

THE FOOD BILL

(No. X of 2022)

Explanatory Memorandum

The object of this Bill is to repeal the Food Act and replace it by a new Food Act to provide for, inter alia, the modernisation and consolidation of the laws relating to the safety and nutritional quality of food, and for matters related thereto.

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Minister of Health and Wellness

27 May 2022

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(No. X of 2022)

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A BILL

**To provide for the modernisation and consolidation of the laws
relating to the safety and nutritional quality of food,
and for matters related thereto**

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Food Act 2022.

2. Interpretation

In this Act –

“advertisement” includes any representation, by any means, for the purpose of promoting, in any manner, the sale of food;

“analysis” includes a chemical analysis;

“animal” includes any quadruped or bird, either domesticated or not, and fish, which is normally used for human consumption;

“appliance” includes any utensil, machinery, instrument or apparatus used, or intended to be used in, or for the purpose of making, preparing, keeping, selling or supplying, of any food;

“article” includes –

- (a) any food;
- (b) any appliance;
- (c) any package;
- (d) any contact material;
- (e) any labelling or advertising material used, or capable of being used, in, or in connection with, the sale of any food;

“authorised officer” means an officer designated as such under section 6;

“business” includes undertaking a canteen, a club, a school, a hospital, or an institution, whether carried on for profit, or otherwise;

“component” means any substance which forms part of an ingredient;

“contact material” means any thing which is intended to come into contact with food;

“container” –

(a) means a package or receptacle of any kind, whether open or closed; and

(b) includes a wrapper;

“entertainment” includes a social or any other form of gathering, amusement, festival, exhibition, performance, game, competition, fancy-fair, sport or trial of skill;

“examination” means any physical or microbiological test;

“extraneous matter” –

(a) means any foreign matter in any article associated with objectionable conditions or practices in the production, storage or distribution; and

(b) includes –

(i) any filth or decomposed material; or

(ii) any miscellaneous matter such as sand, soil, glass, rust or any other foreign substance;

“filth” includes any objectionable matter contributed by animal contamination of an article, including rodent, insect or bird matter, or any other objectionable matter contributed by insanitary conditions;

“fish” –

(a) means any edible aquatic animal; and

(b) includes live shells, salted fish, dried fish, cooked fish, frozen fish, chilled fish, smoked fish and canned fish;

“food” –

(a) means any substance meant for human consumption; and

(b) includes –

- (i) drinks and bottled water;
 - (ii) live shells;
 - (iii) chewing gum and other products of similar nature and use; and
 - (iv) substances used or intended for use as ingredients in the composition or preparation of food; but
- (c) does not include –
- (i) live animals;
 - (ii) plants prior to harvesting;
 - (iii) fodder or feed;
 - (iv) cosmetics;
 - (v) drugs or medicine as defined in the Pharmacy Act;
 - (vi) tobacco and tobacco products;
 - (vii) narcotic or psychotropic substances, and dangerous drugs as defined in the Dangerous Drugs Act; and
 - (viii) veterinary drugs for use in livestock feed;

“food business” means –

- (a) any undertaking, whether for profit or not and whether public or private, for the purpose of carrying any activity related to any stage of manufacture, processing, packaging, storage, transportation, import, distribution of food; and
- (b) includes food services, catering services or sale of food;

“food business operator” means a person who carries out or runs a business related to food; and

“Food Microbiologist” means an officer designated as such under section 7;

“Government Analyst” means an officer of the Ministry, who performs the analysis of any article;

“hazard” means a biological, chemical or physical agent in, or condition of food, which may have an adverse effect on the health of a person;

“import” has the same meaning as in the Customs Act;

“importer”, in relation to any goods at the time of import, includes –

- (a) the owner of the goods or his agent; or
- (b) any other person for the time having possession of the goods;

“injurious to health” means causing any impairment, whether permanent or temporary, to the health of a human being;

“manufacture” means the process of converting, or any treatment for the conversion, of ingredients into food;

“manufacturer” means a person engaged in manufacturing any food for sale;

“Minister” means the Minister to whom responsibility for the subject of health is assigned;

“Ministry” means the Ministry responsible for the subject of health;

“novel food” means a food that –

- (a) does not have a history of being safe for human consumption; and
- (b) requires an assessment of its impact on human health;

“package” includes –

- (a) any basket, tray or receptacle of any kind, whether open or closed, in which food is packed; and
- (b) any other thing in which food is cased, covered, enclosed, contained, closed or otherwise packed in any way;

“physical examination” includes an organoleptic test;

“premises” –

- (a) means any building or any other structure, permanent or otherwise, as the case may be, together with the land on which the building or other structure is situated and any adjoining land used in connection therewith; and

- (b) includes any vehicle, conveyance, ship, aircraft, floating craft, street, place, open space or place of public resort, bicycle, tricycle, any vehicle motorised or not, used for or in connection with the preparation, preservation, packaging, storage, conveyance, distribution or sale of any food;

