

SOUTH AUSTRALIA

FOOD ACT, 1985

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **1 March 1993**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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SCHEDULES

FOOD ACT, 1985

being

Food Act, 1985, No. 49 of 1985 [Assented to 2 May 1985]¹

as amended by

Statutes Amendment (Analysts) Act, 1986, No. 43 of 1986 [Assented to 4 September 1986]²

Statutes Amendment (Expiation of Offences) Act 1992 No. 71 of 1992 [Assented to 19 November 1992]³

¹ Came into operation 3 February 1986: *Gaz.* 23 January 1986, p. 124.

² Came into operation 16 October 1986: *Gaz.* 16 October 1986, p. 1373.

³ Came into operation 1 March 1993: *Gaz.* 18 February 1993, p. 600.

Note: 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix 1. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

An Act to impose standards with respect to food intended for human consumption; to ensure the observance of proper standards of hygiene in relation to the manufacture, distribution and storage of food that is to be sold for human consumption; to repeal the Bread Act, 1954, and the Bakehouses Registration Act, 1945; to amend the Food and Drugs Act, 1908, and the Health Act, 1935; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Food Act, 1985*.

Commencement

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—

"analyst" means—

(a) a person appointed by the Commission as an analyst for the purposes of this Act;

or

(b) a person holding a position of a class approved by the Commission for the purposes of this Act:

"area" means the area in relation to which a municipal or district council is constituted:

"authorized officer" means a person holding an appointment as an authorized officer under Part II:

"the Commission" means the South Australian Health Commission:

"the Committee" means the Food Quality Committee constituted under this Act:

"controlling authority" means a controlling authority constituted under Part XIX of the *Local Government Act, 1934*:

"corresponding law" means a law of another State, or of a Territory, of the Commonwealth declared by proclamation to be a law that corresponds to this Act:

3.

"council" means a council constituted under the *Local Government Act, 1934*:

"food" means any substance (whether in solid or liquid form) for human consumption or represented to be for human consumption and includes—

- (a) a gaseous food additive;
- (b) a substance that is intended to be introduced into the mouth but not ingested:

"manufacture", in relation to food, includes—

- (a) to process;
- (b) to treat;
- (c) to cook;
- (d) to prepare;
- (e) to pack:

"object" includes a substance:

"owner", in relation to real or personal property, includes a person entitled to possession of the property:

"premises" means any land, building or structure (including a movable building or structure):

"prohibited substance or organism" means a substance or organism declared by regulation to be a prohibited substance or prohibited organism:

"to sell" includes—

- (a) to offer, expose, or have in possession, for sale;
- (b) to deliver for the purpose, or in pursuance, of sale;
- (c) to supply for the purpose, or in pursuance, of a contract for the performance of a service;
- (d) to give, or offer to give, as a prize in a competition or game of chance;
- (e) to give away in the course, or for the purposes, of promotional activities:

"vehicle" includes an aircraft or a vessel.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Repeal and amendment of certain Acts

4. (1) The Acts referred to in the first schedule to this Act are repealed.

4.

(2) The Acts referred to in the second and third schedules to this Act are amended as shown in those schedules.

(3) Transitional provisions relating to the amendment of the *Food and Drugs Act, 1908*, are set out in the fourth schedule to this Act.

Act to bind Crown

5. This Act binds the Crown.

5.

PART II

ADMINISTRATION

DIVISION I—GENERAL

Commission responsible for administration of Act

6. (1) Subject to this Act, the Commission is responsible for the administration and enforcement of this Act throughout the State.

(2) The Commission is, in relation to the administration and enforcement of this Act, subject to the control and direction of the Minister.

Delegation

7. (1) The Commission may, by instrument in writing, delegate any of its powers or functions under this Act.

(2) A delegation under this section—

(a) may be absolute or conditional;

(b) does not derogate from the powers exercisable by the Commission itself;

and

(c) is revocable at will.

(3) No delegation may be made to a council under this section except with the concurrence of the council.

Authorized officers

8. (1) The Commission may appoint such number of persons to be authorized officers as it thinks necessary or desirable for the proper administration and enforcement of this Act.

(2) A council may appoint such number of persons to be authorized officers as it thinks necessary or desirable for the proper carrying out of its functions under this Act.

