

CHAPTER 15:04

FOOD AND FOOD STANDARDS ACT

Acts 25/1971, 39/1973 (s. 52), 61/1973 (s. 8), 42/1976 (s. 35), 32/1979 (s.12), 29/1981, 8/1988, 22/1994, 22/2001 (s. 4)

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Application of Act.
3. Interpretation.

PART II

ADULTERATED AND FALSELY DESCRIBED FOOD

4. Adulteration or false description of food.
5. Control of sale, importation and manufacture of food.
6. Control of mixed or compounded foods.
7. Control of blended foods.

PART III

ADMINISTRATION

8. Inspection, seizure and disposal of food.
9. Withdrawal of notice or return of food.
10. Taking of samples and analysis of food.
11. Food found not to be prohibited from sale or manufacture for sale.
12. Proceedings for disposal of food.
13. Cancellation of notice or release of food if undertaking furnished.
14. Detention of food at port of entry.
15. Power of Minister to obtain particulars of food.

PART IV

LEGAL PROCEEDINGS

16. Procedure and presumptions.
17. Act or omission by manager, agent or employee.

PART V

FOOD STANDARDS ADVISORY BOARD

18. Establishment of Food Standards Advisory Board.

PART VI

GENERAL

19. Appointment of analysts.
20. Appointment of inspectors.
21. Delegation of powers of appointment to local authority.
22. Inspector to produce letter of appointment.
23. Payment for sample taken and compensation for deteriorated food.
24. Obstruction of inspector.
25. Destruction of food upon conviction of an offence.
26. Preservation of secrecy.
27. Regulations.

AN ACT to provide for the sale, importation and manufacture for sale of food in a pure state; to prohibit the sale, importation and manufacture for sale of food which is falsely described; and to provide for the fixing of standards relating to food and matters incidental thereto.

[Date of commencement: 28th May, 1971.]

PART I
PRELIMINARY

1 Short title

This Act may be cited as the Food and Food Standards Act [*Chapter 15:04*].

2 Application of Act

This Act shall not apply to a drug which is a specified drug in terms of the Drugs and Allied Substances Control Act [*Chapter 15:03*].

3 Interpretation

(1) In this Act—

“analyst” means a person appointed as an analyst in terms of section *nineteen* or by a local authority to which the power of appointment has been delegated in terms of section *twenty-one*;

“appliance” means the whole or any part of any utensil, machinery, instrument, apparatus or article used in the manufacture, preservation or packaging of any food;

“area under the jurisdiction of a local authority” means—

(a) in the case of a municipal or town council, the municipal or town council concerned;

(b) in the case of a rural district council, the area of the rural district council or such greater or lesser area as may be declared in terms of subsection (2) to be the area under the jurisdiction of the council for the purposes of this Act;

(c) in the case of a local board, the local government for which the board has been appointed;

and includes a local government area administered and controlled by a local authority referred to in paragraph (a) or (b);

“Board” means the Food Standards Advisory Board appointed in terms of section *eighteen*;

“description” means any label, brand, mark, advertisement, verbal or written statement, representation or pictorial or other descriptive matter referring to any food or any substance or ingredient thereof;

“detained”, in relation to any food, means detained in terms of subparagraph (iii) of paragraph (f) of subsection (1) of section *eight*;

“food” means any substance which is, in whole or in part, intended for human consumption or which is intended for entry into, or to be used in the manufacture of, any such substance;

“inspector” means—

(a) a person appointed as an inspector by the Minister in terms of subsection (1) of section *twenty*;

(b) a person appointed as an inspector by a local authority to which the power of appointment has been delegated in terms of subsection (1) of section *twenty-one*;

and includes a person exercising the powers of an inspector conferred upon him in terms of subsection (3) of section *twenty*;

“label” means—

(a) when used as a verb, to brand, mark or otherwise designate or describe any article;

(b) when used as a noun, any brand, mark, written or pictorial or other descriptive matter appearing on or attached to or packed with and referring to any food or its package;

“local authority” means a municipal council, town council, local board or rural district council;

“manufacture” includes prepare, compose, process or treat;

