

THE LAWS
OF
THE GILBERT ISLANDS

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CHAPTER 84

PURE FOOD

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**LAWS OF THE GILBERT ISLANDS
REVISED EDITION 1977**

CHAPTER 84

PURE FOOD

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6 of 1913
(Cap. 41 of
1952)
8 of 1940
(Cap. 40 of
1952)
8 of 1968
8 of 1971
(Cap. 39 of
1973)
14 of 1974
26 of 1977
Short title

An Ordinance for securing the wholesomeness and purity of food, fixing standards therefor and providing for its care and inspection and for purposes incidental thereto

*Commencement: Section 8—31st July 1913
Remainder—27th May 1940*

1. This Ordinance may be cited as the Pure Food Ordinance.

Interpretation

2. In this Ordinance unless the context otherwise requires—

“analyst” means any analyst appointed for the purposes of this Ordinance;

“drug” includes medicine for internal or external use;

“food” means every article used for food or drink by man other than drugs and water; and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes flavouring matters and condiments;

“inspector” includes an administrative officer and any medical officer and any other person duly appointed by the Secretary for the purpose of carrying out the provisions of this Ordinance;

“package” includes any box, bottle, basket, tin, barrel, case, receptacle, wrapper or other thing in which any article is placed or packed;

“place” includes any house, premises or building;

“to sell” includes to barter, and also includes to offer or attempt to sell, or receive for sale, or have in possession for sale, or expose for sale, or send forward for sale, or deliver for sale, or cause or suffer or allow to be sold, offered or exposed for sale, but refers only to selling for consumption or use by man;

“writing” includes printing, stencilling, typing and any mode of representing or reproducing words or figures in a visible form.

Food when deemed to be adulterated or falsely described

3. An article of food shall be deemed to be adulterated or falsely described within the meaning of this Ordinance—

(a) if any substance has been mixed with it so as to reduce or lower or injuriously affect its quality or strength;

(b) if any inferior or cheaper substance has been substituted wholly or in part for the article;

(c) if any valuable constituent of the article has been wholly or in part abstracted;

- (d) if it consists wholly or in part of any diseased or putrid or rotten animal or vegetable substance whether manufactured or not;
- (e) if it is obtained from a diseased animal or from one which has died otherwise than by the hand of a slaughterman;
- (f) when it is coloured or coated or powdered or polished in a manner whereby damage or inferiority may be concealed;
- (g) when it contains any substance prohibited by the regulations, or any substance concerning which any restrictive regulation has been made, in excess of any quantity or proportion permitted by such regulation;
- (h) when it is damaged, deteriorated or perished;
- (i) if it contains any added poisonous ingredient or any ingredient which may render it injurious to the health of the person consuming it, whether added with intent or otherwise;
- (j) when either wholly or in part its strength or purity does not comply with the standard prescribed by any regulation;
- (k) when it is in package form and the contents are stated in terms of weight or measure and they are not correctly stated on the outside of the package, as provided by the Ordinance;
- (l) when it is in package form and the package or any label attached thereto bears a statement, design or device regarding such article of food, or the ingredients or substance contained therein, which is false or misleading in any particular:

Provided that in a prosecution or other proceeding under this Ordinance for selling an article of food to which paragraphs (a) or (b) apply, such article shall not be deemed to be adulterated or falsely described if it is sold as a mixture in accordance with the provisions of this Ordinance:

Provided further that nothing in this Ordinance shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient, to disclose their trade formula, except in so far as the provisions of this Ordinance may require to secure freedom from adulteration or false description.

4. No person shall sell any article of food which is adulterated or falsely described or which is packed or enclosed for sale in any manner contrary to the provisions of this Ordinance.

Adulterated
food

Mixing food
so as to be
injurious to
health

5. (1) No person shall, for the purpose of sale, mix or cause or permit to be mixed any ingredient or material with any food, or colour any such article, or cause or permit the same to be coloured, so as in any such case to render such article dangerous or injurious to health.

(2) No person shall sell any food mixed with any such ingredient or material, or so coloured as aforesaid, whereby such food is rendered dangerous or injurious to health, or whereby its quality is injuriously affected:

Provided that a person shall not be liable to be convicted under this section in respect of the sale of any article of food if he shows to the satisfaction of the court before whom he is charged that he did not know, and could not with reasonable diligence have ascertained, that the article of food sold by him was so mixed or coloured as aforesaid.

Selling the
same

6. (1) No person shall—

(a) for the purpose of sale, mix or cause or permit to be mixed any ingredient or material with any food, in order thereby fraudulently to increase its weight, bulk or measure, or fraudulently to conceal its inferior quality; or

(b) sell any food mixed with any ingredient or material whereby the weight, bulk or measure of such food has been fraudulently increased, or its inferior quality fraudulently concealed.

