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## **Federal Act on Foodstuffs and Utility Articles (Foodstuffs Act, FSA)**

of 9 October 1992 (status as of 1 October 2013)

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*The Federal Assembly of the Swiss Confederation,  
on the basis of Articles 32<sup>ter</sup>, 64 and 69<sup>bis</sup> of the Federal Constitution<sup>1,2</sup>  
and having considered the dispatch of the Federal Council dated 30 January 1989<sup>3</sup>,  
decrees:*

### **Chapter 1: Aim, Scope and Definitions**

#### **Art. 1**            Aim

The aim of this Act is:

- a. to protect consumers from foodstuffs and utility articles that may present a risk to their health;
- b. to ensure that foodstuffs are handled hygienically;
- c. to protect consumers from deception relating to foodstuffs.

#### **Art. 2**            Scope of application

<sup>1</sup> This Act applies to:

- a. the manufacture, processing, storage, transport and offering of foodstuffs and utility articles;
- b. the labelling and advertising of foodstuffs and utility articles;
- c. the import, transit and export of foodstuffs and utility articles.

<sup>2</sup> This Act also applies to agricultural production to the extent that it is for the manufacture of foodstuffs.

AS 1995 1469

<sup>1</sup> [BS 1 3; AS 1985 659] These provisions correspond to Arts. 97 para. 1, 105, 118 para. 2 and 123 of the Federal Constitution of 18 April 1999 (SR 101).

<sup>2</sup> Amended by Annex No 6 of the Genetic Engineering Act of 21 March 2003, in force since 1 Jan. 2004 (SR 814.91)

<sup>3</sup> BBl 1989 I 893

<sup>3</sup> The same provisions apply to imported foodstuffs, provided this is not contradictory to international agreements.

<sup>4</sup> This Act does not apply to:

- a.<sup>4</sup> foodstuffs and utility articles intended for personal use;
- b. substances and products subject to the legislation on therapeutic products; the food control inspectorate provisions applicable to the use of veterinary drugs are reserved.

<sup>5</sup> In the event of any dispute relating to the applicability of legislation on foodstuffs or on therapeutic products to specific substances or products, the Federal Department of Home Affairs shall issue a ruling after consulting the authorities concerned.

### **Art. 3** Foodstuffs

<sup>1</sup> Foodstuffs are defined as nutritional products and luxury foods.

<sup>2</sup> Nutritional products are products that are intended to develop and maintain the human body and which are not marketed as therapeutic products.

<sup>3</sup> Luxury foods are alcoholic beverages, tobacco and other smoking products.

<sup>4</sup> Ingredients are foodstuffs that are added to other foodstuffs or that are used to make up other foodstuffs, as well as additives.<sup>5</sup>

### **Art. 4** Components, additives, foreign substances

<sup>1</sup> Components are substances that are naturally present in a particular foodstuff.

<sup>2</sup> Additives are substances that are used in the manufacture of foodstuffs to obtain particular properties or effects.

<sup>3</sup> Foreign substances are undesired substances that are not naturally present in foodstuffs (e.g. residues, impurities, microbial metabolic products, radioactive nuclides).

### **Art. 5** Utility articles

For the purposes of this Act, utility and consumable articles (utility articles) are defined as products that are not marketed as therapeutic products and that fall within one of the following categories:<sup>6</sup>

- a. products used in connection with the manufacture, use or packaging of foodstuffs (e.g. appliances, crockery or packaging material);
- b. personal hygiene articles and cosmetics, and articles that when used as normally intended come into contact with the mucous membrane of the mouth;

<sup>4</sup> Amended by No I of the Federal Act of 18 June 2004, in force since 1 March 2005 (AS **2005** 971 972; BBl **2004** 1455 1465)

<sup>5</sup> Amended by Annex No 3 of the Federal Act of 6 Oct. 1995 on Technical Barriers to Trade, in force since 1 July 1996 (SR **946.51**)

<sup>6</sup> Amended by Annex Sec. II 5 of the Therapeutic Products Act of 15 Dec. 2000, in force since 1 Jan. 2002 (SR **812.21**)

- c. articles of clothing, textiles and other articles (e.g. watch straps, wigs and jewellery), which, when used as normally intended, come into contact with the body;
- d. articles intended to be used by children (e.g. toys, educational materials, materials for painting and drawing);
- e. candles, matches, lighters, and joke and novelty items;
- f. articles and materials intended for the furnishing and decoration of living areas, unless they are subject to other legislation.

## **Chapter 2: Foodstuffs and Utility articles**

### **Section 1: General Provisions**

#### **Art. 6** Principle

<sup>1</sup> Foodstuffs, additives and utility articles that do not meet the requirements of this Act and its implementation provisions, and in particular those that exceed limit and tolerance values, may not be used or offered to consumers except under certain conditions.

<sup>2</sup> For foodstuffs intended exclusively for export, the regulations of the importing country apply, unless the Federal Council provides otherwise.

#### **Art. 7** Source products

<sup>1</sup> Animals, plants, minerals and drinking water that are used to manufacture foodstuffs or are used as foodstuffs must be of such quality that the foodstuffs produced do not present a risk to human health, nor give rise to deception.

