

CHAPTER 344

THE FOOD (CONTROL OF QUALITY) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 344

THE FOOD (CONTROL OF QUALITY) ACT

An Act to provide for efficient control of the food industry.

[1st October, 1979]

[G.N. No. 108 of 1979]

Acts Nos.

10 of 1978

269 of 1985

39 of 1988

239 of 1989

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PART I

PRELIMINARY PROVISIONS (ss 1-3)

[PCh344s1]1. Short title

This Act may be cited as the Food (Control of Quality) Act.

[PCh344s2]2. Application

(1) This Act shall apply in the manner in which the Minister may, by order in the Gazette, direct, and the order or orders may either apply this Act throughout the United Republic, or may apply all or any of its provisions to certain areas of the United Republic, to certain premises or categories of premises or in any other way, and any order may specify different dates, or periods for the application of different provisions of this Act.

(2) Nothing in this Act shall apply to or be deemed to restrict or affect in any way the preparation of food which, or the slaughter of any animals whose meat or the product derived from whose meat, is not intended for distribution, sale or export for human consumption, nor to impose any obligation in relation to any food prepared, or to the carcass of any animal slaughtered but not intended for distribution, sale or export for human consumption.

[PCh344s3]3. Interpretation

In this Act, unless the context otherwise requires—

"advertisement" includes any structure or apparatus erected, used, or intended to be used, for the display of advertisements designed to promote, directly or indirectly the sale or disposal of food;

"appointed day" means the date appointed by the Minister as the day on which this Act came into operation;

"authorised officer" means a health officer, a medical officer, a veterinary officer registered or licensed under the Veterinary Surgeons Act *, and includes a medical assistant, health assistant, fisheries officer, meat inspector and any other person appointed by the Minister under section 61 for the purposes of this Act; except that for the purposes of the provisions of this Act relating to the taking of samples, any police officer of or above the rank of corporal, as well as each member of the Commission shall be an authorised officer;

"Commission" means the National Food Control Commission established by section 4;

"cream" means that part of milk, rich in fat, which has been separated by skimming or by any other means;

"food" means any article other than drugs used as food for human consumption and includes any substance used in manufacture or treatment of food;

"Government Analyst" includes any person authorised by the Minister to act as a Government Analyst for the purposes of this Act;

"human consumption" includes use in the manufacture of food for human consumption and "consume" shall be construed accordingly;

"licence" means a licence granted under section 8, permitting the holder to manufacture food for human consumption;

"licensee" means the holder of a licence granted under this Act;

"manufacture", with its grammatical variations and cognate expressions, means to subject any physical article or substance of food to any process including preparation, which—

(a) materially changes the article or substance of food in its composition, character or appearance; and

(b) results in that article or substance of food, after being processed, being possible of consumption by human beings, whether on purchase or otherwise;

"medical officer" means any medical officer, including a medical officer of health, in the service of the Government, and includes any registered medical practitioner appointed by the Director of Hospital Services to be a medical officer for the purposes of this Act;

"member", in relation to the Commission, means a member of the Commission and includes the Chairman and the Vice-Chairman;

"Minister" means the Minister responsible for health;

"premises" includes land, buildings, structures and basements and, in relation to any building, includes a part of a building and any curtilage, forecourt, yard or place of storage used in connection with the building or part of that building;

"Registrar" means the Registrar of the Commission appointed under section 6;

"sanitary convenience" means a latrine privy, urinal, water closet, pit latrine, earth closet or chemical closet;

"slaughterhouse" means any premises or place approved and registered by the Commission for use for the slaughter of animals for human consumption and includes an abattoir and export slaughterhouse;

"vessel" means a ship, boat or air craft, and includes a receptacle of any kind, whether open or closed.

PART II

THE NATIONAL FOOD CONTROL COMMISSION (ss 4-6)

[PCh344s4]4. Establishment of the National Food Control Commission

(1) There is established a body to be known as the National Food Control Commission.

(2) The First Schedule to this Act shall have effect as to the composition and proceedings of the Commission and otherwise in relation to it.

(3) The Minister may, by order in the Gazette, amend, vary or replace all or any of the provisions of the First Schedule.

[PCh344s5]5. Functions of the Commission

(1) The functions of the Commission shall be to—

(a) regulate, in accordance with this Act, the importation, manufacture, labelling, marking or identification, storage and sale and distribution of food or any materials or substances used in the manufacture of food;

(b) prescribe minimum standards of quality in respect of food manufactured or imported or intended to be manufactured or imported in or into the United Republic;

(c) test or facilitate the testing of food manufactured in or imported into the United Republic with a view to determining its fitness for human consumption;

(d) approve and register foods manufactured or intended to be manufactured within the United Republic, whether or not for export purposes;

(e) attend to and, where possible, take legal measures on, complaints made by consumers against food manufacturers;

(f) do such acts or take such measures as are, in the opinion of the Commission, necessary or expedient for the prevention of health hazards to consumers which may result from the consumption of food of low or bad quality.

(2) In the performance of its functions, the Commission shall, as far as is practicable, maintain a system of consultation and co-operation with—

(a) the Tanzania Food and Nutrition Centre, established by the Tanzania Food and Nutrition Act *;

(b) the Tanzania Bureau of Standards, established by the Standards Act *,
and any other body established by or under any written law and having functions similar to those specified in subsection (1) or which relate to food quality standards or to public health generally.

[PCh344s6]6. Appointment and functions of Registrar

(1) The Minister shall appoint a public officer to be the Registrar, who shall also be the Secretary to the Commission.

(2) The Registrar shall perform the duties prescribed in relation to his office under this Act and shall perform such functions as may, be specified by the Minister or the Commission.

PART III

CONTROL OF THE MANUFACTURE OF FOOD (ss 7-15)

(a) Licensing of Manufacturers (ss 7-12)

[PCh344s7]7. Restriction on the manufacture of food

(1) No person, shall, on or after the appointed day, carry on, or advertise that he is carrying on, the business of a food manufacturer unless he is the holder of a licence issued under section 8.

(2) Any person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both that fine and imprisonment.

[PCh344s8]8. Application for the grant of a licence

(1) Subject to subsection (2), an application for the grant of a licence shall be made to the Commission in the prescribed manner and shall be accompanied by the prescribed fees.

(2) The Commission shall only grant a licence under this section if it is satisfied that–

(a) the premises in which the applicant proposes to manufacture food have been inspected and registered by an authorised officer under section 14;

(b) the substances he intends to use are of a quality satisfactory to the standards prescribed by the Commission in respect of the food he proposes to manufacture;

(c) he has sufficient financial resources such as would enable him, in relation to the manufacture of food, to maintain the standards of quality prescribed by or under this Act;

(d) he has not, within twelve months immediately preceding his present application, been convicted of an offence under this Act or any other written law relating to food quality standards;

(e) he is not disqualified in any other way from holding a licence or a person whose licence is suspended;

(f) he meets in all respects all other requirements which may be prescribed in respect of food manufacturers;

(g) the manufacturer has adequate facilities, expertise or skill, or has personnel qualified to execute the business for which he is seeking to be licensed; and

(h) he has adequate facilities such as would enable him to maintain the standards of quality prescribed in relation to the manufacture of food.

[PCh344s9]9. Register of licensed food manufacturers

(1) As soon as practicable after the Commission has accepted an application for the grant or restoration of a licence, the Registrar shall enter in a register, kept and maintained for that purpose and in such form as may be prescribed, in respect of that person the following particulars—

- (a) his name and address;
- (b) the date on which the licence is granted;
- (c) the serial number, if any, of the licence;
- (d) particulars of any fees paid, or due but not paid, in respect of the licence under section 10;
- (e) particulars of any revocation of the licence under section 11; and
- (f) such other particulars as the Commission may direct.

(2) All changes in the particulars registered under subsection (1) shall be entered in the register by the Registrar.

(3) The Registrar may, with the general or specific approval of the Commission, rectify any clerical errors in the register or other document containing extracts from the register.

[PCh344s10]10. Provisions regarding licences

(1) A licence shall be in such form as the Minister may, after consultation with the Commission, prescribe.