“medical officer of health”, in relation to a local authority, means the medical officer of health appointed by or designated for the area of that local authority in terms of section 7 or 9, as the case may be, of the Public Health Act [*Chapter 15:09*];

“Minister” means the Minister of Health and Child Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“Ministry” means the Ministry for which the Minister is responsible;

“notice”, in relation to any food, means a notice issued in terms of subparagraph (ii) of paragraph (f) of subsection (1) of section *eight*;

[Definition as amended by section 4 of Act No. 22 of 2001]

“package” means anything in or by which food is covered, enclosed, contained or packed;

“prohibited” means prohibited in terms of this Act or regulations made under section *twenty-seven*;

“sealed package” means an unbroken or unopened package which cannot be opened without damaging the container, seal, capsule, adhesive label or wrapping, or which otherwise cannot be opened and closed again so as to be left intact;

“Secretary” means the Secretary of the Ministry;

“sell” means sell by wholesale or retail, and includes—

(a) offer, advertise, keep, possess, expose, transmit, consign, convey or deliver for sale;

(b) authorize, direct or allow a sale;

(c) barter, exchange, supply or dispose of for any consideration, direct or indirect.

(2) With the approval of the Minister to whom the administration of the Rural District Councils Act [*Chapter 29:13*] has been assigned, the Minister may by statutory instrument declare that for the purposes of this Act the area under the jurisdiction of a rural district council shall be a greater or lesser area than the area for which the council was constituted in terms of the said Act.

PART II

ADULTERATED AND FALSELY DESCRIBED FOOD

4 Adulteration or false description of food

(1) Subject to subsection (2) food shall, for the purposes of this Act, be deemed to be—

(a) adulterated if—

- (i) it contains, or is mixed or diluted with, any substance or ingredient not present when the food is in a pure or normal state and in a sound condition; or
- (ii) it has been subjected to any process or treatment which injuriously affects its nature, substance or quality or any of its other properties; or
- (iii) any substance or ingredient has been extracted, removed or omitted therefrom, thereby diminishing or altering its food value or nutritive or any of its other properties as compared with the food in a pure or normal state and in sound condition; or
- (iv) it is coloured, stained, powdered, polished, coated, steamed or treated so that its nature, condition or quality is concealed or attempted to be concealed; or
- (v) it fails to comply with any prescribed standards; or
- (vi) it contains or there has been added to or mixed or diluted with it any substance or ingredient in a proportion greater than that which is prescribed or any prohibited substance or ingredient; or
- (vii) any prescribed method, appliance or process has not been used or applied to it or any of its substances or ingredients in the manufacture, preservation or packaging thereof or any prohibited method, appliance or process has been so used or applied to it or any of its substances or ingredients;

(b) falsely described if—

- (i) it is an imitation of and is sold under the name of any other food or by a name so closely resembling that of another food as to be likely to deceive; or
- (ii) it or its package bears any description which is incorrect or misleading in regard to its nature, substance, quality or composition or its nutritive or any other property, or its origin, age or mode of or place of production, preparation or manufacture; or
- (iii) it is implied by wording, picture or any other device in or on the food or its package that the food contains a particular ingredient or substance when the resemblance to such an ingredient or substance is obtained only or mainly by artificial means; or
- (iv) it is sold in substitution for another food and the purchaser is not informed prior to or on delivery of the substitution; or
- (v) it or its package is not labelled in such manner and with such particulars as may be prescribed.

(2) Subject to this Act, food shall not be deemed to be adulterated or falsely described, as the case may be—

(a) in terms of subparagraph (i) of paragraph (a) of subsection (1) if the food or its package bears a label in the prescribed form containing such particulars as may be prescribed;

