

**THE FOOD STORAGE AND PREVENTION OF
INFESTATION ACT**

ARRANGEMENT OF SECTIONS

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THE FOOD STORAGE AND PREVENTION OF
INFESTATION ACT

Law
22 of 1958.
Act
40 of 1973.

[13th March, 1958.]

1. This Act may be cited as the Food Storage and Pre- Short title.
vention of Infestation Act.

2. In this Act—

“analyst” means an analyst appointed pursuant to section 3;

Interpreta-
tion.
40/1973
S. 3.

“article to which this Act applies” includes—

(a) any food; and

(b) anything used for the manufacture, prepara-
tion, packing, storing or keeping of any such
food;

“container” includes sacks, boxes, tins and other
similar articles;

“food” includes any substance ordinarily used in the
composition or preparation of food, the seeds of
any cereal or vegetable, and any feeding stuffs for
animals, but does not include growing crops;

“infestation” means the presence of rodents, insects,
mites or fungi in numbers or under conditions
which involve an immediate or potential risk of
loss of or damage to food;

40/1973
S. 3.

“inspector” means an inspector appointed under
section 3;

“manufacture” includes processing;

“the Minister” means the Minister responsible for
trade;

40/1973
S. 3.

“place” includes premises;

40/1973
S. 3.

“poisoning” includes contamination;

40/1973
S. 3.

“prescribed article” means any article declared by the Minister by order made pursuant to section 5 to be a prescribed article for the purposes of this Act;

40/1973
S. 3.

“vehicle” includes any vessel or aircraft.

Appointment of officers.
40/1973
S. 3.

3.—(1) The Governor-General may from time to time appoint such officers, including inspectors and analysts as appear to him to be necessary or expedient for the purposes of this Act, and in relation to every inspector, shall in the instrument of appointment specify the powers exercisable by him pursuant to sections 4 and 5.

(2) There shall be defrayed out of sums provided for the purpose in the annual Estimates of Revenue and Expenditure of the Island all expenses properly incurred in the administration of this Act.

Powers and duties of inspectors.
40/1973
S. 3.

4.—(1) An inspector, if so authorized by virtue of section 3, may at any reasonable time—

(a) enter any place where he reasonably believes that any article to which this Act applies is kept for sale, stored or manufactured, or any vehicle which he reasonably believes to be used for purpose of transporting any such article, and may examine any such article found therein or thereon, and take samples thereof free of charge, and may examine such place or vehicle or anything which he reasonably believes to be used or capable of being used for the keeping, storing, manufacturing or transporting of such article;

(b) open and examine any container that he reasonably believes contains any article to which this Act applies;

- (c) inspect or tag in accordance with this Act any article of food kept for sale, stored or manufactured; 40/1973 S. 3.
- (d) seize and detain any article to which this Act applies by means of or in relation to which he reasonably believes any provision of this Act or of any regulations made thereunder has been contravened; 40/1973 S. 3.
- (e) condemn, destroy or otherwise dispose of any article seized and detained pursuant to paragraph (d); 40/1973 S. 3.
- (f) prohibit the sale or transportation of any article of food which appears to him to be infested;
- (g) give to the owner or person in charge of a place or vehicle entered pursuant to this subsection or to the owner or person in possession of any article to which this Act applies which is infested or liable to infestation, such directions as he considers necessary or expedient for preventing or mitigating infestation; 40/1973 S. 3.
- (h) with the consent of any on such terms as may be agreed with the owner or person in possession of any article to which this Act applies which is infested or liable to infestation, take such steps as he considers necessary for preventing or mitigating infestation in relation to such article and in respect of any steps so taken may charge and recover from such owner or person the amount of any expenses reasonably incurred; 40/1973 S. 3.
- (i) exercise any such further powers subject to such conditions or restrictions as may be prescribed. 40/1973 S. 3.

(2) An article seized under this Act may at the option of an inspector be stored or kept in the place where it was seized or may on his direction be removed to any other place which he considers satisfactory for the purpose.

