for the supply of food for handling or for human consumption as food;

(b) the primary produce from that activity is a defined food; and

- (c) the person knew, or ought reasonably to have known, that the primary produce from that activity would be a defined food.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual —
- (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
- (i) to a fine not exceeding \$30,000; or
- (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.
- (4) For the purposes of this section, it is immaterial whether the primary produce concerned is safe.

### **Producing primary produce that is defined food — strict liability**

**159.**—(1) A person commits an offence if the person undertakes any primary production activity for the supply of food for handling or for human consumption and the primary produce from that activity is a defined food.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$15,000.

(3) Strict liability applies to the offence in subsection (1).

(4) For the purposes of this section, it is immaterial whether the primary produce concerned is safe.

### **Supplying food imported for private consumption**

**160.**—(1) A person commits an offence if —

- (a) the person supplies any food;
  - (b) the food is none of the following:
    - (i) a prohibited food;
    - (ii) a food of higher regulatory concern mentioned in section 44(4);
  - (c) the food was imported; and
  - (d) the person knows, or ought reasonably to know, that the food was imported on the basis that it was for private consumption only.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of the same offence.

### **Supplying food imported for private consumption — strict liability**

- 161.**—(1) A person shall be guilty of an offence if —
- (a) the person supplies any food;
  - (b) the food is none of the following:
    - (i) a prohibited food;
    - (ii) a food of higher regulatory concern mentioned in section 44(4);
  - (c) the food was imported; and
  - (d) the food was imported on the basis that it was for private consumption only.
- (2) Strict liability applies to the offence in subsection (1).
- (3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

### **Supplying hazardous food contact article knowingly**

**162.**—(1) A person commits an offence if —

- (a) the person supplies an object in the course of a business;
- (b) the object is a hazardous food contact article; and
- (c) the person knows, or ought reasonably to know, that the object is a hazardous food contact article.

(2) A person who commits an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both; or

(ii) where the individual is a repeat offender — to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 24 months or to both; or

(b) where the person is not an individual —

(i) to a fine not exceeding \$50,000; or

(ii) where the person is a repeat offender — to a fine not exceeding \$100,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

(a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

### **Supplying hazardous food contact article — strict liability**

**163.**—(1) A person commits an offence if —

(a) the person supplies an object in the course of a business; and

(b) the object is a hazardous food contact article.

(2) A person who commits an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or

- (b) where the person is not an individual — to a fine not exceeding \$20,000.
- (3) Strict liability applies to the offence in subsection (1).

### *Division 3 — Defences*

#### **General defence of due diligence**

**164.**—(1) In a prosecution of a person for an offence under this Part involving food or a regulated food contact article, it is a defence for the person charged to prove, on a balance of probabilities, that —

- (a) that the commission of the offence was due to —
- (i) an act or omission of another person; or
  - (ii) an accident or some other cause outside the person charged's control; and
- (b) the person charged took all reasonable precautions and exercised all due diligence to prevent the commission of the offence by the person, or by another person under the person's control.
- (2) In subsection (1)(a), another person does not include a person who was —
- (a) an employee or agent of the person charged; or
  - (b) if the person charged is an entity, an officer of the entity.
- (3) However, this defence does not apply if the person charged imported the food or regulated food contact article from another country.
- (4) This section is additional to any other defence available to the defendant under the Good Samaritan Food Donation Act 2024 apart from this section.

#### **Defence in respect of handling food**

**165.** In a prosecution of a person for an offence under section 144, 145, 148, 149, 152 or 153, it is a defence for the person charged to prove, on a balance of probabilities, that the person charged caused the food to which the offence relates to be destroyed or otherwise disposed of immediately after the food was handled in the manner that was likely to render it unsafe or unsuitable or it to be a defined food.

#### **Defence of relying on warranty, etc.**

**166.**—(1) In a prosecution of a person for an offence under section 146, 147, 150, 151, 162 or 163 involving food or a food contact article, it is a defence for the person charged to prove, on a balance of probabilities, that —

- (a) the person charged bought the food or food contact article in reliance on a written statement as to the nature of the food or a food contact article that was in writing and supplied by or on behalf of the person from whom the person charged bought the food or food contact article;
- (b) the person's supply of the food or food contact article would not have constituted the offence with which the person charged is charged if the food or

food contact article (as the case may be) had in fact conformed to the written statement;

- (c) when the person charged supplied the food or food contact article, it was in the same condition as it was when the person charged bought it; and
- (d) at the time of the commission of the offence —
  - (i) a reasonable person would have had no reason to suspect that the food or food contact article (as the case may be) did not conform to the written statement; and
  - (ii) the person charged had no reason to believe the written statement to be inaccurate and the person charged did in fact believe in its accuracy.

(2) Without limiting subsection (1), in a prosecution of a person for an offence under section 146, 147, 150 or 151 involving food, it is a defence for the person charged to prove, on a balance of probabilities, that —

- (a) the person charged bought the food in a package and supplied it in the same package and in the same condition as it was in when the person charged bought it; and
- (b) the person charged could not reasonably have found out that supplying the food would constitute the offence with which the person is charged.

(3) The defence under subsection (1) is only available if the person charged, not later than 14 clear days before the date of the hearing —

- (a) gives the prosecution written notice of the person's intention to rely on the warranty together with a copy of the warranty; and
- (b) gives a copy of the written notice in paragraph (a) to the person from whom the person charged received the warranty, and informing the person that the person charged intends to rely on the warranty.

(4) The person by whom the warranty is alleged to have been given is entitled to appear at the hearing and to give evidence.

### **Defence in respect of food for export**

**167.**—(1) In a prosecution of a person for an offence under section 146, 147, 150 or 151 involving food, it is a defence for the person charged to prove, on a balance of probabilities, that —

- (a) the food in question is to be exported to another country; and
- (b) the food complies with the laws (if any) in force at the time of the alleged offence in the country to which the food is to be exported, being laws that deal with the same subject-matter as the provision of this Act concerned.

(2) This section does not apply to food that was originally intended for export but was supplied in Singapore.

### **Defence in respect of hazardous food contact article**

**168.** In a prosecution of a person for an offence under section 162 or 163, it is a defence for the person charged to prove, on a balance of probabilities, that the person charged reasonably believed that the food contact article concerned was not intended for use in connection with the handling of food.

### **Defence for offence by employer**

**169.**—(1) If an employee commits an offence under this Part, his or her employer is taken to have committed the same offence.

(2) An employer may be proceeded against and convicted under a provision in this Part pursuant to this section whether or not the employee has been proceeded against or been convicted under that provision.

(3) In proceedings against an employer by virtue of subsection (1) for an offence under this Part, it is a defence for the employer who is charged to prove, on a balance of probabilities, that the employer could not, by the exercise of due diligence, have prevented the commission of the offence.

### **Liability of employees and agents**

**170.**—(1) Except as provided by subsection (2), it is no defence in proceedings for an offence under this Part that the person charged was, at the time of the commission of the offence, an employee or agent of another person.

(2) In any proceedings for an offence under this Part, it is a defence for the person charged to prove, on a balance of probabilities, that person was under the personal supervision of —

- (a) the proprietor of the food business in relation to which the offence was committed;
- (b) the owner or person in charge of the place or vehicle, in relation to which the offence was committed; or
- (c) another person representing that proprietor, owner or person in charge.

### **Non-defences**

**171.**—(1) For the purposes of this Act —

- (a) it is not a defence to allege that the person instituting the prosecution is not the person who caused any analysis to be made for the purposes of the prosecution; and
- (b) where the prosecution or proceeding relates to any food purchased for analysis, it is not a defence that the part of the food retained for future comparison has from spontaneous natural causes deteriorated, perished or undergone a material change in its constitution.

(2) It is not a defence that the purchaser bought any food or appliance for analysis or examination and therefore was not prejudiced.

(3) Section 26H(4) of the Penal Code 1871 does not apply in relation to a strict liability offence under this Part.

EXPOSURE DRAFT

## PART 11

### CERTAIN AGRI-FOOD PRODUCTION INPUTS

#### *Division 1 — Application and interpretive provisions*

#### **Definitions for Part 11**

**189.**—(1) In this Part and sections 301, 309 and 310 —

- “accepted”, in relation to a feed control plan, means such a plan with which the Agency last accepts under this Part;
- “active constituent”, in relation to a proposed or existing plant pesticide product, means the substance that is, or one of the substances that together are, primarily responsible for the biological or other effect identifying the product as a plant pesticide;
- “animal feed production licensee” means the holder of an animal feed production licence;
- “approved label”, in relation to a registered plant pesticide product, means any label approved under section 205(2)(a) for or in respect of the plant pesticide product;
- “constituent”, in relation to plant pesticide product, means any constituent of the product (whether an active constituent or not) and includes a chemical or a living thing (other than a human or part of a human);
- “container” includes anything by which or in which a plant pesticide or an animal feed is, or is to be, covered, enclosed, contained or packaged, but does not include a container (such as a shipping container) in which other containers of plant pesticides or animal feed are, or are to be, placed for the purpose of being transported;
- “feed control plan” means a plan identifying how an animal feed production licensee will carry on the production of animal feed in the course of a business with reference to all or any of the following matters as the Agency considers relevant:
- (a) the knowledge, skill, health and hygiene requirements for the people involved in producing the animal feed;
  - (b) the details of the animal feed produced and the feed production processes involved;
  - (c) the design, construction, maintenance and cleanliness of the following used, or intended to be used, for the production of the animal feed:
    - (i) the premises (including layout, fittings and fixtures) at which animal feed is produced;
    - (ii) the plant or equipment used to produce animal feed;
    - (iii) the conveyances used to transport animal feed;

- (d) the systematic identification of the potential hazards that may be reasonably expected to occur in each operation that is to be, or that is being, carried out in the course of producing the animal feed;
- (e) how and where each hazard identified under paragraph (d) can be controlled and the means of control;
- (f) the systematic monitoring of those controls in paragraph (e), and the appropriate corrective action when each hazard identified under paragraph (d) is found not to be under control;
- (g) the procedures and practices established by the licensee so as to monitor and ensure the compliance by the animal feed production licensee, and the employees or workers of the licensee, with —
  - (i) the requirements of the Act with respect to the licensee’s production of animal feed;
  - (ii) any applicable standard as is applicable to the licensee’s production of animal feed;
  - (iii) the conditions of the animal feed production licence, if granted; and
  - (iv) the accepted feed control plan;
- (h) the keeping of records which are sufficient to allow the Agency or an authorised officer or food inspector to assess whether the accepted feed control plan has been complied with;

“keep”, in relation to a plant pesticide, means —

- (a) have possession or be in control of the plant pesticide, such as (but not limited to) keeping within any container owned or in the care, control or management of, the person so keeping;
- (b) have the plant pesticide in the control or management of another person, including storing it with that other person; or
- (c) drive or otherwise operate (even by remote control) any conveyance conveying or otherwise carrying the plant pesticide,

and includes exhibit;

“meets the labelling criteria”, for a plant pesticide product, has the meaning given by section 207;

“non-target plant”, in relation to the use of a plant pesticide product, means any plant that is not specified on the approved label for or in the application for registration of the product as being a plant in respect of which the product may be used;

“pest”, in relation to a plant, means any invertebrate, plant or other living thing (other than a human) that injuriously affects or is capable of injuriously affecting the physical condition, worth or utility of the firstmentioned plant;

“prescribed pesticide work” means the carrying out of any of the following kinds of activities in such circumstances, or by such means, as may be prescribed (if any) by the pesticide control regulations:

- (a) the supply or use of plant pesticides for a fee or reward;
- (b) the piloting or use of aircraft in connection with the supply or use of plant pesticides (whether or not for a fee or reward);
- (c) the carrying on of a business involving any of the activities referred to in paragraph (a) or (b), including the employment or engagement of individuals to carry out any of those activities for that business;

“produce”, as a verb in relation to any animal feed, includes all or any of the following:

- (a) the breeding or rearing of animals for the purpose of feeding them directly to any food producing animal;
- (b) the hydrolysing, heating, mixing or blending together of any substances to make the animal feed for sale;
- (c) the storing, packing or labelling unpackaged animal feed for sale;

“registered”, in relation to a plant pesticide product, means registered or deemed registered under this Part but not when the registration of the plant pesticide product is not in force;

“relevant instruction”, for a plant pesticide product, means an instruction that relates to any of the following matters:

- (a) any restriction (however expressed) as to the use of the plant pesticide product (for example, a direction not to use the product for any purpose, or in any manner, contrary to the approved label unless authorised by written law);
- (b) the situation in which the use of the plant pesticide product is permitted (for example, the type of crop);
- (c) the pest to be controlled by the plant pesticide product;
- (d) the rate, concentration, frequency or timing, number, volume, or other similar limitation, in respect of which the plant pesticide product may or may not be used;
- (e) the equipment by means of which the plant pesticide product may be used;
- (f) the preparation and mixing of the plant pesticide product;
- (g) withholding periods;
- (h) any restraints on the use of the plant pesticide product (for example, weather conditions, entry to treated areas, distance restrictions);
- (i) the protection of livestock, crops, wildlife or non-target plants;
- (j) the protection of the environment;

- (k) avoidance of spray drift, vapour movement;
- (l) storing or disposal of the plant pesticide product;
- (m) safety directions and other human-health related matters;
- (n) expiry dates or dates in which use is permitted;
- (o) any other matter that may be prescribed by the pesticide control regulations;

“residue”, in relation to an active constituent for a proposed or existing plant pesticide product, or in relation to a plant pesticide product, means any remains, persisting in or on any particular premises (including a plant, crop or pasture in those premises in relation to which the product was used), of —

- (a) the active constituent, or the active constituents in the plant pesticide product; or
- (b) any derivatives, metabolites, or degradation products, of the active constituent or of the active constituents in the plant pesticide product;

“withholding period”, in relation to the use of a plant pesticide product, means the minimum period that needs to elapse between —

- (a) the last use of the product in relation to a crop; and
- (b) the harvesting or cutting of the crop,

in order to ensure that the residues from the plant pesticide product fall to or below the maximum limit that the pesticide control regulations permit.

(2) For the purposes of this Part, a plant pesticide continues to be regarded as a plant pesticide even when it is mixed with some other substance (whether or not the other substance is a plant pesticide).

### **Application of Part 11**

**190.**—(1) Division 2 does not apply to producing animal feed —

- (a) in the course of any research and development activity undertaken directly by the person; or
- (b) for feeding directly to any food producing animal that the person keeps as a pet.

(2) In subsection (1), “research and development activity” means systematic, investigative or experimental activities that involve innovation and are carried on either wholly or partly within Singapore for the purpose of —

- (a) increasing or acquiring new knowledge (whether or not that knowledge will have specific practical application); or
- (b) creating new or improved materials, products, devices, processes or services.

(3) Division 3 does not apply to the use of any plant pesticide in —

- (a) the cultivation of —
  - (i) any plant which is not an edible plant;

- (ii) any edible plant which is not for supply, such as domestic and home gardening; or
  - (iii) any edible plant for the primary purpose of the retail sale of the whole edible plant in a pot; or
- (b) the raising or producing of an animal.
- (4) In addition, Division 3 does not apply to any plant pesticide that is manufactured or prepared exclusively from or using food.

*Division 2 —Animal feed*

Sub-division (1) — Licensing of animal feed production

**Application of Division 4 of Part 14 (general licensing procedures)**

**191.** Division 4 of Part 14 applies to every application for an animal feed production licence, and to every animal feed production licence granted under this Part, subject to the modifications in this Part.

**Criteria for grant, etc., of animal feed production licence**

- 192.—**(1) This section applies where the Agency is deciding any of the following:
- (a) whether an applicant should be granted an animal feed production licence;
  - (b) the conditions to impose on an animal feed production licence;
  - (c) whether to modify any condition of an animal feed production licence.
- (2) When making a decision mentioned in subsection (1), the Agency must have regard, and give such weight as the Agency considers appropriate, to all of the following matters:
- (a) whether the applicant or animal feed production licensee, or an associate of the applicant or animal feed production licensee, is or was disqualified by section 298 from holding an animal feed production licence;
  - (b) whether the applicant or animal feed production licensee is a suitable person to be involved in the management or operation of the production of animal feed which is the subject of the application;
  - (c) whether regulatory action under section 196 has been or is being taken or is contemplated against the applicant or animal feed production licensee;
  - (d) any available information whether or not the applicant or animal feed production licensee has been convicted or found guilty of any relevant offence within the meaning of section 196(3) (whether or not the offence was committed before, on or after the commencement of this section);
  - (e) whether there are other grounds for considering that the applicant or animal feed production licensee is likely in the future to fail to comply with any provision of this Act in connection with the production of animal feed to be authorised by the licence;

- (f) whether the premises at which the production of animal feed is or is to be carried on are fit to be used for that type of activity;
  - (g) whether the written permission or authorisation required by the Planning Act 1998 for the use of the premises for the production of animal feed has been granted or deemed granted;
  - (h) whether the applicant or animal feed production licensee has, and will keep and maintain, an accepted feed control plan relating to the applicant's or licensee's production of animal feed;
  - (i) the applicant's or animal feed production licensee's compliance history with Part 2, where applicable;
  - (j) whether and how the applicant or animal feed production licensee prepares to deal with any disruptive event occurring;
  - (k) whether the applicant is a Singapore-connected person;
  - (l) whether it is not in the public interest of Singapore for the applicant to be granted an animal feed production licence.
- (3) Subsection (2) applies to an applicant which is an entity with the following modifications:
- (a) paragraph (a) of that subsection must be read as if the paragraph refers only to the officers of the entity instead of the entity;
  - (b) paragraphs (b) and (c) of that subsection must be read as if they refer to the entity and its officers.
- (4) To avoid doubt, the Agency is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence that may be relevant.
- (5) For the purpose of determining whether or not a person is a suitable person under subsection (2)(b) for a particular animal feed production licence, the Agency must have regard to all of the following matters:
- (a) the person's compliance history with any of the following so far as that relates to the production of animal feed in the course of a business:
    - (i) the provisions of this Act and any predecessor law about standards and requirements to ensure animal feed which is fit for purpose;
    - (ii) the conditions of any animal feed production licence granted to the person;
    - (iii) the provisions of a code of practice applicable to the person;
    - (iv) a Part 7 direction;
  - (b) the person's relevant knowledge, competency and experience in identifying, controlling, managing, and eliminating or minimising hazards for the purpose of achieving animal feed which is fit for purpose when producing animal feed.

(6) In this section, “predecessor law” means the Feeding Stuffs Act 1965 as in force before it is amended by this Act.

### **Conditions of animal feed production licence**

**193.**—(1) Without limiting section 294, in granting an animal feed production licence to any person, the Agency may impose conditions requiring the animal feed production licensee —

- (a) to meet all the applicable standards prescribed in the animal feed regulations, or specified in the licence in so far as the standards are not prescribed, for —
  - (i) the maintenance, cleanliness and sanitation of the premises where animal feed is produced; and
  - (ii) the hygiene of individuals at work in those premises;
- (b) to establish and maintain, and undertake production of animal feed, in accordance with an accepted feed control plan;
- (c) to comply with procedures prescribed in the animal feed regulations to achieve the fitness for purpose of the animal feed produced, including document control and recording;
- (d) to prepare itself for the following ends:
  - (i) to deal with any disruptive event occurring;
  - (ii) to prevent any intentional engaging in conduct, by any individual, so as to jeopardise the fitness for purpose of animal feed which is produced at the premises occupied by the licensee, including any attempt to do so, by establishing and maintaining procedures and plans directed to those ends, conducting simulations or other tests of those procedures and plans (where necessary) giving effect to those procedures and plans; and
- (e) to furnish or further furnish a performance bond, guarantee or other form of security of such amount and on such terms and conditions that the Agency considers appropriate.

(2) In particular, in granting an animal feed production licence the Agency may impose conditions requiring the animal feed production licensee concerned to label packages of animal feed produced by the licensee as specified by the Agency in the particular case.

### **Validity and non-transferability of animal feed production licence**

**194.**—(1) Every animal feed production licence granted under this Act is to be in the form that the Agency determines.

(2) Every animal feed production licence granted under this Act is in force for the period specified in the licence (not exceeding 5 years) —

- (a) except when it is wholly suspended under section 196(2); or
- (b) unless it is earlier revoked under section 196(1).

(3) An animal feed production licence, and any rights, benefits or privileges under the licence, are not transferable or assignable to any other person, and a transfer or an assignment, or purported transfer or assignment, of an animal feed production licence, or of any rights, benefits or privileges under such a licence, is void and of no effect.

### **Modification of animal feed production licence conditions**

**195.** Subject to Division 4 of Part 14, it is lawful for the Agency to modify the conditions of an animal feed production licence without compensating the animal feed production licensee concerned.

### **Grounds for regulatory action concerning animal feed production licence**

**196.—**(1) Subject to Division 4 of Part 14, if the Agency is satisfied that —

- (a) an animal feed production licensee is contravening or not complying with, or has contravened or failed to comply with —
  - (i) any of the conditions of its animal feed production licence;
  - (ii) any provision of this Act applicable to the animal feed production licensee so far as that relates to the production of animal feed in the course of business, the contravention of or non-compliance with which is not an offence under this Act;
  - (iii) any provision of a code of practice applicable to the animal feed production licensee so far as that relates to the production of animal feed in the course of business;
  - (v) any direction given to the licensee under subsection (2)(e) or (f); or
  - (vi) any requirement in section 200 applicable to the licensee;
- (b) an animal feed production licensee has ceased to produce animal feed in the course of a business;
- (c) an animal feed production licensee, or any officer of the an animal feed production licensee, is convicted of a relevant offence committed during the term of the licence or an immediately prior licence;
- (d) there is or has been a serious failure of the operations of an animal feed production licensee, or there are or have been other matters, that cast doubt on the fitness for purpose of the animal feed produced by the licensee;
- (e) an animal feed production licence had been obtained by an animal feed production licensee by fraud or misrepresentation; or
- (f) the public interest of Singapore requires,

the Agency may revoke (without any compensation) the animal feed production licence of the animal feed production licensee, with or without forfeiting any performance bond, guarantee or other form of security furnished by the licensee under this Act.

(2) However, the Agency may, in lieu of revoking under subsection (1) an animal feed production licence of an animal feed production licensee, do (without compensation) one or more of the following:

- (a) censure the animal feed production licensee in writing;
  - (b) direct the animal feed production licensee to do, or to refrain from doing, any thing that is specified in a direction to rectify any contravention or non-compliance that constitutes the ground for regulatory action;
  - (c) suspend (in whole or part) the animal feed production licence for not more than 6 months;
  - (d) modify any condition of the animal feed production licence;
  - (e) direct the animal feed production licensee to pay, within a period specified in a direction, a financial penalty of any amount that the Agency thinks fit, but not exceeding \$5,000 for each contravention of or failure to comply with any matter in subsection (1)(a) or for each other ground of regulatory action;
  - (f) direct the furnishing by the animal feed production licensee of any performance bond, guarantee or other form of security, or an additional performance bond, guarantee or other form of security, for all or any of the following:
    - (i) to secure compliance by the animal feed production licensee with any condition attached to the animal feed production licence;
    - (ii) to secure compliance by the animal feed production licensee with any code of practice applicable to the animal feed production licensee so far as that relates to the production of animal feed in the course of business;
    - (iii) for the purpose of meeting any financial penalty arising out of any regulatory action started or likely to start against the animal feed production licensee.
- (3) In this section, “relevant offence” means any of the following offences:
- (a) an offence under section 202 or 203;
  - (b) an offence under section 139, 140, 256 and 257 in relation to production of animal feed by the animal feed production licensee concerned;
  - (c) an offence under a repealed law which is prescribed in regulations, being an offence corresponding to any offence in paragraph (a).
- (4) Subsection (2)(e) does not apply where the ground of regulatory action is subsection (1)(c).

### **Post-revocation of licence directions**

**197.**—(1) Where an animal feed production licence is revoked under section 196(1), the Agency may —

- (a) direct that any animal feed produced under any of the operations of the former animal feed production licensee affected by the revocation must not be sold by that former licensee; and
- (b) direct the former animal feed production licensee to take appropriate action to deal with the affected animal feed.

(2) A person to whom a direction is given under subsection (1) commits an offence if the person fails to comply with the direction, and shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or

(ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

(i) to a fine not exceeding \$30,000; or

(ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

(a) is convicted, or found guilty, of such an offence (referred to as the current offence); and

(b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

(4) Subsection (2) does not apply if the person has a reasonable excuse.

Sub-division (2) — Traceability obligations for animal feed production

### **Application of sub-division**

**198.** This sub-division applies only to an animal feed production licensee in respect of the production of animal feed by the licensee, even if the animal feed is not supplied or is for export or exported.

### **Information animal feed production licensee must keep or have ready access to**

**199.**—(1) Every animal feed production licensee must keep, or have ready access to, the information described in subsection (2) for no shorter than the prescribed period after the date that the animal feed is produced by the licensee.

(2) The information is —

(a) the prescribed identity particulars and prescribed contact details of the person to whom the animal feed was supplied or exported by the licensee, if supplied or exported;

(b) the prescribed identity particulars and prescribed contact details of —

(i) the producer of the animal feed; or

(ii) the person from whom the animal feed production licensee acquired the animal feed;

- (c) a description of the identity of the animal feed by commodity, brand (if any), and lot (if any); and
- (d) any other information that is prescribed.

(3) An animal feed production licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(4) Strict liability applies to the offence in subsection (3).

### **Identification, location, and tracing of animal feed**

**200.**—(1) An animal feed production licensee must have procedures for —

- (a) identifying and locating animal feed produced, supplied or exported by the licensee; and
- (b) tracing animal feed so that the animal feed can be traced —
  - (i) from the supplier of the animal feed to the licensee; and
  - (ii) while the animal feed is under the licensee's control; and
  - (iii) from the licensee to the next person to whom responsibility for the animal feed has passed.

(2) An animal feed production licensee must ensure that animal feed is identified, located, and traced in accordance with those procedures.

(3) The information required under subsection (1) must be accurate.

(4) The information required under subsection (1) must also be sufficient to allow an effective recall to be carried out under Part 7.

(5) An animal feed production licensee must —

- (a) have procedures for the recalling animal feed supplied in or exported from Singapore by the animal feed production licensee that the licensee considers to be not fit for purpose or whose fitness for purpose is in doubt;
- (b) regularly conduct simulations or other tests of those procedures if required by the Agency; and
- (c) recall, in accordance with those procedures, animal feed supplied in or exported from Singapore by the animal feed production licensee that the licensee considers to be not fit for purpose or whose fitness for purpose is in doubt.

(6) If the animal feed production licensee makes a decision to recall any animal feed on the ground that the animal feed is or might be not fit for purpose, the licensee must notify the Agency of the following as soon as practicable, but no later than 24 hours after making the decision:

- (a) the animal feed affected by the recall; and

(b) the reason for the recall.

### **Providing information — animal feed production licensee**

**201.**—(1) When requested to do so by an authorised officer or a food inspector, an animal feed production licensee is bound to state truly what the licensee is requested, and must give information about the matters in section 199 —

(a) in a readily accessible format; and

(b) within 24 hours after the request, or within any reasonable shorter period specified by the authorised officer or food inspector, as the case may be.

(2) Where any information which is required by subsection (1) to be given to an authorised officer or a food inspector is not given within the time delimited under subsection (1), then the animal feed production licensee requested to give the information shall be guilty of an offence and shall be liable on conviction —

(a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or

(b) where the person is not an individual — to a fine not exceeding \$10,000.

(3) Subsection (2) does not apply if the person required to give the information has a reasonable excuse.

(4) The ordinary meaning of “reasonable excuse” is affected by sections 259 and 260.

#### **Sub-division (3) — Animal feed offences**

### **Unauthorised production of animal feed**

**202.**—(1) A person commits an offence if —

(a) the person produces in Singapore in the course of a business any animal feed; and

(b) the person is not one of the following:

(i) a holder of a current animal feed production licence;

(ii) a person exempt from this section under section 318 or 319 in relation to producing animal feed.

(2) A person commits an offence if the person produces in Singapore in the course of a business any animal feed at or on any premises that is not specified in an animal feed production licence granted to the person.

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable on conviction —

(a) where the person is an individual —

(i) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or

- (ii) where the individual is a repeat offender — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 8 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$20,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$40,000.
- (4) In subsection (3), “repeat offender”, in relation to an offence under subsection (1) or (2), means a person who —
  - (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under that same subsection.

#### **Producing animal feed that is not fit for purpose**

- 203.**—(1) A person commits an offence if —
- (a) the person produces any animal feed in Singapore that is not fit for purpose; and
  - (b) the person knows that, or ought reasonably to have known, that the animal feed is not fit for purpose.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$12,000 or to imprisonment for a term not exceeding 3 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$25,000.

#### **Producing animal feed that is not fit for purpose — strict liability**

- 204.**—(1) A person commits an offence if the person produces any animal feed in Singapore that is not fit for purpose.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$8,000 or to imprisonment for a term not exceeding 3 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$15,000.
- (3) Strict liability applies to the offence in subsection (1).

*Division 3 — Plant pesticides*

Sub-division (1) — Registration

**Registration of plant pesticide products**

**205.**—(1) An application to register a plant pesticide product must —

- (a) be in the form and manner the Agency specifies;
  - (b) be accompanied by an application fee, if prescribed;
  - (c) contain —
    - (i) an address in Singapore at which notices and other documents under this Act for the applicant may be served; or
    - (ii) the name and address of one or more persons in Singapore authorised by the applicant to accept on the applicant's behalf service of notices and other documents under this Act; and
  - (d) be accompanied by the prescribed information, and any other additional information that the Agency requires to decide on the application.
- (2) Upon receiving an application under subsection (1), the Agency may —
- (a) upon receiving a registration fee (if prescribed) —
    - (i) register the plant pesticide product; and
    - (ii) approve a label for the plant pesticide product which meets all applicable labelling criteria; or
  - (b) refuse to register the plant pesticide product.
- (3) To avoid doubt, the Agency must not approve a label for an unregistered plant pesticide product.

**Evaluation of plant pesticide product for registration**

**206.**—(1) In order to ascertain that a plant pesticide product is suitable for registration under this Act, the Agency may —

- (a) subject samples of the product to an evaluation by an analyst;
  - (b) require the applicant for the registration of the product to send samples of the product for evaluation by an analyst and then submit the evaluation report to the Agency; or
  - (c) consider the evaluation report of any body or organisation, whether in Singapore or elsewhere, that has evaluated the product.
- (2) The evaluation of a plant pesticide product must include any tests and examination of the product that the Agency considers necessary to determine the following matters:
- (a) whether the quality, safety or efficacy of the product for the purposes for which it is to be used has been satisfactorily established;

- (b) whether the label to be approved for containers of the product, if registered, meets the labelling criteria;
- (c) whether the product complies with any requirements that are prescribed in relation to it by any pesticide control regulations;
- (d) any other matters relating to the product as the Agency thinks relevant.

(3) All costs reasonably incurred by the Agency for the evaluation of a plant pesticide product under this section must be borne by the applicant for the registration of the product.

### **Evaluation of label for approval — labelling criteria**

**207.**—(1) A label for containers for a plant pesticide product meets the labelling criteria if the label contains adequate instructions relating to any of the following that are appropriate:

- (a) the circumstances in which the plant pesticide product should be used;
- (b) how the product should be used;
- (c) the frequency of the use of the product;
- (d) the withholding period after the use of the product;
- (e) the re-entry period after the use of the product;
- (f) the disposal of the product when it is no longer required;
- (g) the disposal of containers of the product;
- (h) the safe handling of the product and first aid in the event of an accident caused by the handling of the product;
- (i) any matters prescribed by the pesticide control regulations.

(2) For the purposes of being satisfied as to whether a label meets the labelling criteria, the Agency must have regard to the following:

- (a) any conditions to which its approval is, or would be, subject;
- (b) whether the label conforms, or would conform, to any standard made for the label under the pesticide control regulations to the extent that the standard relates to matters covered by subsection (1);
- (c) any matters prescribed by the pesticide control regulations.

(3) In this section —

“adequate”, in relation to instructions on a label for containers for a plant pesticide product, means adequate to ensure, as far as reasonably practicable, that an active constituent of the plant pesticide product or the plant pesticide product meets all the following safety criteria:

- (a) it is not, or would not be, an undue hazard to the safety of people exposed to it during its handling or people using anything containing its residues;

- (b) it is not, or would not be, likely to have an effect that is harmful to human beings;

“re-entry period”, in relation to the use of a plant pesticide product in a particular premises (including a use of the product in relation to a crop or pasture in the premises), means the period after that use during which it is unsafe for an individual to enter those premises without wearing appropriate protective clothing or equipment, or both.

### **Validity of registration and approved label**

**208.**—(1) The registration of a plant pesticide product under this Act remains in force for the period prescribed in the pesticide control regulations and for so long as the registration is not cancelled or wholly suspended under section 209.

(2) A label for a registered plant pesticide product ceases to be an approved label when the registration of the product is cancelled or whenever that registration is wholly suspended under section 209(2).

### **Cancellation or suspension of registration**

**209.**—(1) The Agency may cancel the registration of a plant pesticide product if —

- (a) the person who applied to register the registered plant pesticide product (called the registrant) applies for the registration of the product to be cancelled;
- (b) the registrant is convicted of an offence under section 220;
- (c) the Agency is reasonably satisfied that it is necessary to stop the use of the plant pesticide product —
  - (i) in the interest of public health; or
  - (ii) because of or to prevent any physical harm or further physical harm, or any risk or further risk of physical harm, to the environment;
- (d) the Agency becomes aware of a circumstance that would have required or permitted the Agency to refuse to register the plant pesticide product, had the Agency been aware of the circumstance immediately before registering the product;
- (e) the supply or use in Singapore of the plant pesticide product has stopped for a continuous period exceeding 12 months; or
- (f) the use of the plant pesticide product is being or has been advertised in Singapore by a registrant in a manner that is false, misleading or deceptive.

(2) However, the Agency may, in lieu of cancelling under subsection (1) the registration of a plant pesticide product, suspend the registration of that product for not more than 6 months.

(3) However, before exercising any powers under subsection (1) or (2) on any ground except subsection (1)(d), the Agency must give written notice to the registrant —

- (a) stating that the Agency intends to take action under subsection (1) or (2);

- (b) specifying each ground that is the subject of the action; and
  - (c) specifying the time (being not less than 14 days from the date of service of notice on the registrant within which written representations may be made to the Agency with respect to the proposed action.
- (4) The Agency may, after considering any written representation under subsection (3)(c), decide to cancel or suspend the registration of a plant pesticide product as the Agency considers appropriate.
- (5) Where the Agency has made any decision under subsection (1) or (2) to cancel or suspend the registration of a plant pesticide product, the Agency must —
- (a) serve on the registrant concerned a notice of the Agency's decision, specifying in the notice the date the cancellation or suspension (as the case may be) takes effect; and
  - (b) publish a public notice of the cancellation or suspension (as the case may be) of the registration of the plant pesticide product in any manner that will secure adequate publicity for the cancellation or suspension, specifying in the public notice the date the cancellation or suspension takes effect.

#### Sub-division (2) — Certified pesticide operators

### **Application of Division 4 of Part 14 (general licensing procedures)**

**210.** Division 4 of Part 14 applies to every application to be appointed a certified pesticide operator, and to every certified pesticide operator appointed under this sub-division, subject to the modifications in this sub-division.

### **Criteria for appointment**

- 211.**—(1) This section applies where the Agency is deciding any of the following:
- (a) whether an applicant should be appointed as a certified pesticide operator;
  - (b) the conditions to impose upon appointment as a certified pesticide operator;
  - (c) whether to modify any condition of an appointment as a certified pesticide operator.
- (2) When making a decision mentioned in subsection (1), the Agency must have regard, and give such weight as the Agency considers appropriate, to all of the following matters:
- (a) whether the applicant —
    - (i) possesses the qualifications and practical experience prescribed in the pesticide control regulations; and
    - (ii) is a suitable individual to be a certified pesticide operator;
  - (b) the applicant's compliance history with any of the following so far as that relates to the individual carrying out any prescribed pesticide work to which the applicant's application relates:

- (i) the conditions of any appointment or previous appointment as a certified pesticide operator;
  - (ii) any provision of this Act applicable to the applicant;
  - (iii) any provision of a code of practice applicable to the applicant;
- (c) whether regulatory action under section 213 has been or is being taken or is contemplated against the applicant;
- (d) any available information whether or not the applicant has been convicted or found guilty of any relevant offence within the meaning of section 213(3) (whether or not the offence was committed before, on or after the commencement of this section);
- (e) whether it is not in the public interest of Singapore for the applicant to be or continue to be a certified pesticide operator.

(3) To avoid doubt, the Agency is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence that may be relevant.

### **Tenure of appointment**

**212.**—(1) Every appointment as a certified pesticide operator under this sub-division is in force for the period specified in the appointment —

- (a) except when it is suspended under section 213(2); and
- (b) unless it is earlier cancelled under section 213(1).

(2) The period specified in any appointment under this sub-division must not exceed 3 years.

### **Grounds for regulatory action concerning certified pesticide operator**

**213.**—(1) Subject to Division 4 of Part 14, if the Agency is satisfied that —

- (a) a certified pesticide operator is convicted of a relevant offence committed during the term of his or her appointment;
- (b) a certified pesticide operator is contravening or not complying with, or has contravened or failed to comply with —
  - (i) any of the conditions of his or her appointment;
  - (ii) any provision of this Act applicable to the certified pesticide operator so far as that relates to the carrying out of prescribed pesticide work, the contravention of or non-compliance with which is not an offence under this Act;
  - (iii) any provision of a code of practice applicable to the certified pesticide operator so far as that relates to the carrying out of prescribed pesticide work;
  - (v) any direction given to the certified pesticide operator under subsection (2)(b);

- (c) a certified pesticide operator is carrying out, or causing or permitting to be carried out, any prescribed pesticide work in a careless, incompetent or unsafe manner; or
- (d) the appointment of a certified pesticide operator had been obtained by fraud or misrepresentation,

the Agency may cancel (without compensation) the appointment of the certified pesticide operator.

(2) However, the Agency may, in lieu of cancelling the appointment of a certified pesticide operator, do (without compensation) one or more of the following:

- (a) censure the certified pesticide operator in writing;
- (b) direct the certified pesticide operator to do, or to refrain from doing, any thing that is specified in a direction, which may include completing any course, training, assessment, examination or test on prescribed pesticide work as the Agency may require and rectifying any contravention or non-compliance mentioned in subsection (1)(b);
- (c) suspend the appointment for not more than 6 months;
- (d) modify any condition of the appointment.

(3) In this section, “relevant offence” means any of the following::

- (a) an offence under section 214, 215, 217, 219 or 220;
- (b) an offence under section 256 or 257 in relation to any prescribed pesticide work.

Sub-division (3) — Plant pesticide offences, defences and presumptions

### **Unauthorised person carrying on prescribed pesticide work**

**214.**—(1) An individual commits an offence if —

- (a) the individual carries on, or causes or permits to be carried on, any prescribed pesticide work for reward; and
- (b) the individual —
  - (i) is not a certified pesticide operator authorised to carry out that kind of prescribed pesticide work;
  - (ii) is not doing so under the direction or supervision of a certified pesticide operator authorised to carry out that kind of prescribed pesticide work; and
  - (iii) is not exempt under section 318 or 319 from this section.

(2) An individual who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or

- (b) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

### **Unregistered plant pesticide use**

- 215.**—(1) A person commits an offence if —
- (a) the person uses, or causes or permits the use of, any plant pesticide in —
    - (i) the cultivation of any edible plant; or
    - (ii) any place where any primary production activity is undertaken;
  - (b) the plant pesticide is an unregistered plant pesticide; and
  - (c) the person knows, or ought reasonably to know, that the pesticide is an unregistered plant pesticide .
- (2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —
- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
  - (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

### **Unregistered plant pesticide use – strict liability**

**216.**—(1) A person commits an offence if —

- (a) the person uses, or causes or permits the use of, any plant pesticide in —
  - (i) the cultivation of any edible plant; or
  - (ii) any place where any primary production activity is undertaken; and
- (b) the plant pesticide is an unregistered plant pesticide.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(3) Strict liability applies to the offence in subsection (1).

### **Improper plant pesticide use**

**217.**—(1) A person commits an offence if —

- (a) the person uses, or causes or permits the use of, any plant pesticide in the cultivation of any edible plant;
- (b) the plant pesticide is a registered plant pesticide product;
- (c) the use is in contravention of, or is not in compliance with, any relevant instruction on an approved label for the plant pesticide product; and
- (d) the person knows, or ought reasonably to know, that the use is in contravention of, or is not in compliance with, any relevant instruction on an approved label for the plant pesticide product.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual —
  - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
- (b) where the person is not an individual —
  - (i) to a fine not exceeding \$30,000; or
  - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

### **Improper plant pesticide use — strict liability**

**218.**—(1) A person commits an offence if —

- (a) the person uses, or causes or permits the use of, any plant pesticide in the cultivation of any edible plant;
- (b) the plant pesticide is a registered plant pesticide product; and
- (c) the use is in contravention of, or is not in compliance with, any relevant instruction on an approved label for the plant pesticide product.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(3) Strict liability applies to the offence in subsection (1).