(b) solely by reason of—

- (i) the presence therein or therewith of a substance or ingredient not unwholesome or unfit for human consumption which is necessary for the production, preparation or manufacture of the food as an article of commerce, in a fit state for carriage, consumption or use, and is not calculated to deceive the purchaser by increasing its mass, measure or volume or concealing its quality; or
- (ii) the subjection thereof to any process or treatment if such process or treatment is necessary for the production, preparation or manufacture of the food as an article of commerce in a fit state for carriage or use and the food is not unwholesome or unfit for human consumption; or
- (iii) the presence therein or therewith of extraneous matter of a harmless nature in negligible quantity or in quantity not exceeding that which may be prescribed, unavoidably mixed with the food in the process of collection, preparation or manufacture thereof; or
- (iv) the removal therefrom of a substance or ingredient if such removal is necessary for the production, preparation or manufacture of the food as an article of commerce in a fit state for carriage or use and the food is not unwholesome or unfit for human consumption; or
- (v) the presence on the food or its package of a geographical name or a descriptive term which by long usage has come to be a generic term used to describe a particular type, variety or brand of

food, or a trade mark registered in terms of the Trade Marks Act [*Chapter 26:04*] before the 28th May, 1971.

5 Control of sale, importation and manufacture of food

- (1) No person shall—
- (a) sell; or
 - (b) import for sale; or
 - (c) manufacture for sale;

any food which is adulterated, falsely described or unwholesome or unfit for human consumption.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

6 Control of mixed or compounded foods

(1) No person shall mix any substance or ingredient with any food intended for sale with intent to deceive the purchaser thereof by increasing the mass, measure or volume, altering the flavour or concealing the quality of the food.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

7 Control of blended foods

(1) Subject to subsection (2), no person shall sell any food or label any food intended for sale as a blend or as blended unless it consists solely of different kinds, qualities or grades of the food named.

(2) Subsection (1) shall not apply to such food or classes of foods as may be prescribed.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

PART III

ADMINISTRATION

8 Inspection, seizure and disposal of food

(1) Where an inspector has reason to believe that there is in or upon any premises, place, vehicle, vessel or aircraft any food for the purposes of sale or manufacture for sale or that a contravention of this Act is taking place, he may, subject to this section—

- (a) enter upon, inspect or search the premises, place, vehicle, vessel or aircraft;
- (b) open and examine any receptacle or package found in or upon the premises, place, vehicle, vessel or aircraft;
- (c) inspect any store, record, book, document or account in or upon the premises, place, vehicle, vessel or aircraft;
- (d) require the owner or occupier of the premises, place, vehicle, vessel or aircraft to produce or make available to him for inspection any store, record, book, document or account referred to in paragraph (c);
- (e) make copies of or take extracts from any record, book, document or account referred to in paragraph (c);
- (f) where it appears to him that any food found in or upon the premises, place, vehicle, vessel or aircraft is intended for sale or manufacture for sale and the sale or manufacture for sale thereof, in his opinion, is or might be prohibited—
 - (i) take so many samples of the food as he may consider necessary for the purposes of testing, examination or analysis in terms of this Act;
 - (ii) issue and deliver to the person in whose custody the food was found or, if there is no such person or he is absent for any reason, place on or by the food in a conspicuous place a notice in a prescribed form prohibiting the disposal, sale, manufacture for sale or removal from the premises, place, vehicle, vessel or aircraft of the food;
 - (iii) remove the food to some other place and detain it there.

(2) An inspector shall not enter or search premises without the consent of the owner or occupier thereof unless it is necessary to do so in the interests of public health or if there are reasonable grounds for believing that the entry or search is necessary for the prevention, investigation or detection of an offence under this Act or for the seizure of any property which is the subject-matter of such an offence.

(3) Where an inspector has detained any food, he shall as soon as possible thereafter deliver to the owner or person in whose custody the food was found a notice in the prescribed form stating that the food is being detained in terms of this Act.

(4) Any person who deals with or removes any food contrary to the terms of any notice relating thereto shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

9 Withdrawal of notice or return of food

- (1) If within fourteen days from the date—
- (a) of the issue of any notice relating to food; or
 - (b) when any food was detained;

a summons in respect of a prosecution for an offence in terms of this Act or an order in respect of proceedings in terms of this Part relating to the food concerned has not been issued, the notice shall be deemed to have been withdrawn or, as the case may be, the food shall as soon as possible be returned by the inspector who detained it, or by any other person acting on his behalf, to the premises, place, vehicle, vessel or aircraft from which it was removed or, where that is impracticable, to such place as may be directed—

- (i) where the food was detained by an inspector appointed by a local authority, by the medical officer of health of that local authority;
- (ii) where the food was detained by any other inspector, by the Secretary.

