

THE PROCESSED FOOD ACT

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THE PROCESSED FOOD ACT

[15th October, 1959.]

Laws
32 of 1955,
63 of 1960.
Acts
21 of 1963,
57 of 1968
S. 17,
2 of 2012.

Preliminary

1. This Act may be cited as the Processed Food Act.

Short title.

2.—(1) In this Act—

Interpreta-
tion.

“analyst” means an analyst appointed under section 9;

“article to which this Act applies” includes—

- (a) any prescribed food;
- (b) anything used for the manufacture, preparation, processing, packing, storing or keeping of any such food; and
- (c) any labelling or advertising material;

“can” means any hermetically sealed container and “canned” shall be construed accordingly;

“container” includes any can or other receptacle used for packing any prescribed food or containing such food;

“establishment” means any place in which any prescribed food is manufactured or processed for export or for sale;

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“food” includes every article used for food or drink by man and every ingredient intended for mixing with the food or drink of man for any purpose;

“insanitary conditions” means such conditions or circumstances as might contaminate a food with dirt or filth or render the same injurious to health;

“inspector” means an inspector appointed under section 9;

“label”, with its grammatical variations and cognate expressions, includes any legend, word or mark attached to, included in, belonging to, or accompanying any prescribed food or the container of such food;

“pack” means to put into a container;

“prescribed food” means any food that is manufactured or processed for export or for sale and for which grades or standards have been prescribed under section 13;

“processed” means preheated, cooked, canned, preserved, condensed, evaporated, fermented, distilled, carbonated, dehydrated, milled, frozen or otherwise processed;

“registered” means registered under this Act and “registration” shall be construed accordingly;

“regulations” means regulations made under section 13.

(2) Where in this Act the expression “this Act” is used it shall be deemed to include references to regulations made under this Act.

General requirements in relation to Processed Food

Registration
of establish-
ments.

3.—(1) No person shall operate an establishment unless it is registered in such manner and subject to such requirements and conditions as shall be prescribed.

(2) The requirements and conditions that shall be prescribed in relation to the registration of establishments shall include requirements and conditions with respect to—

- (a) the construction and layout of buildings and structures and plant and equipment in such establishments;
- (b) the cleanliness, lighting and ventilation of such establishments;

- (c) the provision of adequate supplies of water of safe and sanitary quality in such establishments;
- (d) the screening of the doors, windows and other openings of such establishments to prevent the entry of insects, birds and animals;
- (e) the provision of adequate lavatory, washing and dressing room facilities for the employees of such establishments;
- (f) the provision of adequate facilities for the prompt disposal of refuse from such establishments;
- (g) the provision of adequate drainage facilities for such establishments and any land immediately adjacent thereto;
- (h) the proper location of lavatories, sinks and cess-pools so as not to permit odours and fumes therefrom to pervade any room or other place where food is prepared, stored or kept;
- (i) the provision of adequate facilities for the thorough cleaning of plant, equipment and utensils in such establishments;
- (j) the fees (if any) to be paid for the registration of such establishments; and
- (k) such other matters as may be incidental to or connected with the foregoing.

4.—(1) Inspectors shall be assigned to all registered establishments and all such establishments and all plant, equipment and utensils therein, and all articles of food and containers therein shall be subject to regular inspection.

Inspection
of registered
establish-
ments.

(2) All registered establishments shall be operated subject to such requirements and conditions as shall be prescribed.

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(3) The requirements and conditions that shall be prescribed in relation to the operation of registered establishments shall include requirements and conditions with respect to—

- (a) the observance of sanitary and cleanly conditions and practices in such establishments;
- (b) the maintenance and cleanliness of all plant, equipment and utensils in such establishments;
- (c) the cleanliness and use of containers;
- (d) the supervision and control of the preparation and packing of processed food;
- (e) the cleanliness and sanitary condition of the lavatories, dressing rooms and washrooms of such establishments;
- (f) the cleanliness and sanitary condition of all yards, out-houses and other premises of, and all approaches to, such establishments;
- (g) the maintenance of lavatories, sinks and cesspools so as not to permit any odours or fumes therefrom to pervade any room or other place where food is prepared, stored or kept;
- (h) the prevention of contamination of food through contact with any substance that may have a deleterious effect on the quality thereof;
- (i) the health, cleanliness and sanitary habits of employees in and about such establishments and the medical examination of such employees;
- (j) the exclusion of insects, birds and animals from such establishments;
- (k) the prohibition of spitting and smoking in any room or other place where food is prepared, stored or kept;

- (l) the adequacy, design, construction and manufacture of plant, equipment and utensils in such establishments, and the materials used in the construction or manufacture of such plant, equipment and utensils;
- (m) the cleanliness of the clothing worn by the employees in such establishments, and the provision of suitable overalls and proper hair covering for such employees;
- (n) the designation of the persons in such establishments who are responsible for maintaining the sanitary requirements therein; and
- (o) such other matters as may be incidental to or connected with the foregoing.