### **Keeping plant pesticide in container without approved label**

**219.**—(1) A person commits an offence if the person, without reasonable excuse, keeps a registered plant pesticide product in a container that does not bear a label that is identical to the approved label for that product.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(3) In a prosecution for an offence under subsection (1) —

- (a) it is not necessary for the prosecution to prove that the person charged knew or had reason to believe that the container of registered plant pesticide product did not bear a label that is identical to the approved label for that product; but
- (b) it is a defence for the person charged to prove, on a balance of probabilities, that the person charged did not know, and could not reasonably have been expected to know, that the plant pesticide product is in the container.

### **Interference with approved labels**

**220.**—(1) A person commits an offence if the person, without reasonable excuse —

(a) intentionally removes, alters, defaces or destroys; or  
(b) causes or allows to be intentionally removed, altered, defaced or destroyed,  
an approved label on a container of a registered plant pesticide product, except in accordance with subsection (2).

(2) A person may remove, alter, deface or destroy a label on a container of a registered plant pesticide product —

- (a) in the course of disposing of the container which is empty; or
- (b) for the purpose of altering or replacing a label attached to the container containing the registered plant pesticide product in order to meet an applicable requirement of the Act relating to information on approved labels for that product.

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$10,000.

(4) For the purpose of this section, where anything is attached to a label, or to the container to which a label is affixed, in such a way as to obscure anything printed on the label, the label is taken to be defaced.

(5) For the purposes of subsection (1), where any modification is made to the content of any approved label that causes the relevant instructions on the approved label to be less easily legible, the label is taken to be altered.

(6) However, subsection (1) does not apply to an alteration that consists of a modification of the content of an approved label that is prescribed in the pesticide control regulations as not likely to cause the registration of the plant pesticide product to be cancelled or the approval for the label to be cancelled.

### **Defence to offence of unregistered plant pesticide use**

**221.**—(1) In proceedings for an offence under section 215(1) or 216(1), it is a defence for the person charged to prove, on a balance of probabilities, that —

- (a) the person did not cultivate the edible plant as food, or for the purpose of supplying it as food;
- (b) the person had, in the course of supplying or offering or exposing for supply, by retail, any edible plant, displayed or caused to be displayed, conspicuously within the premises or place where the plant was supplied or offered or exposed for supply, such number of warning notices stating that the edible plant is not cultivated or supplied as food as will give any customer in the premises or place adequate notice of that fact;
- (c) the person cultivated the edible plant in the course of, or for the purpose of, that plant being exported; or

(d) a contract or arrangement has been entered into, or an understanding has been arrived at, for the edible plant to be exported, whether or not the person charged is a party to that contract, arrangement or understanding.

(2) To avoid doubt, this section does not affect section 26H(4) of the Penal Code 1871 or any other exception in Chapter 4 of the Penal Code 1871.

### **Defence to offence of improper plant pesticide use**

**222.**—(1) In proceedings for an offence under section 217(1) or 2148(1), it is a defence for the person charged to prove, on a balance of probabilities, that —

(a) the person complied with the relevant instructions on an approved label for a registered plant pesticide product (being an approved label that, at the time of the alleged offence, was affixed or attached to, or appeared on, the container for the plant pesticide product that was used); or

(b) the person —

(i) used a registered plant pesticide product at a concentration or rate lower than that specified in the relevant instructions on an approved label for the plant pesticide product (provided that the lower concentration or rate was not prohibited by the relevant instructions); and

(ii) otherwise complied with the relevant instructions on the approved label.

(2) To avoid doubt, this section does not affect section 26H(4) of the Penal Code 1871 or any other exception in Chapter 4 of the Penal Code 1871.

### **Presumption as to use**

**223.** If a police officer or an authorised officer as authorised under this Act to enter any premises —

(a) upon entering, finds at a particular time —

(i) any container on the premises containing at least 10 grams (or 10 millilitres) of plant pesticide; or

(ii) any individual in those premises concealing, removing or destroying any container containing at least 10 grams (or 10 millilitres) of plant pesticide; and

(b) the premises are used (in whole or in part) by any person to undertake any primary production activity involving the cultivation of any edible plant,

every adult occupier of those premises is to be presumed, until the contrary is proved, to have kept the plant pesticide to apply, spray, spread or disperse the plant pesticide by any means.

## PART 12

### APPEALS

#### Right of appeal to Minister

**224.**—(1) A person specified in column 3 in the table below opposite an appealable decision in column 2 in the table may appeal to the Minister against the decision:

<i>Item</i>	<i>Column 2</i> <i>Appealable decision</i>	<i>Column 3</i> <i>Appellant</i>
1.	A trigger notice given under section 23.	The entity to whom the trigger notice is given
2.	A refusal under section 293(1)(b) read with section 78 to grant an import licence or export licence unless the applicant is disqualified under section 298 to hold that licence.	The applicant for the import licence or export licence
3.	A refusal under section 293(1)(b) read with section 79 to grant an import consignment, an export consignment or a transshipment consignment.	The applicant for the import consignment permit, export consignment permit or transshipment consignment permit.
4.	A decision under section 80 imposing a condition on an import licence or an export licence	The holder of the import licence or export licence.
5.	A decision under section 82 modifying a condition of an import licence or an export licence	The holder of the import licence or export licence
6.	A decision under section 83 to take regulatory action against a licensed importer or licensed exporter	The holder or former holder (as the case may be) of the import licence or export licence.
7.	A decision under section 84 to cancel an import consignment permit, an export consignment permit or a transshipment permit	The licensed importer or licensed exporter who held the import consignment permit, export consignment permit or transshipment permit cancelled.
8.	A refusal under section 293(1)(b) read with section 92 to grant a food business licence unless the applicant is disqualified under section 298 to hold that licence.	The applicant for the food business licence.

<i>Item</i>	<i>Column 2 Appealable decision</i>	<i>Column 3 Appellant</i>
9.	A decision under section 93 imposing a condition on a food business licence	The holder of the food business licence.
10.	A decision under section 95 modifying a condition of a food business licence	The holder of the food business licence
11.	A decision under section 96 to take regulatory action against a food business licensee.	The holder or former holder (as the case may be) of the food business licence who is the subject of the decision.
12.	A refusal to grant pre-market approval under section 110(1)(b).	The applicant for the pre-market approval.
13.	A decision under section 112 to cancel a pre-market approval.	The former holder of the pre-market approval cancelled.
14.	A refusal to consent under section 113(1) to a transfer or assignment of a pre-market approval, or any rights, benefits or privileges under the pre-market approval.	The prospective transferee and the holder of the pre-market approval.
15.	A written direction given or served under section 116 except an initial direction mentioned in section 116(5).	A person mentioned in section 116(1) to whom the written direction is given.
16.	A Part 7 direction given or served under section 122 except an initial Part 7 direction mentioned in section 122(5).	A person mentioned in section 119 to whom the Part 7 direction is given.
17.	A refusal under section 293(1)(b) read with section 192 to grant an animal feed production licence unless the applicant is disqualified under section 298 to hold that licence..	An applicant for the animal feed production licence.
18.	A decision under section 193 imposing a condition on an animal feed production licence	The animal feed production licensee.
19.	A decision under section 195 modifying a condition of an animal feed production licence	The animal feed production licensee.
20.	A decision under section 196 to take regulatory action against an animal feed production licensee.	The animal feed production licensee or former animal feed production licensee (as the case may be) who is the subject of the decision.

<i>Item</i>	<i>Column 2 Appealable decision</i>	<i>Column 3 Appellant</i>
21.	A decision refusing to register a plant pesticide product under section 205(2) or to approve its label.	The applicant for registration.
22.	A decision under section 209 to cancel or suspend the registration of a plant pesticide product.	The registrant or former registrant (as the case may be) who is the subject of the decision.
23.	A refusal under section 293(1)(b) read with section 211 to appoint an individual as a certified pesticide operator.	The applicant to be appointed a certified pesticide operator.
24.	A decision under section 213 to take regulatory action against a certified pesticide operator.	The certified pesticide operator or former certified pesticide operator (as the case may be) who is the subject of the decision.
25.	The period specified in a written order under section 298(2).	The person against whom the written order is made.
26.	A written order made under section 298(2)(a)(ii) or (b).	The person against whom the written order is made.

(2) The persons entitled under subsection (1) to appeal to the Minister against an appealable decision by the Agency, the Director-General or the Director-General, Food Security is called an appellant in this Part.

### **Appeal procedure**

**225.**—(1) An appeal by an appellant must —

- (a) be made in a prescribed manner;
- (b) specify the grounds on which it is made; and
- (c) be made within a prescribed period after the date of receipt of the appealable decision that is appealed against, being a period prescribed in rules made by the Minister for the purposes of this Part.

(2) The Minister may reject an appeal of an appellant who fails to comply with subsection (1).

### **Decision on appeal**

**226.**—(1) It is the function and duty of the Minister to consider and determine an appeal made to the Minister under section 224.

(2) However, the Minister is not under any duty to hear, consider or determine any appeal if it appears that the bringing of the appeal is, or the proceedings of the appeal are, frivolous or vexatious.

(3) Subject to subsection (4), the Minister may determine an appeal made under section 224 to the Minister by —

- (a) dismissing the appeal and confirming the decision appealed against;
- (b) allowing the appeal and referring the matter back to the maker of the appealable decision to reconsider the case,; or
- (c) allowing the appeal and substituting or varying the decision appealed against.

(4) Subsection (3)(c) does not apply where the decision appealed against is a Part 7 direction or a written direction under section 116.

(4) In relation to the Minister determining an appeal under this Part —

- (a) Part 2 applies as if the reference in that Part to the Director-General, Food Security were a reference to the Minister;
- (b) Parts 3, 4, 5, 6 and 11 apply as if the reference in the respective Part to the Agency or the Director-General were a reference to the Minister; or
- (c) Part 7 applies as if the reference in that Part to the Director-General were a reference to the Minister.

(5) The Minister's decision under subsection (3) is final.

(6) Every appellant must be notified of the Minister's decision under subsection (3).

### **Effect of appeal on appealable decision**

**227.** An appeal against an appealable decision in section 224 does not affect the operation of the decision appealed against or prevent the taking of action to implement the decision, and unless otherwise directed by the Minister under this section, the decision appealed against must be complied with until the determination of the appeal.

### **Designation of others to hear appeals**

**228.**—(1) The Minister may designate any of the following office-holders in his or her Ministry to hear and determine, in the Minister's place, any appeal made under section 224:

- (a) the Second Minister, if any;
- (b) any Minister of State or Senior Minister of State;
- (c) any Parliamentary Secretary or Senior Parliamentary Secretary.

(2) A reference to the Minister in section 224, 225, 226 or 227 includes a reference to a person designated under subsection (1).

### **Rules**

**229.** The Minister may make rules necessary or convenient to be prescribed for carrying out or giving effect to this Part.

## PART 13

### MONITORING AND ENFORCEMENT

#### *Division 1 — General*

#### **Definitions for this Part**

**230.** In this Part —

“authorisation” means —

- (a) a licence that may be granted under Part 3 —
  - (i) to export in the course of business any export controlled item specified in the licence; or
  - (ii) to import in the course of business any import controlled item specified in the licence;
- (b) a consignment permit that may be granted under Part 3;
- (c) a food business licence to carry on a licensable food business at premises stated in the licence;
- (d) an animal feed production licence;
- (e) a registration of a plant pesticide product under Part 11;
- (f) an appointment under Part 11 as a certified pesticide operator; or
- (g) a pre-market approval;

“civil penalty provision” means the requirement in section 20(a) or (b) for an entity subject to a minimum stockholding requirement in relation to an MSR product, a contravention of which the entity is or may be liable to pay an MSR charge;

“enter”, in relation to premises which are a conveyance, includes boarding the conveyance;

“evidential material” means any of the following:

- (a) any thing with respect to which —
  - (i) an offence under this Act has been committed or is suspected, on reasonable grounds, to have been committed; or
  - (ii) a civil penalty provision has been contravened or is suspected, on reasonable grounds, to have been contravened;
- (b) any thing as to which there are reasonable grounds for suspecting that it will afford evidence as to —
  - (i) the commission of any such offence; or
  - (ii) the contravention of such a civil penalty provision;

- (c) any thing as to which there are reasonable grounds for suspecting that it is intended to be used for the purpose of committing any such offence or contravening such a civil penalty provision;

“food security officer” includes the Director-General, Food Security;

“forcible entry” means doing any of the following to gain entry or access into any premises:

- (a) breaking open any outer or inner door or window leading to the premises;
- (b) removing by force any obstruction to the entry or search of the premises;
- (c) forcibly entering the premises;

“grant”, in relation to an authorisation, includes grant on renewal;

“holder of an authorisation” means the person to whom the authorisation is granted under this Act;

“individual in control”, in relation to a conveyance, means —

- (a) a master of a vessel;
- (b) a pilot-in-command of an aircraft;
- (c) a master of a train;
- (d) a driver or rider of a motor vehicle;
- (e) an individual reasonably believed to be involved in operating an unmanned aircraft, unmanned vessel or driverless motor vehicle; or
- (f) a rider of a bicycle or other pedal cycle that is built to be propelled solely by human power and is constructed or adapted for use on roads or public paths;

“investigating power” means a power mentioned in section 246;

“investigator”, in relation to an investigating power in a provision of Division 3, means —

- (a) a food security officer who is appointed under this Act as a food security officer for the purposes of that provision;
- (b) an authorised officer who is appointed under this Act as an authorised officer for the purposes of that provision;
- (c) a food inspector who is appointed under this Act as a food inspector for the purposes of that provision; or
- (d) a Part 9 enforcement officer who is appointed under this Act as a Part 9 enforcement officer for the purposes of that provision;

“licensable activity” means any of the following:

- (a) the import, export or transshipment of a controlled item for which a licence and a permit under Part 3 is required;
- (b) the carrying on of a type of licensable food business;

- (c) the production of animal feed for which an animal feed production licence is required under Part 11;
  - (d) the carrying on of prescribed pesticide work;
- “monitoring power” means a power mentioned in section 234;
- “Part 9 offence” has the meaning given by section 172;
- “regulated activity” means any of the following, whether or not it is also a licensable activity:
- (a) the undertaking of any primary production activity;
  - (b) the carrying on of a food business;
  - (c) the handling of food intended for supply;
  - (d) the carrying out of any work as a food worker in the course of the operations of a food business;
  - (e) the production of animal feed;
  - (f) the carrying on of prescribed pesticide work;
  - (g) the provision of non-packaged drinking water, whether or not as a drinking water producer providing a drinking water service;
- “relevant material” means any of the following:
- (a) any primary produce;
  - (b) any food;
  - (c) any animal feed;
  - (d) any regulated food contact article;
  - (e) any plant pesticide;
  - (f) any MSR product that is not in paragraphs (a), (b), (c), (d) and (e);
  - (g) any non-packaged drinking water;
- “seized item” means any relevant material or other thing seized under section 250.

### **Saving for other laws**

**231.** Nothing in this Part affects —

- (a) a police officer’s powers or duties under any provision of the Criminal Procedure Code 2010 or other written law; or
- (b) any other power specially vested in a food security officer, an authorised officer or a food inspector under any other provision of this Act.

## *Division 2 — Monitoring powers*

### **Monitoring powers: who can exercise**

**232.** A monitoring power in a provision of this Division is exercisable by a food security officer, an authorised officer or a food inspector, who is appointed under this Act as a food security officer, an authorised officer or a food inspector (as the case may be) for the purposes of that provision.

### **Monitoring powers: why**

**233.—**(1) A food security officer may exercise a monitoring power for one or more of the following purposes, only:

- (a) to determine whether the holding of an MSR product by an entity that is subject to a minimum stockholding requirement in relation to the MSR product, has been, or is being, complied with;
- (b) to determine for the purposes of section 29 whether a divesting entity's minimum stockholding requirement in relation to an MSR product is being assumed by, or divided with, another receiving entity or entities;
- (c) to determine whether information given in compliance, or purported compliance, with a provision in Part 2 or any Part 2 Rules is correct.

(2) An authorised officer or a food inspector may exercise a monitoring power for one or more of the following purposes, only:

- (a) to determine for the purposes of section 78, 79, 92, 110, 192, 205 or 211 whether to grant an authorisation under that section;
- (b) to determine whether there is any ground to take regulatory action under section 83, 84, 96, 112, 195, 209 or 213;
- (c) to determine whether information given in compliance, or purported compliance, with a provision in this Act (other than Part 2 or any Part 2 Rules) is correct.

### **Monitoring powers: what**

**234.** The monitoring powers are as follows:

- (a) the power in section 236 to enter premises;
- (b) any power in section 237 after entering premises;
- (c) the powers set out in sections 238, 239, 240, 241, 242 and 243.

### **Monitoring powers: where**

**235.—**(1) The premises where a monitoring power may be exercised by a food security officer are as follows:

- (a) any premises occupied or used by an entity that is subject to a minimum stockholding requirement in relation to an MSR product;

- (b) any premises occupied or used by an entity that is an agri-food supply chain participant (but not an ultimate consumer) and is undertaking any MSR activity in relation to a MSR product;
  - (c) any premises (except a private residence) occupied by an individual who is or was an officer of an entity mentioned in paragraph (a) or (b);
  - (d) any premises (except a private residence) occupied by an individual who is an employee of an entity mentioned in paragraph (a) or (b);
  - (e) any premises where any MSR product is held by an entity mentioned in paragraph (a) or (b).
- (2) The premises where a monitoring power may be exercised by an authorised officer or a food inspector are as follows:
- (a) any premises (except a private residence) occupied or used by a holder of an authorisation, or an applicant for an authorisation, for or in connection with a licensable activity undertaken or to be undertaken by the holder or applicant;
  - (c) any premises (except a private residence) occupied by an individual who is or was an officer of a person mentioned in paragraph (a);
  - (d) any premises (except a private residence) occupied by an individual who is an employee of a person mentioned in paragraph (a).

### **Power to enter premises for monitoring**

**236.**—(1) A food security officer, an authorised officer or a food inspector may, at a reasonable time in the day or night, and without warrant, enter and remain at —

- (a) any of the premises mentioned in section 235(1), in the case of a food security officer; or
  - (b) any of the premises mentioned in section 235(2), in the case of an authorised officer or a food inspector.
- (2) A food security officer, an authorised officer or a food inspector entering any premises —
- (a) may be accompanied by any number of police officers or other individuals that the food security officer, authorised officer or food inspector (as the case may be) considers necessary; and
  - (b) may take into or onto the premises any equipment and materials that he or she requires for the purpose of exercising monitoring powers in relation to those premises.
- (3) If the owner or occupier of the premises is present when a food security officer, an authorised officer or a food inspector seeks to enter the premises under subsection (1), the food security officer, authorised officer or food inspector (as the case may be) must, before entering —
- (a) declare his or her office to the owner or occupier; and
  - (b) show to the owner or occupier his or her identification card as proof of identity.

(4) If the owner or occupier of the premises is not present when entry under subsection (1) or (2) to the premises is sought, but some other individual who appears to be in charge of the premises is present, then subsection (3) applies to that other individual as if that individual were the owner or occupier of the premises.

(5) However, subsections (3) and (4) do not apply if the premises in question are unoccupied at the time of entry.

(6) This section does not empower a food security officer, an authorised officer or a food inspector to exercise any power of forcible entry.

### **Powers after entering premises**

**237.**—(1) After entering any premises, a food security officer, an authorised officer or a food inspector may exercise all or any of the following powers:

- (a) to observe any activity conducted in the premises;
- (b) to examine any animal, object or thing in the premises;
- (c) to inspect and examine the premises;
- (d) to make or direct the making of a sketch, photograph or film, or an audio or a video recording, of —
  - (i) any part of the premises, and the immediate vicinity of those premises unless the immediate vicinity is or consists of a private residence;
  - (ii) any animal, object or thing in the premises; or
  - (iii) any activity conducted in or on the premises;
- (e) to do any of the following:
  - (i) to open or require to be opened any door, window, lock, fastener, cupboard, compartment, box, container or any other thing;
  - (ii) if the cupboard, compartment, box, container or other thing appears abandoned but is locked, to use reasonable force, including cutting or breaking open any lock, seal, fastener or other device on or connected to the cupboard, compartment, box, container or other thing so as to open it;
- (f) to interrupt any regulated activity being carried out in the premises;
- (g) to search any part of the premises;
- (h) to request to inspect, and to inspect, free of charge any document found on the premises;
- (i) to exercise any other monitoring power;
- (j) to take into or into the premises any equipment or materials the food security officer, authorised officer or food inspector (as the case may be) reasonably requires for the exercise of a monitoring power;
- (k) to request the occupier of the premises, or some other individual who appears to be in charge of the premises and is present, to give the food security officer,

authorised officer or food inspector (as the case may be) reasonable help to exercise the officer's or inspector's powers under paragraphs (a) to (j).

(2) Section 238 applies to a request made under subsection (1)(h) with the necessary modifications.

(3) When making a request mentioned in subsection (1)(k), the food security officer, authorised officer or food inspector (as the case may be) must warn the individual requested that it is an offence to fail to comply with the request, unless the individual has a reasonable excuse.

### **Power to get documents or information**

**238.**—(1) A food security officer, an authorised officer or a food inspector may require a person who is required under any provision of this Act to keep records —

- (a) to provide for inspection any document or information to the food security officer, authorised officer or food inspector (as the case may be) within the period and in the manner specified by the officer or inspector; and
- (b) to allow an inspection and taking of extracts from, or making copies of, any such document or information, free of charge.

(2) For the purposes of subsection (1), where any document or information is kept in electronic form, the power to inspect the document or information includes the power —

- (a) to access any computer or other equipment (including a mobile telephone) in which the document or information is stored; and
- (b) to require any person having charge of, or otherwise concerned with the operation of, the computer or equipment to provide assistance in gaining such access to the document or information contained or available to the computer or equipment, including assistance through the provision of any username, password, access code or other authentication information required to gain access to it.

(3) For the purposes of subsection (1), the power to inspect any document or information includes the power take possession of the document or any thing containing the information (but not a mobile telephone) if, in the opinion of a food security officer, an authorised officer or a food inspector concerned —

- (a) the inspection or copying of or extraction from the document or thing cannot reasonably be performed without taking possession;
- (b) the document or thing may be interfered with or destroyed unless possession is taken; or
- (c) the document or thing may be evidential material or be required as evidence in any regulatory action instituted or commenced under this Act.

(4) For the purposes of subsection (1)(b), if any document or information is in an electronic form contained or available to a computer or other electronic equipment on

any premises, the power to take extracts from, or make copies of, such document or information includes the power —

- (a) to use or operate the computer or other electronic equipment in the premises to make one or more copies of the document or information contained or available to that computer or equipment; and
- (b) to transfer the document or information to a disk, tape or other storage device that —
  - (i) is brought to the premises for the exercise of the power; or
  - (ii) is in the premises and the use of which for that purpose has been agreed in writing by the occupier of the premises,and to remove the disk, tape or other storage device from those premises.

(5) A food security officer, an authorised officer or a food inspector is entitled without payment to keep any document or information, or any copy or extract thereof, provided to him or her under this section.

#### **Power to get identify and hold food, plant pesticide, etc.**

**239.**—(1) If, after entering any premises, a food security officer, an authorised officer or a food inspector reasonably believes that any compartment, box, container or other thing in the premises contains any relevant material, the food security officer, authorised officer or food inspector (as the case may be) may —

- (a) identify the relevant material; or
- (b) require the owner or any individual who appears to be in charge of the relevant material —
  - (i) to hold it at the premises where it is; or
  - (ii) to move it to, and hold it at, any other reasonable place that the officer or inspector specifies,

until a further lawful direction of a food security officer, an authorised officer or a food inspector.

(2) For the purposes of subsection (1)(a), a food security officer, an authorised officer or a food inspector may use, or require the use of, any reasonable means to identify or mark the relevant material concerned.

(3) Without limiting subsection (1), a food security officer, an authorised officer or a food inspector may do all or any of the following to any relevant material:

- (a) secure it by marking, sealing or labelling it or using any other similar means;
- (b) keep or store it in or on board any conveyance or in any premises, and may lock or seal the conveyance or those premises;
- (c) mark, seal or lock any door or opening containing or affording access to any relevant material;

(d) direct its owner not to trade in it or use it until the results of any examination of the relevant material are available or necessary remedial action has been completed.

(4) This section does not limit section 240.

### **Power to require presentation of live animals**

**240.**—(1) After entering any premises, an authorised officer or a food inspector reasonably may —

- (a) require the owner or a person in control of a live food producing animal in those premises to present the animal in a manner suitable for examination and identification;
- (b) direct the owner or a person in control of a live food producing animal in those premises to hold, isolate, separate it, or to treat any or all of those live food producing animals, for any purpose in paragraph (a);
- (c) require the owner or a person in control of a live food producing animal in those premises to move or bring the animal to a convenient place within a reasonable distance of those premises, to allow the authorised officer or food inspector to exercise monitoring powers in relation to the animal, and detain the animal at that place for as long as is reasonably necessary to allow the authorised officer or food inspector to exercise those monitoring powers; or
- (d) examine and identify a live food producing animal presented, held, isolated, separated, treated or moved and detained under paragraph (a), (b) or (c).

(2) Without limiting subsection (1), an authorised officer or a food inspector may identify an animal by marking it or using any other suitable means.

(3) If the owner or person in control of a live food producing animal fails to present the animal as required under subsection (1)(a) or to move the animal as required under subsection (1)(c), an authorised officer or a food inspector may capture, collect, muster, extract, harvest, or pen the animal for the relevant purpose.

(4) The presentation or movement of any live food producing animal required under subsection (1)(a) or (c) is at the cost of the person to whom the requirement or direction under subsection (1) was addressed.

(5) Any expenses reasonably incurred by an authorised officer or a food inspector in the exercise of his or her powers under subsection (3) may be recovered, as a debt due to the Agency, from the person to whom the requirement or direction under subsection (1) was addressed.

(6) No compensation is payable in respect of any animal which is damaged or otherwise destroyed by virtue of any examination or identification under subsection (1) or any exercise of powers under subsection (3), unless the damage or destruction is directly attributable to the negligence or default of the authorised officer or food inspector.

(7) A requirement or direction under subsection (1)(a), (b) or (c) must be in writing, or be confirmed in writing as soon as practicable after being given orally.

## Power to take and sample

**241.**—(1) A food security officer, an authorised officer or a food inspector may do all or any of the following:

- (a) take any relevant material or a sample of any relevant material;
- (b) take a sample from any animal or of any thing that is or has been in contact with, or in the vicinity of any relevant material;
- (c) for the purpose of analysis, take samples of water, soil, vegetation or any other thing that is part of the environment in which —
  - (i) any licensable activity has been or is being undertaken; or
  - (ii) any MSR product is held.

(3) A food security officer, an authorised officer or a food inspector who wishes to exercise the power in subsection (2)(a), (b) or (c) by taking a sample of any relevant material that is in an unopened packaging, may direct —

- (a) the owner, or person who appears to be in charge, of the package or the relevant material contained in the packaging, to open the packaging; or
- (b) the owner or occupier of the premises where the unopened packaging is, to open the packaging.

(4) A food security officer, an authorised officer or a food inspector who exercises the powers mentioned in subsection (2) or (3) must give notice to —

- (a) the owner, or person who appears to be in charge, of the packaging, thing, relevant material or animal, as the case may be; or
- (b) the owner or occupier of the premises where the packaging, thing, relevant material or animal (as the case may be) is,

whether or not the food security officer, authorised officer, food inspector (as the case may be) intends to exercise powers mentioned in section 238.

(5) To avoid doubt, a food security officer, an authorised officer or a food inspector is not required to exercise powers mentioned in section 238 after giving of a notice under subsection (4).

(6) In this section and section 238 —

“sample” includes an example;

“take”, in relation to any relevant material or thing, includes purchase the relevant material or thing;

“take a sample”, from an animal, means —

- (a) to take a swab from the animal or of any part of the animal;
- (b) to take a sample of any part of the animal; or
- (c) to take a sample of any urine, faeces, blood or other article or substance from, or which has been in contact with, the animal.

## **Power to test samples**

**242.**—(1) This section applies where a food security officer, an authorised officer or a food inspector —

- (a) takes any relevant material, or takes a sample of any relevant material or thing under section 241;
  - (b) takes a sample from an animal under section 241; or
  - (c) acquires any relevant material from a member of the general public who has complained about the relevant material.
- (2) A food security officer, an authorised officer or a food inspector may —
- (a) test the sample or swab;
  - (b) arrange for the testing of the sample or swab; or
  - (c) require the person notified under section 241(3) with respect to the sample or swab to —
    - (i) arrange for the testing of the sample or swab; and
    - (ii) provide the results to the food security officer, authorised officer or food inspector, as the case may be.
- (3) The person notified under section 241(3) with respect to the sample or swab taken or acquired is not entitled to compensation for any damage or destruction resulting from the taking or testing of a sample or swab unless the damage or destruction is directly attributable to the negligence or default of a food security officer, an authorised officer or a food inspector.

## **Powers in relation to conveyances**

**243.**—(1) Where any premises in section 235 are a conveyance, a food security officer, an authorised officer or a food inspector may, without warrant —

- (a) if the conveyance is moving —
  - (i) request or direct the individual in control of the conveyance to stop; and
  - (ii) detain the conveyance for as long as is reasonably necessary for the food security officer, authorised officer or food inspector (as the case may be) to exercise his or her monitoring powers in relation to the conveyance; and
- (b) whether or not the conveyance is moving —
  - (i) request or direct the individual in control of the conveyance to move or bring the conveyance to a convenient place within a reasonable distance to allow the food security officer, authorised officer or food inspector (as the case may be) to exercise his or her monitoring powers in relation to the conveyance; and

- (ii) detain the conveyance at that place for as long as is reasonably necessary to allow the food security officer, authorised officer or food inspector (as the case may be) to exercise those monitoring powers.

(2) When asking or directing an individual in control of a moving conveyance to stop the conveyance or bring it to a convenient place, a food security officer, an authorised officer or a food inspector must clearly identify himself or herself as a food security officer, an authorised officer or a food inspector (as the case may be) exercising his or her powers under this Act.

(3) In this section, “conveyance” does not include an aircraft, a train or a vessel that is not a fishing vessel.

### *Division 3 — Investigating powers*

#### **Investigating powers: who can exercise**

**244.** An investigating power in a provision of this Division is exercisable by any of the following appointed for the purposes of that provision (called an investigator):

- (a) a food security officer;
- (b) an authorised officer;
- (c) a food inspector;
- (d) a Part 9 enforcement officer.

#### **Investigating powers: why**

**245.—**(1) A food security officer may exercise an investigating power for one or more of the following purposes, only:

- (a) to inquire into anything where the food security officer suspects on reasonable grounds that —
  - (i) an offence under section 28(3), 31(1), 35(3) or 36(1) or any Part 2 Rules has been or is being committed;
  - (ii) an offence under section 253, 254, 255, 256 or 257 involving a food security officer has been or is being committed; or
  - (iii) a civil penalty provision has been or is being contravened;
- (b) to gather evidential material that relates to —
  - (i) any offence mentioned in paragraph (a); or
  - (ii) a contravention of a civil penalty provision,

that the food security officer suspects on reasonable grounds has been or is being committed.

(2) An authorised officer or a food inspector may exercise an investigating power for one or more of the following purposes, only:

- (a) to inquire into anything where the authorised officer or food inspector suspects on reasonable grounds that any offence under this Act has been or is being committed, excluding —
    - (i) an offence mentioned in subsection (1)(a);
    - (ii) a Part 9 offence; or
    - (iii) an offence under Part 10 involving any Part 9 Regulations;
  - (b) to gather evidential material that relates to any offence under this Act not excluded by paragraph (a) that the authorised officer or food inspector suspects on reasonable grounds has been or is being committed;
  - (c) to determine whether there is any ground to give a direction under section 116 or a Part 7 direction to any person;
  - (d) to determine whether —
    - (i) any food is unsafe food, unsuitable food or a defined food;
    - (ii) any controlled item is failing;
    - (iii) any animal feed is not fit for purpose; or
    - (iv) any non-packaged drinking water is unwholesome.
- (3) A Part 9 enforcement officer may exercise an investigating power for one or more of the following purposes, only:
- (a) to inquire into anything where the Part 9 enforcement officer suspects on reasonable grounds that any of the following has been or is being committed:
    - (i) a Part 9 offence;
    - (ii) an offence under Part 10 involving any Part 9 Regulations;
  - (b) to gather evidential material that relates to any offence mentioned in paragraph (a) that the Part 9 enforcement officer suspects on reasonable grounds that has been or is being committed.

### **Investigating powers: what**

**246.**—(1) Subject to subsection (2), the following are the investigating powers that may be exercised in relation to premises under section 247:

- (a) any monitoring power;
- (b) the special powers of entry under section 248;
- (c) the powers under sections 249, 250, 251 and 252.

(2) Where a Part 9 enforcement officer is concerned, a reference in subsection (1)(a) to a monitoring power does not include a reference to a monitoring power mentioned in section 237(1)(e)(ii) or (f), 239, 240 or 241(1)(b) or (c), 242(1)(b) or (c) or 243.

## **Investigating powers: where**

**247.**—(1) The premises in relation to which a food security officer may exercise an investigating power are as follows:

- (a) any of the premises mentioned in section 235(1);
- (b) any premises occupied or used in the course of a business by a person —
  - (i) who is an agri-food supply chain participant, or is closely connected with, an agri-food supply chain; and
  - (ii) who falls within any class of persons prescribed in the Part 2 Rules for the purposes of section 32.

(2) The premises in relation to which an authorised officer or a food inspector may exercise an investigating power are as follows:

- (a) any of the premises in section 235(2);
- (b) any premises occupied or used for or in connection with a regulated activity which has been or is being undertaken at those premises, whether or not a private residence;
- (c) any food premises, whether or not the subject of a food business licence and whether or not a private residence; or
- (d) any premises adjoining or near any premises in paragraph (a), (b) or (c), subject to subsection (3).

(3) However, an investigating power may be exercised in relation to premises mentioned in subsection (2)(d) only if the authorised officer or food inspector concerned believes on reasonable grounds —

- (a) that it is necessary to do so for the purpose of entering any other premises mentioned in subsection (2)(a), (b) or (c); or
- (b) that activities are being carried out in the premises mentioned in subsection (2)(d) in such a manner, or that the premises are in such a state or condition, as presents or is likely to present a hazard or a source of contamination that may adversely affect any of the following in, or carried out in, the adjoining premises or nearby premises:
  - (i) the safety or suitability of any food or primary produce handled or produced by a food business;
  - (ii) any live food producing animal, or other thing that may become food;
  - (iii) the fitness for purpose of animal feed produced or being produced.

(4) The premises in relation to which a Part 9 enforcement officer may exercise an investigating power are —

- (a) any food premises that is not a private residence; or
- (b) any other premises (except a private residence) where food is supplied or to be supplied or from which food is supplied or to be supplied.

## Special powers of entry

**248.**—(1) A food security officer may, at a reasonable time in the day or night, enter and remain at any of the premises mentioned in section 247(1) without a warrant; and section 236 applies to an entry into and remaining in any those premises subject to subsection (2).

(2) Despite section 236(6), a food security officer may make a forcible entry into premises if all the following circumstances are met:

- (a) the food security officer suspects on reasonable grounds that —
  - (i) an offence under section 27(3), 31(1), 35(3) or 36(1) or any Part 2 Rules has been or is being committed;
  - (ii) an offence under section 253, 254, 255, 256 or 257 involving a food security officer has been or is being committed; or
  - (iii) a civil penalty provision has been or is being contravened,and there is evidential material in those premises relevant to such an offence or civil penalty provision;
- (b) the food security officer is unable to enter, or is refused entry to, those premises;
- (c) the food security officer is reasonably satisfied that it is necessary to secure the evidential material in order to prevent the material from being concealed, lost or destroyed;
- (d) the premises to be entered is not a private residence.

(3) An authorised officer or a food inspector may, at a reasonable time in the day or night, enter and remain at any of the premises mentioned in section 247(2) without a warrant; and section 236 applies to an entry into and remaining in any of those premises, subject to subsections (4) and (5).

(4) Despite section 236(6), an authorised officer or a food inspector may make a forcible entry into premises if all the following circumstances are met:

- (a) the authorised officer or food inspector (as the case may be) suspects on reasonable grounds that any offence under this Act (except an offence mentioned in subsection (2)(a) or under Part 9) has been or is being committed and there is evidential material in those premises relevant to such an offence;
- (b) the authorised officer or food inspector is unable to enter, or is refused entry to, those premises;
- (c) the authorised officer or food inspector is reasonably satisfied that it is necessary to secure the evidential material in order to prevent the material from being concealed, lost or destroyed;
- (d) the premises to be entered is not a private residence.

(5) Despite section 236(6), an authorised officer or a food inspector may also make a forcible entry into premises if all the following circumstances are met:

- (a) the authorised officer or food inspector (as the case may be) suspects on reasonable grounds that there is in the premises any of the following relevant material:
- (i) any food which is unsafe food, unsuitable food or a defined food;
  - (ii) any primary produce which is unsafe;
  - (iii) any controlled item which is failing;
  - (iv) any animal feed which is not fit for purpose;
  - (v) any non-packaged drinking water for supply which is unwholesome;
  - (vi) any unregistered plant pesticide;
- (b) the authorised officer or food inspector is unable to enter, or is refused entry to, those premises;
- (c) the authorised officer or food inspector is reasonably satisfied that it is necessary to make a forcible entry to prevent or reduce a serious danger, or an imminent risk, of death or serious illness of any one from any matter mentioned in paragraph (a) being handled, used or supplied in connection with any regulated activity which has been or is being undertaken at those premises;
- (d) the premises to be entered is not a private residence.

(6) A Part 9 enforcement officer may, at a reasonable time in the day or night, enter and remain at any of the premises mentioned in section 247(4) without a warrant; and section 236 applies to an entry into and remaining in any of those premises, subject to subsection (7).

(7) Despite section 236(6), a Part 9 enforcement officer may make a forcible entry into premises if all the following circumstances are met:

- (a) the Part 9 enforcement officer suspects on reasonable grounds that —
- (i) a Part 9 offence; or
  - (ii) an offence under Part 10 involving any Part 9 Regulations, has been or is being committed and there is evidential material in those premises relevant to such an offence;
- (b) the Part 9 enforcement officer is unable to enter, or is refused entry to, those premises;
- (c) the Part 9 enforcement officer is reasonably satisfied that it is necessary to secure the evidential material in order to prevent the material from being concealed, lost or destroyed.

### **Special information gathering powers**

**249.**—(1) Where —

- (a) a food security officer believes on reasonable grounds that —

- (i) an offence under section 27(3), 31(1), 35(3) or 36(1) or any Part 2 Rules has been or is being committed;
  - (ii) an offence under section 253, 254, 255, 256 or 257 involving a food security officer has been or is being committed; or
  - (iii) a civil penalty provision has been or is being contravened;
- (b) an authorised officer or a food inspector believes on reasonable grounds that an offence under this Act has been or is being committed, except an offence mentioned in paragraph (a) or a Part 9 offence; or
- (c) a Part 9 enforcement officer believes on reasonable grounds that an offence under this Act as follows has been or is being committed:
- (i) a Part 9 offence;
  - (ii) an offence under Part 10 involving any Part 9 Regulations,

the investigator concerned may exercise the powers in subsection (2) for the purposes of an investigation into that offence or contravention of a civil penalty provision.

(2) An investigator may, by written order, require any individual whom the investigator reasonably believes to be acquainted with any fact or circumstance relevant to the offence concerned or contravention of a civil penalty provision, to do all or any of the following:

- (a) to attend before the same or another similar investigator to answer a question (to the best of that individual's knowledge, information and belief) immediately or at a place and time specified in the written order (called in this section an examination);
- (b) to provide information to the same or another similar investigator immediately or at a place and time specified in the written order;
- (c) to provide for inspection any document to the same or another similar investigator, within the period and in the manner specified in the written order.

(3) The examination must take place in private, and the investigator may give directions as to who may be present during the examination or part thereof.

(4) An investigator may, and must if the person examined under subsection (2) so requests, record any information provided at the examination by the person as a statement which is admissible as evidence in any proceedings in connection with any offence under this Act or any contravention of a civil penalty provision.

(5) The individual mentioned in subsection (2)(a) is bound to state truly the facts and circumstances with which the individual is acquainted concerning the case except only that the individual may decline to make, with regard to any fact or circumstance, a statement which would have a tendency to expose the individual to a criminal charge for an offence under this Act.

(6) A statement made by any individual questioned under subsection (2)(a) must —

- (a) be reduced to writing;

- (b) be read over to the person;
- (c) if the person does not understand English, be interpreted in a language that the person understands; and
- (d) after correction (if necessary), be signed by the individual.

(7) An investigator must, if requested in writing by the person examined under subsection (2) to give to the person a copy of the written record made under subsection (4), provide a copy of the written record without charge within a reasonable time, subject to such conditions as the investigator may impose.

