

CHAPTER 278

THE FOOD AND DRUGS ACT.

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CHAPTER 278

THE FOOD AND DRUGS ACT.

Commencement: 18 June, 1959.

An Act to make provision for the prevention of adulteration of food and drugs and for matters incidental thereto and connected therewith.

PART I—INTERPRETATION.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “advertisement” includes any notice, circular, label, wrapper, invoice or other document, and any public announcement made orally or by any means of producing or transmitting light or sound, and “advertise” shall be construed accordingly;
- (b) “analysis” includes microbiological assay, and “analyse” shall be construed accordingly;
- (c) “animal” does not include bird or fish;
- (d) “area” means, in relation to a local authority and to officers of the local authority, the area which is under the jurisdiction of that local authority;
- (e) “article” does not include a live animal or bird;
- (f) “authorised officer” has the meaning assigned to it by section 18;
- (g) “business” includes the undertaking of a canteen, club, school, hospital or institution whether carried on for profit or not, and any undertaking or activity carried on by a local authority;
- (h) “catering premises” means premises where, in the course of business, food is prepared and supplied for immediate consumption on the premises; (i) “cheese” means the substance usually known as cheese, containing no fat other than fat derived from milk; (j) “container” includes any basket, pail, tray, package or receptacle of any kind, whether open or closed; (k) “court” means a court having jurisdiction; (l) “cream” means that part of milk rich in fat which has been separated by skimming or otherwise;

(m) “dairy” —

(i) includes any farm, cowshed, milking house, milk store, milk shop or other premises from which milk is supplied on or for sale, or in which milk is kept or used for purposes of sale or for the purposes of manufacture into butter, cheese, dried milk or condensed milk for sale, or in which vessels used for the sale of milk are kept; but (ii) does not include a shop from which milk is supplied only in the properly closed and unopened vessels in which it is delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only; (n) “dairy farm” means any premises, being a dairy, on which milk

is produced from cows; (o) “dairy person” includes an occupier of a dairy, a cow keeper, and a purveyor of milk; (p) “drug” includes medicine for internal or external use by a person, and cosmetics, shampoos, soaps, dusting powders, essences and unguents for use by a person; and disinfectants, germicides, antiseptics and preservatives for use for any purpose; (q) “food” includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include—

(i) water, live animals or birds; (ii) fodder or feeding stuffs for animals, birds or fish; or (iii) articles or substances used only as drugs; (r) “functions” includes powers and duties; (s) “health inspector” means any health inspector or sanitary inspector in the service of the Government or of a local authority; (t) “human consumption” includes use in the preparation of food for human consumption; (u) “ice cream” includes any preparation sold under the name of ice cream or any similar title whether containing milk or cream or not; (v) “local authority” means—

(i) the municipal council in the case of a municipality; (ii) the town council in the case of a town; (iii) any person or body of persons appointed by the Minister by statutory instrument to be the local authority for the purposes of this Act for any particular area of Uganda; (iv) the district commissioner in the case of any area outside a

municipality or town and for which no local authority has been appointed;

- (w) “medical officer of health” includes any person appointed as a medical officer of health and any medical practitioner in the service of the Government or other medical practitioner appointed by the chief medical officer to act as such in any area;
- (x) “medical practitioner” means a person who is registered or licensed as such under any law in force in Uganda governing the registration or licensing of medical practitioners;
- (y) “milk” includes cream and separated milk, but does not include dried milk or condensed milk;
- (z) “officer” includes servant;
- (aa) “premises” means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building, and includes, in relation to dairies and dairy farms, and the trade of dairy person or dairy farmer, any land other than buildings;
- (bb) “preparation” in relation to food, includes manufacture and any form of treatment, and “preparation for sale” includes packaging, and “prepare” and “prepare for sale” shall be construed accordingly;
- (cc) “public analyst” means a person appointed by the Minister by notice in the Gazette to act in the capacity of analyst for the purposes of this Act;
- (dd) “purveyor”, in relation to milk, includes any person who sells milk, whether wholesale or by retail;
- (ee) “sanitary convenience” means a latrine, privy, urinal, water-closet, pit latrine or earth-closet;
- (ff) “separated”, in relation to milk, includes skimmed;
- (gg) “ship” includes any boat or craft;
- (hh) “substance” includes a liquid;
- (ii) “transit” includes all stages of transit from the dairy, place of manufacture or other source of origin, to the consumer;
- (jj) “vessel” includes a receptacle of any kind, whether open or closed.

PART II—GENERAL PROVISIONS AS TO FOOD AND DRUGS.

Composition and labelling of food and drugs.

2. Offences in connection with preparation and sale of injurious foods and adulterated drugs.

(1) No person shall add any substance to food, use any substance as an ingredient in the preparation of food, abstract any constituent from food or subject food to any other process or treatment so as in any such case to render the food injurious to health, with intent that the food shall be sold for human consumption in that state.

(2) No person shall add any substance to, or abstract any constituent from, a drug so as to affect injuriously the quality, constitution or potency of the drug, with intent that the drug shall be sold in that state.

(3) Subject to this section, no person shall—

- (a) sell for human consumption, offer, expose or advertise for sale for human consumption, or have in his or her possession for the purpose of such sale, any food rendered injurious to health by means of any operation described in subsection (1); or
- (b) sell, offer, expose or advertise for sale or have in his or her possession for the purpose of sale, any drug injuriously affected in its quality, constitution or potency by means of any operation described in subsection (2).

(4) Any person who contravenes any of the foregoing provisions of this section commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

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

(6) In proceedings under this section for an offence consisting of the advertisement for sale of any food or drug, it shall be a defence for the person charged to prove that, being a person whose business it is to publish, or

arrange for the publication of, advertisements, he or she received the advertisement for publication in the ordinary course of business.

3. General protection for purchasers of food and drugs.

(1) If a person sells to the prejudice of the purchaser any food or drug which is not of the nature, or not of the substance, or not of the quality, of the food or drug demanded by the purchaser, he or she, subject to section 4, commits an offence.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

(3) In proceedings under this section it shall not be a defence to allege that the purchaser bought for analysis or examination and therefore was not prejudiced.

(4) In this section, except so far as it relates to drugs, the reference to sale shall be construed as a reference to sale for human consumption.

4. Defences available in proceedings under section 3.

(1) In proceedings under section 3 for an offence consisting of the sale of food to which any substance has been added, or in the preparation of which any substance has been used as an ingredient, or from which any constituent has been abstracted, or which has been subjected to any other process or treatment, other than food thereby rendered injurious to health, it shall be a defence for the person charged to prove that the operation in question was not carried out fraudulently, and that the article was sold having attached to it a notice of adequate size, distinctly and legibly printed and conspicuously visible, stating explicitly the nature of the operation, or was sold in a wrapper or container displaying such a notice.

