

Naghti l-kunsens tiegħi.

(L.S.)

GUIDO DE MARCO
President

19 ta' Lulju, 2002

ATT Nru. XIV ta' l-2002

ATT biex jipprovdi dwar kull haġa li għandha x'taqsam mas-sigurtà fl-ikel u biex iwaqqaf Kummissjoni għas-Sigurtà fl-Ikel, biex jintroduci disposizzjonijiet godda dwar l-infurzar fi hwejjeġ li għandhom x'jaqsmu ma' l-ikel, u biex jirrevoka l-Att dwar Hwejjeġ ta' l-Ikel, Mediċinali u Ilma tax-Xorb.

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

Taqsimi I

Preliminari

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att ta' l-2002 Titolu fil-qosor u bidu fis-schh.
dwar is-Sigurtà fl-Ikel.

(2) Dan l-Att għandu jibda' jsehh f'dik id-data li l-Ministru responsabbli għas-saħħa pubblika jista' b'avviż fil-Gazzetta jstabbilixxi, u dati differenti jstgħu jigu hekk stabbiliti għal disposizzjonijiet differenti u għal għanijiet differenti ta' dan l-Att.

2. (1) F'dan l-Att, sakemm ir-rabta tal-klicm ma' tehtieġx Titlu
xort'ohra -

"additiv" tfisser kull sustanza li normalment ma tigix kkunsmata bhala ikel fih innifsu u ma tigix normalment użata bhala ingredjent karatteristiku ta' l-ikel kemm jekk ikollha valur nutrittiv kemm jekk le, li ż-żieda tagħha b'intenzjoni għal xi ikel għal għan teknoloġiku fil-manifattura, proċessar, preparazzjoni, trattament, ippakkjar,

trasport jew hażna ta' dak l-ikel tirrizulta, jew x'aktarx tirrizulta, li dik is-sustanza jew il-prodotti magħmulin minnha jsiru direttament jew indirettament parti minn dak l-ikel;

Kap. 94.

"awtorità tas-saħha" tfisser l-uffiċjal pubbliku li jkun responsabbli għas-saħha pubblika skond l-Ordinanza dwar l-Organizzazzjoni tad-Dipartiment tas-Saħha jew kull liġi oħra li tissostitwiha;

"bejgħ" għandha titqies bħala riferenza għal bejgħ għall-konsum mill-bniedem;

"deskrizzjoni" għal dak li għandu x'jaqsam ma' l-ikel tinkludi kull deskrizzjoni ta' l-origini tiegħu jew tal-mod kif jiġi ppakkjat;

"ikel" tfisser kull sustanza jew prodott, kemm jekk ipproċessati, ipproċessati parzjalment jew mhux ipproċessati, li huma maħsuba, jew raġonevolment mistennija li jiġu ingeriti mill-bnedmin;

"ikel" tinkludi -

(i) xorb, inkluż ilma tajjeb għax-xorb fi stat likwidu jew solidu;

(ii) *chewing gum* u prodotti ta' kompożizzjoni u użu bħalu;

(iii) kull sustanza li tiġi intenzjonalment inkorporata fl-ikel waqt il-manifattura, il-preparazzjoni jew it-trattament tiegħu; u

(iv) kull sustanza oħra li l-Ministru jista' jippreskrivi b'regolamenti.

Ilma wżat għall-konsum mill-bniedem għandu jhares kull kriterju li l-Ministru jista' jippreskrivi b'regolamenti;

"ikel" ma tinkludix -

(i) annimali jew tjur hajjin, jew hut hajjin li ma jiġux użati jew maħsuba b'x jintużaw għall-konsum mill-bniedem waqt li jkunu hajjin;

(ii) għalf jew hwejjeg ta' l-ikel ta' l-annimali, tjur jew hut;

(iii) kosmetiċi;

(iv) sustanzi narkotiċi jew psikotropiċi skond it-

- * tifsira li hemm fil-Konvenzjoni Singola tal-Ġnus Magħquda ta' l-1961 dwar Drogi Narkotiċi u fil-Konvenzjoni tal-Ġnus Magħquda ta' l-1971 dwar Sustanzi Psikotropiċi;

(v) tabakk;

