

## **THE PURE FOOD ORDINANCE, 1959**

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## THE PURE FOOD ORDINANCE, 1959

ORDINANCE NO. LXVIII OF 1959

[14<sup>th</sup> October, 1959]

**\*An Ordinance to provide for the better control of the  
manufacture and sale of food for human consumption.**

WHEREAS it is expedient to provide for the better control of  
the manufacture and sale of food for human consumption;

NOW, THEREFORE, in pursuance of the Presidential  
Proclamation of the seventh day of October, 1958, and in  
exercise of all powers enabling him in that behalf, the Governor  
of East Pakistan is pleased to make and promulgate the  
following Ordinance, namely:-

### CHAPTER I

#### PRELIMINARY

Short title,  
extent and  
commencement

**1.** (1) This Ordinance may be called the <sup>1</sup>[\* \* \*] Pure Food  
Ordinance, 1959.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

**2.** [*Repeal of Bengal Act VI of 1919 and Assam Act I of  
1932.- Repealed by Section 3 and the Second Schedule of The  
East Pakistan Repealing and Amending Ordinance, 1966 (East  
Pakistan Ordinance No. XIII of 1966.)*]

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\* Throughout this Ordinance, the words “Government”, “Bangladesh” and “taka” were substituted for the words “Provincial Government”, “East Pakistan” and “rupees” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>1</sup> The words “East Pakistan” were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972).

3. In this Ordinance, unless there is anything repugnant in the subject or context,- Definitions

- (1) an article of food shall be deemed to be “adulterated” if-
  - (a) any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength, or
  - (b) any substance has been substituted wholly or in part for it, or
  - (c) any of the normal constituents has been wholly or in part abstracted so as to render it injurious to health, or
  - (d) it is mixed, coloured, powdered, coated or stained in a manner whereby damage or inferiority is concealed, or
  - (e) it does not comply with any standard provided by or under this Ordinance or any other law for the time being in force, or
  - (f) it contains or is mixed or diluted with any substance in such quantity as is to the prejudice of the purchaser or consumer or in such proportion as diminishes in any manner the food value or nutritive qualities which it possesses in its pure, normal, un-deteriorated and sound condition, or
  - (g) it contains any poisonous or deleterious ingredient<sup>1</sup>[including radiation] which may render it injurious to health, or
  - (h) it is not of the nature, substance or quality which it purports to be or which it is represented to be by the manufacturer or the seller;
- (2) “bye-laws” means bye-laws made under this Ordinance;
- <sup>2</sup>[(2A) “catering establishment” means any hotel, restaurant, cafeteria, canteen, shop and includes any other places where food in any form is consumed, supplied or sold.]

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<sup>1</sup> The words “including radiation” were inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

<sup>2</sup> Clause (2A) was inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

<sup>1</sup>[(3) “container” includes a package or receptacle of any kind, whether open or closed or sealed and must be free from rust, lead, arsenic or any heavy metals and must not be prepared from or previously used container and threatening to public health;

(3A) “Court” means a Pure Food Court established under section 41;

(3B) “Cultural practices” includes production, reproduction, housing and management of livestock, processing and preservation of their produces.]

(4) “dairy” includes-

(a) any farm, cattle-shed, milk-store, milk-shop or other place, at which milk is stored or supplied for sale or is manufactured into butter, *ghee*, cheese, curds, or skimmed, condensed, sterilised or desiccated milk, and

(b) in the case of a dairyman or other person selling milk, who does not occupy any premises for the purpose of such sale, any place at which such dairyman or person keeps any container used or intended to be used by him for the purposes of such sale,

but does not include-

(i) a shop or other place at which milk is sold solely in the closed and unopened containers in which it is delivered thereto from any source referred to in sub-clauses (a) and (b), or solely in hermetically closed and unopened containers and in the same condition as that in which it was delivered thereto from such source, or

(ii) a shop or other place at which milk is sold solely for consumption therein;

<sup>2</sup>[(4A) “drinking water” means normal water, mineral water and water from any other sources which conforms to the National Standard of Drinking water or mineral water of Bangladesh;

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<sup>1</sup> Clauses (3), (3A) and (3B) were substituted for former sub-section (3) by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

<sup>2</sup> Clauses (4A), (4B) and (4C) were inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

- (4B) “farm” includes a yard, shed and houses for livestock, and their cultural practices;
- (4C) “fishery” includes any farm, *arat* or depot, service center or landing center, fish store, fish shop, fish processing plant and any other places where fish grows, fish and fishery product is processed, dried, transported, supplied or sold.]
- <sup>1</sup>[(5) “food” means any kind of edible oil, fish, fruit, meat or vegetable or any other article used as food, drinking water or any other drink for human consumption other than any drug, and includes ice, aerated water, carbonated water or any substance whether processed, semi processed or raw or any substance which has been used in the manufacture, preparation or treatment of food and those articles which will be notified by the Government from time to time, and-
- (a) any substance which is intended for use in the composition or preparation of food,
  - (b) any permitted flavouring matter or any spice or condiment, and
  - (c) any food grade colouring matter, preservative, anti oxidant and other additives intended for use in food;
- (5A) “livestock” includes cattle, buffalo, goat, sheep, pig and poultry (chick, duck, quail, pigeon, goose and guinea fowl);
- (5B) “livestock product” includes meat, meat product, blood, bone, bone marrow, milk, milk products, egg, fat, food products of livestock origin.]
- (6) “local area” means the area situated within the jurisdiction of a local authority, and includes any area notified by the Government to be a local area for the purpose of this Ordinance;

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<sup>1</sup> Clauses (5), (5A) and (5B) were substituted for former sub-section (5) by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

<sup>1</sup>[(7) “local authority” means-

- (a) a Corporation constituted under the Dhaka City Corporation Ordinance, 1983 (Ord. No. XL of 1983), the Chittagong City Corporation Ordinance, 1982 (Ord. No. XXXV of 1982), রাজশাহী সিটি কর্পোরেশন আইন, ১৯৮৭ (১৯৮৭ সনের ৩৮ নং আইন), the Khulna City Corporation Ordinance, 1984 (Ord. No. LXXII of 1984), সিলেট সিটি কর্পোরেশন আইন, ২০০১ (২০০১ সনের ১০ নং আইন) and বরিশাল সিটি কর্পোরেশন আইন, ২০০১ (২০০১ সনের ১১ নং আইন), or
- (b) a Paurashava constituted under the Paurashava Ordinance, 1977 (Ord. XXVI of 1977); or
- (c) in any other local area, such authority or person as may be notified by the Government;]

(8) “manufacture” means manufacture for the purpose of sale or for preparation for sale, and the expressions “manufactured” and “manufacturers” shall be construed accordingly;

(9) “notified” means notified in the *official Gazette*;

<sup>2</sup>[(9A) “poultry” includes any poultry farm or poultry shed, poultry store, dressed poultry store, alive or dressed poultry shop or place or other place at which alive or dressed poultry are stored for sale;]

(10) “prescribed” means prescribed by rules;

(11) “rules” means rules made under this Ordinance;

(12) “sale” means a transfer of ownership in exchange for a price, whether in money or in kind, paid or promised or partly paid or partly promised, and includes-

- (a) the making, causing or permitting of such transfer,
- (b) the attempt to effect such transfer, and

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<sup>1</sup> Clause (7) was substituted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

<sup>2</sup> Clause (9A) was inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

(c) any possession, storage, offer, exposure, despatch, consignment, deposit or receipt for the purposes of such transfer or for preparation for such transfer,

and the expression “sell”, “seller”, “sells” and “sold” shall be construed accordingly; and

(13) “transit” includes every stage of transit from the place of manufacture or other source of origin to the consumer.