(2) No person shall—

(a) sell any food which is not of the nature, substance or quality of the food demanded by the purchaser; or

(b) sell any compounded food which is not composed of ingredients in accordance with the demands of the purchaser.

(3) In any prosecution under this section it shall be no defence to prove that the food, the subject of the prosecution, though defective in nature or in substance or in quality, was not defective in all three respects.

Sale of mixed
food

7. (1) When any person sells a food which is a mixture, the ingredients shall be pure and in an undeteriorated and sound condition, and such person shall deliver the mixture to the purchaser in a package, on or attached to which shall be a statement or label stating that the food is a mixture, and the names and ingredients; and when the mixture is a food, the proportions of the ingredients when so prescribed:

Provided that it shall not be necessary to attach a statement or label in the case of—

- (a) an article of food generally known to users as a compounded article mixed with any matter or ingredient not injurious to health and not intended fraudulently to increase its bulk, weight or measure, or fraudulently to conceal its inferior quality; or
- (b) a mixture exempted from this section by the regulations, which exemption may be applied to classes of articles.

(2) No person shall sell any food which is a mixture in respect of which the provisions of this section have been contravened or have not been complied with.

8. (1) The owner, lessee, or occupant of any place in which, or in any part of which, any article intended for human food, whether separately or by admixture with other articles, is stored or kept, or is exposed or offered for sale, or in which any aerated waters are manufactured for sale, shall make and keep that place clean and wholesome. Food stores, etc., to be kept clean

(2) Any person contravening the provisions of subsection (1) shall be liable to a fine of \$4.

(3) Any medical officer, or other officer, authorised in writing either generally or specially by the Secretary for the purpose, may at all times enter any place to inspect and examine any article mentioned in subsection (1) and, if the article appears to him to be unfit for human consumption, he may seize the same and order it to be destroyed, or so treated as to prevent its exposure for sale or use for food.

(4) The person in whose custody or under whose control any article unfit as aforesaid is found, and the person or persons directly or indirectly responsible for its exposure or offer for sale, shall be liable to a fine of \$20.

(5) In this section—

“place” includes any vessel employed in trading or in the recruiting of labourers;

“owner” includes the master or other person in charge of a vessel.

9. (1) Except in the case of a package of food which has been exempted from any or all of the provisions of this section by the regulations, there shall be legibly and durably written on, or attached to, every package of food packed or enclosed for sale, a statement or label indicating the trade name or description, the net weight, true measure or volume of the contents thereof, and Packages to be labelled. Liability of person named on package

the name and address of the vendor or maker thereof, or of the agent therefor.

(2) Weights and measures closely approximating those indicated on the statement will be allowed, but the degree of approximation may be fixed by regulation, either generally or in respect of particular articles of food.

(3) Where any food in connection with which there is a contravention of any of the provisions of this Ordinance is sold in a closed package to any purchaser, any person who appears from any statement or label thereon or attached thereto to have imported, manufactured or prepared such food, or to have enclosed it in such package, shall, unless he proves to the contrary, be deemed to have so imported, manufactured, prepared or enclosed such food, and (unless the contravention is shown to be due to the default of the person on whose premises the package is found, or to deterioration or other causes beyond the control of the person named on the package or label) shall be guilty of an offence against this Ordinance.

Inspection

10. (1) Any inspector may enter and inspect, at any reasonable time, any place which he has reasonable grounds for believing is kept or used for the sale, storage, delivery, manufacture or preparation for sale of any article used, or which he has reasonable grounds for believing is intended to be used, as a food.

(2) For the purposes of such inspection, an inspector may—

- (a) examine and open any such article, or any package enclosing the same, in any such place;
- (b) remove for analysis or examination portions or samples of any such article;
- (c) weigh, count, measure or mark such article or package and fasten, secure or seal the same;
- (d) seize any such article which is, or appears to him to be, dangerous or injurious to health or unwholesome or unfit for use, and any package enclosing or containing the same.

(3) A magistrates' court may, upon the information of such inspector, summon before it the owner of such article or the person in whose possession it was found, and call upon him to show cause why the article and the package aforesaid should not be forfeited and destroyed.

(4) Upon the said owner or person so appearing, or if, after being so summoned, he fails to appear, the said magistrates' court may, after inquiry into the matter and if satisfied by reasonable proof that the article is used or is intended to be sold or used as

food and was unfit for human consumption, adjudge such article and also every such package to be forfeited and the same shall be destroyed; and in default of such reasonable proof, the article and the said package shall be forthwith restored to the owner or person in whose possession they were found.