“preparation”, in relation to food, includes manufacturing, producing, processing and any other form of treatment;

“private food testing laboratory” means any private laboratory, accredited by the Mauritius Accreditation Service under the Mauritius Accreditation Service Act, to conduct analysis and examination of food;

“sale” includes the offering or giving away of food as a prize or reward –

- (a) in connection with any entertainment or advertisement; or
- (b) for the promotion of any trade or business, whether on payment of money or not;

“seal” includes the retention, in bulk, of any article, a sample of which has been taken for the analysis or examination, awaiting the results of any analysis or examination;

“sell” includes to –

- (a) pack, store, hawk, offer, keep, expose for sale, convey, deliver or prepare for sale;
- (b) dispose of for any consideration;
- (c) convey or deliver, supply for the purpose of the sale or disposal of food;

“supervising officer” means the supervising officer of the Ministry.

3. Conditions relating to import of food

No person shall import into Mauritius –

- (a) any unsafe, misbranded or sub-standard food, or food containing any extraneous matter;
- (b) any article of food which does not comply with this Act or any regulations made under this Act.

4. Registration of food business operator

No person shall operate a food business unless he is registered under section 6 of the Business Registration Act.

5. Responsibilities of food business operator

(1) Every food business operator who produces, processes, imports, distributes or sells any food shall ensure that the food complies with such terms and conditions as the supervising officer may impose for the purpose of production, processing, import, distribution or sale, as the case may be.

(2) No food business operator shall manufacture, import, store, sell or distribute any food –

- (a) which is not safe for human health;
- (b) which –
 - (i) is sub-standard, not branded or labelled properly;
 - (ii) does not comply with the terms and conditions imposed under subsection (1); or
 - (iii) contains extraneous substance;
- (c) in respect of which an authorisation, in writing, is required; or
- (d) which is prohibited.

(3) No food business operator shall employ any person whom he has reason to believe to be suffering from an infectious disease.

(4) Where a food business operator has reason to believe that a food which he has processed, manufactured, distributed or sold –

- (a) does not comply with this Act or regulations made thereunder; and
- (b) is not safe for consumption,

he shall forthwith –

- (i) withdraw the food from the market;

- (ii) inform the Ministry and the public of the reason for such withdrawal; and
- (iii) inform the competent authorities accordingly.

(5) Any food under subsection (4)(a) shall be withdrawn in such manner as may be prescribed.

6. Authorised officers

(1) For the purposes of this Act, the supervising officer shall designate such officers of the Ministry as may be required to be authorised officers.

(2) Every authorised officer shall be issued with a certificate of authorisation in the form set out in the First Schedule.

7. Food Microbiologist

(1) For the purposes of this Act, the supervising officer shall designate qualified public officers of the Ministry as of Food Microbiologist.

(2) Every Food Microbiologist shall be issued with a certificate of authorisation in the form set out in the Second Schedule.

8. Powers of authorised officers

- (1) An authorised officer may, at any time –
 - (a) on production of a certificate of authorisation issued under section 6 –
 - (i) enter any premises, where he has reason to believe that any article is prepared, packaged, stored, conveyed, distributed or sold;
 - (ii) examine any article that he has reason to believe is used, or capable of being used, for the preparation, packaging, storing, conveying, distribution or sale of any food; and
 - (iii) take samples of the article for analysis or examination;
 - (b) make such investigation and enquiry as may be necessary to ascertain whether the provisions of this Act are being complied with;

- (c) inspect any premises or any other place and examine any fittings, fixtures, documents or such other things found thereat;
- (d) seize such article that, he has reason to believe, may be used in contravention of this Act;
- (e) secure or remove to a suitable place any article seized under paragraph (d);
- (f) seal the premises where the article seized under this section is kept, until it is destroyed or disposed of;
- (g)
 - (i) give notice, in respect of paragraphs (d) and (e), in the form set out in the Third Schedule, to the food business operator or the person in charge of the article seized; and
 - (ii) where the article is of a perishable nature, forthwith destroy it;
- (h)
 - (i) seize or take samples of any thing or matter, except for any article of which a sample may be taken pursuant to paragraph (a)(iii) or which may be seized pursuant to paragraph (d) that he believes on reasonable grounds may be used as evidence in Court; and
 - (ii) transfer such thing or matter seized or samples thereof to such other safe place as may be required;
- (i) take such photographs or audio or visual recordings as he considers necessary;
- (j) stop, detain and search any vehicle used, or has reason to believe is being or is likely to be used, for the conveyance of any food in or on which he believes on reasonable grounds any food is sold or handled for sale and exercise, in respect of that vehicle, such powers as may be conferred upon;
- (k) require a person found by him committing an offence under this Act or who he has reason to believe has committed an offence under this Act or whose name and address are, in his opinion, reasonably required, to state his full name and the address of his usual place of residence and, if he suspects that a name or address so stated is false, may require him to produce evidence of the correctness thereof;

- (l) in the discharge of the functions or duties conferred under this section, be accompanied by a police officer;
- (m) exercise such other powers or authorities and discharge such other functions or duties as are prescribed; and
- (n) request a food business operator to produce such documents or information as he may require.

