

THE CANTONMENTS PURE FOOD ACT, 1966

CONTENTS

PART I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement
2. Definitions

PART II

GENERAL PROVISIONS

3. False warranty
4. Prohibition of mixing, colouring, staining or powdering of food, etc.
5. Prohibition of preparation, manufacture, sale, etc., of adulterated and other foods
6. Manufacture, import and sale of unwholesome food
7. Manufacture and sale of food not of proper nature or quality
8. Pre-packed food
9. Import or manufacture, etc., without complying with rules
10. Sale of *banaspati*, margarine and *charbi*
11. Licence for manufacture, storage and sale of goods
12. Register for manufacture and wholesale business
13. Food poisoning

PART III

AUTHORITIES

14. Duty of local authorities
15. Appointment of Inspectors
16. Powers of Inspectors

PART IV

FOOD ANALYSIS

17. Public Analyst
18. Purchase of samples, etc.
19. Right of private persons to have samples analysed
20. Action in respect of samples
21. Certificate of Public Analyst
22. Power of Government to seize sample

PART V

PENALTIES AND PROCEDURE

SECTIONS

23. Penalties
24. Power to try summarily
25. Certain things to be presumed
26. Declaration under section 18 to be evidence
27. Certificate of Public Analyst to be evidence of fact stated therein
28. Analysis by Chemical Examiner
29. What shall or shall not be a good defence
30. Forfeiture of food upon conviction
31. Expenses of analysis
32. Trial of offence

PART VI

MISCELLANEOUS

33. Indemnity
 34. Inspector, etc., to be public servant
 35. Power to make rules
-

THE CANTONMENTS PURE FOOD ACT, 1966

ACT NO. XVI OF 1966

[19th July, 1966]

An Act to make provision for preventing the adulteration of food in cantonments.*

WHEREAS it is expedient to make provision for preventing the adulteration of food in cantonments and for matters ancillary thereto;

It is hereby enacted as follows:-

PART I

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Act may be called the Cantonments Pure Food Act, 1966.

(2) It extends to all the cantonments in ¹[Bangladesh].

(3) It shall come into force at once.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(1) “adulterated food” means an article of food-

(i) which is not of the nature, substance or quality which it purports or is represented to be, or

(ii) which contains any such extraneous substance as may affect injuriously the nature, substance or quality thereof, or

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

¹ The word “Bangladesh” was substituted for the word “Pakistan” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (iii) which is processed, mixed, coloured, powdered or coated with any other substance in contravention of the rules, or
 - (iv) any constituent of which has been wholly or in part abstracted so as to affect injuriously its nature, substance or quality, or
 - (v) which contains any poisonous or other ingredient which may render it injurious to health, or
 - (vi) the quality or purity of which does not conform to the prescribed standards, or
 - (vii) which, having been prepared, packed or kept under insanitary conditions, has been contaminated or become injurious to health and “adulteration” in relation to food, shall be construed accordingly;
- (2) “*banaspati*” means such article of food resembling ghee as is prepared by hydrogenation of edible vegetable oil and contains no milk or animal fat;
 - (3) “butter” means an article of food derived exclusively from the milk of cow or buffalo, whether with or without salt or other prescribed preservative;
 - (4) “*charbi*” means an article of food which resembles ghee or *banaspati*, but contains animal fat other than milk fat;
 - ¹[(5) “Chemical Examiner” means Director of Public Health Laboratory and includes any other officer appointed by the Government to be a Chemical Examiner for the purposes of this Act;]
 - (6) “cream” means that portion of the milk of cow or buffalo which is rich in fat and rises to the surface of milk on standing, or which has been separated by skimming or otherwise;
 - (7) “*dahi*” means the product obtained by lactic acid fermentation of milk;

¹ Clause (5) was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (8) “Director” means the Director of Military Lands and Cantonments;
- (9) “food” means any article used as food or drink for human consumption other than drugs or water, but not aerated water, and includes-
- (i) any substance which is intended for use in the composition or preparation of food,
 - (ii) any flavouring matter or condiment,
 - (iii) any colouring matter intended for use in food, and
 - (iv) chewing gum and other products of like nature;

Explanation I.- Water shall be deemed to be food if it is intended for use in the composition or preparation of food;

Explanation II.- An article shall not cease to be food by reason only that it is also capable of being used as a medicine;

