

PUBLIC HEALTH (FOOD HYGIENE) REGULATIONS, 1973

[Under section 26 of the Act]

Commencement: 9th April, 1973.

Arrangement of Regulations

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PART I

PRELIMINARY

Citation and commencement.

1. These regulations may be cited as the Public Health (Food Hygiene) Regulations 1973 and shall come into force on a date to be fixed by the Minister by notice published in the *Gazette*.

Interpretation.

2. (1) In these regulations, unless inconsistent with the context —

“Act” means the Public Health Act, No. 5 of 1969;

“authorised officer” means a person referred to in section 24 of the Act, and a meat inspector shall be deemed to be an authorised officer for the examination and seizure of meat;

“equipment” includes apparatus and utensils;

“food business” means any trade, business or occupation for gain involving the manufacture, preparation, handling, wrapping, serving, delivery, storage or sale of food;

“food premises” means any premises on or from which a food business is carried on;

“food room” means any room being, or being part of, any food premises in which any person engages in the handling of food or in the cleaning of equipment for the purposes of a food business and includes a room in which food is stored, but does not include —

- (a) a room used as a sleeping place if the only handling of food which occurs in the room is in the course of serving food there to or at the request of a person occupying it as a sleeping place;
- (b) a room communicating with a room described in paragraph (a), where the occupant is not carrying on a food business at the premises which include the room, or is not a person employed by such occupant;

“stall” means any vehicle, stall, tent or other movable structure.

(2) A person shall be deemed for the purposes of these regulations to engage in the handling of food if, for the purpose of a food business, he carries out or assists in the carrying out of any process or operation in the course of which his person or his clothing is liable to come into contact with any food or with any equipment used in such process or operation.

Prohibition against the use of premises for a food business.

3. No person engaged in the food business shall, otherwise than in accordance with the requirements of these regulations, use or permit the use of any premises for the purpose of a food business or carry on a food business or engage in the handling of food.

Display of regulations.

4. The occupier or person in charge of any food premises shall cause to be displayed in a conspicuous position in such premises a notice containing such provisions of these regulations or summary thereof as the Minister may direct in both English and siSwati and such notice shall be maintained at all times in a legible condition.

PART II

REQUIREMENTS RELATING TO FOOD PREMISES

General hygienic and building requirements for food premises.

5. (1) The construction, situation, lighting, ventilation, sanitary provision and the state of repair of food premises shall be such as to ensure, in the opinion of the local authority, satisfactory sanitary conditions therein, and compliance with section 22 of the Act and these regulations.

(2) The entire structure of the food premises is to be rodent-proof to the satisfaction of the local authority.

Situation of food rooms.

6. No food room shall communicate directly with any dwelling, sleeping apartment, change room or latrine, or have any door or window so placed as to be less than 30 feet from any urinal, bucket latrine, stable or pit latrine.

Lighting, ventilation and construction of food rooms.

7. (1) Every food room shall —

- (a) be suitably and sufficiently lighted and ventilated in such a manner that it complies with the requirements of the Building Act, No. 34 of 1968;
- (b) have internal surfaces on all walls brought to a smooth finish capable of being easily cleaned and, except where glazed or glass bricks or glazed tiles are used, shall be colour-washed or painted with a light-coloured material;
- (c) have floors constructed of cement;
- (d) have ceilings dust-proof and where required by the local authority colour-washed or painted with a light-coloured material.

(2) The floor of a food room may be covered with linoleum or other suitable material approved by the local authority which can be easily swept and cleaned, taking into account the purpose for which the room is to be used.

Store to be provided.

8. Every food premises shall be provided with one or more properly lighted, ventilated and rodent-proofed separate rooms of sufficient size and constructed with a dust-proof ceiling, for the storage of bulk articles and articles which are not for the time being in use or on offer for sale to the public.

Water supply.

9. A supply of pure water which is free from liability to pollution and sufficient, in the opinion of the medical officer of health, for the requirements of the food business shall be provided in all food premises.

Sinks for washing food and equipment.

10. (1) Suitable and sufficient sinks, or other facilities, for washing food and equipment used for the purpose of the food business, shall be provided on all food premises.

(2) Every sink shall have a draining board made of marble, slate, terrazo, stainless steel or other impervious material.

(3) A proper and sufficient supply of hot and cold running water shall be laid on to every sink, unless the local authority for good reason approves some other means for providing water.