(2) Where an authorised officer retains any article or affixes a seal on any premises where the articles that have been retained are kept in respect of which, he has reason to believe that this Act has not been complied with, he shall give notice to the person in charge of the articles, in the form set out in the Fourth Schedule, that –

- (a) the articles will be retained;
- (b) samples of the articles retained may be taken for analysis and examination; and
- (c) the premises will remain sealed until such period as may be specified in the notice.

(3) An authorised officer may, in respect of any offence under this Act, in addition to the powers provided for under subsections (1) and (2) –

- (a) enquire in such matter and swear an information; and
- (b) conduct prosecution before a District Magistrate.

9. Determination of compliance of article

(1) Where an authorised officer exercises any power conferred upon him under section 10, he shall, as soon as is reasonably practicable, determine or cause to be determined whether the article complies with this Act or any regulations made thereunder.

(2) Where the authorised officer is satisfied that the article complies with this Act or any regulations made thereunder, he shall forthwith issue a withdrawal notice, in the form set out in the Fifth Schedule, to the person on whom a notice has been served under section 8(2).

(3) (a) Where the authorised officer is satisfied that the article does not comply with this Act or any regulation made thereunder, he shall serve on the person to whom a notice under section 8(2) has been served, a notice in the form set out in the Sixth Schedule.

(b) Subject to paragraph (a) or section 8(1)(d), the authorised officer shall make an application, in the form set out in the Seventh Schedule, to the District Magistrate for an order to destroy or dispose of the article in such manner as the District Magistrate may determine.

(c) An order issued under paragraph (b) shall be in the form set out in the Eighth Schedule.

(4) The production by an authorised officer of a certificate issued and signed by a Government Analyst or Food Microbiologist shall be sufficient evidence of the facts stated therein for the purposes of this Act.

10. Procurement of samples

Any authorised officer may, for the purpose of analysis or examination, take or obtain without payment, a sample of any article on any premises which he has reason to believe is likely to be used for or in the preparation of food for human consumption.

11. Analysis and examination of samples

(1) An authorised officer who procures a sample under section 10 shall –

- (a) submit it to a Government Analyst for analysis;
- (b) submit it to a Food Microbiologist for examination;
- (c) perform a physical examination thereof,

to determine whether the sample complies with this Act or any regulations made thereunder.

(2) (a) Notwithstanding subsection (1)(a) and (b), an authorised officer who procures a sample under section 10 from a consignment of imported food lying in the custody of the Director-General of the Mauritius Revenue Authority may, subject to the request of an importer, cause the sample to be analysed or examined by a private food testing laboratory.

(b) Where the sample is analysed or examined by a private food testing laboratory, the importer shall bear the costs of the analysis or examination.

(3) Any sample submitted by an authorised officer to a Government Analyst or Food Microbiologist shall be accompanied by a request, in writing which shall be in such form as the supervising officer may approve.

(4) A person, other than an authorised officer, may purchase any article and submit a sample of the article –

- (a) to be analysed by a Government Analyst; or
- (b) to be examined by a Food Microbiologist.

(5) The Government Analyst or the Food Microbiologist shall, as soon as reasonably practicable –

- (a) analyse or examine any sample submitted to him under this section; and
- (b) issue a certificate certifying the result of the analysis or examination.

(6) The authorised officer shall, following an examination of the article, issue a certificate in the form set out in the Ninth Schedule.

(7) A certificate issued under subsection (6) shall be sufficient evidence in any proceedings before the Court.

12. Remedy in respect of articles seized

(1) Where an article is seized and held by an authorised officer under section 8(1)(d), any person claiming the article may, within 7 days of the date of seizure or service of the notice of seizure issued under section 8(1)(g)(i) or 9(3)(a), make an application to the District Magistrate, for an order directing the authorised officer to release the article seized and held by him.

(2) Upon hearing the application under subsection (1), the District Magistrate shall, where –

- (a) he is satisfied that the authorised officer does not have reasonable grounds for believing that the article does not comply with the provisions of this Act, make an order disallowing the seizure and directing the authorised officer to release the article; or
- (b) where he is satisfied that the authorised officer has reasonable grounds to believe that the article does not comply with the provisions of this Act, refuse the application.

(3) Where –

- (a) an application under subsection (1) is released; or
- (b) no application is made under subsection (1) within a period of 7 days from the seizure,

the article seized shall become the property of the Ministry and shall be destroyed or otherwise disposed of in such manner as the supervising officer may determine.