4. <sup>1</sup>[(1) Every local authority shall appoint one or more persons to be the Public Analyst of Food within its area to carry out the purposes of this Ordinance.

Appointment of public analysts

(1A) The Government may, except for an area of a City Corporation or a Paurashava or an area notified as local authority under section 3(7)(c), appoint one or more persons to be the Public Analysts of Food for such local area as may be specified by the Government.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A), the Government may appoint a public Analyst of Food appointed under sub-sections (1) and (1A) for such other area in addition to his local area.]

(2) No person shall be appointed a public analyst for any area-

(a) if he is directly or indirectly engaged in any trade or business connected with the manufacture or sale of any article of food, and

(b) unless he possesses, on the date of his appointment, such qualifications as may be prescribed.

(3) The appointment by a local authority of any person to be a public analyst, and the removal of any person so appointed, shall be subject to the approval of the Government.

(4) The salary payable to, and the conditions of appointment of, a public analyst appointed under this section shall be such as may be prescribed.

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<sup>1</sup> Sub-sections (1), (1A) and (1B) were substituted for former sub-section (1) by section 3 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

(5) The Government, or the local authority, with the approval of the Government, may appoint a person to act as public analyst during any vacancy in the office of, or during the absence or in capacity of, the public analyst.

National Food  
Safety Advisory  
Council

<sup>1</sup>[4A. (1) The Government shall constitute a National Food Safety Advisory Council. The Council shall consist of the following members, namely-

- (a) Minister for Ministry of Local Government, Rural Development and Co-operatives, who shall also be the Chairman of the Council;
- (b) a representative of the Ministry of Local Government, Rural Development and Co-operatives, not below the rank of Joint Secretary, who shall also be the member secretary of the Council;
- (c) a representative of the Ministry of Agriculture, not below the rank of Joint Secretary;
- (d) a representative of the Ministry of Commerce, not below the rank of Joint Secretary;
- (e) a representative of the Ministry of Food and Natural Disaster Management, not below the rank of Joint Secretary;
- (f) a representative of the Ministry of Health and Family Welfare, not below the rank of Joint Secretary;
- (g) a representative of the Ministry of Industry, not below the rank of Joint Secretary;
- (h) a representative of the Ministry of Environment and Forest, not below the rank of Joint Secretary;
- (i) a representative of the Ministry of Home Affairs, not below the rank of Joint Secretary;
- (j) a representative of the Ministry of Fishery and Livestock, not below the rank of Joint Secretary;
- (k) a representative of the Ministry of Establishment, not below the rank of Joint Secretary;

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<sup>1</sup> Section 4A was inserted by section 4 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

- (l) Deputy Commissioner, Dhaka;
- (m) Director General, Bangladesh Standards and Testing Institution;
- (n) Chairman, Department of Food and Nutrition, University of Dhaka;
- (o) Chairman, Department of Chemistry, University of Dhaka;
- (p) a representative of the Federation of Bangladesh Chambers of Commerce and Industries.

(2) The National Food Safety Advisory Council shall advise to the Government on the following subjects-

- (a) matters related to the safety of food and to the administration of this Ordinance,
- (b) standard and quality control (National and Codex Standard) for food with a view to ensuring their purity, safety and proper nutritional value,
- (c) technical matters arising out of the administration of this Ordinance,
- (d) development of man-power services and facilities required for ensuring safety, quality and pure food for human consumption, and
- (e) policies and strategies related to food safety and quality control.]

5. (1) The Government may determine by rules in this behalf-

- (a) the normal constituents and the values of the chemical and physical constants of any article of food, and
- (b) in respect of a sample of any article of food, the deficiency in any such constituent or the addition of any extraneous matter or the proportion of water which shall, for the purpose of this Ordinance and until the contrary is proved, raise a presumption that such article is adulterated.

Power of Government to determine by rules to provide for normal constituents of articles of food and deficiencies or additions rendering such articles adulterated

(2) A public analyst shall, when certifying the result of any analysis made under this Ordinance, have regard to the rules referred to in sub-section (1).

(3) When any rule referred to in sub-section (1) has been made, the purchaser of any article of food to which rule applies shall, until the contrary is proved, be deemed to have demanded food complying with such rule.

## CHAPTER II

### MANUFACTURE AND SALE OF FOOD

Prohibition of manufacture or sale of food not of proper nature, substance or quality

**6.** (1) No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf,-

- (a) manufacture or sell any article of food which is adulterated, or
- (b) sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality demanded by the purchaser.

(2) An offence shall not be deemed to have been committed under sub-section (1), if the article of food contains the normal constituents prescribed under clause (a) of sub-section (1) of section 5, and if the chemical and physical constants of the article are in accordance with those referred to in the said clause-

- (a) where any innocuous substance or ingredient has been added thereto, if such substance or ingredient-
  - (i) is required for the production or preparation of such article as an article of commerce in a condition fit for carriage or consumption, and
  - (ii) is not so added fraudulently to increase the bulk weight or measure, or to conceal the inferior quality, of such article:

Provided that the admixture of such substance or ingredient does not render such article to be injurious to health; or

- (b) where any constituent has been abstracted therefrom if such abstraction is required for the production or preparation of such article as an article of commerce fit for carriage or consumption and does not render such article to be injurious to health; or
- (c) where a patent has been granted under any law for the time being in force, if such article is manufactured or sold in the condition required by the specification of the patent.

(3) The opinion of the public analyst on the question whether any substance or ingredient is innocuous shall, subject to the provisions of section 32, be conclusive evidence on such question.

(4) In any prosecution under this section,-

- (a) it shall not be a defence to allege-
  - (i) that the purchaser bought for analysis or examination and therefore was not prejudiced, or
  - (ii) that the person who manufactured or sold the article of food had no knowledge of, and could not with reasonable diligence have ascertained, its nature, substance or quality; and
- (b) the Court shall, until the contrary is proved, presume that any article of food, which is found in the possession of any person who manufactures or sells similar articles, has been manufactured by that person, or is for sale by him, as the case may be.

<sup>1</sup>[6A. No person shall directly or indirectly and whether by himself or by any other person acting on his behalf-

- (a) use any poisonous or dangerous chemicals or ingredients or additives or substances like calcium carbide, formalin, pesticides (DDT, PCBs oil etc.), or intoxicated food colour or flavouring matter in any food which may cause injury to human body;

Prohibition of sale or use of poisonous or dangerous chemicals, intoxicated food colour, etc.

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<sup>1</sup> Section 6A was inserted by section 5 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

- (b) sale any food in which poisonous or dangerous chemicals or ingredients or additives or substances like calcium carbide, formalin, pesticides (DDT, PCBs oil etc.) or intoxicating food colour or flavouring matter has been used in any food which may cause injury to human body.]

Prohibition of manufacture or sale of food not of proper standard of purity

**7.** No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf, manufacture or sell, as the case may be, any milk, butter, *ghee*, (that is to say, clarified milk fat), wheat flour (that is to say, *maida*, *atta* or *suji*) or mustard or any other rape seed oil, or any other article of food which may be notified by the Government in this behalf, unless the conditions specified in sections 8, 9, 10, 11, 12 and 13 are respectively fulfilled.