(4) Every sink shall be fitted so as to comply with the requirements of the Building Act, No. 34 of 1968.

Sewage disposal.

11. Every food premises shall be connected to a public sewer, or if a public sewer is not available an adequate and hygienic system complying with the requirements of the Building Act, No. 34 of 1968, shall be provided for the disposal of sewage.

Sanitary conveniences.

12. (1) Subject to paragraph (2), every sanitary convenience on food premises shall be supplied with water through a suitable flushing apparatus and shall be kept clean and in working order.

(2) If the supply of water is not such as to render compliance with paragraph (1) practicable, the local authority shall permit an alternative system to be used.

(3) Every room containing a sanitary convenience shall be suitably ventilated and lighted to the satisfaction of the local authority.

(4) No room containing a sanitary convenience shall communicate directly with a food room.

(5) At or near every sanitary convenience provided for the use of persons employed on any food premises, there shall be prominently displayed a notice directing attention to the requirements of paragraph (1)(b) of regulation 19.

Sanitary facilities to be provided.

13. (1) Latrine and washing facilities for persons employed on food premises shall be provided as follows —

- (a) one latrine for every fifteen males, or portion thereof;
- (b) one latrine for every ten females, or portion thereof;
- (c) one urinal stall for every fifteen males or portion thereof;
- (d) one washhand basin for every thirty males or portion thereof;
- (e) one washhand basin for every twenty females, or portion thereof.

(2) If a room in which sanitary facilities are installed is intended for the use of more than one person at any one time the use of such room shall be restricted to one sex only.

(3) All sanitary fittings required by this regulation shall be installed so as to comply with the requirements of the Building Act, No. 34 of 1968.

Change rooms.

14. (1) A separate suitably furnished change room shall be provided for each sex in all food premises except where the local authority agrees that lockers of a shape and size approved by it may be provided in place of a change room.

(2) If more than ten persons of one sex are employed in any food premises the local authority shall require a change room to be provided for that sex.

(3) A change room shall not communicate directly with a food room.

(4) No person shall use, or permit the use of a change room for any purpose other than as a change room.

Correction of contraventions.

15. (1) If any premises existing at the time these regulations come into force are being lawfully used for the purposes of a food business and do not comply with the requirements of this Part, the local authority may serve a notice on the owner of the premises requiring him to execute such works or do such things as may be necessary to comply with the provisions of this Part within a time to be specified in the notice.

(2) Subject to paragraph (1) and any exemption granted under regulation 42, no premises shall be used for the purposes of a food business unless they comply in all respects with the requirements of this Part.

PART III

REQUIREMENTS RELATING TO PERSONS IN THE FOOD BUSINESS

Food to be protected from contamination.

16. A person engaged in the handling of food shall take all measures reasonably necessary to protect food from contamination by dust, dirt, flies or other causes until it is delivered to the customer.

Duties of manager.

17. The person in charge of any food premises shall at all times maintain the premises in a clean and sanitary condition and cause them to be swept daily, keep all gauze and screens provided for doors and windows in a clean and sound condition, provide and maintain effective measures for the prevention of the breeding and the destruction of flies, cockroaches, rodents, insects and other vermin and ensure that he and any person employed in the food business operating from the premises complies with the provisions of these regulations.

Overalls and personal clothing.

18. (1) The occupier or person in charge of any food premises shall provide clean and sound overalls of a light-coloured washable material for the use of every person engaged in the handling of food, and shall maintain such overalls in a clean and sound condition.

(2) Every person in the food business shall wear clean and sound overalls complying with the requirements of paragraph (1) while engaged in the handling of food.

(3) Any personal clothing or overalls when not in use shall be kept in a change room or locker, as the case may be, and shall not be kept in a food room except in a locker provided for the purpose.

Personal cleanliness.

19. (1) A person engaged in the food business shall be scrupulously clean as to his person and clothing while engaged in his work, and in particular shall —

- (a) at the commencement of his shift and after any break therein liable to result in the contamination of his hands and before engaging in his work, wash his

hands with soap and water unless such work does not involve direct contact with unwrapped food;

- (b) wash his hands forthwith after each occasion on which he has used a sanitary convenience;
- (c) keep all parts of his clothing and overalls which are liable to come into contact with food, clean to the extent necessary to avoid contamination;
- (d) keep any area of skin showing signs of infection on any exposed part of his person covered with a suitable waterproof dressing;
- (e) refrain from smoking, chewing tobacco, taking snuff, spitting or blowing the nose otherwise than into a handkerchief or other material suitable for the purpose.