(2) An inspector who has issued a notice relating to any food or who has detained any food or any other person acting on his behalf may at any time—

- (a) withdraw the notice by giving notice in writing to the owner of the food or person in whose custody it was found; or
- (b) return the food to the premises, place, vehicle, vessel or aircraft from which it was removed or, where that is impracticable, to such other place as may be directed—
 - (i) where the food was detained by an inspector appointed by a local authority, by the medical officer of health of that local authority; or
 - (ii) where the food was detained by any other inspector, by the Secretary.

10 Taking of samples and analysis of food

(1) A sample of food taken in terms of subparagraph (i) of paragraph (f) of subsection (1) of section *eight* shall be taken and submitted to an analyst in the prescribed manner.

(2) An analyst to whom a sample of food has been submitted in terms of subsection (1) shall, with all convenient speed, test, examine or analyse the sample of food and shall state the result of the test, examination or analysis in an affidavit in the prescribed form.

11 Food found not to be prohibited from sale or manufacture for sale

Where upon test, examination or analysis of a sample of food referred to in section *ten* the food is found not to be prohibited from sale or manufacture for sale the inspector who took the sample of food or any other person acting on his behalf shall as soon as possible—

- (a) withdraw any notice relating to the food by giving notice in writing to the owner of the food or person in whose custody it was found; or
- (b) return any food from which the sample was taken and which was detained to the premises, place, vehicle, vessel or aircraft from which it was removed or, where that is impracticable, to such other place as may be directed—
 - (i) where the food was detained by an inspector appointed by a local authority, by the medical officer of health of that local authority; or
 - (ii) where the food was detained by any other inspector, by the Secretary.

12 Proceedings for disposal of food

(1) An inspector who has reason to believe that, in respect of any food, an offence in terms of this Act is taking place or might take place may make application to a magistrate who shall grant an order calling upon the owner of the food or the person in whose custody it was found to appear in court on a date to be specified in the order to show cause why the food should not be ordered to be destroyed or disposed of in terms of this section.

(2) On the date specified in the order referred to in subsection (1) the court shall, in the presence of the person ordered to appear, or in his absence if satisfied that the order was served upon him, inquire into the matter.

(3) Upon inquiry in terms of subsection (2) the court shall—

- (a) subject to subsection (4), if satisfied that the food which is the subject of the inquiry—
 - (i) is intended for sale or manufacture for sale; and
 - (ii) is prohibited from sale or manufacture for sale;

order the owner or person in whose custody the food was found to destroy or dispose of the food within such period and on such conditions as it may deem fit;

- (b) if not satisfied as specified in paragraph (a), order that—
- (i) any notice relating to the food which is the subject of the inquiry be cancelled;
 - (ii) any food which is the subject of the inquiry and which is being detained be returned by the inspector who detained it or by any other person acting on his behalf to the premises, place, vehicle, vessel or aircraft from which it was removed or, where this is impracticable, to such other place as the court may direct.

(4) At an inquiry in terms of subsection (2), upon an application by the owner of the food or the person in whose custody it was found, the court may, in lieu of making an order in terms of paragraph (a) of subsection (3)—

- (a) if it is shown to the satisfaction of the court that the food can be rendered free from prohibition from sale or manufacture for sale, permit such owner or person to enter into recognizances, with or without such sureties as may be determined by the court, that the food shall be rendered free from prohibition from sale or manufacture for sale before it is sold or manufactured for sale as food; or
- (b) permit such owner or person to enter into recognizances, with or without such sureties as may be specified, that the food shall not be sold or manufactured for sale as food or that it be removed from Zimbabwe;

and in either such event shall order that—

- (i) any notice relating to the food which is the subject of the inquiry be cancelled;
- (ii) any food which is the subject of the inquiry and which is being detained be released to the owner thereof or person in whose custody it was found.