(vi) residwi u kontaminanti; u

(vii) kull sustanza oħra li l-Ministru jista' jippreskrivi b'regolamenti;

"ikel introdott ġdid" tfisser kull ikel li ma jkunx ġie qabel użat għall-konsum mill-bniedem f'Malta, jew ġie użat biss għal fiit, jew ikel prodott, preparat jew proċessat b'dak il-mod billi jintużaw metodi li jipproduċu bidliet sostanzjali fil-valuri ta' tahlita jew ta' nutriment ta' l-ikel, jew fl-użu li għalih dak l-ikel jintuża;

"irradjat" tfisser trattat f'sorsi ta' radjazzjoni jonizzanti, inklużi X-rays, raġġi elettronici jew raġġi gamma;

"konsumatur" tfisser kull persuna naturali jew legali li, mhux fil-kors ta' negozju, sengħa jew professjoni, tixtri jew b'mod ieħor tirċievi ikel jew sorsi ta' ikel skond it-tifsira mogħtija bid-disposizzjonijiet ta' dan l-Att;

"kontroll fuq l-ikel" tinkludi l-ghadd kollu ta' attivitajiet regolatorji, ta' liċenzjar, ta' infurzar u ta' prevenzjoni u attivitajiet oħra li huma mwettqa għall-ghanijiet tas-saħħa, sigurtà ta' l-ikel u iġjene, il-valuri kompożizzjonali jew nutrittivi, jew xort'oħra, għal dak li għandu x'jaqsam mal-preparazzjoni, produzzjoni, proċessar, bejgħ u provvdiment ta' ikel jew sorsi ta' ikel f'Malta, jew li se jrid jidhru f'Malta, inkluża l-operazzjoni ta' kull negozju f'ikel ikun minn ikun li jkun qed iwettaq dik l-operazzjoni;

"Kummissjoni" tfisser il-Kummissjoni għas-Sigurtà fl-Ikel stabbilita skond l-artikolu 5;

"liċenza" tfisser kull dokument li jawtorizza mahruġ minn xi enti jew awtorità mahtura mill-Gvern għal dak il-ghan;

"mahfen" tinkludi kull basket, barmil, gabarrè, pakkett jew kontenitur ta' kull xorta, kemm jekk ikun miftuħ jew magħluq;

"materjal li jiġi f'kuntatt" kull haġa jew sustanza li hija mahsuba li tiġi f'kuntatt ma' ikel;

"Ministru" tfisser il-Ministru responsabbli għas-saħħa pubblika;

"negozju fl-ikel" tfisser kull operazzjoni, kemm jekk maghmula għall-profitt jew le u kemm jekk pubblika jew privata; li twestaq xi wahda mill-attivitàjiet li għandhom x'jaqsmu ma' xi stadju tal-produzzjoni, l-ipproċessar u d-distribuzzjoni u l-importazzjoni u l-esportazzjoni ta' ikel;

"nutrittiv" tfisser il-valur nutrittiv; li jittiehed minn nutrijenti fil-kompożizzjoni ta' l-ikel; dawn in-nutrijenti jinkludu protejini, xahmijiet djetetiċi, karbojdрати, minerali, vitamini, fibri djetetiċi u nutrijenti oħra b'kontenut enerġetiku;

"operazzjoni kummerċjali", għal dak li għandu x'jaqsmu ma' ikel jew materjal li jiġi f'kuntatt ma' ikel, tfisser kull wahda minn dawn li ġejjin:

(a) il-bejgħ, il-pussess għal bejgħ, u l-offerta, it-turiya u r-reklamar għall-bejgħ;

(b) il-konsenja, it-tqassim jew li f'haġa tigi servuta b'riżultat ta' bejgħ;

(c) il-preparazzjoni għal bejgħ jew il-prezentazzjoni, it-tikkettjar jew it-tgeżwir għal għanijiet ta' bejgħ;

(d) il-ħażna jew it-trasport għal għanijiet ta' bejgħ;

(e) l-importazzjoni jew l-esportazzjoni, u, għal dak li għandu x'jaqsmu ma' kull sors ta' ikel, tfisser li-tottjeni ikel minn dak is-sors ta' ikel għal għanijiet ta' bejgħ jew għall-għanijiet konnessi mal-bejgħ;

