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

of 20 June 2014 (Status as of 1 May 2017)

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*The Federal Assembly of the Swiss Confederation,  
on the basis of Article 97 paragraph 1, 105 and 118 paragraph 2 letter a of the  
Federal Constitution<sup>1</sup>,  
and having considered the dispatch of the Federal Council dated 25 May 2011<sup>2</sup>,  
decrees:*

### **Chapter 1    General Provisions**

#### **Section 1    Aim and Scope**

##### **Art. 1            Aim**

The aim of this Act is:

- a. to protect the health of consumers from foodstuffs and utility articles that are unsafe;
- b. to ensure that foodstuffs and utility articles are handled hygienically;
- c. to protect consumers from deception relating to foodstuffs and utility articles;
- d. to provide consumers with the information required when purchasing foodstuffs or utility articles.

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

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

- a. the handling of foodstuffs and utility articles, i.e. their manufacture, processing, storage, transport and placing on the market;
- b. the labelling and presentation of foodstuffs and utility articles, their advertising and the information provided about them;
- c. the import, export and transit of foodstuffs and utility articles.

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<sup>1</sup> SR 101

<sup>2</sup> BBl 2011 5571

<sup>2</sup> It applies to all production, processing and distribution levels, including primary production, provided they are relevant to the manufacture of foodstuffs or utility articles.

<sup>3</sup> This Act applies to imported foodstuffs and utility articles, unless Switzerland is otherwise obliged in terms of an international treaty.

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

- a. the primary production of foodstuffs for private domestic use;
- b. the import of foodstuffs or utility articles for private domestic use; paragraph 5 is reserved;
- c. the domestic manufacture, handling and storage of foodstuffs and utility articles for private domestic use;
- d. substances and products subject to the legislation on therapeutic products.

<sup>5</sup> The Federal Council may restrict the import of foodstuffs or utility articles intended for private domestic use.

### **Art. 3** Export

<sup>1</sup> Foodstuffs that are intended for export must comply with the provisions of this Act.

<sup>2</sup> They need not comply with the provisions of this Act if the legislation or the authorities of the country of destination require or permit otherwise.

<sup>3</sup> Foodstuffs that do not comply with the provisions of this Act may only be exported if the authorities of the country of destination agree to the import after being informed in detail of the reasons why the foodstuffs concerned may not be placed on the market in Switzerland, and about the particular circumstances.

<sup>4</sup> Utility articles that are intended for export must comply with the provisions applicable in the country of destination. The Federal Council may require otherwise.

<sup>5</sup> Foodstuffs and utility articles that are harmful to health may not be exported.

## **Section 2** Definitions

### **Art. 4** Foodstuffs

<sup>1</sup> Foodstuffs are all substances or products that are intended or may reasonably be expected to be consumed by human beings in a processed, partly processed or unprocessed state.

<sup>2</sup> Foodstuffs also include:

- a. drinks, including water, intended for human consumption;
- b. chewing gum;
- c. all substances that are intentionally added to foodstuffs in the course of their manufacture, processing or treatment.

<sup>3</sup> The following are not foodstuffs:

- a. animal feed;
- b. living animals, unless they are prepared for the placing on the market for human consumption;
- c. plants prior to harvesting;
- d. medicinal products;
- e. cosmetics;
- f. tobacco and tobacco products;
- g. narcotics and psychotropic substances;
- h. residues and contaminants.

**Art. 5** Utility articles

Utility articles are articles that fall within one of the following product categories:

- a. consumer articles: articles and materials:
  1. that are intended to come in contact with foodstuffs,
  2. that may be expected to come in contact with foodstuffs if used in a normal or reasonably foreseeable manner, or
  3. that are intended to transfer their constituents to foodstuffs;
- b. cosmetics and other articles, substances and preparations which, when used as normally intended, come externally into contact with the body, teeth or mucous membranes;
- c. utensils and inks for tattooing and permanent make-up;
- d. articles of clothing, textiles and other articles which, when used as normally intended, come into contact with the body;
- e. toys and other articles intended to be used by children;
- f. candles, matches, lighters, and joke and novelty items;
- g. aerosol dispensers that contain foodstuffs or other utility articles;
- h. articles and materials intended for the furnishing and decoration of living areas, unless they are subject to other product-specific legislation;
- i. water that is intended to come in contact with the human body in facilities that are accessible to the general public or to an authorised, not exclusively private group of persons, and which is not intended for drinking, such as shower and bathwater in hospitals, nursing homes or hotels.

**Art. 6** Placing on the market

Placing on the market in terms of this Act means the distribution of foodstuffs or utility articles, any form of their passing-on whether for payment or not, their being

made available for supply whether for payment or not, and their offering for supply and their supply itself.

## **Chapter 2 Requirements for Foodstuffs and Utility Articles**

### **Section 1 Foodstuffs**

#### **Art. 7 Food safety**

- <sup>1</sup> Only safe foodstuffs may be placed on the market.
- <sup>2</sup> Foodstuffs are deemed to be unsafe if it must be assumed that they:
  - a. are harmful to health; or
  - b. are unsuitable for human consumption.
- <sup>3</sup> The following must be considered when deciding whether a foodstuff is safe:
  - a. its normal conditions of use at all production, processing and distribution levels;
  - b. its normal conditions of use by consumers; and
  - c. the information given or otherwise made generally available to consumers on avoiding certain effects of a specific foodstuff or specific category of foodstuff that may be harmful to health.
- <sup>4</sup> The Federal Council shall stipulate the requirements for food safety.
- <sup>5</sup> It may introduce a licensing or notification requirement for:
  - a. novel foods;
  - b. foodstuffs intended for people with special nutritional requirements due to health reasons;
  - c. foodstuffs that are advertised as having special nutritional-physiological or other physiological effects;
  - d. foodstuffs from animals that have been administered unlicensed medicinal products in clinical trials.
- <sup>6</sup> The Federal Council may introduce further licensing or notification requirements if Switzerland has undertaken in terms of an international treaty to apply technical regulations that provide for such requirements.

