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CHAPTER 236**FOOD**

An Act to regulate the manufacture of food, to provide for quality control, testing and certification, for food processing and preservation and for matters incidental thereto and connected therewith. *1 of 1985*

*[Assent 1st November, 1985]
[Commencement 31st December, 1985]*

**PART I
PRELIMINARY**

1. This Act may be cited as the Food Act. Short title.
2. In this Act — Interpretation.
 - “advertisement” includes any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of any food;
 - “authorised officer” has the meaning assigned to it by section 13;
 - “Board” means the Food Board established by section 12;
 - “director” means the director of a laboratory appointed under section 14;
 - “food” includes —
 - (a) any article used for food or drink by man, other than drugs or water; and
 - (b) any article which ordinarily enters into or is used in the composition or preparation of human food; and
 - (c) any flavouring matters, condiments and chewing substances;
 - “insanitary conditions” means such conditions or circumstances as might cause contamination of food, with dirt or filth or might render the same injurious or dangerous to health;

“label” includes any tag, brand, logo, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, belonging to, or accompanying any food;

“laboratory” means a laboratory operated by authorised officers under this Act, and designated by the Minister, as a laboratory for the purposes of this Act;

“Minister” means the Minister responsible for the manufacture, processing and preserving of food;

“package” includes anything in which any food is wholly or partly placed or packed and includes any basket, pail, tray or receptacle of any kind whether open or closed;

“premises includes —

(a) any building or tent or other structure, permanent or otherwise, together with the land on which the same is situated and any adjoining land used in connection therewith and includes any vehicle, conveyance or vessel; and

(b) for the purpose of section 15, a reference to premises shall be deemed to include reference to any street, open space or place of public resort, bicycle or other vehicle used for the preparation, preservation, packaging, storage or conveyance of any article;

“preparation” means manufacture, processing or preserving of food;

“sell” includes offer for sale, expose for sale, exchange or otherwise dispose of for any consideration whatsoever for the purpose of human consumption;

“ship” includes any boat or craft.

PART II GENERAL PROVISIONS AS TO FOOD

3. (1) Subject to the provisions of this section any person who in the preparation of food, adds any substance to food, uses any substance as an ingredient in food, abstracts any constituent from food or subjects food to any

Offences in connection with injurious or adulterated food.

other process or treatment so as to render the food injurious to health with intent that the food shall be sold for human consumption in that state, is guilty of an offence.

(2) In determining for the purpose of this Act whether food is injurious to health, regard shall be had not only to the probable effect of that food on the health of the person consuming it but also to the probable cumulative effects of food of substantially the same composition on the health of a person consuming such food in ordinary quantities.

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

False labelling or advertisement of food by manufacturers etc.

- (a) falsely describes the food; or
- (b) is calculated to mislead as to the nature, substance or quantity of any food,

is guilty of an offence, unless he proves that he did not know and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid.

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

- (a) falsely describes any food; or
- (b) is calculated to mislead as to the nature, substance or quality of any food,

is guilty of an offence, and in any proceedings under this subsection it shall rest on the defendant to prove that he did not publish and was not a party to the publication of the advertisement.

(3) Where a person is charged with an offence under subsection (2), it shall be a defence for him 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 is described in that subsection; or

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

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

Standards of food.

5. Where standards have been prescribed for the preparation of food by regulations made under this Act, any person who prepares food which does not comply with those standards is guilty of an offence.

Sale of food not of the nature, substance or quality demanded.

6. Any person who sells to the prejudice of the purchaser, any food which is not of the nature, substance, or quality, of the food demanded by the purchaser, is guilty of an offence.

Preparation of food under insanitary conditions.

7. Any person who prepares any food under insanitary conditions is guilty of an offence.

PART III IMPORTATION, WARRANTY & DEFENCES

Importation.

8. (1) Subject to the provisions of subsection (2), any person who imports any food into The Bahamas which does not comply with the provisions of this Act is guilty of an offence.

(2) Where any food sought to be imported into The Bahamas would, if imported into The Bahamas, constitute a contravention of this Act, the food may be imported into The Bahamas for the purpose of satisfactorily re-labelling or re-conditioning the same so that the provisions of this Act are complied with and, where such re-labelling or re-conditioning is not carried out within three months of the importation, such food shall be exported by the importer within a further period of one month or such other period as the Minister may determine and, where it is not so exported, it shall be forfeited and disposed of as the Minister may direct.

Warranty.

9. (1) No person who manufactures, processes or preserves food and no distributor of, or dealer in or their

agents shall sell any food to any person unless he gives a warranty in writing in the prescribed form about the nature and quality of such food specifying that the food may lawfully be sold under the provisions of this Act.

(2) If any person contravenes the provisions of subsection (1) or gives a warranty which is false, he is guilty of an offence.

10. In any proceedings for an offence under section 9 of this Act, it shall be a defence for the defendant to prove — Defences.

- (a) that he purchased the food from another person who furnished a written warranty in compliance with section 9 of this Act, and sold the food in the same condition the food was in at the time he purchased it; and
- (b) that he could not with reasonable diligence have ascertained that the sale of the food would be in contravention of this Act or the regulations.