(3) A person is not eligible for appointment as an authorized officer unless—

(a) he—

(i) holds qualifications approved by the Commission;

or

(ii) held, immediately before the commencement of this Act, an appointment as a health surveyor under the *Food and Drugs Act, 1908*;

and

(b) he is an officer or employee of the Commission, or of a council.

6.

(4) The Commission shall not appoint an officer or employee of a council as an authorized officer unless the council consents to the appointment.

(5) Every authorized officer shall be furnished with a certificate of his authority and the certificate must be produced by the authorized officer on demand.

* * * * *

Annual report

10. (1) The Commission shall, on or before the thirty-first day of October in each year, submit to the Minister a report on the administration of this Act during the year ending on the preceding thirtieth day of June and information upon such other matters as the Minister may direct.

(2) The Minister shall cause a copy of a report furnished to him under subsection (1) to be laid before each House of Parliament within fourteen sitting days of his receipt of the report if Parliament is then in session, but if Parliament is not then in session, within fourteen days of the commencement of the next session of Parliament.

DIVISION II—THE FOOD QUALITY COMMITTEE

The Food Quality Committee

11. (1) There shall be a committee entitled the "Food Quality Committee".

(2) The Committee shall consist of fourteen members appointed by the Governor, of whom—

(a) two shall be members or officers of the Commission (and one of these shall be appointed by the Governor to be the Chairman of the Committee);

(b) two shall be members, officers or employees of a council or councils, selected by the Minister from a panel of five such members, officers or employees nominated by the Local Government Association of South Australia;

(c) one shall be a person nominated by the Minister of Consumer Affairs;

(d) one shall be a person nominated by the Minister of Agriculture;

(e) three shall be persons respectively qualified as—

(i) a nutritionist;

(ii) a toxicologist;

and

(iii) a microbiologist,

each with wide experience in his discipline;

(f) one shall be a person selected by the Minister from a panel of three persons, nominated by the Chamber of Commerce and Industry South Australia Incorporated, being persons who have a wide knowledge of, and experience in, food technology;

7.

- (g) one shall be a person selected by the Minister from a panel of three persons, nominated by the Chamber of Commerce and Industry South Australia Incorporated, being suitable persons to represent the interests of manufacturers and retailers of food;
- (h) one shall be a person selected by the Minister from a panel of three persons, nominated by the United Trades and Labor Council, being suitable persons to represent the interests of employees of manufacturers and retailers of food;
- (i) one shall be a person selected by the Minister from a panel of three persons, nominated by the Consumers Association of South Australia Incorporated, being suitable persons to represent the interests of consumers;

and

- (j) one shall be an analyst.

(3) Where the Minister, by notice in writing, requests—

- (a) the Chamber of Commerce and Industry South Australia Incorporated;
- (b) the United Trades and Labor Council;

or

- (c) the Consumers Association of South Australia Incorporated,

to make a nomination for the purposes of this section, and the body to which the request was addressed fails to make such a nomination within the time allowed in the notice, the Minister may select a person for appointment as a member of the Committee in lieu of a nominee of that body, and a person so selected may then be appointed to membership of the Committee as if he had been nominated by the body to which the request was addressed.

(4) The Governor may appoint a suitable person to be the deputy of a member of the Committee, and the deputy may, in the absence of that member, act as a member of the Committee.

(5) The provisions of this section relating to the qualification and nomination of a member extend to the appointment of a deputy to that member.

Term of office of members

12. (1) A member of the Committee shall be appointed—

- (a) if he is one of the first members of the Committee—for such term, not exceeding three years, as the Governor determines and specifies in the instrument of his appointment;
- (b) in any other case—for a term of three years.

(2) A member of the Committee shall, upon the expiration of a term of office, be eligible for reappointment.

8.

(3) The Governor may remove a member of the Committee from office on the ground of—

(a) mental or physical incapacity to carry out satisfactorily the duties of his office;

(b) dishonourable conduct;

or

(c) neglect of duty.

(4) The office of a member of the Committee becomes vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by giving notice in writing to the Minister;

or

(d) he is removed from office by the Governor under subsection (3).

(5) Upon the office of a member of the Committee becoming vacant, a person shall be appointed to that office in accordance with this Act.