"persuna li jkollha liċenza" tfisser kull persuna li tkun lilha ingħatat liċenza jew kull persuna li taġixxi f'lokha;

"persuna responsabbli" tfisser il-persuna li tkun responsabbli għan-negozju ta' l-ikel, għall-post ta' l-ikel jew għall-prodott ta' l-ikel u, fl-assenza tagħha, tinkludi dak l-impjegat jew dik il-persuna l-oħra, li tkun l-impjegat jew il-persuna l-aktar anzjani preżenti, li tkun imqabnda topera n-negozju ta' l-ikel jew il-post ta' l-ikel f'dak il-hin; dak l-impjegat jew dik il-persuna l-aktar anzjani jkunu preżenti li jkunu qed jaġixxu taħt l-awtorità tal-persuna responsabbli sakemm il-persuna responsabbli ma tippruvax il-kuntrarju;

"post awtorizzat" tfisser kull port, ajruport jew lok iħor awtorizzat skond jew taħt ir-regolamenti li jkun użat, jew jista' jkun użat, għall-importazzjoni jew esportazzjoni ta' ikel jew sorsi ta' ikel, u għal dak li għandu x'jaqsmu ma' ikel f'konsenja partikolari,

tinkludi kull post hekk awtorizzat għall-importazzjoni ta' dik il-konsenja;

"post ta' l-ikel" tfisser kull post użat għall-ghanijiet ta' negozju ta' l-ikel, u tinkludi posti, kemm jekk ikunu fis-swieq fil-miftuh jew magħluqa, vetturi, kemm jekk ikunu kif ukoll jekk ma jkunux jiċċaqilqu, u bastimenti inklużi bastimenti tas-sajd;

"preparazzjoni" tinkludi l-manifattura u kull xorta ta' trattament jew tibdil, inkluż l-immannigġjar, u "preparazzjoni għall-bejgħ" tinkludi l-ippakkjar u "li jiġi preparat għall-bejgħ" għandha tinftehem skond hekk;

"qorti" tfisser dik il-qorti li jkollha ġurisdizzjoni skond il-liġi fuq kull persuna li tkun akkużata li għamlet reati kontra xi waħda mid-disposizzjonijiet ta' dan l-Att;

"reklam" tinkludi kull avviż, ċirkolari, tikketta, haġa li tgeżwer biha, fattura jew dokument jew preżentazzjoni oħra, u kull xandira jew avviż pubbliku bi preżentazzjoni viżwali jew bis-smiġh jew bit-tejn, u "tagħmel reklam" għandha tinftehem f'dan is-sens;

"sors ta' ikel" tfisser kull xitla li tkun qed tikber, animali, tjur jew hut hajjin li minnhom hu maħsub li jittiehed ikel, kemm jekk dan isir permezz tal-hsad, permezz tal-hlib, il-ġbir ta' bajd jew xort' oħra;

"sors ta' provvista" għandhom jinkludu kull għajn, bir, tank, ġiebjja, kanal, akwedott, ġiebjun u xoghlijiet oħra ta' l-ilma;

"teknika artifiċjali" ma tinkludix kull teknika li tinvolvi mhux aktar minn, jew mhux aktar mill-ghajnuna ta', proċessi ta' riproduzzjoni li jiġru b'mod naturali, inklużi tekniċi ta' trobbija selettiva jew fertilizzazzjoni *in vitro*;

"tikketta" tinkludi kull *tag*, anell jew kullar, isem tal-marka, *trade mark*, materja illustrata jew materja deskrittiva oħra li kwalunkwe każ, li tkun miktuba, stampata, stensiljata, immarkata, imbuzzata jew impressa fuq, jew imwahrha ma', mahfen ta' haġa ta' l-ikel, jew li b'xi mod ichor tkun kjarament viżibbli mill-ippakkjar tiegħu;

"tikkettjar" tinkludi kull kelma, partikolaritajiet, isem tal-marka, *trade mark*, materja illustrata jew xbieha li għandha x'taqsam ma' l-ikel u li tidher fuq l-ippakkjar ta' l-ikel jew fuq xi dokument, avviż, tikketta, anell jew kullar li jakkompanja l-ikel;

"uffiċjal awtorizzat" tfisser kull persuna li tkun kwalifikata kif imiss għas-sodisfazzjon ta' l-awtorità tas-saħħa.

