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## CHAPTER 228

### FOOD (CONTROL)

Act 21 of 1993

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## FOOD (CONTROL)

An Act to regulate and control the manufacture, importation, sale and distribution of food and to provide for matters connected therewith or incidental thereto.

### PART 1 – PRELIMINARY

#### 1. Interpretation

(1) In this Act, unless the context otherwise requires –

“adulterated” means the addition of a substance as an ingredient in the preparation of food or subtraction of any constituent from such food or subjection of such food to any other process or any other treatment so as to –

- (a) render the food injurious to health; or
- (b) affect its character, value, composition, merit or safety;

“article” includes:

- (a) any food, and any labelling or advertising materials in respect thereof; or
- (b) anything used for the preparation, preservation, packing, carrying and storing of any food; or
- (c) anything connected with the things referred to in paragraphs (a) and (b);

“advertisement” means any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of any food, including –

- (a) words, whether written or spoken or conveyed by any other means;
- (b) symbolic or pictorial representation or design;

“authorized officer” means a person appointed or authorized under section 10 of this Act;

“food” includes drink, chewing gum, and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include –

- (a) water, other than water from natural springs, either in its natural state or with added mineral substances, distilled water and aerated water;
- (b) fodder or feeding stuffs for animals, birds or fish;
- (c) live animals, live birds, live fish (excluding shellfish); or
- (d) articles or substances used as drugs;
- (e) any articles or substances prescribed under section 53 as non-food for the purpose of this Act;

“insanitary condition” means such conditions or circumstances as may contaminate food, with dust, dirt or filth or poison or infection agent, or spoilage, damage, deterioration or perishment or render food injurious to health;

“label” includes any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to or included in, belonging to, or accompanying any food;

“local authority” means authorities established under the Municipalities Act [Cap. 126] and Decentralization Act [Cap. 230];

“manufacture” means preparing any food for sale and includes any process or part of a process for making, altering, finishing, packing, labelling or otherwise treating of food except packaging of food in the ordinary course of retail sale;

“Minister” means the Minister responsible for public health;

“official analyst” means a person appointed under section 12 as an analyst for the purpose of this Act;

“package” includes anything in which any food wholly or partly placed or packed and includes any basket, pail, tray or receptacle of any kind whether open or closed;

“person” includes any statutory body, company, partnership or association or body of persons corporate or unincorporate;

“premises” includes –

- (a) any building or tent or other structures permanent or otherwise together with the land on which the same is situated and any adjoining land used in connection therewith and includes any vehicle, conveyance or vessel; and
- (b) for the purpose of section 13(1), a reference to any street, open space or place of public resort, bicycle or other vehicle used for the preservation, packing, storage or conveyance of any article;

“preparation” includes manufacture, processing and any form of treatment, and “prepare” shall be construed accordingly;

“publish” means to bring to the notice of the public in any manner whatsoever, including to –

- (a) insert in a newspaper or other publication;
- (b) send to a person by post or otherwise;
- (c) distribute or deliver to a person;
- (d) leave on premises or any other place in the occupation of a person;
- (e) disseminate by broadcast, telecast, or projected image whether moving or still; and
- (f) display in any place for public attention permanently or otherwise;

“sell” includes offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale or exchange, dispose of for any consideration whatsoever, or transmit, convey or deliver in pursuance of a sale, exchange, or disposal, as aforesaid, and “sale”, “sold” or “selling” shall be construed accordingly;

“vehicle” means any device, whether or not operational, that is usually caravan, trailer, bicycle, motor vehicle, railway carriage or wagon, vessel, bang, hulk and aircraft.

## PART 2 – PROHIBITION IN RESPECT OF FOOD

### 2. Prohibition on manufacture, importation, sale and distribution of food

#### (1) No person shall manufacture, import, sell or distribute any food –

- (a) that has upon it any natural or added deleterious substance which renders it injurious to health;
- (b) that is unfit for human consumption;

- (c) that consists in whole or in part of any unclean, putrid, repugnant, decayed, decomposed or diseased animal substance or decayed vegetable substance

- (3) No manufacturer or distributor of, or a commission agent or dealer in, any food shall under subsection (1) give a warranty which is false.