Allowances and expenses

13. A member of the Committee shall be entitled to receive such allowances and expenses as the Governor may from time to time determine.

Conduct of business

14. (1) The Chairman shall preside at any meeting of the Committee at which he is present and, in his absence, his deputy shall preside.

(2) In the absence of both the Chairman and his deputy from a meeting of the Committee, the members present shall elect one of their number to preside at the meeting.

(3) Seven members constitute a quorum of the Committee.

(4) A decision carried by a majority of the votes cast by the members present at a meeting of the Committee is a decision of the Committee.

(5) Each member present at a meeting of the Committee is entitled to one vote on a question arising for decision at that meeting and, in the event of an equality of votes, the person presiding is entitled to a second, or casting, vote.

(6) Subject to this Act, the business of the Committee shall be conducted in such manner as it determines.

Saving provision

15. An act or proceeding of the Committee is not invalid by reason of a vacancy in the membership of the Committee or a defect in an appointment to the Committee.

Functions of the Committee

16. The functions of the Committee are—

- (a) to advise the Commission on any matter relating to the administration or enforcement of this Act;
- (b) to consider and report to the Commission on proposals for the making of regulations under this Act;

and

- (c) to investigate and report to the Commission on any matters referred to the Committee for advice.

DIVISION III—SECRECY

Secrecy

17. A person shall not divulge or communicate information that is or was acquired by him by reason of his being, or having been, employed or engaged in, or in connection with, the administration of this Act except—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration of this Act;
- (c) with the approval of the Commission—to a person employed in the administration of a corresponding law;

or

- (d) for the purposes of legal proceedings.

Penalty: Eight thousand dollars or imprisonment for two years.

10.

PART III

STANDARDS

DIVISION I—FOOD QUALITY

Standards with which food must comply

18. (1) A person who manufactures food for sale—

(a) that is unfit for human consumption;

or

(b) that does not comply with a prescribed standard that is applicable to that food,

shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

(2) A person who sells food—

(a) that is unfit for human consumption;

or

(b) that does not comply with a prescribed standard that is applicable to that food,

shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

Misrepresentation of quality of food

19. (1) A person who misrepresents the nature or quality of food that he offers for sale shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

(2) Without limiting the generality of subsection (1), a person shall be taken to misrepresent the quality of food that he offers for sale if—

(a) he represents expressly or by implication that the food is food of a particular description;

11.

(b) the regulations provide that food offered for sale under that description must comply with prescribed standards;

and

(c) the food offered for sale does not comply with the prescribed standards.

DIVISION II—FOOD LABELLING

Obligation to label food

20. (1) This section applies to food of a kind required by the regulations to be labelled in accordance with requirements laid down by the regulations.

(2) A person who sells food to which this section applies that is not labelled in accordance with the regulations shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

DIVISION III—FOOD HYGIENE

Premises, equipment, etc., to be kept in a clean and sanitary condition

21. (1) All premises, equipment and vehicles used for—

(a) the manufacture, transportation or storage of food for sale;

or

(b) the sale of food,

must be kept at all times in a clean and sanitary condition.

(2) Where any premises, equipment or vehicle is not kept in a clean and sanitary condition as required by subsection (1), the person in charge of the premises, equipment or vehicle shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

Observance of hygiene requirements by persons who handle food intended for sale

22. (1) A person—

(a) who handles food in the course of its manufacture, transportation or storage for sale, or for the purposes of its sale;

and

(b) who—

(i) contravenes or fails to comply with a regulation relating to hygiene;

or

(ii) otherwise fails to observe reasonable standards of personal hygiene,

shall be guilty of an offence.

Penalty: Five hundred dollars.

Expiation fee: Division 9 fee.

(2) Where a person commits an offence against subsection (1) in the course of his employment, the employer shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

Persons suffering from prescribed diseases not to handle food

23. (1) A person who, knowing that he is suffering from a prescribed disease, handles food in the course of its manufacture, transportation or storage for sale, or for the purposes of its sale, shall be guilty of an offence.

Penalty: One thousand dollars.

Expiation fee: Division 8 fee.