PART IV REGULATIONS

11. (1) The Minister may make regulations for giving effect to and carrying out the provisions of this Act and without prejudice to the generality of the foregoing, such regulations may — Regulations.

- (a) impose requirements as to, and otherwise regulate the preparation of food;
- (b) impose requirements as to, and otherwise regulate the labelling, marking, advertising and packaging of food by persons preparing such food;
- (c) impose requirements as to and otherwise regulate the importation or exportation of prepared food;
- (d) prescribe chemical, microbiological or other standards for the preparation of food or any of the ingredients of such food;
- (e) prescribe standards of composition, strength, potency, purity, quality or other property of any prepared food;

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- (f) provide for the inspection, examination, sampling, analysis, testing, certification, seizure, condemnation, destruction or other disposal of prepared food;
 - (g) prescribe standards for and the inspection of factories, markets, slaughterhouses, dairies and other places where food is prepared and for the enforcement of such standards;
 - (h) provide for the licensing of premises where food is prepared and for persons preparing such food;
 - (i) require, prohibit or regulate the use of any process or treatment for the preparation of any food or any class of food;
 - (j) provide for the exemption of any food from any or all of the provisions of this Act;
 - (k) prohibit or regulate the addition of any specified substance to food or any class of such food, or the use of such substance as an ingredient in the preparation of such food;
 - (l) prescribe anything which is to be or which may be prescribed under this Act;
 - (m) generally for giving effect to the provisions of this Act.

(2) Regulations made under subsection (1) may provide that any person contravening any of the provisions thereof is guilty of an offence and liable on summary conviction therefor to a fine of one thousand dollars.

(3) Where any regulations made under this Act or under any other Act prohibit or restrict the addition of any ingredient or material to any food, the addition of the ingredient or material, if made in contravention of the regulations, shall, for the purpose of this Act, be deemed to render the food injurious to health.

(4) Where any regulations made under this Act or any other Act prescribe the composition of any food or prohibit or restrict the addition of any ingredient or material to any such food, the purchaser of such food shall, unless the contrary is proved, be deemed for the purpose of this Act to have demanded food complying with the provisions of the regulations as regards the presence or amount of any constituent, ingredient or material specified in the regulations.

PART V
ADMINISTRATION AND ENFORCEMENT

12. (1) The Minister shall appoint a Board to advise him on matters relevant to this Act and to carry out such functions as he may determine.

Appointment of Food Board.

(2) The Board shall consist of such persons with experience in manufacturing, marketing, distributing or consumption of food or experience in scientific or technological matters affecting food and any other persons as he may determine.

(3) The Board shall make reports to the Minister from time to time and, unless he determines otherwise, those reports shall be published.

(4) If the Minister so determines, he may establish groups under the auspices of the Board to deal with particular matters of aspects of food standards and food safety.

13. (1) Subject to subsection (2), the Minister may appoint any suitably qualified person to be an authorized officer for the purpose of this Act.

Appointment and duties of authorized officers.

(2) No person shall be appointed to be an authorized officer for any area in which he is engaged directly or indirectly in any trade or business connected with the preparation of food.

(3) Every medical officer of health and every health officer shall by virtue of their appointments be deemed to be authorized officers for the purpose of this Act.

14. (1) The Minister shall appoint an authorized officer as director of a laboratory.

Appointment of director of a laboratory.

(2) The director shall analyse or examine any sample taken by an authorised officer in pursuance of this Act.

(3) The director shall issue a certificate specifying the result of the analysis or examination to the authorized officer and such certificate shall be in such form as may be prescribed by the Minister.

15. (1) An authorized officer may, at any hour reasonable for the proper performance of his duty —

Powers of authorized officer.

(a) enter any premises where he believes any food to which his Act applies is prepared, packaged,

stored or conveyed, and examine any such food and take samples thereof, and examine anything that he believes is used, or is capable of being used for such preparation, packaging, storing or conveying;

- (b) stop, search or detain any aircraft, ship or vehicle in which he believes on reasonable grounds that any food subject to the provisions of this Act is being conveyed and examine any such food and take samples thereof for the purposes of this Act;
- (c) open and examine any package which he believes contains any food to which this Act applies;
- (d) examine any books, documents or other records found in any premises mentioned in paragraph (a) that he believes contain any information relevant to the enforcement of this Act with respect to any food to which this Act applies and make copies thereof or take extracts therefrom; and
- (e) seize detain for such time as may be necessary any food by means of or in relation to which he believes any provisions of this Act have been contravened.

(2) An authorised officer acting under this section shall, if so required, produce his authority.

(3) Any owner, occupier or person in charge of any premises entered by an authorized officer pursuant to paragraph (a) of subsection (1), or any person found therein who does not give to the authorised officer all reasonable assistance in his power and furnish him with such information as he may reasonably require, is guilty of an offence.

(4) Any person who obstructs or impedes any authorized officer in the course of his duties or prevents or attempts to prevent the execution by the authorized officer of his duty under this Act is guilty of an offence.

(5) Any person who knowingly makes any false or misleading statement either verbally or in writing to any authorized officer engaged in carrying out his duties under this Act shall be guilty of an offence.