### PART 3 – ADMINISTRATION

#### 7. Chief Food Authority

- (1) The Director of Preventive Services and Rural Water Supply shall be the Chief Food Authority for the purposes of this Act.
- (2) The Chief Food Authority shall be responsible for –
- (a) the nutritional well-being and food safety of the public and preventing fraud in the preparation, sale and use of food;
  - (b) the administration and enforcement of this Act;
- (3) The Chief Food Authority shall supervise, guide and co-ordinate the work of all Food Authorities under section 10.
- (4) The Chief Food Authority may give such directions as he thinks necessary to any Food Authority regarding the carrying into execution, and the enforcement of all or any of the provisions of this Act or regulations made thereunder, and every Food Authority to whom directions are given shall comply with such directions.

#### 8. Power of delegation

- (1) The Chief Food Authority may, by writing from time to time either generally or particularly delegate any of his powers under this Act to the Principal Environmental Health Officer or to any authorized officer.
- (2) Subject to any general or specific directions given by the Chief Food Authority, the officer to whom any power or function is delegated may exercise such power or function in the same manner and with the same effect as if it had been conferred on him directly by this Act and not by delegation.
- (3) Every officer acting or purporting to act in accordance with a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (4) Any delegation under this section may be made to a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or specified classes of officers.
- (5) A delegation under this section does not prevent or prejudice the exercise or performance of a power or function by the Chief Food Authority.

#### 9. Food Authority

- (1) Save as otherwise provided in subsection (4

- (i) the local authority constituted for that area, where that local authority is designated by the Minister in accordance with section 18J(2) of the Decentralization Act [Cap. 230] as the Food Authority for that area; or
  - (ii) the Environmental health officer for that area where the local authority constituted for that area is not appointed as the Food Authority under paragraph (i).
- (3) Every environment health officer shall, within the area for which he is appointed supervise and co-ordinate the work of the Food Authorities under subsection (1) in that area.
- (4) For the administrative area of every local authority, the Director of Customs shall be a Food Authority in relation to food the importation of which is prohibited under this Act.

10. Appointment of authorized officers

(1) The Minister may appoint –

- (a) any environmental health officer;
- (b) any health inspector of a local authority;
- (c) any meat inspector;
- (d) any veterinary officer;
- (e) any fisheries officer; and
- (f) any suitable person,

(1) to be an authorized officer of a Food Authority for the purposes of this Act.  
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- (8) Any food and any package containing the same, forfeited under the provisions of subsection (7) shall be disposed of in the prescribed manner.
- (9) If a magistrate, on sworn information in writing –
- (a) is satisfied that there is reasonable ground for entry into any premises for any such purpose as is mentioned; and
  - (b) is also satisfied either –
    - (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier; or
    - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,



give notice to the person in charge of the food that, until his investigations are completed –

- (a) the food, or any specified portion of it, is not to be used for human consumption; and
  - (b) either is not to be removed, or is not to be removed except to some place specified in the notice.
- (2) If, as a result of his investigations, the authorized officer is satisfied that the food in question, or any portion of it, is likely to cause injury to health, he may deal with it as food falling within section 13(1); but if, he is satisfied that it may be safely used for human consumption, he shall forthwith withdraw his notice.
- (3) If a notice given under subsection (1) is withdrawn by an authorized officer, or if the Court before whom any food is brought under this section refuses to condemn it, the Food Authority shall compensate the owner of the food to which the notice relates for any depreciation in its value resulting from the action taken by the authorized officer.

17. Power to arrest

(1) An authorized officer may –

- (a) arrest without a warrant any person who commits an offence under this Act or any regulations made thereunder and every offence under this Act or any regulations made thereunder shall be triable by the Magistrates' Court;
  - (b) require any person to give his name and address who he reasonably suspects of having committed an offence against this Act or regulations made thereunder and if any person so required fails to give his name and address or gives a name and address which the authorized officer has reason to believe is false he may arrest such person without warrant.
- (2) The provisions of section 17 of the Criminal Procedure Code [Cap. 136] or any provisions replacing them shall apply to the disposal of any person arrested in accordance with subsection (1).