- (10) “ghee” means ghee prepared exclusively from butter, cream or *dahi*;
- (11) “godown” means a place where articles of food are received or stored for sale or delivery to a customer or consignee and includes godowns of the railways and of the shipping or other transport agencies;
- (12) “Health Officer” means the Medical Officer or the Health Officer or the Assistant Health Officer of the Cantonment, and includes any other officer appointed by the Government to be a Health Officer for the purposes of this Act;
- (13) “Inspector” means an Inspector appointed under section 15, and includes an *ex officio* Inspector;
- (14) “local authority” means a Cantonment Board constituted under the Cantonments Act, 1924;
- (15) “margarine” means any food, whether mixed with butter or not, which resembles butter and is not milk-blended butter;

- (16) “milk” means the normal, clean and pure secretion obtained from the udders of a healthy cow, buffalo, goat or sheep whether boiled, pasteurised, homogenised or sterilised and includes standardised and toned milk;
- (17) “misbranded food” means an article of food-
 - (i) which is an imitation of, or a substitute for, or resembles in a manner likely to deceive, another article of food, and is sold or is intended to be sold under the name under which such other article is sold, or is not correctly labelled to indicate its true character, or
 - (ii) which is so coloured, flavoured, coated, powdered or polished as to conceal the true nature thereof, or
 - (iii) which is contained in any package which, or the label of which, bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents, or
 - (iv) which is not properly packed and labelled in accordance with the rules;
- (18) “occupier” means the person who has control of the affairs of a factory, shop or godown and includes the manager or managing agent or any other person authorised to represent the occupier;
- (19) “package” includes every article in which goods for carriage or for sale are cased, covered, enclosed, contained or packed;
- (20) “pre-packed” means packed or made up in advance ready for retail sale in a wrapper or container;
- (21) “prescribed” means prescribed by rules;
- (22) “Public Analyst” means a Public Analyst appointed under section 17;
- (23) “retail sale” means any sale to a person buying otherwise than for the purpose of re-sale;
- (24) “rules” means rules made under this Act;

- (25) "sale", in relation to food, means a transfer of ownership either by way of barter or in exchange for a price paid or promised or part paid or part promised;
- (26) "standardised milk" means milk which has been reduced to the prescribed level of milk fat by removal of fat;
- (27) "toned milk" means milk which has been standardised to the prescribed level of milk fat and solids not fat by addition of reconstituted milk solids;
- (28) "transit" includes all stages of transportation from the place of manufacture or other source of origin to the consumer; and
- (29) "wholesale" means any sale other than retail sale.

PART II

GENERAL PROVISIONS

False warranty

3. No person shall, in respect of any food sold by him or given by him for sale to an agent, give to the purchaser or the agent a false warranty in writing.

Prohibition of mixing, colouring, staining or powdering of food, etc.

4. (1) No person shall mix, colour, stain or powder or direct or permit any other person to mix, colour, stain or powder any food with any matter or ingredient-

- (a) in contravention of the rules; or
- (b) so as to render the food injurious to health, with intent that the same may be sold in that state.

(2) No person shall keep or store for sale or sell or offer to sell any food so mixed, coloured, stained or powdered.

Prohibition of preparation, manufacture, sale, etc., of adulterated and other foods

5. (1) No person shall, directly or indirectly, himself or by any other person, prepare, manufacture, keep or store for sale, or sell or offer to sell,-

- (i) any adulterated food;
- (ii) any misbranded food;
- (iii) any article of food for the sale of which a licence is required otherwise than in accordance with the conditions of the licence; or

- (iv) any article of food in contravention of any other provision of this Act or the rules.

(2) The Government may, by notification in the *official Gazette*, prohibit or regulate the keeping, in any factory or wholesale business premises in which such articles of food as are specified in the notification are manufactured or stored, of any substance which is likely to be used as an adulterant and is so specified.

6. No person shall, directly or indirectly, himself or by any other person,-

Manufacture, import and sale of unwholesome food

- (a) prepare, manufacture, keep or store for sale, or sell or offer to sell any food which is unsound, unwholesome, injurious to health or unfit for human consumption; or
- (b) import or export any food in such manner or in such condition as renders it or is likely to render it injurious to health.