(5) This section shall, without restricting its general application, extend and apply to articles packed, bottled or tinned or sold or offered for sale or made up or included in or prepared or cooked for any meal to be consumed on the premises of any shop, licensed house or any place or premises.

11. (1) On payment or tender to any person selling or manufacturing or preparing for sale any food, or to his agent or servant, or to any person in charge of the food, of the current market value thereof or at the rate of payment prescribed, any inspector may demand and select and take or obtain samples of the said food as required by him for the purposes of this Ordinance. Power to take samples

(2) Any such inspector may require such person or his agent or servant to show and permit the inspection of any package in which such food is at the time kept, and may take or draw therefrom the samples demanded:

Provided that where any food is kept for retail sale in a closed package, no person shall be required by any inspector to sell less than the whole of such package.

(3) If any rates have been fixed by regulation for the payment for samples of any food, it shall not be necessary for any inspector to tender any higher price for such sample.

12. (1) The person purchasing or the inspector taking or obtaining any food with the intention of submitting it to analysis, shall thereupon notify such intention to the owner or his agent or servant or other person in charge of such food. Sample to be divided

(2) The person purchasing or the inspector shall divide any such food into 3 parts to be then and there separated, and each part shall be labelled or marked and sealed or fastened up, in such manner as the nature will permit, and 1 of the said parts shall be delivered to the owner, agent, servant or person in charge aforesaid, 1 shall be retained by the purchaser or inspector, and the third shall be submitted to an analyst.

13. Such food as aforesaid may be forwarded to an analyst through the post office as a registered article or may be forwarded under seal in any convenient way, in which case the certificate of the analyst that, on receipt by him, the seal was unbroken, shall be sufficient evidence of identity. Forwarding of food for analysis

Appointment
of analysts

14. The Secretary may appoint persons to be analysts and may make regulations concerning their qualifications.

Certificate of
analyst to be
evidence

15. Any analyst analysing any food submitted to him in pursuance of this Ordinance may give a certificate, in the form prescribed, of the result of the analysis. In any legal proceeding under this Ordinance, the production of a certificate purporting to be signed by an analyst shall be *prima facie* evidence of the identity of the food analysed and of the result of the analysis, without proof of the signature of the person appearing to have signed the same.

Mode of
determining
strength of
liquors

16. For the purposes of determining the degree of the strength of any spirits, such apparatus shall be used and such method observed as may be prescribed.

Copy of
result of
analysis

17. A copy of the result of any analysis shall, on demand, be supplied to the person from whom the sample was procured and to the manufacturer or his agent in the Gilbert Islands.

Cost of
analysis

18. Where the prosecutor in any case under this Ordinance has caused the food forming the subject of prosecution to be analysed, the court may, in case of a conviction, award the cost of such analysis against the defendant as part of the costs of the prosecution.

Penalties

19. (1) Any person guilty of an offence under this Ordinance for which no other penalty is expressly provided shall be liable for the first offence to a fine of \$10, and for a second offence to a fine of \$20, and for any subsequent offence to a fine of \$100.

(2) Where a person is found guilty of an offence under this Ordinance and either the certificate of the analyst states that the adulterated article has been so adulterated as to be injurious to health, or the offence, in the opinion of the court, was committed wilfully by or by the gross negligence of, the person accused, that person shall, if the court is of opinion that a fine will not meet the circumstances of the case, be liable, in addition to or in lieu of such fine, to imprisonment for 6 months.

Interference
with official
marks or
seals

20. If any person who is not authorised so to do, wilfully removes, erases, alters, breaks or opens any mark, seal or fastening placed by any inspector upon any goods, article or package, he shall be liable to a fine of \$20.

Obstruction,
etc., of
inspector

21. Any person who—

(a) assaults, intimidates, obstructs or attempts to obstruct in

any manner, any inspector or authorised person in the exercise of his powers in or in the discharge of his duties under this Ordinance; or

- (b) refuses to allow to be taken any sample demanded in accordance with the provisions of this Ordinance or of the regulations; or
- (c) gives, procures, offers or promises any bribe, recompense or reward to influence any inspector or person as aforesaid in the exercise of his powers or in the discharge of his duties as aforesaid; or
- (d) retakes, or attempts to retake, any food or article seized or sold under the provisions of this Ordinance, or resists or attempts to prevent such seizure;

shall be liable to a fine of \$20.