18. Improvement notices

(1) Pursuant to this Act, an authorized officer may –

- (a) serve an improvement notice on the owner, occupier or person in charge of any trade or business engaging in the manufacture and sale of food if he is of the opinion that –
  - (i) the premises or equipment or utensils used in the premises do not meet hygienic requirements; or

- (3) The cost of all emergency measures taken under this Act shall be borne by the owner, occupier or person in charge of the premises, vehicle or vessel, as the case may be.
19. Order for closure
- (1) If the person to whom an improvement notice under section 18 has been served does not comply with the direction in that notice and does not remedy the situation within the period specified in that notice, the authorized officer may order the closure of the premises, vehicle or vessel until the situation is remedied to the satisfaction of the Food Authority.
- (2) An order for closure shall be in the prescribed form and shall state that –
- (a) no food shall be prepared, packed, stored for sale, or be sold, or be handled for sale in that premises; or
- (b) no food shall be sold in, or from that vehicle or vessel or conveyed or delivered for sale in that vehicle or vessel, as the case requires, until a certificate of inspection is obtained indicating that the situation has been remedied and no contravention do exist.
- (3) The order for closure shall refer to the improvement notice served under section 18 and the warning, if any, given under that section.
- (4) A person shall be considered to be in compliance with the direction given in an improvement notice if he took any other measures equally effective for the purpose.
- (5) Notwithstanding the emergency measures taken under subsection (2) of section 18, if a person to whom a prohibition notice has been served fails to comply with the direction in that notice and does not remedy the situation within the specified period, the authorized officer may order the closure of the premises under this section.
20. Provisions as to the taking of samples for analysis
- (1) An authorized officer who takes a sample under the provisions of section 13(1) of any food, or substance for the purpose of analysis shall forthwith divide such sample into 3 parts, each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall –
- (a) with respect to one part of the sample comply with the provisions of subsection (2); and
- (b) with respect to the remaining parts of the sample comply with the provisions of subsection (3);
- Provided that this subsection shall not apply to any sample taken to bacteriological examination.
- (2) (a) If the samples were obtained by purchase from a dealer in the food or substance in question the authorized officer shall give the one part to the





- (b) a copy of any certificate of analysis obtained on behalf of the Public Prosecutor, and of any certificate given by a court under subsection (4) shall be served with the summons.
- (6) In any proceedings under this Act, where a sample has been procured in such circumstances that its division into parts is required by this Act, the part of the sample retained by the person who took it shall be produced at the hearing.
24. Procedure in respect of articles seized
- (1) Where an article in respect of which an offence has been committed is seized under this Act by an authorized officer, such article may be destroyed or otherwise disposed of in the prescribed manner where the Food Authority is satisfied that there has been a contravention of any of the provisions of this Act or any regulations made thereunder and where the owner of such article or the person in possession of such article at the time of seizure consents in writing to the destruction of such article.
- (2) Where the owner or the person in possession of such article does not consent in writing to the destruction of such article, the authorized officer –
- (a) shall, release such article if he is satisfied that the provisions of this Act or any regulations made thereunder in respect of such article have not been contravened; or
- (b) shall, with the approval of the Public Prosecutor, where he is satisfied that there has been a contravention of any provisions of this act or any regulations made thereunder, forthwith, with notice to such owner or person in possession of the article, inform the court having jurisdiction over the area in which the offence was committed of the seizure of the article in respect of which the offence was committed.
- (3) On information furnished to the court under subsection (2)(b) such court shall –
- (a) if, after trial, it finds the owner or person in possession of the article, guilty of contravening any of the provisions of this Act or regulations made thereunder, order that such article be forfeited to the Food Authority to be disposed of as the court may direct:
- Provided, however, that where the offender is not known or cannot be found such article shall be forfeited to the Food Authority without the institution of proceedings in respect of such contravention; or
- (b) if, after trial, it finds the owner or person in possession of the article not guilty of contravening any of the provisions of this Act or regulations made thereunder, order that such article be released to such owner or person in possession.

25. Disclosure of information  
No authorized officer may disclose any information acquired in the course of his duty except as authorized by the Food Authority.