(2) The occupier or person in charge of any food premises shall provide an adequate supply of soap, clean towels and nail brushes, for the use of all persons handling food or otherwise engaged in the food business.

(3) An authorised officer may direct any person engaged in the food business whose person or clothing appears so unclean as to be a source of possible contamination to the food with which he is working, to refrain from carrying on his work until such time as his person and his clothing have been thoroughly cleaned to such officer's satisfaction.

Notification and prevention of the spread of disease.

20. (1) Any person employed in a food premises who becomes aware that he is suffering from or is the carrier of typhoid fever, paratyphoid fever or any other salmonella infection, or dysentery, or any staphylococcal infection likely to cause food poisoning, or any other communicable disease, shall forthwith inform the person in charge of the food premises thereof.

(2) Unless the medical officer of health has, after bacteriological examination or the adoption of special measures, exempted such person from the provisions of this paragraph, no person shall be employed, or be, or remain in any food premises whilst he is suffering from, or is a carrier of, any communicable disease, or is a contact of any person suffering from a communicable disease, or is living in a house in which there is a case of a communicable disease.

(3) The occupier or person in charge of any food premises shall require any person to whom paragraph (2) applies, to leave such premises forthwith.

(4) The person referred to in paragraph (3) shall inform the nearest medical officer of health or health inspector of the occurrence of any case of actual or suspected communicable disease amongst the persons employed on the premises, and comply with any directions the medical officer of health or health inspector may give for the purpose of the disinfection of such premises and the prevention of the spread of disease.

Restriction on employment of certain persons.

21. (1) No person shall be employed in any food premises who is required to submit to a medical examination as provided in section 25 of the Act until such time as he shall have been so medically examined and found to be free of any communicable disease.

(2) No person shall engage or employ any person certified by the medical officer of health or other medical practitioner as suffering from any communicable disease or as a carrier in or about any food premises.

PART IV

PROVISIONS RELATING TO METHODS AND PRACTICES IN FOOD BUSINESS

Cleanliness of equipment.

22. (1) All equipment with which food comes into contact or is liable to come into contact in the course of a food business shall be kept clean and in good repair and shall be so constructed, be of such materials and be kept in such a condition as to enable it to be cleaned and to prevent, so far as is reasonably practicable, any matter being absorbed by it, and to prevent, so far as is reasonably practicable, any risk of contamination of food.

(2) No person shall use, or cause or permit to be used any equipment which is normally used in connection with a food business if it is not clean or in good repair, or for any purpose which might contaminate any food or render it unwholesome or injurious or dangerous for human consumption.

(3) An unauthorised officer may require the person in charge of any food premises where any apparatus is situated to take it apart for the purpose of examination or inspection in regard to its cleanliness.

Facilities for cleaning equipment.

23. (1) Adequate supplies of soap or other suitable detergent and cloths or other hygienic drying methods shall be provided for use at all sinks or other facilities required by regulation 10.

(2) Any cloth provided in compliance with this regulation shall be replaced by another as soon as it has become so soiled as likely to contaminate any food or equipment for the drying of which it is so provided.

Requirements relating to vehicles and stalls.

24. (1) Every vehicle or stall used for the transport, storage, service or sale of food shall be kept clean and in such a state of repair as will enable it to be effectively cleaned.

(2) No vehicle or stall shall be used for the purposes of serving food for immediate consumption in or upon utensils unless the food is served in or upon utensils which are used once only or there are adequate arrangements for cleaning the utensils in compliance with regulations 10 and 22.

Use of unwholesome material prohibited.

25. No person shall use any matter, substance or ingredient which is diseased, unsound, unwholesome or injurious to health, or cause or permit it to be used in the manufacture or preparation of any food.

Preparation, handling and sale of unwholesome food prohibited.

26. No person shall provide, prepare, keep, transmit, sell or expose for sale any food which is not clean, wholesome, sound and free from any disease, infection or contamination.

Food packed in damaged containers.

27. No person shall use, keep, transmit, sell or expose for sale any food which is packed in a hermetically sealed tin or other air-tight container if such tin or container is —

- (a) blown to any degree so that there is undue bulging of the flat or concave sides and ends of the tin or container, or so that gas escapes on puncturing;

- (b) extensively rusted;
- (c) damaged so that it leaks or otherwise becomes unsealed, or shows evidence of having been punctured and the puncture resoldered; or
- (d) without a label identifying its contents.