<sup>2</sup> In the assessment of such quality, the following are decisive:

- a. for animals: feeding and care;
- b. for plants: cultivation, fertilisation and plant protection;
- c. for minerals: manufacture and composition;
- d. for drinking water: composition, microbiological state and treatment.

<sup>3</sup> The Federal Council may authorise other source products. It shall determine the species of animal whose meat may be used as foodstuffs.

#### **Art. 8** Authorised foodstuffs

<sup>1</sup> The Federal Council shall establish the forms of foodstuffs that are authorised, and shall describe and specifically designate them; it may stipulate the requirements that they must meet.

<sup>2</sup> The competent federal agency may provisionally authorise foodstuffs that the Federal Council has not yet authorised, and may provide a specific designation thereof.

<sup>3</sup> The competent federal agency shall regularly publish a list of foodstuffs that have been authorised on an individual basis.

<sup>4</sup> Specific designations must:

- a. characterise the foodstuff, indicating its nature and the raw materials used in its manufacture;
- b. be comprehensible and unambiguous.

<sup>5</sup> The specific designation of substitutes and imitation products must be expressed in such a manner as to ensure a clear distinction from the corresponding natural products.

<sup>6</sup> The Federal Council may regulate the authorisation of foodstuffs that:

- a. are intended for people who, for health reasons, have particular nutritional needs; or
- b. are marketed as having particular nutritional effects.<sup>7</sup>

#### **Art. 9** Manufacturing processes

The Federal Council may restrict or prohibit the following substances and processes if according to the current state of scientific knowledge it is not possible to exclude a risk to health:

- a.<sup>8</sup> agricultural auxiliary agents (Arts. 158 and 159 of the Agriculture Act of 29 April 1998<sup>9</sup>), veterinary drugs and certain agricultural production processes;
- b.<sup>10</sup> physical, chemical, microbiological or biotechnological processes for the manufacture or processing of foodstuffs or utility articles; in doing so, it shall take account of the requirements of the Genetic Engineering Act of 21 March 2003<sup>11</sup>.

#### **Art. 10** Limit values and tolerance values

<sup>1</sup> Foodstuffs may contain components, additives, foreign substances or micro-organisms (such as bacteria, yeasts, moulds or viruses) only to the extent that they cannot present a risk to health.

<sup>2</sup> Based on a toxicological or an epidemiological assessment, the Federal Council shall specify:

- a. the additives authorised for individual foods and their maximum quantities (limit values);

<sup>7</sup> Amended by Annex No II 5 of the Therapeutic Products Act of 15 Dec. 2000, in force since 1 Jan. 2002 (SR **812.21**)

<sup>8</sup> Amended by Annex No 5 of the Agriculture Act of 29 April 1998, in force since 1 Jan. 1999 (SR **910.1**)

<sup>9</sup> SR **910.1**

<sup>10</sup> Amended by Annex No 6 of the Genetic Engineering Act of 21 March 2003, in force since 1 Jan. 2004 (SR **814.91**)

<sup>11</sup> SR **814.91**

- b. the maximum concentrations (limit values) for foreign substances and components;
- c. the maximum amounts of micro-organisms (limit values).

<sup>3</sup> The Federal Council may:

- a. set lower maximum concentrations and lower maximum amounts under paragraph 2 than those absolutely necessary for the protection of health, provided that this is technically possible (tolerance values);
- b. totally prohibit the use of additives, foreign substances and organisms under paragraph 1 if there is no technological necessity for manufacture, processing or storage, or if there is no appropriate method of detecting them.

#### **Art. 11<sup>12</sup>**

##### **Art. 12** Information for the public

<sup>1</sup> The federal government shall ensure that the public is informed about particular events that are of importance to health protection. The federal government may also supply the public with scientific information of general interest about nutrition, and in particular for the prevention of illness and the protection of health.

<sup>2</sup> The federal government may give support to public information campaigns and related research that is carried out by other institutions.

## **Section 2: Health**

##### **Art. 13** Nutritional products and luxury foods

<sup>1</sup> Nutritional products must not present a risk to health when used as normally intended.

<sup>2</sup> Luxury foods must not present a direct or unexpected risk to health when used or consumed as normally intended.

<sup>3</sup> The Federal Council may, by way of exception, make nutritional products that are particularly popular and that are only consumed in small quantities subject to the provisions relating to luxury foods in accordance with paragraph 2.

##### **Art. 14** Utility articles

<sup>1</sup> Utility articles must not present a risk to health when used as provided or in the normally expected manner.

<sup>12</sup> Repealed by No I of the Federal Act of 18 June 2004, with effect from 1 March 2005 (AS 2005 971 972; BBl 2004 1455 1465)

<sup>2</sup> For the purpose of preventing any such risk, the Federal Council may stipulate requirements for utility articles and their labelling, and may restrict or prohibit the use of certain materials.

### **Section 3: Handling of Foodstuffs**

#### **Art. 15** Hygiene

<sup>1</sup> Anyone who manufactures, processes, stores, transports or offers foodstuffs must ensure that they:

- a. are stored in clean, tidy conditions;
- b. are stored, transported or offered in such a way that they cannot be affected by substances that present a risk to health, or be adversely affected in any other way;
- c. only come into direct or indirect contact with containers, packaging materials, facilities, tools and other similar products that are clean and in good condition;
- d. are stored only on premises and transported only in vehicles that are clean, sufficiently large and equipped for organised storage;
- e. are, as far as possible, not affected by pests and parasites.