(2) Għall-ghanijiet ta' dan l-Att -

(a) il-provvista ta' ikel, mod ieħor milli permezz ta' bejgħ, fil-kors ta' negozju; u

(b) kull haġa oħra li ssir in konnessjoni ma' ikel u li tkun, minn żmien għal żmien, speċifikata b' regolamenti magħmula taħt dan l-Att,

għandha titqies bhala bejgħ ta' l-ikel, u referenzi għal "xirjiet" u "xiri" għandhom jitqiesu skond hekk.

Applikabbiltà ta' dan l-Att.

3. (1) Dan l-Att għandu japplika għall-prodotti kollha ta' l-ikel, kemm jekk dawn jiġu prodotti f' Malta, importati f' Malta jew esportati barra minn Malta, u kemm jekk ikunu maħsuba għal bejgħ fis-suq lokali jew maħsuba għall-esportazzjoni.

(2) Dan l-Att għandu wkoll japplika -

(a) dwar kull ikel maħsub li jkun offrut bhala premju jew rigal, jew li jingħata in konnessjoni ma' xi divertiment li għalih jidhol il-pubbliku, kemm bi hlas jew b'xejn, bħallikieku l-ikel kien, jew kien ġie, muri għall-bejgħ minn kull persuna li jkollha x'taqsam ma' l-organizzazzjoni tad-divertiment;

(b) dwar kull ikel li għall-ghanijiet ta' reklam jew fit-tmexxija l quddiem ta' kull kummerċ jew negozju, jiġi offrut bhala premju jew rigal jew jingħata, bħallikieku l-ikel kien, jew kien ġie, muri għall-bejgħ mill-persuna li toffri jew li tagħti dak l-ikel; u

(ċ) dwar kull ikel li jiġi muri jew depożitat f' xi post għall-ghan li jiġi offrut jew mogħti kif imfisser fil-paragrafi (a) u (b), bħallikieku l-ikel kien, jew kien ġie, muri għall-bejgħ mill-persuna responsabbli rigward il-post,

u f'dan l-artikolu, il-kelma "divertiment" tinkludi kull laqgħa soċjali, xalar, esibizzjoni, wirja, loġħba, sport jew prova ta' hila.

Preżunzjonijiet.

4. (1) Għall-finijiet ta' dan l-Att, kull ikel komunement użat għall-konsum mill-bniedem għandu, jekk jinbiegħ jew jiġi offrut, muri, jew miżmum għall-bejgħ, jitqies, sakemm ma jiġix ippruvat il-kuntrarju, li nbiegħ jew, skond il-każ, li kien maħsub jew li għandu jiġi maħsub għall-bejgħ, għall-konsum mill-bniedem;

(2) Sakemm ma jiġix ippruvat il-kuntrarju, jitqies li -

(a) kull ikel komunement użat fil-manifattura ta' ikel

ghall-konsum mill-bniedem; u

(b) kull haġa jew sustanza komunement użata fil-manifattura ta' ikel għal konsum mill-bniedem.

li jkun instab f' post użat għall-preparazzjoni, hażna jew bejgħ ta' dak l-ikel jitqies li kien mahsub għall-bejgħ, jew għall-manifattura ta' ikel għall-bejgħ, għall-konsum mill-bniedem.

(3) Kull haġa jew sustanza li tista' tintuża fil-kompożizzjoni jew fil-preparazzjoni ta' ikel li hu komunement użat għall-konsum mill-bniedem li tinstab f' post li fih dak l-oġġett jiġi preparat għandha, sakemm ma jiġix ippruvat il-kuntrarju, jitqies li hi mahsuba b'icx tintuża għal hekk.

Taqsimha II

II-Kummissjoni għas-Sigurtà fl-Ikel

5. (1) Qiegħdha hawnhekk titwaqqaf Kummissjoni għas-Sigurtà fl-Ikel li tkun magħmula minn:

II-Kummissjoni
għas-Sigurtà fl-
ikel.