(2) Where—

(a) a person commits an offence against subsection (1) in the course of his employment;

and

(b) the employer knew, before the commission of the offence, that the person was suffering from a prescribed disease,

the employer shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

PART IV

POWERS OF ENTRY, INSPECTION AND ENFORCEMENT

DIVISION I—ENTRY AND INSPECTION

Powers of entry and inspection

24. (1) An authorized officer may, at any reasonable time, enter and inspect premises to which this section applies.

(2) An authorized officer may stop, detain and inspect any vehicle that he reasonably believes to be a vehicle to which this section applies.

(3) In the course of carrying out an inspection under this section, an authorized officer may—

- (a) ask questions of any person whom he finds in the premises or vehicle;
- (b) inspect any food that he finds in the premises or vehicle;
- (c) take any food, or samples of food, that he finds in the premises or vehicle;
- (d) inspect any equipment that he finds in the premises or vehicle;
- (e) remove any object that may constitute evidence of the commission of an offence against this Act;

and

- (f) take such photographs or films for the purposes of the inspection as he thinks fit.

(4) An authorized officer may, in the course of carrying out an inspection under this section, take copies of, or extracts from, documents or records of a prescribed class that he finds in the premises or vehicle.

(5) Where an authorized officer makes an inspection under this section, the person in charge of the premises or vehicle the subject of the inspection shall provide such assistance as the authorized officer may reasonably require to facilitate the inspection.

(6) Where an authorized officer takes a sample of food for the purpose of analysis—

- (a) he shall, if the sample has not been obtained by purchase, tender to the person from whom the sample is taken an amount representing the retail value of the sample;

and

- (b) he shall, subject to the regulations, divide the sample into three approximately equal parts and—
 - (i) give one such part to the person from whom the sample was purchased or taken;

14.

(ii) retain one such part for the purpose of examination and analysis;

and

(iii) retain one such part for the purpose of future comparison.

(7) An object removed by an authorized officer under subsection (3)(e) shall, when no longer required for the purposes of the investigation of, or proceedings in respect of, an offence against this Act, be returned to its owner.

(8) A person who—

(a) hinders an authorized person in the exercise of powers conferred by this section;

(b) having been asked a question by the authorized officer, does not answer the question to the best of his knowledge, information and belief;

or

(c) being the person in charge of premises or a vehicle subject to an inspection and having been required by the authorized officer to provide reasonable assistance to facilitate the inspection, refuses or fails to provide such assistance,

shall be guilty of an offence.

Penalty: Five thousand dollars.

(9) In this section—

"premises to which this section applies" means premises used for—

(i) the manufacture or storage of food for sale;

or

(ii) the sale of food:

"vehicle to which this section applies" means a vehicle used for the transportation of food for sale.

DIVISION II—POWERS WITH RESPECT TO FOOD UNFIT FOR HUMAN CONSUMPTION

Power of the Commission to prohibit sale, etc., of food

25. (1) Where the Commission is of the opinion that food is not fit for human consumption, it may exercise any one or more of the following powers:

(a) it may, by order, prohibit the sale of that food;

(b) it may, by order, prohibit or restrict the movement or disposal of that food;

(c) it may, by order, require the destruction of that food.

(2) Where the Commission is of the opinion that food derived from a particular source may not be fit for human consumption, the Commission may exercise any one or more of the following powers:

(a) it may, by order, prohibit the sale of food derived from that source;

(b) it may, by order, prohibit or restrict the movement or disposal of food derived from that source;

(c) it may, by order, require the destruction of food derived from that source.

(3) Where the Commission is of the opinion that a particular area is affected by dangerous contaminants so that it should not be used for the production of food, the Commission may, by order, prohibit the use of that area for the production of food.

(4) An order under this section may be absolute or conditional.

(5) A person who contravenes, or fails to comply with, an order under this section shall be guilty of an offence.

Penalty: For a first offence—five thousand dollars;

For a second or subsequent offence—ten thousand dollars.

(6) Where a person fails to comply with an order under subsection (1)(c) or (2)(c) within the time specified in the order, the Commission may remove and destroy the food the subject of the order, and may recover the cost of the removal and destruction from that person.