13. Destruction or disposal of seized article

Notwithstanding section 12, where –

- (a) an authorised officer has seized any article under this Act and –
 - (i) the owner of the article, or the person in whose possession the article was at the time of seizure, consents to the destruction or disposal thereof in the form set out in the Tenth Schedule; or
 - (ii) the article is, in the opinion of the authorised officer decayed, deteriorated or putrefied,

the authorised officer may destroy or otherwise dispose of the article; or

- (b) the owner of the article or the person in whose possession the article was at the time of seizure so requests, the authorised officer may authorise the owner or the person in whose possession the article was at the time of the seizure, as the case may be, to destroy or otherwise dispose of the article, in such manner and on such terms and conditions as he may determine.

14. Liability for costs and expenses incurred for storage or destruction or other disposal of seized article

- (1) Where an article is seized and held under this Act and –
 - (a) an application is not made for its release under section 12(1); or
 - (b) the article is destroyed or otherwise disposed of pursuant to section 12(3) or 13,

the person, in whose possession the article was at the time of the seizure, shall be liable to pay the costs and expenses incurred in or in connection with the storage, destruction or other disposal of that article.

(2) The supervising officer may recover any amount of cost due and owing to him under subsection (1) as a debt in a Court of competent jurisdiction.

(3) In any proceedings for the recovery of the debt, a certificate signed by the supervising officer stating the amount of the cost and the manner in which they were incurred, shall be evidence of the matters certified.

15. Food recall

(1) Where a food business operator has reason to believe that a food which he has processed, manufactured, imported, distributed or sold does not comply with this Act, or regulations made thereunder, he shall forthwith –

- (a) inform the supervising officer, in writing;
- (b) initiate procedures to withdraw the food from the market; and
- (c) inform the public of –
 - (i) the particular food or type of food to be recalled or disposed of;
 - (ii) the reason why the food is considered unsafe;
 - (iii) the circumstance under which the consumption of the food is unsafe; and
 - (iv) the procedures for disposing of the food.

(2) Where the supervising officer requires a food business operator to recall a food from the market, the food business operator shall –

- (a) forthwith remove the food from the market; and
- (b) not later than 2 days after the withdrawal, inform the supervising officer accordingly.

(3) Where a food business operator is required by a recall order to carry out a recall fails to do so satisfactorily within the time prescribed in the order, the supervising officer may take steps to implement the recall order and the person or entity shall be charged with the costs incurred by the supervising officer in implementing the recall order.

16. Improvement notice

(1) Where an authorised officer has reason to believe that the food business operator has failed to comply with this Act or any regulations made under this Act, the authorised officer may serve on the food business operator an improvement notice in the form set out in the Eleventh Schedule, specifying –

- (a) the matters which constitute any failure on the part of the food business operator to comply with this Act or the regulations;
- (b) the measures that shall be taken to secure compliance;
- (c) the period granted to secure compliance, which shall not be less than 14 days.

(2) The period granted to secure compliance with a notice under this section may be extended by 2 further periods of 14 days each, at the discretion of the authorised officer who issued the notice, on application of the food business operator.

17. Prohibition order

(1) Where –

- (a) the food business operator does not comply with an improvement notice within the delay specified in section 16; or
- (b) the issue of an order is necessary to prevent or mitigate a danger to public health; or
- (c) an authorised officer has reason to believe that the addition of any ingredient to any food constitutes a hazard to health,

the authorised officer may serve a prohibition order in the form set out in the Twelfth Schedule on the food business operator, requiring him to discontinue the activity forthwith.

(2) Any food business operator who is dissatisfied with an order issued under subsection (1) may, within 7 days of the date of service of the order on him, appeal to the supervising officer.

(3) An order issued under subsection (1) shall remain in force until the supervising officer determines the appeal.

(4) Where a prohibition order is served under subsection (1)(a) or (b), a copy of an order issued under this section and signed by the District Clerk shall be a sufficient warrant for its enforcement by the Commissioner of Police.

(5) A copy of an order under this section shall be affixed conspicuously upon the premises where the offence was committed.

(6) Where the supervising officer is satisfied that the food no longer constitutes a hazard to health, he may issue a withdrawal order in the form set out in the Thirteenth Schedule.

(7) (a) Where on appeal the supervising officer upholds the order under subsection (2), the food business operator may make an application to the District Magistrate for the discharge of the order.

(b) The application shall set out the grounds on which the discharge of the order is being sought and the matter shall be heard and determined in accordance with the District and Intermediate Courts (Civil Jurisdiction) Act.

(c) Any party aggrieved by the decision of the District Magistrate may appeal to the Supreme Court in accordance with sections 36 and 37 of the District and Intermediate Courts (Civil Jurisdiction) Act.

18. Power of entry

(1) (a) Subject to paragraph (b), an authorised officer may, at any time on producing the certificate of authorisation issued under section 6(2), enter any premises for the purpose of ascertaining whether this Act or any regulations made thereunder has been contravened.

(b) No authorised officer shall enter any premises that is also used as a private dwelling house without a warrant signed by a Magistrate, unless the occupier consents to the entry.