5.—(1) No person shall—

- (a) have in his possession in an establishment for use therein, or use therein, in the manufacture, preparation or processing of any prescribed food, any food that is unwholesome; or
- (b) manufacture, prepare, process, store or keep any prescribed food under insanitary conditions; or
- (c) export or sell or have in his possession for export or for sale or attempt to export or sell any prescribed food that is unwholesome.

Food used or produced in an establishment to be wholesome.

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(2) Food shall be deemed to be unwholesome if it—

- (a) has in or upon it any poisonous or harmful substance;
- (b) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance;
- (c) is adulterated contrary to the regulations;
- (d) is unfit for human consumption; or

- (e) was manufactured, prepared, processed, packed, stored or kept under insanitary conditions.

Prescribed food to be packed in prescribed containers.

6. No person shall pack any prescribed food in any container that does not—

- (a) comply with the provisions of this Act; or
 (b) contain the quality, quantity, weight or other property prescribed in relation to the food contained therein.

Prescribed food to be correctly labelled and packed.

7.—(1) No person shall label or pack a prescribed food or the container thereof in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding the character, contents, value, quantity, weight, composition, grade, merit, purity or the date of packing of such food.

(2) Where a standard has been prescribed for a food no person shall label, pack or otherwise deal with any article in such a manner that it is likely to be mistaken for such food unless the article complies with the prescribed standard.

Prescribed food to be certified as being fit before being exported or sold.

8.—(1) An inspector shall, in the course of his duties under this Act and in such manner as may be prescribed—

- (a) issue in respect of any prescribed food a certificate to the effect that the provisions of this Act have been complied with and that such food is fit for export, or for sale, as the case may be, whenever he is satisfied that it is proper to do so; or
 (b) tag the containers of any prescribed food whenever he is not satisfied that the provisions of this Act have been complied with in respect of such food.

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S. 2.

(2) No person shall export or sell or attempt to export or sell—

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- (a) any prescribed food, unless a certificate has been issued in respect of such food in accordance with paragraph (a) of subsection (1); or
- (b) any prescribed food that is packed in containers that are tagged in accordance with paragraph (b) of the said subsection.

Administration and Enforcement

9.—(1) The Governor-General may from time to time appoint such officers, including inspectors and analysts, as he may deem necessary or expedient for carrying out the provisions of this Act.

Appointment of officers—administration expenses.

(2) There shall be defrayed out of sums provided for the purpose in the Annual Estimates of Revenue and Expenditure of the Island all expenses properly incurred in the administration of this Act.

- 10.—(1) An inspector may at any reasonable time—
- (a) enter any place where he reasonably believes any article to which this Act applies is manufactured, prepared, processed, packed, stored or kept for export or for sale, examine such article and take samples thereof free of charge and examine anything that he reasonably believes is used or is capable of being used for the manufacture, preparation, processing, packing, storing or keeping of such article;
 - (b) open and examine any container that he reasonably believes contains any article to which this Act applies;
 - (c) examine any books, documents or other records found in any place mentioned in paragraph (a), which he reasonably believes contain any informa-

Powers and duties of inspectors.

21/1963 S. 2.

tion that may assist in the enforcement of this Act and make copies thereof or extracts therefrom;

(d) inspects, certify or tag in accordance with this Act any articles of food that are manufactured, prepared, processed, stored or kept for export or for sale;

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S. 2.

(e) seize and detain for such time as may be prescribed and subject to such conditions as may be prescribed any article by means of or in relation to which he reasonably believes any provision of this Act has been contravened.

(2) An inspector shall not certify as being fit for export or for sale any articles in an establishment where the sanitary conditions do not comply with the provisions of this Act.

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(3) Any food that—

(a) is manufactured, prepared, processed or found in an establishment; and

(b) is unwholesome in the opinion of an inspector, shall be condemned by him and shall be confiscated and destroyed or otherwise disposed of as the Minister may direct.