Standard of purity of milk or skimmed milk or condensed milk or sterilised milk or desiccated milk

**8.** (1) In the case of milk other than skimmed, condensed, sterilised or desiccated milk,-

- (a) the species of animal from which the milk is derived shall be specified by the seller in such manner as the local authority may direct by general or special order in this behalf;
- (b) the article sold shall be the normal, clean and fresh secretion obtained by the complete milking of the udder of a healthy animal of the species specified, not earlier than seven days after the calving and freeing of the colostrums of such animal; and
- (c) the article sold shall, whether such secretion has been processed or not, be an article from which no ingredient has been extracted and to which no water or other substance (including any preservative) has been added and which contains the normal constituents prescribed under clause (a) or sub-section (1) of section 5.

(2) In the case of skimmed milk,-

- (a) the container shall be labelled and marked in such manner as may be prescribed;
- (b) the article sold shall contain such proportion of the constituents of milk as may be prescribed; and

- (c) the place at which such article is sold shall be specified by the seller in such manner as the local authority may direct by general or special order in this behalf.

(3) In the case of condensed, sterilised or desiccated milk,-

- (a) the container shall be hermetically closed, labelled and marked in such manner as may be prescribed; and
- (b) the article manufactured or sold, as the case may be, shall contain such proportion of the constituents of milk as may be prescribed.

**9.** In the case of butter, the article manufactured or sold, as the case may be, shall be exclusively derived from the milk or cream (other than skimmed, condensed, sterilised or desiccated milk or cream) of a cow or buffalo or both, and may be with or without salt and with or without the addition of any innocuous colouring matter, and shall not contain a greater proportion of water than may be prescribed.

Standard of  
purity of butter

**10.** In the case of *ghee* (that is to say, clarified milk fat), the article manufactured or sold, as the case may be, shall contain only substances (other than curds) which are prepared exclusively from the milk of cows or buffaloes or both, and shall fulfil such other conditions as may be prescribed.

Standard of  
purity of ghee

**11.** In the case of wheat flour (that is to say, *maida*, *atta* or *suji*), the article manufactured or sold, as the case may be, shall contain only substances which are derived exclusively from wheat, and shall fulfil such other conditions as may be prescribed.

Standard of  
purity of wheat  
flour

**12.** In the case of mustard or any other rape seed oil, the article manufactured or sold, as the case may be, shall be derived exclusively from mustard or any other rape seed, as the case may be, and shall fulfil such other conditions as may be prescribed.

Standard of  
purity of  
mustard or any  
other rape seed  
oil

**13.** In the case of any other article of food which may be notified by the Government under section 7, the article manufactured or sold, as the case may be, shall fulfil such conditions as may be prescribed.

Standard of  
purity of any  
other article of  
food

Prohibition of manufacture or sale of anything similar to or resembling an article of food

**14.** No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf, manufacture or sell-

- (a) anything similar to or resembling an article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13, under any name which so resembles the ordinary name of such article of food as to be likely to deceive the public or which is in any way calculated to mislead the public as to the nature, substance or quality of that thing; or
- (b) any food in the preparation of which an article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13 has been used, unless such article fulfils the conditions specified in sections 8, 9, 10, 11, 12 and 13 as being applicable to it.

Absence of knowledge as to the character and composition of an article of food is no defence

**15.** In any prosecution under this section,-

- (a) it shall not be a defence to allege that the person who manufactured or sold the article of food had no knowledge of, and could not with reasonable diligence have ascertained, the nature, substance or quality, of such article or of any article used in the preparation thereof; and
- (b) the Court shall, until the contrary is proved, presume that any article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13 or referred to in clause (b) of section 14, or any ingredient of, or anything used in the preparation of, such article, which is found in the possession of any person who manufactures or sells similar articles, has been manufactured by that person or has been kept by him for being used in the manufacture of such article or is for sale by him or has been kept by him for the purpose of preparation of any food referred to in clause (b) of section 14, as the case may be.

Prohibition of keeping adulterants in places where food is manufactured or sold

**16.** (1) No person shall keep or permit to be kept, in any manufactory, shop or place in which any article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13 is manufactured or sold, any substance intended to be used for the adulteration of such article.

(2) In any prosecution under this section, the Court shall, until the contrary is proved, presume that any substance, capable of being used for such adulteration and found in such manufactory, shop or place, is intended to be used for the purpose of such adulteration.

(3) No person shall keep *Guzi* (niger seed) in any manufactory, shop or place mentioned in sub-section (1).

(4) No person shall keep any quantity of white oil except under a licence granted by a local authority in such manner and form and subject to such conditions as may be prescribed.

**17.** (1) No person shall sell for human consumption any living thing which is diseased or unsound or sell or manufacture any other article of food intended for human consumption which is unwholesome or unfit for human consumption.

Prohibition of sale of diseased animals and unwholesome food intended for human consumption

(2) In any prosecution under this section, the Court shall, until the contrary is proved, presume that any living thing which is diseased or unsound or any other article of food which is unwholesome or unfit for human consumption and is found in the possession of any person who sells similar living things or sells or manufactures similar articles of food for human consumption, is for sale or has been manufactured, as the case may be, by that person for human consumption.

**18.** (1) No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf, with any article of food sold by him, give to the purchaser a label, whether attached to or printed on the container in which such article is sold or not, which falsely describes that article or is otherwise calculated to mislead as to its nature, substance or quality.

Prohibition of use of false labels

(2) In any prosecution under this section, it shall not be a defence to allege that the person who gave such a label had no knowledge of, and could not with reasonable diligence have ascertained, its character.

Prohibition of  
false  
advertisements

**19.** (1) No person shall publish or cause to be published, an advertisement (not being a label referred to in section 18) which falsely describes any article of food or is otherwise calculated to mislead the public as to its nature, substance or quality.

(2) In any prosecution under this section, it shall be a defence for the accused to prove either-

- (a) that he did not know, and could not with reasonable diligence have ascertained that the advertisement was of such a character as aforesaid; 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.

(3) In any prosecution under this section against the manufacturer or the seller, the Court shall, until the contrary is proved, presume that such advertisement was published or caused to be published by such manufacturer or seller as the case may be.

Conditions in  
which warranty  
may be pleaded  
as defence

**20.** (1) Notwithstanding anything contained in sections 6,7, 8, 9, 10, 11, 12,13, 14, 15, 16, 17 and 18, in any prosecution for the sale of any article of food in contravention of any of the provisions of those sections relating to such article, it shall be a defence for the seller to prove -

- (a) that he purchased such article as being of a nature substance or quality which would entitle him to sell it and with a written warranty to that effect, and
- (b) that, at the time of the sale to which the prosecution relates, he had no reason to suppose that the article was not of such a nature, substance or quality, and that it was then in the same condition as when he purchased it:

Provided that a warranty given by a person who is not a resident in Bangladesh shall not be a defence unless the seller strictly proves to the satisfaction of the Court that he had taken reasonable steps to ascertain, and did in fact believe in, the correctness of the statement contained in the warranty.

(2) Notwithstanding anything contained in any other law for the time being in force, no evidence relating to a warranty alleged under clause (a) of sub-section (1) shall be admissible on behalf of the seller unless, within seven days of the date of service upon him of any process issued by a Court for his attendance therein, he has sent-

- (a) to the complainant a copy of the warranty, together with a written notice stating that he intends to rely upon the warranty and specifying the name and address of the person from whom he received it, and
- (b) to the person from whom he received the warranty, a notice of his intention to rely upon it.

(3) No person, whether as a principal or as an agent, shall give to a purchaser, in respect of any article of food, any warranty in writing which is false or which he has reason to believe to be false.