(2) A licence shall have and continue to have effect from and including the day when it is issued until it ceases to have effect in accordance with subsection (4) or it is revoked under section 11.

(3) The prescribed fee in respect of a licence shall be payable annually on or before the anniversary of the day when the licence was issued in the year concerned.

(4) If the prescribed fee in respect of a licence is not paid in accordance with subsection (3) it shall cease to have effect immediately after the anniversary concerned.

[PCh344s11]11. Suspension and revocation of licence

(1) The Commission shall suspend any licence granted by it if it is informed in writing by an authorised officer—

(a) that the premises on which the licensee manufactures food no longer satisfy the conditions of registration under section 13; or

(b) that proceedings are pending in court against the licensee for contravention of any of the provisions of this Act,

and upon the suspension, subject to such conditions as the Commission may deem fit to impose, the licence shall cease to have effect.

(2) The Commission shall, either of its own motion or upon the petition of an authorised officer or any other person, revoke any licence issued by it, if the Commission is satisfied—

(a) that the licensee knowingly made a false statement or a statement which he did not believe to be true in his application for the licence;

(b) that the licensee no longer meets all or a majority of the requirements of subsection (2) of section 8;

(c) that the licensee has been convicted of an offence under this Act involving the disregard of food quality standards prescribed by the Commission; or

(d) that the licensee has been guilty of fraudulent conduct or dishonesty in his business as a food manufacturer.

(3) A licence may be revoked for ground specified in paragraph (c) of subsection (2) on the recommendation of the court by which the licensee was convicted of the offence.

(4) When a licence is suspended or revoked the Registrar shall notify the licensee in writing of that fact and of the reasons for the suspension or, as the case may be, the revocation.

(5) Except in the case of suspension under paragraph (c) of subsection (2), no licence shall be suspended or revoked unless an inquiry has been less conducted in accordance with regulations made by the Minister in that behalf, giving the licensee an opportunity to be heard.

[PCh344s12]12. Appeals by aggrieved persons

Any person who—

(a) being an applicant for the grant or restoration of a licence, is aggrieved by a refusal of the Commission to grant his application; or

(b) being a licensee, is aggrieved by the suspension or revocation of his licence,
may appeal to the High Court in accordance with the provisions of section 56.

(b) Premises for Manufacture of Food (ss 13-15)

[PCh344s13]13. Restriction on use of premises for manufacture of food

(1) No person shall manufacture food except in premises registered in accordance with section 14.

(2) The registration of any premises under section 14 shall cease to have effect upon the expiration of thirty days from the date of change in the ownership of the food manufacturing business carried on there.

[PCh344s14]14. Application for and registration of premises

(1) An application for registration of premises, accompanied by the prescribed fees shall be made in the prescribed manner to any authorised officer who has the power to register premises within the area in which the premises are situated.

(2) On receipt of the application, an authorised officer shall inspect the premises and may register them as food manufacturing premises if he is satisfied—

(a) that the premises are suitable for the manufacture in them of any food for human consumption;

(b) that the premises meet the standard requirements for premises in respect of which the manufacture of the kind of food which the applicant proposes to manufacture in those premises is acceptable; and

(c) that the applicant has sufficient financial resources to maintain those premises in accordance with requirements of food hygiene specified in regulations made under section 33.

(3) If an authorised officer grants an application made under subsection (1), he shall enter the name of the applicant in a prescribed register, together with other particulars relating to the premises as the Commission may prescribe.

(4) An authorised officer to whom an application is made for registration of premises may grant or refuse the application, or grant it subject to such conditions as he may see fit to impose; but where any conditions are imposed the premises shall not be regarded as registered for the purposes of paragraph (a) of subsection (2) of section 8.

(5) Any person who is aggrieved by the refusal by an authorised officer to grant an application for registration or the imposition by him of conditions upon registration, may appeal against the decision to the Commission whose decision on the appeal shall be final.

[PCh344s15]15. Cancellation of registration of premises

(1) The Commission may, on the recommendation of an authorised officer, cancel the registration of any premises registered under section 14 if it is satisfied that the premises are no longer suitable for the manufacture in them of any food for human consumption or for the manufacture of the kind of food which is manufactured in them.

(2) Any person who is aggrieved by the decision of the Commission may appeal to the High Court in accordance with the provisions of section 56.

PART IV

GENERAL PROVISIONS REGARDING FOOD (ss 16-26)

(a) Composition and Labelling of Food (ss 16-19)

[PCh344s16]16. Regulations regarding the composition of food

(1) The Minister may, after consultation with the Commission, make regulations prescribing standards to be complied with by manufacturers with regard to the composition of food or its bacteriological or chemical standards.

(2) Without prejudice to the generality of the power conferred by subsection (1), the Minister may in those regulations—

(a) require, prohibit or regulate the addition to food or extraction from it of any specified substance or any substance of any specified category, or the use of any substance as an ingredient in the manufacture or preservation of that food;

(b) prohibit, restrict or regulate the importation or manufacture or the sale, possession for sale, offer or exposure for sale, or the consignment or delivery, of food or any of its ingredients which do not comply with those regulations;

(c) prohibit or regulate the importation of any food which, in his opinion, is or may be prejudicial to public health;

(d) prohibit, restrict or regulate the importation or use of any specified materials, or materials of any specified category, in the manufacture of apparatus or utensils intended for use in the manufacture or preservation of food;

(e) prescribe or provide for methods of analysis for the purpose of ascertaining the presence in any food, or the absence from it, of any specified substance, or the quantity of any substance present in any food.

(3) In making regulations under this section, the Minister shall have regard to the desirability of restricting, so far as is practicable, the use in the manufacture of food of substances of no nutritional value as foods.

[PCh344s17]17. Prohibition on manufacture and sale of adulterated food

(1) No person shall with intent to cause food to be sold for human consumption—

(a) add any substance to the food, use any substance as an ingredient of that food in its manufacture or abstract any constituent from it; or

(b) subject the food to any other process or treatment,

so as, in any such case, to produce food of a quality below the prescribed standard, whether or not that food thereby becomes injurious to health.

(2) Subject to this section, no person shall distribute, sell or offer, expose or advertise for sale for human consumption, or have in his possession for the purpose of that distribution or that sale, any food manufactured in contravention of subsection (1).

(3) Any person who contravenes any of the provisions of subsection (1) or (2) commits an offence and is liable on conviction to a fine of not more than one million shillings or to imprisonment for a term not more than five years or to both that fine and imprisonment.

(4) Where, in proceedings for an offence under this section, it becomes necessary to determine whether or not any article of food is injurious to health, regard shall be had not only to the probable effect of that article on the health of a person consuming it, but also to that probable cumulative effect of articles of substantially the same composition on the health of a person consuming those articles in ordinary quantities.

(5) In any proceedings for an offence under subsection (3) consisting of the advertisement for sale of any food, it shall be a defence for the person charged to prove that, being a person whose business it is to publish, or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

[PCh344s18]18. General protection for purchasers of food

(1) Any person who sells to the prejudice of a purchaser any food which is not of the nature, substance or quality of the food demanded by the purchaser commits an offence.

(2) When regulations made under section 16, contain provisions prescribing the composition of, or prohibiting or restricting the addition to any food, or the extraction from it, of any substance, a purchaser of that food shall, unless the contrary is proved, be deemed, for the purposes of subsection (1), to have demanded a food complying with the provisions of the regulations.

(3) In any proceedings for an offence under subsection (1), it shall not be a defence for the defendant to allege that the purchaser bought for analysis or examination and therefore was not prejudiced.

(4) In this section, references to sale shall be construed as references to sale for human consumption.

[PCh344s19]19. False labelling or advertisement of food

(1) Any person who gives out with any food sold by him, or displays with any food exposed by him for sale, a label, whether or not attached to or printed on the wrapper or container, which—

(a) falsely describes the food; or

(b) is calculated or, regard being had to the circumstances surrounding the food, is reasonably likely to mislead as to its nature, substance or quality,

commits an offence, and is liable on conviction to a fine of not less than one million shillings unless he proves to the satisfaction of the court that he did not know, and could not with reasonable diligence have known, that the label was of the character it is alleged to be.