7. No person shall directly or indirectly, himself or by any other person,-

Manufacture and sale of food not of proper nature or quality

- (a) prepare, manufacture, keep or store for sale, or sell or offer to sell, any food which is not of the nature, substance or quality which it purports or is represented to be; or
- (b) sell or offer to sell any food which is not of the nature, substance or quality demanded.

8. No person shall keep or store for sale, or sell or offer to sell, pre-packed food unless he has complied with the rules made in this behalf.

Pre-packed food

9. No person shall import, export, prepare, manufacture, keep or store for sale, or sell or offer to sell, any food, unless the rules providing for the mode of its manufacture, processing or preparation, packaging, labelling, consignment, delivery, standard of quality or fill of containers have been complied with.

Import or manufacture, etc., without complying with rules

10. No person shall sell or offer to sell *banaspati*, margarine or *charbi* loose or from an open package:

Sale of *banaspati*, margarine and *charbi*

Provided that *banaspati* may be so sold or offered for sale under a licence and subject to such conditions as may be prescribed in this behalf.

Licence for
manufacture,
storage and sale
of goods

11. (1) Except under a licence to be granted in such manner as may be prescribed, no place shall be used-

- (a) for the preparation, or the manufacturing, processing, blending, preserving, refrigerating, canning or bottling of any food;
- (b) for the business of a wholesale dealer in *banaspati*, *charbi*, ghee, or margarine, fish oil, mustard oil, cotton seed oil or other edible oils and such other foods as may be prescribed;
- (c) as a creamery, dairy or bakery; or
- (d) as a hotel, restaurant or eating-house:

Provided that the Government may exempt any specified premises or class of premises from the operation of this section.

(2) A licence granted under sub-section (1) shall be valid for a period of one year unless it is earlier cancelled or is renewed in such manner and on payment of such fee as may be prescribed.

(3) A licence granted under sub-section (1) may be cancelled or its renewal may be refused if -

- (i) the licensee fails to maintain the register referred to in section 12 or is convicted of an offence under this Act, or
- (ii) the premises are not maintained in such condition as may be prescribed.

(4) No person shall keep or store for sale, or sell or offer to sell, any food for human consumption unless he is in possession of such identification permit as may be prescribed.

Register for
manufacture
and wholesale
business

12. Every occupier of a place used for the preparation or manufacture, for the purposes of trade, of any such article of food as the Government may, by notification in the *official Gazette*, specify in this behalf, and every wholesale dealer or his agent who stores any such article, shall keep and maintain a register in such form as may be prescribed, and such register shall be open to inspection by the inspector.

13. (1) If a Health Officer or an Inspector has reason to suspect that any food or any vessel or utensil with which food may come in contact is likely to cause food poisoning (acute, or cumulative) by chemical or bacteriological action, he may take a sample of such food or the vessel or utensil for analysis under this Act, and if he takes a sample, give notice to the person in charge of the food that, until the result of the analysis is known, the food or any specified portion thereof shall not be used for human consumption, and shall be kept or removed in the manner specified in the notice. Food poisoning

(2) If a Health Officer has reason to suspect that tuberculosis is likely to be caused by the consumption of milk supplied from any dairy or other source, he may, by notice to the person in charge of such dairy or source, prohibit the supply of milk from that dairy or source:

Provided that where, in the case of a dairy or other source, the Health Officer is of the opinion that certain remedial measures would effectively prevent the milk supplied from that dairy or source from being the cause of tuberculosis, the Health Officer shall,-

- (a) while issuing a notice prohibiting the supply of milk from such dairy or source, require the person in charge thereof to carry out such remedial measures as may be specified in the notice, and
- (b) upon the application of the person in charge after he has carried out such remedial measures, cancel the notice.

(3) If a person is, in the opinion of the local authority, suffering from any communicable disease, the local authority may, by notice to such person, prohibit him from preparing, manufacturing, selling or offering to sell any article of food for human consumption until he obtains a certificate from the Health Officer to the effect that he is free from any communicable disease and produces such certificate to the local authority.

(4) A Health Officer may, by notice to any person handling articles of food in any hotel, restaurant, sweetmeat shop, or any other public eating place, require him to obtain and keep in his possession a health certificate from a Health Officer to the

effect that he is free from any communicable disease and to get it renewed from year to year, till such time as he continues so to handle such articles.

(5) Every person to whom a notice under this section has been given shall comply with such notice.