(8) If any individual fails to attend before the investigator as required by an order under subsection (2)(a), an investigator may report the failure to a Magistrate who may issue a warrant to secure the attendance of that person as required by the order.

(9) Section 238 applies to an order made under subsection (2)(b) or (c) with the necessary modifications.

### **Power to seize**

**250.**—(1) Upon entering premises, a food security officer may seize any relevant material or other thing in those premises if he or she reasonably believes that the relevant material or thing is evidential material relevant to —

- (a) an offence under section 27(3), 31(1), 35(3) or 36(1) or any Part 2 Rules that has been or is being committed;
- (b) an offence under section 253, 254, 255, 256 or 257 involving a food security officer that has been or is being committed; or
- (c) a civil penalty provision that has been or is being contravened.

(2) Upon entering premises, an authorised officer or a food inspector may seize any relevant material or other thing in those premises if he or she reasonably believes that the relevant material or thing is evidential material relevant to any offence under this Act that has been or is being committed, except an offence mentioned in subsection (1)(a) or a Part 9 offence.

(3) Upon entering premises, a Part 9 enforcement officer may seize any relevant material or other thing in those premises if he or she reasonably believes that the relevant material or thing is evidential material relevant to any of the following that has been or is being committed:

- (a) a Part 9 offence;
- (b) an offence under Part 10 involving any Part 9 Regulations.

(4) In addition to subsection (2), an authorised officer or a food inspector may seize any relevant material or other thing described in subsection (5) if he or she reasonably believes, after making the inquiries that are reasonable in the circumstances —

- (a) that the relevant material or other thing —
  - (i) has been abandoned; or
  - (ii) has no apparent or readily identifiable owner;

- (b) that the seizure is necessary to prevent the relevant material or thing being used to continue, or repeat, an offence under this Act that has been or is being committed, except an offence mentioned in subsection (1)(a) or under Part 9; or
  - (c) that the relevant material or thing is decayed or putrefied or deleterious to human health.
- (5) For the purposes of subsection (4) —
- (a) the relevant material is any of the following:
    - (i) any food which is unsafe food, unsuitable food or a defined food;
    - (ii) any primary produce which is unsafe;
    - (iii) any controlled item which is failing;
    - (iv) any animal feed which is not fit for purpose;
    - (v) any non-packaged drinking water for supply which is unwholesome;
    - (vi) any unregistered plant pesticide; or
  - (b) the other thing is any of the following:
    - (i) a live food producing animal which is not clinically healthy and not free from signs of infectious or contagious disease;
    - (ii) an animal reproductive material which was extracted or otherwise taken from a food producing animal that was not clinically healthy and not free from signs of infectious or contagious disease at the time of extraction or taking;
    - (iii) a suspected hazard or the suspected source of contamination giving rise to a risk to human health.
- (6) For the purposes of this section, an authorised officer or a food inspector may reasonably believe that an entire consignment or lot of food is unsafe or unsuitable or is a defined food, or an entire consignment or lot of primary produce is unsafe, for the purpose of exercising a power in subsection (1) if the authorised officer or food inspector —
- (a) samples part of the consignment or batch;
  - (b) forms the opinion that the sample is unsafe or unsuitable, or is a defined food; and
  - (c) forms the opinion that the consignment or batch —
    - (i) has probably been managed in the same way as the sample; or
    - (ii) has been subject to the same conditions or treatment as the sample.
- (7) Where a live food producing animal is involved, an authorised officer or a food inspector may —

(a) seize the animal as well as the whole or any sample of any article or substance which has been in contact therewith and take them to the place of examination; or

(b) in writing direct the owner or person in charge of the animal to deliver the animal as well as the whole or any sample of any article or substance which has been in contact therewith at a specified place and time for examination.

(8) To avoid doubt, where any other thing seized in exercise of the power conferred on a food security officer, an authorised officer or a food inspector under subsection (1) or (2) is a conveyance, that power may be exercised whether or not the owner or an individual in control of the conveyance is present at the time of its seizure.

(9) A food security officer, an authorised officer, a food inspector or a Part 9 enforcement officer —

(a) must prepare and sign a list of all relevant material or other things seized under this section upon entering premises, recording the location where each of the relevant material or other thing is found; and

(b) must give a copy of that list to an owner of the relevant material or thing, except where the relevant material or other thing —

(i) has been abandoned;

(ii) has no apparent or readily identifiable owner; or

(iii) has been seized in the presence of the owner or the owner's agent.

### **Detaining food, food contact article, etc. seized**

**251.**—(1) Where any relevant material or other thing has been seized by an investigator under section 250, the investigator may require the relevant material or thing —

(a) to be detained at the place or premises where the investigator seized it; or

(b) to be removed to another place or premises and detained there.

(2) Any relevant material or other thing required under subsection (1) to be detained or removed and detained must be detained or removed and detained (as the case may be) at the cost of —

(a) the owner of the relevant material or other thing at the time it was seized; or

(b) if the investigator does not know who the owner is, the person who possessed the relevant material or other thing at the time it was seized.

### **Power to obtain disclosure of identity**

**252.**—(1) An authorised officer or a food inspector may request an individual in a public place who is transporting or delivering food, or is handling or otherwise in possession of food for sale —

(a) to disclose —

(i) the individual's full name and address;

- (ii) the full name and address of the person from whom the food was obtained, if that person is known to the individual; and
  - (iii) whether the individual is employed or self-employed, and if an employee, the name of the individual's employer; and
- (b) to provide proof of the individual's identity.
- (2) An authorised officer or a food inspector may detain an individual mentioned in subsection (1) for so long as is reasonably necessary for the purposes of this section.
- (3) Any individual asked under subsection (1) is bound to state truly what the individual is asked.

*Division 4 — Offences relating to enforcement*

**Obstructing entry, etc.**

**253.**—(1) Where an investigator or outsourced enforcement officer is authorised under this Act to enter any premises, a person commits an offence if the person —

- (a) wilfully prevents the investigator or outsourced enforcement officer from entering or re-entering those premises or any part of those premises;
  - (b) wilfully obstructs or delays the investigator or outsourced enforcement officer from entering or re-entering those premises or any part of those premises; or
  - (c) gives an alarm or causes an alarm to be given for the purpose of notifying anyone else in those premises of the presence of the investigator or outsourced enforcement officer.
- (2) A person commits an offence if the person —
- (a) intentionally alters, suppresses or destroys any document or any information or material which the person has been required under section 238 or 249 to provide; or
  - (b) intentionally otherwise obstructs, hinders or delays a food security officer, an authorised officer, a food inspector or an outsourced enforcement officer, in the discharge of his or her duties under any provision of this Act.
- (3) A person commits an offence under this subsection if the person, without reasonable excuse, fails to comply with any request, requirement or direction (except a requirement under section 32 or a Part 7 direction) which is made or given by an investigator or an outsourced enforcement officer to that person under any provision of this Act.
- (4) A person who is guilty of an offence under subsection (1), (2) or (3) shall be liable on conviction —
- (a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) where the person is not an individual — to a fine not exceeding \$20,000.

(5) However, it is not an offence under subsection (1), (2) or (3) for a person to refuse to comply with any request, requirement or direction made or given by an investigator or outsourced enforcement officer, who —

- (a) fails to declare his or her office; and
- (b) refuses to produce his or her identification card on demand being made by that person.

### **Interfering with seals or markings of authorised officer, etc.**

**254.**—(1) A person commits an offence if the person, without the express authority of an investigator —

- (a) intentionally alters, breaks, removes or erases any mark, seal or label;
- (b) intentionally opens, breaks or otherwise interferes with any lock or seal; or
- (c) intentionally defaces or destroys, any lock, mark, seal or label,

placed by the same or another similar investigator or an outsourced enforcement officer, on any relevant material or other thing under section 239 or 240 or any sample taken under section 241.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$20,000.

### **Impersonating**

**255.**—(1) An individual who represents himself or herself, by word or conduct —

- (a) to be a food security officer, an authorised officer, a food inspector, a Part 9 enforcement officer or an outsourced enforcement officer when he or she is not a food security officer, an authorised officer, a food inspector, a Part 9 enforcement officer or an outsourced enforcement officer; or
- (b) to be an authorised analyst when he or she is not an authorised analyst,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,500 or to imprisonment for a term not exceeding 6 months or to both.

(2) However, it is a defence in any proceedings for an offence under subsection (1) where the person charged proves, on the balance of probabilities, that the person charged used or possessed the identification card or the equipment issued under section 175(3), 281 or 282 (as the case may be) for the purposes of a public entertainment provided in compliance with the Public Entertainments and Meetings Act 1958.

### **Forging inspection advice, certificates, etc.**

**256.**—(1) A person must not forge, or apply, knowing it to be forged, a document of the kind mentioned in subsection (2).

- (2) A document to which subsection (1) applies is any of the following:
- (a) an inspection advice;
  - (b) a recognised foreign government certificate;
  - (c) an authorisation;
  - (d) a registration mark for a plant pesticide;
  - (e) an authorised analyst's certificate under section 288.
- (3) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —
- (a) where the person is an individual —
    - (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
    - (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or
  - (b) where the person is not an individual —
    - (i) to a fine not exceeding \$30,000; or
    - (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.
- (4) For the purposes of this section, a person is taken to have forged a document if the person —
- (a) makes a document which is false, knowing it to be false; or
  - (b) without authority, alters a genuine document in a material particular,  
with intent that —
    - (c) the false or altered document may be used, acted on, or accepted, as genuine, to the prejudice of another person; or
    - (d) another person may, in the belief that it is genuine, be induced to do or refrain from doing an act, whether in Singapore or elsewhere.
- (5) For the purposes of this section, if a person —
- (a) makes a document which is false, knowing it to be false;
  - (b) without authority, alters a genuine document in a material particular; or
  - (c) with intent that a computer, a machine or other device should respond to the false or altered document as if it were genuine —
    - (i) to the prejudice of another person; or
    - (ii) with the result that another person would be induced to do or refrain from doing an act, whether in Singapore or elsewhere,
- the first-mentioned person is taken to have forged the document.

(6) For the purposes of this section, a person is taken to apply a forged document if the person —

- (a) uses or deals with it;
- (b) attempts to use or deal with it; or
- (c) attempts to induce another person to use, deal with, act upon, or accept it.

(7) In subsection (3), “repeat offender”, in relation to an offence under that subsection, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under that subsection.

### **Offence of providing false information, etc.**

**257.**—(1) A person commits an offence if —

- (a) the person gives any document, information or material in or in connection with —
  - (i) an application (whether for that person or for another) for any authorisation;
  - (ii) an appeal under Part 12; or
  - (iii) a requirement or direction of an investigator under a relevant provision of this Act;
- (b) either —
  - (i) the document, information, material or statement is false or misleading; or
  - (ii) the information or material omits any matter or thing without which the information or material is misleading; and
- (c) the person knows, or ought reasonably to know, that the document, information or material is as described in paragraph (b)(i) or (ii).

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

- (a) where the person is an individual — to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (b) where the person is not an individual — to a fine not exceeding \$20,000.

(3) However, subsection (1) does not apply if the document, information or material —

- (a) is not false or misleading in a material particular; or

- (b) if the information, material or statement did not omit any matter or thing without which the information, material or statement, as the case may be, is not misleading in a material particular.
- (4) In this section and section 258 —
- “give”, in relation to any information or material, includes making a statement orally, in writing or any other way;
- “relevant provision of this Act” means any of the following:
- (a) section 32;
  - (b) section 89;
  - (c) section 101;
  - (d) section 127;
  - (e) section 201;
  - (f) section 238;
  - (g) section 249;
  - (h) section 252.

*Division 4 — Evidential and ancillary matters of general application*

**Obligation to give information**

**258.**—(1) A person is not excused for not complying with a requirement imposed under a relevant provision of this Act to give any information on the ground that the person is subject to a duty of confidentiality or privacy under any written law, any rule of law, any contract or any rule of professional conduct, that prevents or restricts the person from complying with the requirement.

(2) Subject to subsection (4), a requirement imposed under a relevant provision of this Act to give any information has effect despite any obligations as to secrecy or other restrictions upon the disclosure of information imposed by any written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct.

(3) No civil or criminal action, other than proceedings for an offence under section 256 or 257, shall lie against any person —

- (a) for giving any document, information or material to a food security officer, an authorised officer, a food inspector, a Part 9 enforcement officer or an outsourced enforcement officer, if the person had done so in good faith in compliance with a requirement imposed under a relevant provision of this Act; or
- (b) for doing or omitting to do any act, if the person had done or omitted to do the act in good faith and as a result of complying with a requirement imposed under any provision of this Act.

(4) Nothing in a relevant provision of this Act or this section requires a person to disclose any information subject to legal privilege.

(5) This section does not affect the Frustrated Contracts Act 1959.

### **Self-incrimination**

**259.**—(1) A person is not excused for not complying with a requirement imposed under a relevant provision of this Act to give any information on the ground that the disclosure of the information would have a tendency to expose the person to a criminal charge for an offence under this Act.

(2) Where a person claims, before giving any information that the person is required under any relevant provision of this Act to give, that the disclosure of the information might tend to incriminate the person —

- (a) that information;
- (b) the giving of the information; and
- (c) any information, document or thing obtained as a direct consequence of the giving of the information,

is not admissible in evidence against the person in any criminal proceedings other than proceedings for an offence under section 256 or 257.

(3) For the purposes of any proceedings for an offence under this Act, the making of a statement by an accused person made pursuant to a requirement mentioned in subsection (1), is not to be regarded under section 258(3) of the Criminal Procedure Code 2010 as caused by any inducement, threat or promise merely because the investigator had earlier informed the accused person that the accused person was not excused from disclosing information on the ground that the disclosure of the information might tend to incriminate the accused person, if the investigator believed in good faith, when so informing the accused person, that —

- (a) the accused person was concerned in an offence under this Act; or
- (b) a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, that the accused person was concerned in an offence under this Act.

(4) Nothing in this Division —

- (a) compels an advocate and solicitor or legal counsel to disclose or produce a privileged communication, or a book or other material containing a privileged communication, made by or to the advocate and solicitor or legal counsel in that capacity; or
- (b) authorises the taking of any such book or other material which is in the possession of an advocate and solicitor or legal counsel.

(5) In this section —

“give”, in relation to any information or material, includes making a statement orally, in writing or any other way;

“relevant provision of this Act” means any of the following:

- (a) section 89;
- (b) section 101;
- (c) section 127;
- (d) section 201;
- (e) section 238;
- (f) section 252.

### **Presumption as to contents and labels**

**260.**—(1) For the purposes of this Act, the contents of a package of food are presumed to conform with the description of the contents on the package’s label until the contrary is proved.

(2) Any information on the outside or inside of any package of food, or on the label of a package of food, that identifies the person who imported, produced, sold, or manufactured the food in the package is presumed to be correct until the contrary is proved.

### **Presumption as to supply of food**

**261.**—(1) For the purposes of this Act, when any food or food contact article is supplied or displayed or offered for supply, the food or food contact article is presumed to be supplied or exposed or offered for supply for human consumption as food or use as food, until the contrary is proved.

(2) For the purposes of this Act, a person who supply or intends to supply any article of which food is a constituent is presumed until the contrary is proved that the person supplied or intended to supply the food.

(3) The purchase or supply of a sample of any food under this Act for the purpose of analysis or examination is presumed to be a purchase or supply of the food for human consumption as food or for use as food, unless the supplier proves that the bulk from which the sample was taken was not offered, exposed or intended for supply for human consumption as food or use as food.

### **Presumption as to sample**

**262.**—(1) This section applies to a sample of food, primary produce or animal feed —

- (a) taken from an identified quantity of food, primary produce or animal feed;
- (b) taken as required by a requirement of this Act; and
- (c) interpreted as required by a requirement of this Act.

(2) The sample is presumed to be representative of the quantity of food, primary produce or animal feed from which the sample was taken until the contrary is proved.

(3) The sample is also presumed to be representative of the lot, or production run from which the identified quantity was taken until the contrary is proved.

(4) Each of the parts into which a sample of any food, primary produce or animal feed is divided in accordance with this Act is presumed, until the contrary is proved, to be of uniform composition with the other parts.

(5) In this section, “animal feed” excludes a live animal.

### **Presumption as to import for purpose of sale**

**263.** For the purposes of this Act, the import of food in a quantity that is more than that which is imported for private consumption must, unless the contrary is proved, be treated as an import of food for the purpose of supply.

### **Proof of exemptions or reasonable excuse**

**264.** In a prosecution of a person for an offence under this Act, the onus of proving that —

- (a) at the time of the alleged offence a person was exempted from a provision of this Act; or
- (b) anything was done or omitted to be done with lawful excuse or authority or reasonable excuse,

lies upon the person making that assertion.

### **Disclosure by witnesses**

**265.**—(1) In any proceedings for an offence under this Act, a witness for the prosecution is not compelled to disclose the fact that the witness received information, the nature of the information received or the name of the person from whom the information was received.

(2) An authorised officer, a food inspector or a Part 9 enforcement officer appearing as a witness in any proceedings is not compelled to produce any document containing any confidential matter made or received in his or her capacity as an authorised officer, a food inspector or Part 9 enforcement officer, as the case may be.

(3) Despite subsections (1) and (2), a court hearing proceedings for an offence under this Act may order the disclosure of any matter, or the production of a document, referred to in those subsections if the court considers that it is necessary in the interests of justice.

### **Court may order corrective advertising, etc.**

**266.** A court by which a person (called the offender in this section) is found guilty of an offence involving advertising may make one or both of the following orders upon convicting the offender:

- (a) an order requiring the offender to disclose in a particular manner —
  - (i) to the general public,
  - (ii) to a particular person; or
  - (iii) to a particular class of persons in the general public,

information specified in the order, or information of a kind specified in the order, which the offender possesses or to which the offender has access;

- (b) an order requiring the offender to publish in Singapore, at the offender's own expense, in a manner and at times specified in the order, advertisements the terms of which are specified in the order.

### **Liability of person charged for certain expenses**

**267.**—(1) When any person is convicted of an offence under this Act, the court may order that all fees and other expenses incidental to the analysis of any food or appliance in respect of which the conviction is obtained, and any other reasonable expenses incurred by the prosecution, be paid by the person convicted.

(2) All such fees and expenses are recoverable in the same manner as a fine is recoverable.

### **Handling of seized items**

**268.**—(1) Subject to subsection (2) and sections 269 and 270 —

- (a) all seized items are liable to forfeiture by a court; and
  - (b) sections 370, 371 and 372 of the Criminal Procedure Code 2010 relating to the handling of property seized by a police officer apply, with the necessary modifications, to any seized item.
- (2) Subsection (1) does not apply to a seized item which is a conveyance that —
- (a) is of more than 200 tons net; or
  - (b) is an aircraft or a train belonging to a person carrying on a regular passenger service to and from Singapore by means of that aircraft or train.

### **Forfeiture, etc., of seized items by court in criminal proceedings**

**269.**—(1) A court may, in any criminal proceeding against a person for an offence under this Act, order that any seized item seized in connection with the offence be forfeited if —

- (a) where the seized item is a conveyance — the person is convicted of the offence and the conveyance is proved to have been used in the commission of the offence; or
  - (b) where the seized item is not a conveyance — the court is satisfied that an offence under this Act has been committed and that the seized item was the subject-matter, or used (or intended to have been used) in the commission, or constitutes evidence, of the offence.
- (2) The court may consider the question of forfeiture under subsection (1) on its own motion if no party raises the question in the proceedings before the court.
- (3) A conveyance mentioned in subsection (1)(a) must not be forfeited under that provision if its owner establishes that the conveyance was unlawfully in the possession of another person without the consent of the owner.

(4) The court may make an order under subsection (1)(b) for the forfeiture of any seized item even though no person is convicted of an offence.

(5) If the court does not order the forfeiture of a seized item under subsection (1), the court may —

(a) order the release of the seized item to the owner of or the person entitled to the seized item; or

(b) where the owner of or the person entitled to the seized item cannot be ascertained or found — make any order or give any direction that the court thinks fit in relation to the disposal of the seized item.

(6) However, no order of forfeiture may be made under this section if the seized item is a conveyance which —

(a) is of more than 200 tons net; or

(b) is an aircraft or a train belonging to a person carrying on a regular passenger service to and from Singapore by means of that aircraft or train.

### **Immediate forfeiture by Agency**

**270.**—(1) Subject to subsections (2) and (3), the Agency may at once order the forfeiture of a seized item —

(a) that is any of the following at the time of seizure:

(i) any food which is unsafe food, unsuitable food or a defined food;

(ii) any primary produce which is unsafe;

(iii) any controlled item which is failing;

(iv) any animal feed which is not fit for purpose;

(v) any non-packaged drinking water for supply which is unwholesome;

(vi) any biosecurity matter or any thing else which is a suspected hazard or the suspected source of contamination giving rise to a risk to human health; and

(b) that is perishable or may rapidly depreciate in value, is injurious to health or is hazardous, is decayed or putrefied, or for any other reason is desirable to dispose without delay.

(2) If within 48 hours after the seizure no complaint under subsection (3) has been made with respect to the item seized, the Agency may cause the item, if of the nature described in subsection (1)(a) and (b), to be —

(a) if the item is a living thing, detained and treated if not incurably diseased or injured and then disposed of at once in any manner that the Agency thinks fit; or

(b) destroyed or otherwise disposed of at once in any manner that the Agency thinks fit.

(3) A person claiming that —

- (a) any food;
- (b) any primary produce;
- (c) any controlled item;
- (d) any animal feed;
- (e) any non-packaged drinking water for supply;
- (f) any unregistered plant pesticide;
- (g) any live food producing animal;
- (h) any animal reproductive material extracted or otherwise taken from a food producing animal; or
- (i) any other thing,

seized under this Act may, within 48 hours after the seizure, complain of the seizure to a Magistrate's Court.

(4) The complaint may be heard and determined by the Magistrate's Court, which —

(a) may either —

(i) confirm or disallow the seizure wholly or in part; or

(ii) order any item seized to be returned to the owner; and

(b) may order payment to be made to the owner of the item of any amount that the court considers will compensate the owner for any loss or depreciation resulting from the seizure.

(5) A certificate signed by the Director-General, Food Administration is to be accepted by a court as sufficient evidence that any item seized under this Act was of a nature described in subsection (1)(a) and (b) at the time of seizure.

(6) No order of forfeiture may be made under this section in respect of a seized item that is a conveyance which —

(a) is of more than 200 tons net; or

(b) is an aircraft or a train belonging to a person carrying on a regular passenger service to and from Singapore by means of that aircraft or train.

(7) Where the owner of any item seized under the provisions of this Act by an authorised officer or food inspector, consents in writing at any time to its disposal, the Agency may cause the item to be destroyed or otherwise disposed of at once in any manner that the Agency thinks fit.

### **Offences by corporations**

**271.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

(a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his or her actual or apparent authority; and

(b) the officer, employee or agent had that state of mind,  
is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

(a) who is —

(i) an officer of the corporation; or

(ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation in relation to the commission of the offence; and

(b) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

(iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

(4) To avoid doubt, this section does not affect the application of —

(a) Chapters 5 and 5A of the Penal Code 1871; or

(b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of the corporation for an offence under this Act and applies whether or not the corporation is convicted of the offence.

(6) In this section —

“corporation” includes a limited liability partnership;

“reasonable steps”, in relation to the commission of an offence, includes, but is not limited to, any action (if any) of the following kinds as is reasonable in all the circumstances:

(a) action towards —

(i) assessing the corporation’s compliance with the provision creating the offence; and

- (ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision;
- (b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the offence so far as the provision is relevant to them;
- (c) action towards ensuring that —
  - (i) the equipment and other resources; and
  - (ii) the structures, work systems and other processes, relevant to compliance with the provision creating the offence are appropriate in all the circumstances;
- (d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the offence;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

(7) The Minister may make rules to provide for the application of any provision of this section, with any modifications that the Minister considers appropriate, to any corporation formed or recognised under the law of a country outside Singapore.

### **Offences by unincorporated associations or partnerships**

**272.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

- (a) an employee or agent of the unincorporated association or partnership engaged in that conduct within the scope of his or her actual or apparent authority; and
- (b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership (as the case may be) had that state of mind.

(2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

- (a) who is —
  - (i) an officer of the unincorporated association or a member of its governing body;
  - (ii) a partner in the partnership; or
  - (iii) an individual involved in the management of the unincorporated association or partnership and in a position to influence the conduct of

the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or
- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters 5 and 5A of the Penal Code 1871; or
- (b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

- “partner” includes a person purporting to act as a partner;
- “reasonable steps” has the meaning given by section 271(6);
- “state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

(7) The Minister may make rules to provide for the application of any provision of this section, with any modifications that the Minister considers appropriate, to any unincorporated association or partnership formed or recognised under the law of a country outside Singapore.

### **Composition of offences**

**273.**—(1) An authorised officer specially authorised by the Chief Executive of the Agency may compound any compoundable offence —

- (a) by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:
- (i) one half of the amount of the maximum fine that is prescribed for the offence;
  - (ii) \$5,000; and
- (b) by requiring the person reasonably suspected of having committed the offence to do, or to refrain from doing, any thing that is specified in an offer of composition (called conditions of composition) made by the Chief Executive of the Agency, or the authorised officer mentioned in subsection (1), with the concurrence (general or specific) of the Public Prosecutor.
- (2) On payment of the sum of money and on full compliance with the conditions of composition, no further proceedings are to be taken against that person in respect of the offence.
- (3) All sums collected under this section must be paid into the Consolidated Fund.
- (4) In subsection (1), “compoundable offence” means an offence under this Act that —
- (a) is neither a Part 9 offence nor an offence under Part 10 involving any Part 9 regulations; and
  - (b) is prescribed by the food regulations as a compoundable offence for the purposes of this section.

## PART 14

### ADMINISTRATION

#### *Division 2 — Outsourced enforcement officers*

#### **Outsourced enforcement officers**

**285.**—(1) The Agency may appoint an individual who —

- (a) is at least 18 years of age;
- (b) is not an SFA officer;
- (c) is not a public officer or officer of a public authority; and
- (d) has suitable qualifications or experience,

to be an outsourced enforcement officer to assist the Director-General Food Security or the Agency in the administration of any provision of this Act in particular area in Singapore, except any provision in Part 9 and any Part 9 Regulations and Part 10 if involving any Part 9 regulations.

(2) The Agency may, for any reason that appears to the Agency to be sufficient, at any time revoke an individual's appointment under subsection (1) as an outsourced enforcement officer.

(3) The Agency must issue to each outsourced enforcement officer an identification card, which must be carried at all times by the outsourced enforcement officer when exercising powers under any provision of this Act.

(4) An outsourced enforcement officer whose appointment as such ceases must return without delay to the Agency any identification card issued to him or her under subsection (3).

(5) A former outsourced enforcement officer who, without reasonable excuse, fails to comply with subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,500 or to imprisonment for a term not exceeding 6 months or to both.

(6) An outsourced enforcement officer is not an employee of the Agency.

(7) An individual who is appointed as an outsourced enforcement officer under subsection (1) does not, by virtue only of the appointment, become an agent of the Agency.

#### **Powers of outsourced enforcement officers**

**286.**—(1) The Agency must issue to each outsourced enforcement officer a written authorisation specifying such of the powers in subsection (2) as exercisable by an outsourced enforcement officer, as what the outsourced enforcement officer may exercise, and no other powers.

(2) The powers that an outsourced enforcement officer may be authorised under this section to exercise are all or any of the following:

- (a) to ask an individual suspected of committing an offence under Part 4 in premises mentioned in section 235, to state the individual's name and residential address;
  - (b) to advise the individual to stop engaging in conduct in premises mentioned in section 235 which is a public place, that is an offence under Part 4;
  - (c) to photograph or film, or otherwise record the premises mentioned in section 235 where, or in respect of which, an offence under Part 4 was committed or is reasonably suspected to have been committed, and any individual or conveyance in that place;
  - (d) to exercise in any premises mentioned in section 235 the following monitoring powers as if an authorised officer:
    - (i) section 236;
    - (ii) section 237 but not a monitoring power in section 237(1)(e), (f), (g) and (i);
    - (iii) section 238;
    - (iv) section 239.
- (3) The written authorisation issued under subsection (1) to an outsourced enforcement officer may also do all or any of the following:
- (a) limit the powers mentioned in subsection (2) that the outsourced enforcement officer may exercise;
  - (b) limit when, and where in Singapore, the outsourced enforcement officer may exercise those powers or any of them;
  - (c) limit the circumstances in which the outsourced enforcement officer may exercise those powers or any of them.
- (4) To avoid doubt, the Agency cannot authorise under this section an outsourced enforcement officer to arrest any individual.
- (5) The powers that an outsourced enforcement officer may be authorised under this section to exercise may be exercised only —
- (a) upon production of the identification card issued under section 285(3);
  - (b) to the extent authorised by the Agency under this section; and
  - (c) as directed (generally or specially) by a food security officer or an authorised officer, or an officer of the Agency.
- (6) An outsourced enforcement officer who is authorised under subsection (1) to exercise any power expressly specified in subsection (2) is deemed to be a public servant for the purposes of the Penal Code 1871 when exercising that power.
- (7) Without limiting subsection (5), where any law or written law protects an officer or employee of the Agency from liability for the officer's or employee's acts or omissions, that law or written law is taken to operate as if those acts or omissions

included an outsourced enforcement officer's acts or omissions when acting in the course of his or her duty as an outsourced enforcement officer in accordance —

- (a) with the written authorisation under subsection (1); and
- (b) with subsection (5).

(8) To avoid doubt, an outsourced enforcement officer does not cease to be acting on the direction of an officer or employee of the Agency by reason only that the officer or employee of the Agency is not present at all times.

#### *Division 4 — General provisions on licences, permits, etc.*

### **Interpretive provision**

**291.** In this Division —

“authorisation” means —

- (a) a licence that may be granted under Part 3 —
  - (i) to export in the course of business any export controlled item specified in the licence; or
  - (ii) to import in the course of business any import controlled item specified in the licence;
- (b) a consignment permit;
- (c) a food business licence to carry on a licensable food business at premises stated in the licence;
- (d) an animal feed production licence;
- (e) an appointment as a certified pesticide operator; or
- (f) a pre-market approval;

“grant”, in relation to an authorisation, includes grant on renewal;

“holder of an authorisation” means the person to whom the authorisation is granted under this Act.

### **Application for authorisation**

**292.**—(1) An application for an authorisation must be made to the Agency in accordance with this section.

(2) An application for an authorisation must —

- (a) be in the form and manner the Agency specifies;
- (b) be accompanied by an application fee, if prescribed, for the authorisation;
- (c) contain —
  - (i) an address in Singapore at which notices and other documents under this Act for the applicant may be served; or

- (ii) the name and address of one or more persons in Singapore authorised by the applicant to accept on the applicant's behalf service of notices and other documents under this Act; and
  - (d) be accompanied by the prescribed information, and any other additional information that the Agency requires to decide on the application.
- (3) In addition, an application to renew an authorisation must be made no later than a prescribed period before the date of expiry of the licence, if prescribed.
- (4) The Agency may refuse to consider an application for an authorisation that is incomplete or not made in accordance with this section.

### **Grant of authorisation**

**293.**—(1) Subject to this Act, after considering any application under section 292, the Agency may —

- (a) on payment of the applicable fee for an authorisation (if prescribed), grant the applicant the authorisation applied for; or
- (b) refuse to grant the authorisation applied for.

(2) The Agency may grant a renewal of an authorisation with or without modifying the conditions of the authorisation, except that section 295 does not apply to or in relation to granting a renewal of an authorisation with modifications to the conditions of the authorisation.

### **Conditions of authorisation**

**294.** In granting an authorisation to any person, the Agency may impose any conditions that the Agency considers requisite or expedient having regard to the purposes of this Act.

### **Procedure to modify authorisation conditions or for regulatory action against authorisation holder**

**295.**—(1) Subject to subsection (6), before exercising any relevant power under section 80, 81, 84, 93, 95, 96, 112, 195, 196, 209 or 213 in relation to a holder of an authorisation, the Agency must give written notice to the holder concerned, a written notice inviting the holder to show (as the case may be) why —

- (a) the condition of the authorisation should not be modified; or
- (b) the regulatory action should not be taken against the holder in question,

each called a proposed action.

(2) The written notice must state the following:

- (a) the proposed action, including (where applicable) the type of action in section 80, 81, 84, 93, 95, 96, 112, 195, 196, 209 or 213 that the Agency proposes to take;
- (b) the grounds for the proposed action;

- (c) the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action is suspension of the authorisation, the proposed suspension period;
- (e) if the proposed action is modifying any condition of the authorisation, the proposed modification;
- (f) that representations may be made about the notice;
- (g) how and where representations may be made, and a period within which the representations must be made.

(3) The stated period in subsection (2)(g) must be, or must end at least 14 days after the notice is given.

(4) If, after considering all representations made within the stated period the Agency still considers the proposed action should be taken, the Agency may —

- (a) if the proposed course of action is modifying under section 80, 95, 195 or 205 any condition of the authorisation — modify the condition;
- (b) if the proposed course of action is suspension of the authorisation under section 83, 84, 96, 196, 206, 209 or 213 — suspend the authorised for no longer than the proposed suspension period;
- (c) if the proposed course of action is any other regulatory action under section 83, 84, 96, 112, 196, 206, 209 or 213 — take any regulatory action in the appropriate section that the Agency considers appropriate.

(5) Where the Agency has made any decision under subsection (4) against any holder of an authorisation, the Agency must serve on the holder concerned a notice of the Agency's decision.

(6) Subject to Part 12, a decision under subsection (4) that is specified in the notice given under subsection (5) takes effect starting the date on which that notice is given, or on another later date if specified in that notice.

(7) Any suspension, cancellation or revocation of an authorisation with respect to the holder of the authorisation does not affect —

- (a) the enforcement by any person of any right or claim against the holder; or
- (b) the enforcement by the holder of any right or claim against any person.

(8) However, if the Agency —

- (a) considers it necessary in the national security or public interest to suspend an authorisation urgently; or
- (b) has reasonable grounds to believe there is a serious and imminent risk to public health and that it is appropriate or requisite, to avoid any actual or imminent occurrence that endangers or threatens to endanger the safety of the public, to suspend the authorisation urgently,

the Agency may immediately suspend, for a period not exceeding 30 days, the authorisation by written notice given to the holder thereof.

(9) Subsections (1) to (4) do not apply where the holder of the authorisation in question —

- (a) has died or is adjudged a bankrupt;
- (b) has been dissolved or wound up; or
- (c) has otherwise ceased to exist.

### **Non-transferable authorisation**

**296.** Every authorisation (other than a pre-market approval), and any rights, benefits or privileges under the authorisation, are not transferable or assignable to any other person

### **Conviction as ground for regulatory action**

**297.**—(1) In taking any regulatory action under section 83, 84, 93, 96, 196, 206, 209 or 213 because of the conviction of any person of a criminal offence, the Agency may accept the person's conviction as final.

(2) For the purposes of section 78(2)(c), 83(1)(c), 93(2)(d), 96(1)(c), 192(2)(d), 196(1)(c), 199(1)(c), 206(1)(c), 209(1)(b), 211(2)(d) and 213(1)(a), “convicted”, in addition to its ordinary meaning, has the meaning given by subsection (3).

(3) A person is taken to have been convicted of an alleged offence if —

- (a) the person has not been found guilty of the offence but asks for the offence to be taken into account when being sentenced for another offence; or
- (b) the person has been found guilty of the offence but is discharged without conviction.

### **Disqualification from holding authorisation**

**298.**—(1) This section applies where an authorisation is revoked under section 83, 96 or 196 (called in this section the invalidated authorisation).

(2) The person who was the holder of an invalidated authorisation is also disqualified, for a period that is specified in a written order by the Agency —

(a) from holding —

- (i) the same authorisation as the invalidated authorisation; and
- (ii) any other authorisation or authorisations associated with the invalidated authorisation that the Agency may specify in the order; and

(b) where the invalidated authorisation was a food business licence for a type of licensable food business, from being an executive staffer of the same type of licensable food business at any premises.

(3) The period the Agency may specify in a written order under subsection (2) is a period not exceeding 3 years starting immediately after the date of revocation of an invalidated authorisation.

(4) Any authorisation obtained by a person while disqualified by an order of the Agency under this section from obtaining such an authorisation is of no effect.

(5) For the purposes of subsection (2)(a)(ii), an authorisation is associated with an invalidated authorisation if it —

(a) it authorises a type of licensable activity that is grouped by rules made under subsection (6) with the invalidated authorisation; and

(b) is not an appointment as a certified pesticide operator or a pre-market approval.

(6) The Minister may, for the purposes of subsection (5), make rules in the *Gazette* that group different authorisations together where the nature of the licensable activities covered by the respective authorisations are similar.

(7) In this section —

“executive staffer”, in relation to a food business, means an individual —

(a) who is in the direct employment of, or is acting for or by arrangement with, the proprietor of the food business;

(b) who —

(i) directly takes part in managing, or exercises oversight over, the day-to-day operations of the food business; or

(ii) is authorised to make decisions, involving the exercise of his or her discretion, that controls the day-to-day operations, of the food business; and

(c) who is not an officer of the food business if it is a corporation, an unincorporated association or a partnership;

“same authorisation”, in relation to an invalidated authorisation, means an authorisation that, if granted —

(a) is granted under the same provision of this Act as the invalidated authorisation covering the same type of licensable activity; and

(b) covers the same premises which the invalidated authorisation authorised that licensable activity to be carried on, if any.

### **Financial penalties, etc.**

**299.**—(1) Where any financial penalty is imposed on a holder of an authorisation under the provisions of this Act, for contravening or not complying with —

(a) any condition attached to an authorisation;

(b) any provision of this Act applicable to the authorisation holder so far as that relates to the activity covered by the authorisation; or

(c) any provision of a code of practice applicable to the authorisation holder so far as that relates to the activity covered by the authorisation,

any performance bond, guarantee or other form of security furnished by the authorisation holder must not be forfeited by the Agency for that contravention or non-compliance except to the extent to pay the financial penalty.

(2) All financial penalties imposed under this Act because of regulatory action, and any moneys under a performance bond, deposit or other form of security forfeited under regulatory action for the purpose of meeting any financial penalty so imposed must be collected by the Agency and paid into the Consolidated Fund.

(3) The Agency may recover as a debt in a court of competent jurisdiction any of the following amounts that has become due and payable but has not been paid:

- (a) any fee imposed under any provision of this Act in respect of an authorisation;
- (b) any financial penalty imposed under any provision of this Act in respect of a holder or former holder of an authorisation,

and the liability of the holder or former holder concerned to pay is not affected by its authorisation ceasing (for any reason) to be in force.

(4) All financial penalties recovered under this section must be paid into the Consolidated Fund.

#### *Division 5— Miscellaneous*

#### **Reasonable belief by authorised officer, etc.**

**300.**—(1) If this Act requires an authorised officer or a food inspector to reasonably believe something before exercising a power, it is sufficient if the Director-General or a more highly ranked authorised officer or food inspector reasonably believes it and directs the authorised officer or food inspector (as the case may be) to exercise the power.

(2) If this Act requires a food security officer to reasonably believe something before exercising a power, it is sufficient if the Director-General, Food Security or a more highly ranked food security officer reasonably believes it and directs the food security officer to exercise the power.

#### **Protection of confidential commercial information for plant pesticides**

**301.**—(1) Where the Agency receives an application relating to a plant pesticide product, or a proposed plant pesticide product, and the product or an active constituent of the proposed or existing plant pesticide product (as the case may be) has not been the subject of any other earlier application to the Agency, then during the protected period of the confidential commercial information relating to the plant pesticide product or active constituent, the Agency —

- (a) must take reasonable steps to ensure that the confidential commercial information is kept confidential to the Agency; and
- (b) must not use the confidential commercial information for the purposes of determining whether to grant any other application.

(2) Despite subsection (1), the Agency may, during the protected period in relation to any confidential supporting information —

- (a) disclose that confidential commercial information, or use that confidential commercial information for the purposes of determining whether to grant any application other than the application to which it relates or related, as the case may be —
  - (i) with the consent of the applicant who made the application to which the confidential commercial information relates or related; or
  - (ii) if that disclosure or use is, in the opinion of the Agency, necessary to protect the health or safety of members of the general public;
- (b) disclose that confidential commercial information to a Government department or statutory body for the purposes of the Government department or statutory body if, in the opinion of the Agency, the Government department or statutory body will take reasonable steps to ensure the confidential commercial information is kept confidential; or
- (c) disclose that confidential commercial information to any one or more of the following:
  - (i) the World Health Organisation;
  - (ii) the Food and Agriculture Organisation;
  - (iii) any regulatory agency of a WTO Country;
  - (iv) any committee established under section 27 of the Singapore Food Agency Act 2019 for the purpose of advising the Agency on any matters arising out of any application;
  - (v) any person, or a person within a class or classes of persons, approved by the Minister, if the disclosure is in accordance with any conditions that are specified in the pesticide control regulations.