<sup>2</sup> Persons who excrete pathogens that may present a risk to the health of consumers must take special precautions when handling foodstuffs.

<sup>3</sup> The Federal Council shall enact regulations on the hygienic handling of foodstuffs.

<sup>4</sup> If it is necessary for the purposes of the Act, the Federal Council may by means of an Ordinance require persons supplying or offering food or drinks for immediate consumption to undergo training in the field of hygiene.<sup>13</sup>

#### **Art. 16** Slaughter of animals

<sup>1</sup> Animals may be slaughtered only in authorised slaughterhouses.

<sup>2</sup> The Federal Council shall regulate:

- a. exemptions for game, fish and occasional slaughtering;
- b. the slaughter of animals that are diseased, thought to be diseased, or that are injured.

#### **Art. 17** Slaughterhouses

<sup>1</sup> Slaughterhouses must be designed in an appropriate manner, be sufficiently large, and easy to clean.

<sup>13</sup> Inserted by No II of the Federal Act of 16 Dec. 2005, in force since 1 July 2006 (AS 2006 2363 2366; BBl 2005 465)

<sup>2</sup> The Federal Council shall specify the minimum size of slaughterhouses and the required areas and facilities depending on the types and numbers of animals to be slaughtered.

<sup>3</sup> and <sup>4</sup> ...<sup>14</sup>

**Art. 17a<sup>15</sup>** Licensing and reporting requirements

<sup>1</sup> Firms that manufacture, handle or store foodstuffs of animal origin require an operating licence from the canton.

<sup>2</sup> Other firms handling foodstuffs must report their operations to the cantonal enforcement authorities.

<sup>3</sup> The Federal Council may make exceptions for firms which

- a. operate in primary production; or
- b. undertake activities presenting a small risk to food safety.

#### **Section 4: Deception in relation to Foodstuffs**

**Art. 18** Prohibition of deception

<sup>1</sup> All information relating to a foodstuff, and in particular the properties that it is claimed to have, must be true.

<sup>2</sup> Advertising for foodstuffs and their presentation and packaging must not mislead the consumer.

<sup>3</sup> In particular, information about a foodstuff or the presentation thereof is considered to be misleading if it is liable to deceive the consumer as to the manufacture, composition, properties, method of production, storage life, origin, particular effects or value of the foodstuff.

**Art. 19** Imitation and confusion

<sup>1</sup> Foodstuffs must not be imitated with a view to causing deception nor be manufactured, handled, offered, presented or advertised in a manner that is misleading.

<sup>2</sup> Goods that are not foodstuffs must not be stored, offered, named or advertised in a manner that makes them liable to be confused with foodstuffs.

<sup>14</sup> Repealed by No I of the Federal Act of 5 Oct. 2007, with effect from 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>15</sup> Inserted by No I of the Federal Act of 8 Oct. 1999 (AS 2002 775; BBl 1999 6128). Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

**Section 5: Information about Foodstuffs****Art. 20** Obligation to provide information and designation

<sup>1</sup> Anyone who offers a foodstuff must, on request, inform the purchaser of its place of origin (country of production), its specific designation and its composition (ingredients) and provide further information as required in Article 21.<sup>16</sup>

<sup>2</sup> Anyone who offers a pre-packaged foodstuff must state its specific designation on the packaging together with its composition in order of decreasing weight.

<sup>3</sup> The specific designation may be accompanied by other designations provided these do not mislead consumers.

<sup>4</sup> The specific designation may be omitted provided the nature of the foodstuff is obvious.

**Art. 21** Special labelling

<sup>1</sup> The Federal Council shall determine whether the consumer must be given any further information, and in particular information about the storage life, method of storage, origin (place, manufacturer, importer or retailer), method of production, method of preparation, particular effects, warnings or nutritional value. The Federal Council may issue special regulations relating to the designation of ready-made dishes on menus.

<sup>2</sup> The Federal Council may also enact regulations on the labelling of foodstuffs to protect:

- a. health, especially that of persons whose health is particularly at risk
- b. against deception, especially in relation to products where consumers may be particularly easily deceived because of the nature of the product or of the trade.

<sup>3</sup> The Federal Council shall regulate the labelling of foodstuffs to which substances that are considered essential for life or physiologically useful have been added (vitamins, trace elements and other elements).

<sup>4</sup> The Federal Council shall define the requirements that must be met by foodstuffs that are advertised as being the product of specific methods of cultivation (in particular integrated or organic production); this may involve the recognition of private law authorisation criteria.

<sup>16</sup> Amended by Annex No 3 of the Federal Act of 6 Oct. 1995 on Technical Barriers to Trade, in force since 1 July 1996 (SR **946.51**)

## Chapter 3: Foodstuffs Control

### Section 1: Principles

#### Art. 22 Methods of analysis

<sup>1</sup> The Federal Council shall make recommendations on how foodstuffs, additives and utility articles are to be analysed and assessed according to the current state of knowledge in science and technology.