(2) The provisions of subsection (1) shall apply in relation to proceedings for an offence consisting of the sale of a drug to which any substance has been added, or from which any constituent has been abstracted, other than a drug thereby injuriously affected in its quality, constitution or potency, as they apply in relation to any offence mentioned in that subsection.

(3) In proceedings under section 3 in respect of any food or drug

containing some extraneous matter, it shall be a defence for the defendant to prove that the presence of that matter was an unavoidable consequence of the process of collection or preparation.

(4) In proceedings under section 3 in respect of diluted whisky, brandy, rum or gin, it shall be a defence for the defendant to prove that the spirit in question had been diluted with water only and that its strength was still not lower than thirty-five degrees underproof.

5. False labelling or advertisement of food or drug.

(1) A person who gives with any food or drug sold by him or her, or displays with any food or drug exposed by him or her for sale, a label whether attached to or printed on the wrapper or container or not, which—

- (a) falsely describes the food or drug; or
 - (b) is calculated to mislead as to its nature, substance or quality,
- commits an offence, unless he or she proves that he or she did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as aforesaid, and is liable on conviction to a fine not exceeding two thousand shillings.

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

- (a) falsely describes any food or drug; or
 - (b) is calculated to mislead as to the nature, substance or quality of any food or drug,
- commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

(3) In proceedings under subsection (2), it shall be a defence for the defendant to prove either—

- (a) that he or she 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 or she received the advertisement for publication in the ordinary course of business.

(4) It is declared that, for the purposes of this section, a label or advertisement which is calculated to mislead as to the nutritional or dietary

value of any food is calculated to mislead as to the quality of the food.

(5) In proceedings for an offence under this section, the fact that a label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food or drug shall not preclude the court from finding that the offence was committed.

(6) In this section, except so far as it relates to drugs, a reference to sale shall be construed as a reference to sale for human consumption.

Food unfit for human consumption.

6. Offence to sell, etc. food unfit for human consumption.

(1) Subject to this section, any person who—

- (a) sells, or offers or exposes for sale, or has in his or her possession for the purpose of sale, or of preparation for sale; or
- (b) deposits with or consigns to any person for the purpose of sale or of preparation for sale,

any food intended for, but unfit for, human consumption, commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(2) Subject as aforesaid, where food in respect of which an offence under subsection (1)(a) has been committed was sold to the offender by some other person, that person also commits an offence and is liable to the penalties prescribed in that subsection.

(3) Where a person is charged with an offence under subsection (1)(b) or (2), it shall be a defence for him or her to prove either—

- (a) that he or she gave notice to the person with whom he or she deposited, or to whom he or she consigned or sold, the food in question that it was not intended for human consumption; or
- (b) that, at the time when he or she delivered or dispatched it to that person, either it was fit for human consumption or he or she did not know, and could not with reasonable diligence have ascertained, that it was unfit for human consumption.

7. Examination and seizure of suspected food.

(1) An authorised officer may at all reasonable times examine any food intended for human consumption which has been sold, or is offered or exposed for sale or is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale, and if it appears to him or her to be unfit for human consumption, may seize it and remove it in order to have it dealt with by a magistrate.

(2) An officer who seizes any food under subsection (1) shall inform the person in whose possession the food was found of his or her intention to have it dealt with by a magistrate, and any person who under section 6 might be liable to a prosecution in respect of the food shall, if he or she attends before the magistrate upon the application for its condemnation, be entitled to be heard and to call witnesses.

(3) If it appears to a magistrate that any food brought before him or her is unfit for human consumption, he or she shall condemn it and order it to be destroyed or to be so disposed of as to prevent it from being used for human consumption.

(4) If a magistrate refuses to condemn any food seized under this Part of this Act by an authorised officer, the food shall be returned to the person in whose possession it was found, and the local authority shall compensate the owner of the food for any depreciation in its value resulting from its seizure and removal.

8. Food offered as prizes.

- (1) Sections 6 and 7 shall apply—
 - (a) in relation to any food which is intended for human consumption and is offered as a prize or reward in connection with any entertainment to which the public are admitted, whether on payment of money or not, as if the food were, or had been, exposed for sale by each person concerned in the organisation of the entertainment;
 - (b) in relation to any food which is intended for human consumption and is offered as a prize or reward or given away for the purpose of advertisement or in furtherance of any trade or business, as if the food were, or had been, exposed for sale by the person offering or giving away the food; and

- (c) in relation to any food which is intended for human consumption and is exposed or deposited in any premises for the purpose of being so offered or given away as aforesaid, as if the food were, or had been, exposed for sale by the occupier of the premises.

(2) In this section, “entertainment” includes any social gathering, amusement, exhibition, performance, game, sport, lottery or trial of skill.

9. Power to examine food in course of transit.

(1) Subject to this section, if an authorised officer has reason to suspect that any vehicle or container contains any food which is intended for sale for human consumption, or is in the course of delivery after sale for human consumption, he or she may examine the contents of the vehicle or container, and for that purpose may, if necessary, detain the vehicle or container; and if the authorised officer finds any food which appears to him or her to be intended for, but unfit for, human consumption, he or she may deal with it as food falling within section 7(1) and subsections (2) and (3) of that section shall apply accordingly.

(2) Where the duties of an officer of customs and excise with respect to any goods have not been wholly discharged, nothing in this section shall authorise the examination of those goods without his or her consent.

Registration of premises in connection with sale of particular foods.

10. Registration of premises.

- (1) Subject to this section, no premises shall be used for—
 - (a) the manufacture for the purpose of sale of ice cream, or the storage of ice cream in wholesale quantities intended for sale; or
 - (b) the preparation or manufacture of sausages or potted, pressed, pickled or preserved food intended for sale,

unless they are registered under this section for that purpose by the local authority.

- (2) For the purposes of subsection (1)—
 - (a) “sale” means sale for human consumption; and
 - (b) the preparation of meat or fish by any process of cooking shall be deemed to be the preservation of that meat or fish.

(3) A person who uses any premises in contravention of subsection (1) commits an offence and is liable in the case of a first conviction to a fine not exceeding two thousand shillings and in the case of a second or subsequent conviction to a fine not exceeding five thousand shillings.

(4) Nothing in this Part of this Act shall apply so as to require the registration under this section of premises used wholly or mainly—

- (a) as catering premises; or
- (b) as a school or club, and subsection (1)(a) shall not apply in relation to the sale or storage of ice cream on any premises used as a theatre, cinematographic theatre, music hall or concert hall.