Packing and wrapping.

28. (1) No person shall use any bottle, jar, tin or other container or any paper, cardboard or other material which is not clean and free from any matter or substance which might contaminate or infect the food for the packing or wrapping of such food.

(2) No person shall sell, despatch or deliver any food which is not contained in a tin, bottle, jar, cardboard or other container and would otherwise be liable to contamination, unless he has wrapped and sealed such food in grease-proof vegetable parchment or other non-absorbing material of a weight of not less than 16 lbs per ream of 480 sheets.

(3) Paragraph (2) shall not apply to a duly licensed bakery which delivers bread in a properly covered basket or other suitable container.

Handling of unwrapped food.

29. No person shall handle any unwrapped cooked or prepared foods otherwise than by using suitable clean apparatus and instruments.

Standing or sitting on food.

30. No person shall stand, sit or recline on any food which is being conveyed, handled, loaded, unloaded, stored, displayed or deposited.

Keeping of animals in food premises.

31. No person shall keep, or permit to be kept in any food premises any live animal or bird, other than a cat.

Storage of perishable food.

32. (1) A person engaged in a food business involving the manufacture, preparation, handling, serving, storage or sale of perishable food, shall provide a suitable cold room or refrigerator capable of being maintained at a temperature not exceeding 50° Fahrenheit (10° centigrade) and of sufficient size to store all such perishable food, on the premises where such business is carried on.

(2) All perishable food on any premises used for the food trade shall be stored in the cold room or refrigerator provided in accordance with paragraph (1).

Disposal of refuse.

33. (1) Refuse, other than liquid refuse or comminuted refuse in liquid suspension, produced in the course of a food business on any premises, vehicle, stall or place other than premises shall be deposited in a suitable receptacle constructed of impervious materials, and such receptacle shall so far as is reasonably practicable be kept covered with a closely fitting lid or cover.

(2) Every such receptacle shall be cleaned after being emptied, except in the case of a receptacle which is emptied several times in the course of a day, if it is cleaned immediately after being emptied for the last time each day and used only for depositing incinerated fuel.

(3) Liquid refuse produced —

- (a) on any food premises shall be properly drained into the sewage disposal system provided in accordance with regulation 11;
- (b) on any stall used for the purpose of a food business, shall be disposed of in such manner as to prevent contamination of the food by such refuse and in such manner as the medical officer of health may approve.

(4) If a refuse disposal service is not provided by the local authority, the person in charge of the food premises shall make arrangements for the disposal of refuse in a manner approved by the medical officer of health.

PART V

ADULTERATED OR UNWHOLESOME FOOD — POWERS OF SEIZURE,
EXAMINATION AND DESTRUCTION*Adulteration of food.*

34. No person shall add to food intended for sale for human consumption any substance, or use any ingredient in the preparation of food, or abstract any constituent from food or subject food to any other process or treatment, which renders it injurious to health.

Sale of adulterated food.

35. (1) Subject to paragraph (2), no person shall sell for human consumption, offer, expose or advertise for sale for human consumption, or have in his possession for the purpose of sale for human consumption any food rendered injurious to health as described in regulation 34.

(2) In any prosecution for a contravention of this regulation it shall be a defence to an accused to prove that he was a person whose business it was to publish or arrange for the publication of, advertisements he received in the ordinary course of business and did not himself make, any material alteration in such advertisement or cause it to be made.

Appointment of analysts.

36. (1) Subject to this regulation the Minister may designate for any part of Eswatini and a local authority may appoint for its area of jurisdiction, one or more competent persons to be public analysts for the purpose of testing and examining any food which has been sold, offered for sale, delivered or intended for sale:

Provided that no person shall be so designated unless he possesses either the prescribed qualifications or such other qualifications as the chief medical officer may approve or if he is engaged directly or indirectly in any food business.

(2) The appointment, removal and conditions of service of a public analyst by a local authority shall require the approval of the Minister.

Power to inspect.

37. An authorised officer may at any reasonable time and as he may deem necessary enter any food premises for the purpose of inspecting and examining any food on the premises any ingredient used on the premises in the manufacture or preparation of food, any equipment or vehicle used in connection with the food business, the premises themselves and any person employed in the food business.

Power to examine food in transit.