(2) Subject to subsection (3), any person who publishes, or is a party to the publication of an advertisement, not being a label given out or displayed by him which—

(a) falsely describes any food; or

(b) is calculated or, regard being had to the circumstances surrounding any food, is reasonably likely to mislead as to the nature, substance or quality of the food, commits an offence and is liable on conviction to a fine not exceeding one million shillings.

(3) In proceedings for an offence under subsection (2) it shall be a defence for a defendant to prove either—

(a) that he did not know, and would not with reasonable diligence have known, that the advertisement was of the character described in that subsection; or

(b) that being a person whose business it is to publish, or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

(4) For the purposes of this section, a label or advertisement which is calculated to mislead as to the nutritional or dietary value of any food is to mislead as to the quality of that food.

(5) In proceedings for an offence under this section it shall not be a defence for a defendant to prove that a label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food, nor shall such proof preclude the court from finding that the offence was committed.

(b) Food Unfit for Human Consumption (ss 20-23)

[PCh344s20]20. Offence regarding sale, etc., of unfit food

(1) Any person who—

(a) distributes, sells, or offers or exposes for sale, or has in his possession for the purpose of distribution, sale or manufacture for sale; or

(b) deposits with, or consigns to, any person for the purpose of distribution or sale or of manufacture for distribution or sale,

any food intended, but unfit, for human consumption commits an offence.

(2) Where any food in respect of which an offence under paragraph (a) of subsection (1) has been committed was distributed or sold to the offender by some other person, that other person, also commits an offence.

(3) Where a person is charged with an offence under paragraph (b) of subsection (1), or under subsection (2), it shall be a defence for him to prove either—

(a) that he gave notice to the person with whom he deposited, or to whom he consigned, distributed or sold, the food in question that it was not intended for human consumption or, as the case may be, for use by man; or

(b) that at the time when he delivered or dispatched it to that person either the food was fit for human consumption or he did not know, and could not with reasonable diligence have known, that it was unfit.

[PCh344s21]21. Food offered as prizes, etc.

(1) Sections 20 and 22 shall apply in relation to—

(a) any food intended for human consumption which is offered as a prize or reward in connection with any entertainment to which the public are admitted, whether or not on payment of money, as if such food were or had been, exposed for sale by each person in the organisation of the entertainment;

(b) any food intended for human consumption which is offered as a prize or reward or given away for the purposes of advertisement, or in furtherance of any trade or business, as if the food were, or had been, exposed for sale by the person offering or giving it away;

(c) any food intended for human consumption which is exposed or deposited in any premises for the purpose of being so offered or given away as if the food were, or had been, exported for sale by the occupier of the premises.

(2) In this section, the expression "entertainment" includes any social gathering, amusement, exhibition, performance, game, sport, lottery or trial of skill.

[PCh344s22]22. Examination of food suspected to be unfit for human consumption

(1) Any authorised officer may, at all reasonable times, examine any food intended for human consumption which has been distributed, sold, or is offered or exposed for sale or is in the possession of, or has been deposited with or consigned to, any person for the purpose of distribution, or sale or of manufacture for sale, if it appears to him to be unfit for human consumption, and may seize it and remove it in order to have it dealt with by a magistrate.

(2) An authorised officer who seizes any food under subsection (1) shall inform the person in whose possession the food was found of his intention to have it dealt with by a

magistrate, and any person who under section 20 might be liable to prosecution in respect of the food shall, if he attends before the magistrate upon the application for its condemnation, be entitled to be heard and to call witnesses.

(3) If it appears to a magistrate that any food brought before him is unfit for human consumption he shall condemn the food and order that it be destroyed or that it be so disposed of as to prevent it from being used for human consumption.

(4) If the magistrate refuses to condemn any food seized by an authorised officer and brought before him under this section, the food shall be restored to the person in whose possession it was found and he shall be compensated for any depreciation in the value of the food if he satisfied the court that depreciation resulted from the seizure and removal of that food.

[PCh344s23]23. Power to seize and dispose of unfit carcasses of slaughtered animals

(1) An authorised officer may seize, and cause to be disposed of in such manner as he may think fit, the carcass, or any part of the carcass, of any animal received into a slaughterhouse for the purpose of slaughter for food for human consumption which on examination is found to be diseased or unfit for human consumption, and no compensation shall be payable to the owner of that carcass or any part of it.

(2) Where, in pursuance of subsection (1), any carcass or a part of it is seized by an authorised officer, he shall, before causing it to be disposed of, record or cause to be recorded—

(a) a description or other particulars as will suffice to identify the carcass or the part of it; and

(b) the grounds upon which the seizure was effected.

(3) For the purpose of this section, an authorised officer may deal with poultry and fish in the same manner as if the poultry, game and fish were carcasses of animals for slaughter.

(c) Importation of Food (ss 24-26)

[PCh344s24]24. Restriction on importation of food

(1) No person shall, on or after the appointed day, carry on the business of an importer of food unless he is registered by the Commission under section 25 as an importer of food.

(2) The Commission shall cause to be kept and maintained under this section and in the prescribed manner a register containing—

- (a) the name of every registered importer of food;
- (b) the date of registration;
- (c) the kind or kinds of food in respect of which he is registered as an importer;
- (d) the bacteriological or chemical composition of the food he imports; and
- (e) such other particulars as the Minister may, from time to time, prescribe.

(3) The provisions of section 25 shall be complied with by every person registered as an importer of food on every occasion he proposes to import food which was not included in his original application for registration.

[PCh344s25]25. Application for registration

(1) Every application for registration as an importer of food shall be addressed to the Registrar and shall be in prescribed form.

(2) Upon receipt of an application for registration the Commission shall, as soon as is practicable, proceed to consider the application and grant registration if it is satisfied that—

(a) the composition of the food proposed to be imported is not of a quality below the standards prescribed under this Act;

(b) importation and consumption of the food proposed would enhance or contribute in any other way to the national effort to improve the nutritional status of the people of Tanzania.

[PCh344s26]26. Restriction on movement of imported food

(1) Without prejudice to any power of examining food conferred by this Part, any public officer authorised in writing in that behalf by the Commission may give directions to the person in possession of any food which is imported for human consumption, prohibiting or restricting its removal or delivery—

(a) during any period of not more than seventy-two hours; and

(b) if within that period the officer so requires, until that person has notified the officer of the name of the person to whom, and the address to or at which, he proposes to send or deliver that food.

(2) Any person who fails to comply with any direction given under subsection (1), or who, in a notification under that subsection, knowingly makes any false statement or one which he does not believe to be true, commits an offence.

PART V

PARTICULAR ARTICLES OF FOOD (ss 27-32)

(a) Milk and Cream Substitutes (ss 27-29)

[PCh344s27]27. Rules relating to milk

(1) The Minister may, after consultation with the Commission, and with such other person as he may determine, make rules for the purposes of—

(a) regulating the addition to milk intended for human consumption any water or colouring matter, or any dried or condensed milk or liquid reconstituted from condensed milk;

(b) regulating the extraction of any matter or substance from milk intended for distribution or sale for human consumption;

(c) regulating in any other way the composition and other dealings in milk.

(2) Rules made under this section shall be published in the Gazette.

[PCh344s28]28. Milk from diseased dairy animals not to be sold

(1) No person shall—

(a) sell, or offer or expose for sale, for human consumption; or

(b) use in the manufacture of food for sale for human consumption,

the milk of any dairy animal which to his knowledge has tuberculous milk, or is suffering from emaciation owing to tuberculosis or from tuberculosis of the udder, acute mastitis, actinomycosis of the udder, suppurating of the udder, or any infection of the udder or teats which is likely to convey diseases, or from any comatose condition, any septic condition of the uterus, or anthrax.

(2) Any person who contravenes this section commits an offence.

(3) In proceedings under this section, an accused person shall be deemed to have known that a cow was diseased, if he could with reasonable diligence have ascertained that fact.

[PCh344s29]29. Control of use of designation "cream" or "ghee" in relation to cream substitutes

The Minister may, by order in the Gazette, prescribe substances which resemble cream in appearance but which are not cream, or articles of food containing such substances, which are intended for distribution or sale for human consumption, in relation to which the designation "cream" or "ghee" may not be used.