<sup>2</sup> The Federal Council shall provide for the separate publication of recommendations (foodstuffs manual).

<sup>3</sup> The Federal Council may, by means of an ordinance, declare individual parts of the foodstuffs manual to be binding, in particular the reference methods established therein.

#### Art. 23 Self-supervision

<sup>1</sup> Anyone who manufactures, processes, offers, imports or exports foodstuffs, additives or utility articles must ensure in the course of his activities that the goods are in conformity with legal requirements. He must analyse them or have them analysed according to "Good Manufacturing Practice".

<sup>2</sup> Official inspection does not imply a dispensation from the obligation to carry out self-supervision.

<sup>2bis</sup> Anyone who discovers that foodstuffs or utility articles that he introduces, manufactures, processes, handles, supplies or offers may constitute a health risk must ensure that consumers come to no harm. If the foodstuffs or utility articles are no longer under the direct control of the person in question, that person must notify the enforcement authorities in question immediately and cooperate with them.<sup>17</sup>

<sup>3</sup> The Federal Council shall regulate the conditions under which analysis may be dispensed with in individual cases.

<sup>4</sup> Owners and purchasers of animals for slaughter must notify the official veterinarian or official expert assistant if there are health concerns concerning an animal or if an animal has been treated with therapeutic products.<sup>18</sup>

<sup>5</sup> The Federal Council may issue the documentation relating to self-supervision.<sup>19</sup>

<sup>17</sup> Inserted by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>18</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>19</sup> Inserted by No I of the Federal Act of 8 Oct. 1999, in force since 1 June 2002 (AS 2002 775 776; BBl 1999 6128)

**Art. 23a<sup>20</sup>** Traceability

<sup>1</sup> Foodstuffs, animals intended for food manufacture and all substances pertaining thereto or which may be expected to be processed into a foodstuff must be traceable through all stages of manufacturing, processing and distribution.

<sup>2</sup> Systems and processes must be put in place so that the authorities can, at their request, be notified of any necessary information.

**Section 2: Control Procedures****Art. 24** Inspection and obtaining samples

<sup>1</sup> The control authorities shall examine foodstuffs, additives, utility articles, premises, facilities, vehicles, manufacturing processes, animals, plants, minerals and agricultural land, and conditions of hygiene; the inspection shall normally be carried out by random sampling.

<sup>2</sup> The control authorities may take samples and if need be consult delivery notes, receipts and control documents.

<sup>3</sup> In the context of their work, they may have access during normal working hours to land, workplaces, premises and vehicles.

**Art. 25** Rights and obligations of manufacturers and traders

<sup>1</sup> Anyone who manufactures, processes, stores, offers, imports or exports foodstuffs, additives and utility articles must assist the control authorities free of charge in the conduct of their work, and must supply the required information.

<sup>2</sup> Anyone who slaughters animals must make premises, facilities and auxiliary personnel available free of charge for the purpose of inspecting animals before and after slaughter.

<sup>3</sup> The party being inspected has the right to a written report on the results of the inspection; the report shall be given to him or his representative at the place where the control is carried out.

<sup>4</sup> If no complaint has been registered about a sample, the owner may demand a refund of its value, provided this is at least equivalent to the minimum value set by the Federal Council.

**Art. 26** Inspection of animals before and after slaughter

<sup>1</sup> After animals have been slaughtered, the official veterinarian or official expert assistant shall examine the meat of:<sup>21</sup>

<sup>20</sup> Inserted by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>21</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

- a. horses, cattle, sheep, goats and pigs;
- b. wild animals that have been reared as productive livestock if they are slaughtered in large numbers.

<sup>2</sup> He shall decide whether and how the meat may be used.

<sup>3</sup> The Federal Council shall regulate:

- a. the procedure for the inspection of animals before and after slaughter;
- b. the procedure for inspecting poultry.

<sup>4</sup> The Federal Council may provide for:

- a. the inspection of animals before slaughter;
- b. the inspection of other types of animal;
- c. exemptions for game.

**Art. 26a<sup>22</sup>** Control of foodstuffs of animal origin

The Federal Council may require systematic controls for foodstuffs of animal origin, and it may regulate the conduct and certification of such controls.

**Art. 27** Complaints

<sup>1</sup> If the control authorities note that the legal requirements have not been met, they shall register a complaint. This may relate to:

- a. foodstuffs, additives or utility articles;
- b. conditions of hygiene;
- c. premises, facilities or vehicles;
- d. manufacturing processes;
- e. animals, plants, minerals or agricultural land.

<sup>2</sup> A complaint must in particular be registered if limit values or tolerance values are exceeded.

<sup>3</sup> The control authorities shall notify the parties concerned in writing of any complaints. The Federal Council may provide for exemptions for analyses of animals before and after slaughter.

<sup>4</sup> The control authorities shall register a complaint about goods for export if these:

- a. clearly present a risk to health;
- b. as far as can be assessed, do not comply with the requirements of the country of destination.

<sup>5</sup> The control authorities may register a complaint about goods in transit if these present an obvious risk to health.