(5) An appeal against an order made in terms of paragraph (a) of subsection (3) shall lie to a judge of the High Court who may refer the matter to the court for argument.

(6) The judge of the High Court or the High Court, as the case may be, may in any appeal referred to in subsection (5) confirm or set aside the order or substitute any other order which it thinks ought to have been given and any order given in terms of this subsection shall be deemed to be an order given in terms of subsection (3) or (4), as the case may be.

(7) The decision of the judge of the High Court or the court, as the case may be, on any appeal referred to in subsection (5) shall be final and without appeal.

(8) Any person who contravenes or fails to comply with an order in terms of paragraph (a) of subsection (3) requiring him to destroy or dispose of any food shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

13 Cancellation of notice or release of food if undertaking furnished

(1) The Secretary may in his discretion direct an inspector who has issued a notice relating to any food to withdraw the notice or to release any food which has been detained if the owner of the food or person in whose custody it was found furnishes a written undertaking, with or without such sureties as the Secretary may determine—

- (a) to store the food at some place in Zimbabwe and not sell or dispose of it in any way until any proceedings relating to the food that may be instituted under this Act are completed; or
- (b) to remove the food forthwith from Zimbabwe; or
- (c) to destroy the food.

(2) An inspector to whom a direction has been given in terms of subsection (1) shall forthwith comply with the terms thereof.

14 Detention of food at port of entry

(1) Where it appears to an inspector that food which has arrived at a port of entry into Zimbabwe for consignment to a place of destination in Zimbabwe is intended for sale or for manufacture for sale and is prohibited from sale or manufacture for sale, he may, subject to this section, detain such food at the port of entry.

(2) Where food has been detained in terms of subsection (1) it shall be deemed to have been seized and removed at the port of entry from the custody of the person to whom it was consigned and detained at such port of entry in terms of subparagraph (iii) of paragraph (f) of subsection (1) of section *eight*, and of this Act shall apply, *mutatis mutandis*, in respect of such food.

15 Power of Minister to obtain particulars of food

(1) The Minister may order a person who manufactures or imports any food for sale to furnish the Minister, within such period as may be specified in the order, with such particulars as may be so specified relating to the composition and use of the food.

(2) Without prejudice to the generality of subsection (1), an order made in terms of that subsection may require particulars to be furnished relating to the following matters—

- (a) the composition and chemical formula of the food;
- (b) the manner in which the food is used or is proposed to be used;

(c) any investigation or inquiries carried out by or to the knowledge of the person to whom the order is given to determine whether and to what extent the food affects health.

(3) The Minister shall not disclose any particulars furnished in terms of an order made in terms of subsection (1) or any information relating to an individual person or business obtained by means of such particulars without the consent of the person who supplied the particulars or except in so far as it may be necessary for the purposes of section *twenty-seven*.

(4) Any person who contravenes or fails to comply with an order in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

PART IV

LEGAL PROCEEDINGS

16 Procedure and presumptions

(1) In any proceedings under this Act—

(a) there shall be served with—

(i) the summons in the case of a prosecution; or

(ii) the order calling upon a person to show cause before a court in the case of proceedings instituted in terms of Part III;

a copy of the affidavit, if any, of the analyst referred to in subsection (2) of section *ten* which relates to food which is the subject of the proceedings;

(b) an affidavit of an analyst referred to in subsection (2) of section *ten* which relates to any food which is the subject of the proceedings shall, subject to subsections (2) and (3), be admissible on its mere production by any person as *prima facie* proof of the result of the test, examination or analysis of a sample of the food as stated in the affidavit;

(c) copies or extracts from a record, book, document or account referred to in paragraph (e) of subsection (1) of section *eight* certified as true and correct by the inspector who made such copies or took such extracts, shall be deemed to be true and correct copies or extracts unless the contrary is proved and shall be admissible in evidence as proof of the entries to which they relate;

(d) where food is found in or upon any premises, place, vehicle, vessel or aircraft used for the sale or manufacture for sale of that food, such food shall, until the contrary is proved, be deemed to be food intended for sale or for manufacture for sale;