(2) Where a Magistrate, on receipt of a sworn affirmation in writing, is satisfied that there is reasonable ground to enter into any premises for any purpose specified in subsection (1), and that –

- (a) the admission to the premises is refused, or may be refused, and that notice of the intention to apply for a warrant has been given to the occupier; or

- (b) an application for admission, or the giving of that notice would defeat the purpose of the entry, the matter requires to be dealt urgently, or the occupier is temporarily absent,

the Magistrate may, issue a warrant authorising the authorised officer to enter the premises.

(3) Every warrant issued under this section shall remain valid for a period of 30 days from the date of its issue.

- (4) An authorised officer who enters any premises under this section –
 - (a) may be accompanied by a police officer; and
 - (b) shall, if the premises is unoccupied, leave it as secure as it was prior to his entry.

19. Defence of due diligence

(1) Where criminal proceedings are instituted against a person under this section, it shall be a defence for the person to prove that he took all reasonable precautions and exercised due diligence to prevent the commission of the offence by him or any person under his control.

- (2) (a) For the purpose of subsection (1), a person shall prove that –
 - (i) the offence was committed due to –
 - (A) an act or default of another person; or
 - (B) reliance on information supplied by another person;
 - (ii) (A) he carried out such checks of the food as may be reasonable in the circumstances; or
 - (B) he reasonably relied on checks carried out by the person who supplied the food;
 - (iii) he did not import the food into Mauritius;
 - (iv) in the case of an offence involving the sale of food, that –
 - (A) he sold the food in the same condition as when he purchased it; or

- (B) he sold the food in a different condition to that in which he purchased it, but that the difference in the condition did not constitute an offence under this Act; and
 - (v) he did not know and had no reason to suspect, at the time of commission of the alleged offence, that his act or omission would constitute an offence under the relevant section.
- (b) In this subsection –
 - “another person” does not include a person who was –
 - (a) an employee or agent of the accused; or
 - (b) in the case of a body corporate, its director, employee or agent.

20. Time limit for prosecution

(1) No prosecution shall be instituted for an offence committed under this Act or any regulations made thereunder, other than an offence that requires any sample to be analysed, more than one year after that the authorised officer becomes aware of its commitments.

(2) No prosecution shall be instituted against an offence, more than 90 days after the person who has committed the offence is informed of the result of the analysis.

21. Presumptions

For the purposes of this Act –

- (a) any food commonly used for human consumption shall, if sold or offered or kept for sale, be presumed, until the contrary is proved, to have been sold or to have been, or to be, intended for sale for human consumption;
- (b) any food commonly used for human consumption, or any article commonly used in the manufacture of food for human consumption, which is found on premises used for the preparation, storage or sale of food shall be presumed, unless the contrary is proved, to be intended for sale or the manufacture of food for sale for human consumption;

- (c) any article capable of being used in the composition or preparation of any food commonly used for human consumption, which is found on premises in which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use;
- (d) any article that is part of a batch, lot or consignment of article of the same class or description, is representative of all the articles in that batch, lot or consignment; and
- (e) every part of a sample of article divided for the purpose of analysis under this Act is of same composition with every other part of that sample.

22. Protection from liability

(1) No liability, civil or criminal, shall be incurred by an authorised officer or such other person as the supervising officer may authorise in respect of any act done or omitted in good faith in the discharge of his functions or exercise of his powers under this Act.

(2) This section shall be in addition to, and not in derogation from, the Public Officers' Protection Act.

23. Offences

- (1) Any person who—
 - (a) in any manner, obstructs, impedes, molests or assaults any authorised officer in the discharge of his duties or prevents the authorised officer from executing his duty;
 - (b) fails to furnish his name and address or who knowingly makes any false or misleading statement, either verbally or in writing, to any authorised officer in the discharge of his duties;
 - (c) being the food business operator of any premises to which an authorised officer has gained access under section 8, or any person found therein, who does not give to the authorised officer such reasonable assistance or furnish him with such information as he may reasonably require;
 - (d) fails to comply with a notice or an order under this Act;
 - (e) fails to comply with an order of the Magistrate or of the supervising officer under this Act, or removes the copy of an order affixed under section 17(5);

- (f) otherwise contravenes any provision of this Act or any regulations made thereunder,

shall commit an offence.

(2) Any person who imports, prepares, supplies, distributes or sells any food which is unsafe, shall commit an offence.

(3) Any person who commits an offence under this Act or any regulations made thereunder shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years, and in case of a corporate body, to a fine of not less than 100,000 rupees.