<sup>22</sup> Inserted by No I of the Federal Act of 8 Oct. 1999, in force since 1 June 2002 (AS 2002 775 776; BBl 1999 6128)

**Section 3: Measures**

**Art. 28** Goods in respect of which a complaint has been registered

<sup>1</sup> The control authorities shall decide whether the goods in respect of which a complaint has been registered:

- a. may be used and whether such use is subject to conditions;
- b. must be disposed of by those concerned;
- c. must, at the expense of those concerned, be confiscated, rendered harmless, recycled in a harmless manner or disposed of.

<sup>2</sup> The control authorities may require those concerned to investigate the deficiencies and to provide a report to the control authorities.

<sup>3</sup> If a limit value is exceeded, the control authorities shall order the measures necessary to protect health.

<sup>4</sup> If a tolerance value is exceeded, but there is no risk to health, then the goods may be used, either subject to conditions set by the control authorities or not. In the case of repeated failure to comply with any such conditions, the control authorities may order disposal or confiscation.

<sup>5</sup> On import or export, the goods in respect of which a complaint has been registered may also be sent back or transferred to the competent cantonal office for foodstuffs control.

**Art. 29** Other complaints

<sup>1</sup> If a complaint has been registered about a manufacturing process, premises, facilities, vehicles or conditions of hygiene, the control authorities shall order that these deficiencies be rectified.

<sup>2</sup> They may permanently or temporarily prohibit manufacturing processes, the slaughter of animals or the use of premises, facilities, vehicles and agricultural land.

<sup>3</sup> If the conditions in an enterprise present a direct risk to public health, the competent enforcement authority may order its immediate closure.

**Art. 30** Precautionary measures

<sup>1</sup> The control authorities shall confiscate the goods that are the cause of a complaint if this is necessary for the protection of consumers.

<sup>2</sup> They may also confiscate goods in cases of well-founded suspicion.

<sup>3</sup> The confiscated goods may be placed in official storage.

<sup>4</sup> Confiscated goods that cannot be stored should be used or disposed of, taking account of the interests of those involved.

**Art. 31** Reporting and warning

<sup>1</sup> The competent enforcement authority shall report any infringement of the provisions of foodstuffs legislation to the prosecution authority.

<sup>2</sup> In cases that are clearly of a minor nature, the enforcement authority may decline to report the matter and may issue a warning. In this case, no other penalty is imposed.

**Chapter 4: Enforcement****Section 1: Federal Government****Art. 32** Import, transit and export

<sup>1</sup> The federal government shall enforce this Act in relation to import, transit and export, and shall ensure that the required inspections of foodstuffs are carried out. The Federal Council may delegate tasks to the Customs Administration.

<sup>2</sup> The federal government shall control the import of veterinary therapeutic products with a view to preventing the production of foodstuffs that do not comply with legal requirements.

<sup>3</sup> It may delegate the conduct of certain inspections and taking the decisions thereon to the cantonal office for foodstuffs control.

**Art. 33** Prohibition of import

The competent department may prohibit the import of certain goods that present a risk to health, provided this risk to the health of the population cannot otherwise be averted.

**Art. 34** Research and training

The federal government:

- a. shall procure and study the scientific information necessary for the application of this Act;
- b. may conduct studies itself or in collaboration with the cantons;
- c. shall collaborate in the basic and advanced training of the control authorities.

**Art. 35** Enforcement in the armed forces

In fixed installations used by the armed forces, the federal government shall conduct foodstuff inspections through the cantonal executive bodies to the extent that this is possible. The armed forces shall otherwise ensure that the requirements of this Act are complied with. The Federal Council shall regulate the procedure and responsibilities.

**Art. 36** Supervision and coordination

<sup>1</sup> The federal government shall supervise the enforcement of this Act by the cantons.

<sup>2</sup> The federal government shall coordinate enforcement measures taken by the cantons and their activities in the area of information in matters where there is a national interest.

<sup>3</sup> For this purpose, the federal government may:<sup>23</sup>

- a. require the cantons to inform the federal government of enforcement measures that they have taken, and of the results of analyses;
- b. prescribe measures for uniform enforcement to the cantons;
- c. in extraordinary situations, order the cantons to take certain enforcement measures.

<sup>4</sup> The federal agency concerned may:

- a. appoint reference laboratories for the examination of foodstuffs and utility articles;
- b. coordinate and support cantonal laboratory inter-laboratory trials; it may also conduct its own inter-laboratory trials with the cantonal laboratories.<sup>24</sup>

<sup>5</sup> The Federal Council shall coordinate the enforcement of this Act, as well as of the Therapeutic Products Act of 15 December 2000<sup>25</sup>, the Agriculture Act of 29 April 1998<sup>26</sup> and the Epizootic Diseases Act of 1 July 1966<sup>27,28</sup>.

**Art. 37** Federal Council enforcement provisions

<sup>1</sup> The Federal Council shall enact enforcement provisions.

<sup>2</sup> The Federal Council may entrust the enactment of provisions of a mainly technical or administrative nature to the federal offices concerned.<sup>29</sup>

**Art. 38** International cooperation

<sup>1</sup> In enacting its provisions, the Federal Council shall take account of international recommendations and foreign trade relations.