(e) where it is proved that a substance is ordinarily used for human consumption it shall be presumed, until the contrary is proved, that it was intended for human consumption;

(f) where it is proved that a substance is capable of entry into or of being used in the composition or preparation of or as a vehicle for the preparation of a substance for human consumption it shall be presumed, until the contrary is proved, that it was intended for such entry or use;

(g) any quantity of food in or upon any premises, place, vehicle, vessel or aircraft at the time a sample thereof is taken in terms of this Act shall, unless the contrary is proved, be deemed to possess the same properties as such sample;

(h) in relation to food which is contained in a sealed package the person who appears from such package to have manufactured or imported such food or to have enclosed it in such package shall, until the contrary is proved, be deemed to have manufactured or imported or enclosed such food, as the case may be.

(2) An affidavit of an analyst referred to in subsection (2) of section *ten* shall not be admissible in terms of this section unless the person against whom the proceedings have been brought has been given at least three days' notice of its intended production or consents to its production.

(3) The court in which an affidavit referred to in subsection (2) of section *ten* is adduced in evidence in terms of this section may in its discretion, of its own motion or at the request of a party to the proceedings, cause the analyst who made it to be summoned to give oral evidence in the proceedings in question or may cause written interrogatories to be submitted to him for reply and such interrogatories or a reply thereto purporting to be a reply from the analyst shall likewise be admissible in evidence in such proceedings.

17 Act or omission by manager, agent or employee

(1) Whenever a manager, agent or employee of a person, hereinafter called the employer, does or omits to do an act which it would be an offence under this Act for the employer to do or omit to do, then, unless it is proved that—

(a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or the permission of the employer; and

(b) all reasonable steps were taken by the employer to prevent an act or omission of the kind in question, and

- (c) it was not under any condition or in any circumstances within the scope of the authority or in the course of the employment of the manager, agent or employee to do or omit to do acts, whether lawful or unlawful, of the character of the act or omission charged;

the employer shall be presumed himself to have done or omitted to do that act and shall be liable to be convicted and sentenced in respect thereof.

(2) The fact that the employer issued instructions forbidding an act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(3) Whenever a manager, agent or employee of such an employer does or omits to do an act which it would be an offence under this Act for the employer to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer.

(4) Such a manager, agent or employee may be so convicted and sentenced in addition to the employer.

PART V

FOOD STANDARDS ADVISORY BOARD

18 Establishment of Food Standards Advisory Board

(1) The Minister shall for the purposes of this Act establish a board to be known as the Food Standards Advisory Board, which shall consist of the following members—

- (a) a chairman, who shall be a legal practitioner with not less than five years' experience, appointed by the Minister; and
- (b) the Secretary; and
- (c) the Director of Veterinary Services; and
- (d) the Director of Research and Specialist Services; and
- (e) the Government Analyst; and
- (f) one member to represent the Ministry responsible for industry and commerce, appointed by the Minister after consultation with the Minister to whom that Ministry is assigned; and
- (g) one member appointed by the Minister to represent the Zimbabwe Association of Packaging; and
- (h) not less than two and not more than four members appointed by the Minister from associations which represent the food manufacturing industry and food retailing business; and
- (i) one member appointed by the Minister to represent the Consumer Council of Zimbabwe; and
- (j) one member appointed by the Minister to represent the Municipal Health Officers Association; and
- (k) one member appointed by the Minister to represent the Standards Association of Zimbabwe; and
- (l) such additional members, not exceeding two, as the Minister may appoint.

(2) Before making an appointment in terms of subsection (1), the Minister may call upon a body which, whether by itself or in conjunction with other bodies, is to be represented in terms of that subsection, to nominate such number of persons as the Minister may specify:

Provided that—

- (i) the Minister may appoint a person to be a member of the Board who has not been so nominated, and may decline to appoint any person so nominated;
- (ii) if a body fails or refuses to make a nomination within a reasonable time after being called upon to do so, the Minister may appoint any person to be a member of the Board, and the person so appointed shall be deemed to represent the body concerned.