(a) *chairperson*;

(b) l-uffiċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward is-saħħa pubblika, nominat mill-Ministru responsabbli għas-saħħa pubblika;

(c) l-uffiċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward is-servizzi veterinarji, nominat mill-Ministru responsabbli għas-servizzi veterinarji;

(d) l-uffiċjal anzjan responsabbli għall-operazzjonijiet rigward ikel fi hdan l-Awtorità Maltija dwar l-Istandards, nominat miċ-*Chairman* ta' dik l-Awtorità;

(e) l-uffiċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward l-affarijiet tal-konsumatur, nominat mill-Ministru responsabbli għall-affarijiet tal-konsumatur;

(f) l-uffiċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward il-promozzjoni tas-saħħa, nominat mill-Ministru responsabbli għall-promozzjoni tas-saħħa;

(g) l-uffiċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward il-protezzjoni ta' l-ambjent, nominat mill-Ministru responsabbli għall-protezzjoni ta' l-ambjent; u

(h) l-uffiċjal pubbliku anzjan responsabbli għall-operazzjonijiet rigward is-sahha tal-pjanti, nominat mill-Ministru responsabbli għas-sahha tal-pjanti.

(2) B'zieda, il-Ministru jista' wkoll jahtar mhux iktar minn tliet membri oħra minn fost persuni li ma għandhom l-ebda interess la dirett u lanqas indirett f'xi negozju ta' l-ikel.

(3) Iċ-*Chairperson* u l-membri l-oħra tal-Kummissjoni, mahtura mill-Ministru skond is-subartikolu (2), ikunu hekk mahtura għal perjodu ta' tliet snin.

(4) Iċ-*Chairperson* u l-membri l-oħra tal-Kummissjoni msemmija fis-subartikolu (3) jistgħu jirriżenjaw mill-kariga tagħhom f'kull żmien billi jagħtu avviż bil-miktub lill-Ministru.

(5) Il-Ministru jista' f'kull żmien ineħhi iċ-*Chairperson* u, jew xi membru mahtur skond is-subartikolu (2) minhabba inkapaċità fit-tweċċ tal-funzjonijiet tagħhom, falliment jew traskuraġni tad-dmirijiet.

(6) Il-*quorum* meħtieġ għal-laqqhat tal-Kummissjoni jkun iċ-*Chairperson* u mhux inqas minn nofs il-membri l-oħra:

Izda l-Kummissjoni tista' tagixxi minkejja kull vakanza fiha.

(7) Id-deċiżjonijiet tal-Kummissjoni jittiehdu b'maġġoranza tal-voti tal-membri preżenti fil-laqgħa. Iċ-*Chairperson* tal-Kummissjoni jkollu vot oriġinali u, f'każ ta' voti aduqs, ukoll t-tieni vot jew vot deċisiv.

(8) Il-Ministru għandu jahtar uffiċjal pubbliku f'dipartiment fi hdan il-Ministeru tiegħu biex jagħmilha ta' segretarju tal-Kummissjoni.

(9) Bla hsara għad-disposizzjonijiet ta' l-artikolu 9 u d-disposizzjonijiet l-oħra ta' dan l-Att, il-Kummissjoni tista' tirregola l-proċeduri u l-laqqhat tagħha stess b'dak il-mod li jidhrilha xieraq.

Rappreżentanza
güridika u
legali.

6. Ir-rappreżentanza güridika u legali tal-Kummissjoni tkun vestita fiċ-*Chairperson*:

Izda l-Kummissjoni tista' tahtar lil xi wieħed jew aktar mill-membri l-oħra biex jidhru f'isem u għall-Kummissjoni f'kull proċediment gürizzjarju, u f'kull att, kuntratt, istrument jew transazzjoni oħra li tkun.

7. (1) Ikun id-dmir tal-Kummissjoni li timmonitorja, tikkordina u tirrevedi il-prattiċi, l-oprazzjonijiet u l-attivitajiet kollha li għandhom x'jaqsmu ma' l-ikel u għal dan il-ghan għandha:

Funzjonijiet tal-Kummissjoni.