<sup>2</sup> In the context of this Act, the Federal Council may declare as applicable standards that are recommended by international organisations, and may recognise foreign control agencies and certificates.

<sup>23</sup> Amended by Sec. I of the Federal Act of 8 Oct. 1999, in force since 1 June 2002 (AS 2002 775 776; BBl 1999 6128)

<sup>24</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>25</sup> SR 812.21

<sup>26</sup> SR 910.1

<sup>27</sup> SR 916.40

<sup>28</sup> Inserted by Annex No II 5 of the Therapeutic Products Act of 15 Dec. 2000, in force since 1 Jan. 2002 (SR 812.21)

<sup>29</sup> Amended by No I of the Federal Act of 8 Oct. 1999, in force since 1 June 2002 (AS 2002 775 776; BBl 1999 6128).

<sup>3</sup> Within the limits of its power under this Act, the Federal Council may conclude international treaties.

<sup>4</sup> The federal offices shall collaborate with specialised national and international offices and institutions. They shall carry out the tasks required by international collaboration; in particular, they issue any necessary reports, provide administrative assistance and take part in official inspections.<sup>30</sup>

## Section 2: Cantons

### Art. 39 Cantonal regulations

The cantons shall enact provisions on cantonal enforcement and give notice of these to the federal authorities.

### Art. 40 Control of foodstuffs

<sup>1</sup> The cantons shall enforce this Act to the extent that the federal government is not responsible therefor and ensure the control of foodstuffs within Switzerland.

<sup>2</sup> For this purpose, the cantons shall appoint a cantonal chemist, a cantonal veterinarian and the required number of food inspectors, food controllers, official veterinarians and official expert assistants.<sup>31</sup>

<sup>3</sup> The cantons shall issue regulations on the work of these control authorities in terms of this Act. They may entrust special control tasks to other enforcement authorities.

<sup>4</sup> The cantonal chemist shall be in charge of controlling foodstuffs in his area. He shall co-ordinate the activities of the laboratories, food inspectors and food controllers under his authority.

<sup>5</sup> The cantonal veterinarian or a veterinarian appointed by the canton who meets the requirements is responsible for monitoring the farming and slaughtering of livestock. He coordinates the activity of the official veterinarians and official expert assistants under his authority. The cantons may also entrust him with monitoring the processing of the meat.<sup>32</sup>

<sup>6</sup> The cantons shall operate specialised laboratories for the analysis of samples. The cantons may collaborate to operate joint laboratories. They may also instruct suitable private laboratories to conduct the analysis of samples.

<sup>30</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>31</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>32</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

**Art. 41** Basic and advanced training

<sup>1</sup> The persons entrusted with control must meet the requirements established for their positions by the Federal Council.

<sup>2</sup> The cantons are responsible for the basic and advanced training of their personnel.

**Art. 41a<sup>33</sup>** Examining boards

<sup>1</sup> The Federal Council shall appoint examining boards that examine people who carry out functions in implementation of this Act.<sup>34</sup>

<sup>2</sup> The examining boards publish the results of the examination in the form of a ruling.

<sup>3</sup> The Federal Council may delegate to the cantons examinations of people who carry out specific functions in implementation of this Act.

**Section 3: Special Enforcement Provisions****Art. 42** Duty of secrecy

All persons entrusted with the enforcement of this Act are subject to the duty of secrecy.

**Art. 43** Public warning

<sup>1</sup> If the enforcement authorities establish that foodstuffs, additives or utility articles presenting a risk to health have been supplied to an undetermined number of consumers, the authorities shall inform the public, and advise the population on what action to take.

<sup>2</sup> The authorities shall consult manufacturers, importers, suppliers, sellers and consumer organisations, in advance if possible.

<sup>3</sup> If the population of several cantons is at risk, the federal authorities are responsible for publishing information and recommendations.

**Art. 43a<sup>35</sup>** Cooperation of third parties

<sup>1</sup> The Confederation and the cantons may assign tasks relating to official controls to third parties, in particular businesses and organisations or establish suitable organisations for this purpose.

<sup>2</sup> In order to carry out their activities, third parties must be:

<sup>33</sup> Inserted by No 1 of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>34</sup> Amended by No 1 2.8 of the Ordinance of 9 Nov. 2011 (Review of Extra-Parliamentary Commissions), in force since 1 Jan. 2012 (AS 2011 5227).

<sup>35</sup> Inserted by No 1 of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

- a. accredited under federal law;
- b. recognised by Switzerland under an international agreement; or
- c. in some other way authorised or recognised by federal law.

<sup>3</sup> The authorities concerned shall define the tasks and powers that they assign to third parties. The latter may not order any measures.

<sup>4</sup> The Federal Council and the cantons may authorise third party contractors to invoice for their activities under this Act.

<sup>5</sup> Cooperation by third parties shall be subject to state supervision. Third parties must report to the authorities on the management and accounting of their cooperation-related activities.

## Chapter 5: Financing

### Art. 44 Allocation of responsibilities

The federal government and the cantons shall bear the cost of enforcing this Act in their respective areas of competence.

### Art. 45 Fees

<sup>1</sup> Except where the Act provides otherwise, foodstuff control procedures shall be free of charge.