#### **Art. 8 Primary production**

Any person who produces animals or plants for manufacturing foodstuffs, must produce them so that the foodstuffs manufactured do not present a risk to human health, nor give rise to deception.

**Art. 9** Meat production

<sup>1</sup> The Federal Council shall determine the animal species whose meat may be used as foodstuffs.

<sup>2</sup> It shall determine the species of animal that may only be slaughtered in slaughterhouses licensed under Article 11.

<sup>3</sup> It shall regulate the slaughter of animals which are sick, suspected of having a disease or injured.

**Art. 10** Hygiene

<sup>1</sup> Any person who handles foodstuffs must ensure that such foodstuffs are not adversely affected in hygiene terms by such handling.

<sup>2</sup> Persons who are sick or injured and may therefore put the health of consumers at risk by handling foodstuffs must take special protective measures.

<sup>3</sup> The Federal Council shall issue hygiene regulations relating to:

- a. the handling of foodstuffs;
- b. the premises in which foodstuffs are handled and their equipment;
- c. the areas and equipment in slaughterhouses required depending on the types and numbers of animals to be slaughtered.

<sup>4</sup> The Federal Council may specify hygiene knowledge requirements for the persons who handle foodstuffs.

**Art. 11** Licensing and reporting requirements for businesses

<sup>1</sup> Slaughterhouses and businesses that handle foodstuffs of animal origin require an operating licence from the canton.

<sup>2</sup> Other businesses active in the production, processing or distribution of foodstuffs must report their activities to the cantonal enforcement authorities.

<sup>3</sup> The Federal Council may make exceptions for businesses:

- a. which operate exclusively in primary production; or
- b. whose activities present a negligible risk to food safety.

**Art. 12** Mandatory labelling and information

<sup>1</sup> Any person who places pre-packaged foodstuffs on the market must provide purchasers with the following information about the foodstuffs:

- a. the country of production;
- b. the specific designation;
- c. the ingredients.

<sup>2</sup> The Federal Council may specify exceptions to the indication provided on the country of production and the ingredients in the case of processed products.

<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.

<sup>5</sup> On request, it must be possible to provide the same indications about foodstuffs placed on the market without packaging as for pre-packaged foodstuffs.

**Art. 13** Special labelling

<sup>1</sup> The Federal Council may stipulate further indications, in particular with regard to:

- a. storage life;
- b. method of storage;
- c. origin of the raw materials;
- d. method of production;
- e. method of preparation;
- f. specific effects;
- g. specific dangers;
- h. nutritional value.

<sup>2</sup> It may issue regulations on how businesses that supply prepared meals to consumers must label such meals on their menus.

<sup>3</sup> It may issue regulations on labelling to protect the health of persons exposed to specific health risks.

<sup>4</sup> It shall regulate:

- a. the admissibility of nutrition and health claims;
- b. the labelling of foodstuffs to which substances that are considered essential for life or physiologically useful have been added.

<sup>5</sup> The Federal Council may stipulate that scientific data and information used to justify health claims may not be used for a certain period to justify the same health claims for a different product.

<sup>6</sup> These regulations should not lead to a disproportionate additional administrative burden on businesses.

**Art. 14** Restrictions on the supply and advertising of alcoholic beverages

<sup>1</sup> The supply of alcoholic beverages to young people under the age of 16 is prohibited.

<sup>2</sup> The Federal Council may restrict the advertising of alcoholic beverages that is directed specifically at young people under the age of 18.

<sup>3</sup> Restrictions on supply and advertising under the following federal acts are reserved:

- a. Federal Act of 24 March 2006<sup>3</sup> on Radio and Television;
- b. Alcohol Act of 21 June 1932<sup>4</sup>.

## Section 2 Utility Articles

### Art. 15 Safety of utility articles

<sup>1</sup> Only safe utility articles may be placed on the market.

<sup>2</sup> A utility article is deemed to be safe if it presents no danger or only minimal danger when used normally or in a reasonably foreseeable manner or only such danger as is commensurate with its normal use and which is reasonable while preserving of a high level of protection for the health of consumers and third parties.

<sup>3</sup> In order to guarantee the health of consumers and third parties, the following aspects of the utility article must be considered in particular:

- a. its properties, its composition, the conditions for its assembly, its installation and its initial operation;
- b. its maintenance and its service life;
- c. its effect on other products or the effect of other products on it if it is reasonably foreseeable that it will be used with these other products;
- d. its presentation, its packaging, its labelling, if applicable warning notices, its instructions for use and operation and the instructions for its disposal as well as all other product-related information;
- e. the special risks that it presents to specific groups of consumers, in particular children and older people.

<sup>4</sup> The Federal Council shall stipulate the safety requirements for utility articles.

<sup>5</sup> In order to guarantee the safety of utility articles, the Federal Council may also:

- a. require conformity assessment procedures or reporting requirements for specific utility articles;
- b. provide that technical standards must apply to specific utility articles, which, when observed, lead to the presumption that the utility article is safe;
- c. restrict or prohibit the use of certain utility articles or the use of certain substances in utility articles;
- d. require the general public to be informed about the properties of certain utility articles;
- e. stipulate hygiene requirements for utility articles;
- f. stipulate requirements for the specialist knowledge of persons handling utility articles.

<sup>3</sup> SR 784.40

<sup>4</sup> SR 680

**Art. 16** Labelling and advertising

<sup>1</sup> Utility articles must be labelled in such a way that the protection of health and, in accordance with Article 18, protection against deception is guaranteed.