(5) The Minister may by statutory order direct that this section shall have effect as if the purposes described in subsection (1) included, except in such cases as may be prescribed by the order, the sale or preparation for sale of food for human consumption, or the storage of food intended for such sale, in the course of any business of a class specified in the order.

11. Application for registration.

(1) An application for the registration of any premises under section 10 shall specify—

- (a) the purpose or purposes for which registration is applied for; and
- (b) all rooms or accommodation in the premises proposed to be used for those purposes,

and on such an application being made by the occupier, or a person proposing to occupy the premises to which the application relates, the local authority shall, subject to this section and section 12, register the premises for those purposes.

(2) The local authority may register the same premises for more than one purpose for which registration under section 10 is required and may register different parts of the same premises for different purposes.

(3) The premises registered under section 10 in pursuance of an application shall not include any room or accommodation not specified in the application.

(4) Upon any change in the occupation of premises registered under section 10, the incoming occupier shall, if he or she intends to use them for

the purpose for which they are registered, immediately give notice of the change to the local authority, which shall make the necessary alterations in its register.

(5) If a person required to give notice under subsection (4) fails to do so, he or she commits an offence and is liable on conviction to a fine not exceeding five hundred shillings.

12. Refusal or cancellation of registration.

(1) If in the case of any premises in respect of which an application is made for registration under section 10 or which are registered under that section, it appears to the local authority—

- (a) that the requirements of regulations in force under this Act are not complied with in connection with the premises; or
- (b) that having regard to considerations of hygiene and, in particular, to the situation, construction or condition of the premises or to any activities carried on in the premises, the premises or any part of the premises are unsuitable for the purposes specified in the application or for which they are used, as the case may be,

the local authority may serve on the applicant for registration, or, as the case may be, on the occupier of the premises, a notice stating the place and time not being less than twenty-one days after the date of the service of the notice at which it proposes to consider the matter and informing him or her that he or she may attend before it, with any witness whom he or she desires to call, at the place and time, mentioned to show cause why the local authority should not, for reasons specified in the notice, refuse the application or, as the case may be, cancel the registration of the premises.

(2) A person entitled under subsection (1) to appear before a local authority may appear in person or by advocate.

(3) If a person on whom a notice is served under subsection (1) fails to show cause to the satisfaction of the local authority, it may refuse the application or, as the case may be, cancel the registration of the premises, and shall immediately give notice to him or her of its decision in the matter, and shall if so required by him or her, within fourteen days of the date of its decision, give to him or her, not later than forty-eight hours after receiving the requirement, a statement of the grounds on which the decision was based.

(4) A person aggrieved by the decision of a local authority under this

section to refuse to register any premises or to cancel the registration of any premises may, within thirty days of the date when he or she received notice of the decision, appeal to the High Court which may confirm, reverse or vary the decision.

- (5) The decision of the High Court on any such appeal shall be final.

Food poisoning.

13. Cases of food poisoning to be notified.

(1) If a medical practitioner becomes aware, or suspects, that a patient whom he or she is attending is suffering from food poisoning, he or she shall immediately send to the medical officer of health of the district or area in which the patient is, a certificate stating—

- (a) the name, age and sex of the patient, and the address of the premises where the patient is; and
- (b) particulars of the food poisoning from which he or she is, or is suspected to be, suffering.

(2) A local authority shall pay to a medical practitioner for each certificate duly sent by him or her under this section a fee of five shillings.

14. Inspection and control of infected food.

(1) If a medical officer of health has reasonable ground for suspecting that any food of which a sample has been procured under this Act is likely to cause food poisoning, he or she may notify the person in charge of the food, that until his or her investigations are completed, the food is not to be used for human consumption and is not to be removed excepting to some place specified in the notice.

(2) Any person who uses or removes food in contravention of the requirements of a notice given under subsection (1) commits an offence and is liable on conviction to a fine not exceeding five hundred shillings.

(3) If, after investigation, the medical officer of health is satisfied that the food in question is likely to cause food poisoning, he or she may deal with it as food falling within section 7(1), and subsections (2) and (3) of that section shall apply accordingly; but if he or she is satisfied that it may safely be used for human consumption, he or she shall immediately withdraw his

or her notice.

PART III—MILK AND CREAM SUBSTITUTES.

15. Prohibition of sale of milk from diseased cows.

- (1) No person shall—
 - (a) sell, or offer or expose for sale, for human consumption; or
 - (b) use in the manufacture of products for sale for human consumption,

the milk of any cow which to his or her knowledge has given tuberculous milk, or is suffering from emaciation due to tuberculosis or from tuberculosis of the udder, acute mastitis, actinomycosis of the udder, suppuration of the udder, or any infection of the udder or teats which is likely to convey disease, or from any comatose condition, any septic condition of the uterus, or anthrax.

(2) In proceedings under this section, the defendant shall be deemed to have known that a cow was suffering as aforesaid, if he or she could with ordinary care have ascertained the fact.

(3) A person who contravenes any of the provisions of this section commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

16. Adulteration of milk.

- (1) Subject to this section, no person shall—
 - (a) add any water or colouring matter or any other liquid or substance, or any dried or condensed milk or liquid reconstituted from that dried or condensed milk, to milk intended for sale for human consumption;
 - (b) add any separated milk or mixture of cream and separated milk to unseparated milk intended for sale for human consumption;
 - (c) sell, or offer or expose for sale, or have in his or her possession for the purpose of sale for human consumption, any milk to which any addition has been made in contravention of paragraphs (a) or (b) of this section; or
 - (d) sell, or offer or expose for sale, under the designation of milk, any liquid in the making of which any separated milk or any

dried or condensed milk has been used.

(2) A person who contravenes any of the provisions of this section commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(3) For the purposes of subsection (1)(c), a person shall be deemed to retain the possession of milk which is deposited in any place for collection until it is actually collected; but nothing in this subsection shall be taken as prejudicing the defence available under section 22(2) to a person charged with an offence in respect of a sample of the milk taken after the milk has left his or her possession.

(4) Nothing in this section shall apply to such persons or to such class of persons as the Minister may, by statutory order, exempt, and any such exemption may be subject to such conditions as the Minister may, in his or her discretion, impose.

17. Misuse of designation “cream” in relation to cream substitutes.

(1) Subject to this section, no person shall sell, or offer or expose for sale, for human consumption—

- (a) any substance which resembles cream in appearance, but is not cream; or
- (b) any article of food containing such a substance, under a description or designation which includes the word “cream”, whether or not as part of a composite word.