(4) Any prescribed food that does not comply with the provisions of this Act, may be condemned by an inspector and such food shall, unless confiscated and destroyed under subsection (3), be forfeited to the Crown and shall be disposed of as the Minister may direct.

(5) An inspector shall be furnished with a certificate of appointment in the prescribed form and on entering any place pursuant to subsection (1) he shall, if required to do so, produce the certificate to the person in charge of the place.

(6) The owner or person in charge of a place entered by an inspector pursuant to subsection (1) and every person

found therein shall give the inspector all reasonable assistance in their power and shall furnish him with such information as he may reasonably require.

(7) Any article seized under this Act may at the option of an inspector be stored or kept in the building or place where it was seized or may on his direction be removed to any other place which he considers satisfactory for the purpose.

(8) An inspector may release any article seized by him under this Act if he is satisfied that all the provisions of this Act with respect thereto have been complied with.

11.—(1) An inspector may examine or analyse any article seized by him or any sample therefrom or any sample taken by him or submit such article or sample to an analyst for examination or analysis. Analysis and report.

(2) Where an inspector or analyst has made an examination or analysis he may issue a certificate or report setting out the result of his examination or analysis.

(3) An inspector or analyst may, upon the request of any person who manufactures or processes any prescribed food and upon the payment of the prescribed fee, examine or analyse such food and shall issue to such person a certificate of the result of the examination or analysis. 63/1960 S. 2.

12.—(1) Where the provisions of this Act or the lawful directions of an inspector are not being complied with in an establishment the Minister may— Powers of Minister.

- (a) withdraw the inspector therefrom;
- (b) withhold the certification for export or for sale, as the case may be, of any articles prepared therein; and 21/1963 Sch.
- (c) order the owner or person in charge of the establishment to cease forthwith the manufacture, preparation or processing of any prescribed food,

for such period as the Minister may consider necessary.

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S. 2.

(2) Where the Minister makes an order under the subsection (1)(c), a notice of the order and its terms shall be published without delay in at least one daily newspaper circulated in Jamaica.

Power of
Minister
to make
regulations.
21/1963
Sch.

13.—(1) The Minister may make regulations not inconsistent with the provisions of this Act for carrying the purposes and provisions of this Act into effect and in particular but without prejudice to the generality of the foregoing may make regulations—

- (a) declaring that any prescribed food is adulterated if any prescribed substance is present therein or has been added thereto or extracted or omitted therefrom;
- (b) with respect to—
 - (i) the use of any substance as an ingredient in any prescribed food;
 - (ii) the size, dimensions, fill and other specifications of containers of any prescribed food; and
 - (iii) the labelling and advertising of any prescribed food,

to prevent the consumer or purchaser thereof from being deceived or misled as to the character, contents, value, quantity, weight, composition, grade, merit or purity of any prescribed food or to prevent injury to the health of the consumer or purchaser thereof;

- (c) prescribing grades and standards of purity, composition, quality, quantity, weight or other property in respect of any food to be manufactured, prepared or processed for exported or for sale;
- (d) with respect to the method of manufacture, preparation, processing, packing, storing, keeping, examination and testing of any prescribed food,

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in the interest of, or for the prevention of injury to the health of, the consumer or purchaser thereof;

- (e) requiring persons who export or sell any prescribed food or who manufacture, prepare, process, pack, store or keep such food for export or for sale to maintain such books and records as the Minister may consider necessary for the proper administration and enforcement of this Act; ^{21/1963}
S. 2.
- (f) with respect to the powers and duties of inspectors, analysts and other officers appointed under this Act, the taking of samples, the condemnation, seizure, detention, confiscation, forfeiture, disposition and destruction of articles;
- (g) providing for the exemption of any establishment from all or any of the provisions of this Act for a specified period and prescribing the conditions of such exemption;
- (h) prescribing forms for the purposes of this Act;
- (i) with respect to the exportation of any prescribed food and the manner in which and the conditions under which the control of such exportation shall be exercised;
- (j) prescribing anything required to be prescribed under this Act.

(2) Where any authority is empowered under any enactment for the time being in force to regulate or control the manufacture, production, processing, distribution, marketing or sale of any prescribed food no regulations affecting such food shall be made under this section unless the proposed regulations have been referred to such authority for its recommendations thereon.

Procedure
with respect
to regula-
tions relating
to standards
for pro-
cessed food
for export
or sale.
21/1963
S. 2.
57/1968
S. 17 (a) (b)

14.—(1) A draft of all regulations proposed to be made under paragraphs (b), (c) and (j) of section 13 shall be published in the *Gazette* so as to permit representations to be made to the Bureau by any person concerning any provision of the regulations to which that person objects.