22. In the case of any conviction under this Ordinance, any food to which the conviction relates may by order of the court become and be forfeited to Her Majesty; and such forfeiture may extend to the whole of the article, and to the whole of any similar articles, and to all packages containing any similar articles belonging to the defendant or found on the defendant's premises or in his possession at the time of the commission of the offence. Forfeiture

23. Fines and forfeitures imposed by or under the provisions of this Ordinance or the regulations may be recovered and enforced in a summary manner before a magistrates' court. Recovery of fines

24. When any food has been taken or obtained for analysis, no prosecution under this Ordinance in respect thereof shall be instituted after the expiration of 6 months from the time when it was so taken or obtained. Limit of time for prosecutions

25. In any prosecution concerning any food, there shall be served with the summons a copy of any analyst's certificate that may have been obtained on behalf of the prosecution. Analyst's certificate to be served with any summons

26. Where any sample of any article of food for sale procured by any inspector has been proved by analysis to have been adulterated or falsely described, and an inspector has, in pursuance of this Ordinance, seized, marked or fastened such article in any place, proof of the possession by any person in such place of such article shall be deemed to be *prima facie* evidence that the same is in his possession for sale in contravention of the provisions of this Ordinance. Possession prima facie evidence of contravention of Ordinance

Onus of proof

27. The onus of proof that any food has not been sold for consumption or use by man shall be on the defendant.

When warranty a defence to prosecution

28. (1) If the defendant in any prosecution under the provisions of this Ordinance for the sale of any food which is adulterated or falsely described, or is mixed, coloured, composed or constituted in contravention of any provision of this Ordinance, proves that he purchased the article in question for, and as an article of the same nature, substance and quality as that demanded of him by the purchaser or inspector, and with a written warranty or invoice to that effect, and also proves that he sold it in the same state in which he purchased it, and that he could not with reasonable diligence have obtained knowledge of its adulteration or false description, he shall be entitled to be discharged from such prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he shall have given notice to him that he will rely on such defence.

(2) A warranty or invoice shall not be available as a defence unless the defendant has, within 7 days after service of the summons, sent to the purchaser or inspector a copy of such warranty or invoice with a written notice stating that he intends to rely on the warranty or invoice and specifying the name and address of the person from whom he received it, and also that he has sent a like notice of his intention to such person.

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

(4) A warranty or invoice given by a person resident outside the Gilbert Islands shall not be available as a defence to any proceedings under this Ordinance unless the defendant proves that he did in fact believe in the accuracy of the statement contained in the warranty or invoice.

(5) Any person who gives any such warranty or invoice which is false, shall, in addition to any penalty for the sale of any food contrary to the provisions of this Ordinance, be guilty of an offence, unless he proves to the satisfaction of the court that when he gave the warranty or invoice he had reason to believe that the statements or descriptions contained therein were true.

Regulations

29. The Minister may make regulations not inconsistent with this Ordinance—

(a) prescribing standards for the composition, strength, purity or quality of any food, or for the nature or proportion of

- any substance which may be mixed with or used in the preparation or preservation thereof, or prohibiting the addition of any substance to any article of food;
- (b) prohibiting in the manufacture, preparation, storing, preservation, packing, or in the delivering of any article of food for sale, the use of appliances containing any substance that may be specified, and prohibiting the sale of such appliances;
 - (c) prohibiting such modes of manufacture and of preparation or preservation of articles of food as may be specified;
 - (d) prescribing the method of analysing any food submitted for analysis under this Ordinance;
 - (e) exempting any package of food from any provision of this Ordinance relating to marking or labelling;
 - (f) requiring the destruction or denaturation of articles of food that have become deteriorated or impoverished in such degree as may be specified, and of such articles of food as may be specified;
 - (g) requiring statements or labels to be written on or attached to articles of food, or to packages containing such articles, designed to prevent the public or purchaser from being deceived or misled as to the character, strength, quality, quantity or uniformity of the article, and prohibiting the use in such statements or labels of words that may be specified;
 - (h) prescribing the form of such statement or labels;
 - (i) for securing the wholesomeness, cleanliness, freedom from contamination and adulteration of any food, and for securing the cleanliness and sanitation of receptacles, places and vehicles used for the manufacture, preparation, storage, packing, carriage or delivery of any food;
 - (j) prescribing penalties not exceeding \$40, or a continuing penalty not exceeding \$4 per diem, for a contravention of any regulation; and
 - (k) generally for carrying out the provisions of this Ordinance.

30. Nothing in this Ordinance contained shall repeal or modify the provisions of the Public Health Ordinance. Saving of
Cap. 80

SUBSIDIARY LEGISLATION

[Subsidiary]

Appointment of inspectors under section 2

There are appointed as inspectors—

L.N. 61/76

- (a) the persons whose names appear from time to time in Parts I, II or IV of

[Subsidiary]**Cap. 55**

the Medical and Dental Register pursuant to section 32 of the Medical and Dental Practitioners Ordinance; and

- (b) the persons from time to time holding office as health inspectors and assistant health inspectors.

The publication of those persons' names in the *Gazette* shall be publication of the appointments made hereby.