(b) Slaughter of Animals and Sale of Meat (ss 30-32)

[PCh344s30]30. Restriction on slaughter of animals for sale for human consumption

(1) No person shall slaughter any animal or cause or permit any animal to be slaughtered with intent to sell, or offer or expose for sale, meat from that animal for human consumption except in accordance with the provisions of this Act.

(2) Any person who contravenes any of the provisions of this section commits an offence.

[PCh344s31]31. Regulations regarding slaughtering, slaughterhouses, etc.

(1) The Minister shall, after consultation with the Commission, make regulations relating to the slaughter of animals or birds for food for human consumption and may, by such regulations—

(a) regulate, control or prohibit the slaughter of animals in any place other than a slaughterhouse;

(b) prescribe the methods, instruments or appliances which may be used to carry out slaughtering;

(c) provide for and regulate the inspection of animals intended for slaughter to determine whether or not they are sufficiently healthy to provide meat as food for human consumption;

(d) provide for the sanitary maintenance and proper staffing and management of slaughterhouses, including the exclusion from slaughterhouses of undesirable persons or persons suffering from any specified communicable disease;

(e) provide for the disposal, treatment or processing of waste matters, refuse and by-products resulting from the slaughtering of animals or birds in slaughterhouses;

(f) prescribe places and circumstances in which an animal or bird may be slaughtered in a place other than a slaughterhouse, and any action or actions to be taken in the event of every such slaughter;

(g) prescribe the manner in which carcasses and viscera are to be marked or labelled upon their being detained or seized under Part VII;

(h) regulate the methods of slaughter of animals and the treatment of animals intended for slaughter;

(i) regulate the methods of dressing and drying hides and skins in slaughterhouses where dressing and drying are undertaken;

(j) regulate treatment and disposal of any animal, carcass or viscera, or any part of them, in relation to which a breach of this Act has been committed and the offender convicted;

(k) prescribe or provide for any matter in relation to slaughter and slaughterhouses which appears to him to be necessary for the proper maintenance of quality standards in respect of meat intended for human consumption.

(2) Regulations made under this section may require acts or things to be performed or done to the satisfaction of a prescribed person and may empower a prescribed person to issue directions to any other person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(3) No regulation made under this section relating to any slaughterhouse shall be so framed or construed as to deny to any religious community reasonable facilities for obtaining as food the flesh of animals or birds slaughtered by the method specially required by their religion.

[PCh344s32]32. Transport of meat

(1) Subject to subsection (2), no person shall convey or cause to be conveyed any meat or meat product from a slaughterhouse or cold store in any vehicle unless that vehicle has been approved in writing for that purpose by the Commission in the case of an export slaughterhouse or cold store, or by an authorised officer designated by the Commission for that purpose, in any other case.

(2) Subsection (1) shall not apply to the transport of meat or meat products in hermetically sealed containers or in other containers of a type approved by the Commission.

(3) The Commission or, as the case may be, an authorised officer designated for that purpose by the Commission, may refuse to approve any vehicle, the tray or load-carrying part of which is not covered; or which has no proper provisions for preventing contamination or which is considered for any other reason to be unsuitable for the carriage of meat or meat products.

(4) If at any time the Commissioner or, as the case may be, an authorised officer designated for that purpose by the Commission, considers that any vehicle approved under subsection (1) of this section has ceased to be suitable for carrying meat or meat products, the Commission or that authorised officer may revoke the approval of that vehicle.

(5) Any person who contravenes this section commits an offence and is liable on conviction to a fine of not less than fifty thousand shillings nor exceeding five hundred thousand shillings and to imprisonment for a term not exceeding twelve months or to both that fine and imprisonment.

PART VI

FOOD HYGIENE (ss 33-36)

[PCh344s33]33. Minister to make regulations regarding food hygiene

(1) The Minister may, after consultation with the Commission make regulations designed to secure the observance of sanitary and cleanly conditions and practices and wholesome methods in connection with—

- (a) the sale of food for human consumption;
- (b) the manufacture, transport, storage, packaging, marking, exposure for sale, service or delivery of food intended for human consumption.

(2) Without prejudice to the generality of the power conferred by subsection (1), the Minister may make regulations—

- (a) prohibiting, restricting or regulating the sale, or storage, possession or exposure for sale, of any specified food, either generally or in any specified area of the United Republic or place or by any specified person or category of persons;

(b) impose requirements as to the construction, layout, drainage, equipment, maintenance, cleanliness, ventilation and extraction of fumes or heat, lighting, water-supply and use of premises in, at or from which food for human consumption is manufactured, stored, or sold, offered or exposed for distribution or sale;

(c) imposing requirements as to the provision, maintenance and cleanliness of sanitary and washing facilities in connection with those premises, the disposal of refuse and the maintenance and cleanliness of apparatus, equipment, furnishings and utensils used in such premises, and in particular, the regulations may impose requirements that every sanitary convenience situated, in such premises be supplied with water through a suitable flushing appliance;

(d) prohibiting or restricting spitting on or, in any other way, littering premises where food for human consumption is manufactured, stored, sold, or offered, or exposed, for distribution or sale;

(e) imposing requirements as to the clothing to be worn by persons engaged to work in those premises;

(f) requiring the periodic medical examination of persons engaged in those premises or a category of them, the immunisation of those persons against any specified disease and prohibiting the employment or continued employment of any of them found to be suffering from any specified disease;

(g) regulating generally the treatment and disposal of any food which is unfit for human consumption or any food which is condemned by a magistrate under section 22 or which

is, in any other way, found by an authorised officer to be manufactured, distributed, or sold, or offered or exposed for sale, contrary to any of the provisions of this Act.

(3) Regulations made under this section shall be published in the Gazette.

(4) The Commission may, publish codes of practice in connection with matters which may be made the subject of regulations under this section, for the purpose of providing advice and guidance to persons responsible for compliance with those by-laws.

(5) Where any person fails to comply with any provision of a code published under subsection (4), he shall not only for that reason be liable to criminal proceedings of any kind but that failure may, in any proceedings whether criminal or civil, including proceedings for an offence under this Act, be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

[PCh344s34]34. Duty to report certain diseases and conditions

(1) Every person who works in a slaughterhouse or a cold store or is employed to carry meat or meat products from a slaughterhouse or a cold store to a vehicle, and who—

(a) is suffering from a septic sore, diarrhoea, chronic cough or septic sore throat; or

(b) to his knowledge is suffering from, or is a carrier of typhoid or paratyphoid fever, any salmonella infection, dysentery or any staphylococcal infection liable to cause food poisoning,

shall advise his employer or the occupier of the slaughterhouse or cold store, of his condition without delay.

(2) Upon being informed of the circumstances specified in subsection (1), every employer or occupier shall, without delay, inform a medical officer or an authorised officer of the matter.

(3) Any person who contravenes or fails to comply with this section commits an offence.

[PCh344s35]35. Notification of food poisoning

(1) If a medical officer becomes aware, or suspects, that a patient under his care is suffering from food poisoning, he shall, without delay, send to the medical officer of the area in which the patient ordinarily resides, a certificate stating—

(a) the name, age and sex of the patient, and the address of the residence of that patient; and

(b) particulars of the food poisoning from which the patient is, or is suspected to be suffering.

(2) Upon receipt of the certificate, the medical officer shall take any necessary measures to investigate and prevent or put to a stop occurrences of food poisoning within the area under his jurisdiction.

[PCh344s36]36. Inspection and control of infected food

(1) If a medical officer reasonably suspects that any food of which an infected sample has been procured under this Act is likely to cause food poisoning, he may notify the person in

charge of the food in writing that until his investigations are concluded, that food shall neither be used for human consumption nor be removed except to a place specified in the notification.

(2) Any person who uses or removes food in contravention of the requirements of a notice given under subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings.

(3) If, after investigation, the medical officer is satisfied that the food in question is likely to cause food poisoning, he may deal with it as food falling within subsection (1) of section 22, and that section shall apply accordingly but he shall withdraw his notice without delay if he is satisfied that the food may be safely used for human consumption.