PART III

AUTHORITIES

Duty of local authorities

14. It shall be the duty of every local authority to ensure compliance with the provisions of this Act within the territorial limits of such authority.

Appointment of Inspectors

15. (1) The Director may appoint Inspectors in respect of all or any specified food, and an Inspector so appointed shall have jurisdiction in such area as the Director may specify.

(2) Subject to any rules made in this behalf, a local authority shall appoint Inspectors in respect of all or any specified food, and an Inspector so appointed shall, unless the local authority otherwise directs, have jurisdiction within the limits of such local authority.

(3) The Health Officer and the Sanitary Inspector of a local authority and such persons in the service of ¹[Bangladesh] or holding such offices and posts in or under a local authority as the Government may, by notification in the *official Gazette*, specify in this behalf, shall be *ex officio* Inspectors in respect of all foods within the limits of their respective jurisdiction.

(4) The Director may exercise the powers and perform the functions of an Inspector under this Act and any Deputy Director or Assistant Director or any other officer subordinate to the Director may exercise such powers and perform such functions of an Inspector within such area as the Director may, by order in writing, direct.

¹ The word "Bangladesh" was replaced for the word "Pakistan" by Article 5 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

16. (1) An Inspector may detain and search any vehicle or package of any food intended for sale or in the course of delivery, if he has reason to suspect that the food therein carried or contained is injurious to health, unwholesome or unfit for human consumption or is not of the nature, substance or quality which it purports to be:

Powers of
Inspectors

Provided that nothing in this section shall authorise the detention of any vehicle belonging to the Railways.

(2) An Inspector may-

- (i) enter into and inspect any market, godown, shop, stall or other place used for the storage or sale of any food intended for human consumption or for the preparation or manufacture of any such food for the purposes of trade or sale;
- (ii) enter upon any premises for the purpose of exercising the powers of purchasing or taking a sample under section 18 and may in such premises inspect and examine any article of food and any apparatus or utensil used for preparing, manufacturing or containing such food; and
- (iii) enter into and inspect any market, godown, shop, stall or other place used for the manufacture, storage or sale of any apparatus, utensil or vessel ordinarily used or intended to be used or likely to be used for preparing, manufacturing or containing any food.

(3) If any such food as is mentioned in sub-section (1) or clause (i) of sub-section (2) appears to the Inspector to be injurious to health, unwholesome, unfit for human consumption, or not of the nature, substance or quality which it purports to be, or as not fulfilling the prescribed conditions subject to which such food is to be prepared, manufactured, kept, stored or sold or if any such apparatus or utensil as is mentioned in clause (ii) of sub-section (2) is of such kind or in such state as to render any food prepared, manufactured or contained therein unwholesome or unfit for human consumption or injurious to health, he may seize and remove such food, apparatus or utensil to be dealt with as hereinafter provided.

(4) An Inspector may, instead of removing any food, apparatus or utensil seized under sub-section (3), leave the same in the custody of the person from whose possession, custody or control the same was seized or in such safe custody as he may deem fit, so as to be dealt with as hereinafter provided and may, at any time hereafter, remove the same to the custody of the local authority concerned.

(5) When any food, apparatus or utensil is seized under sub-section (3), it may be destroyed by the Inspector with the consent in writing of the owners or the person from whose possession, custody or control it is seized.

(6) If any food seized under sub-section (3) is of a perishable nature and is, in the opinion of the Inspector, unsound, unwholesome or unfit for human consumption, it may be destroyed without such consent but in the presence of two respectable witnesses.

(7) An Inspector shall prepare a statement of the food, apparatus or utensil seized and shall deliver a copy thereof to the local authority and to the person from whose custody the food, apparatus or utensil is seized or, if such person be not present, send such copy to him by post.

(8) Any person claiming anything seized under sub-section (3) may, within seven days of the seizure, complain to any Magistrate of the first class having jurisdiction at the place of seizure, and the Magistrate may, after making such enquiry as he may deem necessary, confirm or disallow such seizure, wholly or in part, and order such article, or the part or parts thereof of which seizure has been disallowed, to be restored to the claimant.

(9) If the Magistrate confirms the seizure, he may direct that the food, apparatus or utensil seized shall be-

- (i) forfeited to the local authority; or
- (ii) destroyed or disposed of at the cost of the owner or person from whose possession, custody or control it was seized, in such manner as to prevent the same from being sold, or kept, or stored, or used as food or for the preparation or manufacture of, or for containing, any food.