No authorized officer may disclose any information acquired in the course of his duty except as authorized by the Food Authority.



proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person, and, in any such proceedings, the

- (2) A person who, in respect of any article or substance sold by him, being an article or substance in respect of which a warranty might be pleaded under section 31, gives to the purchaser a false warranty in writing shall be guilty of an offence, unless he proves that when he gave the warranty he had reason to believe that the statements or description contained therein were accurate.

33. Sale, etc., by servants or agents

For the purpose of this Act, every person shall be deemed to sell, offer, expose or advertise for sale, or have in his possession for sale, any food for human consumption, who sells, offers, exposes or advertises for sale, or has in his possession for sale, such food either on his own account or as the servant or agent of some other person, and, where such person is the servant or agent of some other person, such other person shall, subject to the provisions of this Act, be under the same liability as if he had himself sold, exposed or advertised for sale, or had in his possession for sale, such food.

34. Offences under section 13

- (1) Any person who fails to provide facilities for the examination of imported food in accordance with subsection (1)(g) of section 13, after having been duly directed to do so by an authorized officer shall be guilty of an offence.
- (2) If any person sells, offers or exposes for sale, or deposits or consigns to any person for the purposes of sale or preparation for sale, any food contrary to the purport of any mark, seal or other designation affixed thereto under subsection (7) of section 13 or removes, alters or obliterates any such mark, seal or designation with intent to deceive any person, he shall be guilty of an offence.

35. Offences under section 14

Any person who fails to comply with any direction given under section 14, or who in a notification under it knowingly makes any false statement, is guilty of an offence.

36. Offences under section 15

Any person, being a person in charge of a vehicle or vessel which is called upon to stop under subsection (1) of section 15, who fails to stop when so called upon is guilty of an offence.

37. Offences under section 16

Any person who uses or removes any food in contravention of the requirements of a notice given under section 16 is guilty of an offence.

38. Offences by body corporate

- (1) If a body corporate contravenes any provision of this Act, every person who at that time of the commission of the offence was a director, general manager, secretary or other similar officer, of such body corporate, or was acting, or purporting to act, in any such capacity, shall also be guilty of such offence unless he proves that such offence was committed without his consent or knowledge and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity and in all the circumstances.
- (2) A person may be proceeded against and convicted under a provision of this Act in accordance with subsection (1) whether or not the body corporate has been proceeded against or convicted under that provision.

39. Offences and penalties

- (1) Every person who contravenes or fails to comply with any of the provisions of this Act or any regulations made thereunder or fails to comply with any direction given under this Act shall be guilty of an offence and shall be liable on conviction –



- 
- (a) where the nature of the offence involves injury to the health of the public, to imprisonment for a term not exceeding 5 years and also to a fine not exceeding VT 3,000,000;
- (b) for any other offence –
- (i) for the first offence, to a fine not exceeding VT 500,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment;
- (ii) for a second or subsequent offence, to imprisonment for a term not exceeding 2 years and also to a fine not exceeding VT 1,000,000.
- (2) Where a person convicted for an offence under this Act or any regulations made thereunder is convicted for the second or subsequent offence of a like or similar nature under this Act or any regulations made thereunder, the court convicting him for the second or subsequent offence may –
- (a) cause the name and the address of the person convicted and the offence and the punishment imposed for that offence to be published in such newspaper or in such other manner as the court may direct and recover the cost of publication from the person convicted as if it were a fine imposed on him;
- (b) cancel the licence or permit, if any, issued to the person convicted for the manufacture, importation, preparation, storage, sale and distribution of food under this Act or any other law and inform the relevant licensing authority accordingly.
40. Evidence of analysis
- (1) In any proceedings under this Act or any regulations made thereunder, the production by one of the parties of a document purporting to be a certificate of the official analyst in the form in the Schedule, or of a document supplied to him by the other party as being a copy of such a certificate, shall be *prima facie* evidence of the facts stated therein, unless, in the first mentioned case, the other party requires that the official analyst shall be called as a witness.
- (2) In any such proceeding, if a defendant intends to produce a certificate of the official analyst, or, under the provisions of subsection (1), to require that the official analyst shall be called as a witness, notice of his intention, together, in the first mentioned case, with a copy of the certificate, shall be given to the other party not less than 3 clear days before the day on which the summons is returnable, and, if this requirement is not complied with, the court may adjourn the hearing on such terms as it thinks proper.
41. Defences available in proceedings under section 2
- (1) In any proceedings under section 2 for an offence consisting of the sale of food to which any substance has been added, or in the preparation of which any substance has been used as an ingredient, or from which any constituent has been abstracted, or which has been subjected to any other process or treatment, other than food thereby rendered injurious to health, it shall be a defence for the person charged to prove that the operation in question was not carried out fraudulently, and that the article was sold having attached thereto a notice of adequate size, distinctly and legibly printed and conspicuously visible, stating explicitly the nature of the operation, or was sold in a wrapper or container displaying such a notice.
- (2) In proceedings under section 2 in respect of any food containing some extraneous matter, it shall be a defence for the defendant to prove that the presence of that matter was an unavoidable consequence of the process of collection or preparation.