(3) Subject to regulations made under section *twenty-seven*, members of the Board appointed by the Minister shall hold office for a period not exceeding three years and shall be eligible for reappointment.

(4) On the death of, or the vacation of office by a member of the Board who was appointed by the Minister, the Minister may appoint a person to fill the vacancy in accordance with subsections (1) and (2).

(5) The function of the board shall be to advise the Minister on all matters relating to food and food standards.

(6) The Minister may appoint an officer in the Public Service to be the secretary to the Board.

PART VI

GENERAL

19 Appointment of analysts

(1) The Minister may appoint such analysts as he may consider necessary for the proper enforcement of this Act.

(2) Every appointment in terms of subsection (1) shall be notified in the *Gazette*.

(3) No person shall be eligible for appointment as an analyst in terms of this Act unless, in the opinion of the Minister, he has competent knowledge, skill and experience for the proper discharge of the duties of his office and possesses a degree or diploma recognized by the Minister as fulfilling the requirements for appointment as an analyst.

20 Appointment of inspectors

(1) The Minister may appoint such inspectors as he may consider necessary for the proper enforcement of this Act.

(2) No person shall be eligible for appointment as an inspector in terms of this Act unless, in the opinion of the Minister, he is qualified by technical training and has competent knowledge, skill and experience for the proper discharge of the duties of his office.

(3) The powers of an inspector under this Act may be exercised—

- (a) in respect of imported food, by an officer of the Department of Customs and Excise, generally or specially authorized thereto by the Director of Customs and Excise;
- (b) in respect of any food, by a police officer of or above the rank of sergeant or any other police officer specially authorized thereto by the Secretary or by a commissioned police officer.

21 Delegation of powers of appointment to local authority

(1) The Minister may, after consultation with a local authority, by notice in the *Gazette*—

- (a) delegate to that local authority his powers of appointment of analysts or inspectors in terms of this Act;
- (b) withdraw any delegation made in terms of paragraph (a) to that local authority.

(2) Where the Minister has delegated his powers of appointment of analysts or inspectors in terms of this Act to a local authority, any reference to the Minister in section *nineteen* or *twenty*, whichever may apply, shall be construed as a reference to that local authority.

(3) An inspector who has been appointed by a local authority shall exercise the powers and perform the duties of an inspector in terms of this Act only within the area under the jurisdiction of that local authority.

(4) In relation to food in respect of which a notice has been issued or which has been detained by an inspector appointed by a local authority, section *thirteen* shall be construed, *mutatis mutandis*, as if any reference therein to the Secretary were a reference to the medical officer of health of that local authority.

22 Inspector to produce letter of appointment

Every inspector shall, when employed on a duty under this Act, carry and, on demand by a person affected by the exercise by him of any of his duties or functions under this Act, exhibit his letter of appointment.

23 Payment for sample taken and compensation for deteriorated food

(1) The owner of food from which a sample has been taken in terms of paragraph (f) of subsection (1) of section *eight* shall be entitled to be paid an amount equal to the cost to him of the sample—

- (a) in the case of a sample taken by an inspector appointed by a local authority, by that local authority; or
- (b) in the case of a sample taken by any other inspector, by the Minister from moneys appropriated for the purpose by Act of Parliament,

(2) Where a notice relating to food is withdrawn or deemed to be withdrawn or cancelled, or where food which has been detained is returned or ordered to be returned, in terms of section *nine* or *eleven* or an order made in terms of paragraph (b) of subsection (3) of section *twelve*, any person who has suffered loss as a result of the issue of the notice or the detention of the food shall be entitled to be paid within a reasonable time adequate compensation for that loss—

- (a) where the notice was issued or the food was detained by an inspector appointed by a local authority, by that local authority;
- (b) where the notice was issued or the food was detained by any other inspector, by the Minister from moneys appropriated for the purpose by Act of Parliament.