(3) The power to grant consent under subsection (2)(a)(i) may be exercised by a person other than the applicant mentioned in that subsection if —

- (a) that applicant —
  - (i) has notified the Agency in writing that that other person may grant that consent; and
  - (ii) has not notified the Agency in writing that that person's authority to grant that consent has been withdrawn; or
- (b) that applicant's rights in respect of the relevant confidential commercial information have been transferred to that person and the applicant or that other person has notified the Agency in writing of the transfer.

(4) In this section —

“application” means an application under section 205 for registration of a plant pesticide product;

“confidential commercial information”, in relation to a plant pesticide product or in relation to an active constituent for a proposed or existing plant pesticide product, means —

- (a) a trade secret relating to the active constituent or product; or
- (b) any other information relating to the active constituent or product that has a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed;

“protected period”, in relation to any confidential commercial information relating to an innovative plant pesticide application received by the Director-General, means a period of 5 years starting the date the application is or was (as the case may be) received by the Agency;

“WTO Country” means a country that is a party to the Agreement establishing the World Trade Organisation adopted at Marrakesh on 15 April 1994.

(5) Section 6 of the Public Sector (Governance) Act 2018 and section 34 of the Singapore Food Agency Act 2019 do not apply in relation to any confidential commercial information during its protected period.

### **Service of documents**

**302.**—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) A document permitted or required by this Act to be served on an individual may be served —

- (a) by giving it to the individual personally;
- (b) by sending it by post to the address specified by the individual for the service of documents or, if no address is so specified, the individual’s residential address or business address;
- (c) by leaving it at the individual’s residential address with an adult apparently resident there, or at the individual’s business address with an adult apparently employed there;
- (d) by affixing a copy of the document in a conspicuous place at the individual’s residential address or business address;
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or
- (f) by sending it by email to the individual’s last email address.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

- (a) by giving it to any partner, secretary or other similar officer of the partnership;
- (b) by leaving it at, or by sending it by post to, the partnership’s business address;

- (c) by sending it by fax to the fax number used at the partnership's business address; or
  - (d) by sending it by email to the partnership's last email address.
- (4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —
- (a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or the limited liability partnership's manager;
  - (b) by leaving it at, or by sending it by post to, the registered office or principal office in Singapore of the body corporate or unincorporated association;
  - (c) by sending it by fax to the fax number used at the registered office or principal office in Singapore of the body corporate or unincorporated association; or
  - (d) by sending it by email to the last email address of the body corporate or unincorporated association.
- (5) In addition, a document (other than a summons) permitted or required by this Act to be served on an individual, a partnership, a body corporate or an unincorporated association may be served —
- (a) by giving an electronic notice to the individual, partnership, body corporate or unincorporated association (called in this section an addressee) by the addressee's chosen means of notification, stating that the document is available and how the addressee may use the addressee's chosen means of access to access the document's contents; or
  - (b) by any other method authorised by the Regulations for the service of documents of that kind if the addressee consents expressly to service of a document of that kind in that way.
- (6) Service of a document under this section takes effect —
- (a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;
  - (b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person to whom it is sent; or
  - (c) if the document is sent by post, 2 days after the day the document was posted (even if it is returned undelivered).
- (7) However, service of any document under this Act on a person by email or by an electronic notice at the person's chosen means of notification, may be effected only with the person's express prior consent to service in that way.
- (8) This section does not apply to documents to be served in proceedings in court.
- (9) In this section —
- “business address” means —

- (a) in the case of an individual, the individual's usual or last known place of business in Singapore; or
- (b) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“chosen means of access”, for an addressee on whom is or is to be served a document permitted or required by this Act, means an electronic means the addressee agrees with the person giving or serving the document as the means by which the addressee may access that document's contents;

“chosen means of notification”, for an addressee on whom is or is to be served a document permitted or required by this Act, means an electronic means that the addressee nominates to the person giving or serving the document as the means by which the addressee may be notified that such a document has been served on the addressee;

“document” includes a notice or an order permitted or required by this Act to be served;

“last email address” means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act;

“post” includes prepaid registered post;

“residential address” means an individual's usual or last known place of residence in Singapore.

### **Protection from personal liability**

**303.** No liability shall lie against a food security officer, an authorised officer, a food inspector, a Part 9 enforcement officer or a member, officer or employee of the Agency, or any other person acting under the direction of the Agency, for anything done or intended to be done in good faith and with reasonable care in the execution or purported execution of this Act.

### **Jurisdiction of courts**

**304.** A Magistrate's Court and a District Court has jurisdiction to try any offence under this Act and has power to impose the full punishment for any such offence.

PART 17

AMENDMENTS TO OTHER ACTS AND FINAL PROVISIONS

*Division 1 — Animals and Birds Act 1965*

**Amendment of section 8**

- 320.** In the Animals and Birds Act 1965, in section 8, after subsection (3), insert —
- “(4) This section does not apply to the import of eggs for the purpose of sale or handling as food for human consumption.”.

**New section 8A**

- 321.** In the Animals and Birds Act 1965, after section 8, insert —

**“Freeze on import licences**

**8A.**—(1) This section applies where a directive made under section 70 of the Food Safety and Security Act 2024 is in force, banning the import of any live food producing animal of a particular kind from a particular country or place outside Singapore (called the freeze period).

(2) During the freeze period of a directive made under section 70 of the Food Safety and Security Act 2024, the Director-General —

- (a) must not grant under section 8 any licence that is for the import of any animal or bird if the licence authorises an import that would be inconsistent with the directive; and
- (b) may revoke or suspend any licence granted under section 8 for the import during the freeze period of any animal or bird inconsistent with the directive.

(3) Before exercising any powers under subsection (2)(b), the Director-General must give notice to the holder of the licence concerned —

- (a) stating that Director-General proposes to revoke or suspend the licence in the manner as specified in the notice; and
- (b) specifying the time (being not less than 3 days starting the date of service of notice on such holder) within which written representations may be made to the Director-General with respect to the proposed revocation or suspension of the licence, as the case may be.

(4) Upon receipt of any written representation referred to in subsection (3)(b), the Director-General must consider the written representation and may —

- (a) reject the written representation; or
- (b) decline to revoke the licence,

and, in either event, the Director-General must give written notice to that holder of the licence of his or her decision.

(5) Subsection (2)(b) does not affect section 62(1).”.

#### **Amendment of section 41**

**322.** In the Animals and Birds Act 1965, in section 41, in the definition of “animal-related business” —

- (a) delete “or” at the end of paragraph (b);
- (b) replace the comma at the end of paragraph (c) with “; or”;
- (c) after paragraph (c), insert —
  - “(d) the operation of any business in respect of animals intended to produce food or as food for human consumption;” and
- (d) delete “but does not include any business in respect of animals intended for consumption;”.

#### **Amendment of section 59**

**323.** In the Animals and Birds Act 1965, in section 59, after subsection (2), insert —

- “(2A) Subsections (1) and (2) do not extend to —
- (a) prohibiting or regulating the keeping, breeding or feeding of any animal or bird to produce food or as food for human consumption;
  - (b) prohibiting or regulating the keeping, breeding or feeding of any animal or bird to produce feed for consumption by food producing animals;
  - (c) requiring any person intending to keep or breed any animal or bird to produce food or as food for human consumption to obtain a licence from the Director-General and to comply with the conditions of such licence; or
  - (d) requiring any person intending to keep or breed any animal or bird to produce feed for consumption by food producing animals to obtain a licence from the Director-General and to comply with the conditions of such licence.”.

#### **Amendment of section 62**

**324.** In the Animals and Birds Act 1965, in section 62, after subsection (4), insert —

“(4A) Subsection (4) does not extend to the Director-General revoking or suspending under section 8A(2)(b) any licence granted under section 8.”.

#### **Amendment of section 80**

**325.** In the Animals and Birds Act 1965, in section 80(2)(k), after “method of production”, insert “, but not animal or bird production to produce food or as food for human consumption”.

*Division 4 — Control of Plants Act 1993*

**Amendment of long title**

**328.** In the Control of Plants Act 1993, in the long title —

- (a) after “export of plants and plant products”, insert “other than as food for human consumption”; and
- (b) delete “the use of pesticides.”.

**Amendment of section 2**

**329.** In the Control of Plants Act 1993, in section 2 —

- (a) delete the definitions of “authorised analyst”, “certified pesticide operator”, “pesticide”, “pesticide residue”, “prohibited pesticide”, “prohibited pesticide residue” and “toxic chemical residue”; and
- (b) replace the definition of “fresh fruits and vegetables” with —
  - “ “food” has the meaning given by section 4 of the Food Safety and Security Act 2024;”.

**Amendment of section 3**

**330.** In the Control of Plants Act 1993, in section 3, delete subsection (3).

**Deletion of Part 2**

**331.** In the Control of Plants Act 1993, delete Part 2.

**Amendment of section 9**

**332.** In the Control of Plants Act 1993, in section 9 —

- (a) in paragraph (a), delete “and” at the end;
- (b) in paragraph (b), replace the full-stop at the end with “; and”; and
- (c) after paragraph (b), insert —
  - “(c) the cultivation of any plant as food or to produce food for human consumption.”.

**Deletion of sections 11, 12, 13, 14, 15 and 16**

**333.** In the Control of Plants Act 1993, delete sections 11, 12, 13, 14, 15 and 16.

**Amendment of section 28**

**334.** In the Control of Plants Act 1993, in section 28, in subsection (1), after “any country, territory or place” insert, “because of phytosanitary purposes”.

**Amendment of section 31**

**335.** In the Control of Plants Act 1993, in section 31 —

- (a) in subsection (1)(a), replace “section 7 or 10;” with “section 10; or”;
- (b) in subsection (1), delete paragraph (b);
- (c) in subsection (3), delete “7 or”;
- (d) in subsection (3), delete “, including but not limited to the conditions necessary or related to ensuring a secure and reliable supply in Singapore of any fresh fruits or vegetables”;
- (e) delete subsection (4); and
- (f) in subsection (8), delete “7 or”.

#### **Amendment of section 34**

**336.** In the Control of Plants Act 1993, in section 34(a), delete “11(1) and (2),”.

#### **Deletion of sections 39, 40 and 41**

**337.** In the Control of Plants Act 1993, delete sections 39, 40 and 41.

#### **Amendment of section 49**

**338.** In the Control of Plants Act 1993, in section 49(2) —

- (a) delete paragraphs (c), (d), (e), (f), (h), (s), (t) and (u);
- (b) after paragraph (l), insert —

“(la) providing for a freeze on the grant, and for the cancelling, of any permit authorising the introduction into Singapore of any pest, when there is in force a directive made under section 70 of the Food Safety and Security Act 2024 banning the import of any live food producing animal of a particular kind from a particular country or place outside Singapore and where the permit or the grant thereof would be inconsistent with the directive;” and

- (c) in paragraph (v), delete “fresh fruits or vegetables which are the subject of”.

#### *Division 5 — Environmental Public Health Act 1987*

#### **Amendment of section 2**

**339.** In the Environmental Public Health Act 1987, in section 2 —

- (a) in the definition of “Director-General, Food Administration”, replace “section 3(1) of the Sale of Food Act 1973” with “section 276 of the Food Safety and Security Act 2024”;
- (b) replace the definition of “food” with —
  - “ “food” has the same meaning given by section 4 of the Food Safety and Security Act 2024;” and
- (c) delete the definitions of “food establishment”, “itinerant hawker”, “market”, “private market” and “public market”.

### **Amendment of Part heading**

**340.** In the Environmental Public Health Act 1987, in Part 4, replace the heading “FOOD ESTABLISHMENTS, MARKETS AND HAWKERS” with “TEMPORARY FAIRS AND NON-FOOD HAWKING”.

### **Replacement of section 31W**

**341.** In the Environmental Public Health Act 1987, replace section 31W with —

#### **“Agency administers Part 4 and authorised officers**

**31W.**—(1) The Singapore Food Agency is responsible for the administration of this Part, subject to the general or special directions of the Minister.

(2) The Singapore Food Agency may, in relation to any provision of this Part, appoint as an authorised officer for the purposes of that provision any of the following who are suitably trained to properly exercise the powers of an authorised officer:

- (a) any officer of the Singapore Food Agency;
- (b) any officer of another statutory authority;
- (c) any public officer;
- (d) any auxiliary police officer appointed under the Police Force Act 2004.

(3) The Singapore Food Agency may, for any reason that appears to it to be sufficient, at any time revoke an individual’s appointment under subsection (2) as an authorised officer.

(4) The Singapore Food Agency may delegate the exercise of all or any of the powers conferred or duties imposed upon the Agency by any provision of this Part, to any authorised officer, subject to any conditions or limitations that the Agency may specify; and any reference in that provision of this Act or its subsidiary legislation to the Agency includes a reference to such an authorised officer.

(5) However, nothing in subsection (4) authorises delegating —

- (a) the power of delegation conferred by that subsection; or
- (b) any power of the Singapore Food Agency to make subsidiary legislation under this Part.

(6) An auxiliary police officer who is appointed as an authorised officer does not, by virtue only of the appointment, become an employee or agent of the Agency.”.

### **Deletion of section 32**

**342.** In the Environmental Public Health Act 1987, delete section 32.

### **Replacement of section 33**

**343.** In the Environmental Public Health Act 1987, replace section 33 with —

### **“Licensing of non-food hawkers in public places**

**33.**—(1) A person must not —

- (a) hawk, sell or expose for sale any goods of any kind but not any food; or
- (b) set up or use any stall, table, showboard, vehicle or receptacle for the purpose of hawking, selling or exposing for sale any goods of any kind but not food,

in any street or part of the street or in any premises or public place without first obtaining a licence from the Singapore Food Agency.”.

### **Deletion of section 34**

**344.** In the Environmental Public Health Act 1987, delete section 34.

### **Replacement of section 35 and new sections 35A and 35B**

**345.** In the Environmental Public Health Act 1987, replace section 35 with —

#### **“Temporary fairs**

**35.**—(1) A person must not promote, organise or stage any temporary fair on any premises without a permit from the Singapore Food Agency.

(2) In this section and sections 35A and 35B, “temporary fair” means a fete, garden party, carnival, bazaar or other like event held at any premises temporarily or on an occasional basis, in or at which persons occupy or have the use of barrows, tents, stalls, tables or other subdivisions from or at which goods and food, goods only or food only are sold, or displayed or offered, for sale by retail, but excludes a market.

#### **Disqualification from temporary fair permit**

**35A.**—(1) Where a permit to promote, organise or stage a temporary fair is cancelled under section 99(15), the person who was the holder of that permit is also disqualified from holding another permit under section 35, for any period (not exceeding 3 years) that the Singapore Food Agency specifies in an order.

(2) Any permit under section 35 obtained by a person while disqualified under subsection (1) from obtaining such an authorisation is of no effect.

(3) A person disqualified under subsection (1) may appeal to the Minister against the period of disqualification specified by the Singapore Food Agency in relation to the person in an order under that subsection.

(4) An appeal under subsection (3) must —

- (a) be made in a prescribed manner;
- (b) specify the grounds on which it is made, and
- (c) be made within a prescribed period after the date of receipt of the order under subsection (1).

(3) The Minister may determine an appeal made under subsection (3) by —

- (a) dismissing the appeal and confirming the decision of the Singapore Food Agency appealed against; or
- (b) shortening the period of disqualification.”.

### **Associates of disqualified persons**

**35B.**—(1) Without limiting section 99, this section applies where the Singapore Food Agency is deciding any of the following:

- (a) whether an applicant should be granted a permit under section 35 to promote, organise or stage a temporary fair (called a section 35 permit);
- (b) the conditions to impose on a section 35 permit;
- (c) whether to modify any condition of a section 35 permit.

(2) When making a decision mentioned in subsection (1), the Singapore Food Agency must have regard, and give such weight as the Agency considers appropriate, to all of the following matters:

- (a) whether —
  - (i) the applicant or a holder of for a section 35 permit; or
  - (ii) an associate of an applicant for a section 35 permit or a holder of a section 35 permit,  
is or was disqualified by section 35A from holding the section 35 permit;
- (b) whether regulatory action under section 99(15) has been or is being taken or is contemplated against an applicant for or a holder of a section 35 permit.

(3) For the purposes of subsection (2)(a)(ii), a person (A) is an associate of another person (B) if —

- (a) A is B’s spouse;
- (b) A is a relative of B or B’s spouse;
- (c) A is the spouse of a relative of B, or B’s spouse;
- (d) A is a partner of B with whom A is in a partnership or limited liability partnership;
- (e) A is a spouse or relative of any individual with whom B is in partnership;
- (f) A is an employer of B or an employee of B, and for this purpose, any director or other officer of a company is treated as employed by that company; or
- (g) A has a relationship with B in a manner prescribed under subsection (3).

(4) For the purposes of subsection (3), a person is a relative of an individual if the person is that individual’s brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant, treating —

- (a) any relationship of the half blood as a relationship of the whole blood, and the stepchild or adopted child of any person as that person's child; and
- (b) an illegitimate child as the legitimate child of the child's mother and reputed father.

(5) The Minister may make rules in the *Gazette* providing that any person or class of persons is an associate of another person for the purposes of subsection (3)(g)."

#### **Deletion of sections 36, 37, 38, 39, 40 and 41**

**346.** In the Environmental Public Health Act 1987, delete sections 36, 37, 38, 39, 40 and 41.

#### **Amendment of section 41A**

**347.** In the Environmental Public Health Act 1987, in section 41A —

- (a) in subsection (1), replace "section 32(1), 33, 34(1), 35, 36, 37(5), 38(1), 39(1) or (2), 40(1) or (9) or 41(1)" with "section 33 or 35";
- (b) in subsection (1), in paragraph (a), replace "section 33, 34(1), 37(5), 39(2) or 41(1) " with "section 33";
- (c) in subsection (1), in paragraph (b), replace "section 32(1), 35, 36, 38(1), 39(1) or 40(1) or (9)" with "section 35"; and
- (d) in subsection (2), replace "section 32(1), 33, 34(1), 35, 36, 37(5), 38(1), 39(1) or (2), 40(1) or (9) or 41(1)" with "section 33 or 35".

#### **Amendment of section 42**

**348.** In the Environmental Public Health Act 1987, in section 42 —

- (e) in subsections (8), (14) and (15), delete "food or";
- (f) In subsection (8), replace "Director-General, Food Administration" with "Singapore Food Agency";
- (g) in subsection (9), delete "food,"; and
- (h) in subsections (11) and (12), delete "cooked or uncooked food or".

#### **Amendment of section 42A**

**349.** In the Environmental Public Health Act 1987, in section 42A, in subsection (1), delete paragraphs (a) and (b).

#### **Deletion of Part 9**

**350.** In the Environmental Public Health Act 1987, delete Part 9.

#### **Amendment of section 82**

**351.** In the Environmental Public Health Act 1987, in section 82(3), replace "Director-General, Food Administration" with "Singapore Food Agency".

### **Amendment of section 84A**

**352.** In the Environmental Public Health Act 1987, in section 84A —

- (a) in the section heading, delete “or 9”;
- (b) in subsection (1), replace “Director-General, Food Administration made under Part 4 or 9” with “Singapore Food Agency made under Part 4”;
- (c) in subsection (2), in paragraphs (a) and (b), replace “Director-General, Food Administration” with “Singapore Food Agency”;
- (d) in subsection (2), replace paragraph (c) with —  
“(c) substitute or vary the notice, order or decision appealed against and make any notice, order or decision which the Singapore Food Agency is competent to make under Part 4.”; and
- (e) in subsection (5), replace “Director-General, Food Administration made under Part 4 or 9” with “Singapore Food Agency made under Part 4”.

### **Amendment of section 99**

**353.** In the Environmental Public Health Act 1987, in section 99—

- (a) in subsection (3), after “under subsection (2)” insert “or is disqualified under section 35A”;
- (b) in subsection (18), replace “Parts 4 and 9 by the Director-General, Food Administration” with “Part 4 by the Singapore Food Agency”;
- (c) in subsection (18), in paragraph (b), replace “Director-General, Food Administration” with “Singapore Food Agency”; and
- (d) in subsection (18), in paragraph (e), replace “Parts 4 and 9” with “Part 4”.

### **Amendment of section 108A**

**354.** In the Environmental Public Health Act 1987, in section 108A —

- (a) replace “Parts 4 and 9 by the Director-General, Food Administration” with Part 4 by the Singapore Food Agency”;
- (b) in paragraph (a), replace “Director-General, Food Administration” with “Singapore Food Agency”; and
- (c) in paragraph (d), replace “Parts 4 and 9” with “Part 4”.

### **Deletion of First Schedule**

**355.** In the Environmental Public Health Act 1987, delete the First Schedule.

### *Division 6 — Feeding Stuffs Act 1965*

### **Amendment of long title**

**356.** In the Feeding Stuffs Act 1965, in the long title, after “for animals and birds” insert “which are not food producing animals”.

### **Amendment of section 1**

**357.** In the Feeding Stuffs Act 1965, in section 1, after “Feeding Stuffs”, insert “(Pets and Non-food Producing Animals)”.

### **Amendment of section 2**

**358.** In the Feeding Stuffs Act 1965, in section 2 —

- (a) delete the definitions of “Agency” and “simple feed”;
- (b) in the definition of “animal feed”, after “feeding of animals”, insert “which are not food producing animals”;
- (c) after the definition of “authorised officer”, insert —
  - “ “Board” means the National Parks Board established by the repealed National Parks Act (Cap. 198A, 1991 Revised Edition) as in force before 1 July 1996 and continued by section 3 of the National Parks Board Act 1996;”;
- (d) in the definition of “Director-General”, replace “Director-General, Food Administration appointed under section 3(1) of the Sale of Food Act 1973” with “Director-General, Animal Health and Welfare appointed under section 3(1) of the Animals and Birds Act 1965;”;
- (e) after the definition of “feed concentrate”, insert —
  - “ “food producing animal” has the meaning given by section 3(1) of the Food Safety and Security Act 2024;”.

### **New section 2A**

**359.** In the Feeding Stuffs Act 1965, after section 2, insert —

#### **“Act does not apply to animal feed for food producing animals**

**2A.** This Act does not apply to or in relation to animal feed which is intended to be fed directly to any food producing animal.”.

### **Amendment of section 3**

**360.** In the Feeding Stuffs Act 1965, in section 3(2) and (5), replace “Agency” with “Board”.

### **Amendment of section 4**

**361.** In the Feeding Stuffs Act 1965, in section 4 —

- (a) in subsection (1), replace “import, manufacture, process for sale or sell simple feeds,” with “manufacture or to process for sale”; and
- (b) in subsection (4), replace “import, manufacture, process for sale or sell simple feeds,” with “manufacture or process for sale”.

### **Amendment of section 6**

**362.** In the Feeding Stuffs Act 1965, in section 6, delete “simple feeds.”

### **Amendment of section 8**

**363.** In the Feeding Stuffs Act 1965, in section 8(1)(a), replace “, processing for sale or sale of simple feeds,” with “or processing for sale of”.

### **Amendment of section 9**

**364.** In the Feeding Stuffs Act 1965, in section 9 —

- (a) in the section heading, replace “**Agency**” with “**Board**”; and
- (b) replace “Agency” with “Board”.

### **Amendment of section 10**

**365.** In the Feeding Stuffs Act 1965, in section 10 —

- (a) in subsection (4), delete “simple feed.”; and
- (b) in subsection (6), delete “simple feeds.”.

### **Amendment of section 11**

**366.** In the Feeding Stuffs Act 1965, in section 11(2), in paragraphs (a), (b) and (c), delete “simple feeds.”.

## *Division 15 — Wildlife Act 1965*

### **New section 9A**

**388.** In the Wildlife Act 1965, after section 9, insert —

#### **“Freeze on written approval to import**

**9A.—**(1) This section applies where a directive made under section 70 of the Food Safety and Security Act 2024 is in force, banning the import of any live food producing animal of a particular kind from a particular country or place outside Singapore (called the freeze period).

(2) During the freeze period of a directive made under section 70 of the Food Safety and Security Act 2024, the Director General —

- (a) must not grant under section 9 any written approval that is for the import of any living wildlife if the written approval authorises an import that would be inconsistent with the directive; and
- (b) may cancel or suspend any written approval granted under section 9 for the import during the freeze period of any living wildlife inconsistent with the directive.

(3) Before exercising any powers under subsection (2)(b), the Director General must give notice to the holder of the written approval concerned —

- (a) stating that Director General proposes to cancel or suspend the written approval in the manner as specified in the notice; and
  - (b) specifying the time (being not less than 3 days starting the date of service of notice on such holder) within which written representations may be made to the Director General with respect to the proposed cancellation or suspension of the written approval, as the case may be.
- (4) Upon receipt of any written representation referred to in subsection (3)(b), the Director General must consider the written representation and may —
- (a) reject the written representation; or
  - (b) decline to cancel the written approval,
- and, in either event, the Director General must give written notice to that holder of the written approval of his or her decision.”.

EXPOSURE DRAFT

# FIRST SCHEDULE

Sections 3(1) and 6

## LICENSABLE FOOD BUSINESS

### PART 1 — RETAIL

1. A food business where —

- (a) food preparation or cooking is carried out in premises (but not a home) for sale, and served, on the order of a customer, predominantly for immediate consumption on those premises; and
- (b) those premises are furnished or fitted with tables, counters, chairs, benches or like facilities designed or adapted for use in the service and consumption of food,

inclusive of any catering service provided from those same premises provided that service is ancillary or incidental.

#### *Examples*

Restaurant, café, bar or similar eating establishment.

2. A food business —

- (a) consisting of multi-unit premises for multiple food businesses in the form of stalls, and a shared area for the consumption of food sold by those food businesses; and
- (b) where food preparation or cooking is carried out by the proprietors of the respective businesses at their respective food stalls for sale, and served, on the order of a customer, predominantly for immediate consumption, in that shared area.

#### *Examples*

Food court, coffee shop, eating house, canteen or cafeteria.

3. A food business carried out as a stall comprised in a multi-unit premises described in item 2, where food preparation or cooking is carried out at the stall for sale, and served, on the order of a customer, predominantly for immediate consumption in the shared area provided in the multi-unit premises for the consumption of food.

#### *Examples*

Each cooked food stall within in a food court or coffee shop, where at least one of which is operated by a person who is not the proprietor of the food court or coffee shop.

4.—(1) A food business that involves —

- (a) preparing and packing in premises (but not a home); or
- (b) preparing, packing in and then delivering from premises (but not a home),

takeaway meals or ready-to-eat food, on the order of a customer for consumption away from the premises where the food was prepared and packed, inclusive of any catering service provided from those same premises provided that service is ancillary or incidental.

(2) In paragraph (1) —

“packing”, in relation to food, means packing the food in order to prepare it for sale;

“premises” —

(a) if a vehicle, means a vehicle which does have installed an adequate supply of continuous potable water at a volume and pressure to enable hygienic practice; and

(b) excludes premises which are food premises for a food business mentioned in item 5;

“ready-to-eat food” excludes fresh fruit or vegetables that are ordinarily intended to be hulled, peeled or washed by the consumer.

#### *Examples*

Bubble tea shop or sandwich kiosk, cut-fruits shop, fresh fruit juice shop but not a shop selling wholly prepacked food.

5. Selling food (even if prepacked), or such food and goods, in a public place from —

(a) any temporary food premises which are not part of a temporary fair; or

(b) a vehicle other than that covered in item 4,

being food or food and goods which are carried by the seller, or carried in or on the vehicle which the seller drives, rides, or walks beside and pushes, to the public place.

6. A food business involving —

(a) the preparation of meat products or fish products on premises (but not a home) for sale by retail on those premises;

(b) the selling on premises (but not a home) of raw meat or fish by retail; or

(c) the selling by retail of food on premises (but not a home) where the food —

(i) is made by combining ingredients on those premises, or is prepared on those premises;

(ii) is not ready-to-eat food; and

(iii) by its nature, is subject to spoilage or rapid bacterial growth.

#### *Examples*

A retail butcher shop or stall, retail fishmonger shop or stall, or a retail shop or stall selling fresh soybean curd which may be stuffed or unstuffed (but not the dessert), coconut grated on-site at the premises, or uncooked (but not dried) noodles, whether or not the shop or stall is located within a market.

7. A food business that is operating a market consisting of multiple food businesses, some or all of which are a food business described in item 6.

8. A food business that is or consists wholly or substantially of a catering service, where food is prepared and served to consumers of the food away from the food premises of the food business providing that service, under an agreement under which the food —

(a) is of a predetermined type;

(b) for a predetermined number of people;

(c) served at a predetermined time; and

(d) for a predetermined cost,

provided that the food business is not or does not consist of a food business in item 7 or 8 of Part 2 of this Schedule.

9. A food business involving selling by retail at premises any of the following food (whether or not also selling other food and goods) where the selection of the food and goods is organised on a self-serve basis:

- (a) meat products or fish products prepared on the premises for sale by retail on those premises;
- (b) raw meat or fish;
- (c) food that —
  - (i) is made by combining ingredients on those premises, or is prepared on those premises;
  - (ii) is not ready-to-eat food; and
  - (iii) by its nature, is subject to spoilage or rapid bacterial growth;
- (d) ready-to-eat food that —
  - (i) is made or cooked on those premises involving food preparation; or
  - (ii) by its nature, is subject to spoilage or rapid bacterial growth.

#### *Examples*

Supermarket with any raw meat or fish or any marinated cuts of meat available for sale.

10.—(1) A food business that sells, through any food vending machine —

- (a) food that is potentially hazardous; or
- (b) non-prepacked food that is the result of any the following processes by the machine:
  - (i) juicing of any fruit or vegetable or both;
  - (ii) cooking;
  - (iii) mixing or combining of ingredients, not all of which are prepacked.

(2) In paragraph (1), food is potentially hazardous if it is —

- (a) raw meat or a meat product; or
- (b) raw fish or a fish product.

11. A food business carried out as food stall in a temporary fair where food is prepared for sale, and may be served, on the order of a customer.

#### PART 2 — NON-RETAIL

1. A food business that involves any primary production activity other than —

- (a) the cultivation of —
  - (i) any plant which is not for sale;
  - (ii) any plant neither as food nor to produce food for human consumption; or
  - (iii) not more than 200 kilograms in a single month of fruits or vegetables, or both, by a method that does not involve the use of —
    - (A) any excreta (human or animal); or
    - (B) any plant pesticide to which Division 3 of Part 11 applies;
- (b) the cultivation of any edible plant for the primary purpose of the retail sale of the whole edible plant in a pot; or

- (c) the raising or producing of —
- (i) an animal which is not for sale; or
  - (ii) an animal that is neither a food producing animal nor an animal feed.
2. A food business that involves the manufacturing, processing or packing, of meat or fish, or meat products or fish products —
- (a) for the purpose of sale to any other food business (whether wholesale or retail and whether licensable or not); or
  - (b) for export.
3. A food business that involves the slaughtering of animals for meat, meat processing or other production of meat products.
4. A food business that involves any of the following activities for the purpose of sale to any other food business (whether wholesale or retail and whether licensable or not) or for export:
- (a) manufacturing of food (but not solely food additives);
  - (b) kneading;
  - (c) marinating or seasoning;
  - (d) smoking, dry aging or curing;
  - (e) mixing, crushing, grinding, blending or shredding;
  - (f) forming, shaping or wrapping;
  - (g) cell-based food production, using cell or tissue culture of animals, plants, micro-organisms, fungi or algae;
  - (h) retorting (including canning, high pressure processing, retort pasteurisation, retort sterilisation);
  - (i) extrusion;
  - (j) cold-pressing;
  - (k) cold brewing;
  - (l) adding food additives.
5. A food business engaged in storing meat or meat products, or fish or fish products (whether or not with other goods) for a fee or reward, in —
- (a) a reefer or a refrigerated container for intermodal freight transport or like equipment; or
  - (b) a cold-storage room or like premises, or a refrigerator, chiller or like equipment, which is designed or adapted for storing food in a low-temperature controlled environment,
- being food intended for sale to any other food business (whether wholesale or retail and whether licensable or not) or for export.
6. A food business that provides facilities, tools and equipment for hire to another food business to undertake any activities mentioned in item 4 for the purpose of selling food by retail, or selling food to any other food business (whether wholesale or retail and whether licensable or not) or for export.
7. A food business involving the operating of a commissary kitchen or centralised commercial kitchen where food is prepared and packed for another food business or for the same food business, to sell at premises other than those of the commissary kitchen or centralised commercial kitchen, for consumption at those other premises, but not such a food business providing food (whether or not for consideration) in the course of providing services —
- (a) to patients in hospitals, hospices and other residential care facilities like nursing homes;

- (b) to children or other individuals in the care or custody of the provider by virtue of any Act; or
- (c) to prisoners or inmates in prisons or other places for the detention of individuals under any Act.

8. A food business that is or consists wholly or substantially of a catering service, catering meals for passengers travelling on airlines or other passenger transport services.

EXPOSURE DRAFT

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## EXPLANATORY STATEMENT

This Bill seeks —

- (a) to consolidate and amend the law relating to food safety in connection with the production of primary produce, the supply of food and the provision of drinking water;
- (b) to improve food security in Singapore;
- (c) to promote the general public's health through better diet and nutrition; and
- (d) to make consequential and related amendments to certain other Acts.

Singapore's existing legislative framework for primary production activities, food safety, food security, trading in food and agri-food production inputs, and food business activities has developed over 50 years and is currently set out in 9 Acts, including the Price Control Act 1950, the Animals and Birds Act 1965, the Feeding Stuffs Act 1965, the Fisheries Act 1966, the Sale of Food Act 1973, the Environmental Public Health Act 1987 (Parts 4 and 9), the Control of Plants Act 1993, the Wholesome Meat and Fish Act 1999 and the Wildlife Act 1965.

While there is a robust system in place aimed at preventing and reducing foodborne illnesses, the several Acts that deal with similar subject matter with differences based on product-lines and markets presently form a complex web for the food industry to navigate and comply. The several overlapping powers and duplicative requirements may be imposing a regulatory burden which is disproportionate to the outcomes of preventing incidents of foodborne illnesses and mitigating the public health risks associated with the provision of food.

Next, food security issues are presently being addressed primarily through legislation with origins in the post-World War II years. These mechanisms are no longer fit for purpose in the face of growing trade volumes, consumption patterns, market volatility, and food supply chain risks which have widened beyond trading risks to cover financial system risks, climatic risks and risks of or from disease or pollution.

The Bill seeks to consolidate these laws so that there is a commodity neutral and improved legislative framework to regulate the agri-food supply chain (colloquially known as "farm to fork") from primary producers, through intermediary food processors to retailers such as supermarkets and food establishments, so as to minimise and manage the risks to human health with the ultimate individual consumer in mind, and to improve the food security situation in Singapore.

The Bill also seeks to avoid overlapping and duplicative requirements in the area of importing and rearing of food producing animals and the cultivation of edible plants.

The Bill therefore also repeals and replaces the Sale of Food Act 1973 and the Wholesome Meat and Fish Act 1999, and makes related amendments to the Animals and Birds Act 1965, the Feeding Stuffs Act 1965, the Fisheries Act 1966, the Environmental Public Health Act 1987, the Control of Plants Act 1993 and the Wildlife Act 1965. Other Acts will also be amended consequentially.

The Bill therefore contains provisions to better manage the public health risks associated with the provision of food, by —

- (a) increasing trader and food business accountability to source and produce safe food and to handle food safely;
- (b) expanding the range of regulatory tools to monitor and manage food safety risks, respond to lapses in meeting food safety requirements and improve incident response;
- (c) striking a better balance between securing public health and safety outcomes, regulatory effort and any burden imposed by the system of regulation and compliance costs for businesses;

- (d) establishing differentiated enforcement provisions that enable a calibrated approach to non-compliance and appropriate, proportionate and consistent enforcement;
- (e) improving the monitoring and management of new and emerging food safety risks (such as unconventional foods and outdated food) and activities beyond selling of food, like donating or distributing food, relying on science-based principles.

Part 1 introduces the fundamental concepts used in the Bill and sets out the purposes of the Bill.

Part 2 sets out measures specially directed at ensuring food security in Singapore. It is intended that through the schemes and exercise of powers under this Part, domestic food stocks and stocks of material essential to domestic food production can be maintained to meet domestic food needs and thereby increase Singapore's resilience during any future disruptions to the agri-food supply chain.

Part 3 regulates the trading in food, certain food contact articles, animal feed and other controlled items, contains offences relating to trading in such things, enables food and other controlled items to be held at the border where there is uncertainty about their fitness, and introduces record-keeping duties on importers to ensure that imported food and other import controlled items are traceable and can be recalled efficiently and effectively.

Part 4 deals with food businesses and sets out requirements on business operations of persons licensed to carry on licensable food businesses so that there are strict requirements that must be satisfied in relation to this regulated activity.

Part 5 deals with defined food and provides for pre-market approval for certain defined foods.

Part 6 sets out the requirements to ensure safe non-packaged drinking water.

Part 7 contains a range of measures directed at addressing food safety lapses which present or could present a danger and at mitigating biosecurity threats that undermine or could undermine food production in Singapore.

Part 8 sets out offences relating to food safety.

Part 9 covers health promotion initiatives and is under the administration of the Ministry of Health.

Part 10 sets out offences relating to marketing of food and regulated food contact articles.

Part 11 sets out requirements on use of plant pesticides and business operations of persons licensed to produce animal feed for food producing animals.

Part 12 contains provisions for appeals to be made to the Minister against decisions of the Agency or the Director-General, Food Administration under the Bill, except for Part 9.

Part 13 prescribes the monitoring and investigating powers needed for the proper administration of the Bill.

Part 14 is a general Part dealing with administrative matters, including the appointment of a Director-General, Food Security and a Director-General, Food Administration for the Bill.

Part 15 lays down the various types of subsidiary legislation which may be made under the Bill.

Part 16 contains general provisions and the power to grant exemptions.

Part 17 makes consequential and related amendments to other Acts. Together with the Second Schedule, Part 17 also contains final provisions on the repeal of certain Acts, and saving and transitional provisions.

## PART 1

### PRELIMINARY

Part 1 introduces the concepts and expressions used in the Bill and sets out the purposes of the Bill.

Clause 1 relates to the short title and commencement.

Clause 2 states the purposes of the Bill, namely —

- (a) to improve food security in Singapore through maintaining in Singapore a minimum quantity of stocks of certain foods and agri-food production inputs, and measures to mitigate the impact of agri-food supply chain disruptions on Singapore;
- (b) to increase production of primary produce on a sustainable basis in Singapore so as to contribute to food security in Singapore;
- (c) to ensure that food and drinking water in Singapore is safe for human consumption;
- (d) to improve traceability systems to enable food to be more efficiently and effectively recalled due to food safety concerns;
- (e) to ensure provision of adequate information relating to food to enable consumers to make informed choices and to prevent misleading conduct in connection with the supply of food;
- (f) to provide for the compliance of food imported with Singapore's food standards and requirements of public health and safety;
- (g) to ensure that food that is exported meet relevant importing country requirements to enable and maintain overseas market access for food exported from Singapore;
- (h) to minimise and manage the risks to human health in the production of primary produce arising from the use of plant pesticides and the manufacture of animal feed for sale; and
- (i) to support national nutritional standards and dietary recommendations directed at preventing diet-related non-communicable diseases among the general public or at promoting health and well-being at all ages.

Clause 3 contains definitions of terms used in several Parts of the Bill, and signposts references to expressions that are explained in Part 1 or defined elsewhere in the Bill.

Clauses 4 to 17 consist of definitions of key concepts grouped thematically. There are also provisions that explain certain other expressions otherwise than by means of definitions.

Clause 4 defines “food” for the purposes of the Bill.

Clause 5 defines “food business” for the purposes of the Bill. It means a business or an undertaking or activity that involves the production of primary produce, the handling food intended for supply or for export, or the supply of food, regardless of whether the business, undertaking or activity concerned is of a commercial, charitable or community nature. The clause further provides that an undertaking or activity is still a food business if it involves the handling or the supply of food on one occasion only.

Finally, as defined, a “food business” includes a food business carried out as a home business that is an occupation carried on by an individual within the individual's private residence.

The definition is also broader than the existing term in the Sale of Food Act 1973 as it includes primary production activities and an enterprise or activity that involves the handling of food intended for supply, not only sale.

Clause 6, together with the First Schedule, define what is a licensable food business for the purposes of the Bill. These are food businesses which are required to have a current food business licence to carry on the food business. The listing of food businesses in the First Schedule reflects a tiered regulatory approach where more stringent controls are imposed in Part 4 on these food businesses assessed as presenting higher risk.

The Bill therefore has a much more limited application to food businesses which are not licensable food businesses, for example, those whose activities pose a low or negligible risk to the public. However, proprietors of non-licensable food businesses will be required to handle food safely in accordance with the Bill.

Licensable food businesses in the First Schedule generally exclude home businesses. They may be retail in character (see Part 1 of the First Schedule, which covers businesses ranging from restaurants, certain supermarkets to takeaway kiosks) or non-retail (see Part 2 of the First Schedule, which covers

manufacturers, farms, abattoirs, and an operator of a commissary kitchen or centralised commercial kitchen).

However, a food business providing food (whether or not for consideration) in the course of providing services to patients in hospitals, hospices and other residential care facilities like nursing homes, to children or other individuals in the care or custody of the provider by virtue of any Act, or to prisoners or inmates in prisons or other places for the detention of individuals under any Act, are not licensable.