(2) Subsection (1) shall not apply to the sale, or offer or exposure for sale, of any substance being reconstituted or imitation cream as defined by this section, or of any article containing such a substance, under a description or designation which identifies the substance as such, or to the sale, or offer or exposure for sale, of any substance under a description or designation which indicates that the substance is not for use as, or as a substitute for, cream.

(3) In this section, “reconstituted cream” means a substance which, not being cream, resembles cream in appearance and contains no ingredient not derived from milk, except—

- (a) water; or

(b) ingredients, not added fraudulently to increase bulk, weight or measure or to conceal inferior quality, which may lawfully be contained in a substance sold for human consumption as cream, and “imitation cream” means a substance which, not being cream or reconstituted cream, resembles cream in appearance and is produced by emulsifying edible oils or fats with water, either by themselves or with other substances which are neither prohibited by regulations made under this Act, nor added in quantities so prohibited.

(4) For the purposes of this section, the description or designation under which a substance or article is sold, or offered or exposed for sale, shall be deemed to include the word “cream” if it includes any other word, composite or otherwise, which is calculated to lead a purchaser to suppose that the substance is or, as the case may be, the article contains either cream or a substance for use as cream.

(5) Any person who contravenes subsection (1) commits an offence, and is liable on conviction to a fine not exceeding two thousand shillings.

PART IV—ADMINISTRATION, ENFORCEMENT AND LEGAL PROCEEDINGS.

Administration.

18. Meaning of “authorised officer”.

(1) Subject to this section, “authorised officer” where used in this Act—

- (a) means a person authorised by—
 - (i) the Minister; or
 - (ii) a local authority with the approval of the Minister, in writing either generally or specially to act in matters of any specified kind or in any specified matter; and
- (b) for the purposes of any provisions of this Act relating to the taking of samples, includes a police officer not below the rank of inspector so authorised.

(2) Any veterinary surgeon registered under the Veterinary Surgeons Act, in the service of the Government or of a local authority shall be deemed to be an authorised officer for the purposes of the inspection of animals intended for slaughter and the examination and seizure of meat under the provisions of this Act relating to food unfit for human consumption.

(3) No officer in the service of the Government or of a local authority shall be authorised under this Act to act in relation to the inspection of animals intended for slaughter or the examination and seizure of meat, unless he or she is—

- (a) a medical officer of health;
- (b) a health inspector;
- (c) a veterinary surgeon registered or licensed under the Veterinary Surgeons Act; or
- (d) a person having such qualifications as may be prescribed.

Sampling and analysis.

19. Powers of sampling.

(1) An authorised officer may exercise such powers of procuring samples for analysis, or for bacteriological or other examination, as are conferred upon him or her by this section.

(2) An authorised officer may purchase samples of any food or drug, or any substance capable of being used in the preparation of food; but nothing in this subsection shall be construed as authorising any purchase or sale of drugs in contravention of the Pharmacy and Drugs Act.

(3) Subject to this section, an authorised officer may take a sample of any food or of any substance capable of being used in the preparation of food, which appears to him or her to be intended for sale, or to have been sold for human consumption or is found by him or her on or in any premises, stall, vehicle, ship, train, aircraft or place which he or she is authorised to enter for the purposes of the execution of this Act.

- (4) Without prejudice to subsection (3), an authorised officer—
 - (a) may take a sample of milk while at any dairy, or while deposited for collection, or at any time before it is delivered to a consumer in pursuance of a sale by retail;
 - (b) may, at the request of a person to whom any food or substance is to be delivered in pursuance of a contract of sale, take a sample of that food or substance in the course of delivery, or at the place of delivery.
- (5) An authorised officer who under this section takes a sample of the

milk of any cow at a dairy may take such steps at the dairy as may be necessary to satisfy himself or herself that the sample is a fair sample of the milk of the cow when properly and fully milked.

(6) Except as provided by subsection (4), or with the consent of the purchaser, an authorised officer shall not take a sample of any food or substance which appears to him or her to have been sold by retail, either while the food or substance is in the course of delivery to the purchaser, or at any time after the delivery.

20. Right to have samples analysed.

(1) If an authorised officer who has procured a sample of any food, drug or substance considers that it should be analysed, he or she shall submit it to be analysed by a public analyst.

(2) A person, other than an authorised officer, who has purchased any food or drug, or any substance capable of being used in the preparation of food, may submit a sample of it to be analysed by a public analyst.

(3) The public analyst shall analyse as soon as practicable any sample submitted to him or her in pursuance of this section, but shall, in the case of a sample submitted by a person not being an authorised officer, demand in advance the payment of the prescribed fee.

(4) A public analyst who has analysed a sample shall give to the person by whom it was originally submitted a certificate in the prescribed form specifying the result of the analysis.

(5) Any certificate of the results of an analysis given by a public analyst under this section shall be signed by the public analyst, but the analysis may be made by any person acting under the direction of the analyst.

21. Provisions as to samples taken for analysis.

(1) An authorised officer who purchases or takes a sample of any food, drug or substance for the purpose of analysis by a public analyst shall deal with the sample in accordance with Part I of the Schedule to this Act.

(2) Part I of the Schedule to this Act shall apply to the purchase of samples by any person not being an authorised officer as it applies in relation

to the purchase of samples by an authorised officer; and references in it to an authorised officer shall be construed accordingly.

(3) Where a sample taken or purchased by an authorised officer has been analysed by a public analyst, any person to whom a part of the sample was given under Part I of the Schedule to this Act shall be entitled, on the payment of a fee of one shilling, to be supplied with a copy of the certificate given by the public analyst under section 20(4).

22. Special provisions as to sampling of milk and subsequent proceedings.

(1) The provisions of this Act regarding the procuring of samples by an authorised officer, and to proceedings in connection therewith, shall, in relation to milk, have effect subject to Part II of the Schedule to this Act.

(2) It shall be a defence for a person charged with an offence under this Act in respect of a sample of milk taken after the milk has left his or her possession to prove that the churn or other vessel in which the milk was contained was effectively closed and sealed at the time when it left his or her possession, but had been opened before the person by whom the sample was taken had access to it.

23. Provision as to cases in which division of sample into parts is impracticable.

Where any person procures a sample consisting of food, drug or substance contained in unopened containers, and the division into parts of the food, drug or substance contained in those containers—

- (a) is not reasonably practicable; or
- (b) otherwise might affect the composition or impede the proper analysis of the contents,

the provisions of Part I of the Schedule to this Act with respect to the division of samples into parts shall be deemed to be complied with if the person procuring the sample divides the containers into the requisite number of lots and deals with each lot as if it were a part in the manner provided by those provisions; and references in this Act to a part of a sample shall be construed accordingly.