(3) An inspector may release any article seized by him, or remove the prohibition on sale or transportation of an article imposed by him under this Act, if he is satisfied that all the provisions of this Act with respect thereto have been complied with.

40/1973
S. 3.

(4) An inspector shall be furnished with a certificate of appointment in the prescribed form and on entering any place or vehicle pursuant to subsection (1) or subsection (2) of section 5 he shall, if required to do so, produce the certificate to the person in charge of the place or vehicle.

40/1973
S. 3.

(5) The owner or person in charge of a place or vehicle entered by an inspector pursuant to subsection (1) or subsection (2) of section 5, and every person found therein, shall give the inspector all reasonable assistance in their power and shall furnish him with such information as he may reasonably require.

Minister may
prescribe
articles.
40/1973
S. 2.

5.—(1) Where the Minister is satisfied that in any article (not being an article to which this Act applies) which is—

(a) kept for sale, stored or manufactured in any place;
or

(b) transported in any vehicle,

there are rodents, insects, mites or fungi in numbers or under conditions which involve an immediate or potential risk that infestation of an article to which this Act applies may result, he may by order declare such article in or upon such place or vehicle to be a prescribed article for the purposes of this Act, and any such order may be varied or revoked by a subsequent order made by the Minister.

(2) Where an article has in the circumstances mentioned in subsection (1) been declared to be a prescribed article for the purposes of this Act, the provisions of paragraphs (a), (b), (d), (e) and (g) of subsection (1) of section 4 shall apply in relation to such prescribed article and such place or vehicle as aforesaid as they apply in relation to an

article to which this Act applies, and accordingly an inspector shall, subject to the provisions of this Act, have in respect of such prescribed article and the place or vehicle aforesaid, the powers set forth in the said paragraphs.

6.—(1) Subject to the provisions of section 10 with respect to appeals, if any person to whom directions are given under section 4 or in pursuance of section 5 fails to comply with any requirement of the directions within the period prescribed thereby, then, without prejudice to any proceedings which may be taken against him in respect of an offence under this Act, the Minister may, by order—

Powers of
Minister in
case of
failure to
comply with
directions.
40/1973
S. 3.

- (a) in the case of a place or vehicle entered pursuant to either of the said sections, authorize any person named in the order to take, on behalf of the person in default, such steps as the Minister considers necessary for securing compliance with that requirement; or
- (b) in the case of an article to which this applies which is infested or liable to infestation, authorize an inspector to take or cause to be taken such steps as may be necessary for preventing or mitigating infestation in relation to such article.

(2) The amount of any expenses reasonably incurred by authority of the Minister under subsection (1) shall be paid by the Minister and may be recovered as a debt due to the Government from the person in default.

(3) In proceedings for the recovery of any expenses under this section, it shall not be open to the defendant to raise by way of defence any question which he could have raised on an appeal under section 10.

Obligation
to give
notice of
infestation.

7. Every person whose business consists of or includes the manufacture, storage, transport, sale, repair or cleaning of any article to which this Act applies, shall forthwith give notice in writing to the Minister if it comes to his knowledge that any infestation is present—

- (a) in any such article manufactured, stored, transported, sold, repaired or cleaned in the course of that business, or in any other goods for the time being in his possession which are in contact or likely to come into contact with such article;
- (b) in any premises or vehicle, or any equipment belonging to any premises or vehicle used, or likely to be used in the course of that business for the manufacture, storage, transport or sale of food.

Power of
Minister
to make
regulations.

8. The Minister may make regulations for carrying into effect the provisions of this Act, and in particular but without prejudice to the generality of the foregoing may make regulations—

- (a) with respect to the method of manufacture, storing, keeping, examination and testing of any article to which this Act applies, including the method of cleaning containers, and the type of building to be used in connection with the storage of any such article, for the prevention of infestation;
- (b) with respect to the powers and duties of inspectors, analysts and other officers appointed under this Act, the taking of samples, the seizure, detention, condemnation, destruction and disposal of articles to which this Act applies;
- (c) providing for the exemption of any establishment or person or class of establishment or persons from all or any of the provisions of this Act for such period and subject to such conditions (if any) as may be prescribed by such regulations;