Power to destroy food in certain circumstances

26. (1) Where—

(a) the Commission suspects on reasonable grounds that there is in any premises or vehicle food that is unfit for human consumption;

and

(b) the Commission considers that the destruction of the food is necessary or desirable in the public interest,

the Commission may, by notice in writing given personally or by post to the owner of the food, require him to show cause, within a period specified in the notice (being not less than two days), why the food should not be destroyed under this section.

(2) Where—

(a) a person to whom a notice under subsection (1) has been given fails to show cause within the specified period why the food should not be destroyed;

or

- (b) the Commission has, after reasonable inquiries, been unable to ascertain the identity or whereabouts of the owner of the food,

the Commission may authorize an authorized officer to destroy the food.

- (3) An authorized officer, acting in pursuance of an authorization under subsection (2), may—

- (a) break into the premises or vehicle to which the authorization relates, using such force as is necessary for the purpose;

and

- (b) remove and destroy any food in the premises or vehicle that appears to be unfit for human consumption.

(4) Where, after receiving submissions from the owner of food under this section, the Commission decides that he has not shown cause why the food should not be destroyed, the Commission shall, if so required by the person, state in writing the reasons for its decision.

Publication of warnings to public where food that is unfit for human consumption has been sold

27. (1) Where in the opinion of the Commission there is a substantial risk that food sold to the public is unfit for human consumption—

- (a) the Commission may require any manufacturer, importer or wholesale or retail vendor of the food to publish advertisements in a manner and form determined or approved by the Commission warning against the risk that the food is unfit for human consumption;

or

- (b) the Commission may itself publish advertisements warning against the risk that the food is unfit for human consumption.

(2) A person who fails to comply with a requirement made of him under subsection (1)(a) shall be guilty of an offence and liable to a penalty not exceeding two thousand five hundred dollars.

Expiation fee: Division 7 fee.

(3) Where the Commission itself publishes advertisements under subsection (1)(b), it may recover the whole or such part as it thinks just of the cost incurred by it in so doing as a debt from a manufacturer, importer or wholesale or retail vendor of the food to which the advertisements relate.

DIVISION III—ENFORCEMENT OF PROPER STANDARDS OF HYGIENE

Powers with respect to hygiene

28. (1) It is the duty of each council to take adequate measures to ensure—

(a) the observance within its area of proper standards of hygiene in relation to the sale of food, and the manufacture, transportation, storage and handling of food that is intended for sale;

and

(b) that food sold within its area is fit for human consumption.

(2) It is the duty of the Commission to take adequate measures to ensure the observance—

(a) within the area of a council that is not properly carrying out its duty under subsection (1);

and

(b) within that part of the State that is not within the area of any council,

of proper standards of hygiene in relation to the sale of food, and the manufacture, transportation, storage and handling of food that is intended for sale.

(3) Before exercising its duty under subsection (2)(a), the Commission shall consult the council concerned with a view to establishing the reason for the council's failure to properly carry out its duty under subsection (1).

(4) A breach of duty under this section does not give rise to any civil liability.

(5) In carrying out its duty under this section, a council (or a controlling authority by which the council's duty under this section is to be carried out) or the Commission may give such directions as are reasonably necessary to ensure—

(a) the observance of proper standards of hygiene in relation to the sale of food, and the manufacture, transportation, storage and handling of food that is intended for sale;

and

(b) that food intended for sale is fit for human consumption.

(6) Without limiting the generality of subsection (5), a direction may be given under that subsection prohibiting the use of any unclean or insanitary premises, vehicle or equipment for the manufacture, transportation, storage or handling of food for sale until the premises, vehicle or equipment has been cleaned or repaired to the satisfaction of an authorized officer nominated in the direction.

(7) A person who contravenes, or fails to comply with, a direction under this section shall be guilty of an offence.

Penalty: Two thousand five hundred dollars.

Expiation fee: Division 7 fee.

(8) A person against whom a direction has been made by a council or a controlling authority under this section may appeal to the Commission against the direction.

(9) On an appeal under this section, the Commission may confirm, vary or revoke the direction subject to the appeal.

PART V

MISCELLANEOUS

Offences

29. (1) The offences constituted by this Act are summary offences.

(2) Where a body corporate is convicted of an offence against this Act, each director shall be guilty of an offence and liable to a penalty not exceeding the maximum prescribed for the principal offence unless he proves that he could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the body corporate.