Enforcement.

24. Power to enter premises.

(1) Subject to this section, an authorised officer shall, on producing, if so required, a certificate showing his or her authority signed by or on behalf of the Minister or a local authority, have a right to enter any premises at all reasonable hours for the purpose of ascertaining whether there is or has been on, or in connection with the premises, any contravention of this Act.

- (2) If a magistrate, on sworn information in writing—
- (a) is satisfied that there is reasonable ground for entry into any premises for any of the purposes mentioned in subsection (1); and
 - (b) is also satisfied either— (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier; or (ii) that an application for admission, or the giving of such a notice, would defeat the object of entry or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,

the magistrate may by warrant under his or her hand authorise any authorised officer to enter the premises, if need be, by force.

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued under this section, may take with him or her such other persons as may be necessary, and on leaving any unoccupied premises which he or she has entered by virtue of the warrant shall leave them secured against trespassers.

(4) Every warrant granted under this section shall continue in force for one month or such shorter period as the magistrate may direct.

(5) If any person who, in compliance with this section, or a warrant issued under this section, is admitted into a factory or workplace discloses to any person any information obtained by him or her in a factory or workplace with regard to any manufacturing process or trade secret, he or she, unless the disclosure was made in the performance of his or her duty, commits an offence and is liable on conviction to a fine not exceeding five thousand shillings.

25. Power to enter ships, trains, aircraft, vehicles, etc.

(1) An authorised officer shall, on producing, if so required, a certificate showing his or her authority signed by or on behalf of the Minister or a local authority have a right at all reasonable hours—

- (a) to enter any ship, train or aircraft for the purpose of ascertaining whether there is in the ship, train or aircraft any food imported as part of the cargo in contravention of this Act; and
- (b) to enter any vehicle, stall or place other than premises, for any purpose for which he or she is empowered under section 24 to enter premises.

(2) Section 24(2) to (4) shall apply in relation to any ship, train, aircraft, vehicle, stall or place which may be entered under the powers conferred by subsection (1) as they apply in relation to premises, and as if any reference to the occupier of premises were a reference to the master, commander or other person in charge of the ship, train, aircraft, vehicle, stall or place.

26. Restriction on movement of imported food.

(1) Without prejudice to any power of examining food which may be conferred by this Act, an authorised officer may give directions to any person in possession of any food which has been imported and is intended for sale for human consumption, prohibiting or restricting its removal or delivery—

- (a) during any period not exceeding forty-eight hours; and
- (b) if within that period the officer so requires, until that person has notified the officer of the name of the person to whom, and the address to or at which, he or she proposes to send or deliver the food.

(2) A person who fails to comply with any direction given under subsection (1) or who in a notification under that subsection knowingly makes any misstatement, commits an offence; and section 27(3) shall not apply.

(3) Any person who commits an offence under this section is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

27. Persons obstructing execution of the Act.

(1) A person who wilfully obstructs any person acting in the execution of this Act, or of any order or warrant made or issued under this Act, commits an offence and is liable on conviction to a fine not exceeding one thousand shillings; but if the court is satisfied that he or she committed the offence with the intent to prevent the discovery of some other offence under this Act, or if he or she has within the twelve months last preceding been convicted of an offence under this subsection, he or she is liable to a fine not exceeding four thousand shillings or to imprisonment for a period not exceeding three months.

(2) If—

- (a) an authorised officer applies to purchase any food, drug or substance offered, exposed or kept for sale, and tenders the price for the quantity which he or she requires as a sample, and the person offering, exposing or keeping the food, drug or substance for sale refuses to sell to the officer that quantity; or
- (b) the seller or consignor of any article or substance of which an officer has power to take a sample, or a person having the charge for the time being of such an article or substance, refuses to allow the officer to take the quantity which he or she requires as a sample,

then in any of the cases mentioned in paragraphs (a) and (b), the person concerned shall be treated for the purposes of subsection (1) as having wilfully obstructed the officer; except that where any food, drug or substance is exposed for sale in an unopened container duly labelled, no person shall be required to sell it except in the unopened container in which it is contained.

(3) A person who fails to give to any person acting in the execution of this Act or of any order or warrant made or issued under this Act, any assistance which that person may reasonably request him or her to give, or any information which that person is expressly authorised by this Act to call for or may reasonably require, or who, when required to give any such information, knowingly makes any misstatement in respect of it, commits an offence and is liable on conviction to a fine not exceeding one thousand shillings or to imprisonment for a period not exceeding one month or to both such fine and imprisonment; but nothing in this subsection shall be construed as requiring a person to answer any question or give any information, if to do so might incriminate him or her.

Legal proceedings.

28. Power of court to order licence to be cancelled.

On the conviction of any person for any offence under this Act, the court may, in addition to any other penalty, cancel any licence issued under this Act to that person.

29. Offences by corporations.

Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, of a body corporate, he or she as well as the body corporate shall be deemed to commit that offence and shall be liable to be proceeded against and punished accordingly.

30. Prosecutions.

(1) Where a sample has been procured under this Act, no prosecution in respect of the article or substance sampled shall be begun after the expiration of the following period, beginning with the date on which the sample was procured—

- (a) in the case of a sample of milk, twenty-eight days;
- (b) in any other case, two months, unless the magistrate before whom the proceedings are instituted, on being satisfied on oath that having regard to the circumstances of the particular case it was not practicable to institute proceedings at an earlier date, gives a certificate to that effect.

(2) In any proceedings under this Act in respect of an article or substance sampled, the date for the hearing of the case shall be not less than fourteen days from the day on which the summons is served; and a copy of any certificate of analysis obtained on behalf of the prosecutor, and of any certificate given by a magistrate under subsection (1), shall be served with the summons.

(3) In any proceedings under this Act, where a sample has been procured in such circumstances that its division into parts is required by this Act, the part of the sample retained by the person who procured it shall be

produced at the hearing.

31. Evidence of analysis.

(1) In any proceedings under this Act, the production by one of the parties of a document purporting to be a certificate of a public analyst in the prescribed form, or of a document supplied to him or her by the other party as being a copy of such certificate, shall be sufficient evidence of the facts stated therein, unless, in the first mentioned case, the other party requires that the analyst shall be called as a witness.

(2) In any proceedings under this Act, if a defendant intends to produce a certificate of a public analyst, or under subsection (1) to require that a public analyst shall be called as a witness, notice of his or her intention, together in the first-mentioned case with a copy of the certificate, shall be given to the other party at least three clear days before the date fixed for hearing of the case and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on such terms as it thinks proper.