(10) If no complaint is made within the period specified in sub-section (8), the article of food or the apparatus or utensil seized shall be forfeited to the local authority.

PART IV

FOOD ANALYSIS

17. The Government may, by notification in the *official Gazette*, appoint a person to be a Public Analyst for the purposes of this Act for any area in respect of all or any specified food. Public Analyst

18. (1) An Inspector may, for the purpose of analysis, purchase a sample of food- Purchase of samples, etc.

- (a) in transit,
- (b) sold, offered for sale, hawked about, kept or stored or received for the purpose of preparing therewith any food, or
- (c) kept or stored in a market, godown, shop, stall, hotel, restaurant or eating-house for the purpose of trade or sale or received therein for the purpose of preparing or manufacturing therewith any food.

(2) No person shall refuse to sell any food to an Inspector intending to purchase such food for the purpose of sub-section (1) in such reasonable quantity and from such container as he may ask for.

Explanation.- The purchase or sale of a sample of any food for the purpose of analysis under this Act shall be deemed to be purchased or sold for human consumption or use.

(3) If, in contravention of sub-section (2), any person refuses to sell, the Inspector may, without prejudice to any penalty to which such person may be liable for such contravention, seize such quantity of the food as may appear to him to be necessary, and shall give such person a certificate showing the price, nature and quantity of the food seized, the date, time and place of seizure, and, on demand being made in that behalf, the price of the food seized.

(4) The Inspector shall prepare, in such form as may be prescribed, a declaration in triplicate, containing full particulars, relating to the sample seized and such declaration shall be signed or marked both by the Inspector and the person from whose possession, custody or control the food has been seized and a copy thereof shall be given to such person.

(5) When a sample is taken from the stock in the possession of a commission agent, he shall be bound to give the name and such other particulars of the person on whose behalf such stock is held by him as the Inspector may require.

Right of private persons to have samples analysed

19. (1) Any person may make an application in writing to an Inspector asking him to purchase a sample of such food and from such person as may be specified in the application and to submit such sample to the Public Analyst for analysis.

(2) The cost of the sample purchased and of the analysis done under sub-section (1) shall be payable by the person making the application:

Provided that, in case the sample is found by the Public Analyst to be adulterated, any amount paid by the applicant under this sub-section shall be refunded to him.

Action in respect of samples

20. (1) An Inspector shall, as soon as he has purchased or seized any food with the intention of submitting the same for analysis, divide the food into three parts and mark, seal or fasten each such part in such manner as the nature of the food may require, and also permit the person from whom the sample is taken, if such person so desires, to affix his own seal or mark on each of the three parts.

(2) The Inspector shall-

- (a) deliver one part of the food divided under sub-section (1) to the person from whom the food is purchased or seized;
- (b) retain with him one part for future comparison; and
- (c) submit one part to the Public Analyst, to be examined by him on payment of such fee as may be prescribed:

Provided that, where the sample is taken from any food which is about to be imported or in transit or at the place of delivery to the purchaser, consumer or consignee, or is unclaimed, the part of the sample to be delivered under clause (a) shall be retained by the Inspector, unless the name and address of the consignor appear on the container from which the sample is taken, in which case he shall forward that part of the sample to the consignor by registered post or otherwise, together with a notice informing him that the sample would be analysed by the Public Analyst.

21. (1) The Public Analyst upon receiving sample of food from an Inspector shall, as soon as possible, analyse the same and issue to the Inspector a certificate in the prescribed form showing the result of the analysis.

Certificate of
Public Analyst

(2) The person from whom the article so analysed was purchased or seized may, on payment of the prescribed fee, obtain from the Public Analyst a copy of the certificate issued under sub-section (1).

(3) No person shall display or otherwise use any copy of the certificate for purposes of advertisement.

22. (1) The Government may, in relation to any matter appearing to it to affect the general interest of the consumers of any food, direct any public servant to procure for analysis a sample of such food, and thereupon such public servant shall have all the powers of an Inspector.

Power of
Government to
seize sample

(2) The public servant upon receiving the certificate of the Public Analyst shall take proceedings or cause proceedings to be taken as if he himself had caused such analysis to be made.

(3) The expenses incurred by the public servant in performing such duties shall be paid by the local authority.