Defence

30. It is a defence to a charge of an offence against this Act for the defendant to prove—

(a) that—

(i) the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of some other person (not being an agent or employee of the defendant);

and

(ii) that he could not, by the exercise of reasonable diligence, have prevented the occurrence of those circumstances;

or

(b) that—

(i) the circumstances alleged to constitute the offence arose in consequence of an act or omission on the part of an agent or employee of the defendant;

and

(ii) that he could not, by taking all possible precautions, have prevented the occurrence of those circumstances.

Evidence

31. (1) In proceedings for an offence against this Act, a document apparently signed by an analyst—

(a) stating that he analysed, or supervised the analysis of, food referred to in the certificate on a date stated in the certificate;

(b) describing the results of the analysis,

shall be accepted as evidence of the facts stated in the certificate.

(2) In proceedings for an offence against this Act, an allegation that food is, or was, unfit for human consumption shall be deemed to have been conclusively proved if it is established that the food—

(a) is or was contaminated by a prohibited substance or organism;

or

(b) consists or consisted wholly or in part of the flesh of a warm blooded animal that died otherwise than by slaughter.

Costs of analysis

32. Where a person is convicted of an offence against this Act, the court by which he is convicted may, on the application of the prosecutor, order the convicted person to pay any costs incurred in relation to the analysis of food to which the proceedings relate.

Service

33. Service of a notice, order or other document under this Act may be effected personally or by post.

Regulations

34. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), those regulations may—

(a) impose requirements—

(i) with which premises used for the manufacture or storage for sale, or for the sale, of food, or food of a specified kind, must comply;

and

(ii) with regard to the maintenance and cleansing of such premises;

(b) impose requirements—

(i) with which equipment used for the manufacture or storage for sale, or for the sale, of food, or food of a specified kind, must comply;

and

(ii) with regard to the maintenance and cleansing of such equipment;

(c) impose requirements—

(i) with which vehicles used for the transportation of food, or food of a specified kind, for sale must comply;

and

- (ii) with regard to the maintenance and cleansing of such vehicles;
- (d) impose requirements with which a person who handles food intended for sale must comply;
- (e) prescribe standards with which food generally, or specified kinds of food, must comply;
- (f) impose requirements with regard to the packaging and labelling of food generally, or specified kinds of food;
- (g) require persons selling specified kinds of food to provide specified information in relation to the food to purchasers;
- (h) regulate, restrict or prohibit the use of specified kinds of preservatives, colouring materials and other additives in the manufacture of food;
- (i) provide for the regular analysis, examination or testing of food by manufacturers or specified classes of manufacturers;
- (j) provide for the keeping of records by importers or manufacturers of food and for the inspection of those records;
- (k) regulate, restrict or prohibit the use of specified methods of treating food for the purposes of manufacture or storage;
- (l) regulate the form and content of advertisements relating to food;
- (m) regulate or restrict the use of automatic food vending machines;
- (n) prescribe, and provide for the payment of, fees for the purposes of this Act;
- (o) require any specified class of persons, premises, equipment or vehicles to be licensed, conditionally or unconditionally, for specified purposes;
- (p) exempt, conditionally or unconditionally, any person or class of persons or any food or class of food from any provision of this Act;
- (q) impose penalties (not exceeding one thousand dollars) for breach of, or non-compliance with, a regulation.

(3) A regulation made under this section—

- (a) may be of general or limited application;

and

- (b) may incorporate, or operate by reference to, a standard or code of practice of a particular authority or body as in force at a particular time, or as in force from time to time, and with or without modification to the standard or code.

SCHEDULES

FIRST SCHEDULE

The following Acts are repealed:

the *Bakehouses Registration Act, 1945*
the *Bread Act, 1954*.

SECOND SCHEDULE

PART I

The *Food and Drugs Act, 1908*, is amended as follows:

Section 5—
Strike out the definition of "metropolitan area".

Sections 15, 15a, 15b and 16—
These sections are repealed.

PART II

The *Food and Drugs Act, 1908*, is amended as follows:

Long Title—
Strike out "food and".

Section 1—
Strike out "Food and".

Section 5—
Strike out the definitions of "adulterated food", "animal", "food", "local authority" and "sell".