(a) tapplika b' mod effettiv il-prinċipju ta' prekawzjoni meta jiġi identifikat jew raġjonevolment suspettat li jkun hemm riskju għall-konsumatur;

(b) timmonitorja l-infurzar ta' kull leġislazzjoni, *standards* jew prattiċi rilevanti rigward negozji ta' l-ikel, postijiet ta' l-ikel u persuni li joperaw fin-negozju ta' l-ikel;

(ċ) tamministra sistema effiċjenti u effettiv għal għassa rapida, ġbir lura ta' prodott u tnehhija ta' prodott biex tiproteġi l-konsumatur minn kull riskju li jkun ġie identifikat jew suspettat fi prodotti li jkunu diġà disponibbli għall-konsumatur;

(d) tagħmel dawk l-affarijiet kollha li jkunu neċessarji biex tiżgura li l-obbligi internazzjonali li jidhol għalihom il-Gvern dwar il-hwejjeġ kollha li għandhom x'jaqsmu ma' l-ikel jiġu mharsa;

(e) tifformula u timplimenta *policies* u strateġiji li jkollhom għanijiet li jaħsbu fil-qasir jew fit-tul, rigward l-affarijiet kollha li għandhom x'jaqsmu ma' l-ikel, ikluż l-isviluppar ta' pjan nazzjonali ta' sorveljanza u nfurzar dwar is-sigurtà fl-ikel u biex tiżgura l-implimentazzjoni effettiva, trasparenti u komprensiva ta' dak il-pjan;

(f) tagħti parir lill-Ministru dwar kull haġa li għandha x'taqsam mas-sigurtà fl-ikel jew fuq talba tal-Ministru jew, jekk jidhrilha li jkun xieraq, minghajr talba bħal din;

(g) tagħmel dawk l-istudji, riċerka jew investigazzjonijiet dwar kull haġa li għandha x'taqsam ma' l-ikel, u għal dan il-ghan għandha titlob is-sottomissjoni ta' kull informazzjoni u tanalizza u tinterpreta kull *data* jew informazzjoni sottomessa lilha;

(h) tiżgura li jinżammu *records* u registri xierqa biex jiġi żgurat li l-persuni responsabbli għal kull prodott ta' l-ikel jistgħu jiġu identifikati;

(i) ttejjeg dawk il-linji ta' gwida li jistgħu jkunu meħtieġa rigward is-sigurtà fl-ikel;

(j) tikkonsidra u tirrevedi l-effikaċja ta' prattiċi ta' sigurtà fl-ikel li jkunu adottati minn żmien għal żmien, u

tagħmel rapport dwarhom lill-Ministru għall-anqas darba fis-sena;

(k) teżerċita dawk il-funzjonijiet l-oħra li l-Ministru jista' jippreskrivi b'regolamenti; u

(l) taqdi dawk id-dmirijiet l-oħra li jistgħu jwasslu għall-aħjar twetticq tal-funzjonijiet tagħha taht dan l-Att.

(2) Il-funzjonijiet tal-Kummissjoni jkunu vestiti:

(a) dwar l-igjene fl-ikel u affarijiet li għandhom x'jaqsmu mas-sahha pubblika, fl-uffiċjal pubbliku imsemmi fl-artikolu 5(1)(b);

(b) dwar materji veterinarji u ikel ta' oriġini mill-animali, fl-uffiċjal pubbliku imsemmi fl-artikolu 5(1)(ċ);

(ċ) dwar l-istima ta' riskji fl-ikel, fl-uffiċjal imsemmi fl-artikolu 5(1)(d);

(d) dwar hwejjeġ li għandhom x'jaqsmu mal-protezzjoni tal-konsumatur, fl-uffiċjal pubbliku imsemmi fl-artikolu 5(1)(e);

(e) dwar nutriment u affarijiet li għandhom x'jaqsmu mal-promozzjoni tas-sahha, fl-uffiċjal pubbliku imsemmi fl-artikolu 5(1)(f);

(f) dwar organiżmi li jkunu ġew modifikati ġenetikament, ikel introdott ġdid u hwejjeġ dwar l-ambjent, fl-uffiċjal pubbliku imsemmi fl-artikolu 5(1)(g); u

(g) dwar miżuri fitosanitarji u hwejjeġ li għandhom x'jaqsmu ma' ikel ta' oriġini minn pjanti, fl-uffiċjal pubbliku imsemmi fl-artikolu 5(1)(h).