**21.** (1) After the commencement of this Ordinance, no premises shall be used for-

Registration of  
certain premises

- (a) the wholesale manufacture or wholesale sale of any article of food notified under section 7 or specified in sections 8, 9, 10, 11, 12 and 13, or
- (b) the manufacture or sale of ice-cream or any pickled, potted, pressed or preserved food, or
- (c) hotel, inn, restaurant or sweetmeat shop,

unless such premises have been registered by the occupier thereof in such manner, by such date and on payment of such fee as may be prescribed:

Provided that the occupier of any premises so used on the date of the commencement of this Ordinance shall be allowed a period of two months from that date within which to effect registration.

**Explanation.-** For the purposes of this section, the preparation of meat or fish by any process of cooking shall be deemed to be the preservation thereof.

(2) Every registration under this section shall be renewed annually by the occupier of the premises in such manner, by such date and on payment of such fee as may be prescribed.

(3) An application for registration or renewal thereof shall, in the prescribed manner and form, be made to the local authority, which shall, in the prescribed manner and form, maintain a record of every such registration and renewal thereof.

(4) The occupier of premises specified in clause (a) of sub-section (1) shall, in the prescribed form, maintain a record showing the quantity of each consignment of food despatched from such premises and the destination of each consignment, and such record shall be open to inspection by such officer of the local authority as may be authorised by the local authority in this behalf.

(5) The registration of any premises under this section may be cancelled by the local authority if-

- (a) the premises cease to be used for the purposes for which they were registered,
- (b) in the case of premises specified in clause (a) of sub-section (1), if the occupier fails to maintain the record referred to in sub-section (4), or
- (c) if the occupier is convicted of an offence punishable under this Ordinance :

Provided that in the case of the first conviction under this Ordinance, the registration will not be cancelled unless the Court is of opinion that the offence is so serious as to warrant the cancellation of registration; but in the case of subsequent convictions under this Ordinance, the cancellation of registration will follow as a matter of course.

(6) Nothing in this section shall apply to any premises used primarily as a club, theatre, cinema or public hall.

Special provision for sellers of ice-cream, aerated water, etc.

**22.** Any dealer in ice-cream, *kulpi*, ice, aerated water, *sarbat*, sweetmeats, biscuits, bread or any other dry food made of pulse or flour, who sells such article of food in any premises or part of any premises, and any such dealer by whom or on whose behalf any vehicle or container is used for the sale of any

such articles of food elsewhere than in any premises or part of any premises, shall have his name and address legibly and conspicuously displayed on such premises, part of such premises, vehicle or container, as the case may be, in Bengali and <sup>1</sup>[English].

**23.** No milk, bread-stuffs, cake, pastry, sweetmeats, confectionery or other article of food intended or commonly used for human consumption without further preparation by cooking shall be sold, exposed or kept or hawked about or stored for sale unless they be kept properly covered or otherwise guarded to the satisfaction of the local authority, so that they shall be protected from dust, dirt and flies.

Prohibition of the keeping of bread-stuffs, etc., otherwise than in covered receptacles

**24.** The occupier of any premises or part of any premises used for the manufacture or sale of any article of food shall ensure-

Provisions relating to premises and part of premises used for manufacture and sale of food

- (1) that no sanitary convenience, dustbin or ashpit is contained in, or communicates directly with, or is so placed that offensive odour therefrom penetrates into, such premises or part of such premises;
- (2) that no source of, or receptacle for, the supply of water to such premises or part of such premises communicates directly with a drain, sink or sanitary convenience, or discharges directly into a sanitary convenience, and that there is not in such premises or part of such premises any outlet for the ventilation of any drain or for conveying sewage or foul water into any drain;
- (3) that the roof, ceiling, walls, windows, doors and floor of such premises or part of such premises are kept clean and in good repair;
- (4) that such premises or part of such premises are not used for sleeping purposes;
- (5) that such premises or part of such premises are provided with sufficient and suitable ventilation;

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<sup>1</sup> The word "English" was substituted for the word "Urdu" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (6) that no refuse or filth, whether solid or liquid, is permitted to accumulate anywhere in such premises or part of such premises;
- (7) that no waste-matter resulting from any process of manufacture or sale of any article of food is permitted to accumulate in any premises or part of any premises in which such manufacture or sale is carried on except in so far as is unavoidable in the nature of such manufacture or sale; and
- (8) that all articles used in such premises or part of such premises are kept clean, and that all persons employed therein keep themselves and their clothing as clean as may be consistent with the nature of their employment.

Certain diseased person not to manufacture, sell or touch food

**25.** No person, who is suffering from leprosy, tuberculosis or any other disease which may be notified by the Government in this behalf, shall manufacture or sell any article of food, or wilfully touch any such article which is for sale by any other person.

Bye-laws with respect to the handling, wrapping and delivery of food

**26.** (1) Subject to the provisions of this Ordinance and the rules, a local authority may, and when so required by the Government shall, for the local area within its jurisdiction, make bye-laws for the purpose of securing the observance of sanitary conditions and practices in connection with the handling, wrapping and delivery of any article of food which is for sale or for delivery after sale.

(2) In any bye-laws made under sub-section (1), the local authority may provide that any person committing a breach of any of the provisions thereof shall, on conviction by a Court, be punishable with fine which may extend to two hundred taka and on a second conviction with fine which may extend to four hundred taka and on a third or subsequent conviction with fine which may extend to one thousand taka or with imprisonment for a term which may extend to six months or with both.

Bye-laws with respect to dairies and milk supply

**27.** (1) Subject to the provisions of this Ordinance and the rules, a local authority may, and when so required by the Government shall, for the local area within its jurisdiction,

make bye-laws with respect to all or any of the following matters, namely:-

- (a) the registration of dairies, dairymen and persons habitually selling milk;
- (b) the inspection by such local authority, or by any person authorised by it in this behalf, of dairies and dairy cattle from which milk is supplied to the inhabitants of such local area, and of persons having access to such milk or any container thereof;
- (c) the duties to be performed by dairymen and persons selling milk in connection with the occurrence and reporting of infectious or contagious diseases among persons residing or employed in or about their premises or of any disease in dairy cattle which is communicable to man or of any disease of the udder;
- (d) the conveyance and distribution of milk, and the labelling or marking of containers used for such conveyance or distribution.
- (e) the ventilation, lighting, cleansing, drainage and water supply of dairies;
- (f) the health and condition of milch cattle in dairies;
- (g) the cleanliness of containers for milk in, and of persons employed in or about dairies;
- (h) the protection of milk against infection or contamination;
- (i) the prevention of the sale of infected, contaminated or dirty milk, the prohibition of the sale or distribution of any milk suspected of being infected, contaminated or dirty, the closing of any dairy where such milk is for sale and the exclusion therefrom of any cattle, the milk from which there is reason to believe has conveyed or is likely to convey any infectious disease; and
- (j) any other matter which, in the opinion of the Government, may be necessary to secure and maintain the purity of milk supply.

**Explanation.**- In this sub-section, the word “milk” includes milk-products prepared for human food from milk or from anything derived from milk.

(2) In any bye-laws made under sub-section (1), the local authority may provide that any person committing a breach of any of the provisions thereof shall, on conviction by a Court, be punishable with fine which may extend to two hundred taka and on a second conviction with fine which may extend to four hundred taka and on a third or subsequent conviction with fine which may extend to one thousand taka or with imprisonment for a term which may extend to six months or with both.

### CHAPTER III

#### ANALYSIS OF FOOD

Right of purchaser to have article of food analysed or otherwise examined

**28.** (1) A person who has purchased any article of food shall, on payment of such fee as may be prescribed, be entitled to have a sample of such article analysed or otherwise examined by the public analyst appointed for the area in which the purchase was made, and to receive from such public analyst a certificate in the form provided in the Schedule, specifying the result of the analysis or examination.