The First Schedule list is made up of food businesses which present a higher risk from the perspective of preventing and reducing foodborne illnesses. The list incorporates newer business models in the food industry.

For example, a food business that provides facilities, tools and equipment for hire to another food business to undertake any food preparation activities for the purpose of selling food by retail.

A licensable food business includes a food business that sells, through any food vending machine food that is potentially hazardous, or non-prepacked food that is the result of any the following processes by the machine:

- (a) juicing of any fruit or vegetable or both;
- (b) cooking;
- (c) mixing or combining of ingredients, not all of which are prepacked.

The food vending machine is food premises as defined in clause 3(1). The definition also tries to address recent technological developments in food vending machines, which are capable of driving itself or moving from point to point. However, productivity innovations like food delivery robots used to carry ready-to-eat or cooked food from the kitchen to the dining area would not be a vending machine.

The Minister is empowered to vary the list of licensable food businesses in the First Schedule by an order published in the *Gazette*. However, before amending the First Schedule with respect to any class of food business, the Minister has to take into account certain factors, which include —

- (d) the risk to public health and the need to prevent or reduce the possibility of a serious danger to public health if the class of food business is not specified in the First Schedule;
- (e) whether there are other sufficient safeguards under this Act or any other written law, or by other means, to minimise any risk to public health if the class of food business is not specified in the First Schedule;
- (f) the kind of food handled or likely to be handled, and the manner and scale of food handling, when carrying on the class of food business;
- (g) the components ordinarily operated as part of that class of food business; and
- (h) the type and number of ultimate consumers ordinarily sold or supplied food by or from the class of food businesses.

Clause 7 defines “publishing in Singapore” and “advertising” for the purposes of the Bill. The clause covers both traditional and non-traditional forms of advertising. The clause is of particular relevance to the marketing controls contained in Parts 9 and 10 of the Bill, where the offences involving non-compliant advertising are directed at ensuring food safety and at health promotion.

To “advertise” is defined as publishing, causing or authorising to be published, content in Singapore. Publishing in Singapore means communicating, distributing, or making available or making known, the content to the general public in Singapore.

Where content is made available, distributed or communicated in electronic or digital form using a social media service, telecommunication service (like SMS or MMS) or relevant electronic service (like an online instant messaging service or by email), the content is taken to be published in Singapore if it originates from point in Singapore or is between a point and one or more other points, where the first-mentioned point is outside Singapore and at least one of the other points is inside Singapore.

Clause 7 takes into account the developments in labelling and in digital marketing which have gone beyond advertising methods that the last set of amendments in 2017 to the Sale of Food Act 1973 could take into account.

For example, website marketing today that employs ‘user experience’ (UX) design to help induce customer purchases of a product. Then, there is social media marketing with its interactive elements mimicking communication which would ordinarily not be regarded as advertising, except that social media can include a business paying for advertising on social networks. Finally, there is search engine marketing, which seeks to increase business visibility on a search engine (such as Google or Bing) and therefore encourage or drive traffic to a product or business website. There is also search engine optimisation, which can ‘organically’ rank the business or product website higher in search results.

Clause 7 makes clear what newer digital methods of marketing constitute advertising for the purposes of the Bill.

However, to avoid overreach, some persons who engage in certain modes of digital communication on electronic services would not be treated as advertising.

Examples of persons are excluded are —

- (a) an individual food blogger who voluntarily and without reward posts his or her opinion about an eatery he or she just patronised or a food he or she just ate, would not be advertising about the food;
- (b) an individual forwarding or sharing, without reward, any online material produced entirely by another person, without altering the content;
- (c) a person providing a search engine service; and
- (d) 2 or more persons communicating content between themselves that is of a private or domestic nature.

Clause 8 defines “sell” and “supply” for the purposes of the Bill. These terms are used extensively in the Bill in connection with food, food contact articles and animal feed and apply in several offences in the Bill.

In addition to activities usually perceived as those of selling food, the Bill covers activities such as offering food as a prize, supplying a meal to staff, bartering or displaying with a view to sale, and giving food away for advertising purposes.

“Supply” is defined to encompass sale. It is wider and also includes donating or distributing.

Given the breadth of the definition of “sell”, a number of exclusions have been provided for in clause 8. The effect of excluding certain activities from the definition of “sell” or “supply” is to exclude those activities from the operation of the Bill.

The term “sell” does not apply to the preparation and supply of food at a private residence to a person employed at that residence, for example, preparing and supplying meals to a live-in domestic worker. The term “sell” also does not extend to the preparation and supply of food at a private residence for a fee, such as preparing and providing meals to a student or tenant boarding in that home.

Clause 9 defines the expression “handling” in relation to food for the purposes of the Bill

Clause 10 defines the expressions “manufacturing” and “preparing” of food for the purposes of the Bill. The clause lists certain activities that constitute manufacturing and preparing of food. Generally, preparing refers for activities in a retail setting. The clause therefore clarifies that “manufacturing” does not include certain activities, like preparing and packing sandwiches at a café for retail sale at the cafe.

Clause 11 defines the expression “unsuitable food” for the purposes of the Bill.

Like the present definition of “unsuitable” in section 2D of the Sale of Food Act 1973, the clause provides that food is unsuitable if, for example, it is damaged or deteriorated to such an extent that affects its reasonable intended use. For example, bulging canned food or mould on grapes or cherries.

However, clause 11 extends the meaning of “unsuitable” to cover outdated food and food containing an ingredient that is outdated food. The word “outdated” is defined in relation to the date marking requirements in subsidiary legislation to be made under the Bill.

Food is “outdated” if it is unused or not consumed within the period recommended by the manufacturer of the food, or before the end of the period that is required by the date marking requirement in those subsidiary legislation.

The clause provides greater clarity to one of the limbs of the present definition, which refers to food containing “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”

Clause 11 makes explicit that food is unsuitable if it contains a food production substance which is not an approved food production substance for that food, or contains an approved food production substance at a greater level than permitted under the standards where a maximum level is so prescribed for that food production substance. An example of a food production substance is a food additive or veterinary drugs or its residue.

Food is also unsuitable if contains a proscribed contaminant or any residue of a proscribed contaminant, or a restricted contaminant at a greater level than permitted under the standards where a maximum level is so prescribed for that restricted contaminant. A contaminant is a substance not intentionally added to the food but is present in the food as a result of its manufacture or preparation or production if the food is primary produce, or its transport or the environment. An example of a contaminant is mercury, which accumulates in fish as a result of absorption from the water.

Finally, the clause defines food as unsuitable if contains any thing which is inedible, or is otherwise alien to the particular food. For example, food containing inedible, non-sharp materials like hair, human nail clippings, rubber bands, plasters or paper. The consumer is unlikely to fall ill if it is swallowed and will likely find the thing first before consuming it, being inedible.

If a matter in food has a potential to cause physical harm when the food is consumed, like a porcelain chip, staple, metal wire and other sharp object, the food would be unsafe by definition.

Clause 12 defines the expression “unsafe” as it relates to “unsafe food” for the purposes of the Bill. The definition is substantially unchanged from the definition of “unsafe” in section 2C of the Sale of Food Act 1973. Basically, food is unsafe if it would be likely to cause illness or injury or other physical harm to a person who might later consume it.

This definition takes into account what happens after a consumer buys or acquires food. For example, if a person who bought raw meat and then left it unrefrigerated for an extended period, the raw meat would not be unsafe when sold. Also, food is not “unsafe” just because it may cause an adverse reaction to a minority of persons.

Clause 13 defines the expression “defined food” for the purposes of the Bill. This expression covers the range of food which is of higher regulatory concern, and the lawful supply of which in Singapore for human consumption as food will require prior approval.

There are 3 categories of defined foods. They are —

- (a) novel food;
- (b) genetically modified food; and
- (c) insect-like species as food. These are a form of animal life within the biological classification Insecta, Arachnida, Myriapoda or Clitellata, and includes an insect-like species at a particular stage of its development, like the larvae or pupae.

Of the 3 categories of defined food, insect-like species that are edible are defined food until they are declared by subsidiary legislation to be a catalogued insect-like species.

The subsidiary legislation is to be made by the Agency under clause 13(2) with the Minister’s approval. The subsidiary legislation may be made only where the Agency is satisfied that the insect-

like species is no longer of higher regulatory concern. The list of catalogued insect-like species can expand or reduce over time by changes to the subsidiary legislation. This is envisaged to be a positive list.

Unless it is catalogued, an insect-like species, even if edible, cannot be imported supplied for human consumption in Singapore; see Part 5.

However, food that just contains an unapproved insect that is not a catalogued insect-like species (or part of such an insect) is not defined food. For example, a plate of chicken rice with a black soldier fly would be considered “unsuitable”, as the fly is alien to that particular food. To be defined food, the edible insect-like species has to be, consists of or has as an ingredient the insect-like species.

Insects for animal feed purposes, such as black soldier fly larvae, will not be catalogued but will be treated as animal feed for live food producing animals and the rearing and production of feed from these insects will be regulated separately via a licensing framework for the production of animal feed.

The other 2 categories of defined food viz. novel food and genetically modified food, remain defined foods until the Agency grants pre-market approval under Part 5 of the Bill. Pre-market approval is granted on application and is case-specific.

The term “genetically modified food” is defined by clause 13(3) to mean a food coming from an organism that has been altered using certain techniques, such that the resulting organism contains a combination of heritable genetic material that could not have occurred naturally or could not have been produced by traditional breeding and selection. Those techniques are —

- (a) in vitro nucleic acid techniques, including recombinant nucleic acids and direct injection of nucleic acid into cells or organelles;
- (b) fusion of cells beyond the taxonomic family.

Any food that is, consists of or has an ingredient, an insect-like species which has been so altered will be treated as genetically modified food. If the insect-like species has not been so altered, the food remains defined food until the insect-like species is a catalogued insect-like species.

The expression “novel food” is defined to mean one of the following:

- (a) a substance (which may consist of, be isolated from or produced from, cell culture or tissue culture derived from animals, plants, micro-organisms, fungi or algae) that has not been used to a significant degree as food for a period of at least 20 years, whether within or outside Singapore;
- (b) a food that has been manufactured, prepared or preserved by a process that has not been previously used in food production for a period of at least 20 years, whether within or outside Singapore;
- (c) a food consisting of, isolated from or produced from material of mineral origin; or
- (d) a food that contains or consists of engineered nanomaterials

Food that is, consists of or has as an ingredient an insect-like species in any form is not novel food.

The policy intention is to take into account the history of consumption as food anywhere in the world, when determining whether or not food is novel food.

Clause 14 defines the expression “primary produce” for the purposes of the Bill, and defines when primary produce is unsafe.

Clause 15 defines the expression “primary production activity” for the purposes of the Bill.

Clause 16 defines the expression “animal feed” for the purposes of the Bill, and the circumstances where animal feed is not fit for purpose.

Unlike the definition in the Feeding Stuffs Act 1965, “animal feed” is defined for the purposes of the Bill to mean a live animal, or a material or a mix of materials (whether processed, semi-processed

or raw), which is intended to be fed directly to any food producing animal. A feed additive is included in the definition of “animal feed”.

However, “animal feed” for the purposes of the Bill excludes pet food. Pet food continues as the subject of regulation under the amended Feeding Stuffs Act 1965; see Division 6 of Part 16.

Clause 17 deals with the concept of “associate”, which is relevant in the licensing provisions in Parts 3, 4 and 10.

As defined in the Bill, a person is an associate of another if the person is the spouse or relative of the other. Being an employer or employee of another or being in partnership with another also makes the person an associate of the other. The Minister may make An applicant may be refused a licence if the applicant has an associate who is disqualified from holding the licence applied for.

## PART 2

### STRENGTHENING RESILIENCE OF FOOD SUPPLIES IN SINGAPORE

This Part consists of 4 divisions aimed at improving Singapore’s resiliency to agri-food supply chain disruptions (which could include events such as natural disasters or disruptions to international markets). The measures in Part 2 will be complemented by other requirements in the Bill aimed at addressing the potential impact of disruptive events.

Division 1 contains an interpretive provision. Clause 18 explains the definitions of terms used only or mainly in Part 2.

Clause 18(1) defines the term “agri-food supply chain”, and the persons in it, called an “agri-food supply chain participant”. The latter is a key term used in Part 2 because such a participant can become subject to the information obligations in Part 2.

The agri-food supply chain may be colloquially known as “farm to fork”, from primary producers, through intermediary food processors to retailers such as supermarkets and ultimately individual consumers. The products in the agri-food supply chain include any plant products grown (cereals, fruit and vegetables) as well as animal products for consumption (meat, dairy, eggs) including plant and animal products taken from the wild (for example, truffles and venison).

An “agri-food supply chain participant” is defined to mean an ultimate consumer, any person engaged in the production of primary produce, any person engaged in taking any animal, plant (which includes fungi) or other thing from the wild for the purposes of human or animal consumption, and any person in the supply chain between the ultimate consumers and persons earlier mentioned.

Clause 18(1) also defines the term “minimum stockholding requirement” (or “MSR”, for short). The MSR is promote the resilience of essential food supplies and agri-food production inputs by requiring certain industry participants to hold a certain level of such foods or agri-food production inputs in Singapore to mitigate the risk of agri-food supply chain disruptions.

There is also a definition of “food security factors” in clause 18(1), which is defined to mean all of the following:

- (a) global food availability;
- (b) supply sources for food, including the range of supply sources and the availability to the ultimate consumers of food from local and other sources;
- (c) the resilience of the agri-food supply chain in response to natural or man-made disasters, climate change, severe disturbances in agricultural markets and other disruptions in the supply of food;
- (d) food safety and consumer confidence in food.

These food security factors are among the criteria for decision-making before imposing MSR and in fixing the MSR quantity.

Another common expression used in Part 2 in connection with entities is “subject to a minimum stockholding requirement”. This is defined to refer to an entity that has triggered the minimum stockholding requirement.

The Director-General, Food Security is responsible for the administration of Part 2 and is vested with powers under the Part. He or she will be supported by food security officers appointed under clause 271. The term “Director-General, Food Security” is defined in clause 3(1) to mean an individual appointed by the Minister under clause 274.

Most powers in Part 2, which are vested in the Director-General, Food Security, are delegable to food security officers. The exception are powers in clauses 23, 24, 27 or 32. These are exercisable either by the Director-General, Food Security personally or by food security officers in the name of the Director-General, Food Security, only. The latter food security officers must be specially chosen by the Director-General, Food Security.

Division 2 relates to the MSR. The Division contains 13 clauses, which altogether establish an obligation for entities (not individuals) that undertake certain activities (like importing and manufacturing) in relation to certain food and agri-food production inputs to hold a minimum quantity of those foods or agri-food production inputs in Singapore, so that nationally there are stocks thereof.

Clause 19 defines what the MSR is.

It is basically an obligation on an entity that is made subject to the requirement (called an MSR entity) in relation to an MSR product to hold at least a quantity of stocks of the MSR product designated for the entity. The obligation operates at 2 different points in time:

- (a) each day (called the daily MSR), where the holding must be at least the quantity of stock of the MSR product set in a trigger notice;
- (b) for each relevant period, where the average holding of the MSR product in that period must be at least the average quantity of stock of the MSR product set in a trigger notice (called the average MSR).

The daily MSR and the average MSR quantities will be set out in a trigger notice given to the MSR entity. The level is intended to mitigate the impact of supply disruptions in the kind of food or agri-food production input.

Any increase in the price of an MSR product because of the daily MSR and average MSR would be offset by consumers benefitting from having a resilient agri-food supply that is robust enough to respond to disruptions should they occur.

Under the scheme, it is possible for an MSR entity to be given more than one trigger notice for different MSR products.

An “MSR product” is defined in clause 18(1) to mean —

- (a) any food that is prescribed by the Minister by the Part 2 Rules, to be an MSR product; or
- (b) any agri-food production input that is prescribed by the Minister by the Part 2 Rules, to be an MSR product.

Clause 3(1) defines “agri-food production input” broadly to cover all forms of substances used in agriculture or aquaculture to improve growth, including fertiliser. Among the other items listed as agri-food production input are plant pesticide, any seed, spore, bulb, root, cutting or other part of a plant from which plants grow or further plants grow or veterinary biologics, or vaccines, antitoxins or other preparations made from living organisms, which are suitable for use in diagnosing, treating or immunising animals.

Clause 20 states that the quantity of stocks of MSR product which an MSR entity has to hold on daily is the quantity specified in the trigger notice under clause 23 in force for the day that was given to the MSR entity and in relation to that MSR product.

Clause 20 also states that the average MSR for an MSR product designated for an entity for a relevant period applicable to the entity, is the quantity that is worked out in accordance with a formula in clause 23(3) for the relevant period and the entity. The quantity of average MSR must also be specified in the trigger notice given to the entity in relation to that MSR product.

The relevant period will be set at a particular frequency (but at least one month) as determined by the Director-General, Food Security according to principles set out in rules made by the Minister.

The trigger notice may express the quantity in terms of a specific amount, or a formula or rate by which the amount is to be worked out. The quantity of MSR product for each entity will be fixed by the Director-General, Food Security having regard to food security factors and other factors as outlined in clause 25.

Clause 21 sets out what it means to hold stocks, and where and when holding an MSR product can or cannot be counted towards meeting an entity's MSR. This is because importers, manufacturers and other participants in the agri-food supply chain use a variety of arrangements for holding and accessing food and agri-food production inputs.

Under clause 21(2), the entity that owns the stocks which are stored in Singapore by the entity or by another entity, and no other entity is the holder of the stocks by virtue of that clause 21 is treated as the holder of those stocks.

Under clause 21(2) only stocks stored in Singapore are countable. The limitation to stocks stored in Singapore is intentional so as to ensure counting only of stocks that can reasonably be considered to improve food security in the unlikely event of no imports under limited conditions.

Under clause 18(2), stocks are stored in Singapore if they are on land, or if they are on a vessel in a port in Singapore, waiting to enter a port in Singapore.

There is also power for the Minister to make rules prescribing additional circumstances where the storage of a food or agri-food production input would be taken to fall within the meaning of stored in Singapore. For example, stocks held privately may include stocks held at a dormitory facility for use in the operation of that facility. For now, these are excluded but it may be appropriate for these stocks to count towards meeting an entity's MSR in future.

However, if more than one entity would be the holder of the same stock of MSR product, clause 21(2) requires that which of those entities is the holder of the stock, and the share of the stock each entity is the holder of, must be as agreed between the entities. In the absence of any such agreement, the Director-General, Food Security must determine the issue in accordance with the method prescribed by the Minister in the Part 2 Rules. The complexity and changing nature of these arrangements means these details are appropriately dealt with in rules.

Joint ventures between entities can give rise to uncertainties as to which entity is the holder of an MSR product, clause 21(3) seeks to ensure MSR products in Singapore are only counted once for the purposes of the MSR scheme and not double counted. Clause 21 is not intended to capture the effects of mortgages and other security interests.

Finally, clause 21(1) states that if the stocks stored in Singapore are being used exclusively for the Singapore Armed Forces or armed visiting forces of a foreign country, then these stocks are not countable towards meeting an entity's MSR as they do not improve domestic food security and confidence in domestic food supplies, having been already been allocated for other purposes.

Likewise, stocks that are being used for private or household domestic consumption are also excluded by clause 21(1) as these would never be large enough to matter for food security, and it would be challenging to monitor for compliance purposes. For the same reason, any stocks being stored in a seagoing vessel for the consumption of crew or passengers and any stock in or both are also not countable towards meeting an entity's MSR.

Also not counted are stock of food that is an MSR product which is unsuitable, unsafe or a defined food.

Clause 22 provides for the conditions which, if met, means an entity will be subject to the MSR. The conditions are if the Director-General, Food Security has given a trigger notice under clause 23 to the entity that the MSR has been triggered in relation to an MSR product and the entity has not stopped engaging in all MSR activities in relation the MSR product.

Clause 22(2) covers the conditions where the Director-General, Food Security has made a determination under clause 27 to deal with circumstances where entities have split, merged or been acquired, and the stocks of MSR products are transferred between entities.

Clause 23 provides the conditions which, if met, empowers the Director-General, Food Security to give an entity a trigger notice that will trigger the MSR for the entity in relation to an MSR product stated in the trigger notice.

A trigger notice in relation to an MSR product may be given —

- (a) only to an entity which is an agri-food supply chain participant in relation to the MSR product; and
- (b) only if the entity, during a period prescribed by the Part 2 Rules made by the Minister, undertakes an MSR activity in relation to the MSR product and in doing so, the entity exceeds the quantity prescribed by the Part 2 Rules for undertaking the MSR activity in relation to that MSR product.

The threshold in MSR activity involving an MSR product is to ensure that the MSR scheme binds entities that could significantly affect domestic levels of food or agri-food production inputs. It is also for this reason that a trigger notice can never be given to an ultimate consumer.

Clause 18(1) defines “MSR activity”, which must relate to an identified MSR product. The activity must be one undertaken in the course of business and involving an MSR product.

That can be importing an MSR product or manufacturing the MSR product, or some other activity, where prescribed by the Part 2 Rules made by the Minister in relation to the MSR product. The definition needs to be elaborated upon by subsidiary legislation because there could be significant changes to agri-food supply chains, which may necessitate expanding who should be made an MSR entity subject to a trigger notice.

Every trigger notice must specify the quantity of stocks of the MSR product the MSR entity given the trigger notice must hold on the relevant days for which the notice is in force, and the place or places in Singapore where those stocks must be held.

Those places may be a space at a centralised storage facility made available by the Government, or at the MSR entity’s own warehouses. To meet this obligation to hold MSR products onshore, it is expected that some MSR entities may need to change the way they manage their stock to reduce fluctuations in their stock levels.

The trigger notice stating the quantity of stocks of MSR product remains in force for the relevant days occurring from the day the trigger notice comes into force and the day before a subsequent trigger notice regarding the same MSR product comes into force.

A trigger notice comes into force at least 6 months after the day the notice is given. This ensures an MSR entity is advised, at least 6 months in advance of the compliance period, the amount of MSR stock it will be required to hold on the particular relevant days. This is included to ensure MSR entities have sufficient time to prepare and vary any of their stock levels as required to meet the upcoming MSR compliance period.

Clause 23 does not fix the method of calculating the quantity. The Director-General, Food Security is vested with the discretion to determine the MSR quantity after taking into account these factors outlined in clause 23(7):

- (a) the food security factors;
- (b) the need to enhance resilience of the agri-food supply chain for Singapore;

- (c) local eating patterns and preferences;
- (d) local food production capacity.

An MSR entity which is given a trigger notice may appeal against the notice to the Minister, under Part 11.

Clause 24 sets out when an entity ceases to be subject to the MSR in relation to an MSR product. This can occur where the Director-General, Food Security is satisfied that the entity has permanently or indefinitely stopped undertaking all MSR activities in relation that MSR product and the Director-General, Food Security cancels the trigger notice given to the entity.

Clause 25 sets out the criteria by which the Director-General, Food Security has to apply

- (a) in deciding whether or not to give a trigger notice under clause 23;
- (b) in determining under clause 23(3) the total minimum quantity of stocks of an MSR product that an entity must hold during a relevant period; or
- (c) in determining under clause 23(5) the quantity or average of stocks of MSR product to be specified in a trigger notice.

Those criteria are the food security factors (which is defined in clause 3(1)), the need to enhance resilience of the agri-food supply chain for Singapore, local eating patterns and preferences, and local food production capacity.

Clause 26 deals with a situation where the MSR may be temporarily suspended by the Minister in relation to a specified MSR product for a period (not exceeding 6 months). The suspension has to be by legislative instrument by an order in the *Gazette*, because this is tantamount to temporarily cancelling the effect of clause 19 enacted by the Legislature.

The suspension may be ordered only if both conditions below are met:

- (a) there is a disruptive event which directly affects the supply of the MSR product in Singapore occurring or which has occurred, or a threat of such a disruptive event;
- (b) the suspension under this section is necessary to substantially prevent or substantially assist in mitigating the impact of the disruptive event, or the threatened disruptive event, on the supply of the MSR product in Singapore.

Clause 27 covers circumstances where entities have split, merged or been acquired. The Director-General, Food Security will need to make a determination under clause 27 regarding the MSR product quantity that will be transferred between entities. This aims to ensure MSR stock levels are not significantly impacted when mergers or acquisitions occur, to protect domestic food security.

Clause 28 imposes reporting obligations on an MSR entity in relation to an MSR product. This is to support food security planning by the Director-General, Food Security since there is no advance notice of when a key MSR entity might stop engaging in the essential business, even if the MSR entity may be licensed under Parts 3 or 4 of the Bill.

An MSR entity has to give the Director-General, Food Security a written advice in advance if the entity intends to do any one of the following:

- (a) to undertake another MSR activity in relation to the same MSR product;
- (b) to permanently or indefinitely cease undertaking an MSR activity in relation to the same MSR product;
- (c) to cease undertaking an MSR activity in relation to the same MSR product in any other circumstances.

The advance period will be specified in the Part 2 Rules made by the Minister.

The advance advice has to be in writing, and at a minimum, must contain details of the situation to which the advice relates, and set out any matters that might affect the entity's capacity to meet the minimum stockholding requirement in relation to an MSR product.

An MSR entity that intentionally or negligently contravenes this obligation shall be guilty of an offence. Failure to comply with this reporting obligation would likely result in inaccurate and misleading data that leads to errors in calculating the appropriate level of in-country stocks and the MSR for different entities and MSR products and has the potential to seriously undermine the integrity of the MSR scheme.

Clause 29 deals with the immediate consequences if an MSR entity does not meet the average MSR set for an MSR product under clause 20(b) (which requires the MSR entity to hold in Singapore a minimum average quantity of MSR product in the relevant period).

Clause 29 makes the MSR entity in default of the average MSR for a relevant month liable to pay the Director-General, Food Security an MSR charge. The MSR charge is an amount calculated by applying a multiplier prescribed by the Part 2 Rules to the MSR product shortfall for the relevant period. The MSR charge must be paid to the Director-General, Food Security not later than the 14th day after the written demand is given.

Clause 30 deals with the immediate consequences if an MSR entity does not meet the daily MSR set for an MSR product under clause 20(a) (which requires the MSR entity to hold in Singapore a minimum level of MSR products each day).

Clause 30 makes the MSR entity in default of the MSR liable to pay the Director-General, Food Security an MSR charge. The MSR charge is an amount calculated by applying a multiplier prescribed by the Part 2 Rules to the MSR product shortfall for the relevant day. The MSR charge must be paid to the Director-General, Food Security not later than the 14th day after the written demand is given.

An MSR entity may find itself liable to pay an MSR charge for defaulting on the average MSR for a relevant period even though the entity meets the daily MSR throughout the same relevant period. Alternatively, an MSR entity may find itself liable to pay an MSR charge for defaulting on the daily MSR for any day in a relevant period and not accrue any liability for not meeting the average MSR for the relevant period that day falls within.

It is also plausible for an MSR entity to find itself liable to pay 2 MSR charges for defaulting on the average MSR and the daily MSR.

Clause 31 is about the offence of contravening the daily MSR in clause 20(a)(which requires an MSR entity to hold in Singapore a minimum level of MSR products on each day).

The offence is committed by an MSR entity if the entity intentionally or recklessly does not hold at least the quantity of stocks of the MSR product designated for the entity on the relevant day.

The maximum penalty reflects the seriousness of the contravening conduct and the risk that the conduct may pose to Singapore's food security. For a criminal breach of the daily MSR, the total maximum penalty is a fine not exceeding \$25,000 or, an amount that is calculated according to clause 31, if higher.

To determine that amount of maximum fine, Clause 31 provides a formula using a multiplier prescribed in the Part 2 Rules which will be greater than that prescribed in clause 30 for the MSR charge.

Division 3 consists of 5 provisions dealing with the obligation on agri-food supply chain participants and those closely connected with an agri-food supply chain to provide information on request to the Director-General, Food Security. The scope of subject matter may extend beyond food and agri-food production inputs as defined in the Bill. The veracity and accuracy of such data will also be crucial to the integrity of the proposed MSR scheme in Division 2.

Clause 32 empowers the Director-General, Food Security to require a person who is an agri-food supply chain participant, or who is closely connected with an agri-food supply chain, to provide information to the Director-General, Food Security, within a reasonable period specified in that

requirement. The person need not be subject to an MSR requirement but must come within a class of persons prescribed by the Part 2 Rules for the purposes of this section.

These requirements will allow the Director-General, Food Security to collect more detailed information on different food and agri-food production input stocks at national levels, international supply chains, and contingency arrangements. This will allow for a more accurate assessment of Singapore's food resilience, help identify opportunities to improve food resilience, and monitor compliance with the proposed average MSR and daily MSR.

Clause 32(2) defines which persons are considered to be "closely connected" with an agri-food supply chain. This will include those persons (individuals and companies) providing either goods or services for use in the agri-food supply chain. In relation to animal products, this will include (but is not limited to) veterinarians and any other persons providing animal health or welfare services, abattoirs and cattle markets. This category will also include those who supply inputs to the practice of agriculture, such as feed and fertiliser merchants, machinery merchants and those who supply general primary production equipment.

Clause 32(2) also extends to any person performing activities capable of affecting activities in the agri-food supply chain. This may include, for example, persons keeping animals (such as those in zoos, or hobby chickens) where those animals could be a risk to, or at risk from, animals in the food chain in the event of a disease incursion or outbreak. This is just one example of how a person could be "closely connected" with the agri-food supply chain.

Excluded from clause 32 are individuals in an agri-food supply chain so far as they are in the agri-food supply chain by reason of them, or members of their households, being the ultimate consumers.

Clause 33 sets out what information may be required under clause 32.

The information required has to be about matters connected with a person's activities connected with the agri-food supply chain so far as the activities are in or relate to Singapore, and which are within the knowledge of the person to whom a requirement under clause 32 is given or are in the custody or under the control of that person.

It is therefore a defence to a charge of not providing information if the information required under clause 32 are beyond the control or knowledge of the agri-food supply chain participant, or person who is closely connected with an agri-food supply chain.

The information has also to be required under clause 32 for certain purposes only. These are information that the Director-General, Food Security considers necessary —

- (a) to determine whether to declare a food or agri-food production input an MSR product or an MSR activity for an MSR product and about holdings of MSR products. For example, an MSR entity may be required to update changes in the location of their holdings of an MSR product;
- (b) to determine whether there are grounds to give a trigger notice, or to reduce the MSR for an MSR entity temporarily or otherwise, or other power under any provision of the Bill directed at mitigating the impact on Singapore of agri-food supply chain disruptions or the impact of disruptive events on the supply of food and agri-food production inputs in Singapore;
- (c) to monitor or analyse markets connected to agri-food supply chains. This may include general commodity price levels or sectoral output statistics, which can be used to inform the use of food security measures under the Bill; and
- (d) to monitor the resilience of the agri-food supply chain in response to natural or man-made disasters, climate change, severe disturbances in agricultural markets and other disruptions in the supply of food and agri-food production inputs.

Finally, the information requirement imposed on a person under clause 32 does not apply to so much of the information as the person would in legal proceedings be entitled to refuse to provide on grounds of legal privilege.

Clause 34 states that every clause 32 requirement for information must specify the purposes behind the request the data. The purposes for which information may be required must be in, or be included within, at least one of the purposes stated in clause 33.

Clause 34 also sets out other requirements that a written clause 32 requirement must satisfy to be properly given. These are largely procedural requirements as to form in and time by which information is to be provided and that the failure to meet the clause 32 requirement is an offence.

Clause 35 imposes a statutory restriction on disclosure of information collected by virtue of a requirement under clause 32 to persons outside of the Singapore public sector. This does not limit the general permissibility of sharing of data within the Singapore public sector, as authorised under the Public Sector (Governance) Act 2018.

If any information provided in response to a clause 32 requirement is proposed to be disclosed to the general public or to a person who is not another Singapore public sector agency, the information must be disclosed only in an anonymised form.

Clause 36 sets out the offence of not providing the information required under clause 32 or not providing the information in a timely manner. The offence of providing information which is false is dealt with separately in Part 13.

The offence is necessary because failure to comply with the information reporting obligation under clause 32 would likely result in inaccurate and misleading data leading to errors in food security planning.

Clause 36 also provides that a person asked to give information to the Director-General, Food Security pursuant to a clause 32 requirement does not have a defence that doing so is a breach by the person of a duty of confidentiality or privacy under any written law, any rule of law, any contract or any rule of professional conduct. Clause 258 confers immunity on the person if the person gives the information in good faith in compliance with the requirement under clause 32. The obligation to give information to the Director-General, Food Security pursuant to a clause 32 requirement does not override the privilege against self-incrimination.

Division 4 consists of 5 provisions dealing with general matters.

The vast majority of entities liable to pay the MSR charge are likely to pay their liabilities without problem or delay, guided by the information sent by the Director-General, Food Security in the trigger notice and written demand under clause 29 or 30, as the case may be. However, where there are problems in collecting the MSR charge, it is important that the Director-General, Food Security has the means to penalise late payment and recover the amounts in arrears.

Clause 37 provides that if any MSR charge is not paid before the end of the time delimited for payment by or under clause 29 or 30, interest at the rate prescribed by the Part 2 Rules (made under clause 40) of the amount unpaid, is payable by the MSR entity to the Director-General, Food Security.

Clause 38 requires all MSR charges and late payment interest collected and recovered under the Bill, to be paid into the Consolidated Fund. Clause 38 further deems any MSR charge, when it becomes due and payable, to be a debt due to the Government. Any MSR charge and late payment interest that is unpaid may therefore be recovered as a debt in any court of competent jurisdiction by the Agency.

Clause 39 empowers the Minister to remit, in whole or part, any MSR charge accrued under clause 29 or 30 and any late payment interest imposed under clause 37, where the Minister is satisfied of certain conditions. These are —

- (a) that payment of any MSR charge payable is likely to cause substantial hardship to a entity; or
- (b) that payment of any MSR charge payable by a particular entity is not compatible with the purposes of this Part having regard to the peculiar facts of the case,

Clause 40 empowers the Minister to make rules (called the Part 2 Rules) for the purposes of Part 2.

The Part 2 Rules may prescribe requirements in respect of legally enforceable arrangements to provide clarity to MSR entities and the Director-General, Food Security for the purposes of clause 21.

It is intended that the Rules will help avoid incorporating any arrangements, such as security interests in the stocks, that are not intended to make to the holder of the security a holder of the stocks for the purposes of this Division.

The Part 2 Rules may prescribe a method that determines how MSR products can be counted towards meeting an entity's MSR if more than one entity owns the stock, and the conditions for when entities are considered to be holders of the stocks, or the holder of a proportion of stocks. Having this addressed by Rules allows flexibility to consult with the industry and to adjust if required because of new ownership arrangements adopted by the industry.

The Part 2 Rules may also contain procedures that an MSR entity must comply with, in order to ensure that the MSR product the entity is required to hold does not become unsafe or unsuitable when held. This extends to requirements as to the manner of storage, and the maximum length of holding of the MSR product before supplying it in Singapore. The Part 2 Rules may also contain surveillance requirements in relation to the MSR product, so that it is secure from loss, theft, sabotage or unauthorised access.

Clause 41 is a saving and transitional provision aimed at preserving and transferring the present stockholding arrangements under the Price Control Act 1950 as regards rice to the MSR scheme that is in Division 2 of Part 2.

Broadly, an entity that is granted a licence to import under the Price Control Act 1950 will be given a trigger notice and thus continue with immediate effect as being subject to an MSR requirement. Whether a licence to import is also granted under the Bill to the entity is immaterial. Unlike persons first given a trigger notice after Part 2 comes into force, those given a trigger notice under the transitional arrangements will not have a right of appeal against the trigger notice. This is to ensure a seamless transition from the scheme under the Price Control Act 1950 to the Bill.

### PART 3

#### IMPORT, EXPORT AND TRANSHIPMENT

Singapore imports most of its food today. Food importers today must make sure that the food they are planning to import is safe and suitable and fit for human consumption, and there are systems in place for border testing of food imports. There are requirements to ensure so far as is practicable that all imported animal feed for food producing animals in Singapore are fit for their intended purpose.

The regulation of foods for export by Singapore's Government is a prerequisite for the acceptance of those foods by importing countries. Singapore's existing legislative framework for food and certification of food exports has developed over 35 years across commodity specific lines across 3 different Acts.

However, today's regulatory systems differ according to the food imported, depending on the provisions in the Animals and Birds Act 1965, the Control of Plants Act 1999 or the Wholesome Meat and Fish Act 1999. Penalties for offences involving foods of animal origin are apparently higher because of their greater potential to transfer animal diseases, harmful organisms, chemical residues, or other contaminants. The import of animal feed for all animals is presently regulated under the Feeding Stuffs Act 1965 and the Animals and Birds Act 1965, which is duplicatory.

Furthermore, increasing globalisation of food supply and increasingly complex supply chains have made it harder to manage imported food safety risks. Local consumer tastes have risen regarding food and the increased imports of a wider range of food further raise the risk of foodborne disease. The daily volume of trade here makes impracticable maintaining as a primary enforcement approach, that of relying on inspection of the incoming and outgoing consignments to detect point-in-time defaults.

Only a small portion of food in a lot can be tested and a negative result does not guarantee that the entire lot is safe. When food is tested or the presence of foodborne pathogens and certain kinds of chemical hazards, these may not be evenly distributed throughout a food lot or consignment. For some foodborne pathogens and hazards, there are no practical tests that can be applied at the border (for example, it is difficult to test for viruses in foods such as norovirus and hepatitis A virus).

Border testing alone is also increasingly recognised among many countries as not enough to provide assurance of a food's safety; internationally, many countries are moving toward requiring preventative controls throughout the supply chain to manage imported food safety risks.

Recognising that some foods will scientifically present a greater risk to consumers and public health, Part 3 will enable import inspection schemes (which are regulations) to be established, identifying foods and other controlled items which require prior clearance for import or export, what is needed for this clearance and which are monitored via different levels of inspection for specific hazards. This seeks to reduce administrative burden on compliant licensees and enable faster clearance at the border through better targeting and a focus on higher risk commodities and licensee conduct.

The controlled items which require clearance and/or prior inspection are termed "examinable matter" in clause 42(1).

For the types of food where at-border testing alone is insufficient to provide assurance of food safety, Part 3 will require traders to provide assurance of food safety as part of the applicable standards which must be met. Among the newer standards required is evidence from importers to demonstrate that they have effective food safety controls in place throughout their supply chain.

In line with current practice, other items may also be imported under a foreign government certification arrangement, where the Agency can unilaterally or through mutual agreements with another national competent authority of a country exporting food to Singapore, recognise their food safety certifications as adequate for the purposes of the Bill. Consignments of import controlled items accompanied by a recognised foreign government certificate may be inspected and tested at a reduced rate, thereby helping minimise delays in border clearance.

Recognised government certification is not new and is currently mandatory for meat and meat products.

The Bill will require the integrity of controlled items imported, exported or transhipped as well as the accuracy of descriptions and official marks that are applied to them.

In essence, Part 3 will require food importers to source safe and suitable food, keep the food safe during storage and transportation, keep good records and have procedures in place to recall food if it is unsafe or unsuitable, or becomes unsafe or unsuitable. Likewise for other import controlled items like animal feed.

Part 3 comprises 7 Divisions, which regulate the import, export and transhipment of controlled items, contains offences relating to trading in controlled items, enables food and other controlled items to be held at the border where there is uncertainty about their fitness, and imposes record-keeping duties on food importers so that they have the ability to trade food imported one step forwards and step backwards.

Division 1 consists of 3 interpretive provisions.

Clause 42 contains definitions which are used exclusively or principally in Part 3. A key concept is that of controlled items, as trading in these are regulated. There are 3 groups of controlled items.

Import controlled items is the largest range viz. any food (except a food additive as such), a prepacked food additive preparation, a regulated food contact article, an animal feed, and any agri-food production input that the Minister declares, by order in the *Gazette*, to be an import controlled item.

Unlike the rest of the Bill, "agri-food production input" in Part 3 excludes the following even if essential in undertaking any primary production activity:

- (a) any other animal reproductive material from a food producing animal;
- (b) any young of a food producing animal;
- (c) any seed, spore, bulb, root, cutting or other part of a plant from which plants grow or further plants grow;

- (d) any veterinary biologics, or any vaccines, antitoxins or other preparations made from living organisms, which are suitable for use in diagnosing, treating or immunising animals.

This is to minimise overregulation of the industry. The licensing of the import of these matters are and will continue to be covered under the Animals and Birds Act 1965, the Wildlife Act 1965 and the Control of Plants Act 1993, which are administered by the National Parks Board.

Transshipment controlled items consists of certain food only viz. eggs, any meat or meat product, and any fish or fish product. The definition may be extended by the Minister to other food or any agri-food production input through an order in the *Gazette*.

Export controlled items are either any transshipment controlled item or rice.

Clause 43 defines the scope of the application of Part 3. Part 3 does not apply controlled items imported, exported or transhipped before Part 3 comes into force.

Next, all imports of import controlled items are subject to the provisions of Part 3 with a few exceptions where these are not significant in terms of threat to public health. Key exceptions are ship's or aircraft's stores which are for the use of passengers or crew, and food imported for private consumption.