<sup>2</sup> The Federal Council may stipulate requirements for the labelling of utility articles and for their advertising.

**Art. 17** Reporting requirement for businesses

The Federal Council may impose a reporting requirement on businesses that handle utility articles.

**Section 3 Common Provisions for Foodstuffs and Utility Articles****Art. 18** Protection against deception

<sup>1</sup> All information relating to foodstuffs, consumer articles and cosmetics must correspond to the facts.

<sup>2</sup> The presentation, labelling and packaging of products under paragraph 1 and their advertising must not mislead consumers. The provisions of the Trademark Protection Act of 28 August 1992<sup>5</sup> on indications of Swiss origin are reserved.

<sup>3</sup> In particular any presentation, labelling, packaging and advertising that is liable to deceive consumers as to the manufacture, composition, condition, method of production, storage life, country of production, origin of the raw materials or components, particular effects or special value of the product is regarded as misleading.

<sup>4</sup> In order to guarantee protection against deception, the Federal Council may:

- a. provide a description of foodstuffs and stipulate their designation;
- b. stipulate requirements for foodstuffs, consumer articles and cosmetics;
- c. issue labelling regulations for areas in which consumers as a result of the product or the form of trading may be especially liable to deception;
- d. recommend good manufacturing practices (GMP) for foodstuffs, consumer articles and cosmetics.

<sup>5</sup> In order to implement international obligations, the Federal Council may make additional utility articles subject to the provisions of this Article.

**Art. 19** Imitation and confusion

<sup>1</sup> Substitute and imitation products must be labelled and advertised in such a way that consumers can recognise the true nature of the foodstuff and distinguish it from products with which it could be confused.

<sup>5</sup> SR 232.11



<sup>2</sup> Products that are not foodstuffs may not be presented, labelled, stored, placed on the market or advertised in such a way that they could be mistaken for foodstuffs.

**Art. 20**            Restriction of production and treatment processes

<sup>1</sup> The Federal Council may restrict or prohibit physical, chemical, microbiological or biotechnological processes for producing or treating foodstuffs or utility articles if a risk to the health of consumers cannot be excluded based on current scientific knowledge. In doing so, it shall ensure compliance with the requirements of the Gene Technology Act of 21 March 2003<sup>6</sup>.

<sup>2</sup> It may restrict or prohibit specific breeding methods for animals intended for the production of foodstuffs. If related detection methods are available, they must be used.

<sup>3</sup> It may restrict or prohibit the placing on the market of cosmetics whose final formulation or ingredients have been tested in animal experiments in order to comply with the foodstuffs legislation.

**Section 4**        **Duties of the Authorities**

**Art. 21**            Risk analysis

<sup>1</sup> Risk analysis comprises risk assessment, risk management and risk communication.

<sup>2</sup> To ensure that the health of consumers is protected, the competent authorities shall rely on risk analysis, unless it is unsuitable in the circumstances or in view of the type of measure.

<sup>3</sup> The risk assessment must be based on the available scientific knowledge. It must be carried out in an independent, objective and transparent manner.

<sup>4</sup> In order to achieve the goals of this Act, risk management must be carried out based on the results of the risk assessment, in particular the official expert opinions and other essential factors, as well as the precautionary principle must be taken into account.

<sup>5</sup> Risk communication is regulated in particular in Articles 24 and 54.

**Art. 22**            Precautionary principle

If, on evaluating the available information, a competent federal authority finds that a foodstuff or a utility article could be harmful to health, but there is still scientific uncertainty, it may take temporary measures to ensure a high level of health protection until further scientific information is available that permits a more comprehensive risk assessment.

<sup>6</sup> SR 814.91

**Art. 23** Protection measures

If a product meets the statutory requirements but new scientific findings indicate that the product poses a direct risk to consumers, the competent federal authority may instruct the enforcement authority to immediately restrict the placing on the market of the product or demand its recall from the market.

**Art. 24** Information to the general public

<sup>1</sup> The competent authorities shall inform the general public in particular about:

- a. its inspection activities and their effectiveness;
- b. foodstuffs and utility articles in respect of which there is sufficient reason to suspect that they may pose a health risk.

<sup>2</sup> The competent federal authorities may communicate nutritional knowledge of general interest to the general public and to compulsory schools that is in particular relevant to health care, health protection and sustainable nutrition.

<sup>3</sup> They may support the public information work of other institutions.

<sup>4</sup> The following shall not be made available to the general public:

- a. official inspection reports and documents containing conclusions drawn from findings and information from inspections (Art. 32 para. 1);
- b. results of research work and surveys (Art. 40) if these allow producers, distributors or products to be identified;
- c. the risk classification of businesses by the enforcement authorities.

**Chapter 3** Inspections**Section 1** Investigation Procedures**Art. 25**

<sup>1</sup> The competent federal authority shall publish recommendations on the procedure for taking samples and analysing foodstuffs and utility articles.

<sup>2</sup> The Federal Council may declare certain sampling and analysis procedures to be mandatory.

**Section 2** Obligations for Companies**Art. 26** Self-supervision

<sup>1</sup> Any person who manufactures, handles, stores, transports, places on the market, imports, exports or carries in transit foodstuffs or utility articles must ensure that the statutory requirements are complied with. He or she is obliged to ensure self-supervision..

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

<sup>3</sup> The Federal Council shall regulate the details of self-supervision and its documentation. It shall provide for simplified self-supervision and simplified written documentation for small businesses.

<sup>4</sup> It may stipulate requirements for the specialist knowledge of persons responsible for self-supervision.

#### **Art. 27**            Guaranteeing health protection

<sup>1</sup> Any person who discovers that the foodstuffs or utility articles that they placed on the market may constitute a health risk must ensure that consumers are not harmed.