PART VII

ENFORCEMENT AND LEGAL PROCEEDINGS (ss 37-57)

(a) Inspection, Sampling and Analysis (ss 37-46)

[PCh344s37]37. General power to examine, seize, mark or destroy food

(1) Any authorised officer may examine any food which is, or which appears to him to be, intended for human consumption, and if it appears to him to be unfit for human consumption or that any provision of this Act has been contravened in relation to that food, he may seize and remove that food and its container, if any.

(2) If it appears to any authorised officer that any food, whether or not seized under subsection (1), is unfit for human consumption, or that any provision of this Act has been contravened in relation to that food, he may—

- (a) affix to that food a mark, seal or other designation; or
- (b) destroy or dispose of that food in any other way.

(3) Any person who, contrary to the purport of any mark, seal or designation affixed to any food under subsection (2)—

- (a) sells, offers or exposes that food for sale;
- (b) destroys or disposes of that food in any other way at the expense of the owner of the food; and where the owner fails to comply with this provision, the authorised officer may destroy or dispose of the food and the expenses shall be recoverable as civil debt;

- (c) uses that food in any other way; or
- (d) removes, alters or obliterates the mark, seal or designation with intent to deceive any person,

commits an offence and is liable on conviction to a fine of not more than one million shillings.

(4) Before any food is destroyed or disposed of in any other way under subsection (2), the authorised officer concerned shall record a description and such other details as will suffice to identify that food and, subject to the procedure prescribed by this Act for the treatment of food

found to be unfit for human consumption, he shall send a report connected with that food to the Commission.

(5) Any person who is aggrieved by the seizure and removal, or by the marking, sealing or any other designation, or by the destruction or other disposal, of any food under subsection (1) or (2), may, within forty-eight hours after the occurrence of the act complained of to a magistrate.

(6) A magistrate to whom a complaint is made under subsection (5) may confirm or disallow the act complained against, either wholly or in part, and shall, if he disallows an act, or disallows it in part, order the removal of the mark, seal or other designation or the restoration of the food seized and removed, either as to the whole or as to that part in respect of which the act was disallowed, or, if the food concerned, or any part of it, has been destroyed or disposed of in any other way, or is no longer fit for human consumption, or is depreciated in value at the time of making such order by reason of that act, order that the complainant be compensated for the loss in an amount, not exceeding the market value of that food at the time when the act was done, which the magistrate, having regard to the circumstances of the case, considers just.

(7) Where a person is convicted for an offence under subsection (1) or (2) of section 17 or for an offence under regulations made under section 16, the magistrate may, in addition to any sentence he passes, order that any food to which the conviction relates and any similar food found on the premises of that person or in his possession at the time when the offence was committed or when the food was seized, shall be forfeited, together with all packages containing that food.

(8) Any food, and any package containing that food, which is forfeited under subsection (7) shall be disposed of in the manner prescribed by the Commission.

[PCh344s38]38. Provisions regarding the inspection of meat

(1) The Commission shall, by notice in the Gazette, designate an authorised officer in relation to every slaughterhouse or category of slaughterhouses, and every cold store, or category of cold stores, for the purposes of inspecting carcasses and viscera with at the slaughterhouse or slaughterhouses or, as the case may be, the cold store or cold stores.

(2) The Commission shall devise and cause to be provided a means of reproducing distinctive marks for use at slaughterhouses and cold stores, so devised as to indicate the identity of the slaughterhouse or cold store, and of the authorised officer designated in that behalf.

(3) The authorised officer designated for the purpose shall affix or impress the device provided under subsection (2) to or on any carcass or a part of it in every case in which he has inspected the whole carcass with all the viscera at the place of slaughter, and when the carcass or a part of it has appeared to him to be free of disease, sound, wholesome and fit for human consumption, and the device shall not be used in any other way.

(4) Any person who makes use of a device identical with or similar to any device provided under subsection (2) with intent to deceive any person commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding eighteen months or to both that fine and imprisonment.

[PCh344s39]39. Power to take samples

(1) Subject to subsections (2) and (3), any authorised officer may take samples for analysis, or for bacteriological or other examination, of any food or its components, or any substance capable of being used in the manufacture of food, which appears to him to be intended for sale or to have been sold for human consumption or which is found by him on, or in any premises, stall, vehicle, vessel or place which he is authorised to enter for the purposes of ensuring compliance with this Act.

(2) The authorised officer shall pay or tender payment of the market price of the sample he takes, or if the market price is unknown or not readily ascertainable, a reasonable price, to the person appearing to him to have the lawful custody of the food a sample of which the officer takes.

(3) Where the food or substance, a sample of which the authorised officer intends to take, is kept for retail sale in unopened packages, the sample shall consist of the whole of any one package.

(4) When taking a sample under this section, an authorised officer shall take any necessary measures to satisfy himself that the sample taken is a fair sample of the bulk of the food or substance concerned.

(5) Nothing in this section shall be construed as authorising any purchase or sale of drugs in contravention of any provision of the Pharmaceutical and Poisons Act *.

(6) Any person who fails to comply with any demand made by an authorised officer under this section commits an offence.

[PCh344s40]40. Right to have sample analysed

(1) An authorised officer who has procured a sample of any food, or other substance for use in the manufacture of food shall, if he considers that it should be analysed, submit it to the Government Analyst for analysis; and any other person who has purchased any food may submit a sample of it to the Government Analyst for analysis.

(2) Subject to section 47 and to any regulations made under section 16, the Government Analyst shall analyse as soon as practicable any sample submitted to him in pursuance of this section, but shall, where a sample is submitted by a person other than an authorised officer, demand the prescribed fee to be paid before making analysis.

[PCh344s41]41. Provisions regarding the taking of samples for analysis

(1) Where an authorised officer who has taken a sample of any food or substance under section 39 considers that it should be analysed, he shall forthwith divide that sample into at least three parts, each part to be marked and sealed or secured in the manner permitted by its nature and shall—

- (a) with respect to one part of the sample, comply with subsection (2); and
- (b) with respect to the remaining parts of the sample, comply with subsection (3).

(2)(a) If the sample was obtained by purchase from a dealer in the food or substance concerned, the authorised officer shall permit the vendor to select and take one part from the three parts.

(b) If the sample was obtained by purchase from an automatic machine—

(i) if there appears on the machine the name and address, within the United Republic, of its proprietor, the authorised officer shall give the one part of the sample to that person;

(ii) in any other case, the authorised officer shall give one part to the occupier of the premises on which the machine stands or to which it is affixed.

(c) If the sample is of any food or substance consigned from outside the United Republic and was taken by that officer before delivery to the consignee, he shall give the one part of the sample to the consignee.

(d) If the sample is of any food or substance in transit from a consignor within the United Republic to a consignee within or outside the United Republic, the authorised officer shall give the one part of the sample to the consignor.

(e) If none of the paragraphs (a), (b), (c) or (d) of this subsection apply, the authorised officer shall give the one part of the sample to the person appearing to him to be the owner of the food or substance from which the sample was taken.

(3) The authorised officer shall, unless he subsequently decides not to have an analysis made, personally submit to the Government Analyst one of the remaining parts of the sample and retain the other or others for future comparison.

(4) In every case to which subsection (2), applies, the authorised officer shall inform the person to whom the part of the sample is given that the sample was taken for analysis by the Government Analyst.

(5) Where any sample taken for analysis consist of the contents of an unopened package, the authorised officer shall retain the packing material and, if he decides to have an analysis made, deliver the sample together with that packing material and any label which may have been attached to it at the time when the sample was taken, to the Government Analyst with the part of the sample submitted pursuant to subsection (3).

(6) Any part of a sample which is to be given to any person under this section may be given either by delivering it to him or to his agent, or by sending it to him by post in a registered packet; but if after reasonable inquiry the authorised officer is unable to find the person to whom the part of the sample is to be given or ascertain his name and address, he may, in lieu of giving that part to that person, retain it.

(7) If it appears to the officer that any food or substance a sample of which he has taken for analysis was manufactured or put into its wrapper or container by a person, other than one to whom any part of the sample required to be given, having his name and an address in the United Republic displayed on the wrapper or container, the authorised officer shall, unless he subsequently decides not to have an analysis made, within three days after taking that sample, send to that person a notice informing him that the sample has been taken by him and where the sample was taken or, as the case may be, from whom it was purchased.