24 Obstruction of inspector

(1) Any person who—

- (a) resists, hinders or obstructs an inspector in the exercise of his functions under this Act; or
- (b) fails to comply with a requirement of an inspector in terms of paragraph (d) of subsection (1) of section *eight*;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as substituted by section 4 of Act No. 22 of 2001]

25 Destruction of food upon conviction of an offence

(1) Upon a conviction for an offence under this Act in respect of food the court may, subject to this section, in addition to any penalty which may be imposed, order the owner or person in whose custody the food was found to destroy the food within such period and on such conditions as it may specify.

(2) Upon application by the owner or person in whose custody the food was found the court may, in lieu of making an order in terms of subsection (1)—

- (a) if it is shown to the satisfaction of the court that the food can be rendered free from prohibition from sale or manufacture for sale, permit such owner or person to enter into recognizances, with or without such

sureties as may be specified, that the food shall be rendered free from prohibition from sale or manufacture for sale before it is sold or manufactured for sale as food; or

- (b) permit such owner or person to enter into recognizances, with or without such sureties as may be specified, that the food shall not be sold or manufactured for sale as food or that it be removed from Zimbabwe.

(3) Any person who contravenes or fails to comply with an order in terms of subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

26 Preservation of secrecy

Any person who discloses, except—

- (a) to the Minister or to any other person for the purposes of the carrying out of his duties or the performance of his functions under this Act; or
- (b) to a police officer for the purposes of an investigation or inquiry relating to the enforcement of the provisions of this Act; or
- (c) when required to do so by any court under any law;

any information acquired by him in the carrying out of any duty or the performance of any function under this Act in relation to the business or affairs of any other person, shall be guilty of an offence and liable to a fine not exceeding four thousand dollars or to imprisonment for a period not exceeding two years.

27 Regulations

(1) The Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to carry out or give effect to this Act.

(2) Regulations made in terms of subsection (1) may—

- (a) provide standards for—
- (i) the composition, strength, potency, purity, quality or other property of any food or of any ingredient or component part thereof;
 - (ii) the nature or proportion of any foreign matter which may be present in any food as a result of unavoidable or necessary admixture therewith during collection, preparation or manufacture;
 - (iii) the composition of any mixed or compounded food;
- (b) provide for the proportions in which any substance or ingredient may be contained in food or which may be added to or mixed or diluted with food or prescribe any substance or ingredient which may not be contained in, added to or mixed or diluted with food;
- (c) provide for the methods, appliances and processes to be used in or applied to or not to be used in or applied to the manufacture, preparation, preservation or packing of food or any of its substances or ingredients;
- (d) provide for the addition of any substance to any food or the application of any process to any food, if in the Minister's opinion—
- (i) the nutritional value of the food will be improved by the addition of the substance or the application of the process; and
 - (ii) it is in the interests of the health of the public for the substance to be added or the process to be applied to the food;
- (e) provide for the inspection and detection or removal for analysis or examination of any package, wrapper, container, appliance or other article used in connection with any food;
- (f) prescribe the minimum requirements in respect of—
- (i) premises used for;
 - (ii) employees engaged in; the sale, manufacture, production, processing and treatment of foods;
- (g) provide for the method of testing, examining or analysing any food in terms of this Act and the form of affidavit to be used by an analyst in making a report upon such examination or analysis;
- (h) provide for the mode of labelling food or packages containing the same, or bulk stock from which food is taken for sale, and the matter to be contained or not to be contained on such labels;
- (i) provide for the control and regulation of advertisements relating to any food and, in particular, the prohibition of any such advertisement which is false or misleading;
- (j) prescribe the preservative to be used by inspectors for preventing decomposition or other change in samples taken under this Act;
- (j) prescribe the duties of analysts and inspectors under this Act;
- (k) provide for the control and regulation of advertisements of food;
- (l) provide for all matters relating to the Board, including—
- (i) remuneration, allowances, and conditions of office of members of the Board and its committees;
 - (ii) the vacation of office by members of the Board and its committees;

(iii) the procedure of the Board and its committees;

(iv) the establishment of committees by the Board.

and generally provide for the efficient carrying out of the objects and purposes of this Act.

(3) Regulations made in terms of subsection (1) may prescribe penalties for contraventions thereof, but no such penalty shall exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]