<sup>2</sup> The Federal Council may provide that findings in terms of paragraph 1 must be reported to the competent authorities.

<sup>3</sup> It shall regulate the withdrawal and recall of foodstuffs and utility articles that may pose a health risk.

<sup>4</sup> Holders and purchasers of animals intended for slaughter must notify the official veterinarian or official assistant in the public veterinary service if there are health concerns concerning an animal or if an animal has been treated with therapeutic products.

#### **Art. 28**            Traceability

<sup>1</sup> It must be possible to trace the following at all levels of production, processing and distribution:

- a. foodstuffs, animals intended for food production and all substances pertaining thereto or which may be expected to be processed into a foodstuff;
- b. consumer articles;
- c. cosmetics;
- d. toys.

<sup>2</sup> Companies must set up systems and procedures for this purpose so that at the authorities' request, they can provide the information on suppliers and companies to whom they supplied their products.

<sup>3</sup> The Federal Council may extend the traceability obligation to cover further utility articles if Switzerland is required to do so under an international treaty.

#### **Art. 29**            Obligation to assist and to provide information

<sup>1</sup> Any person who manufactures, handles, stores, transports, places on the market, imports, exports or carries in transit foodstuffs or utility articles, must assist the enforcement authorities free of charge in the conduct of their work, and must on request provide samples of products on offer and the required information.

<sup>2</sup> Any person who slaughters animals must make available, free of charge, the premises, equipment and auxiliary personnel which are necessary for inspecting the animals before their slaughter and for inspecting the meat.

### **Section 3      Official Inspection**

#### **Art. 30            Inspection and taking samples**

<sup>1</sup> Risk-based official inspections shall be carried out at each stage of the production, processing and distribution of foodstuffs, of animals kept for foodstuffs production and of utility articles.

<sup>2</sup> The enforcement authorities shall verify compliance with the provisions of the legislation on foodstuffs. In particular they shall verify whether:

- a. the regulations on self-supervision are being complied with and persons who handle foodstuffs or utility articles observe the hygiene regulations and possess the required specialist knowledge;
- b. the foodstuffs, utility articles, rooms, equipment, vehicles, manufacturing process, animals, plants and soil used for agriculture comply with the provisions of the legislation on foodstuffs.

<sup>3</sup> In order to verify compliance with the provisions of the legislation on foodstuffs, the enforcement authorities may take samples, inspect documents and other records and make copies thereof.

<sup>4</sup> In connection with their duties, they shall be given access to land, buildings, businesses, rooms, facilities, vehicles and other infrastructures.

<sup>5</sup> The Federal Council may:

- a. regulate the procedure, frequency and the certification of official inspections;
- b. require that inspections in specific fields are carried out by specially trained persons.

#### **Art. 31            Inspection of animals before slaughter and meat inspection**

<sup>1</sup> The official veterinarian or the official assistant in the public veterinary service under their supervision shall inspect the following animals before slaughter and the meat after slaughter:

- a. animals of the equine, bovine, ovine, caprine and porcine species;
- b. wild animals reared as productive livestock.

<sup>2</sup> He or she shall decide on how the meat is used thereafter.

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

- a. the inspection of other animal species before slaughter and the inspection of the meat;

- b. the inspection of the meat of animals killed as game.

<sup>4</sup> It shall regulate:

- a. the procedure for the inspection of animals before slaughter;
- b. the procedure for the meat inspection;
- c. if applicable the inspection procedure for other animal species.

### **Art. 32** Inspection results

<sup>1</sup> The enforcement authorities shall notify the responsible person at the business of the inspection results in writing. The Federal Council may provide for exceptions for the inspection of animals before slaughter and the inspection of the meat after slaughter.

<sup>2</sup> If no complaint has been registered about a sample, the owner may demand a refund of its value, provided the sample is at least equivalent to a certain minimum value. The Federal Council shall determine this minimum value.

### **Art. 33** Complaints

If the enforcement authority establishes that the statutory requirements have not been met, they shall file a complaint.

## **Section 4** Measures

### **Art. 34** Products in respect of which a complaint has been filed

<sup>1</sup> If the enforcement authorities have filed a complaint about a product, they shall order the measures required to restore it to its lawful state.

<sup>2</sup> They may order that the product complained of:

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

<sup>3</sup> They may require the responsible person at the business:

- a. to investigate the deficiencies;
- b. to take suitable measures;
- c. to inform the enforcement authorities of the measures taken.

<sup>4</sup> If requirements are repeatedly disregarded, the enforcement authorities may order the disposal or the forfeiture of the product.

<sup>5</sup> In relation to imports, the enforcement authorities may also order that a product complained of:

- a. be refused entry;
- b. be given to the competent cantonal enforcement authority for further testing;
- c. be sent back, provided the person responsible for shipping and the competent authority of the country of origin agree;
- d. be sent to a new country of destination at the request of the person responsible for shipping provided the competent authority of the country of destination agrees.

**Art. 35** Complaints not related to products

<sup>1</sup> In the case of complaints that are not related to products, the enforcement authorities may require the responsible person at the business:

- a. to investigate the causes of the defects;
- b. to take suitable measures to rectify the defects;
- c. to inform the enforcement authorities of the results of the investigation into the causes and of the measures taken.

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

<sup>3</sup> If the conditions at a business present a direct and serious risk to public health, the enforcement authorities may order its immediate closure.

**Art. 36** Precautionary measures

<sup>1</sup> The enforcement authorities shall confiscate products that are the cause of a complaint if this is necessary for the protection of consumers or third parties.

<sup>2</sup> They may also confiscate products in cases of well-founded suspicion if this appears to be necessary to protect consumers or third parties.