42. Appeal

- (1) Any person aggrieved by an order for closure issued under section 19 may appeal to the Magistrates' Court within 3 days after the date of service of such order.
- (2) Where an appeal under this section is brought against an improvement notice, the bringing of appeal has the effect of suspending the operation of the notice until the appeal is finally disposed of or abandoned, but the Court may decide otherwise.
- (3) Where an appeal under this section is brought against a prohibition notice, the Court, upon request, may direct that the operation of the notice is to be suspended.
- (4) On such appeal, the Court may either cancel or affirm the notice either in its original form or with such modifications as the Court may, in the circumstances, think fit.
- (5) The Judicial Committee may provide summary court procedure for appeal under this section.

43. Compensation

If any person considers himself aggrieved by the seizure and removal, or by the marking, sealing or otherwise designating, or by the destruction or other disposal, of any food under the provisions of subsections (1) or (5) of section 13 he may, within 72 hours after the doing the Magistrates' Couginaain th' Cot ther alloina

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49. Temporary investment of funds

Any money in the Fund not immediately required for the carrying out of its objectives may be invested from time to time either in such manner, or in such securities authorized in writing by the Minister with the approval of the Minister responsible for finance.

PART 7 – MISCELLANEOUS

50. Conflict of interest

- (1) An authorized officer who knowingly has, directly or indirectly any trade or business engaged in or connected with the preparation, packing or sale of food is guilty of an offence.
- (2) If an authorized officer has a personal interest in a case under investigation, he shall disqualify himself or shall be removed from the case by the Food Authority with a written instrument.

51. Protection for action taken in good faith

No suit, prosecution or other legal proceeding shall be instituted for any act or omission which in good faith is done or is purported to be done by any person under this Act or any regulations made thereunder.

52. Notification of food poisoning

Every medical practitioner carrying on his profession within the administrative area of any local authority shall report all cases of food poisoning in that area within his knowledge to the Chief Food Authority.

53. Regulations

- (1) The Minister may make regulations in respect of matters required by this Act to be prescribed or in respect of which regulations are authorized to be made.
- (2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:
  - (a) declaring that any food or class of food is adulterated if any prescribed substance or class of substance is present or has been added to or extracted or omitted from that food;
  - (b) the labelling, packaging, offering, exposing and advertising for sale of food;
  - (c) the size, dimensions, fill and other specifications of packages of food;
  - (d) sale or conditions of sale of any food;
  - (e) the use of any substance as an ingredient in any food to prevent the consumer or purchaser from being deceived or misled as to its quantity, character, value, composition or safety or to prevent injury to the health of the consumer or purchaser;
  - (f) the standards of composition, purity, quality or other property of food;
  - (g) the importation of food in order to ensure compliance with the Act and any regulations made thereunder;
  - (h) the method of preparation, manufacture, preservation, packaging, storing and testing of any food in the interest of, or for the prevention of injury to, the health of the consumer or purchaser;
  - (i) requiring persons who manufacture or sell any food to furnish such information and maintain such books and records as the Minister considers

necessary for the proper enforcement and administration of this Act and the regulations made thereunder;

- (j) the seizure, detention or forfeiture and disposal of articles;
- (k) the forms to be used for the purposes of this Act and any regulations made thereunder;
- (l) the analysis or examination of any food;
- (m) prohibition and restrictions relating to the sale and transport for sale of any adulterated food.ulations made thereunder;

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