(2) No person shall display any such certificate or copy thereof on his premises or use such certificate or copy thereof as an advertisement.

Compulsory sale or surrender of samples of food for analysis or examination

**29.** (1) Any person authorised in this behalf by the Government or by a local authority empowered by the Government for this purpose may, in respect of any article of food or any ingredient used in the manufacture thereof or any substances capable of being so used-

- (a) which is in the process of manufacture or is for sale or has been kept for use in the manufacture of any food, tender the price of such sample of that article, ingredient or substance as may be reasonably requisite for division and disposal under section 30, and may require that the sample be sold to him for the purpose of analysis or bacteriological or other examination;

- (b) which, for the purposes of sale, is in transit or at any place of delivery or storage, demand such sample of that article, ingredient or substance as may be reasonably requisite for division and disposal under section 30, and may require that the sample be surrendered to him for the purpose of analysis or bacteriological or other examination.

(2) Any person having in his possession any article, ingredient or substance in respect of which a requisition is made under sub-section (1), shall sell or surrender, as the case may be, such sample thereof as may be so required.

(3) A person authorised under sub-section (1) may further require that any person having in his possession any article, ingredient or substance in respect of which a requisition is made under that sub-section shall sign a declaration in the prescribed form to the effect that the sample of such article, ingredient or substance which was so required has been so bought and sold or surrendered, as the case may be.

(4) A person authorised under sub-section (1) shall for the purposes of this section have right to enter any place through which an article of food passes in transit or any place where an article of food is to be given delivery of or is stored and to inspect any records in any such place.

(5) The price of any sample surrendered under sub-section (2) shall, in accordance with the rules, be payable by the Government or the local authority to the owner of the article, ingredient or substance from which the sample was surrendered, if the price is claimed by the owner in the prescribed manner and within one month from the date of the surrender.

**30.** A person who intends to have analysed or otherwise examined a sample referred to in section 28 or a sample sold or surrendered under section 29, as the case may be, shall-

Procedure for  
obtaining  
analysis or  
examination

- (1) forthwith notify in writing his intention to the person who sold or surrendered the sample;

- (2) divide the sample into three parts, and mark, seal or fasten each part in such manner as may be prescribed in presence of the person selling or surrendering the sample;
- (3) (a) in the case of a sample purchased, offer one part to the person who sold the sample, or
  - (b) in the case of a sample surrendered, despatched by registered post one part to the consignor whose name and address appear on the container of the article, ingredient or substance sampled, together with a notice of the intention to have the sample analysed or otherwise examined or, if no such name and address appear thereon, retain the aforementioned part;
- (4) retain one part for purposes of future comparison; and
- (5) thereafter submit within seven days one part to the public analyst appointed for the area in which the sample was sold or surrendered.

Duty of public analyst to supply certificate of analysis

**31.** (1) Every public analyst to whom a sample has been submitted under section 30 for analysis or bacteriological or other examination shall-

- (a) analyse or examine such sample or cause such sample to be analysed or examined;
- (b) not later than <sup>1</sup>[seven days in normal case and two days in case of emergency] after the date on which he receives the sample, deliver to the person submitting it a certificate in the form provided in the Schedule, specifying the result of the analysis or examination, as the case may be;
- (c) send a copy of the certificate to the local authority concerned.

(2) For the purpose of computing the period of <sup>2</sup>[seven days in normal case and two days in case of emergency] referred to in

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<sup>1</sup> The words “seven days in normal case and two days in case of emergency” were substituted for the words “thirty days” by section 6 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

<sup>2</sup> The words “seven days in normal case and two days in case of emergency” were substituted for the words “thirty days” by section 6 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

sub-section (1), any day which is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, shall be excluded.

(3) Any document purporting to be a certificate in the form provided in the Schedule and signed by a public analyst shall, in any inquiry, trial or proceeding under this Ordinance, be deemed to be sufficient evidence of the result of an analysis or examination made under this section.

**32.** Notwithstanding anything contained in section 31 or in any other law for the time being in force, in any inquiry, trial or proceeding under this Ordinance-

Power of Courts to direct analysis

- (1) the Court, whether exercising its original, appellate or revisional jurisdiction and whether of its own motion or on the application of the complainant or the accused, may cause any article of food, or ingredient used in the manufacture thereof or substance capable of being so used, to be sent for analysis to the Director of Public Health Laboratory, Bangladesh, or to such other person as the Government may appoint by general or special order in this behalf.
- (2) the said Director or person, as the case may be, shall analyse the article, ingredient or substance so sent, and shall submit to the Court a report specifying the result of the analysis and also specifying when so called upon by the Court whether any substance or ingredient in any article of food is innocuous or not;
- (3) the said report shall be admissible in evidence in such Court; and
- (4) the cost of such analysis shall be paid by the complainant or the accused, as the Court may direct.

**33.** As soon as may be after the last day of March, the last day of June, the last day of September and the last day of December in every year, there shall be submitted to the Government, in such form as may be prescribed and with respect to the preceding quarter of the year-

Quarterly reports by local authorities and public analysts

- (1) by every local authority, a statement showing, in respect of the local area within its jurisdiction-
  - (a) the number of cases in which samples have been taken,

- (b) the number of samples found by analysis to be adulterated,
  - (c) the number of cases in which prosecutions for adulteration have been instituted, and
  - (d) the result of prosecutions which have been completed during such quarter; and
- (2) by every public analyst, a statement showing-
- (a) the number of samples analysed by him, and
  - (b) the result of each analysis.

#### CHAPTER IV

##### INSPECTION AND SEIZURE OF FOOD

Authorisation of persons and appointment of Inspectors

**34.** (1) The Government may, by general or special order in this behalf, authorise any person to exercise all or any of the powers conferred by this Chapter.

(2) The Government, or a local authority with the approval of the Government may, by general or special order in this behalf, appoint any person to be an Inspector for the purposes of this Ordinance.

(3) No person shall be appointed an Inspector under subsection (2) -

- (a) if he is directly or indirectly engaged in any trade or business connected with the manufacture or sale of any article of food, and
- (b) unless he possesses on the date of his appointment such qualifications as may be prescribed.

(4) A person authorised, or an Inspector appointed, under this section shall be deemed to be a person authorised under section 29.

Right to enter premises

**35.** (1) A person authorised, or an Inspector appointed, under section 34 shall, on producing, if so required, such

authenticated proof of his authority as may be prescribed, have the right to enter any premises at any hour of the day or night excluding the hours between midnight and day break-

- (a) for the purpose of ascertaining whether there has been, on or in connection with such premises any contravention of any of the provisions of this Ordinance, the rules or the bye-laws;
- (b) generally for giving effect to the provisions of this Ordinance, the rules and the bye-laws:

Provided that entry into any premises used solely as a private dwelling-house shall not be demanded as of right unless at least three hours' notice of the intended entry has been given to the occupier of such premises.

(2) No person shall resist or obstruct any entry made under sub-section (1).

(3) In this section, the expression 'premises' includes <sup>1</sup>[any catering establishment] lands, buildings, vehicles, tents, vans, structures of any kind, streams, lakes, sea-shore, drains, ditches or places open, covered or enclosed, whether built on or not, and whether public or private, and whether natural or artificial, and whether maintained or not under statutory authority, and any vessel lying in any river, harbour or other water not being a port declared under the Ports Act, 1908.

**36.** A person authorised, or an Inspector appointed, under section 34 may by written notice require any person carrying on the trade or business in, or manufacturing or selling, any article of food, to produce before him for inspection all books, vouchers, accounts and other documents relating to such trade, business, manufacture or sale and every person on whom such notice is served shall comply with such requisition.