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

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

**Art. 37** Criminal complaint

<sup>1</sup> The enforcement authority shall report any infringement of the provisions of foodstuffs legislation that may be a criminal offence to the prosecution authority.

<sup>2</sup> In minor cases, they may decline to report infringements.

## **Chapter 4    Enforcement**

### **Section 1    Confederation**

#### **Art. 38**            Import, export and transit

<sup>1</sup> The Confederation shall enforce this Act in relation to import, export and transit.

<sup>2</sup> It may in individual cases delegate specific enforcement duties and the authority to take the final decision to the canton concerned.

#### **Art. 39**            Restrictions on imports

<sup>1</sup> The competent federal authority may prohibit the import of certain unsafe products where the risk to the health of the population cannot otherwise be averted.

<sup>2</sup> They may order that specific products may only be imported if the competent authority in the exporting country or an accredited agency certifies that the product complies with Swiss foodstuffs legislation.

#### **Art. 40**            Research

<sup>1</sup> The Confederation shall procure and study the scientific information necessary for the application of this Act.

<sup>2</sup> It may conduct studies itself or in collaboration with the cantons.

#### **Art. 41**            Enforcement in the armed forces

<sup>1</sup> In fixed installations used by the armed forces, the Confederation shall if possible arrange for the cantonal enforcement authorities to carry out inspections of foodstuffs.

<sup>2</sup> In addition, the armed forces shall themselves ensure that the requirements of this Act are met.

<sup>3</sup> The Federal Council shall regulate responsibilities and the procedure.

#### **Art. 42**            Supervision and coordination

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

<sup>2</sup> It shall coordinate enforcement measures and the provision of information and shall issue national inspection and emergency plans.

<sup>3</sup> It may for the purpose of coordination:

- a. require the cantons to inform the Confederation of enforcement measures and of the results of inspections and tests;
- b. require the cantons to carry out specific measures with a view to harmonising enforcement;
- c. in extraordinary situations, instruct the cantons to carry out specific enforcement measures.

- <sup>4</sup> The competent federal authority may:
- a. coordinate and support inter-laboratory testing by the cantonal enforcement authorities;
  - b. conduct its own inter-laboratory testing in cooperation with the cantonal enforcement authorities.
- <sup>5</sup> The Federal Council shall coordinate the enforcement of this Act with the enforcement of the following acts in particular:
- a. Animal Protection Act of 16 December 2005<sup>7</sup>;
  - b. Therapeutic Products Act of 15 December 2000<sup>8</sup>;
  - c. Gene Technology Act of 21 March 2003<sup>9</sup>;
  - d. Epidemics Act of 28 September 2012<sup>10</sup>;
  - e. Agriculture Act of 29 April 1998<sup>11</sup>;
  - f. Epizootic Diseases Act of 1 July 1966<sup>12</sup>.

**Art. 43** National reference laboratories

- <sup>1</sup> The Confederation shall run national reference laboratories.
- <sup>2</sup> If the competent federal authority is unable to run reference laboratories itself, it shall delegate this task to third parties. If the threshold value in Article 6 paragraph 1 of the Federal Act of 16 December 1994<sup>13</sup> on Public Procurement is exceeded, it shall invite tenders for the contract.
- <sup>3</sup> The Federal Council shall determine the laboratories' areas of responsibility and regulate their tasks.
- <sup>4</sup> The laboratories must:
- a. meet the international standards on the operation of testing laboratories and be accredited in their assigned field of activity;
  - b. have sufficient staff, rooms, equipment and resources to be able to fulfil their tasks at all times;
  - c. be able to provide suitable guarantees of their credibility, impartiality and independence vis-à-vis persons who manufacture, import or place on the market products that fall within the scope of responsibility of the laboratories concerned.

<sup>7</sup> SR 455  
<sup>8</sup> SR 812.21  
<sup>9</sup> SR 814.91  
<sup>10</sup> SR 818.101  
<sup>11</sup> SR 910.1  
<sup>12</sup> SR 916.40  
<sup>13</sup> SR 172.056.1



**Art. 44** Federal Council implementing provisions

<sup>1</sup> The Federal Council shall issue the implementing provisions. In doing so, it shall take account of internationally harmonised regulations, guidelines, recommendations and standards and may declare such arrangements applicable.

<sup>2</sup> It may delegate the enactment of administrative and technical regulations to the competent federal office.

**Art. 45** International cooperation

<sup>1</sup> The federal authorities shall work with specialised national and international offices and institutions and carry out the tasks required under international treaties.

<sup>2</sup> International administrative assistance is governed by Article 22 of the Federal Act of 6 October 1995<sup>14</sup> on Technical Barriers to Trade.

<sup>3</sup> The Federal Council may on its own initiative conclude international agreements on Switzerland's participation in international systems to guarantee the safety of foodstuffs and utility articles.

<sup>4</sup> It may recognise foreign inspection agencies, declarations and certificates of conformity and inspections, controls, conformity assessments or licencing procedures carried out abroad. Article 18 paragraph 2 of the Federal Act on Technical Barriers to Trade remains reserved.

**Art. 46** Cross-border inspections

<sup>1</sup> Foreign authorities that wish to inspect Swiss businesses that export foodstuffs or utility articles to their countries require the consent of the competent federal authority. The authority shall issue its consent if:

- a. the inspections have the sole purpose of verifying compliance with the regulations of the country concerned on manufacturing foodstuffs or utility articles and with the requirements relating to the condition of the foodstuffs or utility articles to be exported; and
- b. the business to be inspected agrees to the inspection.

<sup>2</sup> The competent federal authority may require that it be allowed to attend the inspection or that it be notified of the results by the foreign authority that carries out the inspection.