(3) Għall-finijiet ta' din it-Taqsima, "ikel" tinkludi -

(a) kull sustanza użata, li tista' tiġi użata, jew li hi maħsuba biex tiġi użata fl-ikel jew fix-xorb mill-bnedmin; u

(b) kull sustanza użata, li tista' tiġi użata, jew li hi maħsuba biex tiġi użata fl-ikel jew fix-xorb mill-animali jew għall-ikel jew għal għanijiet ta' tisqija ta' pjanti li jkunu maħsuba għal kollox jew parzjalment għall-konsum mill-bniedem; u

(ċ) kull sustanza li tidhol fi jew tkun użata fil-produzzjoni, fit-tahlita jew fil-preparazzjoni tas-sustanzi msemmija fil-paragrafi (a) u (b).

8. (1) Il-Kummissjoni tista' tagħmel jew tohroġ dikjarazzjonijiet pubbliċi li jidentifikaw jew jagħtu twissjiet jew informazzjoni dwar xi wahda mill-affarijiet li ġejjin:

Setgħa li jiġi ppublikati twissjiet u informazzjoni.

(a) ikel jew sorsi ta' ikel li jkunu ta' hsara għas-saħħa jew mhux tajbin għall-konsum mill-bniedem;

(b) il-provvista ta' ikel jew sorsi ta' ikel, tkun min tkun il-persuna li tissupplixxi, li huma jew x'aktarx jistgħu jikkawżaw hsara għas-saħħa u li huma mhux tajbin għall-konsum mill-bniedem, u l-persuni mqabbdin biex jaħdmu fil-provvista ta' dak l-ikel jew sorsi ta' ikel;

(ċ) il-prattiċi, li jintużaw rigward xi negozju ta' l-ikel, li huma ta' detriment għall-interessi tal-konsumaturi u, jew il-persuni li huma mqabbdin bi prattiċi bħal dawk;

(d) kull haġa oħra li taffettwa b'mod żvantaġġuż, jew tista' taffettwa b'mod żvantaġġuż is-saħħa ta' konsumaturi rigward ix-xiri jew l-użu ta' ikel jew sorsi ta' ikel.

(2) Meta tagħmel dikjarazzjoni kif imsemmi fis-subartikolu (1), il-Kummissjoni għandha thares il-prinċipji ta' konsistenza, imparzjalità u oġġettività, u ma għandhiex tagħmel din id-dikjarazzjoni jekk ma jkunx fl-interess pubbliku li hekk għandu jsir.

(3) Il-Gvern, il-Kummissjoni u kull uffiċjal pubbliku li jaġixxi skond l-istruzzjonijiet jew l-awtorità tal-Kummissjoni ma jkunux u ma jsirux responsabbli għal kull att magħmul *bona fide* skond is-subartikolu (1); din l-eżenzjoni minn responsabbiltà għandha tkun estiża għal kull persuna li tippubblika, tistampa, tirrekordja, ixxandar, tikkomunika jew tirriproduċi dik l-informazzjoni f'kull forma tkun li tkun.

9. (1) Għall-finijiet ta' l-artikolu 27(2)(d) ta' l-Att dwar is-Sigurezza tal-Prodotti, id-Direttur ta' Sorveljanza fuq is-Suq għandu perjodikament jagħti pariri, jissorvelja u jagħmel verifiki dwar il-funzjonijiet tal-Kummissjoni.

Twettiq tax-xogħol tal-Kummissjoni.

(2) Meta taht xi liġi oħra, persuna jew awtorità jkollha setgħa li tichu xi miżura jew azzjoni li għandha x'taqsam mas-sigurtà ta' l-ikel, dik il-persuna jew dik l-awtorità għandhom, malli jiehdu dik il-miżura jew dik l-azzjoni, minnufih jinformaw lill-Kummissjoni dwar dak it-tehdid ta' miżura jew azzjoni.

(3) Il-Ministru jista' jagħmel, jemenda u jirrevoka regolamenti għat-tweġġiq xieraq tax-xogħol tal-Kummissjoni.

Taqsimha III

Regolamenti

Setgħa tal-Ministru li jagħmel regolamenti.

