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**FOOD (AMENDMENT)
ACT, No. 20 OF 1991**

[Certified on 19th April, 1991]

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Food (Amendment) Act, No. 20 of 1991

[Certified on 19th April, 1991]

L.D.—O. 37/87

AN ACT TO AMEND THE FOOD ACT, No. 26 OF 1980

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Food (Amendment) Act, No. 20 of 1991. Short title.

2. Section 2 of the Food Act, No. 26 of 1980 (hereinafter referred to as the “principal enactment”) is hereby amended as follows:— Amendment
of section
2 of Act
No. 26 of 1980.

(1) in subsection (1) of that section—

(a) by the substitution, for the words “manufacture, import, sell or distribute any food—”, of the words “manufacture, import, sell, expose for sale, store or distribute any food—”;

(b) by the substitution, in paragraph (a) of that subsection, for the words “that has upon it”, of the words “that has in or upon it”;

(c) by the substitution, in the marginal note to that section, for the words “manufacture, importation, sale and distribution of food”, of the words “manufacture, importation, sale, exposure for sale, storage and distribution of food.”.

(2) in subsection (2) of that section, by the substitution, for the words “store for sale any food”, of the words “store any food”.

3. Section 3 of the principal enactment is hereby amended as follows:— Amendment
of section
3 of the
principal
enactment.

(1) in subsection (1) of that section, by the substitution, for the words “label, package, treat, process, sell or advertise any food”, of the words “treat, process, package, label, sell, store, expose for sale, import or advertise any food”;

(2) by the addition, at the end of that section, of the following new subsection:—

“ (3) the Chief Food Authority may, after giving the labeller or advertiser of any food an opportunity of being heard, prohibit the labelling or advertising of such food in contravention of the provisions of subsection (1) of this section.”.

Amendment
of section
5 of the
principal
enactment.

4. Section 5 of the principal enactment is hereby amended by the substitution, for the words "the Chief Food Authority or such other person authorized by him", of the words "the Food Authority or such other person authorized by that Authority".

Amendment
of section
7 of the
principal
enactment.

5. Section 7 of the principal enactment is hereby amended as follows:—

(a) in subsection (1) of that section, by the substitution, for the words "licensed" and "licensing authority", of the words "registered" and "registering authority", respectively;

(b) in subsection (2) of that section, by the substitution for the word "licence", wherever it occurs in that subsection, of the words "certificate of registration";

(c) by the substitution, in the marginal note to that section, for the word "licensing", of the word "registration".

Amendment
of section
8 of the
principal
enactment.

6. Section 8 of the principal enactment is hereby amended in subsection (1) of that section as follows:—

(a) in paragraph (a) of that subsection, by the substitution, for the words, "Director of Health Services", of the words "Director-General of Health Services";

(b) in paragraph (b) of that subsection, by the substitution, for the words, "Assistant Director of Health Services", of the words "Director (Environmental and Occupational Health)";

(c) in paragraph (d) of that subsection, by the substitution, for the words, "The City Analyst of the Colombo Municipality;" of the words "The City Analyst or Assistant City Analyst of the Colombo Municipality;" ;

(d) in paragraph (h) of that subsection, by the substitution, for the words "Bureau of Ceylon Standards", of the words "Sri Lanka Standards Institution";

(e) in paragraph (k) of that subsection, by the substitution, for the words, "nominated by the Minister"; of the words "nominated by the Minister, one of whom shall be a bacteriologist";

7. Section 10 of the principal enactment is hereby amended as follows:—

Amendment
of section
10 of the
principal
enactment.

(1) in subsection (2) of that section—

(a) by the repeal of paragraph (a) of that subsection, and the substitution therefor of the following paragraph:—

“ (a) A Municipality shall be—

(i) the Municipal Council constituted for that area; or

(ii) the Medical Officer of Health for that area, where the Municipal Council is unable to execute its functions as Food Authority;”;

(b) by the substitution, in sub-paragraph (ii) of paragraph (b) of that subsection, for the words “the Medical Officer of Health for that area”, of the words “the Medical Officer of Health or the Divisional Health Officer for that area”; and

(2) in subsection (3) of that section, by the substitution, for the words “Superintendent of Health Services”, of the words “Regional Director of Health Services”.