(4) For the purpose of this section, a food shall be deemed to be –

(a) not safe if it –

- (i) is poisonous, harmful or injurious to health;
- (ii) contains any extraneous matter;
- (iii) is the product of a diseased animal or an animal which has died otherwise than by slaughter or shot or killed as game;
- (iv) is the product of a decomposed vegetable or vegetable substance; or
- (v) is adulterated;

(b) adulterated where a Government Analyst, a Food Microbiologist, or an authorised officer, as the case may be, certifies that –

- (i) it contains or is mixed or diluted or blended with any substance which diminishes its nutritive value or beneficial properties, or alters its natural state, when compared with the food in a pure, a normal and an undeteriorated condition;
- (ii) any substance or ingredient has been extracted or omitted therefrom, and by reason of the extraction or omission, the nutritive or other beneficial properties of the food are less than those of the food in its normal and undeteriorated condition;

- (iii) it contains or is mixed or diluted or blended with any substance of lower commercial value than the food in a pure, a normal and an undeteriorated condition;
- (iv) it contains any substance that is not authorised under this Act or any regulations thereunder;
- (v) it contains any substance in a proportion that is greater than that is permitted under this Act or any regulations made thereunder;
- (vi) it is mixed, coloured, powdered, coated, stained, prepared or otherwise treated in such manner that it conceals the damage or inferiority of the food;
- (vii) it is in a sealed package form, and the package is damaged by insects, rodents or other pests;
- (viii) it is in a sealed package form, and the package is defective, damaged, dented, rusted or bulged;
- (ix) it is in a package, and the original contents of the package have been removed in whole or in part and other contents placed instead;
- (x) it has been infected or infested with worms or insects, including weevils;
- (xi) it has been exposed to contamination by microorganism, dust, flies, rodents or other pests;
- (xii) it is prohibited from being imported or sold for human consumption;
- (xiii) it contains abnormal levels of contaminants;
- (xiv) it has been prepared, packed or kept under insanitary conditions;
- (xv) it does not comply with this Act or any regulations made thereunder.

24. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Without prejudice to the generality of his power under subsection (1), the Minister may make regulations for –

- (a) prescribing the standard, composition, strength, potency, nutritional quality, weight, quantity, shelf-life or other property of any article;
- (b) prohibiting the addition of any specified substance to food;
- (c) prohibiting the addition of more than the specified quantity of a permissible substance to food;
- (d) the use of any substance as an ingredient of any food so as to prevent the consumer or purchaser from being deceived or misled as to its nutritional quality, quantity, character, value, composition, effect or safety, or to prevent damage to the health of the consumer or purchaser;
- (e) the carriage of food by motorised vehicles or non-motorised vehicles;
- (f) the mode of labelling of packaged foods;
- (g) prohibiting or regulating the sale, advertisement or importation of any article or any novel food;
- (h) prescribing requirements respecting the package of any food and the placing in food for sale or in packages of the food, any toy or other object;
- (i) securing the observance of hygienic conditions and practices in connection with the carrying out of food business;
- (j) securing that food is safe and meets microbiological standards;
- (k) protecting and promoting the interest of consumers;
- (l) prescribing fees; or
- (m) prescribing anything which may be in the interest of public health and food safety in carrying out the provisions of this Act.

(3) The Minister may, by regulations, amend the Schedules.

25. Repeal

The Food Act is repealed.

26. Saving and transitional provisions

(1) Any licence, certificate, permit, authorisation or clearance issued or granted, or any registration or application granted under the repealed Act, which is valid and in force on the commencement of this Act, shall be deemed to have been issued or granted under this Act and shall remain valid for the period specified in the licence, certificate, permit, authorisation, clearance or registration, as the case may be.

(2) Every food business operator shall, within 6 months from the commencement of this Act, take such measures as may be required, for the purpose of manufacturing, importing, storing, distributing or selling any food in compliance with the provisions of this Act.

(3) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

27. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

FIRST SCHEDULE
[Section 6(2)]

MINISTRY OF HEALTH AND WELLNESS

CERTIFICATE OF AUTHORISATION

This is to certify that Mr/Mrs/Ms*
....., (name) holder of National Identity Card no.
..... and holding the post of
..... (occupation) is hereby authorised, under section
8 of the Food Act 2022, to enter into any premises at any time and to ascertain
that the provisions of the Food Act 2022 or any regulations made thereunder
are complied with.

.....
Date

.....
Signature of supervising officer

.....
Office stamp

NOTE

A person who leaves the public service on ground of health, retirement or dismissal, or is interdicted from the public service, shall forthwith surrender this certificate to the Ministry of Health and Wellness.

**Delete as appropriate*

SECOND SCHEDULE
[Section 7(2)]

MINISTRY OF HEALTH AND WELLNESS

CERTIFICATE OF AUTHORISATION FOR FOOD MICROBIOLOGIST

This is to certify that Mr/Mrs/Ms*, (name) holder of National Identity Card no. and holding the post of (occupation) is hereby authorised, under section 7 of the Food Act 2022, to perform microbiological examination of any food to ascertain that the provisions of the Food Act 2022 or any regulations made thereunder are complied with.

.....
Date

.....
Signature of supervising officer

.....
Office stamp

NOTE

A person who leaves the public service on ground of health, retirement or dismissal, or is interdicted from the public service, shall forthwith surrender this certificate to the Ministry of Health and Wellness.