Clause 44 defines what is food imported for private consumption.

Food of a particular kind or different kinds is taken to have been imported for private consumption if on the particular occasion of its bringing into Singapore if all the following conditions are met:

- (a) the food has not been imported as a trade sample or for use in any food business;
- (b) the food has not been imported for the purpose of donating it to other persons in Singapore;
- (c) the food does not exceed the maximum threshold quantity; and
- (d) the food is imported by not more than one individual.

The quantity threshold is —

- (a) the food has a total weight of not more than 15 kilograms (inclusive of any eggs), or a higher or lower total weight that is prescribed by the Minister by subsidiary legislation;
- (b) if any of the food is eggs — it is a clutch of not more than 30 eggs, or a higher or lower number of eggs that is prescribed by the Minister by subsidiary legislation.

However, some foods present a greater risk to consumers and public health. These are classified as foods of high regulatory concern. Even small quantity import of any food of high regulatory concern must be done by a licensed importer and covered by a consignment permit, because these foods require specific food safety clearance and monitoring for specific hazards.

Examples of food of high regulatory concern are any puffer fish, or any fish product wholly or partially derived from puffer fish, any live fertilised or embryonated egg, any raw or unpasteurised liquid milk and an edible insect-like species which is not catalogued, or a novel food in respect of pre-market approval under Part 5 has not been granted.

Division 2 lists trading activities which are offences.

As in all other Parts of the Bill, the offences are divided generally into those which have a mental element and attract a higher punishment upon conviction, and those offences which are “strict liability”, where the prosecution is only required to prove the physical elements of the offence in order for the defendant to be found guilty. The strict liability offences attract a lower punishment on conviction, for this reason.

Part 3 contains a number of proposed strict liability offences as there is a strong public interest in managing imported food safety risks appropriately, and in preventing foodborne illness which is a serious and costly public health and safety issue. Strict liability offences have been retained also because it can be reasonably expected that the potential defendants for offences in Part 3 would be aware of

their duties and obligations. Strict liability offences are not inconsistent with the presumption of innocence.

Penalties are also divided based on whether the offender is an individual or an entity, with a custodial punishment for individuals, and a higher maximum fine for offenders which are entities. There is also a stepping up of the maximum punishment for repeat offenders.

Clause 45 contains the offence of importing a prohibited food, a prohibited food contact article or a prohibited animal feed, when the importer knows, or ought reasonably to know, that it is a prohibited food, prohibited food contact article or prohibited animal feed, as the case may be.

Clause 46 is the strict liability offence involving importing of a prohibited food, a prohibited food contact article or a prohibited animal feed.

What is a prohibited food, a prohibited food contact article or a prohibited animal feed is decided by the Minister in exercise of powers set out in clause 66. These are food, a food contact article or an animal feed the import of which is banned.

Clause 47 makes it an offence if a person imports an object or a thing when the person knows, or ought reasonably to know, that the object or thing is an import controlled item, and the person does not hold a current licence to import and a current import consignment permit for that import controlled item or the person is not one on whose behalf an import licence holder is importing the import controlled item.

It is also not an offence if the person is exempt from this clause under clause 318 or 319 in relation to the import of that import controlled item.

For example, a motorist attempting to smuggle, in concealed compartments in his vehicle, 37 kilogram of beef patties intended for a food business.

Clause 48 is the strict liability offence involving unlicensed import of import controlled item

Clause 49 makes it an offence if a holder of a current import consignment permit imports a consignment comprising any import controlled item and the consignment does not conform to the import consignment permit in any of the following ways, and the person knows, or ought reasonably to know, that the consignment is non-conforming in that way:

- (a) the maximum mass or weight of the import controlled item;
- (b) the place outside Singapore from which the import controlled item originates;
- (c) the composition, method of manufacture, grade or quality of the import controlled item;
- (d) the import controlled item having the approval of a specified foreign government of a particular foreign country or a foreign food authority of a specified foreign country.

Clause 49 does not apply if the import controlled item is failing. That is covered by another clause.

Clause 50 is the strict liability offence involving importing of a non-conforming consignment of import controlled item. The prosecution does not need to prove that the person charged knew, or ought reasonably to have known, that the consignment is non-conforming.

For example, 2 tonnes of vegetables of a particular kind are found in a consignment when brought into Singapore by a transporter contracted by the importer to transport the vegetables, where the consignment permit granted on application states only one tonne of that vegetable.

Clause 51 is an offence equivalent to that in clause contains an offence similar to that in clause 47 except that clause concerns exporting and export controlled items. Clause 51 makes it an offence for a person to export an object or a thing which is an export controlled item and the person knows, or ought reasonably to know, that the object or thing is an export controlled item, when the person is not a holder of a current licence to export and an export consignment permit for that export controlled item or is not a person on whose behalf a licensed exporter is exporting the export controlled item.

It is also not an offence if the person is exempt from this clause under clause 318 or 319 in relation to the export of that export controlled item.

Clause 52 is the strict liability offence involving unlicensed export of an export controlled item.

Clause 53 contains an offence similar to that in clause 49 except that it relates to exporting a non-conforming consignment of export controlled items. Clause 53 makes it an offence for a person holding a current export consignment permit who exports a consignment comprising any export controlled item and the consignment does not conform to the export consignment permit in any of the following ways, and the person knows, or ought reasonably to know, that the consignment is non-conforming in that way:

- (a) the maximum mass or weight of the export controlled item;
- (b) the place outside Singapore to which the export controlled item is to be exported;
- (c) the composition, method of manufacture or processing, grade or quality of the export controlled item;
- (d) the export controlled item having the approval of the Authority, a foreign government or foreign food authority as required by any inspection scheme regulations.

Clause 53 does not apply to an export controlled item which is failing because there is another offence.

Clause 54 is the strict liability offence involving exporting of a non-conforming consignment of an export controlled item.

Clause 55 makes it an offence for a licensed importer or licensed exporter to tranship a consignment comprising any transshipment controlled item when the licensed importer or licensed exporter knows, or ought reasonably to know, that the consignment comprises the transshipment controlled item, and the licensed importer or licensed exporter is not granted a transshipment consignment permit covering the particular consignment.

It is not an offence if the person is exempt from this clause 55 under clause 318 or 319 in relation to the transshipment of that consignment.

Clause 56 is the strict liability offence involving transshipment of a consignment comprising any transshipment controlled item when the person is not granted a transshipment consignment permit covering the particular consignment.

Clause 59 makes it an offence for a person to enter an object or a thing for export or transshipment, or to export or tranship an object or a thing, that object or thing needs an inspection advice under the Bill, and no such inspection advice has not been issued in respect of the object or thing, and the person knows or ought to have known that an inspection advice has not been issued in respect of the object or thing.

An object or thing is entered for export or transshipment if, in the course of the preparation or production of the object or thing for export or transshipment, the object or thing is presented to, or information about the object or thing is given to, an officer of customs, nor an authorised officer acting for the purpose of the officer exercising a power under any written law allowing the export or transshipment of the object or thing.

Clause 58 is the strict liability offence involving entering an object or a thing for export or transshipment, or exporting or transshipping an object or a thing, being an object or thing needs an inspection advice under the Bill, and no such inspection advice has not been issued in respect of the object or thing.

Clause 59 to 66 are offences which deal with import controlled items only.

Clause 59 sets out the offence of importing a controlled item knowing it does not meeting applicable standards, or is not covered by a recognised foreign government certificate where the inspection scheme regulations identify the import controlled item as one that, if imported, must be covered by a recognised foreign government certificate, and the person importing knew, or ought reasonably to have known,

that the import controlled item does not meet an applicable standard or is not covered by the requisite recognised foreign government certificate.

A higher penalty is prescribed if the prosecution proves that the controlled item imported is unsafe food or is a type of regulated food contact article that has or may have contaminated food or caused or may have caused food to no longer be safe, and the defendant knew, or ought reasonably to have known, that those circumstances apply with respect to the import controlled item.

Clause 60 is the strict liability offence of clause 59. This involves importing a controlled item which does not meet applicable standards, or is not covered by a recognised foreign government certificate where the inspection scheme regulations identify the import controlled item as one that, if imported, must be covered by a recognised foreign government certificate.

For example, importing of any food product without labelling of allergens, which is a present requirement and will continue to be required under regulations made under the Bill.

Similarly, a higher penalty is prescribed if the prosecution proves that the controlled item imported is unsafe food, or is a type of regulated food contact article that has or may have contaminated food or caused or may have caused food to be no longer be safe.

For example, importing of vegetables found to contain the pesticide residue Carbofuran, at levels with acute toxicity concerns.

Clause 61 contains an offence of dealing with an imported object or thing which is examinable matter without the prior approval of an authorised officer, when the person knows or ought reasonably to know that the object or thing was imported and an inspection advice has not been issued in respect of the object or thing.

The term “deal with” in relation to any thing is defined in clause 42(1) to non-exhaustively to refer to moving, altering or interfering with the thing in any physical manner, or supplying the thing or otherwise entering into a transaction whereby the ownership of the thing, or of any beneficial interest in the thing, passes from one person to another.

Clause 62 is the strict liability offence of dealing with an imported object or thing which is examinable matter without the prior approval of an authorised officer, when an inspection advice has not been issued in respect of the object or thing.

Clause 63 contains the offence of dealing with import controlled items which has been identified in an imports inspection advice as failing, and the person knows or ought reasonably to know that the import controlled item has been imported and has been identified in an imports inspection advice as failing, and the person does not have the approval of an authorised officer to deal with the import controlled item in that manner.

Clause 63 makes it an offence for a person to have in possession an imported object or thing knowing that it is likely to be supplied or offered or displayed for supply, and that the person knows, or ought reasonably to know that the object or thing is imported and is a prohibited food, a prohibited food contact article or a prohibited animal feed.

Clause 42(1) defines what is “failing”. This refers to examinable matter that, as a result of an inspection, or inspection and analysis, under any inspection scheme regulations, is found to be one of the following:

- (a) food that —
  - (i) does not meet an applicable standard for that food;
  - (ii) is unsuitable food, unsafe food or a defined food; or
  - (iii) if imported, is not covered by a recognised foreign government certificate where the inspection scheme regulations identify the food as one that, if imported, must be covered by a recognised foreign government certificate;

- (b) a regulated food contact article that does not meet the applicable standards for that regulated food contact article;
- (c) animal feed that does not meet an applicable standard for that animal feed, or is not fit for purpose;
- (d) an agri-food production input that does not meet an applicable standard for that agri-food production input;
- (e) a prohibited food, a prohibited food contact article or a prohibited animal feed.

Clause 42 defines “applicable standard” in relation to the different controlled items. Where food is concerned, the definition extends beyond the composition or nature of food, food packaging or labelling. The standard also covers the handling and method of handling of food, so that there can be effective food safety controls in place throughout the supply chain.

Clause 64 makes it an offence if a person has in possession an object or thing knowing that it is likely to be supplied or offered or displayed for supply, the object or thing is imported and is a prohibited food, a prohibited food contact article or a prohibited animal feed, and the person knows, or ought reasonably to know, that the object or thing is imported, and is a prohibited food, prohibited food contact article or prohibited animal feed, as the case may be.

Clause 65 makes it an offence if a person has in possession any object or thing knowing that it is likely to be supplied or offered or displayed for supply, the object or thing is an import controlled item that was imported and does not meet an applicable standard or has been identified in an imports inspection advice as failing, and the person knows or ought reasonably to know that the import controlled item was imported and does not meet an applicable standard or has been identified in an imports inspection advice as failing.

A higher penalty is prescribed if the prosecution proves that the controlled item imported is unsafe food, is a type of regulated food contact article that has or may have contaminated food or caused or may have caused food to no longer be safe, or is an animal feed not fit for purpose, and the defendant knew, or ought reasonably to have known, that those circumstances apply with respect to the import controlled item.

Unlike clauses 59 and 60, the defendant in clause 65 is not limited to the importer and may extend to person who acquire items from importers.

However, clause 65 does not extend to a prohibited food, a prohibited food contact article or a prohibited animal feed and does not apply if the person had the approval of an authorised officer to possess the import controlled item in that manner.

Clause 66 is the strict liability equivalent to clause 65. The offence is committed where a person has in possession any import controlled item knowing that it is likely to be supplied or offered or displayed for supply knowing or ought reasonably to have known that the import controlled item was imported, and the import controlled item does not meet an applicable standard or has been identified in an imports inspection advice as failing.

A higher penalty is prescribed if the prosecution proves that the controlled item imported is unsafe food, is a type of regulated food contact article that has or may have contaminated food or caused or may have caused food to no longer be safe, or is an animal feed not fit for purpose.

However, clause 66 does not extend to a prohibited food, a prohibited food contact article or a prohibited animal feed and does not apply if the person had the approval of an authorised officer to possess the import controlled item in that manner.

Clause 67 sets out a defence with respect to an offence under Part 3, under which the defendant has to prove, on a balance of probabilities, that —

- (a) that the commission of the offence was due to an act or omission of another person (who is not an employee, agent or officer of the defendant), or an accident or some other cause outside the defendant’s control; and

- (b) the defendant took all reasonable precautions and exercised all due diligence to prevent the commission of the offence by the defendant, or by another person under the defendant's control.

The general defence in section 26H(4) of the Penal Code 1871 is disappplied so as to avoid legal confusion.

Clause 68 contains a rebuttable presumption as to possession of food for the purpose of supply, and knowledge that the food is likely to be supplied or offered or displayed for supply. The presumption does not extend to other controlled items.

Division 4 of Part 3 contains 7 clauses relating to prohibitions, the creation of inspection schemes for border checks of controlled items and the giving of inspection advice and holding orders.

Clause 69 empowers the Minister to declare, by an order in the *Gazette*, a prohibited food, a prohibited food contact article or a prohibited animal feed, which are things which are prohibited from import.

Under clause 69(1), the Minister may prohibit the import of a food, or a brand of food, because the Minister is satisfied that there is some uncertainty or concern associated with the food and that categorising it as prohibited food will assist in managing the risk that the food poses to human health in Singapore.

The uncertainty or concern is about the risk to the safety and suitability of the food in light of information about —

- (a) the nature of the food or the source from which it is derived;
- (b) the hazards associated with the food;
- (c) measures applied during the manufacturing or handling of the food, or its production if the food is primary produce;
- (d) the likelihood of a particular contaminant being present in the food at a level determined as unacceptable in accordance with the applicable standard or an international standard, or science-based criteria; or
- (e) the likelihood that the food is not safe or suitable.

The Minister does not need to be satisfied in every case that the food is actually unsafe or unsuitable.

Under clause 69(2), the Minister may, by an order in the *Gazette*, prohibit the import of a regulated food contact article because the Minister is satisfied that there are reasonable grounds to believe that it is particularly dangerous to use with food by reason of its construction.

For example, a container that is made up of materials from which harmful chemicals are likely to migrate into the food at quantities which could endanger human health, whenever the container is used to hold hot and greasy food over short contact times, may be prescribed as a prohibited food contact article.

Finally, clause 69(3) empowers the Minister, by an order in the *Gazette*, to prohibit the import of an animal feed, or a brand of animal feed, because the Minister is satisfied that there is some uncertainty or concern associated with the animal feed and that if the animal feed did enter or continue to enter Singapore on import, it may have a significant adverse impact on any primary production activity in Singapore.

The uncertainty or concern must be about the fitness for purpose of the animal feed, or brand of animal feed, in light of information about —

- (a) the nature of the feed or the source from which it is derived;
- (b) the hazards associated with the feed;
- (c) measures applied during the manufacturing or handling of the animal feed, or its production if the animal feed is a live animal;

- (d) the likelihood that the feed contains a substance that is proscribed under the animal feed regulations; or
- (e) the potential adverse impact to primary production activity in Singapore as a result of food producing animals consuming such feed.

Clause 70 confers a power on the Agency to ban the import of any live food producing animal of a particular kind from a particular country or place outside Singapore where it is necessary to alleviate or minimise any risk of the death of, or a serious physical harm to, any individual who might later consume in Singapore the animal, or any meat, meat product or fish product derived from such an animal.

A ban made under clause 70 may be in force for a period not exceeding 90 days (called the freeze period) unless earlier revoked. While the freeze period cannot exceed 90 days in the first instance, it may be renewed once by the Agency for a further period not exceeding 30 days.

As the import of live animals and birds is licensed under the Animals and Birds Act 1965, the Control of Plants Act 1993, or the Wildlife Act 1965, clause 70 provides that the ban must prevail over the provisions of those other Acts. Consequential and related amendments to those other Acts are made in Part 17 for this reason.

Clause 71 empowers the Agency, with the approval of the Minister, to make regulations establishing one or more inspection schemes applicable to any controlled item. The regulations may —

- (a) identify controlled items of particular kinds as controlled items of a kind that if imported, exported or transhipped must be inspected, or inspected and analysed;
- (b) identify controlled items of particular kinds as controlled items that if imported, exported or transhipped must be covered by a recognised foreign government certificate; or
- (c) classify controlled items of particular kinds into particular categories.
- (d) specify circumstances in which a controlled item is taken to be failing;
- (e) specify circumstances in which a controlled item is to be taken to be failing because of its relationship to another controlled item that is found to be failing;
- (f) set out the circumstances and manner in which a controlled item, other than controlled item that is the subject of a holding order, is to be held pending the outcome of an inspection, or inspection and analysis; and
- (g) require the keeping and retention of records for a period prescribed in the regulations relevant to monitoring or evaluating compliance with the requirements of Part 3.

Clause 72 is about the giving of inspection advice concerning consignments as part of border checks after checks are completed. After a controlled item that is required to be inspected, or inspected and analysed, upon entering Singapore or before leaving Singapore, has been so inspected, or inspected and analysed, an authorised officer or a food inspector must issue an inspection advice in writing —

- (a) to the owner of the controlled item; and
- (b) if the controlled item is under customs control — to the person having possession of the controlled item at the time,

The inspection advice has to state —

- (a) whether the whole or a part of the controlled item dealt with in the advice is identified as failing, and in respect of a controlled item that is so identified, how the controlled item is to be dealt with; or
- (b) whether the consignment comprising the controlled item is identified as not conforming to any identifying detail of the consignment that is stated in the consignment permit.

In either case, the inspection advice must state how the failing controlled item or non-conforming consignment is to be dealt with.

If a consignment is failing, the relevant inspection advice will be given and if an offence is disclosed, this may be followed up with enforcement action.

The results of the border checks may provide information to decide if a recall to remove the failed controlled item is necessary from the domestic market. Subsequent consignments from the same source

Clause 73 provides that an authorised officer or a food inspector may issue holding orders (this would usually be done electronically) to hold controlled items or non-conforming consignments until the analysis required under the hold-and-test imports inspection scheme has been completed.

Where an earlier consignment of controlled items from a source has been determined to be failing, a holding order may also be issued with respect of any controlled item of that same kind that is imported into Singapore after the making of the holding order from the same source. This is because where there is a known or suspected food safety issue with an imported food, it is critical that the Agency must be able to temporarily suspend the further import or distribution of the affected food, identify importers of the unsafe food and where in the supply chain unsafe food has been distributed and work cooperatively and effectively with other relevant public sector agencies and the industry to manage the food safety risk and communicate that risk to the public.

Consignments will only be cleared upon passing of the Agency's testing. If the consignments pass inspection and testing, authorised officers will issue the inspection advice under clause 72 to inform importers on the outcome of our inspection and analysis.

Clause 74 provides for the treatment, destruction and re-export of failing controlled items, whether for import, export or transshipment. A failed consignment or item could be ordered for destruction in a manner specified in the inspection advice (which reflect the manner agreed between the owner and the Agency) or for re-export from Singapore.

Clause 75 is about foreign government certificates.

Division 6 consists of 10 clauses relating to licensing of traders.

Clause 76 outlines the types of licence and permits which may be granted under Part 3 by the Agency.

There are 2 renewable licences which the Agency may grant under Part 3:

- (a) to import in the course of business an import controlled item specified or described in the licence;
- (b) to export in the course of business an export controlled item specified or described in the licence.

These licences replace the commodity specific licences to import and export meat and fish and fresh fruits and vegetable under the Wholesome Meat and Fish Act 1999 and the Control of Plants Act 1993, respectively.

There are also 3 types of consignment permits which the Agency may grant under Part 3. These are non-renewable and are as follows:

- (a) an import consignment permit for each consignment of import controlled items specified or described in the permit.
- (b) an export consignment permit for each consignment of export controlled items specified or described in the permit.
- (c) a transshipment consignment permit for each consignment of transshipment controlled items that is specified or described in the permit.

These permits replace the commodity specific licence to import and export eggs under the Animals and Birds Act 1965, and the commodity specific licence to import and export meat and fish or to import fresh fruits and vegetable, under the Wholesome Meat and Fish Act 1999 and the Control of Plants Act 1993, respectively.

Clause 77 incorporates the general licensing procedures in Division 4 of Part 14 for the purposes of application for a licence or a permit that may be granted under this Part.

Clause 78 outlines the criteria for the grant and renewal of any licence to import or export controlled items in the course of business or for imposing licence conditions or modifying a condition of the licence.

Among the factors the Agency is empowered to have regard is whether the applicant for the licence, or licence renewal, or licensee, or an associate of the applicant or licensee, is or was disqualified by clause 298 from holding the licence applied for.

A person is disqualified from holding a licence under Part 3 when the person's previous licence under Part 3 is revoked. An associate is defined in clause 17.

Clause 79 outlines the criteria for the grant of an import consignment permit, an export consignment permit and a transshipment consignment permit.

Clause 80 outlines conditions which may be imposed on a licence or consignment permit granted under Part 3.

Clause 81 deals with how long a licence granted under Part 3 may be in force. The maximum validity of such a licence is 5 years. The validity of an import consignment permit, an export consignment permit and a transshipment consignment permit is also covered by clause 81.

Clause 82 provides the Agency with power to unilaterally modifying licence conditions. The steps in doing so are set out in the general licensing procedures in Division 4 of Part 14, and these are incorporated by clause 82.

Clause 83 sets out the grounds that the Agency can rely on to take regulatory action concerning a holder of a licence granted under Part 3. The procedure that must be followed when taking regulatory action is set out in Division 4 of Part 14.

Some defaults (like breach of licence conditions) which are today offences, are decriminalised, and licensees may face a regulatory sanction instead under clause 83.

Regulatory action is not a criminal proceeding for an offence committed. Regulatory action is by the Agency, from whom the privilege to hold the licence is granted, and encompasses at the most extreme, the revocation of the licence granted. The Agency may respond to a licensee's defaults in other less extreme ways in lieu of licence revocation, such as —

- (a) suspend (in whole or part) the licence for not more than 6 months;
- (b) direct the licensed importer or licensed exporter to do, or to refrain from doing, such things as are specified in a direction to rectify any contravention or non compliance that constitutes the ground for regulatory action;
- (c) modify any condition of the licence; or
- (d) direct the licensed importer or licensed exporter to pay, within a period specified in a direction, a financial penalty of any amount that the Agency thinks fit, but not exceeding \$5,000 for each contravention of or failure to comply with or for each other ground of regulatory action;

Clause 84 sets out the grounds that the Agency can rely on to take regulatory action concerning an import consignment permit, an export consignment permit and a transshipment consignment permit. The procedure that must be followed when taking regulatory action is set out in Division 4 of Part 14.

Clause 85 deals with the effect of revocation, or suspension, etc., of a licence or permit granted under this Part.

Division 7 consists of 4 clauses, which impose requirements to ensure that imported food and other import controlled items are traceable and can be recalled efficiently and effectively.

Today, there are no traceability requirements even though food recalls or food contact article recalls may be directed under section 10F of the Sale of Food Act 1973 by the Director-General, Food

Administration to be carried out by importers or food businesses. As not all importers that only operate at the border have effective traceability systems, there are challenges with confirming with these importers if they have sourced implicated batches of the food and if they have, where this food has been distributed.

Clause 86 provides that Division 7 applies only to licensed importers, who import import controlled items except agri-food production inputs. These are —

- (a) any food
- (b) any prepacked food additive preparation;
- (c) any regulated food contact article; and
- (d) any animal feed.

Division 7 also only applies to import of any of the above import controlled items made on or after the date of commencement of the Division.

Clause 87 outlines the information that a licensed importer must keep or have ready access to and for how long.

The information a licensed importer is required to keep or have ready access to is information which will enable the importer to trace food or the other import controlled item one step backwards and one step forwards. The information relating to the food or an import controlled item imported into Singapore must be retained for a period prescribed in regulations.

Contravention of any requirement in clause 87 is a strict liability offence, as records may be required during a food safety incident, and the consequences of not retaining the records may be severe.

Clause 88 provides that a licensed importer must have procedures and accurate information for identifying and locating imported import controlled items to which Division 7 applies, and for tracing imported import controlled items so that the imported controlled item can be traced one step backwards and one step forwards. The information must also be sufficient to allow an effective recall to be carried out under a direction given under Part 7.

This means that for every consignment of food imported, the importer must have the ability to identify the immediate supplier and the immediate customer.

Under clause 88, a licensed importer has to regularly conduct simulations or other tests of those procedures if required by the Agency. A licensed importer must also establish and use the procedures for recalling —

- (a) food (other than a food additive as such) or any prepacked food additive preparation supplied in Singapore that the importer considers to be not safe or suitable or whose safety or suitability is in doubt;
- (b) regulated food contact articles supplied in Singapore that the importer considers to be or might be dangerous to use with food; or
- (c) animal feed supplied in Singapore that the importer considers to be not fit for purpose or whose fitness for purpose is in doubt;

If the licensed importer makes a decision to recall any imported import control item on the ground that —

- (a) the food (other than a food additive as such) or any prepacked food additive preparation is or might be unsafe or unsuitable;
- (b) the regulated food contact article is or might be dangerous to use with food; or
- (c) the animal feed is or might be not fit for purpose,

the importer has to notify the Agency as soon as practicable, but no later than 24 hours after making the decision, about the import controlled item affected by the recall, and the reason for the recall.

Clause 89 makes it an offence for failing to provide information when requested to do so by a food security officer, an authorised officer or a food inspector about the matters in clause 87. A licensed importer is bound to state truly what the person is requested, and must give information in a readily accessible format, and within 24 hours after the request, or within any reasonable shorter period specified by the food security officer, authorised officer or food inspector, as the case may be. This is to allow an assessment of risk to be efficiently and effectively undertaken in circumstances where the records relate to food that may pose a serious risk to human health

It may be vital that the Agency can quickly obtain information from importers in order to prevent unsafe or unsuitable food from entering the domestic supply chain, and so the offence is intended to deter persons refusing or failing to provide information needed to prevent a serious risk to human health. For this reason, an individual would not be able to rely on the privilege against self-incrimination to not disclose the required information. See clause 259.

Any delay in confirming importers of a potentially unsafe food and its distribution in the supply chain, means there will be a delay in taking appropriate risk management action, such as a food recall. This increases the likelihood that more consumers could become ill.

## PART 4 FOOD BUSINESSES

Food presents a major risk to the health of humans because of the potential of food to transfer harmful organisms and contaminants to humans. It is vital that the Bill contains an efficient and effective regulatory regime that manages domestic food safety and suitability issues and to require persons who deal with food to take responsibility for the safety and suitability of food.

Part 4 therefore continues to provide for the licensing of proprietors of food businesses. However, there are key changes in the regulatory framework and approach from present law.

While there is a continual need for efficient regulation in the face of fast evolving business practices and models and food production and handling technology, this needs to be balanced by minimising compliance costs. Part 4 therefore adopts a risk-based approach and requires licences only from food businesses which are specified in the First Schedule to the Bill as licensable food businesses. See clause 6.

Part 4 regulates both retail and non-retail food businesses and primary production activities, in a single framework because it is important to ensure that regulatory requirements are applied consistently and in a coordinated way across food business sectors and groups, depending on factors such as risk and science-based standards. This is unlike the present law, which regulates these sectors under 5 separate Acts viz. the Animals and Birds Act 1965, the Control of Plants Act 1993, the Environmental Public Health Act 1987, the Fisheries Act 1966 and the Sale of Food Act 1973.

Part 4 also moves away from the traditional food safety philosophy which emphasises end point inspection of the food or detection of point-in-time defaults in food handling. In lieu of prescriptive food regulation, Part 4 moves more towards emphasizing preventative measures devised by the food business licensees themselves for ensuring food safety and hygiene along the licensee's entire food handling process.

Two new regulatory tools are made mandatory in Part 4 viz. a farm management plan for every food business licensee undertaking primary production activities, and a food control plan for licensable food businesses with more stringent requirements expected of some licensable food businesses given the higher risk assessment by the Agency.

Under this new approach, it is the food business licensee itself that designs and implements the farm management plan or food control plan unique to the requirements of that particular business, and carries the responsibility for ensuring that documented processes in the plan are followed. Failure to do so will result in regulatory sanctions.

The farm management plan or food control plan has to be specifically tailored to the specific food business and accepted by the Agency.

This object is to place greater responsibility on licensees to have in place preventative measures which minimises risks and assures safety and suitability of the food in their production process. This term is relevant in clauses 92 (applications for or to renew food business licences) and in clause 96 where non-compliance with the farm management plan or food control plan accepted by the Agency is a ground for regulatory action.

The new regulatory tools will not completely replace existing food hygiene or food safety regulations. For example, the plans have to detail how hygienic and safe conditions for the food or primary produce are to be maintained by the specific licensee and contain details about the provision of training for the licensee's staff for this purpose, whereas the regulations will set baseline requirements applicable to all food businesses.

Clause 90 contains definitions of terms which are used exclusively or mainly in Part 4.

Division 2 of Part 4 contains provisions on the licensing of licensable food businesses, set out in the First Schedule. The scheme here replaces the 2 business licensing schemes in the Environmental Public Health Act 1997 and the Sale of Food Act 1973 which is divided along retail and non-retail lines. Primary production activities to produce food will also be folded within Part 4, replacing the commodity-specific licensing schemes dispersed between the Animals and Birds Act 1965, the Control of Plants Act 1993 and the Fisheries Act 1966, respectively. Part 17 contains consequential and related amendments to those Acts to carve out primary production activities from regulation under those Acts.

Clause 91 incorporates the general licensing procedures in Division 4 of Part 14 for the purposes of application for a food licence that may be granted by the Agency under Part 4.

Clause 92 outlines the criteria for the grant and renewal of any food business licence, for imposing licence conditions or modifying a condition of a food business licence.

Among the factors the Agency is empowered to have regard is whether the applicant for the food business licence, or licence renewal, or licensee, or an associate of the applicant or licensee, is or was disqualified by clause 298 from holding the licence applied for.

A person is disqualified from holding a licence under Part 4 when the person's previous licence under Part 4 is revoked. An associate is defined in clause 17.

Clause 93 outlines conditions which may be imposed on a food business licence. Among the new conditions imposed on a food business licensee is that of preparing itself for to deal with any disruptive event occurring, and to prevent any intentional engaging in conduct, by any individual, so as to jeopardise the safety of food or primary produce which is manufactured, prepared or otherwise handled or produced by the licensee.

A food business licensee is also subject to a licence condition to carry on the licensable food business authorised by the licence in accordance with an accepted farm management plan or an accepted food control plan.

The farm management plan or food control plan has to identify significant food safety hazards to that business and state how those hazards are to be monitored and controlled. The licensee has also to detail how to maintain hygienic and safe conditions for primary production or food handling and contain provisions on the training of staff for this purpose. In order to maintain public confidence in this new approach which contains elements of self-regulation, and as an aid to the licensee concerned in designing and complying with the plan, there may be included a need for regular audits by the licensee of its operations.

Clause 94 deals with how long a food business licence granted under Part 4 may be in force. The maximum validity of such a licence is 5 years.

Clause 95 provides the Agency with power to unilaterally modifying food business licence conditions. The steps in doing so are set out in the general licensing procedures in Division 4 of Part 14, and these are incorporated by clause 96.

Clause 96 sets out the grounds that the Agency can rely on to take regulatory action concerning a holder of a licence granted under Part 4. The procedure that must be followed when taking regulatory action is set out in Division 4 of Part 14.

Some defaults (like breach of licence conditions) which are today offences, are decriminalised, and licensees may face a regulatory sanction instead under clause 96.

Regulatory action is not a criminal proceeding for an offence committed. Regulatory action is by the Agency, from whom the privilege to hold the licence is granted, and encompasses at the most extreme, the revocation of the licence granted. The Agency may respond to a licensee's defaults in other less extreme ways in lieu of licence revocation, such as —

- (a) suspend (in whole or part) the licence for not more than 6 months;
- (b) direct the food business licensee to do, or to refrain from doing, such things as are specified in a direction to rectify any contravention or non-compliance that constitutes the ground for regulatory action;
- (c) modify any condition of the licence; or
- (d) direct the food business licensee to pay, within a period specified in a direction, a financial penalty of any amount that the Agency thinks fit, but not exceeding \$5,000 for each contravention of or failure to comply with or for each other ground of regulatory action;

Clause 97 deals with the effect of revocation, or suspension, etc., of a food business licence.

Division 3 consists of 4 clauses, which impose requirements to ensure that selected food business licensees adopt measures that ensure their food products are traceable and can be recalled efficiently and effectively.

Today, there are no traceability requirements even though food recalls or food contact article recalls may be directed under section 10F of the Sale of Food Act 1973 by the Director-General, Food Administration to be carried out by food businesses. As not all food businesses have effective traceability systems, there are challenges with confirming with these food businesses if they have produced or distributed implicated batches of the food and if they have, where this food has been distributed.

Clause 98 provides that Division 3 applies only to a licensable food business that is prescribed by the Minister, by order in the *Gazette*, as subject to the Division (called the relevant food business licensee)

Clause 99 outlines the information that a relevant food business licensee must keep or have ready access to and for how long.

The information a relevant food business licensee is required to keep or have ready access to is information which will enable the licensee to trace food one step backwards and one step forwards. The information relating to the food must be retained for a period prescribed in regulations.

Contravention of any requirement in clause 99 is a strict liability offence, as records may be required during a food safety incident, and the consequences of not retaining the records may be severe.

Clause 100 provides that a relevant food business licensee must have procedures and accurate information for identifying and locating food, and for tracing food so that the food can be traced one step backwards and one step forwards. The information must also be sufficient to allow an effective recall to be carried out under a direction given under Part 7.

This means that for every food supplied, the relevant food business licensee must have the ability to identify the immediate supplier and the immediate customer.

Under clause 100, a relevant food business licensee has to regularly conduct simulations or other tests of those procedures if required by the Agency.

If the relevant food business licensee makes a decision to recall any food on the ground that the food is or might be unsafe or unsuitable, the food business licensee has to notify the Agency as soon as

practicable, but no later than 24 hours after making the decision, about the food affected by the recall, and the reason for the recall.

Clause 101 makes it an offence for failing to provide information when requested to do so by a food security officer, an authorised officer or a food inspector about the matters in clause 99.

A relevant food business licensee is bound to state truly what the person is requested, and must give information in a readily accessible format, and within 24 hours after the request, or within any reasonable shorter period specified by the food security officer, authorised officer or food inspector, as the case may be. This is to allow an assessment of risk to be efficiently and effectively undertaken in circumstances where the records relate to food that may pose a serious risk to human health

It may be vital that the Agency can quickly obtain information from food business licensees in order to prevent unsafe or unsuitable food from entering or further moving along the domestic supply chain, and so the offence is intended to deter persons refusing or failing to provide information needed to prevent a serious risk to human health. For this reason, an individual would not be able to rely on the privilege against self-incrimination to not disclose the required information. See clause 259.

Division 4 sets out 3 principal offences relating to carrying on a food business.

Clause 102 makes it an offence if a person, being an owner or an occupier of any premises, uses, or allows the premises to be used, to carry on a licensable food business, and the person is a holder of a current food business licence to carry on that licensable food business at those premises or is not exempt under clauses 318 or 319 from the requirement to hold a licence.

Clause 103 contains offences which may be committed by a food business licensee in connection with food workers.

A "food worker" is defined in clause 3(1) to mean an individual who is or is to be employed by, or works or is required to work with or for, a proprietor of a food business in any capacity involving any of the following activities in the course of the operations of the food business:

- (a) manufacturing food;
- (b) preparing food;
- (c) dishing up or plating (and not merely serving) food;
- (d) any other activity that is prescribed by the Minister by order in the *Gazette* for the purposes of this section.

As defined, a driver delivering read-to-eat food and a waiter or waitress or cashier is not automatically a food worker. These may be included in future where there is a need by way of a ministerial order.

It is an offence if the food business licensee for a licensable food business causes or allows an individual to carry out any work as a food worker in the course of the operations of the licensable food business and the individual is not registered as a food worker, generally or in respect of that licensable food business, and food business licensee knows or ought reasonably to know that the individual is not registered as a food worker, generally or in respect of that licensable food business.

Where the food business licensee is a sole proprietor like a stall-holder running his or her own licensable food business, it is also an offence if the licensee carries out any work as a food worker in the course of the operations of the licensable food business and he or she is not registered as a food worker, generally or in respect of that licensable food business and he or she knew or ought reasonably to have known that he or she is not registered as a food worker, generally or in respect of that licensable food business.

Clause 104 is an offence connected with a food business which is not a licensable food business specified in the First Schedule.

It is an offence for a proprietor of such a food business —

- (a) to engage in conduct, or cause or permit an individual to engage in conduct, in the course of carrying on the food business at any premises, which is prescribed in any food regulations as prohibited conduct for that food business; or
- (b) to engage in certain conduct, or cause or permit an individual to engage in conduct, in certain circumstances in the course of carrying on the food business at any premises, which are prescribed in any food regulations as disallowed circumstances for that food business.

An example of prohibited conduct would be the preparation for sale or supply of raw fish and it is envisaged that such activities will be prescribed in food regulations.

## PART 7

### FOOD SAFETY AND SUSTAINABLE PRIMARY PRODUCTION MEASURES

Foodborne illness continues to be recognised as a serious and costly public health and safety issue for Government, industry and society. This Part contains a variety of measures to reduce or swiftly address the incidence of foodborne illnesses and 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, and to effectively manage biosecurity risks that threaten adequate and sustainable food production in Singapore.

There is generally a right of appeal to the Minister under Part 12 against a Part 7 direction. Exception is made for circumstances where the direction must be complied with immediately.

Directions aimed at ensuring food safety are in Division 2 of Part 7 whereas directions aimed at protecting primary production activities from biosecurity threats and to ensure sustainable food production are in Division 3 of Part 7. The directions in Division 2 are presently set out in Part 2A of the Sale of Food Act 1973.

The powers in Part 7 are mostly vested in the Director-General, Food Administration instead of the SFA. The Director-General Food Administration is required to exercise these powers subject to any general or special directions of the SFA; see clause 277(2). The powers in Part 7 are non-delegable.

Clause 118 therefore provides that the powers in Part 7 must either be exercised by the Director-General, Food Administration personally or by an authorised officer duly appointed by the Director-General, Food Administration to act in his or her name. This ensures direct accountability of the Director-General, Food Administration for the exercise of powers under this Part of the Bill.

Clause 119 lists who may be given a direction under Part 7. It provides that the Director-General, Food Administration may give a direction, individually or as a class, to persons listed in clause 119(1) or (2).

Clause 120 details what must be contained in directions issued under the Part 7. It makes clear that in making a direction under Part 7, it is not necessary for the Director-General, Food Administration to give any person who may be affected by the direction a chance to be heard before the direction is given. Clause 120 also provides that if a person to whom the direction is given fails or refuses to comply with it, the Director-General, Food Administration 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.

Clause 121 provides for how directions are to be served or given and specifies when the direction has effect. In addition to the modes prescribed in clause 302, a direction under Part 7 given individually may be given by delivering it personally to the person concerned or, if the name and address of the addressee is unknown, by affixing the direction to the premises concerned.

For a direction addressed to a class of persons, clause 121 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 Director-General, Food

Administration, will be most likely to bring the direction to the attention of the persons who belong to the class and on the Agency's official website.

Clause 122 provides for when a direction under Part 7 takes effect and cease to have effect

Certain Part 7 directions are not appealable to the Minister in the first instance. These are Part 7 directions given because the Director-General has reasonable grounds to believe that the direction is necessary or desirable to prevent or control a threat (actual or imminent) to food supply or public health, an imminent risk of death or serious illness, or a significant threat to supply sources of food for the general public. These are a movement control direction that stops the sale or supply or other distribution of material further in the food supply chain or stops the movement or relocation of animals, and a recall direction under affecting food (not animal feed). They are non-appealable as the directions are given to address urgent situations.

Any of these directions take effect upon its giving but expires 10 days after that date it takes effect. The period is fixed and matches the general time needed for scientific tests to be properly done to verify the true hazard or source of contamination, and whether the situation requires other agencies to be involved in the interest of public health or public safety, such as the Ministry of Health where a zoonotic disease that can spread between animals and humans is detected.

A fresh Part 7 direction may be given at the end of the 10 days if the situation warrants it. This subsequent direction is appealable under Part 12.