8. Section 11 of the principal enactment is hereby amended as follows:—

Amendment
of Section
11 of the
principal
enactment.

(1) in subsection (1) of that section, by the substitution, for the words “The Director of Health Services”, of the words “The Director-General of Health Services”;

(2) by the insertion, immediately after subsection (3) of that section, of the following new subsection:—

“ (3A) Subject to the provisions of subsection (3) the Chief Food Authority may, in case of urgent necessity, give such directions as he may deem necessary, to any Authorized Officer, regarding the carrying into execution of all or any of the provisions of this Act or regulations made thereunder and such Authorized Officer shall comply with such directions with the assistance of a Medical Officer of Health or a Divisional Health Officer.”.

Amendment
of section
13 of the
principal
enactment.

9. Section 13 of the principal enactment is hereby amended in subsection (1) of that section—

- (a) by the substitution, for the words “any Medical Officer of Health, Food and Drugs Inspector,” of the words “any Medical Officer of Health, Divisional Health Officer, Food and Drugs Inspector,”;
- (b) by the substitution, for the words “an Authorized Officer of a Food Authority”, of the words “an Authorized Officer of one or more Food Authorities.”.

Amendment
of section
14 of the
principal
enactment.

10. Section 14 of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section—

- (a) by the substitution, in paragraph (a) of that subsection, for the words “packaged or stored”, of the words “packaged, exposed for sale or stored”;
- (b) by the substitution, in paragraph (d) of that subsection, for the words “Medical Officer of Health” of the words “Medical Officer of Health, Divisional Health Officer”;

(2) by the insertion, immediately after subsection (4) of that section, of the following new subsection:—

(4A) Information obtained by an Authorized Officer under subsection (4) shall not be disclosed except to a Government Department or to a Court in connection with the administration or enforcement of this Act.”;

Amendment
of section
15 of the
principal
enactment.

11. Section 15 of the principal enactment is hereby amended as follows:—

- (1) by the substitution, in subsections (1), (2) and (3) of that section for the word “Authority”, wherever it occurs in those subsections, of the words “Authorized Officer”;

- (2) by the insertion, immediately after subsection (3) of that section, of the following new subsection:—

“(4) Notwithstanding the provisions of subsection (3) the Magistrate may, at any time after information is furnished to Court under subsection (2) direct the disposal in such manner as he thinks fit, of any article seized, which is subject to speedy and natural decay.”.

12. Section 16 of the principal enactment is hereby amended as follows:—

Amendment of section 16 of the principal enactment.

- (1) in subsection (1) of that section, by the substitution, for the word “shall”, of the word “may”;
- (2) in subsection (2) of that section, by the substitution, for the words “relavant Food Authority”, of the words “Authorized Officer”.

13. Section 17 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for the words “an Additional Approved Analyst”, of the words “one Additional Approved Analyst or more.”.

Amendment of section 17 of the principal enactment.

14. Section 18 of the principal enactment is hereby amended as follows:—

Amendment of section 18 of the principal enactment.

- (1) in subsection (1) of that section—

(a) by the substitution, in paragraph (a) of that subsection, for the words “not less than one thousand rupees and not exceeding five thousand rupees;”, of the words “not less than five thousand rupees and not exceeding ten thousand rupees,”;

(b) by the substitution, in paragraph (b) of that subsection, for the words “not less than five hundred rupees and not exceeding one thousand rupees;”, of the words “not less than five thousand rupees and not exceeding ten thousand rupees,”;

(c) by the substitution, in subparagraph (i) of paragraph (c) of that subsection, for the words “not less than two hundred and fifty rupees and not exceeding five hundred rupees”, of the words “not less than five hundred rupees and not exceeding three thousand rupees”; and

- (d) by the substitution, in subparagraph (ii) of Paragraph (c) of that subsection, for the words "not less than five hundred rupees and not exceeding one thousand rupees", of the words "not less than one thousand rupees and not exceeding five thousand rupees."
- (2) in subsection 2 of that section, by the substitution, in paragraph (b) of that subsection—
- (a) for the words "cancel the licence (if any) issued to the person" of the words "cancel the licence or certificate of registration (if any) issued to the person"; and
- (b) for the words "relevant licensing authority accordingly", of the words "relevant licensing authority or registering authority, accordingly".
- (3) by the addition at the end of that section, of the following new subsection:—

" (3) (a) Where a person convicted of the offence of using any premises without first obtaining a certificate of registration in respect thereof in terms of section 7 (1) of this Act continues to use such premises either by himself or by any other person on his behalf notwithstanding such conviction, the Magistrate may, upon application made for a closure order by the relevant Food Authority or any officer authorized by such Food Authority, order the closure of such premises or the discontinuance of the trade or business carried on therein until such time as such person obtains a certificate of registration in respect of such premises from such Food Authority.