(2) The Bureau shall consider every such objection if made in writing within thirty days of the date of publication of the draft regulations and shall make such recommendations in relation thereto as it considers proper to the Minister.

(3) The Minister shall consider the recommendations of the Bureau when making the regulations and the regulations shall, after being made, be published in the *Gazette*.

(4) In this section "Bureau" means the Bureau of Standards established by section 3 of the Standards Act.

Offences, Penalties and Jurisdiction

Offences.

15. Every person who—

- (a) without lawful authority wilfully uses or imitates any tag or certificate placed on or attached or issued in relation to any article in accordance with the provisions of this Act or without lawful authority wilfully removes, alters, defaces or obliterates or causes to be removed, altered, defaced or obliterated wholly or partially any such tag or certificate;
- (b) moves or causes or allows to be moved any article in contravention of the provisions of this Act;
- (c) assaults or obstructs any officer appointed under this Act acting in the execution of his duty under this Act;
- (d) bribes or attempts to bribe any inspector, analyst or other officer or employee in connection with any matter arising in the exercise or performance of his powers or duties under this Act;

- (e) being an inspector, analyst or other officer or employee accepts any bribe in connection with any matter arising in the exercise or performance of his powers or duties under this Act;
- (f) contravenes the provisions of section 3, 5, 6 or 7 or subsection (2) of section 8; or
- (g) refuses, neglects or fails to comply with an order given by the Minister under paragraph (c) of section 12,

shall on summary conviction before a Resident Magistrate be liable to a fine not exceeding three million dollars or to imprisonment for a term not exceeding twelve months or both such fine and imprisonment. 2/2012 S. 3(a)(b)(c).

16. A prosecution for an offence under paragraph (d) or (e) of section 15 shall not be instituted without the sanction of the Director of Public Prosecutions. Institution of prosecutions. 21/1963 Sch.

17. Regulations made under section 13 may prescribe greater penalties than those specified in section 29 of the Interpretation Act, and the maximum penalty that may be so prescribed shall be a fine not exceeding three million dollars or imprisonment for a term not exceeding twelve months or both such fine and imprisonment. Penalties in Regulations. 2/2012 S. 4.

17A. The Minister may by order, subject to affirmative resolution, amend any monetary penalty specified in this Act. Minister may by order amend monetary penalty. 2/2012 S. 4.

Evidence

18. In a prosecution for an offence against this Act, any unwholesome food found in an establishment shall be deemed to be for use therein in the course of manufacture, preparation or processing for export or for sale, or to be for export or for sale until the contrary is proved. Unwholesome food deemed to be for use or for export or for sale until the contrary is proved. 21/1963 Sch.

Possession
of adultera-
ting sub-
stances.

19. Where a person is prosecuted under this Act for an offence involving the adulteration of a prescribed food and it is established that—

- (a) such food has by regulation been declared to be adulterated if any prescribed substance has been added thereto; and
- (b) such person had in his possession or on his premises any such prescribed substance,

the onus of proving that such food was not adulterated by the addition of such substance shall lie on the accused.

Name of
manu-
facturer.

20. Proof that a container having in it any article to which this Act applies bore a name or address purporting to be the name or address of the person by whom it was manufactured, prepared, processed, packed, stored or kept shall be *prima facie* proof in a prosecution for a contravention of this Act that the article was manufactured, prepared, processed, packed, stored or kept (as the case may be) by the person whose name or address appeared on the container.

Certificates
of analysis.

21.—(1) Subject to the provisions of subsection (2), the certificate of an inspector or analyst stating that he has examined or analysed an article or sample for the purposes of this Act and stating the result of his examination shall be admissible in evidence in a prosecution for a contravention of this Act and shall be *prima facie* proof of the statements contained in the certificate but the party against whom it is produced may require the attendance of the inspector or analyst for the purpose of cross-examining him.

(2) A certificate under subsection (1) shall not be admissible in evidence unless the party intending to produce it has before the trial given to the party against whom it is intended to produce it reasonable notice of such intention and a copy of the certificate.

22. In a prosecution for an offence against this Act a copy of a record or an extract therefrom certified to be a true copy by the inspector who made it pursuant to paragraph (c) of subsection (1) of section 10 shall be admissible in evidence and shall be *prima facie* proof of the contents thereof.

Copies of
records.