<sup>3</sup> The competent Swiss authorities may inspect businesses in the countries that export foodstuffs or utility articles to Switzerland provided:

- a. this is required to guarantee health protection; and
- b. provision is made for this in an international agreement or the countries concerned consent in individual cases.

<sup>14</sup> SR 946.51

**Section 2 Cantons****Art. 47 Principles**

- <sup>1</sup> The cantons shall enforce this Act unless the Confederation is responsible.
- <sup>2</sup> They shall ensure that inspections of foodstuffs and utility articles are carried out in Switzerland.

**Art. 48 Laboratories**

- <sup>1</sup> The cantons shall operate specialised and accredited laboratories for the testing of samples.
- <sup>2</sup> They may merge laboratories in order to operate them together.
- <sup>3</sup> They may also delegate the testing of samples to accredited inspection agencies.

**Art. 49 Enforcement agencies**

- <sup>1</sup> The cantons shall appoint as enforcement officers:
  - a. a cantonal chemist;
  - b. a cantonal veterinarian;
  - c. the required number of:
    1. food inspectors,
    2. food controllers,
    3. official veterinarians,
    4. official assistants.
- <sup>2</sup> They may delegate special inspection duties to other enforcement authorities.
- <sup>3</sup> The Federal Council may provide for additional cantonal enforcement officers.

**Art. 50 Cantonal implementing provisions**

- <sup>1</sup> The cantons shall enact implementing provisions on cantonal enforcement and regulate the duties and organisation of their enforcement officers in terms of this Act.
- <sup>2</sup> They shall notify the federal authorities of their implementing provisions.

**Art. 51 Coordination, management and cooperation with the federal authorities**

- <sup>1</sup> Each canton shall on its own territory coordinate the implementation of the legislation on foodstuffs and utility articles from manufacture to supply to the consumers.
- <sup>2</sup> The cantonal chemist shall enforce this Act in relation to foodstuffs and utility articles. In doing so, he or she shall be professionally independent.

<sup>3</sup> The cantonal veterinarian shall enforce this Act in relation to the primary production of foodstuffs of animal origin and the slaughter of animals. The canton may also delegate him or her the task of inspecting the processing of slaughtered animals. The cantonal veterinarian shall be professional independent in carrying out these tasks.

<sup>4</sup> The competent cantonal authorities shall provide the reports to the federal authorities required under this Act.

<sup>5</sup> They shall participate in the supervisory activities carried out by the federal authorities or by international agencies.

### **Section 3      Enforcement Agency Employees**

#### **Art. 52            Requirements for the employees of enforcement agencies**

<sup>1</sup> The Federal Council shall determine the professional requirements for employees of the various enforcement agencies.

<sup>2</sup> It shall determine the training programmes and the qualifications that employees of the enforcement agencies must have.

#### **Art. 53            Training**

<sup>1</sup> The Confederation and cantons shall jointly ensure the training of the persons responsible for enforcing this Act.

<sup>2</sup> The competent federal authority may appoint examination boards to organise examinations for employees of the enforcement agencies.

<sup>3</sup> The Federal Council shall regulate organisation of the examinations.

<sup>4</sup> It may delegate the organisation of examinations for food controllers to the cantons.

<sup>5</sup> The competent Federal Office shall decide on the recognition of training programmes and examinations.

### **Section 4 Common Provisions on Enforcement by the Confederation and Cantons**

#### **Art. 54            Public warnings**

<sup>1</sup> If the enforcement authorities establish that unsafe foodstuffs or utility articles have been supplied to an undetermined number of consumers, they shall ensure that the public are informed and advised on what action to take.

<sup>2</sup> If the public in two or more cantons are placed at risk, the federal authorities shall provide information and recommendations.

<sup>3</sup> In minor cases, the competent authority may make the information available online.

<sup>4</sup> The authority consult, if possible beforehand:

- a. the person who manufactured or imported the product or placed it on the market;
- b. consumer organisations.

<sup>5</sup> They may instruct the person responsible for placing the product on the market to provide information to the public.

#### **Art. 55** Involvement of third parties

<sup>1</sup> The competent authority may delegate tasks related to official inspections to third parties, in particular companies and organisations. They may create suitable organisations for this purpose.

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

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

<sup>3</sup> The Federal Council shall regulate the standards for accreditation.

<sup>4</sup> The authorities concerned shall define the tasks and powers that they assign to third parties. The third parties may not order any measures.

<sup>5</sup> The Federal Council and the cantons may authorise third party contractors to charge fees for their activities under this Act. Their tariffs shall require the approval of the Federal Department of Home Affairs.

<sup>6</sup> Cooperation by third parties shall be subject to state supervision. Third parties must report to the authorities that have delegated them duties or powers on the management and accounting tasks assigned to them.

#### **Art. 56** Duty of confidentiality

Persons assigned tasks relating to the implementation of this Act are subject to a duty of confidentiality. Articles 24 and 60 are reserved.

## **Chapter 5 Funding**

#### **Art. 57** Sharing costs

<sup>1</sup> The Confederation and the cantons shall bear the cost of enforcing this Act in their respective areas of competence.

<sup>2</sup> The cantons shall ensure that appropriate financial resources are made available for official inspections.

**Art. 58** Fees

<sup>1</sup> Inspections of foodstuffs are free of charge, unless this Act provides otherwise.

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

- a. inspections that lead to a complaint being made; in particularly minor cases, a fee need not be charged;
- b. repeated complaints about the same matter;
- c. the follow-up inspection of a business;
- d. the cost of restoring the lawful position (substitute performance);
- e. the inspection of animals before slaughter and of their meat for the purposes of this Act;
- f. the inspection of meat cutting plants;
- g. the inspection of foodstuffs of animal origin carried out by federal authorities;
- h. special services and inspections carried out on request;
- i. licences, including operating licences for slaughterhouses and meat cutting plants; other operating licences under Article 11 paragraph 1 are free of charge.