[PCh344s42]42. Where division of sample into parts impracticable

Where an authorised officer procures a sample consisting of food or substances contained in unopened packages, and the division into parts of the food or substance in the packages—

- (a) is not reasonably practicable; or
- (b) might affect the composition or impede the proper analysis of the contents,

the authorised officer shall be deemed to have complied with subsection (2) of section 41 if he divides the containers into the requisite number of lots and deals with each lot as if it were a part in the manner provided by that section; and references in this Act to a part of a sample shall be construed accordingly.

[PCh344s43]43. Power to call for information regarding composition of substances in food

(1) The Registrar may, if instructed by the Commission, order in writing any person who carried on a business which includes the manufacture, importation or use of substances of any kind specified in the order, to furnish to him, within a period specified in the order, any specified particulars of the composition and use of those substances sold in the course of that business for use in the manufacture of food for human consumption.

(2) Without prejudice to the generality of subsection (1), an order made under that subsection may require the following particulars to be furnished in respect of any substance, namely—

- (a) particulars of the composition and the chemical nature of the substance;
- (b) particulars of the manner in which the substance is used or proposed to be used in the manufacture of food;
- (c) particulars of any investigation carried out by or to the knowledge of the person carrying on the business concerned, for the purpose of determining whether and to what extent

the substance, or any product formed when the substance is used in the preparation of food nutritionally enriches that food or becomes injurious to, or in any way affects, health;

(d) particulars of any investigations carried out by, or to the knowledge of the person carrying on the business concerned for the purpose of determining the cumulative effect on the health of a person consuming the food in ordinary quantities.

(3) Except for the purposes of any proceedings for an offence under this Act and subject to section 60, no particulars furnished in accordance with an order made under subsection (1), and no information relating to any individual business obtained by means of those particulars, shall, without the previous written consent of the person carrying on the business concerned, be disclosed to anyone.

(4) Any person who discloses any particulars or information contrary to subsection (3) commits an offence.

(5) Any person who fails to comply with the requirements of any order made under subsection (1) commits an offence.

[PCh344s44]44. Power to enter premises

(1) Subject to this section, an authorised officer may, on producing, if he is so required, a document showing his authority, enter any premises at all reasonable hours for the purpose of ensuring compliance with the provisions of this Act.

(2) If a magistrate, on sworn information in writing-

(a) is satisfied that there is a reasonable ground for entry into any premises at any hour of the night for the purposes mentioned in subsection (1); and

(b) is also satisfied either—

(i) that admission to the premises has been refused, or a refusal is apprehended; or

(ii) that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

he may by warrant under his hand in the form specified in the Third Schedule to this Act, authorise any authorised officer to enter the premises, if need be, by force.

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued under it, may take with him such other persons as may be necessary, and in leaving any unoccupied premises which he has entered by virtue of that warrant shall leave them secured against trespassers.

(4) A warrant granted under this section shall continue in force for a period of one month or for any shorter period determined by the magistrate.

[PCh344s45]45. Power to examine food in course of transit

(1) An authorised officer may, if he reasonably suspects that any vehicle, vessel, train or container contains any food which is intended for human consumption or which is in the course

of delivery after sale for human consumption, stop, enter and examine the contents of that vehicle, vessel, train or container.

(2) Except where a vehicle, vessel, train or container is carrying food contrary to this Act, nothing in this section shall be construed as authorising the detention of any vehicle, vessel, train or container used by a carrier of goods for the purposes of his trade as a carrier.

(3) A person commits an offence who, being in charge of a vehicle or vessel which is ordered to stop under subsection (1), fails to stop when ordered to do so.

[PCh344s46]46. Persons obstructing execution of this Act

(1) Subject to subsection (2), any person who wilfully obstructs any person acting in the execution of this Act commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

(2) If a court is satisfied that a person committed the offence under subsection (1) with intent to prevent the discovery of some other offence under this Act, or that he has, within the twelve months immediately preceding that offence, been convicted of an offence under subsection (1), that person shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months.

(3) Subject to subsection (4), if—

(a) any authorised officer applies to purchase any food or other substance offered exposed or kept for sale, and tenders the price for the quantity he requires as a sample, and the

person offering, exposing or keeping the food or substance for sale, refuses to sell to him the quantity desired; or

(b) the seller or consignor of any article or substance a sample of which an authorised officer has power to take, or a person having the charge for the time being of that article or substance, refuses to allow the authorised officer to take the quantity he requires as a sample, the person concerned shall be treated for the purposes of subsection (1) as having wilfully obstructed the authorised officer.

(4) Where any food or substance is exposed for sale in an unopened container duly labelled, no person shall be required to sell it except in the unopened container in which it is contained.

(5) Any person who, when requested or required under this Act to give information or any assistance to any person acting in execution of this Act or any warrant issued under it—

(a) fails to give the assistance reasonably requested or the information called for; or

(b) knowingly makes any misstatement in respect of any information called for,

commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both that fine and imprisonment.

(6) Nothing in this section shall be construed as requiring a person to answer any question or give any information if he might incriminate himself by doing so.

(b) Legal Proceedings (ss 47-57)

[PCh344s47]47. Certificates of analysis

(1) In every case in which a sample for analysis is delivered to the Government Analyst under section 41, the Analyst shall cause it to be analysed as soon as is practicable and shall give to the person who requested the analysis a certificate specifying the analysis in the form prescribed in the Second Schedule to this Act.

(2) Where a sample taken under section 41 has been analysed by the Government Analyst, any person to whom a part of the sample was given in accordance with subsection (2) of section 41 shall on payment of a prescribed fee, be supplied with a copy of the certificate by the Government Analyst.

(3) A certificate of the results of an analysis given by the Government Analyst under subsection (1) shall be signed by him, or by the person who made the analysis, acting under the direction of the Government Analyst.

(4) Any person who for the purpose of advertisement, uses any certificate of analysis obtained under this section commits an offence.

[PCh344s48]48. Evidence of analysis

(1) In any proceedings under this Act, the production by one of the parties of a document purporting to be a certificate of the Government Analyst given under section 47, or of a document supplied to him by the other party as being a copy of that certificate, shall be sufficient

evidence of the facts stated in it, unless, in the former case, the other party requires that the person who made the analysis be called as a witness.

(2) In any proceedings under this Act, if a defendant intends to produce a certificate of the Government Analyst, or to require, under subsection (1) that the person who made the analysis be called as a witness, notice of that intention together, in the former case, with a copy of the certificate shall be given to the other party not less than three days before the date fixed for hearing of the case and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on terms which it considers proper.

(3) Where the Minister, in regulations made under section 33, has prescribed any relevant method of analysis, evidence of an analysis carried out by that method shall be preferred to evidence of any other analysis or test.

(4) In any proceedings under this Act, where a sample has been procured in circumstances which necessitate the requirement that it be divided into parts, the part of the sample retained by the person who took it shall be produced at the hearing.

[PCh344s49]49. Presumptions

(1) For the purposes of this Act—

(a) any article commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for human consumption;

(b) any article commonly used for human consumption, and any article commonly used for the manufacture of products for human consumption which is found in any premises or in any vessel, vehicle or container used for the manufacture, storage, transport or sale of that article or those products, shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing products for sale, for human consumption;

(c) any substance capable of being used in the composition or manufacture of any article commonly used for human consumption, which is found in any premises or vessel where that article is manufactured shall until the contrary is proved, be presumed to be intended for that use.

(2) Where any food for human consumption is sold, deposited with or consigned to any person for the purpose of distribution or sale for human consumption in an unopened package, any person who appears from any statement on or attached to the package to have enclosed it in that package shall, until the contrary is proved, be deemed to have so imported, manufactured or enclosed that food.

[PCh344s50]50. Power of court to order analysis

(1) The court before which any proceedings are taken under this Act, may, if it thinks fit, cause the part of any sample produced before it to be sent to an Analyst other than the Analyst who has analysed either of the other parts of the sample.

(2) The analyst to whom the part of the sample is sent under subsection (1) shall make an analysis and transmit to the court a certificate of the result of the analysis, and the costs of that analysis shall be paid by the prosecutor or defendant, as the court may order.