(b) In any proceedings referred to in paragraph (a), a certificate signed by or on behalf of the Food Authority stating that the person mentioned in the certificate continues to use such premises without first obtaining a certificate of registration in respect thereof in terms of section 7(1) of this Act, shall be *prima facie* evidence of the facts stated therein.

(c) Where such person fails to comply with the closure order issued under paragraph (a) of this subsection, the Magistrate shall forthwith issue an order to the Fiscal of such Court requiring and authorizing such Fiscal to close such premises and discontinue the trade or business carried on therein before a date specified in the order, not being a date earlier than three days nor later than seven days from the date of issue of such order. Such order shall serve as sufficient authority for the Fiscal to enter the premises with such persons as he may deem necessary to close such premises and discontinue the trade or business carried on therein."

15. Section 20 of the principal enactment is hereby amended as follows:—

Amendment
of section
20 of the
principal
enactment.

(1) in subsection (1) of that section, by the repeal of paragraph (b) of that subsection and the substitution therefor, of the following paragraph:—

"(b) after the expiration of three months, from the date of detection of that offence or where sampling is done, from the date of sampling.";

(2) in subsection (2) of that section, by the omission of the words "withdraw the charge against the person charged with the offence and".

16. Section 21 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, for the words "giving to the prosecution not less than three days' notice of his intention", of the words "giving notice to the prosecution of his intention on or before the first date of calling of the case after service of summons,".

Amendment
of section
21 of the
principal
enactment.

Amendment
of section
23 of the
principal
enactment.

17. Section 23 of the principal enactment is hereby amended in subsection (2) of that section by the substitution, for the words "party paying to the Court the expenses of summoning him", of the words "party depositing in Court the expenses of summoning him including such fees as may be prescribed, payable to him."

Amendment
of section
24 of the
principal
enactment.

18. Section 24 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, for the words "at the time of the institution of the prosecution", of the words, "at the commencement of the inquiry".

Amendment
of section
26 of the
principal
enactment.

19. Section 26 of the principal enactment is hereby amended in paragraph (a) of subsection (1) of that section, by the substitution, for the words "exposed or kept for sale", of the words "exposed or kept for sale or stored,".

Replacement
of section
29 of the
principal
enactment.

20. Section 29 of the principal enactment is hereby repealed and the following new section substituted therefor :—

"Payments
into and
out of fund
of local
authority
under this
Act.

29. (1) There shall be paid—

(a) into the fund of a local authority, fines paid or recovered in respect of an offence under this Act or regulations made thereunder in a prosecution instituted by an Authorized Officer of a Food Authority which is a local authority ;

(b) out of the fund of the local authority expenses incurred by such local authority in the administration of this Act.

(2) It shall be lawful for the Court before which an offender is convicted of an offence under this Act, to direct in respect of any fine that may be imposed for such offence that a sum not exceeding twenty five per centum of the fine recovered shall be awarded to the Authorized Officer who secures such conviction."

21. Section 30 of the principal enactment is hereby amended by the substitution, for the words "Superintendent of Health Services" and "Medical Officer of Health", of the words "Regional Director of Health Services", "Medical Officer of Health" or "Divisional Health Officer", respectively.

Amendment of section 30 of the principal enactment.

22. Section 32 of the principal enactment is hereby amended in subsection (1) of that section, by the substitution, in subparagraphs (i), (ii) and (iii) of paragraph (c) of that subsection, for the word "licence", of the words "certificate of registration".

Amendment of section 32 of the principal enactment.

23. Section 33 of the principal enactment is hereby amended by the substitution, for the definition of "local authority" of the following definition:—

Amendment of section 33 of the principal enactment.

"Local authority" means any Municipal Council, Urban Council, Development Council or Pradeshiya Sabha and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed or discharged by any such Council ;".

24. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency

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