<sup>2</sup> Fees shall be charged for:

- a.<sup>36</sup> the inspection of animals before and after slaughter for the purposes of this Act;
- a<sup>bis</sup>.<sup>37</sup> controls by meat cutting plants;
- b. controls carried out by federal authorities;
- c. controls that have led to complaints;
- d. special services and controls that were not carried out ex officio and that involved greater expenditure than routine controls;
- e.<sup>38</sup> authorisations, including operating licences for slaughterhouses and meat cutting plants; other operating licences under Article 17a paragraph 1 are free of charge.

<sup>3</sup> The Federal Council shall lay down the fees charged for controls carried out by the federal authorities and the framework for cantonal fees.

<sup>36</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>37</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>38</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

## Chapter 6: Slaughter Weight

### Art. 46

The Federal Council shall issue regulations on the ascertainment of the slaughter weight.

## Chapter 7: Criminal Law Provisions and Rights of Appeal

### Section 1: Criminal Law Provisions

#### Art. 47 Misdemeanours

<sup>1</sup> Any person who wilfully:<sup>39</sup>

- a. manufactures, processes, stores, transports or offers nutritional products in such a way that, when used normally, they present a risk to health;
- b. manufactures, processes, stores, transports or offers luxury foods in such a way that, during normal use and consumption, they present a risk to health either directly or in an unexpected manner;
- c. manufactures, processes, stores, transports or supplies utility articles in such a way that, when used as intended or as normally expected, they present a risk to health;
- d.<sup>40</sup> ...
- e. imports or exports foodstuffs and utility articles that present a risk to health.

shall be liable to a custodial sentence not exceeding three years or a monetary penalty.

<sup>2</sup> If the offender acts in a professional capacity or for personal gain, he shall be liable to a custodial sentence not exceeding five years or to a monetary penalty.<sup>41</sup>

<sup>3</sup> If the offender acts through negligence, he shall be liable to a monetary penalty not exceeding 180 daily penalty units.<sup>42</sup>

<sup>4</sup> Compliance with the duty to notify under Article 23 paragraph 2<sup>bis</sup> may be regarded as grounds for mitigating the penalty.<sup>43</sup>

<sup>39</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>40</sup> Repealed by No I of the Federal Act of 18 June 2004, with effect from 1 March 2005 (AS 2005 971 972; BBl 2004 1455 1465).

<sup>41</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>42</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

<sup>43</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBl 2006 6337)

**Art. 48**            Contraventions

<sup>1</sup> Any person who wilfully:<sup>44</sup>

- a. infringes the regulations on the hygienic handling of foodstuffs;
- b. uses substances or procedures that are banned for agricultural production or for the manufacture of foodstuffs;
- c. infringes the regulations based on this Act relating to the import, transit and export of foodstuffs and utility articles;
- d. infringes the regulations based on this Act relating to the import of veterinary therapeutic products;
- e. slaughters animals without authorisation other than in authorised slaughterhouses;
- f. withholds foodstuffs, additives, utility articles, premises, facilities, vehicles, manufacturing procedures, animals, plants, minerals or land used for foodstuff production from inspection by the control authorities, or prevents or obstructs controls;
- g. manufactures, processes, stores, transports or supplies foodstuffs, additives or utility articles in such a way that they do not comply with the requirements of this Act;
- h. gives false or misleading information about foodstuffs;
- i. fails to declare to the control authorities any illness of or treatment given to animals before their slaughter;
- k. fails to supply the required information about foodstuffs or reproduces it incorrectly;
- l. infringes the advertising restrictions based on this Act relating to alcoholic beverages or tobacco products;
- m. infringes the regulations relating to ascertaining the slaughter weight.

n<sup>45</sup> contravenes the provisions on licensing and reporting requirements in accordance with Article 17a, self-supervision in accordance with Article 23 paragraph 1, the duty to notify in accordance with Article 23 paragraph 2<sup>bis</sup> letter a or traceability in accordance with Article 23a.

shall be liable to a fine not exceeding 40,000 francs.

<sup>1bis</sup> If the offender acts through negligence, he shall be liable to a fine not exceeding 20,000 francs.<sup>46</sup>

<sup>2</sup> Attempts and complicity are also offences.

<sup>44</sup> Amended by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBI 2006 6337)

<sup>45</sup> Inserted by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBI 2006 6337)

<sup>46</sup> Inserted by No I of the Federal Act of 5 Oct. 2007, in force since 1 April 2008 (AS 2008 785 788; BBI 2006 6337)

<sup>3</sup> In cases that are clearly of a minor nature, prosecution or the imposition of a penalty may be waived.

**Art. 49**            Infringements in business establishments, falsification of documents  
In the area of legislation on foodstuffs, Articles 6, 7 and 15 of the Federal Act on Administrative Criminal Law of 22 March 1974<sup>47</sup> also apply to the cantonal authorities.

**Art. 50**            Prosecution

<sup>1</sup> The cantons shall prosecute and adjudicate on infringements. The federal office responsible for supervision on behalf of the federal government may require the cantonal authorities to carry out an investigation.