(3) A certificate of the result of an analysis is transmitted by an Analyst under this section shall be signed by the Analyst, but the analysis may be made by any person acting under the direction of that Analyst and any certificate so transmitted by the Analyst shall be sufficient evidence of the truth of the facts stated in it unless any party to the proceedings requires that the person who made the analysis be called as a witness.

[PCh344s51]51. Contraventions due to some other person

(1) Any person who is being prosecuted for an offence against this Act may, upon a complaint duly made by him and on giving the prosecution not less than three days' notice of his intention, have any person to whose act or default he alleges that the contravention of the relevant provisions was due brought before the court in the proceedings, and if, after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has not used all due diligence to secure that the relevant provisions were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of subsection (1)–

(a) if the person whom the defendant complains against is not present at the time appointed for the hearing the court may proceed with the hearing of the case against the defendant in the absence of that person or may adjourn that hearing;

(b) the prosecution, as well as the person charged with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of the plea, and to call rebutting evidence;

(c) the court may make an order which it deems fit for the payment of costs by any party to the proceedings to any other party to them.

(3) When it appears to the Commission or to an authorised officer that an offence has been committed in relation to which a person might be prosecuted under this Act and the Commission or, as the case may be, the authorised officer is reasonably satisfied that the offence of which a complaint is made was due to an act or default of some other person and that the former person could establish a defence under subsection (1), the Commission or, as the case may be, that authorised officer may cause that other person to be prosecuted without first causing the former person to be prosecuted, in any such proceedings, the defendant may be charged with, and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the former person might have been charged.

(4) In proceedings instituted under subsection (3), the information or complaint shall set out the facts and state that the Commission or the authorised officer is reasonably satisfied that the offence of which a complaint is made was due to the act or default of the person being prosecuted.

[PCh344s52]52. When warranty may be pleaded as defence

(1) In any proceedings for an offence under this Act, which consists of selling, offering, exposing or advertising for sale or having in possession for the purpose of sale, any food or any article or substance of food, it shall be a defence for the defendant to prove—

(a) that he purchased it as being an article or substance which could lawfully be sold or otherwise dealt with in that manner or, as the case may be, could lawfully be sold or dealt with under the name or description or for the purpose under or for which he sold or dealt with it, and with a written warranty to that effect; and

(b) that he had no reason to believe at the time of the commission of the alleged offence that it was not what he says it was in paragraph (a); and

(c) that it was then in the same state as when he purchased it.

(2) A warranty shall only be a defence in proceedings under this Act if—

(a) the defendant—

(i) has, not later than three days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice that he intends to rely on it and specifying the name and address of the person from whom he received it; and

(ii) has also sent a like notice to that person; and

(b) in the case of a warranty given by a person resident outside the United Republic, the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in it.

(3) A defendant who is an employee or agent of the person who purchased the article or substance under a warranty may rely on this section in the same way as his employer or principal would have done had he been the defendant.

(4) The person by whom the alleged warranty is alleged to have been given may appear at the hearing and may give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(5) For the purpose of this section and of section 53, any name or description entered in an invoice shall be deemed to be a written warranty that the article or substance to which the entry refers can be sold or dealt with in any other way under that name or description by any person without contravening this Act.

[PCh344s53]53. Offences in relation to warranties or certificates of analysis

(1) A defendant who in any proceedings under this Act wilfully applies to any article or substance a warranty or certificate of analysis given in relation to any other article or substance commits an offence.

(2) Any person who, in respect of any article or substance sold by him, and in respect of which a warranty might be pleaded under section 52, gives to the purchaser a false warranty in writing commits an offence, and is liable on conviction to a fine not exceeding three hundred

thousand shillings unless he proves that when he gave the warranty he had reason to believe that the statements or description contained in it were accurate.

[PCh344s54]54. Sale, etc., by employers or agents

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

[PCh344s55]55. Recovery of expenses incidental to taking of samples

(1) Where a person is convicted of an offence under this Act, the court may order that all expenses incidental to the taking of any sample or the making of an analysis of any food in respect of which the conviction is obtained shall be paid by the person convicted.

(2) All expenses recoverable under this section shall be recovered in the same manner as a fine is recovered.

[PCh344s56]56. Appeals to the High Court

(1) Where any provision of this Act provides for an appeal to the High Court against any decision of the Commission or of an authorised officer, the procedure and fees payable in respect of the appeal shall, subject to rules of court made by the Chief Justice, be the same as the

procedure or fees in respect of criminal appeals in so far as that procedure or fees can be made applicable.

(2) In any case where an appeal lies, the document notifying the person concerned the decision of the Commission or, as the case may be, the authorised officer in the matter shall state the right of appeal to the High Court and the time within which the appeal may be brought.

(3) Where on an appeal under this Act the High Court varies or reverses any decision of the Commission, or of an authorised officer, the Commission or the authorised officer concerned shall give effect to the order of the Court, and in particular, shall grant any necessary licence and make any necessary entry in a relevant register.

[PCh344s57]57. Right to carry on business pending appeal

When—

(a) a decision of the Commission, or of an authorised officer, under this Act refusing, cancelling, suspending or revoking a licence or registration; or

(b) a decision of a court in any proceedings in respect of an offence under this Act, makes it unlawful for a person to carry on any business which he was lawfully carrying on at the date when that decision was given, or to use any premises for any purpose for which he was lawfully using them at that date,

he may carry on that business and use the premises for that purpose until the time for appealing has expired, and if any appeal is lodged, until the appeal is finally disposed of or abandoned or withdrawn.

PART VIII

GENERAL PROVISIONS (ss 58-63)

[PCh344s58]58. Protection of informers

(1) Subject to subsection (1), no complaint made in respect of an offence under this Act shall be admitted in evidence and no witness in any proceedings for an offence under this Act shall be obliged or permitted to disclose the name or address of any informer or state any matter which might lead to his discovery, and, if any books, documents or any other papers which are in evidence or liable to inspection in those proceedings any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all those passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery, but no further.

(2) If the court, after full inquiry into the case, is satisfied that the informer wilfully made in his information a statement which he knew or believed to be false in a material particular, or which he did not believe to be true, or if it appears to the court that justice cannot be fully done, it may require the production of the original information and permit inquiry and require full disclosure concerning the informer.

[PCh344s59]59. Protection of members of Commission, the Registrar, etc.

Without prejudice to the provisions of the Public Officers (Recovery of Debts) Act * no matter or thing done or omitted to be done by any member of the Commission, the Registrar, an authorised officer or any other person empowered to perform any function under this Act shall

not if done or omitted in good faith in the execution or purported execution of his functions under this Act, render the member, the Registrar, the authorised officer or that person personally liable for the matter or thing concerned.

[PCh344s60]60. Notification of convictions in newspapers

If any person is convicted of any offence under this Act, relating to the sale or manufacture for sale of any food for human consumption the Registrar shall cause to be published in any newspaper or newspapers circulating in the United Republic—

- (a) the name of the offender;
- (b) the address, if any, of the place where the offence was committed;
- (c) the nature of the offence;
- (d) the kind of food involved; and
- (e) the fine, forfeiture or other penalty imposed.

[PCh344s61]61. Appointment and functions of authorised officers

(1) The Minister may, by notice in the Gazette, appoint persons who are public officers to be authorised officers for the purpose of this Act, either for the whole of the United Republic or for a specified area.

(2) Every authorised officer shall have and exercise such functions as are conferred upon him by this Act, or as may be delegated or specified in any other way by the Minister, on the advice of the Commission, under this Act.

[PCh344s62]62. General penalty

(1) Any person who commits an offence under this Act in respect of which no specific penalty is provided, is liable, in the case of a first offence, to a fine not exceeding one thousand shillings, and in the case of a second offence, to a fine not exceeding three thousand shillings, and, in the case of a subsequent offence, to a fine not exceeding five thousand shillings.

(2) Where the court is of the opinion, in the case of a second or subsequent offence, that a fine will not meet the circumstances of the case and that the offence was committed through the personal act, default or capable negligence of the accused person, it may, in lieu of, or in addition to any fine, impose a sentence of imprisonment for a term not exceeding twelve months.