- (d) with respect to the importation and exportation of any article to which this Act applies, and the manner in which and the conditions under which the control of such importation and exportation shall be exercised;
- (e) prescribing forms for the purposes of this Act;
- (f) prescribing, controlling or approving the methods which may be used for preventing or mitigating infestation, or prohibiting the use of any method other than a method so approved;
- (g) imposing restrictions or conditions as to the purposes for which, the circumstances in which, or the methods or means by which, anything may be used for the purpose of preventing or mitigating infestation; 40/1973
S. 3.
- (h) requiring the provision, and keeping available and in good order, of protective clothing and equipment, of facilities for washing and cleaning, and of other things needed for protecting persons, clothing, equipment and appliances from contamination or for removing sources of contamination therefrom;
- (i) requiring the observance of precautions against poisoning, including the use of things provided in pursuance of the regulations;
- (j) securing intervals between, or limitation of, periods of exposure to risk of poisoning;
- (k) requiring the observance of special precautions in respect of persons who, by reason of their state of health, age or other circumstances, are subject to particular risk of poisoning or of injury therefrom, or imposing in respect of persons so subject prohibitions (whether temporary or permanent), or restrictions, on their employment for the purposes of this Act;

- (l) with respect to measures for detecting and investigating cases in which poisoning has occurred and cases falling within paragraph (k), including medical examinations, making of blood tests, and notification of absences from work in circumstances involving suspicion of poisoning;
- (m) requiring the provision, and keeping available and in good order, and the use, of facilities for preventive and first-aid treatment;
- (n) requiring the provision of, and submission to, instruction and training in the use of things provided in pursuance of the regulations, and in the observance of precautions;
- (o) requiring the keeping and inspection of records and the furnishing of returns and information;
- (p) with respect to the licensing (subject to any prescribed conditions) of persons using by themselves or their servants or agents any prescribed method, appliance or thing for the purposes of this Act;
- (q) providing for the registration of such premises or class of premises as may be prescribed for the purposes of this Act;
- (r) prescribing anything required by this Act to be prescribed.

Offences.

9.—(1) Subject to the provisions of section 10 any person who contravenes any of the provisions of this Act or any regulations made or directions given thereunder shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

(2) It shall be a contravention of this Act for any person to assault or obstruct any officer appointed under this Act acting in the execution of his duty under this Act. 40/1973
S. 3.

(3) In any proceedings for an offence under this Act the production of a certificate, direction or other document in the prescribed form shall be sufficient evidence of the facts stated therein unless the contrary is shown. 40/1973
S. 3.

10.—(1) Where directions are given under paragraph (f) of subsection (1) of section 4 or in pursuance of subsection (2) of section 5 requiring the carrying out of any structural works or the destruction of any food or container, any person aggrieved thereby may appeal to the Resident Magistrate's Court for the parish in which the place is situated or the vehicle was entered by the inspector. Appeals.
40/1973
S. 3.

(2) Notice in writing of the appeal shall be served on the inspector—

- (a) in the case of directions requiring the carrying out of any structural works, within twenty-one days from the service of the directions;
- (b) in the case of directions requiring the destruction of any food or container, within seven days from the service of the directions.

(3) Upon any such appeal the Court, if satisfied that the directions are for any reason invalid, or that any requirement thereof is excessive or unreasonable, may quash or amend the directions, as the case may be, but in any other case shall dismiss the appeal :

Provided that if and so far as the appeal is based on the ground of some informality, defect or error in or in connection with the directions, the Court shall dismiss the appeal if satisfied that the informality, defect or error was not a material one.

40/1973
S. 3.

(4) Any directions given under paragraph (f) of subsection (1) of section 4 or in pursuance of subsection (2) of section 5 requiring the carrying out of any structural works, or the destruction of any food or container, shall include a statement of the right of appeal under this section, and of the time within which such an appeal may be brought.

(5) An appeal shall lie to the Court of Appeal from the decision of a Resident Magistrate's Court under this section in respect of directions requiring the carrying out of any structural works.