(3) Regulations made under this Act may prescribe a method of analysis for the purpose of ascertaining the presence in, or absence from, any food of any substance specified in the regulations, or of the quantity of any such substance which is present in any food; and in any proceedings under this Act in respect of any food alleged to contain, or not to contain, any substance specified in the regulations or any particular quantity of such a substance, evidence of an analysis carried out by the prescribed method shall be preferred to evidence of any other analysis or test.

32. Presumptions.

For the purposes of this Act—

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

or for manufacturing products for sale, for human consumption; (c) any substance capable of being used in the composition or preparation of any article commonly used for human consumption which is found on premises on which that article is prepared shall, until the contrary is proved, be presumed to be intended for such use.

33. Power of court to require analysis by public analyst.

(1) The court before which any proceedings are taken under this Act may, if it thinks fit, cause the part of any sample produced before the court under section 30(3) to be sent to a public analyst, not being a public analyst who has analysed either of the other parts of the sample.

(2) The public analyst to whom the part of the sample is sent under subsection (1) shall make an analysis and transmit to the court a certificate of the result of the analysis, and the costs of the analysis shall be paid by the prosecutor or defendant, as the court may order.

(3) Any certificate of the result of an analysis transmitted by a public analyst under this section shall be signed by the public analyst, but the analysis may be made by any person acting under the direction of the public analyst; and any certificate so transmitted by the public analyst shall be evidence of the facts stated in the certificate unless any party to the proceedings requires that the public analyst shall be called as a witness.

34. Contravention due to default of some other person.

(1) A person against whom proceedings are brought under this Act may, upon a complaint duly made by him or her and on giving the prosecution not less than three days' notice in writing of his or her intention, have any other person, to whose act or default he or she alleges the contravention of the provisions in question was due, brought before the court at the time appointed for hearing the charge; and if, after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence; and, if the original defendant further proves that he or she has used all due diligence to secure that the provisions in question were complied with, he or she shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself or herself of the

provisions of subsection (1)—

- (a) if the person the defendant complains against is not present at the time appointed for the hearing, the court may proceed with the hearing of the case against the defendant in the absence of that person or may adjourn the hearing;
- (b) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him or her, if he or she gives evidence, and any witness called by him or her in support of his or her pleas, and to call rebutting evidence;
- (c) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to the proceedings.

(3) If it appears to the local authority that an offence has been committed in respect of which proceedings might be taken under this Act against some person and the authority is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (1), it may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

(4) In any proceedings referred to in subsection (3), the defendant may be charged with and, on proof that the contravention was due to his or her act or default, be convicted of the offence with which the first-mentioned person might have been charged.

35. Conditions under which warranty may be pleaded as defence.

(1) Subject to this section, in any proceedings for an offence under this Act being an offence consisting of selling, or offering, exposing or advertising for sale, or having in possession for the purpose of sale, any article or substance, it shall be a defence for the defendant to prove—

- (a) that he or she purchased it as being an article or substance which could lawfully be sold or otherwise dealt with as aforesaid, or, as the case may be, could lawfully be so sold or dealt with under the name or description or for the purpose under or for which he or she sold or dealt with it, and with a written warranty to that effect;
- (b) that he or she had no reason to believe at the time of the

- (c) commission of the alleged offence that it was otherwise; and that it was then in the same state as when he or she purchased it.
- (2) A warranty shall be a defence in proceedings under this Act only if—
 - (a) the defendant—
 - (i) has, not later than three clear days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice stating that he or she intends to rely on it and specifying the name and address of the person from whom he or she received it; and (ii) has also sent a like notice of his or her intention to that person; and
 - (b) in the case of a warranty given by a person resident outside Uganda, the defendant proves that he or she had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in the warranty.

(3) Where the defendant is a servant of the persons who purchased the article or substance under a warranty, he or she shall be entitled to rely on the provisions of this section in the same way as his or her employer would have been entitled to do if he or she had been the defendant.

(4) The person by whom the warranty is alleged to have been given may appear at the hearing and give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him or her to do so.

(5) For the purposes of this section and section 36, a name or description entered in an invoice shall be deemed to be a written warranty that the article or substance to which the entry refers can be sold or otherwise dealt with under that name or description by any person without contravening this Act.

36. Offences in relation to warranties and certificates of analysis.

(1) A defendant who in any proceedings under this Act wilfully applies to any article or substance a warranty or certificate of analysis given in relation to any other article or substance commits an offence and is liable on conviction to a fine not exceeding two thousand shillings.

(2) A person who, in respect of any article or substance sold by him

or her, being an article or substance in respect of which a warranty might be pleaded under section 35, gives to the purchaser a false warranty in writing, commits an offence, unless he or she proves that when he or she gave the warranty he or she had reason to believe that the statements or description contained in it were accurate, and is liable on conviction to a fine not exceeding two thousand shillings.

Appeals.

37. Appeals to the court.

(1) Where any provision of this Act provides for an appeal to the High Court against a refusal or other decision of a local authority, the procedure and fees payable in respect of any such appeal shall, subject to any rules made by the Chief Justice, be the same as the procedure or fees in respect of criminal appeals insofar as such procedure or fees can be made applicable.

(2) In any case where such an appeal lies, the document notifying to the person concerned the decision of the authority in the matter shall state the right of appeal to the High Court and the time within which the appeal may be brought.

(3) Where on an appeal under this Act the High Court varies or reverses any decision of an authority, it shall be the duty of the local authority to give effect to the order of the court, and, in particular, to grant any necessary licence and to make any necessary entry in any register.

38. Right to carry on business pending appeal.

When—

- (a) a decision of a local authority under this Act refusing, cancelling, suspending or revoking registration or a licence; or
- (b) a decision of a court in any proceedings in respect of an offence under this Act,

makes it unlawful for a person to carry on any business which he or she was lawfully carrying on at the date when the decision of the local authority or court was given, or to use any premises for any purpose for which he or she was lawfully using them at that date, he or she may carry on the business and use the premises for that purpose until the time for appealing has expired, and if an appeal is lodged, until the appeal is finally disposed of or abandoned or

withdrawn.

39. Protection for authorised officers acting in good faith.

(1) An authorised officer shall not be personally liable in respect of any act done by him or her in the execution or purported execution of this Act and within the scope of his or her employment, if he or she did that act in the honest belief that his or her duty under this Act required or entitled him or her to do it; but nothing in this subsection shall be construed as relieving a local authority from any liability in respect of acts of its officers.