Production of books, vouchers and accounts

**37. (1)** A person authorised, or an Inspector appointed, under section 34 may, at any time of the day or night excluding the hours between midnight and daybreak, inspect and examine-

Power to seize food believed to be adulterated

- (a) any living thing intended for human food which is, for the purposes of sale, in transit or at any place of delivery or storage or is in any manner for sale,

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<sup>1</sup> The words "any catering establishment" were inserted by section 7 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

- (b) any other food which has been, or is in the process of being, manufactured or is, for the purposes of sale, in transit or at any place of delivery or storage or is in any manner for sale,
- (c) any ingredient used or kept for use, or any substance capable of being used, in the manufacture of such food, and
- (d) any container used in connection with the manufacture or sale of such food.

(2) No person shall resist or obstruct any inspection or examination made under sub-section (1).

(3) If such person or Inspector making an inspection or examination under sub-section (1) has reason to believe that any living thing intended for human food or any other article of food, or any ingredient or substance inspected or examined under that sub-section is unsound, unwholesome or unfit for human food or is adulterated, or that any container used in connection with the manufacture or sale of such food is of such kind or in such state as to render any food manufactured or contained therein unwholesome or unfit for human food, he may seize such living thing or other article of food, ingredient or substance or such container.

**Explanation.**- (1) Meat subjected to the process of blowing shall be deemed to be unfit for human food.

(2) A container made of any corrodable metal or material, notified in this behalf by the Government as dangerous to health, which is used for the preparation of liquid tea for sale shall be deemed to be of the kind referred to in this sub-section.

(4) No person shall resist or obstruct any seizure made under sub-section (3).

(5) When any article, ingredient or substance which is believed to be adulterated is seized under sub-section (3), the person or Inspector seizing it shall forthwith separate therefrom such sample thereof as is reasonably requisite for division and disposal under the provisions of section 30, and shall thereupon divide and dispose of such sample in the manner provided in that section.

(6) When any living thing or other article of food, or any ingredient, substance or container is seized under sub-section (3), the person or Inspector seizing it may-

- (a) remove such living thing or other article of food or such ingredient or substance and any container thereof, or
- (b) instead of removing it place it in such safe custody as he thinks fit after marking and sealing it in the prescribed manner whenever possible,

in order that it may be dealt with under the provision of section 38 or section 39, as the case may be.

(7) No person shall resist or obstruct any removal made under clause (a) of sub-section (6) and no person shall remove any living thing or other article of food, or any ingredient, substance or container from the custody in which it is placed under clause (b) of sub-section (6), or interfere or temper with it while in such custody.

**38.** (1) When any living thing or other article of food, or any ingredient, substance or container is seized under sub-section (3) of section 37, it may, with the written consent (witnessed by two other persons) of the owner or the person in whose possession it was found, be forthwith destroyed.

Destruction of living things, etc., seized under section 37

(2) If such consent be not obtained, then if the article, ingredient or substance so seized is of a perishable nature and is in the opinion of the Inspector or the person authorised under section 34, unsound, unwholesome or unfit for human food, it may likewise be destroyed.

(3) The expenses incurred in taking any action under sub-section (1) or sub-section (2) shall be realised as public demand from the person in whose possession such living thing or other article of food, ingredient or substance was at the time of its seizure.

**39.** (1) A person authorised, or an Inspector appointed, under section 34 who seizes any living thing or other article of food, or any ingredient, substance or container under sub-section (3) of section 37 shall, when such living thing or other article of food, ingredient, substance or container is not

Disposal of articles of food, ingredients, substances and containers seized

destroyed in pursuance of the provisions of section 38, inform the person from whose possession it is seized that it will be produced before a Magistrate, and shall produce it before a Magistrate as soon as may be after such seizure.

(2) Whether or not any complaint is made under the Pakistan Penal Code or under this Ordinance, if the Magistrate before whom a living thing or other article of food, or any ingredient, substance or container is produced under sub-section (1) considers, after taking such evidence as he may think necessary, that -

- (a) such living thing or other article of food, ingredient or substance is unsound, unwholesome or unfit for human food or is adulterated, or
- (b) such container has been used for the manufacture or containing, for the purposes of sale, of any adulterated article, ingredient or substance or has rendered any food manufactured or contained therein unwholesome or unfit for human food,

he shall cause such living thing or other article, ingredient, substance or container to be forfeited to the local authority for the local area in which the seizure took place, and the local authority shall forthwith cause such living thing or other article, ingredient, substance or container to be destroyed or otherwise disposed of in such manner as to prevent it being used for human consumption or for the manufacture or containing, for the purposes of sale, of any article, ingredient or substance, as the case may be.

(3) The Magistrate shall further direct that the cost of the forfeiture, destruction or disposal ordered under sub-section (2) shall be paid by the person from whose possession the living thing or other article of food, ingredient, substance or container was seized, and such cost shall be realised from that person as though it were a fine imposed under this Ordinance.

(4) If, after taking the evidence referred to in sub-section (2), the Magistrate considers that-

- (a) any living thing or other article, or any ingredient or substance, produced before him is not unsound, unwholesome or unfit for human food or is not adulterated, or

- (b) any container produced before him has not been used for the manufacture or containing, for the purposes of sale, of any adulterated article of food, ingredient or substance or has not rendered any food manufactured or contained therein unwholesome or unfit for human food,

he may direct that such living thing or other article, ingredient, substance or container, as the case may be, shall be restored to the person from whose possession it was seized, and may further direct that the local authority for the local area in which the seizure took place shall pay to that person such sum as the Magistrate may fix by way of compensation for any deterioration in the value of such living thing or other article, ingredient, substance or container resulting from its seizure or removal.

## CHAPTER V

### MISCELLANEOUS

**40.** (1) Subject to the remaining provisions of this section, a prosecution shall be instituted under this Ordinance by a local authority or by any person upon receipt from a public analyst of a certificate, in the form provided in the Schedule, specifying that any sample of any article of food, ingredient or substance sent to him for analysis or examination is adulterated.

Institution of  
prosecution

(2) No prosecution for any offence under this Ordinance shall be instituted except-

- (a) upon complaint by an individual (other than an Inspector appointed under section 34) who purchased any article of food and received the certificate referred to in sub-section (1) from a public analyst; or

<sup>1</sup>[(b) upon the order in writing-

- (i) in the case where the offence is committed within a City Corporation or a Paurashava, the Mayor or Commissioner of the City Corporation, or the Chairman or Commissioner of the Paurashava, respectively;

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<sup>1</sup> Clause (b) was substituted by section 8 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

- (ii) in outside area of a City Corporation or a Paurashava, by the authorised officer of the Local Government Division, Ministry of Local Government, Rural Development and Co-operatives;] or
- (c) upon complaint by an Inspector appointed under section 34 and authorised by the Director of Health Services or the local authority which appointed him as the case may be, by general or special order in this behalf.

(3) An individual (other than an Inspector appointed under section 34) who purchases any article of food and receives the certificate referred to in sub-section (1) from a public analyst may either institute a prosecution for any offence under this Ordinance himself or report the matter to the local authority within whose jurisdiction the offence is committed and thereupon such local authority shall order a prosecution for such offence or authorise an Inspector appointed under section 34 or direct Inspector authorised by a general order under clause (c) of sub-section (2) to institute such a prosecution and the Inspector when so authorised or directed shall institute the prosecution.