<sup>3</sup> The Federal Council may introduce a fee to fund special inspections of imports based on known or new risks to specific foodstuffs. The importer shall pay the fee.

<sup>4</sup> The Federal Council may introduce additional fees where Switzerland is required under an international treaty to charge the same.

<sup>5</sup> It shall determine the fees charged for inspections by the federal authorities.

<sup>6</sup> It shall determine the framework for cantonal fees.

**Chapter 6** Data Processing**Art. 59** Processing of personal data

<sup>1</sup> The competent federal and cantonal authorities are entitled to process personal data, including data on administrative and criminal proceedings and sanctions, provided this require to carry out their duties under this Act.

<sup>2</sup> The Federal Council shall regulate the form and content of processing and shall determine the periods for which data must be retained and after which data must be destroyed.

**Art. 60** Exchange of enforcement data

<sup>1</sup> The competent federal authorities, the cantonal authorities and third parties in terms of paragraph 2 letters c and d shall supply each other with the data that they need to:

- a. be able to fulfil the tasks assigned to them under the foodstuffs legislation;
- b. be able to fulfil their reporting duties under international treaties relating to foodstuffs and utility articles.

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

- a. the procedure for exchanging data;
- b. the form in which the data is provided;
- c. the exchange of data with third parties that have been assigned public duties under Article 55;
- d. the exchange of data with third parties that have been entrusted with duties under Articles 14–16, 18, 64 and 180 of the Agriculture Act of 29 April 1998<sup>15</sup>.

**Art. 61** Exchange of data with other countries and with international organisations

<sup>1</sup> The Federal Council shall regulate the responsibilities and procedures for exchanging personal data with foreign authorities and institutions and with international organisations.

<sup>2</sup> Data on administrative and criminal proceedings may only be passed on to foreign authorities and institutions or to international organisations if:

- a. this is required by international agreements or decisions of international organisations; or
- b. it is absolutely necessary in order to avert an imminent risk to health.

**Art. 62** Information system of the Federal Food Safety and Veterinary Office

<sup>1</sup> The Federal Food Safety and Veterinary Office (FSVO) shall operate an information system:

- a. to guarantee the safety and hygiene of foodstuffs and utility articles as well as protection against deception in terms of its duties under this Act;
- b. to support the enforcement activities of the Confederation and cantons under this Act;
- c. to facilitate reporting at national and international levels.

<sup>2</sup> The FSVO information system is part of the joint central information system along the food chain of the Federal Office for Agriculture (FOAG) and of the FSVO that aims to guarantee the safety of foodstuffs and utility articles, fodder safety, animal welfare, animal protection and faultless primary production.

<sup>3</sup> The FSVO information system shall contain personal data including:

- a. data on administrative and criminal proceedings and sanctions;

<sup>15</sup> SR 910.1

- b. health data in relation to the safety of foodstuffs and utility articles;
- c. data on the results of inspections and laboratory analyses;
- d. data on deception in connection with foodstuffs and utility articles.

<sup>4</sup> In terms of their statutory duties, the following authorities may process data in the FSVO information system online:

- a. the FSVO: to guarantee the safety of foodstuffs and utility articles, the hygiene of foodstuffs and utility articles, protection against deception, fodder safety, animal welfare, animal protection and faultless primary production;
- b. the FOAG: to guarantee the safety of foodstuffs and utility articles, the hygiene of foodstuffs and utility articles, protection against deception, fodder safety, animal welfare, animal protection and faultless primary production;
- c. the Federal Federal Customs Administration (FCA): for the purpose of carrying out its duties under Article 38 paragraph 1;
- d. the cantonal enforcement authorities: to fulfil their duties in their respective areas of responsibility.

<sup>5</sup> In order to fulfil their duties, the following authorities may access the following data in the FSVO information system online:

- a. the FSVO: data on the safety of foodstuffs and utility articles, the hygiene of foodstuffs and utility articles, protection against deception, fodder safety, animal welfare, animal protection and primary production;
- b. the FOAG: data on the safety of foodstuffs and utility articles, the hygiene of foodstuffs and utility articles, protection against deception, fodder safety, animal welfare, animal protection and primary production;
- c. the FCA: data for the purpose of carrying out its duties under Article 38 paragraph 1;
- d. other federal agencies responsible for implementing this Act: data that they require to fulfil the duties assigned to them, provided the Federal Council so provides;
- e. the cantonal enforcement authorities: data on the safety of foodstuffs and utility articles, the hygiene of foodstuffs and utility articles, protection against deception, fodder safety, animal welfare, animal protection and primary production;
- f. third parties assigned public duties under Article 55: data that they require to fulfil the duties assigned to them;
- g. third parties entrusted with public duties under Articles 14–16, 18, 64 and 180 of the Agriculture Act of 29 April 1998<sup>16</sup>: data that they require to fulfil the duties assigned to them.

<sup>6</sup> The Federal Council shall regulate the following in relation to the FSVO information system:

<sup>16</sup> SR 910.1

- a. the structure and the data catalogue, including the part used by the cantons;
- b. responsibility for data processing;
- c. rights of access, and in particular rights of online access;
- d. the organisational and technical measures required to ensure data protection and data security;
- e. the procedure for working with the cantons;
- f. the periods for which data must be retained and after which data must be destroyed;
- g. archiving.

<sup>7</sup> Cantons that use the FSVO information system for their own enforcement duties use must issue equivalent data protection provisions for their field of activity and designate an authority to oversee compliance.