(2) Where an action has been brought against an authorised officer in respect of an act done by him or her in the execution or purported execution of this Act and the circumstances are such that he or she is not legally entitled to require the local authority to indemnify him or her, the authority may, nevertheless, indemnify him or her against the whole or a part of any damages and costs which he or she may have been ordered to pay or may have incurred, if it is satisfied that he or she honestly believed that the act complained of was within the scope of his or her employment and that his or her duty under this Act required or entitled him or her to do it.

PART V—MISCELLANEOUS.

40. Food Hygiene Advisory Committee.

(1) There shall be established a committee to be called the Food Hygiene Advisory Committee which shall consist of a chairperson appointed by the Minister and such number of other members so appointed as the Minister may determine.

(2) The members of the committee appointed under subsection (1) shall include—

- (a) persons appearing to the Minister to be qualified to represent the interests of the public generally in relation to matters of food hygiene and related matters; and
- (b) persons appearing to the Minister to be representative of persons carrying on any of the classes of trade or business affected by the operation of this Act in relation to food.

(3) The members of the committee shall hold office for such period as may be specified by the Minister in their respective appointments.

(4) The committee may appoint a member of the committee to be vice chairperson of the committee, and in the absence of the chairperson the vice chairperson shall preside at the meetings of the committee.

(5) The quorum of the committee shall be four, excluding the chairperson, and on any matters on which the votes of the committee are equally divided, the chairperson shall have a second or casting vote, but subject thereto the committee may act, notwithstanding any vacancy in its number, and may regulate its own procedure.

(6) The Minister may, from time to time, refer to the committee for consideration and advice such questions as he or she may think fit, being questions relating to this Act as it applies in relation to food.

(7) Without prejudice to subsection (6), where it is proposed to make regulations relating to food under this Act, the Minister shall, unless it appears to him or her inexpedient to do so having regard to the urgency of the matter, refer the proposals in the form of draft regulations to the committee for consideration and advice.

41. Regulations.

(1) The Minister may make regulations for any of the following purposes—

- (a) requiring, prohibiting or regulating the addition of any specified substance, or any substance of any specified class, to food intended for sale for human consumption or any class of such food, or the use of any such substance as an ingredient in the preparation of such food, and generally for regulating the composition of such food;
- (b) requiring, prohibiting or regulating the use of any process or treatment in the preparation of any food intended for sale for human consumption, or any class of such food;
- (c) prohibiting or regulating the sale, possession for sale, offer or exposure for sale, consignment, or delivery of food which does not comply with any of the regulations, or in relation to which an offence against the regulations has been committed or would have been committed if any relevant act or omission had taken place in Uganda, or for prohibiting or regulating the importation of any such food as aforesaid;

- (d) prohibiting or regulating the sale, possession for sale, or offer, exposure or advertisement for sale, of any specified substance, or of any substance of any specified class, with a view to its use in the preparation of food intended for sale for human consumption;
- (e) regulating the production, storage, distribution and sale of milk and without prejudice to the generality of the foregoing—
 - (i) the registration of persons carrying on, or proposing to carry on, the trade of a dairy person and the registration of dairies, and prohibiting any person from carrying on such a trade unless he or she and any premises used by him or her as a dairy are duly registered;
 - (ii) the inspection of dairies, and of persons in or about dairies who have access to the milk, or to the churns or other milk vessels;
 - (iii) with respect to the lighting, ventilation, cleansing, drainage and water supply of dairies;
 - (iv) securing the cleanliness of churns and other milk vessels or appliances;
 - (v) prescribing the precautions to be taken for protecting milk against infection or contamination;
 - (vi) preventing danger to health from the sale of infected, contaminated or dirty milk, and, in particular, prohibiting the supply or sale of milk suspected of being infected;
 - (vii) imposing obligations on dairy persons and their employees in regard to cases of infectious or communicable disease;
 - (viii) licensing persons employed by dairy persons to sell milk on their behalf, requiring such persons while engaged in selling milk to carry on their persons a disk or other means of identification, prohibiting the employment by dairy persons of unlicensed persons to sell milk on their behalf and prohibiting any person, unless he or she is licensed for that purpose, from selling milk on behalf of a dairy person;
 - (ix) granting of licences to producers and sellers of milk, authorising the use of a special description of such milk, and prescribing the periods for which and the conditions subject to which licences, or licences of any particular class, are to be granted;
 - (x) regulating the cooling, conveyance and distribution of milk;
 - (xi) with respect to the labelling, marking or identification and the sealing or closing of churns and other vessels used for

the conveyance of milk, the labelling of vessels in which milk is sold or offered or exposed for sale or delivered, and the display of the vendor's name and address on any stall, or any cart, barrow or other vehicle, from which milk is sold or delivered; (xii) determining what deficiency in any of the normal constituents of milk, or what proportion of water, in a sample shall for the purposes of this Act raise a presumption, until the contrary is proved, that the article sampled is not genuine milk, the tests to be applied for determining such deficiency, or proportion of water, and the manner in which tests are to be made;

- (f) requiring persons carrying on business which includes the use, production or importation of substances used for food for human consumption to furnish particulars of the composition and use of any such substance;
- (g) imposing requirements as to and otherwise regulating the labelling, marking or advertising of food intended for sale for human consumption, and the descriptions which may be applied to such food;
- (h) securing the observance of sanitary and cleanly conditions and practices in connection with the sale of food for human consumption or the importation, preparation, transportation, storage, packaging, wrapping, exposure for sale, service or delivery of food intended for sale or sold for human consumption or otherwise for the protection of public health in connection with the matters aforesaid and without prejudice to the generality of the foregoing—
 - (i) imposing requirements as to the construction, layout, drainage, equipment, maintenance, cleanliness, ventilation, lighting, water supply and use, of premises in, at or from which food is sold for human consumption, or offered, exposed, stored or prepared for sale, for human consumption, including any part of such premises in which apparatus and utensils are cleansed, or in which refuse is disposed of or stored; (ii) imposing requirements as to the provision, maintenance and cleanliness of sanitary and washing facilities in connection with such premises, the disposal of refuse and the maintenance and cleanliness of apparatus, equipment, furnishings and utensils used in such premises, and, in

particular, imposing requirements that every sanitary convenience situated in such premises shall be supplied with water through a suitable flushing appliance; (iii) prohibiting or regulating the use of any specified materials, or of materials of any specified class, in the manufacture of apparatus or utensils designed for use in the preparation of food for human consumption, and the sale or importation for sale of apparatus or utensils designed for such use and containing any specified materials or materials of any specified class; (iv) prohibiting spitting on premises where food is sold for human consumption, or offered, exposed, stored or prepared for sale for human consumption, including any parts of such premises where apparatus and utensils are cleansed; (v) imposing requirements as to the clothing worn by persons