(6) An authorized officer shall release any food seized by him under this Act when he is satisfied that all the provisions of this Act with respect thereto have been complied with.

(7) Where an authorized officer has seized food under this Act and the owner thereof or the person in whose possession the food was at the time of seizure consents to the destruction thereof, the food may be destroyed or otherwise disposed of as the authorized officer may direct; if the owner or such person does not consent to the destruction of the food the authorized officer may apply to a court for the destruction or disposal of such food and the court may make such order as it may deem fit.

(8) Where any food has been seized under the provisions of subsection (1) and the owner thereof has been convicted of an offence under the Act, the court shall condemn such food and order it destroyed or otherwise disposed of as the court may direct.

(9) Any person who removes, alters or interferes in any way with food seized under this Act without the authority of an authorized officer is guilty of an offence.

(10) Any food seized under this Act may, at the option of an authorized officer be kept or stored in the premises where it was seized or may at the direction of an authorized officer be removed to any other proper place.

(11) An authorized officer may submit any food seized by him or any sample therefrom or any sample taken by him to a laboratory for analysis or examination.

16. The Minister may, in relation to any matter appearing to him to affect the general interests of the consumer, direct a public officer to procure for analysis samples of any food, and thereupon that officer shall have all the powers of an authorized officer under this Act, and this Act shall apply as if the officer were an authorized officer.

Other authorized officers.

17. (1) The Minister may direct any person who, at the date of the direction or at any subsequent time carries on a business which includes the production, importation or use of any substances commonly used in the preparation of food, to furnish him, within such time as may be specified in such direction, such particulars, as may be so

Power of Minister to obtain particulars of certain food ingredients.

specified, of the composition and the use of any such substance in the preparation of food.

(2) Without prejudice to the generality of subsection (1), a direction made thereunder may require the following particulars to be furnished in respect of any such substance, that is to say —

- (a) particulars of the composition and chemical formula of the substance;
- (b) particulars of the manner in which the substance is used or proposed to be used in the preparation of food;
- (c) particulars of investigations carried out by or to the knowledge of any person carrying on the business in question, for the purpose of determining whether and to what extent the substance, or any product formed when the substance is used as aforesaid, is injurious to, or in any other way affects, health;
- (d) particulars of any investigation or enquiries carried out by or to the knowledge of the person carrying on the business in question and which are being carried out for the purpose of determining the cumulative effect on the health of a person consuming the substance in ordinary quantities.

(3) No particulars furnished in accordance with a direction under this section and no information relating to any individual business obtained by means of such particulars shall, without the previous consent in writing of the person carrying on the business in question, be disclosed except in due discharge of the Minister's duties under this Act, and any person who discloses any such particulars or information in contravention of this subsection shall be guilty of an offence.

PART VI LEGAL PROCEEDINGS

18. (1) On the conviction of any person for any offence under this Act, the court may, in addition to any other penalty which it may lawfully impose, cancel any licence issued to such person under this Act or the regulations.

Power of court to order licence to be cancelled and food to be disposed of.

(2) Where a person has been convicted of an offence under this Act, the court may order that any food by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the convicted person found with such food, be forfeited, and upon such order being made such food and things may be disposed of as the court may direct.

19. (1) Where a laboratory having analysed or examined any food to which this Act applies, has given its certificate and from that certificate it appears that an offence under this Act has been committed, an authorized officer may take proceedings under this Act before any magistrate's court having jurisdiction in the place where the food was sold or in the place where the food was actually delivered to the purchaser or the place where the sample of such food was taken.

Magistrates' court to have jurisdiction.

(2) In any proceedings under this Act, the contents of any package appearing to be intact and in the original state of packing by the person who manufactured, processed or preserved the food shall be deemed, unless the contrary is proved, to be a food of the description specified on the label.

20. A person found guilty of an offence under this Act for which no special penalty is provided shall be liable on summary conviction —

Penalties.

- (a) in the case of a first offence, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment;
- (b) in the case of a subsequent offence, to a fine not exceeding one thousand five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

21. In any proceedings under this Act —

- (a) a certificate of analysis purporting to be signed by the director of a laboratory shall be accepted as *prima facie* evidence of the facts stated therein provided that —
 - (i) the party against whom it is produced may require the attendance of the authorized officer performing the analysis for the purpose of cross-examination; and

Certificate to be *prima facie* evidence.

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- (ii) no such certificate of a laboratory shall be received in evidence unless the party intending to produce it has before the trial given the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate;
 - (b) evidence that a package containing any food to which this Act applies, bears a name, address or registered mark of a person described as manufacturers or packagers shall be *prima facie* evidence that such article was manufactured or packed, as the case may be by that person;
 - (c) any substance commonly used in the preparation of food, if found on premises where the preparation of food is carried out, shall be presumed until the contrary is proved, to be intended for use in the preparation of such food;
 - (d) any substance capable of being used in the preparation of any food, if found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

Functions of
Minister for
Health.

22. Nothing in this Act shall be construed as affecting or derogating from the functions of the Minister responsible for Health.