(4) No prosecution under this Ordinance, which is instituted more than sixty days after the receipt of the certificate referred to in sub-section (1), or more than thirty days after the date of an order given under clause (b) of sub-section (2), shall be maintainable unless the Magistrate is satisfied that, having regard to the circumstances of the particular case, the prosecution could not have been instituted earlier.

Establishment  
of pure Food  
Court, its power  
and Jurisdiction

<sup>1</sup>[41. (1) The Government may, by notification in the *official Gazette*, establish one or more Pure Food Court, as it considers necessary, in each district and metropolitan area for the purpose of this Ordinance.

(2) The Court shall consist of an officer who is vested with the power of a Magistrate of the first class and who shall have to impose any sentence provided in this act.

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<sup>1</sup> Sections 41, 41A, 41B and 41C were substituted for former section 41 by section 9 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

(3) The Government may specify, by notification in the *official Gazette*, the territorial jurisdiction of each Court.

**41A.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act No. V of 1898) no Court shall take cognizance of any offence punishable under this Ordinance except upon a complaint in writing, made by a Public Analyst or an Inspector or a person authorised by the Government.

Cognizance of Offences

**41B.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898)-

Place and Procedure of trial

(a) an offence punishable under this Ordinance may be tried at any place within the local jurisdiction of the Pure Food Court;

(b) an offence punishable under this Ordinance may be tried summarily in accordance with, as far as possible, the provisions laid down in chapter XXII of the said Code.

**41C.** An appeal against the judgment of a Pure Food Court shall lie to the Sessions Judge or to the Metropolitan Sessions Judge, within 30 (Thirty) days as the case may be.]

Appeal

**42.** Every person authorised under section 29 or section 34, and every Inspector appointed under section 34, shall be deemed to be a public servant within the meaning of section 21 of the <sup>1</sup>[\* \* \*] Penal Code.

Certain persons to be deemed to be public servants

**43.** No suit, prosecution or legal proceeding whatever shall lie against any person in respect of anything which is in good faith done or intended to be done under this Ordinance, the rules or the bye-laws.

Indemnity

**44.** Whoever contravenes any provision of this Ordinance mentioned in the first column of the following table shall be punished, for the first offence, with a fine not less than that mentioned in the third column and not exceeding that mentioned in the fourth column of the said table, and for a

Penalties

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<sup>1</sup> The word "Pakistan" was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

second or subsequent offence of the same kind with punishment not less than that mentioned in the fifth column and not exceeding that mentioned in the sixth column of that table.

**Explanation.-** The entries in the second column of the following table, headed "subject", are not intended as definitions of the offences described in the provisions mentioned in the first column, or even as abstracts of those provisions, but are inserted merely as references to the subject thereof.

1[Provisions of the Ordinance	Definition of the Offence	Fine or imprisonment which may be imposed for a first offence		Both fine and imprisonment which may be imposed for a second or subsequent offence	
		Minimum	Maximum	Minimum	Maximum
1	2	3	4	5	6
Section 6(1)	Manufacture or sale of food which is adulterated or sale of food which is not of proper nature, substance or quality.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand or rigorous imprisonment which may extend to three years or both.	Taka two lakhs and rigorous imprisonment for three years as well as forfeiture of shop or factory including machineries to the Government or to the local authority.
Section 6A	Prohibition of sale or use of formalin, intoxicated food color etc.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand or rigorous imprisonment which may extend to three years or both.	Taka two lakhs and rigorous imprisonment for three years as well as forfeiture of shop or factory including machineries to the Government or to the local authority.

<sup>1</sup> The Table and the entries were substituted by section 10 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

Provisions of the Ordinance	Definition of the Offence	Fine or imprisonment which may be imposed for a first offence		Both fine and imprisonment which may be imposed for a second or subsequent offence	
		Minimum	Maximum	Minimum	Maximum
1	2	3	4	5	6
Sections 7 to 13	Manufacture or sale of food not of proper standard or purity.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand or rigorous imprisonment which may extend to three years or both.	Taka two lakhs and rigorous imprisonment for three years as well as forfeiture of shop or factory including machineries to the Government or to the local authority.
Section 14(a)	Manufacture or sale of anything resembling any article of food notified under sections 7 or specified in section 8, 9, 10, 11, 12 and 13.	Taka two thousand five hundred or rigorous imprisonment which may extend to six months or both.	Taka twenty five thousand or rigorous imprisonment which may extend to one year or both.	Taka twenty five thousand or rigorous imprisonment which may extend to two years or both.	Taka one lakh and rigorous imprisonment for three years as well as forfeiture of shop or factory including machineries to the Government or to the local authority.
Section 14(b)	Manufacture or sale of food containing any article of food not of proper standard or purity.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand or rigorous imprisonment which may extend to two years or both.	Taka two lakhs and rigorous imprisonment for two years as well as forfeiture of shop or factory including machineries to the Government or to the local authority.

Section 16(1)	Keeping or permitting the keeping of adulterants in place where food is manufactured or sold.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand or rigorous imprisonment which may extend to two years or both.	Taka two lakhs and rigorous imprisonment for two years as well as forfeiture of shop or factory including machineries to the Government or to the local authority.
Section 16(4)	Keeping of white oil except in accordance with a prescribed license.	Ditto	Ditto	Ditto	Ditto
Section 17(1)	Sale of diseased animal or unwholesome food.	Taka five thousand or rigorous imprisonment which may extend to three months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka one lakh or rigorous imprisonment which may extend to two years or both.	Taka two lakhs fifty thousand and rigorous imprisonment for two years or both.
Section 18(1)	Use of false label	Taka five thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand or rigorous imprisonment which may extend to two years or both.	Taka one lakh or rigorous imprisonment which may extend to three months or both.	Taka two lakhs and rigorous imprisonment for two years as well as forfeiture of shop or factory including machineries to the Government or to the local authority.
Section 19(1)	Publication of false advertisement.	Ditto	Ditto	Ditto	Ditto
Section 20(3)	Giving of false warranty.	Taka ten thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka one lakh or rigorous imprisonment for one year or both.	Taka two lakhs and rigorous imprisonment for two years.

Provisions of the Ordinance	Definition of the Offence	Fine or imprisonment which may be imposed for a first offence		Both fine and imprisonment which may be imposed for a second or subsequent offence	
		Minimum	Maximum	Minimum	Maximum
1	2	3	4	5	6
Sections 21 (1) and 21 (2)	Use of unregistered premises, failure to register premises or failure to renew registration.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka one lakh or rigorous imprisonment which may extend to one year or both.	Taka two lakhs and rigorous imprisonment for two years.
Section 21(4)	Use of unregistered premises, failure to register premises or failure to renew registration.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka one lakh or rigorous imprisonment which may extend to one year or both.	Taka two lakhs and rigorous imprisonment for two years.
Section 22	Failure to display name and address.	Taka fifty thousand or rigorous imprisonment which may extend to three months or both.	Taka fifty thousand or rigorous imprisonment which may extend to six months or both.	Taka twenty five thousand or rigorous imprisonment which may extend to one year.	Taka fifty thousand or rigorous imprisonment for one year.
Section 23	Failure to keep in covered receptacles.	Ditto	Ditto	Ditto	Ditto
Section 24	Failure to keep in proper condition premises or part of premises or articles or persons employed therein.	Ditto	Ditto	Ditto	Ditto