in such premises; (vi) securing the inspection of animals intended for slaughter and of carcasses of animals for the purpose of ascertaining whether meat intended for sale for human consumption is fit for such consumption; (vii) regulating generally the treatment and disposal of any food unfit for human consumption; (i) the issuing of licences in respect of the use of vehicles, stalls or places other than premises for the preparation, exposure, or offer for sale or sale of food for human consumption, and the display of such licences and of the names and addresses of licensees on such vehicles, stalls and premises and prohibiting the use for any such purpose of any vehicle, stall or place except in accordance with a licence issued under this Act; (j) prescribing the circumstances in which licences or registration under this Act may be refused, suspended or cancelled, and providing for an appeal by any person aggrieved by such refusal, suspension or cancellation; (k) prescribing standards of quality for any food and prohibiting the manufacture for sale or the sale or the exposure, offer or having in possession for sale of any food which does not conform to the prescribed standards; (l) prohibiting, restricting or regulating the manufacture for sale or the sale or the exposure, offer or having in possession for sale of food containing added preservative or colouring matter;

- (m) regulating the appointment of public analysts and prescribing the fees payable in respect of analyses performed by such analysts;
- (n) prescribing the fees to be charged for registration and for the issue of licences under this Act; (o) varying, adding to, deleting from or replacing the Schedule to this Act; (p) prescribing anything which is or may be prescribed;
- (q) generally for better carrying out the purposes and provisions of this Act.

(2) The application of any regulations made under subsection (1) may be restricted to such municipalities, towns or trading centres or to such other areas as may be specified in the regulations.

(3) All regulations made under subsection (1) shall be laid before Parliament as soon as may be after they are made and if within a period of four months after such regulations are so laid it is resolved by Parliament that any such regulation be annulled, the regulation shall thereupon be void but without prejudice to the validity of anything previously done under it or to the making of any new regulation in substitution for it.

Schedule.

ss. 21, 22.

Provisions as to the manner in which samples taken or purchased for analysis are to be dealt with.

PART I—SAMPLING OF FOOD, DRUG OR SUBSTANCE.

1. The authorised officer shall immediately divide the sample into three parts, each part to be marked and sealed or fastened up in such a manner as its nature will permit, and shall—
 - (a) with respect to one part of the sample comply with paragraphs 2 to 7 of this Schedule; and
 - (b) deal with the remaining parts in accordance with paragraph 8 of this Schedule.
2. If the sample was purchased by the authorised officer, he or she shall give the part of the sample to the vendor.

3. If the sample is of goods consigned from outside Uganda and was taken by the authorised officer before delivery to the consignee, the officer shall give the part of the sample to the consignee.

4. If none of the foregoing paragraphs of the Schedule apply and the sample was taken by the authorised officer at the request of a purchaser, or taken with the consent of a purchaser by retail, the officer shall give the part of the sample to the vendor.

5. If none of the foregoing paragraphs of this Schedule apply and the sample was taken in transit, the authorised officer shall give the part of the sample to the consignor.

6. If none of the foregoing paragraphs of this Schedule apply, the authorised officer shall give the part of the sample to the person appearing to be the owner of the food, drug or substance of which the sample was taken.

7. In every case to which paragraphs 2 to 6 of this Schedule apply the authorised officer shall inform the person to whom the part of the sample is given that the sample was purchased or taken for the purpose of analysis by a public analyst.

8. Of the remaining parts of the sample, the authorised officer shall, unless he or she decides not to have an analysis made, submit one for analysis in accordance with section 20 of the Act and retain the other for future comparison.

9. Any part of a sample which under this Schedule is to be given to any person may be given either by delivering it to him or her or his or her agent or by sending it to him or her by post in a registered packet; but where after reasonable inquiry the authorised officer is unable to ascertain the name and address of the person to whom part of the sample is to be given, he or she may, in lieu of giving the part to that person, retain it.

PART II—SAMPLING OF MILK.

10. Where a sample of milk is procured from a purveyor of milk, he or she shall, if required to do so by the person by whom or on whose behalf the sample was procured, state the name and address of the seller or consignor from whom he or she received the milk.

11. Within sixty hours after the sample was procured from the purveyor, he or she may serve on the local authority by whose officer it was procured, or on the person by whom or on whose behalf the sample was procured, a notice stating the name and address of the seller or consignor from whom he or she received the milk and the time and place of delivery to himself or herself of milk from a corresponding milking, and requesting the authority or person to take immediate steps to procure, as soon as practicable, a sample of milk from a corresponding milking in the course of transit or delivery to himself or herself from the seller or consignor; except that—

- (a) if such a sample has been so procured since the sample in question was procured, or had been so procured within twenty-four hours prior to that sample being procured, it shall not be necessary for the authority or person to procure another sample in accordance with the notice; and
- (b) the purveyor shall have no right to require that such a sample shall be procured if the milk from which the sample procured from him or her was taken was a mixture of milk procured on more than one dairy farm.

12. If a purveyor has served on the authority the notice referred to in paragraph 11 of this Schedule, and the authority or person has in a case not within an exception in that paragraph omitted to procure a sample of milk from the seller or consignor in accordance with that paragraph, no proceedings under this Act shall be taken against the purveyor in respect of the sample procured from him or her.

13. Any sample so procured in the course of transit or delivery shall be submitted for analysis to the public analyst to whom the sample procured from the purveyor is or was submitted.

14. If proceedings are taken against the purveyor, a copy of the certificate of the result of the analysis of every sample so procured in the course of transit or delivery shall be furnished to him or her, and every such certificate and copy shall, subject to section 31 of this Act, be admissible as evidence on any question of whether the milk sold by the purveyor was sold in the same state as it was in when he or she purchased it.

15. The local authority or person by whose officer or the person by whom the first-mentioned sample was procured may, instead of, or in addition to, taking proceedings against the purveyor, take proceedings against the seller or consignor.

16. If a sample of milk of cows in any dairy is procured in the course of transit or delivery from that dairy, the dairy person may, within sixty hours after the sample was procured, serve on the local authority by whose officer or the person by whom the sample was procured, a notice requesting the local authority or that person to take immediate steps to procure as soon as practicable a sample of milk from a corresponding milking of the cows and, thereupon, paragraphs 11 to 14 of this Schedule shall, so far as applicable, apply with any necessary modifications.

17. The person procuring the sample under paragraph 16 of this Schedule shall be empowered to take any such steps at the dairy as may be necessary to satisfy him or her that the sample is a fair sample of the milk of the cows when properly and fully milked.

History: Cap. 271.

Cross References

Pharmacy and Drugs Act, Cap. 280.

Veterinary Surgeons Act, Cap. 277.