**Delete as appropriate*

THIRD SCHEDULE
[Section 8(1)(g)(i)]

MINISTRY OF HEALTH AND WELLNESS

NOTICE OF SEIZURE
(Under section 8(1)(g)(i) of the Food Act 2022)

To
Mr/Mrs/Ms* (name)
..... (address)
..... (National Identity Card no.)
..... (occupation)

Notice is hereby given to you, in accordance with section 8 of the Food Act 2022, that the following articles lying at
..... have been found not to comply with the Food Act 2022 or any regulations made thereunder –

- (a)
- (b)
- (c)

The articles have been seized and destroyed forthwith by reason of their perishable nature/removed to the
..... (place) pending their destruction/disposal upon an order from a District Magistrate*.

Should you be dissatisfied with the seizure, you may, within 7 days of the service of this notice of seizure, make an application to the District Magistrate for an order directing the release of the articles seized.

.....
Date

.....
Signature of authorised officer

.....
Office stamp

FOURTH SCHEDULE
[Section 8(2)]

MINISTRY OF HEALTH AND WELLNESS

NOTICE OF RETENTION AND REMOVAL FOR ANALYSIS OR EXAMINATION
(Under section 8(2) of the Food Act 2022)

To
Mr/Mrs/Ms* (name)
..... (address)
..... (National Identity Card no.)
..... (occupation)

Notice is hereby given to you, in accordance with section 8(2) of the Food Act 2022, that –

(a) there is reason to believe that the following articles do not comply with the provisions of the Food Act 2022 or any regulations made thereunder –

.....
.....

(b) the articles or any portion thereof shall not be sold or used in any manner;

(c) the articles shall not be removed except to the following place –

.....
.....

(d) the premises shall remain sealed until (date)

.....
Date

.....
Signature of authorised officer

.....
Office stamp

**Delete as appropriate*

FIFTH SCHEDULE
[Section 9(2)]

MINISTRY OF HEALTH AND WELLNESS

WITHDRAWAL NOTICE

(Under section 9(2) of the Food Act 2022)

To

Mr/Mrs/Ms* (name)
..... (address)
..... (National Identity Card no.)
..... (occupation)

Further to the notice served on you on, (date) in accordance with section 8(2) of the Food Act 2022, the following articles have been found to comply with the provisions of the Food Act 2022 or any regulations made thereunder –

- (a)
- (b)
- (c)

You are hereby informed that the said notice is withdrawn, and the retention of the said articles is therefore waived.

.....
Date

.....
Signature of authorised officer

.....
Office stamp

**Delete as appropriate*

SIXTH SCHEDULE

[Section 9(3)(a)]

MINISTRY OF HEALTH AND WELLNESS

**NOTICE OF SEIZURE AND REMOVAL OF ARTICLES TO BE DEALT
WITH BY DISTRICT MAGISTRATE**

(Under section 9(3)(a) of the Food Act 2022)

To

Mr/Mrs/Ms* (name)
..... (address)
..... (National Identity Card no.)
..... (occupation).

TAKE NOTICE that the following articles lying at
..... (place), have been analysed/examined in
accordance with section 11 of the Food Act 2022 and have been found not to
comply with the provisions of the Food Act 2022 or any regulations made
thereunder –

- (a)
- (b)
- (c)

The articles are therefore seized, held and removed, to be dealt with in such
manner as the District Magistrate may order.

.....
Date

.....
Signature of authorised officer

.....
Office stamp

**Delete as appropriate*

SEVENTH SCHEDULE
[Section 9(3)(b)]

MINISTRY OF HEALTH AND WELLNESS

**APPLICATION FOR AN ORDER TO DESTROY OR DISPOSE OF ARTICLES
WHICH DO NOT COMPLY WITH THE FOOD ACT 2022**

The District Magistrate of District Court

Your Honour,

I have the honour to request for the issue of an order, ordering the destruction/disposal* of the following articles which do not comply with the provisions of the Food Act 2022 –

- (a)
- (b)
- (c)

.....
Date

.....
Signature of authorised officer

.....
Office stamp

EIGHTH SCHEDULE
[Section 9(3)(c)]

MINISTRY OF HEALTH AND WELLNESS

**ORDER TO DESTROY ARTICLES WHICH DO NOT COMPLY
WITH THE FOOD ACT 2022**

From: District Magistrate

To: Authorised officer
Ministry of Health and Wellness

By virtue of section 9(3)(b) of the Food Act 2022, I hereby order the destruction of the following articles lying at
..... and found not to comply with the Food Act 2022, as specified hereunder –

- (a)
- (b)
- (c)

.....
Date

.....
Signature of District Magistrate

.....
Office stamp

NINTH SCHEDULE
[Section 11(6)]

MINISTRY OF HEALTH AND WELLNESS

**CERTIFICATE OF PHYSICAL EXAMINATION OF ARTICLES,
ISSUED BY AUTHORISED OFFICER**

Office

Certificate no.