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

### **Section 1 Criminal Law Provisions**

#### **Art. 63 Misdemeanours and felonies**

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

- a. manufactures, handles, stores, transports or places on the market foodstuffs in such a way that, when used normally, they present a risk to health;
- b. manufactures, handles, stores, transports or places on the market utility articles in such a way that, when used normally or in a reasonably foreseeable manner, they present a risk to health;
- c. imports, exports or carries in transit foodstuffs or 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>3</sup> If the offender acts through negligence, he shall be liable to a monetary penalty not exceeding 180 daily penalty units.

<sup>4</sup> Compliance with the duty to report under Article 27 paragraph 2 may be regarded as grounds for mitigating the penalty.

#### **Art. 64 Contraventions**

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

- a. manufactures, handles, stores, transports or places on the market foodstuffs or utility articles in such a way that they do not meet the requirements of this Act;



- b. infringes the regulations on the hygienic handling of foodstuffs and utility articles;
- c. uses substances or procedures that are banned for agricultural production or for the manufacture of foodstuffs;
- d. infringes the regulations based on this Act relating to the import, export and transit of foodstuffs and utility articles;
- e. slaughters animals without authorisation other than in authorised slaughterhouses;
- f. withholds foodstuffs, utility articles, premises, equipment, facilities, vehicles, manufacturing procedures, animals, plants, or land used for foodstuff production from inspection by the enforcement authorities, or prevents or obstructs controls;
- g. refuses to provide the enforcement authorities with information required under Article 29 paragraph 1;
- h. contravenes the regulations on the supply of alcoholic drinks;
- i. contravenes the regulations on protection against deception relating to foodstuffs and utility articles;
- j. contravenes the regulations on the labelling, presentation or advertising of foodstuffs or utility articles;
- k. contravenes the regulations on self-supervision under Article 26, the obligation to notify under Article 27, traceability under Article 28 or the licensing and the reporting requirements;

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

<sup>2</sup> If the offender acts on a commercial basis or for financial gain, the penalty shall be a fine not exceeding 80 000 francs.

<sup>3</sup> Attempts and complicity are also offences.

<sup>4</sup> If the offender acts through negligence, he shall be liable to a fine not exceeding 20,000 francs.

<sup>5</sup> If the enforcement authorities obtain information on the basis of the obligation to provide support and information in Article 29 paragraph 1, such information is only admissible in criminal proceedings against the person concerned if that person consents or if the information could have been obtained without that person's cooperation.

#### **Art. 65** Offences in commercial establishments, forgery of documents

The criminal provisions on offences in commercial establishments and on the forgery of documents under Articles 6, 7 and 15 of the Federal Act of 22 March 1974<sup>17</sup> on Administrative Criminal Law also apply to the cantonal authorities in the field of foodstuffs law.

**Art. 66** Prosecution

- <sup>1</sup> Offences under this Act shall be prosecuted and judged by the cantons.
- <sup>2</sup> The federal office responsible for supervision on behalf of the federal government may require the cantonal testing authorities to carry out testing.
- <sup>3</sup> The FCA and the FSVO shall prosecute and judge offences under this Act and its implementing provisions on import, export and transit that fall within their areas of responsibility.
- <sup>4</sup> Where an offence to be prosecuted by the FCA under paragraph 3 also constitutes a different offence to be prosecuted by the FCA, the FCA shall apply the penalty that the more serious offence carries; it may increase this penalty appropriately.

**Section 2** Rights of Appeal**Art. 67** Objection procedure

Rulings on measures and certificates of conformity under this Act may be challenged by filing an objection with the authority issuing the ruling.

**Art. 68** Administration of federal justice

Objection and appeal proceedings against rulings issued by federal authorities are governed by the general provisions on the administration of federal justice.

**Art. 69** Cantonal procedure

The cantons shall establish an appeals authority to review decisions on objections under this Act, including discretionary decisions by their enforcement agencies.

**Art. 70** Deadlines

- <sup>1</sup> The deadline for filing an objection amounts to ten days.
- <sup>2</sup> The deadline for filing for appeals against decisions on objections amounts to thirty days.

**Art. 71** 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.

## Chapter 8 Final Provisions

### Art. 72 Repeal and amendment of current legislation

The repeal and amendment of other legislation is regulated in the Annex.

### Art. 73 Transitional commission

Articles 2–4, 6, 10, 12, 13, 15, 18, 20–25, 27–34, 36–43, 44, 45 and 47–57 of the Foodstuffs Act of 9 October 1992<sup>18</sup> as worded prior to the commencement of this Act apply for a maximum of four years from the commencement of this Act to tobacco and other smoking products and to tobacco products until a corresponding special federal act is enacted.

### Art. 74 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 May 2017<sup>19</sup>

<sup>18</sup> [AS 1995 1469, 1996 1725 Annex No 3, 1998 3033 Annex No 5, 2001 2790 Annex No 5, 2002 775, 2003 4803 Annex No 6, 2005 971, 2006 2197 Annex No 94 2363 No II, 2008 785, 2011 5227 No I 2.8, 2013 3095 Annex 1 No 3]

<sup>19</sup> Federal Council Decree of 16 Dec. 2016

*Annex*  
(Art. 72)

## **Repeal and amendment of other legislation**

### **I**

The Foodstuffs Act of 9 October 1992<sup>20</sup>, subject to Article 73 hereof, is repealed.

### **II**

The enactments below are amended as follows:

...<sup>21</sup>

<sup>20</sup> [AS **1995** 1469, **1996** 1725 Annex No 3, **1998** 3033 Annex No 5, **2001** 2790 Annex No 5, **2002** 775, **2003** 4803 Annex No 6, **2005** 971, **2006** 2197 Annex No 94 2363 No II, **2008** 785, **2011** 5227 No I 2.8, **2013** 3095 Annex 1 No 3]

<sup>21</sup> The amendments may be consulted under AS **2017** 249.