<sup>2</sup> The Customs Administration shall investigate and assess offences against regulations based on this Act relating to import, transit and export.<sup>48</sup>

<sup>3</sup> If an act constitutes an offence under paragraph 2 and at the same time an offence to be prosecuted by the Customs Administration in terms of the Federal Act of 16 March 2012<sup>49</sup> on the Trade in Protected Animal and Plant Species, the Animal Protection Act of 16 December 2005<sup>50</sup>, the Customs Act of 18 March 2005<sup>51</sup>, the Epizootic Diseases Act of 1 July 1966<sup>52</sup>, the Hunting Act of 20 June 1986<sup>53</sup> or the Federal Act of 21 June 1991<sup>54</sup> on Fisheries, the penalty for the most serious offence applies; this penalty may be increased where appropriate.<sup>55</sup>

<sup>4</sup> The cantons shall confer the status of officers of the criminal investigation police on the authorities responsible for the enforcement of foodstuff controls.

**Art. 51**            Procedural costs

If convicted, the person concerned shall bear the procedural costs including the costs of the administrative proceedings.

<sup>47</sup> SR 313.0

<sup>48</sup> Amended by Annex I No 3 of the Federal Act of 16 March 2012 on the Trade in Protected Animal and Plant Species, in force since 1 Oct. 2013 (AS 2013 3095; BBl 2011 6985).

<sup>49</sup> SR 453

<sup>50</sup> SR 455

<sup>51</sup> SR 631.0

<sup>52</sup> SR 916.40

<sup>53</sup> SR 922.0

<sup>54</sup> SR 923.0

<sup>55</sup> Amended by Annex I No 3 of the Federal Act of 16 March 2012 on the Trade in Protected Animal and Plant Species, in force since 1 Oct. 2013 (AS 2013 3095; BBl 2011 6985).

## Section 2: Rights of Appeal

### Art. 52 Objection procedure

Any ruling on measures made under this Act may be contested by filing an objection with the authority issuing the ruling.

### Art. 53 Cantonal appeal procedure

<sup>1</sup> The cantons shall, in the context of this Act, regulate the objection and appeal procedures in accordance with cantonal legislation.

<sup>2</sup> The cantons shall establish an appeals authority, which may review rulings issued in terms of this Act, including those issued at the discretion of the cantonal enforcement authorities.

### Art. 54<sup>56</sup> Administration of federal justice

Unless this Act provides otherwise, the objection and appeal procedures are governed by the general provisions on the administration of federal justice.

### Art. 55 Time limits

<sup>1</sup> The period allowed for filing an objection is five days.

<sup>2</sup> The period allowed for filing an appeal against a decision relating to measures on the control of foodstuffs is ten days (Arts. 24 and 28–30).

<sup>3</sup> The period allowed for filing an appeal against a decision relating to the inspection of animals before and after slaughter (Arts. 26, 28 and 30) is five days.

### Art. 56 Suspensive effect and precautionary measures

<sup>1</sup> The authority issuing a ruling or the appeal authority may revoke the suspensive effect of an objection or an appeal.

<sup>2</sup> If an objection or an appeal is given suspensive effect, the authority issuing the ruling or the appeal authority may take precautionary measures.

### Art. 57 Liability

The relevant public authority shall be liable for any loss or damage incurred if, in enforcing this Act its authority has unlawfully:

- a. issued a ruling on precautionary measures (Arts. 30 and 56);
- b. taken an inappropriate measure or refused to issue a ruling (Arts. 28 and 29);
- c. revoked the suspensive effect of a ruling;

<sup>56</sup> Amended by Annex No 94 of the Federal Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (SR 173.32)

- d. failed to grant or has been late in granting a request for the reinstatement of the suspensive effect of a ruling.

## Chapter 8: Final Provisions

### Art. 58 Repeal of current legislation

The following Acts are repealed:

- a. the Federal Act of 8 December 1905<sup>57</sup> on Trade in Foodstuffs and Utility Articles;
- b. the Federal Act of 24 June 1910<sup>58</sup> on the Prohibition of Absinthe;
- c. the Federal Act of 7 March 1912<sup>59</sup> on the Prohibition of Artificial Wine and Artificial Cider.

### Art. 59 Amendments to current legislation

...<sup>60</sup>

### Art. 60 Transitional provision

Until detailed provisions on the advertising restrictions imposed by this Act have been enacted, the Federal Council may restrict advertising of alcoholic beverages and tobacco products that is directed in particular towards young people. The restrictions on advertising according to the Federal Act of 21 June 1991<sup>61</sup> on Radio and Television are reserved.

### Art. 61 Referendum and commencement

<sup>1</sup> This Act is subject to an optional referendum.

<sup>2</sup> The Federal Council shall specify the date on which this Act comes into force.

Commencement date: 1 July 1995<sup>62</sup>

<sup>57</sup> [BS 4 459; AS 1979 1758, 1985 1992 Sec. I 1, 1991 362 Sec. II 404]

<sup>58</sup> [BS 4 658]

<sup>59</sup> [BS 4 682]

<sup>60</sup> The amendments may be consulted under AS 1995 1469.

<sup>61</sup> SR 784.40

<sup>62</sup> Federal Council Decree of 1 March 1995 (AS 1995 1487)