Section 6—
After "enforce" insert "and administer".

Strike out ", and also every power, authority, and discretion vested in a local authority by this Act".

Section 6a—
This section is repealed.

Section 7(1)—
Strike out ", and who shall have and exercise throughout the State all the powers and authorities of a health surveyor appointed by a local authority under this Act".

Section 7(2)—
Strike out this subsection.

Section 8—
This section is repealed.

Section 9(1)—
Strike out "food or".

Section 10—
This section is repealed.

Sections 12 and 13—
These sections are repealed.

Section 14—

This section is repealed.

Section 16a—

This section is repealed.

Section 18—

This section is repealed.

Section 20—

Strike out "either of the two last preceding sections of this Act" and substitute "section 19".

Strike out "any article of food or of".

Strike out "article of food or".

Strike out "as in either of those sections mentioned,".

Section 21—

Strike out "any article of food or".

Strike out "the article of food or".

Strike out "food or".

Section 22—

Strike out "any article of food, or".

Strike out "food or".

Strike out "any article of food or".

Strike out "food or".

Section 22(1)—

Strike out "food or" wherever occurring.

Section 22(2)—

Strike out "or food".

Section 22(3) and (4)—

Strike out "food or" wherever occurring.

Section 22(5)—

Strike out this paragraph.

Section 22II—

Strike out "article of food or".

Section 22—

Strike out "any article of food or".

Section 22a(1)—

Strike out "any article of food or".

Strike out "food or".

Strike out "an article of food or".

Section 22a(2)—

Strike out "any article of food or".

Strike out "food or".

Section 23—

Strike out "compound article of food or".

Section 24—

Strike out "such article or" and substitute "the".

Strike out "article or".

Section 25—

Strike out "any article of food or".
Strike out "such food or" and substitute "the".

Section 25a—

Strike out "article of food or".

Section 26—

This section is repealed.

Sections 27 to 30 (inclusive)—

These sections are repealed.

Section 30a(1)—

Strike out "article of food or" twice occurring.
Strike out "food or".

Section 30a(3)—

Strike out "article of food or".
Strike out "food or".
Strike out "or local authority employing the health surveyor".
Strike out "article of food or".

Sections 31 to 33 (inclusive)—

These sections are repealed.

Section 34I—

Strike out this paragraph and the word "or" following the paragraph.

Section 34II—

Strike out "carcass or other article of food or".
Strike out "for human consumption, whether such articles are fresh or preserved, or are" and substitute ", whether".

Section 35—

Strike out "such animal or article of food or drug is diseased, or unsound, or unwholesome, or unfit for human" and substitute "drug is unsound or is unfit for human use or".

Section 35I—

Strike out "animal or article of food or".
After "human" insert "use or".
Strike out "or disease" and substitute ", illness or injury".

Section 35II—

Strike out "animal or article of food or".

Section 35III—

Strike out "animal or article so seized is diseased, or unsound, or unwholesome, or unfit for human" and substitute "drug so seized is unsound or is unfit for human use or".
Strike out "used or human" and substitute "available for human use or".
Strike out "animal or article" and substitute "drug".

Section 35IV—

Strike out "animal or article of food or".

Section 36—

Strike out "or article intended for the food of man".
Strike out "diseased, unsound, or unwholesome, or unfit for the food of man" and substitute "unsound or is unfit for human use or consumption".
Strike out "or food".

Sections 37 to 38 (inclusive)—

These sections are repealed.

Section 39—

Strike out "of any article of food or".

Section 40(1)—

Strike out "or any police constable, under the direction of any local authority,".

Strike out "food or" wherever occurring.

Strike out "or constable" wherever occurring.

Section 40(2)—

Strike out "food or".

Strike out "or constable" wherever occurring.

Section 40(3)—

Strike out this subsection.

Section 41(1)—

Strike out "police constable acting under the directions and at the cost of the local authority, or any".

Strike out "food or" wherever occurring.

Section 41(2)—

Strike out "or constable, as above described,".

Strike out "any article of food or".

Strike out "article of food or" wherever occurring.

Strike out "or constable".

Strike out "food or".

Section 41(3)—

Strike out "food or".

Strike out "or constable".

Section 42(2)—

Strike out all words after "analyst" first occurring.