Clause 123 is a food safety direction relating to food premises. This direction may be given where the Director-General is satisfied (whether or not from the report of an authorised officer or a food inspector) —

- (a) that a food premises is in an unclean or unsanitary condition or in a state of disrepair;
- (b) that the slaughtering of animals to produce meat or meat products or meat processing is carried on in a food premises in a manner that makes the meat or meat products unsafe or unsuitable;
- (c) that primary production activity is undertaken in a food premises in a manner that makes the primary produce unsafe, or likely to be unsafe; or
- (d) that any food is supplied or handled in the food premises in a manner that makes the food unsafe or unsuitable, or likely to be unsafe or unsuitable.

The direction is to be given to a proprietor of the food premises concerned and may —

- (a) require that certain things to be done within a specified time in the direction. Examples are to take steps to put the food premises (including any machinery or equipment in it) into a clean and sanitary condition, or to take change equipment or specified steps to ensure that any food supplied or handled in the food premises are not unsafe and not unsuitable; and
- (b) direct that until the steps abovementioned are complied with, the proprietor of the food premises concerned must stop using those premises, or a specified area of those premises, to carry out business or an activity specified in the direction and must not remove, and must prevent and disallow the removal of, any food specified in the direction from those premises for any purpose except with the prior consent of an authorised officer.

A proprietor of a food business is defined in clause 3(1) to means the person carrying on the food business, or if the latter person cannot be identified, the person in charge of the food business.

Clause 124 is a direction concerning food vending machines and other equipment. The Director-General, Food Administration may give this direction if satisfied from the report of an authorised officer or a food inspector that —

- (a) a food vending machine is in such an unclean or unsanitary condition as to make any food obtained from the machine unsafe or unsuitable, or likely to be unsafe or unsuitable; or
- (b) an equipment used in any slaughter of animals to produce meat or meat products, meat processing, any primary production activity or the supply or handling of food, is in such an

unclean or unsanitary condition or a state of disrepair, as to make the resulting meat or meat products, primary produce or food (as the case may be) unsafe or unsuitable, or likely to be unsafe or unsuitable.

The direction is to be given to the owner of the food vending machine or equipment concerned, and may require that certain things to be done within a specified time in the direction. For example, to put the food vending machine or other equipment into a clean and sanitary condition, which may include disinfection and until that is done, to stop using, and must prevent and disallow the use of, the food vending machine or equipment.

Clause 125 provides for a direction by the Director-General, Food Administration to impose movement controls under clause 126, or an obligation to declare information under clause 127. The Director-General, Food Administration may give either direction whether or not there is a report from an authorised officer or a food inspector.

The Director-General, Food Administration may give a direction under this clause if he or she reasonably suspects —

- (a) the existence of a hazard or a source of contamination that may adversely affect any primary produce or food, any live food producing animal or other thing that may become food, or any regulated food contact article; and
- (b) that a movement control direction under clause 126 or a declaration direction under clause 127 is necessary to minimise, manage or eradicate, over a limited period or over an indefinite period, the risk to human health created by the suspected hazard or the suspected source of contamination,

Clause 126 relates to movement control directions, which 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 transport, supply, 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.

This provision is similar to the present section 10E of the Sale of Food Act 1973.

Clause 127 imposes an obligation to the addressee of the direction to give information to the Director-General, Food Administration.

This direction under clause 127 will not be necessary where traceability requirements in Parts 3 and 4 enable the necessary information to be obtained. The declaration direction is needed where the information lies with persons who are not licensed importers or food business licensees.

The declaration direction is not a power of investigation for use in ascertaining if an offence has been committed or a regulatory breach has occurred. The information must be needed because of the suspected hazard or suspected source of contamination, such as (but not limited to) a thing or an activity, a particular premises (where, for example, there may be contamination from the land or the environment), or a particular person, or a particular food business or a specified class of food businesses (where, for example, the contamination may have been caused by a human act or omission).

Clause 128 provides for a direction by the Director-General, Food Administration 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 Director-General, Food Administration has received from authorised officers, or an international organisation or authority, or if the Director-General, Food Administration 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.

This provision is similar to the present section 10F of the Sale of Food Act 1973.

The types of directions under clause 128 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 Director-General, Food Administration may take any reasonable steps necessary to ensure control of the food or food contact article, 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.

Clause 129 provides for a direction by the Director-General, Food Administration to manage and control food or food contact articles. A direction under this clause may be given where the Director-General, Food Administration reasonably believes that food or a food contact article that is already the subject of a movement control direction under clause 123 is not safe or suitable and further controls are required, or the Director-General Food Administration has recalled food or a food contact article under the new section 128

A direction under the new section 129 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.

Clause 130 is a new direction aimed at the food worker, although it is currently applied in practice. The new direction is in lieu of imposing vocational controls on individuals who work as food workers. The direction only affects a food worker who works in a licensable food business. The provision seeks to improve over the present practice by targeting the individual food worker in default instead of affecting the entire licensable food business and every other food worker of the business in every instance.

Under clause 130, the direction can be given where the Director-General, Food Administration reasonably believes that there is or has been committed, in the course of the carrying on of a licensable food business, a contravention or non-compliance by an individual employed or engaged by a food business licensee as a food worker in the licensable food business with an applicable requirement of the Act relating to the handling of food intended for supply.

The purpose of a direction under clause 130 is limited:

- (a) to ensure the continued competence of a particular individual or particular individuals employed or engaged as food workers in a licensable food business in handling food in such a way that does not makes the food unsafe or unsuitable, or likely to be unsafe or unsuitable;
- (b) to minimise or prevent the future personal conduct of a particular individual or particular individuals, when employed or engaged as a food worker in a licensable food business, that makes or is likely to make the food unsafe or unsuitable.

The direction may be given either to the food business licensee who is a proprietor of the licensable food business where the default by the food worker occurred, or to the defaulting individual or any other individual then employed or engaged as a food worker by the food business licensee, or to both.

A direction under clause 130 may require a particular individual or particular individuals to do one or more of the following within a period stated in the direction:

- (a) to stop handling food in the course of the licensable food business unless he or she is diagnosed by a registered medical practitioner as not suffering from a prescribed infectious disease or other condition that is liable to render food handled as unsafe or unsuitable, or unless he or she is immunised against a prescribed infectious disease;

- (b) to undergo specified training or retraining in food safety and food handling, and be assessed as competent in each subject of the training or retraining;
- (c) to alter or improve the method of handling of food by that individual while in the course of the licensee's licensable food business;
- (d) to engage in conduct, or to refrain from engaging in conduct, specified in a direction relating to his or her personal hygiene and health practices when handling food as a food worker employed or engaged in a licensable food business. For example, not spitting, or wearing an attire or accessory for the purpose of protecting food that he or she handles against contamination (like gloves or a spit-guard), or ensuring that that the individual, or his or her clothing, is put in a clean and sanitary condition.

A direction under clause 130 may also require the food business licensee concerned to do one or more of the following within a period stated in the direction:

- (a) to take specified steps to change or improve the method of handling food by food workers in the course of the carrying on the licensee's licensable food business;
- (b) to stop one or more individuals handling food in the course of the licensee's licensable food business unless the individual is diagnosed or immunised as described above, or the individual undergoes specified training or retraining in food safety and food handling, and is assessed as competent in each subject of the training or retraining.

Under clause 131, the Director-General, Food Administration 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. This provision is similar to the present section 10H of the Sale of Food Act 1973.

Under clause 131, the Director-General, Food Administration 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. Statements published under clause 131 are protected by absolute privilege.

Clause 132 empowers the Agency to publish in Singapore a statement for the purpose of protecting human health or informing the general public. The statement may be about all or any of the following:

- (a) the safety or suitability of food or a regulated food contact article;
- (b) anything contained or implied in advertisements about food or a regulated food contact article, generally or in a particular advertisement, or in a class or classes of advertisements;
- (c) the performance or non-performance of any function or duty imposed on any person by any provision of this Act.

The statement is protected by qualified privilege.

Under clause 133, a general corrective action direction by the Director-General, Food Administration may be given. Such a direction is about the taking of preventative or corrective action in respect of food or food contact articles that the Director-General, Food Administration 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 Bill with respect to food or food contact articles.

Division 3 of Part 7 contains the newer set of directions which the Director-General, Food Administration may give to deal with biosecurity threats so as to ensure sustainable food production.

Clause 134 provides for a direction corresponding to the directions mentioned in clauses 123, 124 and 125 except that these are to be given in relation to an animal feed and animal feed production.

Clause 135 is a direction to recall animal feed similar to clause 128 relating to food. The direction under clause 135 is for the purpose of examining, rectifying, controlling, or disposing of any animal

feed, after taking into account any relevant information or warnings about the animal feed being not fit for purpose that the Director-General has received from any authorised officer or food inspector, any international organisation or any foreign food authority.

The recall direction for animal feed may be given only if the Director-General has reasonable grounds to believe that the direction is necessary to prevent or reduce the possibility of a serious danger to animal health or to mitigate the adverse consequences of a serious danger to animal health.

Clause 136 is a corresponding direction to that in clause 129.

Clause 137 is about biosecurity directions. The Director-General, Food Administration may give a biosecurity direction if —

- (a) an event has happened or is happening, and has had or is having an adverse effect on the production of primary produce in any part of Singapore, or the health of food producing animals or to their habitats in any part of Singapore;
- (b) the event was or is being caused by, or may be or may have been caused by a biosecurity matter; and
- (c) it is necessary to exercise powers under this section to mitigate or prevent a significant threat or likely significant threat to securing or maintaining consumer confidence supply sources of safe and suitable food for the general public.

A biosecurity direction may require the addressee to take certain actions at stated premises and within a stated period of time. This may include —

- (a) directing primary food producers to take measures to prevent spread of disease e.g. movement restrictions of animals, vaccination of animals, isolation of new stocks before introduction into the farm or of sick animals;
- (b) stipulating that primary food producers must implement the appropriate mitigation measures should the farm's impact on the environment be observed to be not acceptable e.g. improving feeding practices, reducing stocking density; and
- (c) requiring proper management of waste and the implementation of environmental monitoring and management actions to mitigate impacts from sea-based farms.

If the addressee is a food business licensee undertaking any primary production activity, the biosecurity direction may order the licensee to revise the licensee's farm management plan to prevent or mitigate any significant hazard relating to the primary production activity, or to food producing animals or to their habitats, and to submit the revised farm management plan for acceptance by the Agency.

Clause 138 is a direction corresponding to that in clause 133, about the taking of preventative or corrective action in respect of primary production activity or the producing of animal feed.

Division 4 contains offences connected with Part 7 directions.

Clause 139 makes it an offence if a person to whom a direction under Part 7 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.

Clause 140 provides for an offence of removing the copy of any direction affixed to a food premises under clause 121 while that direction remains in force.

Under clause 141, a person bound by a direction under the Part 7 who suffers loss as a result of the making of the direction may apply to the Agency 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 Agency has to pay just and reasonable compensation to the applicant.

## PART 8

### FOOD SAFETY OFFENCES

This Part sets out various offences connected with food safety and various defences and presumptions related to these offences.

Food safety offences are presently distributed in several laws. These are the Sale of Food Act 1973 and the Wholesome Meat and Fish Act 1979, the Food Regulations and the Environmental Public Health (Food Hygiene) Regulations. There are offences which are similar in substance but the penalties differ markedly. There is uncertainty whether an offence is a strict liability offence or not.

Part 8 is a consolidation of many existing offences into a single piece of legislation, and rationalises the different elements and penalties in the present law so as to ensure appropriate, proportionate and consistent enforcement.

The offences in Part 8 are also divided generally into those which have a mental element and attract a higher punishment upon conviction, and those offences which are “strict liability”, where the prosecution is only required to prove the physical elements of the offence in order for the defendant to be found guilty. The strict liability offences attract a lower punishment on conviction.

Part 8 therefore makes clear when an offence in food legislation is or is not a strict liability. Strict liability offences as necessary due to the strong public interest in managing food safety risks appropriately, and in preventing foodborne illness which is a serious and costly public health and safety issue. Strict liability offences have been retained also because it can be reasonably expected that the potential defendants for offences in Part 8 would be aware of their duties and obligations. Strict liability offences are not inconsistent with the presumption of innocence.

The penalties in Part 8 are further divided based on whether the offender is an individual or an entity, with a custodial punishment for individuals, and a higher maximum fine for offenders which are entities. There is also a stepping up of the maximum punishment for repeat offenders.

The differentiation adopted for offences in Part 8 are necessary to support a calibrated approach to contraventions.

The maximum penalties in Part 8 have also been revised upwards having regard to the trend in sentencing by the courts and so as to be consistent with the existing penalties in the Wholesome Meat and Fish Act 1979, which is the highest among existing food legislation. This consistency is needed to maintain public confidence that comparable food safety offences and the penalties for offences which are often prosecuted today, are being reflected in the Bill.

In total, Part 8 contains 20 offences. There are another 7 offences in Part 10 connected with labelling and advertising.

Intervention via the criminal law is necessary because food safety lapses invariably occur in settings where those who may be adversely affected and thus require protection viz. the consumer, are typically unable to properly assess the safety of a food product or take control or other steps to protect themselves before consuming the food. The consumer is unlikely to sue in a civil action in most circumstances for falling ill as a result of consuming food, because of difficulties in identifying the source and cause of many illnesses (the food would already have been consumed with any pathogen or contaminant), and the often-low costs typically incurred by most consumers.

While Parts 3 and 4 of the Bill do contain provisions which require traders and food business proprietors to take further responsibility than today, for food safety by putting their own systems in place, there is a limit to the effectiveness of relying on self-regulation measures to protect the consumer. In Singapore, the food industry covers a broad range of business types with many small-to-medium enterprises, and in the food service and retail sectors, the workforce employed is largely transient and also very varied in terms of background, education, knowledge, and motivation in terms of food safety. The diverse nature of the local food industry renders a “group push” to comply with industry-set standards is unlikely. Legislative intervention by Government is necessary.

Division 1 of Part 8 contain general provisions relating to interpretation and application of Part 8. Division 2 contains the offences and Division 3 sets out the defences to offences in Part 8.

Clause 142 sets out the scope of application of Part 8. It does not matter in that the food concerned in an offence was supplied or intended for supply outside Singapore.

Clause 143 defines what would be a “hazardous food article”. This is connected to an offence under clause 162 or 163.

Clause 144 makes it an offence for a person to handle food intended for supply in a way that the person knows, or ought reasonably to know, makes, will make, or is likely to make, the food unsafe.

What constitutes “handling” of food is defined by clause 9 to include —

- (a) preparing or manufacturing the food;
- (b) processing the food;
- (c) storing, packing or labelling the food;
- (d) transporting or delivering the food;
- (e) displaying the food;
- (f) dishing up or plating the food;
- (g) serving the food; and
- (h) supervising the performance of any abovementioned activity by another individual.

The definition may be extended by food regulations made by the Agency.

For example, preparing food on a contaminated or dirty surface, such as the floor, or handling ready-to-eat food using utensils which was used to contain raw food, without prior washing, which are well-known situations where there will be a failure of microbiological standards that can lead to food poisoning.

With respect to the offence in clause 144, the food handled must be food that is intended for supply, not just intended for sale. The expression “supply” has been defined in clause 8 to be wider. Food intended to be given away or for donation can come within the scope of clause 144.

Clause 145 is the strict liability equivalent to clause 144. It is an offence if a person handles food intended for supply in a way that makes, will make, or is likely to make, the food unsafe. The strict liability offence attracts a lower penalty.

For example, a food handler is unaware that the thermometer of a cooking equipment is faulty, but uses it to prepare food for sale, causing the food to be unsafe for consumption.

Clause 146 makes it an offence if a person supplies food that the person knows, or ought reasonably to know, is unsafe.

Clause 147 is the strict liability equivalent to clause 146. It is an offence if a person supplies food that is unsafe.

Clause 148 makes it an offence for a person who handles food intended for supply in a way that the person knows, or ought reasonably to know, makes, will make, or is likely to make, the food unsuitable. It is immaterial whether the food concerned is safe.

Clause 149 is the strict liability equivalent to clause 148. It is an offence if the person handles food intended for supply in a way that makes, will make, or is likely to make the food, unsuitable. It is immaterial whether the food concerned is safe.

As food is defined by clause 12 to be unsuitable if the food is outdated or in packaging that is damaged, deteriorated, perished, or contaminated to the extent of affecting the food’s reasonable intended use e.g. rough packing/storing of canned food or other packaged food, clause 149 does not extend to some aspects of food handling as defined in clause 9. The offence in clause 149 therefore does

not cover transporting or delivering food, and supervising the transporting or delivering of food by another individual.

Clause 150 makes it an offence if a person supplies any food, and the person knows, or ought reasonably to know, that the food is unsuitable food.

Clause 151 is the strict liability equivalent to clause 150. It is an offence if a person supplies any food that is unsuitable food.

Clause 152 makes it an offence if a person handles food intended for supply in a way that the person knows, or ought reasonably to know, makes, will make, or is likely to make, the food a defined food. It is immaterial whether the food concerned is safe.

For example, the intentional addition of a non-catalogued insect-like species as an ingredient in the preparation of food for sale, such as an insect which is gathered from the wild.

Clause 153 is the strict liability equivalent to clause 152. It is an offence if a person handles food intended for supply in a way that makes, will make, or is likely to make the food, a defined food. It is immaterial whether the food concerned is safe.

Clause 154 makes it an offence if a person undertakes any primary production activity and the primary produce from that activity is unsafe, and the person knew, or ought reasonably to have known, that the primary produce from that activity would be unsafe.

For example, the operator of a fish farm uses a banned veterinary drug or dye (such as malachite green) despite being informed by the Agency that the drug or dye is prohibited for fish farm use for safety reasons.

Another example is continuing to produce for sale eggs which have been detected to have Salmonella in the course of the farmer's own testing and monitoring processes.

Clause 155 is the strict liability equivalent to clause 154. It is an offence if a person undertakes any primary production activity resulting in primary produce that is unsafe.

An example of this can occur in oyster farming, where the oysters bred for sale are found by the Agency to have a norovirus but the farmer did not earlier detect the presence through self-testing.

Clause 156 makes it an offence if a person undertakes any primary production activity and the primary produce from that activity is unsuitable food, and the person knew, or ought reasonably to have known, that the primary produce from that activity would be unsuitable food.

Clause 157 is the strict liability equivalent of clause 156. It is an offence if a person undertakes any primary production activity resulting in primary produce that is unsuitable food.

For example, producing eggs that are contaminated with faecal waste.

Clause 158 makes it an offence if a person undertakes any primary production activity for the supply of food for handling or for human consumption as food and the primary produce from that activity is a defined food, and the person knew, or ought reasonably to have known, that the primary produce from that activity would be a defined food. It is immaterial whether the defined food concerned is safe.

For example, knowingly cultivating fresh fruits or vegetables using genetically modified seeds, and the resulting fruit or vegetables are not approved by the Agency under Part 5.

Clause 159 is the strict liability equivalent of clause 158. It is an offence if a person undertakes any primary production activity for the supply of food for handling or for human consumption as food and the primary produce from that activity is a defined food. It is immaterial whether the defined food concerned is safe.

Clause 160 makes it an offence if a person supplies any imported food and the person knows, or ought reasonably to know, that the food was imported on the basis that it was for private consumption only.

What is imported for private consumption is defined in clause 44. To reiterate, food of a particular kind or different kinds has been defined as imported for private consumption if on the particular occasion of its bringing into Singapore if all the following conditions are met:

- (a) the food has not been imported as a trade sample or for use in any food business;
- (b) the food has not been imported for the purpose of donating it to other persons in Singapore;
- (c) the food does not exceed the maximum threshold quantity viz. 15 kilograms; (d) the food is imported by not more than one individual.

The purpose of the offence in clause 160 is to prevent any person who made use of the private consumption exception and imported food without a licence and consignment permit, to then supply the food imported. These food would not have been subject to inspection at the border or have been imported in accordance with preventative controls throughout the supply chain to manage imported food safety risks.

The offence does not cover food which is a prohibited food or a food of higher regulatory concern mentioned in clause 44(4). This is because the import of these foods is either wholly prohibited or restricted to per consignment controls, and there are offences in Part 3 to address contraventions of these controls.

Clause 161 is the strict liability equivalent of clause 160. It is an offence if a person supplies any imported food that was imported on the basis that it was for private consumption only.

Clause 162 makes it an offence if a person supplies a hazardous food contact article in the course of a business, and the person knows, or ought reasonably to know, that the object is a hazardous food contact article.

Clause 163 is the strict liability equivalent of clause 162. It is an offence if a person supplies a hazardous food contact article in the course of a business. For example, the sale of bowls or pans containing hazardous phthalates or heavy metals, which will leach into food when the bowls or pans are used as hot food containers.

Division 3 has 8 clauses which set out various defences to offences in Part 8.

Clause 164 is a general defence applicable to all offences in Part 8 that involves a food or a regulated food contact article. The defence is additional to any other defence available to the defendant under the Good Samaritan Food Donation Act 2024.

The general defence in clause 164 is —

- (a) that the commission of the offence was due to an act or omission of another person (but not an employee or officer of the person charged), or an accident or some other cause outside the defendant's control; and
- (b) the defendant took all reasonable precautions and exercised all due diligence to prevent the commission of the offence by the defendant, or by another person under the defendant's control.

Clause 165 is a defence applicable to offences concerned with handling of food. The defence is the defendant caused the food to which the offence relates to be destroyed or otherwise disposed of immediately after the food was handled in the manner that was likely to render it unsafe or unsuitable or it to be a defined food.

Clause 166 is a defence applicable to offences involving the supply of unsafe or unsuitable food or hazardous food contact articles. The defence basically is reliance by the defendant when acquiring the food or food contact article, on a written warranty supplied by or on behalf of the person from whom the defendant bought the food or food contact article, and when the defendant supplied the food or food contact article, it was in the same condition as it was when the defendant bought it.

Clause 166 is a re-enactment of the present defence in section 33 of the Sale of Food Act 1973 in modern language. However, the standard in clause 166(1)(c) is higher than section 33(1)(b) of the Sale

of Food Act 1973, where “the accused had no reason to believe that the food or food contact article sold did not conform to such warranty or statement”. In section 166(1)(c), the reasonable objective person serves as the test.

There is also the explicit requirement that the supplied food/food contact article is in the same state as of the time of its purchase.

For packaged food, there is an additional lower defence that the person charged could not reasonably have found out that the food would be unlawful.

There is no longer a distinction between foreign-origin warranties and those given locally. The information flow in the world is substantially borderless today, thanks in a large part to the internet. The differentiation presently in section 33(2) of the Sale of Food Act 1973 is dispensed with.

Procedurally, the defence under clause 166(1) is only available if the defendant, not later than 14 clear days before the date of the hearing, gives the prosecution written notice of the defendant’s intention to rely on the warranty together with a copy of the warranty, and gives a copy of the written notice to the person from whom the defendant received the warranty, and informing the person that the defendant intends to rely on the warranty.

The defendant has more time to give notice to the prosecution, which is presently set at within 7 days after service of the summons.

Clause 167 is a defence applicable to offences involving the supply of unsafe or unsuitable food. The defence is that the food in question is to be exported to another country, and the food complies with the laws (if any) in force at the time of the alleged offence in the country to which the food is to be exported.

Clause 168 is a defence applicable to the offence in clause 162 or 163 relating to the supply of hazardous food contact articles. The defence is that the defendant reasonably believed that the food contact article concerned was not intended for use in connection with the handling of food.

Clause 169 is a re-enactment of section 27(b) of the Sale of Food Act 1973 in modern language.

If an employee commits an offence under Part 8, his or her employer is taken to have committed the same offence. But it is a defence for the employer who is charged to prove, on a balance of probabilities, that the employer could not, by the exercise of due diligence, have prevented the commission of the offence.

There is a change from the present law so that it works more fairly. This will be consistent with the general defence approach which applies to everyone else who is not employee.

Clause 170 deal with the liability of employees and agents, and corresponds to section 27(a) of the Sale of Food Act 1973. The general rule is that it is no defence in proceedings for an offence under Part 8 that the person charged was, at the time of the commission of the offence, an employee or agent of another person. However, as an improvement over section 27(a) of the Sale of Food Act 1973, it is a defence for the employee or agent charged to prove, on a balance of probabilities, that he or she was under the personal supervision of the proprietor of the food business in relation to which the offence was committed, etc.

Clause 171 seeks to clarify the legal interplay between different criminal laws.

## PART 11

### CERTAIN AGRI-FOOD PRODUCTION INPUTS

Part 11 relates to only 2 agri-food production inputs viz. animal feed and plant pesticides used in the cultivation of plants for human consumption as food. Part 11 has 3 Divisions.

Animal feed (as defined in clause 16 can present a major risk to the health of humans because of the potential of animal feed, if not fit for purpose, to transfer harmful organisms and other contaminants to humans when people consume animal products from food producing animals. Animal feed that is not

fit for purpose can also present a risk to food producing animals and a reduction in yields of food derived from these animals.

Likewise for plant pesticides, which is defined in clause 3(1) as a substance or a mixture of substances that is represented, imported, prepared, supplied, or used in the course of growing or cultivating plants, as a means of directly —

- (a) destroying, repelling, inhibiting the feeding of, or preventing infestation by or attacks of, any pest in relation to a plant;
- (b) destroying a plant;
- (c) modifying the physiology of a plant or pest so as to alter its natural development, productivity, quality or reproductive capacity; or
- (d) attracting a plant pest for the purpose of destroying it.

Part 11 recognises that the health and safety of human beings is a priority when regulating chemicals like plant pesticides. There is the potential of a plant pesticide, if its quality, safety or efficacy for the purposes for which it is to be used, has not been satisfactorily established, to transfer harmful chemical residues and other contaminants to humans when people consume plants the cultivated using the plant pesticide.

Division 1 contains interpretive provisions for terms used only or mainly in Part 10, and outlines the scope of application.

Division 2 seeks to minimise and manage risks to human health from consuming animal products which may arise from the animal feed fed to food producing animals. To that end, this Division establishes a licensing regime to ensure, so far as is practicable, that all animal feed produced for food producing animals are fit for purpose.

The scheme in Division 2 replaces the scheme in the Feeding Stuffs Act 1965 so far as that Act affects manufacturing of animal feed intended for food producing animals. However, Division 2 is wider than the Feeding Stuffs Act 1965 as it goes beyond licensing the manufacture of animal feed. Division 2 extends to regulating the rearing of animals as animal feed, such as breeding frogs for fish farming. Division 2 will not regulate the sale of such animal feed.

Division 3 prohibits using in the growing of food of a plant pesticide product that is not registered by the Agency. To minimise and manage risks to human health arising from the use of plant pesticides in growing of food, a registration regime for plant pesticide products is established in Division 3. The object is to ensure that, so far as is practicable, those used in growing of food are safe, and by continuing with vocational control over individuals who carry out prescribed pesticide work.

The scheme in Division 3 replaces the scheme in the Control of Plants Act 1993 so far as that Act affects cultivation of plants for human consumption. The Control of Plants Act 1993 as amended in Part 17 will continue to regulate the use of pesticides in horticulture and the cultivation of plants not intended for human consumption.

Clause 189 contains definitions of terms used only or mainly in Part 11.

An important term defined is the “feed control plan” which, like that for food businesses, is a regulatory tool to enable moving away from prescriptive regulation enforced primarily by end point inspection of the finished product, to placing responsibility on licensed animal feed producers to put in place preventative measures which minimises risks and assures fitness of the animal feed in their respective production processes. The term “feed control plan” is relevant in clause 192 (applications for or to renew an animal feed production licence) and in clause 196 where non-compliance with a feed control plan accepted by the Agency may be a ground for regulatory action.

Clause 190(1) disapplies Division 2 of Part 110 to animal feed production —

- (a) in the course of any research and development activity undertaken directly by the person; or
- (b) for feeding directly to any food producing animal that the person keeps as a pet.

Clause 190(2) disapplies Division 3 of Part 11 to the use of any plant pesticide in the cultivation of

- (a) any plant which is not an edible plant;
- (b) any edible plant which is not for supply, such as domestic and home gardening; or
- (c) any edible plant for the primary purpose of the retail sale of the whole edible plant in a pot, such as herbs or the tangerine kumquat tree widely available during Chinese New Year period.

An “edible plant” has been defined in clause 3(1) to mean a species of plant that is capable of being consumed as food. Besides vegetables and fruits, a plant like the definition extends to the pomegranate plant which is also often sold for “feng shui” reasons, and to the tangerine kumquat tree widely available during Chinese New Year period for auspicious reasons.

However, a cannabis plant would not be an edible plant because its leaves contain a psychoactive substance, which clause 4(3) excludes from the scope of the Bill.

Clause 190(2) also disapplies Division 3 of Part 11 to the use of any plant pesticide in the raising or producing of an animal.

Clause 190(4) further disapplies Division 3 of Part 11 to any plant pesticide that is manufactured or prepared from or using food exclusively.

#### *Division 2 — Animal Feed*

Division 2 is divided into 3 sub-divisions. Sub-division (1) provides for the licensing of animal feed production. Sub-division (2) imposes record-keeping obligations on licensees for traceability of animal feed, similar to that imposed on licensed importers of food and proprietors of licensable food businesses. Sub-division (3) contains the offences relating to unlawful animal feed production.

##### *Sub-division (1) — Licensing of animal feed production*

Clause 191 incorporates the general licensing procedures in Division 4 of Part 14 for the purposes of an application for an animal feed production licence that may be granted under this Part.

Clause 192 outlines the criteria for the grant and renewal of any animal feed production licence or for imposing conditions on or modifying a condition of an animal feed production licence.

Among the factors the Agency is empowered to have regard is whether the applicant for the licence, or licence renewal, or licensee, or an associate of the applicant or licensee, is or was disqualified by clause 298 from holding the animal feed production licence applied for.

A person is disqualified from holding an animal feed production licence when the person’s previous animal feed production licence is revoked. An “associate” is defined in clause 17.

Another criterion is whether the licence applicant or animal feed production licensee has, and will keep and maintain, a feed control plan relating to the applicant’s or licensee’s production of animal feed which is accepted by the Agency.

Clause 193 outlines conditions which may be imposed on an animal feed production licence.

Clause 194 deals with how long an animal feed production licence may be in force. The maximum validity of such a licence is 5 years. Clause 190 also provides that an animal feed production licence is non-transferable.

Clause 195 provides the Agency with power to unilaterally modify licence conditions. The steps in doing so are set out in the general licensing procedures in Division 4 of Part 14.

Clause 196 sets out the grounds that the Agency can rely on to take regulatory action concerning a holder of an animal feed production licence. The procedure that must be followed when taking regulatory action is set out in Division 4 of Part 14.

Regulatory action is not a criminal proceeding for an offence committed. Regulatory action is by the Agency, from whom the privilege to hold the licence is granted, and encompasses, at the most extreme,

the revocation of the licence granted. The Agency may respond to a licensee's defaults in other less extreme ways instead of licence revocation, such as —

- (a) suspend (in whole or part) the licence for not more than 6 months;
- (b) direct the licensee to do, or to refrain from doing, such things as are specified in a direction to rectify any contravention or non-compliance that constitutes the ground for regulatory action;
- (c) modify any condition of the licence; or
- (d) direct the licensee to pay, within a period specified in a direction, a financial penalty of an amount that the Agency thinks fit, but not exceeding \$5,000 for each contravention or failure to comply with or for each other ground of regulatory action.

Clause 197 deals with the effect of revocation of an animal feed production licence.

#### Sub-division (2) — Traceability obligations for animal feed production

Clause 198 provides that the obligations in this sub-division bind only every animal feed production licensee in respect of the production of animal feed by the licensee. The obligation may be imposed on an animal feed production licensee even for making animal feed for the licensee's own farm animals to consume. It is immaterial that the animal feed is not supplied or is for export or exported.

Clause 199 outlines the information that an animal feed production licensee must keep or have ready access to and for how long.

The information that an animal feed production licensee is required to keep or have ready access to, is information which will enable the licensee to trace the animal feed one step backwards and one step forwards. The information relating to the animal feed must also be retained for a period prescribed in the animal feed regulations.

Contravention of any requirement in clause 199 is a strict liability offence.

Clause 200 provides that an animal feed production licensee must have procedures and accurate information for identifying and locating animal feed produced by the licensee, and for tracing the animal feed so that the animal feed can be traced one step backwards and one step forwards. The information must also be sufficient to allow an effective recall to be carried out under a direction given under Part 7.

Under clause 200, an animal feed production licensee has to regularly conduct simulations or other tests of those procedures if required by the Agency.

An animal feed production licensee must also establish and use the procedures for recalling animal feed supplied in or exported from Singapore by the animal feed production licensee and that the licensee considers to be not fit for purpose or whose fitness for purpose is in doubt.

If the animal feed production licensee makes a decision to recall any animal feed on the ground that the animal feed is or might be not fit for purpose, the animal feed production licensee has to notify the Agency as soon as practicable, but no later than 24 hours after making the decision, about the animal feed affected by the recall, and the reason for the recall.

Clause 201 makes it an offence for failing to provide information when requested to do so by an authorised officer or a food inspector about the matters in clause 200. An animal feed production licensee is bound to state truly what the person is requested, and must give information in a readily accessible format, and within 24 hours after the request, or within any reasonable shorter period specified by the authorised officer or food inspector, as the case may be.

It may be vital that the Agency can quickly obtain information from animal feed production licensees in order to prevent animal feed which is not fit for purpose from being further supplied or fed to food producing animals, and thereby entering the food supply chain and endangering human health. The offence in clause 201 is intended to deter persons refusing or failing to provide information needed to prevent this potentially serious risk to human health. For this reason, an individual would not be able to rely on the privilege against self-incrimination to not disclose the required information. See clause 259.

### Sub-division (3) — Animal feed offences

Clause 202(1) makes it an offence for a person to produce in Singapore, in the course of a business, any animal feed when the person is not a holder of a current animal feed production licence, or is not exempt under clause 318 or 319 in relation to producing animal feed.

Clause 202(2) also makes it an offence for a person to produce in Singapore, in the course of a business, any animal feed at or on any premises that is not specified in an animal feed production licence granted to the person.

Clause 203 makes it an offence for a person to produce any animal feed in Singapore that is not fit for purpose where the person knows that, or ought reasonably to have known, that the animal feed is not fit for purpose.

Clause 204 is the strict liability equivalent offence to clause 203.

### *Division 3 — Plant pesticides*

Division 3 also has 3 sub-divisions. Sub-division (1) provides for the registration of plant pesticide products. Sub-division (2) provides for the vocational control over certified pesticide operators. Sub-division (3) contains the offences relating to unlawful plant pesticide use, defences to those offences and presumptions.

#### Sub-division (1) — Registration of plant pesticide products

Clause 205 deals with the registration of plant pesticide products on an application to register. Registration is on a product basis and not according to chemical constituents. When registering a plant pesticide product, the Agency must also approve a label for the plant pesticide product. The label may be approved only if the label meets all applicable labelling criteria covered by clause 207.

Clause 206 describes the criteria and procedure in evaluating a plant pesticide product for registration.

Clause 207 describes the criteria and procedure in evaluating a label of a plant pesticide product for approval, after registering the product. The applicable labelling criteria for a label is whether the label contains adequate instructions relating to such of the following as are appropriate:

- (a) the circumstances in which the plant pesticide product should be used;
- (b) how the plant pesticide product should be used;
- (c) the frequency of the use of the plant pesticide product;
- (d) the withholding period after the use of the plant pesticide product;
- (e) the re-entry period after the use of the plant pesticide product;
- (f) the disposal of the plant pesticide product when it is no longer required;
- (g) the disposal of containers of the plant pesticide product;
- (h) the safe handling of the plant pesticide product and first aid in the event of an accident caused by the handling of the plant pesticide product.

Other matters may be set out in the pesticide control regulations made by the Agency.

Clause 208 provides that the registration of a plant pesticide product remains in force for the period prescribed in the pesticide control regulations and for so long as the registration is not cancelled or suspended under section 205.

A label for a registered plant pesticide product ceases to be an approved label when the registration of the registered plant pesticide product is cancelled or whenever that registration is suspended under clause 205.

Clause 209 sets out the grounds upon which a regulatory sanction against registrants of plant pesticide products may be taken.

Regulatory sanction refers to cancelling or suspending the registration of a plant pesticide product on a variety of grounds. In clause 205, these are —

- (a) the person who applied to register the registered plant pesticide product (called the registrant) applies for the registration of the plant pesticide product to be cancelled;
- (b) the registrant is convicted of an offence under clause 220 (intentionally removing, altering, defacing or destroying an approved label on a container of a registered plant pesticide product);
- (c) the Agency is reasonably satisfied that it is necessary to stop the use of the plant pesticide product in the interest of public health, or because of or to prevent any physical harm or further physical harm, or any risk or further risk of physical harm, to the environment;
- (d) the Agency becomes aware of a circumstance that would have required or permitted the Agency to refuse to register the plant pesticide product, had the Agency been aware of the circumstance immediately before registering the plant pesticide product;
- (e) the supply or use in Singapore of the plant pesticide product has stopped for a continuous period exceeding 12 months; or
- (f) the use of the plant pesticide product is being or has been advertised in Singapore by a registrant in a manner that is false, misleading or deceptive.

The procedure that must be followed when taking regulatory action is set out in Division 4 of Part 14.

The Agency's decision to take regulatory action under clause 205 is an appealable decision. See Part 12.

#### Sub-Division (2) — Certified pesticide operators

Clause 210 incorporates the general licensing procedures in Division 4 of Part 14 for the purposes of any application to be appointed as a certified pesticide operator.

A certified pesticide operator is an individual who carries out prescribed pesticide work, which clause 189 defines to mean the carrying out of any of the following kind of work as may be prescribed (if any) by the pesticide control regulations:

- (a) the supply or use of plant pesticides for a fee or reward;
- (b) the piloting or use of aircraft in connection with the supply or use of plant pesticides (whether or not for a fee or reward);
- (c) the carrying on of a business involving any of the activities referred to in paragraph (a) or (b), including the employment or engagement of individuals to carry out any of those activities for that business.

Clause 211 outlines the criteria the Agency considers before appointing an individual as a certified pesticide operator or for imposing appointment conditions or modifying a condition of the appointment.

Clause 212 deals with how long an appointment as a certified pesticide operator may be in force. The maximum validity of any such appointment is 3 years.

Clause 213 sets out the grounds upon which the Agency may take regulatory action against a certified pesticide operator. The procedure that must be followed when taking regulatory action is set out in Division 4 of Part 14.

The regulatory action covers cancelling the appointment of the certified pesticide operator, directing the certified pesticide operator to do, or to refrain from doing, such things as are specified in a direction (which may include completing any course, training, assessment, examination or test), suspending the appointment for not more than 6 months, or modifying any condition of the appointment.

The Agency's decision to take regulatory action against a certified pesticide operator is an appealable decision. The certified pesticide operator concerned may appeal to the Minister against that decision. See Part 12.

### Sub-division (3) — Plant pesticide offences, defences and presumptions

Sub-division (3) contains offences involving plant pesticides and sets out defences and presumptions connected with prosecuting the offences.

Clause 214 makes it an offence for an individual to carry on, or cause or permit to be carried on, any prescribed pesticide work for reward, when he or she is not a certified pesticide operator authorised to carry out that kind of prescribed pesticide work, or he or she is not doing so under the direction or supervision of a certified pesticide operator authorised to carry out that kind of prescribed pesticide work.

An individual who is exempt under clause 318 or 319 from this clause will not be guilty of an offence.

Unlike clause 215, the offence in clause 214 may be committed only by an individual, and not an entity.

Clause 215 makes an offence for a person to use, or cause or permit the use of, a plant pesticide that is an unregistered plant pesticide product in either —

- (a) the cultivation of any edible plant; or
- (b) any place where any primary production activity is undertaken,

and where the person knows, or ought reasonably to know, that the pesticide used is an unregistered plant pesticide product.

Clause 216 is the strict liability offence involving the use, or causing or permitting the use of, a plant pesticide that is an unregistered plant pesticide product in either —

- (a) the cultivation of any edible plant; or
- (b) any place where any primary production activity is undertaken.

Knowledge that the plant pesticide used is an unregistered plant pesticide product is not an element of the offence.

Clause 217 makes it an offence for a person to use, or cause or permit the use of, a registered plant pesticide product in the cultivation of any edible plant, in a way that contravenes or is in non-compliance with any relevant instruction on an approved label for the plant pesticide product and where the person knows, or ought reasonably to know, that the use is in contravention of, or is not in compliance with, the relevant instruction.

Clause 218 is the strict liability offence involving the use of a registered plant pesticide product in the cultivation of any edible plant, in a way that contravenes or is in non-compliance with any relevant instruction on an approved label for the plant pesticide product.

Clause 219 makes it an offence for a person who, without reasonable excuse, keeps a registered plant pesticide product in a container that does not bear a label that is identical to the approved label for that product.

It is a strict liability offence. The prosecution does not need to prove that the person charged knew or had reason to believe that the container of registered plant pesticide product did not bear a label that is identical to the approved label for that product.

However, it is a defence for the person charged to prove, on a balance of probabilities, that the person charged did not know, and could not reasonably have been expected to know, that the plant pesticide is in the container.