PART V

PENALTIES AND PROCEDURE

23. (1) Whoever contravenes any of the provisions of section 3, 4, 5, 6, 7, 8, 9, 10, 11 or 13 shall be punished-

Penalties

(a) for a first offence, with rigorous imprisonment for a term which may extend to six months and with fine which

shall not be less than one hundred Taka or more than two thousand Taka and also with whipping;

- (b) for a second offence, with rigorous imprisonment for a term not less than three months and not more than two years and with fine which shall not be less than five hundred Taka or more than ten thousand Taka and also with whipping; and
- (c) for repeated offences or for offences of large scale adulteration or adulteration with injurious substances even in the first instance, with rigorous imprisonment for a term which shall not be less than three years or more than five years and with fine which shall not be less than five thousand Taka or more than one lakh Taka and also with whipping.

(2) Whoever contravenes any of the provisions of section 12, 18, 21 or 28 or of any rules shall be punished with imprisonment for a term which may extend to one year and with fine.

(3) Any person who attempts to contravene, or abets the contravention of any of the provisions mentioned in sub-section (1) or sub-section (2) shall be punishable with the same punishment as is provided for such contravention.

(4) All fines recovered under this Act shall be credited to the fund of the local authority within the limits of whose jurisdiction the offence for which the fine was imposed was committed.

(5) Where in the course of any business a person commits an offence under this Act and is convicted therefore under clause (b) or clause (c) of sub-section (1) and such business is carried on by him or by any other person on his behalf he or such other person shall, for a period of one year from the date of such conviction, prominently display on the premises in which such business is carried on a notice of the fact of such conviction, and, on his failing to so display such notice, shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

24. Any Magistrate for the time being empowered to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may try summarily any offence made punishable under sub-section (1) and sub-section (2) of section 23 of this Act in accordance with the provisions of Chapter XXII of that Code.

Power to try summarily

25. In every prosecution under this Act, the Court shall presume-

Certain things to be presumed

- (a) that any food found in the possession of any person who is or has been habitually found preparing, manufacturing, keeping, storing, selling or offering or exposing for sale or hawking about such food was being prepared, manufactured, kept, stored, sold, offered or exposed for sale or hawked about by such person;
- (b) that any food commonly used for human consumption, kept, stored, sold or offered for sale, was kept, stored, sold or offered for sale for human consumption;
- (c) that any food commonly used for human consumption which is found on any premises used for the preparation or manufacture of such food was prepared or manufactured for human consumption;
- (d) that any substance capable of being used in the preparation or manufacture of any food commonly used for human consumption which is found on any premises in which such food is prepared or manufactured was intended to be used in the preparation or manufacture of such food; and
- (e) that any food is not of the nature, substance or quality it purports to be if it is deficient in any of its normal constituents to the extent specified in the rules or if any extraneous matter has been added to it in contravention of the rules.

26. A declaration signed or marked under sub-section (4) of section 18 may be produced as evidence of the facts contained therein in any inquiry, trial or other proceedings under this Act.

Declaration under section 18 to be evidence

Certificate of
Public Analyst
to be evidence
of fact stated
therein

27. (1) The production in any inquiry, trial or other proceedings under this Act of a certificate under the hand of a Public Analyst in the form prescribed shall, until the contrary is proved, be sufficient to prove the facts therein stated.

(2) When any person is accused of an offence under this Act, he may request the Court to summon as a witness the Public Analyst who analysed the sample in respect of which he is accused of having committed an offence and the Court may, and, in every case in which the accused deposits in the Court a sum of money in accordance with the scale prescribed, shall, summon the Public Analyst, and if such person is acquitted, any sum of money so deposited shall be refunded to him.

Analysis by
Chemical
Examiner

28. (1) The Court may of its own accord or on the request of the accused cause any food or sample of food to be sent for analysis to the Chemical Examiner who shall thereupon analyse the same and report the results of the analysis to the Court in the form prescribed and the cost of such analysis shall be paid by the accused if the Court so directs.

(2) The certificate of the Chemical Examiner shall, until the contrary is proved, be sufficient to prove the facts therein stated.

(3) No person shall display or otherwise use the report of the Chemical Examiner for purposes of advertisement.