38. If an authorised officer has reason to suspect that any vehicle or container contains any food which is intended for sale, or is in the course of delivery after sale, he may examine to vehicle and its contents or the contents of the container, and for that purpose may, if necessary, detain the vehicle or container and direct that it be moved to a suitable place for such examination.

Powers of sampling and examination.

39. (1) An authorised officer may purchase samples of any food or substance capable of being used in the preparation of food and cut into any food or open any container or package of food which appears to him to be intended for sale, or to be used in the preparation of food for sale, and if he so wishes remove a sample therefrom for the purpose of analysis by a public analyst designated or appointed under regulation 36 or for the purposes of regulation 40, as the case may be.

(2) An authorised officer who has procured a sample of food may submit it to be analysed by the public analyst for the area in which the sample was procured and the public analyst shall as soon as practicable thereafter analyse any such sample submitted to him and give a certificate specifying the result of the analysis.

Seizure of unwholesome food.

40. If, after inspection and examination, it appears to an authorised officer that any food is diseased, unsound, unwholesome or otherwise unfit for human consumption, he may seize and take possession of it and in writing prohibit the person in charge of the food premises from selling or disposing of any food then upon his premises and of the same nature as that seized:

Provided that this prohibition shall only extend for such reasonable time necessary to allow examination of such food by a meat inspector or veterinary surgeon in the case of meat, and in the case of other food, by a medical officer of health or health inspector who has been authorised by the chief medical officer in writing to carry out examination of food under this regulation.

Destruction of unwholesome food.

41. (1) If, after examination, the meat inspector, veterinary surgeon, medical officer of health or health inspector, as the case may be, is satisfied that any food referred to in regulation 40 is so diseased or unsound or unwholesome that it is unfit for human consumption, he may order such food to be destroyed.

(2) Any person mentioned in paragraph (1) may seize and examine all food of the same nature as referred to in such paragraph, found on the premises and if this is found to be unfit for human consumption to have it destroyed.

(3) The local authority shall take any measures necessary to ensure that an order referred to in paragraphs (1) and (2) is carried out and that no such food is sold or remains exposed for sale.

(4) Any order under paragraph (1) or (2) shall be made in writing under the hand of the officer making it, and if food is to be destroyed it shall specify the manner of destruction.

(5) Notwithstanding paragraph (1) the medical officer of health or in his absence the health inspector may allow such food to be treated so as to render it fit for human consumption but such treatment shall be at the owner's risk.

PART VI
MISCELLANEOUS

Exemptions.

42 (1) Subject to this regulation, a local authority may on the application of the owner of any food premises grant a certificate exempting any food premises, or any part thereof, for such period as may be specified in the certificate, from compliance with such provisions of Part II as it may decide.

(2) No certificate shall be granted by a local authority under this regulation unless it is satisfied that it would not be reasonable to require compliance with a provision of Part II having regard to the nature of the business carried on, or to be carried on, at the premises and the reasonableness and practicability of carrying out any necessary works.

(3) No certificate shall be granted under this regulation in relation to food premises constructed, reconstructed or substantially altered after the date on which these regulations come into operation, other than to food premises consisting of a temporary structure erected for the purpose of affording facilities for the consumption of food on the site of any building or engineering or other constructional works by persons employed in connection with the works, being food brought by those persons to the site, each for his own consumption, or in respect of which in the opinion of the local authority exception is justified on account of restricted accommodation or other special circumstances affecting the premises.

(4) If a local authority is satisfied that there has been an alteration in the circumstances in which a certificate was granted under this regulation, it may vary or cancel such certificate.

(5) If a local authority refuses, varies or cancels a certificate under this regulation, any person aggrieved may within one month of the decision appeal to the Minister, who shall make such order as he deems fit.

Offences and penalties.

43. Any person who contravenes any provision of these regulations, or fails to comply with a lawful order, direction or requirement of an authorised officer, or fails to comply with the lawful requirements of any notice duly served within the time specified therein, shall be guilty of an offence and liable on conviction to the penalties set out in section 27 of the Act.

Burden of proof.

44. In any prosecution under these regulations, the onus of proving that any food forming the subject of a charge was not intended for human consumption shall be upon the person so charged.

Repeal.

45. The following regulations are hereby repealed —

- (a) Regulations 118 to 124 (inclusive) and 154 to 165 (inclusive) of the Urban Area Regulations, 1962 (Government Notice 88 of 1962); and
- (b) Public Health Regulations No. 5 of 1969(1) — Regulations 22 to 25 (inclusive) of Part III.