I, the undersigned authorised officer of the Ministry, hereby certify, under section 11(c) of the Food Act 2022, that I have, on the day of 20....., at about a.m./p.m*. at, (place of examination), physically examined the following articles –

- (a)
- (b)
- (c)

My findings, in respect of the articles, are as follows –

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

I further certify that the sample had undergone no change, that would affect my results, opinions or observations, has been made in respect of the articles

.....
Name of authorised officer

.....
Signature of authorised officer

.....
Date

.....
Office stamp

* Delete as appropriate

TENTH SCHEDULE
[Section 13(a)(i)]

MINISTRY OF HEALTH AND WELLNESS

CONSENT FORM FOR DESTRUCTION OR DISPOSAL OF SEIZED ARTICLES

I, the undersigned, being the owner of the articles/person in whose possession the articles were* at time of seizure by the authorised officer(s) of the Ministry of Health and Wellness, hereby consent to the destruction or disposal of the article seized as per particulars hereunder –

Date of seizure of articles

Place of seizure

Details of articles seized
.....

Reason of seizure of articles
.....

I certify that –

- (a) I have read and understood this consent form;
- (b) I have had the opportunity to ask questions about it and my questions have been answered to my satisfaction;
- (c) I agree to everything explained above;
- (d) I consent voluntarily to the destruction or disposal of the articles seized and referred to above.

.....
Name

.....
Signature/Thumbprint

.....
Residential address

.....
Telephone no.

.....
Mobile no.

.....
Date

N.B. – If illiterate, a literate witness must sign.

I have witnessed the accurate reading of the consent form to the abovenamed person, and the latter has had the opportunity to ask questions. I confirm that the person has given his consent freely in respect of the destruction or disposal of articles seized.

.....
Name of witness

.....
Residential address of witness

.....
Signature of witness

.....
Telephone no. of witness

.....
Mobile no. of witness

.....
Date

**Delete as appropriate*

ELEVENTH SCHEDULE

[Section 16(1)]

MINISTRY OF HEALTH AND WELLNESS

IMPROVEMENT NOTICE

No.

To

Mr/Mrs/Ms* (name)
..... (address)
..... (National Identity Card no.)
..... (occupation)

Notice is hereby given to you that it has been ascertained that the following matters constitute a failure to comply with regulation of the, in respect of premises situated at (Title of regulations) in the District of

NOW TAKE NOTICE that you are hereby required to comply with the following instructions in accordance with regulation of the (Title of regulations)..... –

- (a)
- (b)
- (c)
- (d)

TAKE FURTHER NOTICE that –

- (a) you are required to comply with the present notice within days from the date the notice is served upon you;
- (b) if you fail to comply with the present notice within the period specified in paragraph (a), you shall commit an offence and shall –
 - (i) on conviction be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years;
 - (ii) in case of a corporate body, on conviction, be liable, to a fine of not less than 100,000 rupees;

(c) in addition to paragraph (a) and (b), you may also be liable to a Prohibition Order under section 17(1)(a) of the Food Act 2022.

.....
Signature of authorised officer

.....
Name of authorised officer

.....
Date

.....
Status of authorised officer

.....
Office stamp

**Delete as appropriate*

TWELFTH SCHEDULE

[Section 17(1)]

MINISTRY OF HEALTH AND WELLNESS

PROHIBITION ORDER

(Under section.....of the Food Act 2022)

No.

To

Mr/Mrs/Ms* (name)
..... (address)
..... (National Identity Card no.)
..... (occupation)

TAKE NOTICE THAT the food prepared/cooked/sold/the addition of
..... to the food prepared/cooked/sold* on your premises at
..... (address)
constitutes a hazard to health.

You are hereby ordered to discontinue such activity forthwith.

Should you be dissatisfied with this order, you may, within 7 days of service of
this order upon you, appeal to the supervising officer of the Ministry of Health
and Wellness.

TAKE FURTHER NOTICE THAT if you fail to comply with this Prohibition Order,
you shall commit an offence and shall –

- (a) on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years;
- (b) in case you are a corporate body, be, on conviction, liable to a fine not less than 100,000 rupees.

.....
Signature of authorised officer

.....
Name of authorised officer

.....
Date

.....
Office stamp

THIRTEENTH SCHEDULE

[Section 17(6)]

MINISTRY OF HEALTH AND WELLNESS

WITHDRAWAL ORDER

To

Mr/Mrs/Ms* (name)

..... (address)

..... (National Identity Card no.)

..... (occupation)

TAKE NOTICE THAT food prepared/cooked/sold on your premises at
..... (address) no longer
constitutes a hazard to health.

The Prohibition Order no. served upon you on
(date) in accordance with section 17(1) of the Food Act 2022 is hereby
withdrawn.

.....
Signature of authorised officer

.....
Name of authorised officer

.....
Date

.....
Office stamp

**Delete as appropriate*