Section 25	Manufacturing, selling or touching food when suffering from leprosy, tuberculosis or any other notified diseases.	Taka five thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka two lakhs and rigorous imprisonment for two years.
Section 29(2)	Refusal to sell or surrender samples of food for analysis of examination.	Taka ten thousand or rigorous imprisonment which may extend to six months or both.	Taka fifty thousand or rigorous imprisonment which may extend to one year or both.	Taka fifty thousand and rigorous imprisonment which may extend to one year or both.	Taka two lakhs and rigorous imprisonment for two years.
Section 29(3)	Refusal to sign a declaration.	Ditto	Ditto	Ditto	Ditto
Section 35(2)	Resisting or obstructing entry of authorised person or inspector.	Ditto	Taka seventy five thousand or rigorous imprisonment which may extend to one year or both.	Taka one lakh or rigorous imprisonment which may extend to one year or both.	Taka three lakhs and rigorous imprisonment for three years.
Section 36	Refusal to comply with requisition to produce books, vouchers, accounts and other documents.	Ditto	Ditto	Ditto	Ditto
Section 37(2)(4)	Resisting or obstructing inspection, examination or seizure by authorised person or inspector.	Ditto	Ditto	Ditto	Ditto

Provisions of the Ordinance	Definition of the Offence	Fine or imprisonment which may be imposed for a first offence		Both fine and imprisonment which may be imposed for a second or subsequent offence	
		Minimum	Maximum	Minimum	Maximum
1	2	3	4	5	6
Section 37(7)	Resisting or obstructing removal authorised person or inspector or removing, interfering or tampering with article, ingredient, substance or container seized and placed in safe custody.	Taka ten thousand or rigorous imprisonment which may extend to six months or both.	Taka seventy five thousand or rigorous imprisonment which may extend to one year or both.	Taka one lakh or rigorous imprisonment which may extend to one year or both.	Taka three lakhs and rigorous imprisonment for three years.]

<sup>1</sup>[44A. All fines recovered under this Ordinance shall be credited as criminal fines within the limits of the Court under whose jurisdiction the offence was committed.]

Credit of fines  
Recovered

45. If, in any prosecution under this Ordinance, the Court imposes any penalty provided in this Ordinance, it shall also direct the person upon whom such penalty is imposed to pay to the individual who has made the complaint under sub-section (3) of section 40 or to the local authority concerned such sum towards the costs of the prosecution (including the cost of any analysis or examination made under this Ordinance) as the Court may think reasonable and such sum shall be realised from that person as though it was a fine imposed under this Ordinance.

Award of costs-

46. (1) If, in the opinion of the Government, a local authority has shown its incompetence to perform, or has persistently made default in the performance of, any duty imposed, or has exceeded or abused any power conferred, upon it by or under this Ordinance, and such incompetence, default, excess or abuse is to the detriment of the general interests of the consumers of food in the local area within the jurisdiction of such authority, the Government may, by notification in the *official Gazette* and after affording the local authority an opportunity of being heard, suspend the performance or exercise by the local authority of that duty or power, as the case may be, for such period as may be specified in the notification, and shall thereupon take such action as it thinks fit for the performance of that duty or the exercise of that power.

Power of  
Government to  
suspend  
performance of  
duties and  
exercise of  
powers by local  
authorities

(2) The cost of any action taken by the Government under sub-section (1) shall be paid from the funds of the local authority concerned.

47. (1) If, in any area in which this Ordinance is in force, any provision of this Ordinance is inconsistent with any provision of any other Act which is in operation in such area, the provisions of the other Act in their application to such area shall to the extent of the inconsistency be void and the provisions of this Ordinance shall prevail.

Inconsistency or  
conflict of  
provisions of  
this Ordinance  
with provisions  
of other Acts

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<sup>1</sup> Section 44A was inserted by section 11 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

(2) If any difficulty arises owing to the conflict of any provision of this Ordinance with any provision of any other Act, the Government may by order do anything or authorise any matter or thing to be done which may be necessary to remove such difficulty or to give effect to the provisions of this Ordinance.

Bye-laws to be subject to confirmation by the Government

**48.** (1) No bye-law made by any local authority under this Ordinance shall take effect unless and until it is submitted to and confirmed by the Government.

(2) Such bye-laws shall not be confirmed-

- (i) unless one month at least before the making of the application, notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the local area to which such bye-laws relate or if there be no such newspapers then in such manner as the local authority concerned may direct, and
- (ii) unless for one month at least before such application a copy of the proposed bye-laws has been kept at the office of the local authority concerned and has been opened during office hours thereof to the inspection of the inhabitants of the local area to which such bye-laws relate without fee.

<sup>1</sup>[(3) Printed copies of such draft, bye-laws shall be supplied by the local authority to any person requiring the same on payment of taka five for every hundred words contained in the copy.]

(4) Before confirming any bye-law, the Government may modify it.

(5) The Government may rescind any bye-law which it has confirmed and thereafter the bye-law shall cease to have effect.

Power of Government to make rules

**49.** (1) The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules to provide for all or any of the following matters:-

- (i) the qualifications, salary and conditions of appointment of public analysts appointed under section 4;

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<sup>1</sup> Sub-section (3) was substituted by section 12 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

- (ii) the normal constituents and the values of the chemical and physical constants of any article of food referred to in clause (a) of sub-section (1) of section 5 and the deficiencies in, or additions to, any article of food which are to raise the presumption that such article is adulterated referred to in clause (b) of that sub-section;
- (iii) for the purposes of sections 7 to 13, the manner in which containers of skimmed, condensed, sterilized or desiccated milk shall be labelled and marked, the proportion of the constituents of milk to be contained in skimmed, condensed, sterilised or desiccated milk, the proportion of water that may be contained in butter, and the conditions to be fulfilled in the case of *ghee* (that is to say, clarified milk fat), wheat, flour (that is to say, *maida*, *atta* or *suji*), mustard or rape seed oil and any other article of food notified under section 7;
- (iv) the form, manner and conditions of licence under sub-section (4) of section 16;
- (v) the manner in which, and the date by which, premises shall be registered under section 21, the manner in which, and the date by which, renewal of such registration shall be effected, the fee payable for such registration and renewal, the manner and form in which applications for registration and renewal thereof shall be made, the manner of maintaining records of registrations and renewals, and the form of such record;
- (vi) the form in which records of the despatch and destination of consignments shall be maintained under sub-section (4) of section 21;
- (vii) the fee payable under section 28 for the analysis or examination of any article of food;
- (viii) the form of the declaration to be signed under sub-section (3) of section 29, the manner in which applications may be made for payment under sub-section (5) of that section and the cases in which payment is to be made by the Government or by the local authority;
- (ix) the manner in which the parts of samples shall be marked, sealed or fastened after division under clause (2) of section 30;
- (x) the form of the statements to be submitted under section 33;

- (xi) the qualifications to be possessed by persons for appointment as Inspectors referred to in clause (b) of sub-section (3) of section 34;
- (xii) the authenticated proof of authority to be produced under sub-section (1) of section 35; and
- (xiii) the manner in which anything seized under section 37 shall be marked and sealed before placing it in safe custody referred to in clause (b) of sub-section (6) of that section.

**THE SCHEDULE**

**FORM OF CERTIFICATE**

(See sections 28 and 31)

To

I, the undersigned, public analyst for the .....

....., do hereby certify that I received on the .....

..... day of .....20..... from .....

a sample of .....for  $\frac{\text{analysis}}{\text{examination}}$  (which then

weighed ..... and marked .....

and that said sample has been  $\frac{\text{analysed}}{\text{examined}}$ , and I declare the result of

the  $\frac{\text{analysis}}{\text{examination}}$  to be as follows:-

I am of opinion that the sample is a sample of .....

.....

**Observations**

Signed this ..... day of ..... 20 .....

A. B.

at .....

\_\_\_\_\_