What shall or
shall not be a
good defence

29. (1) In any prosecution under this Act, it shall be no defence to allege-

- (a) that the accused was ignorant of the nature, substance or quality of the food; or
- (b) that the purchaser having purchased only for purposes of analysis was not prejudiced.

(2) The seller shall not be deemed to have committed an offence under this Act if he proves-

- (a) that the food sold was purchased or obtained as agent by him with written warranty to the effect that it was of the same nature, substance or quality as that demanded by the purchaser;

- (b) that at the time he sold it he had no reason to believe that the food was not of such nature, substance or quality as that demanded by the purchaser; and
 - (c) that he sold it in the same state in which he had purchased it.
- (3) No evidence of a warranty under clause (a) of subsection (2) shall be admissible on behalf of the seller unless-
- (a) the seller has, within seven days of the service of the summons upon him, sent to the Inspector a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person; and
 - (b) such warranty is given by person permanently residing or carrying on business in ¹[Bangladesh].
- (4) The Court shall summon the warrantor as a co-accused if it admits the warranty on behalf of the seller.

30. In the case of any conviction under this Act, the Court may order that any food to which the conviction relates, together with all packages or utensils containing the same, shall be forfeited to the Government or shall be disposed of in such manner as may be specified in the order.

Forfeiture of food upon conviction

31. When any person is convicted of an offence under this Act, the Court shall order that all fees and other expenses incidental to the analysis of any food in respect of which the conviction is made, which shall, in no case be less than thirty Taka, be paid by the person convicted, in addition to the fine which he may be sentenced to pay, and the amount of such fees and expenses shall be recovered as if it were a fine.

Expenses of analysis

32. (1) No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by an Inspector authorised in this behalf by the Director or the Government.

Trial of offence

¹ The word "Bangladesh" was replaced for the word "Pakistan" by Article 5 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

(2) No Court inferior to that of a Magistrate of the first class shall try an offence under this Act.

PART VI

MISCELLANEOUS

Indemnity

33. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any provision of this Act or any rule, order or direction made or given thereunder.

Inspector, etc.,
to be public
servant

34. An Inspector while performing any of his functions under this Act and all other persons assisting him in the performance of such functions shall be deemed to be public servants within the meaning of section 21 of the ¹[* * *] Penal Code.

Power to make
rules

35. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purpose of this Act.

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

- (a) the standards, specifications, normal constituents and quality of food;
- (b) the qualifications of persons who may be appointed Public Analysts for the purpose of this Act;
- (c) the regulation of appointment and qualifications of persons to be appointed as Inspectors;
- (d) the methods of analysis to be followed by Public Analysts for the analysis of any food and the form of the certificate;
- (e) the fees to be paid in respect of the analysis of any food by a Public Analyst;
- (f) the prohibition of use of any particular matter or ingredient in the preparation or manufacture of any food;

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

- (g) the conditions (including the addition of a colour or any other substance) subject to which any food shall be prepared, manufactured, kept, stored, sold or offered or exposed for sale;
 - (h) the prohibition of keeping or storage for sale of foods other than those approved under the rules;
 - (i) the cleanliness and freedom from contamination of any food in the course of its preparation, manufacture, storage, packing, carriage, delivery or exposure for sale, and the cleanliness of places, receptacles, packages, wrappings, appliances and vehicles used in such preparation, manufacture, storage, packing, carriage or delivery;
 - (j) the method in which labels shall be affixed, languages in which the labels shall be printed, and the symbols which shall be used for different kinds of foods;
 - (k) the manner in which, and the conditions subject to which, a licence is to be granted under section 11;
 - (l) the form of the register to be kept under section 12 and the particulars to be entered therein;
 - (m) the conditions for the maintenance of a dairy and the supply of dairy products;
 - (n) the authorisation of a person taking a sample of milk or any other food for the purpose of analysis to add preservatives to such sample for maintaining it in a suitable condition for the analysis, and the nature and method of addition of such preservatives;
 - (o) the prohibition of use or addition as a preservative or additive of any article, material or substance in the preparation or manufacture of any food for sale;
 - (p) the fees for the grant of a licence under section 11;
 - (q) the fees for obtaining a health certificate under section 13;
 - (r) the fees to be deposited in Court for summoning a Public Analyst;
 - (s) the manner in which a perishable food offered for sale shall be protected from contamination; and
 - (t) any other matter which is to be or may be prescribed.
-