[PCh344s63]63. Rules

(1) Any person who commits an offence under this Act in respect of which no specific penalty is provided, is liable, in the case of a first offence, to a fine not exceeding one hundred thousand shillings, and, in the case of a second offence, to a fine not exceeding three hundred thousand shillings, and, in the case of a subsequent offence, to a fine not exceeding five hundred thousand shillings, but if in any case the market value of the food or other articles involved in the offence committed is greater than five thousand shillings, he shall be liable to a fine equal to the

value of the food or other articles involved, and to imprisonment for a term not exceeding five years.

(2) Without prejudice to the generality of the power conferred by subsection (1), the Minister may make rules—

- (a) providing for the conduct of business of the Commission;
- (b) providing for the appointment by the Commission of committees to which persons who are not members of the Commission may be co-opted;
- (c) prescribing the duties of the Registrar and of authorised officers;
- (d) regulating the conduct of inquiries by the Commission into complaints by consumers against food manufacturers;
- (e) prescribing the form of the licence to be given and of registers to be kept under this Act;
- (f) prescribing fees in respect of licences, and the procedure in application for registration of premises;
- (g) prescribing the manner and the procedure of hearing appeals by the Commission against a decision of an authorised officer in relation to registration of premises;
- (h) prescribing particulars to be registered in relation to persons permitted to import food;

(i) regulating, prescribing or providing for any matter or thing which is required or permitted to be regulated, prescribed or provided for under this Act.

PART IX

REPEALS AND CONSEQUENTIAL PROVISIONS (ss 64-66)

[PCh344s64]64. Repeal of R.L. Caps. 93 and 432

(1) [Repeals the Food and Drugs Ordinance, in and so far as it relates to the control regulation of the manufacture, importation and sale of, and dealings in, food.]

(2) [Repeals the Meat Hygiene Ordinance.]

(3) Revocation of licences, permits and registrations issued to or granted in respect of any person under the Food and Drugs Ordinance or under the Meat Hygiene Ordinance, entitling any person to deal in any manner in or with food or articles used to manufacture food.

[PCh344s65]65. Savings

Notwithstanding the repeal of the Food and Drugs Ordinance as it relates to food, and the repeal of the Meat Hygiene Ordinance—

(a) all subsidiary legislation and all exemptions made or given under the Food and Drugs Ordinance in relation to food, and all subsidiary legislations made under the Meat Hygiene Ordinance, which is in force on the appointed day shall be deemed to have been made or given under this Act, and shall remain in force until revoked by subsidiary legislation made under this Act;

(b) all officers appointed under the Food and Drugs Ordinance and the Meat Hygiene Ordinance to perform functions in relation to food or meat shall continue to perform those functions in so far as this Act relates to them, unless their appointments are revoked or they are reappointed, and shall for that purpose, be deemed to be authorised officers appointed under this Act.

[PCh344s66]66. Transitional provisions

(1) Notwithstanding any provision in this Act to the contrary, the Minister may, on the recommendation of the Commission and upon being satisfied that special circumstances exist which make it just and equitable to do so, permit any person who was licensed or permitted in any other way under the Food and Drugs Ordinance or the Meat Hygiene Ordinance to deal in any manner in, or with food or meat to continue doing so, after the appointed day, upon conditions determined by the Minister.

(2) The Minister may, by notice in the Gazette, at any time before the expiry of twelve months from the appointed day, make such consequential, transitional or supplementary provisions as he may consider necessary or consequent upon the repeal of the Food and Drugs Ordinance as it relates to food, and that of the Meat Hygiene Ordinance, or for facilitating the assumption by the Commission of its functions under this Act.

FIRST SCHEDULE

(Section 4(2))

1. Composition of Commission

The Commission shall consist of—

(a) the Managing Director of the Tanzania Food and Nutrition Centre, who shall be the Chairman;

(b) the Chief Chemist;

(c) the Principal Health Officer;

(d) seven other members appointed by the Minister, recommended one each by—

(i) the Sokoine University of Agriculture;

(ii) the Ministry of Health and Social Welfare;

(iii) the Ministry of Agriculture and Food Security;

(iv) the Ministry of Health and Social Welfare (Zanzibar);

(v) the Ministry responsible for legal affairs;

(vi) the Ministry of Industries and Trade; and

(vii) the Tanzania Bureau of Standards.

2. Vice-Chairman

The members shall elect one of their number to be the Vice-Chairman of the Commission, and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.

3. Tenure of office

(1) Any member, other than the members appointed under subparagraphs (a), (b) and (c) of paragraph 1, shall, unless his appointment is sooner terminated by the Minister, or he ceases in any other way to be a member, hold office for the period specified in the instrument of his appointment or, if no date is so specified, for a period of three years from the date of his appointment and shall be eligible for reappointment.

(2) Any member, other than the members appointed under subparagraphs (a), (b) and (c) of paragraph 1, may at any time resign his office by giving notice in writing addressed to the Minister, and from the date of the receipt of the notice by the Minister, he shall cease to be a member.

4. Meeting of the Commission

(1) The Commission shall ordinarily meet for the transaction of business at the time and the places it may decide upon, but shall meet at least four times in a year.

(2) The Chairman or, in his absence, the Vice-Chairman, may at any time call a special meeting of the Commission, and shall call a special meeting upon a written request by a majority of the members in office.

(3) The Chairman or, in his absence, the Vice-Chairman, shall preside at every meeting of the Commission and in the absence of both the Chairman and the Vice-Chairman, the members present shall appoint a member from amongst themselves to preside over the meeting.

5. Allowances of remuneration

There shall be paid to the Members of the Commission such sitting allowances or remunerations as shall be determined by the Minister.

6. Quorum

The quorum at a meeting of the Commission shall be at least one half of the members.

7. Decisions of the Commission

(1) Questions proposed at a meeting of the Commission shall be decided by a majority of the votes of members present and voting and in the event of an equality of votes the person presiding at the meeting shall have a second or casting vote.

(2) Notwithstanding subparagraph (1), a decision may be made by the Commission without a meeting by circulation of the relevant papers among the members, and the expression of the views of the majority of the members in writing, but any member may require that the decision be deferred and the subject matter be considered at a meeting of the Commission.

8. Minutes of meetings

The Commission shall cause to be recorded and kept minutes of all proceedings of its meetings, and the minutes of each meeting of the Commission shall be confirmed by the Commission at the next meeting and signed by the person presiding at that meeting.

9. Vacancies, etc., not to invalidate proceedings

The validity of any act or proceeding of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

10. Commission may regulate its own proceedings

Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.

11. Proof of documents

Any document purporting to be a document signed by the Registrar or issued under his hand or on behalf of the Commission shall be deemed to be so signed or, as the case may be, issued and shall be received in evidence without further proof unless the contrary is shown.

SECOND SCHEDULE

CERTIFICATE OF ANALYSIS

FOOD (CONTROL OF QUALITY) ACT

(Section 46)

To:

I, being the Government Analyst for the purposes of the Food (Control of Quality) Act, do hereby certify that I received on the day of 20..... from a sealed packed marked and said to contain a sample of; that I found the seals intact and have analysed the contents of that packet and declare the result of my analysis to be as follows—

I am of the opinion that the sample contained the parts or the foreign ingredients shown below:

Observation

.....

.....

.....

As witness my hand this day of 20.....

Signature:

Government Chemist (or as the case may be)

Note: All percentages given in definition or standards prescribed are, unless otherwise specified, percentages by weight.

THIRD SCHEDULE

WARRANT OF ENTRY INTO PREMISES

THE FOOD (CONTROL OF QUALITY) ACT

(Section 44(2))

WHEREAS application has been made by to me,

..... magistrate of the Magistrates' Court of.....
District/Region, to authorise him to enter the premises of, and whereas I,
....., am satisfied by the information on oath that there is reasonable
ground for entry to these premises at night, and that

.....
.....
.....

(insert ground on which warrant is issued).

Now, THEREFORE, I, the magistrate mentioned above,
do hereby authorise to enter the premises referred to
above, if need be by force, with such assistants as he may require, and there to execute his duties
under the Act.

Dated this day of 20.....

Signed Magistrate