Clause 220 makes it an offence for a person who, without reasonable excuse intentionally removes, alters, defaces or destroys, or causes or allows to be intentionally removed, altered, defaced or

destroyed, an approved label on a container of a registered plant pesticide product, except in certain described circumstances in clause 220(2).

The exceptional circumstances are removing, altering, defacing or destroying a label on a container of a registered plant pesticide product —

- (a) in the course of disposing of the container which is empty; or
- (b) for the purpose of altering or replacing a label attached to the container containing the registered plant pesticide product in order to meet an applicable requirement of the Bill relating to information on approved labels for that plant pesticide product.

Clause 221 sets out a defence to an offence under clause 215(1) or 216(1). It is a defence for the person charged to prove, on a balance of probabilities, that —

- (c) the person did not cultivate the edible plant as food, or for the purpose of supplying it as food;
- (d) the person had, in the course of supplying or offering or exposing for supply, by retail, any edible plant, displayed or caused to be displayed, conspicuously within the premises or place where the plant was supplied or offered or exposed for supply, such number of warning notices stating that the edible plant is not cultivated or supplied as food as will give any customer in the premises or place adequate notice of that fact;
- (e) the person cultivated the edible plant in the course of, or for the purpose of, that plant being exported; or
- (f) a contract or arrangement has been entered into, or an understanding has been arrived at, for the edible plant to be exported, whether or not the person charged is a party to that contract, arrangement or understanding.

The clear elements of the defence are intended to benefit those engaged in commercial cultivation of plants and increase business certainty and confidence in how to come within the safe harbour that is clause 221.

The defence in clause 221 does not affect the defence in section 26H(4) of the Penal Code 1971 which applied to any strict liability offence, and to any other exception in the Penal Code 1871 if applicable.

Clause 222 contains defences to an offence in clause 217(1) or 218(1).

The first defence is if the person charged, on a balance of probabilities, that the person complied with the relevant instructions on an approved label for the plant pesticide product, being an approved label that was, at the time of the alleged offence, affixed or attached to, or appeared on, the container for the plant pesticide that was used.

The second defence is if the person charged —

- (a) used the plant pesticide product at a concentration or rate lower than that specified in the relevant instructions on an approved label for the plant pesticide product (provided that the lower concentration or rate was not prohibited by the relevant instructions); and
- (b) otherwise complied with the relevant instructions on the approved label.

The defences in clause 222 do not affect the defence in section 26H(4) of the Penal Code 1971 which applied to any strict liability offence, and to any other exception in the Penal Code 1871 if applicable.

Clause 223 contains a presumption as to the use of a plant pesticide, which is relevant to proving an offence in this sub-division.

If a police officer or an authorised officer, after lawfully entering certain premises, finds at that time —

- (a) any container of plant pesticide on the premises containing at least 10 grammes (or 10 millilitres) of plant pesticide; or

(b) any individual in those premises concealing, removing or destroying any container of plant pesticide on the premises containing at least 10 grammes (or 10 millilitres) of plant pesticide, every adult occupier of those premises is to be presumed, until the contrary is proved, to have kept the plant pesticide to apply, spray, spread or disperse the plant pesticide by any means.

The presumption is a rebuttable one. It also applies only if the premises entered are premises used (in whole or in part) by any person to undertake any primary production activity involving the cultivation of any edible plant.

## PART 12 APPEALS

Clause 224 sets out the decisions under the Bill (except in Part 9) which are appealable to the Minister.

Clause 224 sets out in a table the list of appealable decisions and provides which person who is aggrieved by an appealable decision may appeal to the Minister against the decision. The appeal has to be in accordance with the clause in order for it to be considered. This includes observing a time limit to make the appeal.

Clause 225 relates to the appeal procedure, which includes making the appeal within a prescribed period after the date of receipt of the appealable decision that is appealed against. The period will be prescribed in Rules made by the Minister under clause 229.

Clause 226 states that it is the function and duty of the Minister to consider and determine an appeal made to the Minister under clause 224. However, the Minister is not under any duty to hear, consider or determine any appeal if it appears that the bringing of the appeal is, or the proceedings of the appeal are, frivolous or vexatious.

The Minister may determine an appeal made under section 224 to the Minister by —

- (a) dismissing the appeal and confirming the decision appealed against;
- (b) allow the appeal and refer the matter back to the initial decision-maker to reconsider the case, thereby revoking the decision appealed against; or
- (c) allow the appeal and substitute or vary the decision appealed against.

However, where the appealable decision appealed against is a Part 7 direction or a written direction under clause 116, the Minister cannot substitute or vary the decision appealed against.

The Minister's decision on appeal is final; there is no further appeal or reconsideration against the Minister's decision, even if the Minister substitutes his or her decision.

Clause 227 makes it clear that for an appealable decision, the making of an appeal against it does not affect the operation of the decision appealed against or prevent the taking of action to implement the decision, and unless otherwise directed by the Minister under this section, the decision appealed against must be complied with until the determination of the appeal.

Clause 228 enables the Minister to designate other political office-holders in his or her Ministry to hear and determine, in the Minister's place, any appeal made under clause 224.

Clause 229 empowers the Minister to make rules governing appeals under this Part.

## PART 13 MONITORING AND ENFORCEMENT

This Part sets out monitoring and investigating powers exercisable by food security officers, authorised officers, food inspectors and Part 9 enforcement officers may exercise in the administration and enforcement of the provisions of the Bill.

The Part sets out 2 groups of powers. The first are called monitoring powers and these are more limited and are exercisable against regulated persons as part of monitoring to ensure their compliance with the respective regulatory requirements. The second group of powers are investigating powers into offences under the Bill, which may be committed by regulated persons as well as those who are not regulated by some licence or permit.

There are no powers of arrest in Part 13.

Division 1 contains 2 clauses of general application.

Clause 230 contains definitions of terms used exclusively in Part 13. A notable definition is “relevant material”, which lists things which regulated activities under the Bill will relate to or involve, viz., any primary produce, any food, any animal feed, any regulated food contact article, any plant pesticide, any non-packaged drinking water, and any MSR product that is none of the above. The term “relevant material” is integral to the exercise of monitoring powers.

The other notable definition is “evidential material”, which is a term integral to the exercise of investigating powers.

Clause 231 makes it clear that Part 13 does not affect a police officer’s powers or duties under any provision of the Criminal Procedure Code 2010 or other written law. The Part also does not affect any other power specially vested in a food security officer, an authorised officer or a food inspector under any other provision of the Bill.

Division 2 contains 12 clauses about monitoring powers.

Clause 232 sets out who may exercise monitoring powers. They are a food security officer, an authorised officer or a food inspector, who is appointed under the Bill as a food security officer, an authorised officer or a food inspector (as the case may be) for the purposes of that provision.

In other words, a mere appointment as such an officer or inspector is not enough to be vested with monitoring powers. The appointment must relate to the specific monitoring power in a provision in this Division.

Clause 233 delimits the purposes for monitoring powers. Monitoring powers in this Division cannot be exercised for purposes outside of clause 233.

For a food security officer, the purposes are any of the following:

- (a) to determine whether the holding of an MSR product by an entity that is subject to a minimum stockholding requirement in relation to the MSR product, has been, or is being, complied with;
- (b) to determine for the purposes of clause 29 whether a divesting entity’s minimum stockholding requirement in relation to an MSR product is being assumed by, or divided with, another receiving entity or entities;
- (c) to determine whether information given in compliance, or purported compliance, with a Part 2 (such as a section 32 requirement) is correct.

For an authorised officer or a food inspector, a monitoring power may be exercised for one or more of the following purposes, only:

- (a) to determine whether to grant a licence or permit or other authorisation under the Bill;
- (b) to determine whether there is any ground to take regulatory action;
- (c) to determine whether information given in compliance, or purported compliance, with a provision in the Bill (other than Part 2 or any Part 2 Rules) is correct.

Clause 234 lists what the monitoring powers are. They are the power in clause 236 to enter premises, the post-entry powers in clause 237, and the different powers detailed in clauses 238, 239, 240, 241, 242 and 243, respectively.

Clause 235 sets out where monitoring powers may be exercised. Monitoring powers are not exercisable at large. In general, the premises are those occupied by regulated persons to conduct the activities authorised by their respective licences, permits or other authorisations.

Clause 236 details the power of entry into premises in clause 235 for the purposes of monitoring. Where the premises involved is a conveyance, there are additional details in clause 243. There is no need for a warrant to enter but there is no power of forcible entry.

Clause 237 details what next can be done after entering those premises. These include power —

- (a) to observe any activity conducted in the premises;
- (b) to examine any animal, object or thing in the premises;
- (c) to inspect and examine the premises;
- (d) to make or direct the making of a sketch, photograph or film, or an audio or a video recording, of any part of the premises, and the immediate vicinity of those premises unless the immediate vicinity is or consists of a private residence and any activity conducted in or on the premises;
- (e) to open or require to be opened any door, window, lock, fastener, cupboard, compartment, box, container or any other thing;
- (f) to interrupt any regulated activity being carried out in the premises;
- (g) to search any part of the premises; and
- (h) to request to inspect, and to inspect, free of charge any document found on the premises.

Clause 238 details the power to obtain information and documents. A food security officer, an authorised officer or a food inspector may require a person who is required under any provision of this Act to keep records —

- (a) to provide for inspection any document or information within the period and in the manner specified by the officer or inspector; and
- (b) to allow an inspection and taking of extracts from, or making copies of, any such document or information, free of charge.

Clause 238 also empowers a food security officer, an authorised officer or a food inspector to access data in computers as part of monitoring powers. This extends to requiring any person having charge of, or otherwise concerned with the operation of, the computer or equipment to provide assistance in gaining such access, such as providing a password or authentication code.

This can extend to the food security officer, authorised officer or food inspector taking possession of the document or any thing containing the information (but not a mobile phone) if, in the opinion of a food security officer, an authorised officer or a food inspector concerned the inspection or copying of or extraction from the document or thing cannot reasonably be performed without taking possession, the document or thing may be interfered with or destroyed unless possession is taken; or it may be evidential material or be required as evidence in any regulatory action instituted or commenced under the Bill.

Clause 239 details a post-entry power which is particularly relevant when there is a need to inspect, examine or test relevant material.

If, after entering any premises, a food security officer, an authorised officer or a food inspector reasonably believes that any compartment, box, container or other thing in the premises contains any relevant material, the food security officer, authorised officer or food inspector (as the case may be) may identify the relevant material (like mark it or seal or lock any door or opening containing or affording access to the relevant material). Alternatively, the owner or any individual who appears to be in charge of the relevant material may be required to hold it at the premises where it is or to move it to, and hold it at, any other reasonable place that the officer or inspector specifies.

Clause 240 is a post-entry power is peculiar to animals which are found on premises mentioned in clause 236. The power is basically that of examining a live food producing animal. A food security officer therefore does not have this power.

Under clause 240, the owner or a person in control of a live food producing animal in those premises can be required to present the animal in a manner suitable for examination and identification, and to hold, isolate, separate it, or to treat any or all of those live food producing animals, for the purpose of the examination. The owner or a person in control of a live food producing animal in those premises may also be required to move or bring the animal to a convenient place within a reasonable distance of those premises, to allow the authorised officer or food inspector to exercise monitoring powers in relation to the animal.

The presentation or movement of any live food producing animal required is at the cost of the owner or person in control of the animal.

If the owner or person in control of a live food producing animal fails to present or to move the animal as required, an authorised officer or a food inspector may proceed to capture, collect, muster, extract, harvest, or pen the animal for the relevant purpose, and the Agency can then recover the expenses reasonably incurred by the authorised officer or food inspector from the owner or person in control of the animal person to whom the requirement or direction was addressed.

Clause 240 provides that no compensation is payable in respect of any animal which is damaged or otherwise destroyed by virtue of any examination or identification under the clause unless the damage or destruction is directly attributable to the negligence or default of the authorised officer or food inspector.

Clause 241 details the power to take and sample relevant material.

Clause 242 details the power to test samples taken under clause 241.

Clause 243 deals with the peculiarities where any premises to be entered under clause 235 are a conveyance. The power includes requesting or direct the individual in control of the conveyance to stop and detaining the conveyance for as long as is reasonably necessary for the food security officer, authorised officer or food inspector (as the case may be) to exercise his or her monitoring powers in relation to the conveyance.

Division 3 contains 9 clauses relating to investigating powers.

Clause 244 provides that an investigating power is exercisable by a food security officer, an authorised officer, a food inspector or a Part 9 enforcement officer, provided that he or he is so appointed in relation to that power.

Clause 245 delimits the purposes for investigating powers. Investigating powers in this Division cannot be exercised for purposes outside of clause 245.

For a food security officer, an investigating power is exercisable only —

- (a) to inquire into anything where the food security officer suspects on reasonable grounds that —
  - (i) an offence under clause 28(3), 31(1), 35(3) or 36(1) or any Part 2 Rules has been or is being committed;
  - (ii) an offence under clause 253, 254, 255, 256 or 257 involving a food security officer has been or is being committed; or
  - (iii) a civil penalty provision (the MSR obligation in clause 20) has been or is being contravened; or
- (b) to gather evidential material that relates to such an offence abovementioned or a civil penalty provision, that the food security officer suspects on reasonable grounds has been or is being committed.

For an authorised officer or a food inspector, an investigating power is exercisable for one or more of the following purposes, only:

- (a) to inquire into anything where the authorised officer or food inspector suspects on reasonable grounds that any offence under this Act has been or is being committed, excluding offences under Part 2 or those connected with health promotion;
- (b) to gather evidential material that relates to any offence under the Bill (excluding offences under Part 2 or those connected with health promotion) that the authorised officer or food inspector suspects on reasonable grounds has been or is being committed;
- (c) to determine whether there is any ground to give a direction under clause 116 or a Part 7 direction to any person;
- (d) to determine whether —
  - (i) any food is unsafe food, unsuitable food or a defined food;
  - (ii) any controlled item is failing;
  - (iii) any animal feed is not fit for purpose; or
  - (iv) any non-packaged drinking water is unwholesome.

A Part 9 enforcement officer may exercise an investigating power for one or more of the following purposes, only:

- (a) to inquire into anything where the Part 9 enforcement officer suspects on reasonable grounds that a Part 9 offence or an offence under Part 10 involving any Part 9 Regulations has been or is being committed;
- (b) to gather evidential material that relates to any offence abovementioned that the Part 9 enforcement officer suspects on reasonable grounds that has been or is being committed.

Clause 246 lists what investigating powers are. Basically, they are monitoring powers plus the special powers in Division 3. A Part 9 enforcement officer has a reduced scope of investigating powers, by reason of the nature of offences they enforce under Parts 9 and 10.

Clause 247 provides where investigating powers may be exercised. They are not confined to premises occupied by regulated persons but subject to the purposes in clause 245.

The premises in relation to which a food security officer may exercise an investigating power are in clause 247(1).

The premises in relation to which an authorised officer or a food inspector may exercise an investigating power are in clause 247(2) and (3).

The premises in relation to which a Part 9 enforcement officer may exercise an investigating power are in clause 247(4) viz. any food premises, and any other premises where food is supplied or to be supplied or from which food is supplied or to be supplied. None of these can be a private residence.

Clause 248 describes the special powers of entry without warrant, which includes forcible entry. In all cases, the food security officer, authorised officer, food inspector or Part 9 enforcement officer must be first unable to enter, or be refused entry to, the premises concerned. However, clause 248 does not confer any power of forcible entry in relation to a private residence.

For a food security officer, he or she has all the powers of entry in clause 236 to enter and remain at any of the premises mentioned in clause 247(1) without a warrant. In addition, a food security officer may make a forcible entry into any of those premises if all the following circumstances are met:

- (a) the food security officer suspects on reasonable grounds that —
  - (i) an offence under clause 27(3), 31(1), 35(3) or 36(1) or any Part 2 Rule has been or is being committed;

- (ii) an offence under clause 253, 254, 255, 256 or 257 involving a food security officer has been or is being committed; or
- (iii) a civil penalty provision (which is the obligation in clause 20) has been or is being contravened,

and there is evidential material in those premises relevant to such an offence or contravention of a civil penalty provision;

- (b) the food security officer is reasonably satisfied that it is necessary to secure the evidential material in order to prevent the material from being concealed, lost or destroyed.

For an authorised officer or a food inspector, he or she has all the powers of entry in clause 236 to enter and remain at any of the premises mentioned in clause 247(2) without a warrant. In addition, an authorised officer or a food inspector may make a forcible entry into any of those premises if all the following circumstances are met:

- (a) the authorised officer or food inspector (as the case may be) suspects on reasonable grounds that any offence under the Bill (except an offence connected with Part 2 or 9) has been or is being committed and there is evidential material in those premises relevant to such an offence;
- (b) the authorised officer or food inspector is reasonably satisfied that it is necessary to secure the evidential material in order to prevent the material from being concealed, lost or destroyed.

Clause 248 also confers additional powers on an authorised officer or a food inspector to make a forcible entry into premises if —

- (a) he or she suspects on reasonable grounds that there is in the premises any of the following relevant material:
  - (i) any food which is unsafe food, unsuitable food or a defined food;
  - (ii) any primary produce which is unsafe;
  - (iii) any controlled item which is failing;
  - (iv) any animal feed which is not fit for purpose;
  - (v) any non-packaged drinking water for supply which is unwholesome;
  - (vi) any unregistered plant pesticide; and
- (b) he or she is reasonably satisfied that it is necessary to make a forcible entry to prevent or reduce a serious danger, or an imminent risk, of death or serious illness of any one from any of those relevant material being handled, used or supplied in connection with any regulated activity which has been or is being undertaken at those premises.

For a Part 9 enforcement officer, he or she has all the powers of entry in clause 236 to enter and remain at any of the premises mentioned in clause 247(4) without a warrant. In addition, a Part 9 enforcement officer may make a forcible entry into any of those premises if all the following circumstances are met:

- (a) the Part 9 enforcement officer suspects on reasonable grounds that a Part 9 offence, or an offence under Part 10 involving any Part 9 Regulations, has been or is being committed and there is evidential material in those premises relevant to such an offence;
- (b) the Part 9 enforcement officer is reasonably satisfied that it is necessary to secure the evidential material in order to prevent the material from being concealed, lost or destroyed.

Clause 249 contains enhanced powers of gathering information.

A food security officer, an authorised officer, a food inspector or a Part 9 enforcement officer may, by written order, require any individual whom the investigator reasonably believes to be acquainted with any fact or circumstance relevant to the offence concerned or contravention of a civil penalty provision, to attend before the same or another similar investigator to answer a question (to the best of

that individual's knowledge, information and belief), to provide information, or to provide for inspection any document.

Clause 250 provides for a power to seize without warrant.

Clause 251 provides for the detention of food, food contact articles, and other evidential material seized and the handling thereafter.

Clause 252 is a scoped power conferred only on an authorised officer or a food inspector to obtain identity particulars from an individual. The power is exercisable only vis-à-vis an individual in a public place who is transporting or delivering food, or is handling or otherwise in possession of food for sale. An authorised officer or a food inspector may detain the individual only for so long as is reasonably necessary.

Division 4 contains 5 clauses which are offences connected with enforcement and administration of the Bill.

Clause 253 contains various offences of obstructing the course of investigations or exercise of monitoring powers. First, the offence of wilfully preventing, obstructing or delaying an investigator or outsourced enforcement officer from entering or re-entering premises.

There is also an offence of intentionally altering, suppressing or destroying any document or any information or material which the person has been required to provide.

It is also an offence if the person, without reasonable excuse, fails to comply with any request, requirement or direction which is made or given by an investigator or an outsourced enforcement officer to that person.

Clause 254 deals with the offence of intentionally interfering with any seals or markings of an investigator.

Clause 255 deal with impersonation of a food security officer, an authorised officer, a food inspector, a Part 9 enforcement officer or an outsourced enforcement officer.

Clause 256 makes it an offence if a person forges certain documents, or applies, knowing it to be forged, a certain document. These documents are any of the following:

- (a) an inspection advice;
- (b) a recognised foreign government certificate;
- (c) an authorisation;
- (d) a registration mark for a plant pesticide;
- (e) an authorised analyst's certificate under section 288.

Clause 257 is about the offence of providing false information or documents in or in connection with

- (a) an application (whether for that person or for another) for an authorisation like a licence or permit;
- (b) an appeal under Part 12; or
- (c) a requirement or direction of an investigator,

and the person knows, or ought reasonably to know, that the information or document, is false or misleading or omits any matter or thing without which the information or material is misleading.

Division 5 contains 16 clauses, which is a collection of provisions on evidential and ancillary matters.

Clause 258 provides that a person is not excused for not complying with a requirement imposed under certain provisions to give any information on the ground that the person is subject to a duty of

confidentiality or privacy under any written law, any rule of law, any contract or any rule of professional conduct, that prevents or restricts the person from complying with the requirement.

Clause 258(2) affords protection to such a person under an obligation as to secrecy or other restriction upon the disclosure of information imposed by law, provided that the breach is attributable, or occasioned by, the person in good faith complying with a requirement imposed under the relevant provision of the Bill to provide information.

However, clause 258 does not relieve the person from the obligation not to disclose any information subject to legal privilege.

Clause 259 provides that a person is not excused for not complying with a requirement imposed under certain provisions of the Bill to give any information on the ground that the disclosure of the information would have a tendency to expose the person to a criminal charge for an offence under this Bill.

Clause 259 also makes clear that by merely informing the investigated person that he or she is not so excused from disclosing the information does not constitute an inducement, threat or promise under section 258(3) of the Criminal Procedure Code 2010, for the purposes of any proceedings for an offence under each of the Bill. An advocate and solicitor, or a legal counsel is not compelled to disclose or produce privileged communications for the purposes of investigations under the Bill.

Clauses 260 to 264 are rebuttable presumptions designed to facilitate proceedings for offences under the Bill. Many of these are existing under the Sale of Food Act 1973.

Clause 260 contains a presumption as to contents of a package of food vis-à-vis any label on the package of food. There is also a presumption as to the identity of the person who imported, produced, sold, or manufactured the food in the package, based on the information on the outside or inside of the package of food, or on any label of the package of food.

Clause 261 contains a presumption as to the supply or offer for supply of food or food contact article, when any food or food contact article is supplied or displayed or offered for supply. This is a re-enactment of section 28 of the Sale of Food Act 1973.

Clause 262 contains a presumption as to samples of food, primary produce or animal feed taken. The sample is presumed to be representative of the quantity of food, primary produce or animal feed from which the sample was taken until the contrary is proved. The sample is also presumed to be representative of the lot, or production run from which the identified quantity was taken until the contrary is proved.

Clause 263 contains a presumption that the import of food in a quantity that is more than that which is imported for private consumption under clause 44 must be treated as an import of food for the purpose of supply.

Clause 264 provides that the onus of proving that —

- (a) at the time of the alleged offence a person was exempted from a provision of the Bill; or
- (b) anything was done or omitted to be done with lawful excuse or authority or reasonable excuse,

lies upon the person making that assertion.

Clause 265 is a re-enactment of section 36 of the Sale of Food Act 1973, with an improvement.

A witness for the prosecution is not compelled to disclose the fact that the witness received information, the nature of the information received or the name of the person from whom the information was received.

An authorised officer, a food inspector or a Part 9 enforcement officer appearing as a witness in any criminal proceedings is not compelled to produce any document containing any confidential matter made or received in his or her capacity as an authorised officer, a food inspector or Part 9 enforcement officer, as the case may be.

However, a court hearing proceedings for an offence under the Bill may order the disclosure of any matter, or the production of a document, referred to in those subsections if the court considers that it is necessary in the interests of justice.

Clause 266 empowers a court to order a person found guilty of an offence involving advertising to undertake corrective advertising activities.

Clause 267 is a re-enactment of section 37 of the Sale of Food Act 1973. A person who is convicted of an offence under the Bill may be ordered by the court to pay all fees and other expenses incidental to the analysis of any food or appliance in respect of which the conviction is obtained, and any other reasonable expenses incurred by the prosecution.

Clause 268 provides for all seized items to be liable to forfeiture by a court, except in the exceptional instances in clause 269. Sections 370, 371 and 372 of the Criminal Procedure Code 2010 relating to the handling of property seized by a police officer apply, with the necessary modifications, to any seized item under the Bill.

Certain large conveyances are excluded from clause 268 and 269.

Clause 269 empowers the court, in any criminal proceeding against a person for an offence under the Bill, to order that any seized item seized in connection with the offence be forfeited under certain conditions.

Clause 270 provides for immediate forfeiture of seized items by the Agency in exceptional circumstances. The forfeiture can take place ahead of any finding of guilt in a criminal proceeding involving the seized item.

Immediate forfeiture by the Agency is allowed where the seized item is unfit for human consumption or not fit for purpose as an animal feed, or it is a biosecurity matter or any thing else which is a suspected hazard or the suspected source of contamination giving rise to a risk to human health, and the seized item is perishable or may rapidly depreciate in value, is injurious to health or is hazardous, is decayed or putrefied, or for any other reason is desirable to dispose without delay.

A complaint of the seizure to a Magistrate's Court can be made within 48 hours after the seizure. If no such complaint has been made with respect to the item seized, the Agency may proceed to destroy or otherwise dispose of the item. If the item is a living thing, the Agency may instead detain and treat it if not incurably diseased or injured, and then dispose of it at once in any manner that the Agency thinks fit.

Clauses 271 and 272 are standard provisions providing for the liability of officers of offenders who are corporations or unincorporated associations or partnerships.

Clause 273 empowers an authorised officer specially authorised by the Chief Executive of the Agency to compound any offence under the Bill which is prescribed as a compoundable offence. All composition sums must be paid into the Consolidated Fund.

## PART 14

### ADMINISTRATION AND GENERAL PROVISIONS

This Part is a general Part dealing with administrative matters.

Division 2 comprises 2 clauses concerning another class of enforcement personnel called outsourced enforcement officers. Their role is to assist the Director-General, Food Security or the Agency in the administration of any provision of the Bill in particular area in Singapore, except any provisions which the Ministry of Health administers.

Under clause 285, the Agency is empowered to appoint an individual who is at least 18 years of age, is not its employee or officer and is not a civil servant, to an outsourced enforcement officer. The Agency has to issue to each outsourced enforcement officer an identification card, which must be carried at all times by the outsourced enforcement officer when exercising powers under any provision of this Act.

Clause 286 sets out the powers of outsourced enforcement officers. These are less extensive than that conferred on any food security officer, authorised officer or food inspector. These powers are confined to regulated premises mentioned in clause 235, and none of those can be a private residence.

Division 4 sets out the provisions of universal application to all regulatory schemes in Parts 3, 4, 5 and 11 of the Bill. The provisions in this Division need to be read together with those specific Parts, where applicable.

Clause 291 contains definitions of terms used mainly or exclusively in Part 14. A notable definition is that of “authorisation”, which is defined to refer to the different licences, permits, registration, certificates, appointments and pre-market approval that may be granted under the Bill.

Clause 292 sets out the general procedure for applications for the different authorisations under the Bill.

Clause 293 empowers the granting by the Agency of applications made under the Bill for an authorisation with or without modifying the conditions of the authorisation. The specific criteria that must be met before the authorisation may be granted are set out in Parts 3, 4, 5 and 11, respectively.

Clause 294 is the general power to impose conditions upon the grant of an authorisation. The specific conditions that must be imposed are set out in Parts 3, 4, 5 and 11, respectively.

Clause 295 sets out the due process which the Agency must observe when modifying authorisation conditions or in carrying out regulatory action against authorisation holder.

Clause 296 provides that every authorisation (other than a pre-market approval), and any rights, benefits or privileges under the authorisation, are not transferable or assignable to any other person.

Clause 297 provides that in taking any regulatory action under because of the conviction of any person of a criminal offence, the Agency may accept the person’s conviction as final. This is a common provision in many licensing schemes.

There is an extended meaning in the Bill of “convicted” for the purposes of regulatory actions only. Clause 297(3) provides that a person is taken to have been convicted of an alleged offence if —

- (a) the person has not been found guilty of the offence but asks for the offence to be taken into account when being sentenced for another offence; or
- (b) the person has been found guilty of the offence but is discharged without conviction.

Clause 298 establishes a debarment scheme to deal with former holders of certain authorisations following regulatory action against them. The authorisations are import or export licences, food business licences or animal feed production licences, only.

Where such an authorisation has been wholly revoked under the Bill following regulatory action against the holder thereof under clause 83, 96 or 196, the person who was the former holder of that invalidated authorisation will be disqualified, for such period as may be specified by the Agency, from holding the same authorisation. The period of disqualification is up to 3 years.

In addition, the person who was the former holder of that authorisation may also be disqualified, for up to 3 years, from holding such other authorisations as the Agency may specify. The Agency is only allowed to specify authorisations that are associated with the invalidated authorisation. The Minister will make rules in the *Gazette* that group different authorisations together where the nature of the licensable activities covered by the respective authorisations are similar.

Where the invalidated authorisation was a food business licence for a type of licensable food business, the former licensee may also be disqualified, for up to 3 years, from being an executive staffer of the same type of licensable food business at any premises.

There is a right of appeal to the Minister for a former holder of an authorisation who is aggrieved by any debarment decision of the Agency under Part 12.

Clause 299 deals with financial penalties which the Agency may impose following regulatory action. All financial penalties must be paid to the Consolidated Fund.

Division 5 consists of 5 clauses.

Clause 300 provides that if any provision in the Bill requires an authorised officer or a food inspector to reasonably believe something before exercising a power, it is sufficient if the Director-General or a more highly ranked authorised officer or food inspector reasonably believes it and directs the authorised officer or food inspector (as the case may be) to exercise the power. A similar provision is provided for food security officers.

Clause 301 is a re-enactment of sections 15 and 16 of the Control of Plants Act 1993, and is to enable Singapore to comply with its international obligations in regard to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). The provision provides for the protection by the Agency of certain confidential information received by the Agency in relation to an application for registration of a plant pesticide that utilises a new ingredient.

Clause 302 deals with the service of documents permitted or required by the Bill to be served on a person. It is a standard provision in many Acts. Clause 302 does not deal with service of court documents like summonses, as these are regulated by the Rules of Court or other written laws.

Clause 303 is another standard provision in many Acts. It protects from personal liability any member of the Agency, a food security officer, an authorised officer, a food inspector, a Part 9 enforcement officer or a member, officer or employee of the Agency, or any other person acting under the direction of the Agency, for anything done or intended to be done in the exercise or purported exercise of power or performance or purported performance of a function under the Bill, provided that it is done or omitted in good faith and with reasonable care.

Clause 304 confers on a Magistrate's Court and a District Court jurisdiction to try any offence under the Bill and to punish accordingly despite any limits set under other written law like the Criminal Procedure Code 2010.

## PART 17

### AMENDMENTS TO OTHER ACTS AND FINAL PROVISIONS

Part 17 contains amendments to other Acts which are consequential on or related to amendments in other Parts of the Bill.

Division 1 contains amendments to the Animals and Birds Act 1965.

The amendments are mostly directed at demarcating the regulatory coverage under the Animals and Birds Act 1965 and that under the Bill, to avoid duplicative regulatory requirements for and enforcement against importing and primary production activities which involve live food producing animals.

The import of live animals remains the subject to regulation under the Animals and Birds Act 1965. Importers of live food producing animals will continue to apply for a single licence under the Animals and Birds Act 1965 and do not need an additional licence and permit under the Bill. However, the regulation of the import of eggs for the purpose of sale or handling as food for human consumption will cease to be regulated under the Animals and Birds Act 1965 but will be regulated as food under Part 3 of the Bill.

The power to make subsidiary legislation under section 59 of the Animals and Birds Act 1965 for the purpose of regulating and controlling the keeping, breeding or feeding of animals and birds is delimited by the amendments, and will cease to extend prohibiting or regulating the keeping, breeding or feeding of any animal or bird for human consumption.

Likewise, the subsidiary legislation making power under section 80(2)(k) of the Animals and Birds Act 1965 is limited to regulation methods of production except animal or bird production for human consumption.

A new section 8A is introduced to the Animals and Birds Act 1965, which is connected to clause 70 under which the Agency is empowered to give a directive banning the import of any live food producing animal of a particular kind from a particular country or place outside Singapore for a period.

That period cannot exceed 90 days in the first instance but may be renewed once by the Agency for a further period not exceeding 30 days (called the freeze period).

The new section 8A is introduced prohibiting the Director-General, Animal Health and Welfare from granting, during the freeze period, under section 8 of the Animals and Birds Act 1965 any licence that is for the import of any living animal or bird if the licence authorises an import that would be inconsistent with the Agency's directive under clause 70. The new section 8A also empowers the Director-General, Animal Health and Welfare, during that freeze period, to revoke or suspend any licence granted under section 8 of the Animals and Birds Act 1965 for the import during the freeze period of any living animal or bird inconsistent with the directive.

Before revoking or suspending any licence granted, the Director General, Animal Health and Welfare, must give notice to the licensee concerned of the intention to revoke or suspend the licence and give the affected licensee an opportunity to make representations. The Director General, Animal Health and Welfare may reject the representations or may suspend the licence instead of revoking it.

There is no right of appeal against the decision of the Director General, Animal Health and Welfare under this new section 8A, unlike decisions under section 62 of the Animals and Birds Act 1965.

The last related amendment is to section 41 of the Animals and Birds Act 1965, concerning animal welfare. The present definition of an "animal-related business" excludes "any business in respect of animals intended for consumption". The amendment removes this exclusion.

With this amendment, a food business proprietor will no longer be liable to lower penalties for breaching animal welfare requirements as an animal owner, but will be put in the same position as all other animal-related businesses.

Division 4 of Part 17 contains consequential and related amendments to the Control of Plants Act 1993.

The amendments reflect the proposed the division of responsibility between the Agency and the National Parks Board, over regulating cultivation of plants in Singapore, which can be edible as well as purely ornamental and therefore have different risk profiles. The National Parks Board will continue with responsibility for the administration of the Control of Plants Act 1993 after the Bill is enacted, but without need for the Agency's officers administering some provisions of that Act under delegated authority because those plants are food.

As a result, the focus of the Control of Plants Act 1993 as amended by the Bill is sharpened to what is required in the interest of better regulation. The scope of the Control of Plants Act 1993 is restricted by the amendments in the Bill as follows:

- (a) only the cultivation of plants not as food or not to produce food will be licensed under the Control of Plants Act 1993; see the amendments to the long title and section 9 of the Control of Plants Act 1993 in clauses 325 and 329. Farming of edible plants will be regulated under Part 4 of the Bill as a food business;
- (b) the registration of and other controls over the use of plant pesticide products and the vocational control of individuals who apply plant pesticides on non-edible plants, are abolished; see the amendments to sections 9, 11 to 16 in clauses 329 and 330;
- (c) the regulation of the export of plants and plant products is made clear that this is for phytosanitary reasons; see the amendment to section 28 in clause 331.

The regulation of importing, exporting and transshipping of fresh fruits and vegetables will cease under the Control of Plans Act 1993, as that is replaced by Part 3 in the Bill administered by the Agency. See clause 328.

The Control of Plants Act 1993 retains its objects of protecting plants and plant products in Singapore against pests and diseases and of controlling of the introduction of pests into Singapore. As insects (even edible insects) can be pests, power is given to the National Development Minister to make rules to support the Agency's directive under clause 70 banning the import of any live food producing

animal of a particular kind from a particular country or place outside Singapore for a period. It is envisaged that rules similar to the new section 8A of the Animals and Birds Act 1965 will be made.

Division 5 of Part 17 contains 17 amendments to the Environmental Public Health Act 1997.

Clause 39 amends section 2 of the Environmental Public Health Act 1987 by removing definitions made redundant by the deletion of significant parts of Part 4 (on retail food establishments) and the deletion of the whole of Part 9 (relating to nonpackaged drinking water).

Clause 340 amends the heading of part 4 since it will have a reduced scope, dealing with temporary fairs and non-food hawking only after the amendments in clauses 342, 343, 344, 345 and 346.

Clause 341 replaces section 31W of the Environmental Public Health Act 1987 so that the Agency is charged with the administration of Part 4 of that Act.

Clause 342 deletes section 32 of the Environmental Public Health Act 1987 on the licensing of retail food establishments. The latter are licensable food businesses and are to be regulated under Part 4 of the Bill.

Clause 343 replaces section 33 of the Environmental Public Health Act 1987 so that the licensing of hawkers is confined to those who hawk, sell or expose for sale any goods of any kind but not any food. Those who hawk, sell or expose for sale any food are licensable food businesses regulated under Part 4 of the Bill.

Clause 344 deletes section 34 on itinerant hawkers.

Clause 345 replaces section 35 of the Environmental Public Health Act 1987, and inserts new sections 35A and 35B, in connection with licensing the promoting, organising or staging of any temporary fair.

Under the new section 35 a person cannot promote, organise or stage any temporary fair on any premises without a permit from the Singapore Food Agency. The trade fair may or may not have food stalls.

The new section 35A provides for a debarment scheme for a person who was the holder of a trade fair permit. Like clause 298, the former permit holder is disqualified from holding another trade fair permit, for a period (not exceeding 3 years) that the Singapore Food Agency specifies. The former permit holder may appeal to the Minister against the period of disqualification specified by the Singapore Food Agency.

The Minister may determine the appeal either by dismissing the appeal and confirming the decision of the Singapore Food Agency appealed against, or shortening the period of disqualification.

The new section 35B is directed at associates of disqualified persons. It operates in addition to section 99 of the Environmental Public Health Act 1987 which contains the general provisions on the granting of licences and permits under that Act. The new section 35B provides that the Singapore Food Agency, in deciding whether an applicant should be granted a trade fair permit, to impose conditions on a trade fair permit or to modify any condition of such a permit, the Agency must have regard to whether the applicant for or a holder of such a permit, or an associate of an applicant for or a holder of such a permit, is or was disqualified by the new section 35A from holding the trade fair permit.

The new section 35B(3) defines an associate in the same manner as clause 17 of the Bill.

Sections 36, 37, 38, 39, 40 and 41 of the Environmental Public Health Act 1987 are deleted by clause 346.

Consequential amendments to sections 41A, 42 and 42A of the Environmental Public Health Act 1987 are made by clauses 347, 348 and 349 because of the reduced scope of part 4 of that Act.

Clause 350 deletes Part 9 of the Environmental Public Health Act 1987 relating to non-packaged drinking water

Clauses 351, 352, 353 and 354 make amendments to sections 82, 84A, 99 and 108A as a consequence of vesting in the Singapore Food Agency the function of administering Part 4 of the of the Environmental Public Health Act 1987.

Clause 355 deletes the First Schedule as a consequence of the deletion of section 32 of the Environmental Public Health Act 1987.

Division 6 of Part 17 contains related amendments to the Feeding Stuffs Act 1965.

Most amendments have the primary effect of limiting the Feeding Stuffs Act 1965 to feeding stuff which are not for consumption by food producing animals, such as pet food and food for wild animals exhibited in a zoo or aquarium.

The Feeding Stuffs Act 1965 will be renamed the “Feeding Stuffs (Pets and Non-food Producing Animals) Act 1965.

Another amendment is to transfer the administration of the Feeding Stuffs Act 1965, once renamed, from the Director-General, Food Administration from the Agency to the National Parks Board.

The last related amendment is to sections 4 and 8 of the Feeding Stuffs Act 1965 to abolish regulation under that Act of the import and sale of feeding stuffs which are not for consumption by food producing animals.

Division 15 of Part 17 contains an amendment in clause 388 to the Wildlife Act 1965, which is connected to clause 70 under which the Agency is empowered to give a directive banning the import of any live food producing animal of a particular kind from a particular country or place outside Singapore for a period.

That period cannot exceed 90 days in the first instance but may be renewed once by the Agency for a further period not exceeding 30 days (called the freeze period).

Some food producing animals are game and would be wildlife covered by the import controls in the Wildlife Act 1965.

A new section 9A is introduced by clause 388, prohibiting the Director-General, Wildlife Management from granting, during the freeze period, under section 9 of the Wildlife Act 1965 any written approval that is for the import of any living wildlife if the written approval authorises an import that would be inconsistent with the Agency’s directive under clause 70. The new section 9A also empowers the Director-General, Wildlife Management, during that freeze period, to cancel or suspend any written approval granted under section 9 of the Wildlife Act 1965 for the import during the freeze period of any living wildlife inconsistent with the directive.

Before cancelling or suspending any written approval granted, the Director General, Wildlife Management, must give notice to the holder of the written approval concerned of the intention to cancel or suspend the written approval and give the affected holder an opportunity to make representations. The Director General, Wildlife Management may reject the representations or may suspend the written approval instead of cancelling it.

There is no right of appeal against the decision of the Director General, Wildlife Management.

Clause 385 and the Second Schedule set out saving and transitional provisions necessary to ensure the migration of existing licences and permits to the new regimes under the Bill, and to provide time for existing businesses to adapt the new requirements in the Bill.

Clause 385 also empowers the Minister charged with the responsibility for the Bill to make regulations prescribing such provisions of a saving or transitional nature consequent on the enactment of any provision in the Bill, as the Minister may consider necessary or expedient.

The Minister has power to make such regulations only within 2 years after the date of commencement of the provision concerned.