Section 42(3)—

Strike out "or to the Central Board of Health, as the case may require".

Strike out the second sentence.

Section 42(4)—

Strike out "of food or drug".

Strike out "of that food or drug".

Section 44—

This section is repealed.

Section 45—

Strike out "or other officer".

Strike out "or officer".

Section 46—

Strike out "local authority or".

Strike out "a local authority or".

Section 49—

This section is repealed.

Section 51(3)—

Strike out this subsection.

Section 51(4)—

Strike out "food or".

Section 51a—

Strike out "food or" wherever occurring.

Section 52I—

Strike out "or of any local authority".

Section 52II—

Strike out this paragraph.

Section 52III—

Strike out "or local authority" wherever occurring.

Section 53—

Strike out "article of food or".

Section 54a—

This section is repealed.

Section 57(1)—

Strike out "article of food or".

Strike out "article" and substitute "drug".

Section 57(3)—

Strike out "article of food or".

Strike out "article" wherever occurring and substitute, in each case, "drug".

Section 57(4)—

Strike out "article" and substitute "drug".

Strike out "articles" and substitute "drugs".

Section 58(4)—

Strike out "article" and insert "drug".

Section 58(5)—

Strike out "article of food or".

Section 58(6)—

Strike out "and article of food or" and substitute "a".

Section 59(2)—

Strike out "an article of food or".

Strike out "article or".

Section 60—

Strike out "of any article of food or".

Strike out "article or".

Strike out "an article or" and substitute "a".

Section 61(2)—

Strike out "food and".

Strike out "food or".

Section 61(2a)—

Strike out this paragraph.

Section 61(3)—

Strike out "articles of food or" wherever occurring.

Section 61(4)—

Strike out "and articles of food".

Section 61(5)—

Strike out "foods and".

Strike out "articles" and substitute "drugs".

Section 61(6)—

Strike out "articles of foods and".

Section 61(8)—

Strike out "of food and of drugs".

Section 61(8a)—

Strike out "of food or a drug".

Section 61(9)—

Strike out "food or" wherever occurring.

Section 61(11)—

Strike out this paragraph.

Section 61(13)—

Strike out "articles of food or".

Section 61a(2)—

Strike out "or a local authority".

Strike out "of the Central Board of Health or a local authority".

Section 63—

This section is repealed.

Section 64—

Strike out "or of any by-laws or regulations referred to in section 63,".

Section 65—

This section is repealed.

Schedule—

Strike out "Food and" wherever occurring.

Strike out "milk, butter, or".

THIRD SCHEDULE

PART I

The *Health Act, 1935*, is amended as follows:

Sections 40 to 46 (inclusive)—

These sections are repealed.

PART II

The *Health Act, 1935*, is amended as follows:

Sections 110 to 115 (inclusive)—

These sections are repealed.

FOURTH SCHEDULE

TRANSITIONAL PROVISIONS RELATING TO THE AMENDMENT OF
THE FOOD AND DRUGS ACT, 1908

1. Any person employed by the Metropolitan County Board constituted under the *Food and Drugs Act, 1908*, immediately before the repeal of sections 15 and 15a of that Act, shall, upon that repeal, become an employee of the Commission.
2. The transfer of the employment of a person in pursuance of clause 1 shall be effected without reduction in salary or status, and without loss of accrued or accruing leave entitlements.

APPENDIX 1

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Section 3:	definition of "analyst" substituted by 43, 1986, s. 6(a)
Section 9:	repealed by 43, 1986, s. 6(b)
Section 18:	amended by 71, 1992, s. 3(1) (Sched.)
Section 19(1):	amended by 71, 1992, s. 3(1) (Sched.)
Section 20(2):	amended by 71, 1992, s. 3(1) (Sched.)
Section 21(2):	amended by 71, 1992, s. 3(1) (Sched.)
Sections 22 and 23:	amended by 71, 1992, s. 3(1) (Sched.)
Section 27(2):	amended by 71, 1992, s. 3(1) (Sched.)
Section 28(7):	amended by 71, 1992, s. 3(1) (Sched.)
Section 31(1):	amended by 43, 1986, s. 6(c)

APPENDIX 2**DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28a of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

Note: This appendix is provided for convenience of reference only.