10. (1) Il-Ministru jista' jagħmel regolamenti -

(a) dwar l-importazzjoni, l-esportazzjoni, il-preparazzjoni, it-taħlita, ir-reklamar, il-bejgħ, ir-rimi u, jew il-qirda ta' ikel maħsub għall-konsum mill-bniedem, u biex jippreskrivi *standards* ta' l-anqas kwalità, taħlita jew proprjetajiet ta' dak l-ikel li jkunu permessi, u bla ħsara għall-ġeneralità ta' dak li ntqal qabel, dawn ir-regolamenti jistgħu partikolarment -

(i) jeħtieġu, jipprojbixxu, jew jirregolaw iż-żieda ta' kull additiv jew sustanza speċifika, taħlita ta' additivi jew sustanzi, jew xi sustanza jew additiv ta' xi klassi speċifika, lil xi ikel maħsub għall-konsum mill-bniedem jew lil xi klassi ta' ikel bħal dan, jew l-użu ta' xi sustanza bħal din bħala ingredjent fil-preparazzjoni ta' dak l-ikel;

(ii) jeħtieġu, jipprojbixxu jew jirregolaw l-użu ta' xi materjali jew ta' xi proċess jew trattament fil-preparazzjoni ta' xi ikel maħsub għall-konsum mill-bniedem, jew ta' xi klassi ta' ikel bħal dak, inkluż fil-ħażna ta' ikel jew f'sorsi ta' ikel;

(iii) jipprojbixxu jew jirregolaw il-bejgħ, il-pussess għall-bejgħ jew l-offerta, il-wiri jew irriklamar għall-bejgħ, ta' xi sustanza speċifika, jew ta' xi sustanza ta' xi klassi speċifika, bil-ħsieb li tintuża fil-preparazzjoni ta' xi ikel maħsub għall-konsum mill-bniedem, u l-pussess ta' kull sustanza bħal din għall-użu fil-preparazzjoni ta' ikel maħsub għall-bejgħ għall-konsum mill-bniedem;

(iv) jimponu htigiet jew projbizzjonijiet dwar, u mod ieħor jirregolaw, it-tikkettjar, l-istampar, l-immarkar, il-prezentazzjoni jew ir-reklamar ta' xi ikel maħsub għall-bejgħ għall-konsum mill-bniedem, u d-deskrizzjonijiet li jistgħu jiġu mogħtija lil xi ikel bħal dan; u jista' f'xi regolamenti magħmulin taht dan il-paragrafu jeħtieġ li dawn it-tikketti jkunu bl-ilsien Malti u, jew bl-ilsien Ingliż;

(v) jipprojbixxu jew jirregolaw il-bejgh, il-pussess għall-bejgh, l-offerta, il-wiri jew ir-reklamar għall-bejgh, l-importazzjoni, il-konsenja jew it-twassil, jew l-esportazzjoni, ta' xi ikel mahsub għall-konsum mill-bniedem li ma jharisx ir-regolamenti magħmulin taht dan l-artikolu, jew li dvaru ikun sar reat kontra xi wiehed minn dawk ir-regolamenti;

(vi) jipprojbixxu jew jimponu htigiet dwar, jew mod ichor jirregolaw is-sorsi tal-provvista ta' l-ilma użat fil-preparazzjoni, proċessar, tibdil jew bejgh ta' ikel għall-konsum jew użu mill-bniedem, kemm jekk ikun jew ma jkunx għall-ghanijiet ta' xorb;

(vii) jippreskrivu *standards* ta' iġjene rigward ikel, utensili, tagħmir u kull haġa ohra użata fil-manifattura, fil-preparazzjoni, fl-ippriżervar, fl-ippakkjar, fil-hażna, fl-immaniġġar, fit-trasport, fid-distribuzzjoni, fir-rimi, fil-qirda, u fl-ittestjar ta' l-ikel;

(viii) jagħtu s-setgħa lill-awtorità tas-saħħa biex tehtieg li kull persuna li tmexxi negozju li jinkludi l-produzzjoni, l-importazzjoni, l-esportazzjoni, l-użu jew id-distribuzzjoni ta' xi sustanza wżata fil-proċess, preparazzjoni jew produzzjoni ta' xi ikel mahsub għall-konsum mill-bniedem, li tagħti lill-awtorità tas-saħħa dawk il-partikolaritajiet li jistgħu jkunu speċifikati f' dawk ir-regolamenti, li jkollhom x'jaqsmu mat-taħlita u l-użu ta' dik is-sustanza;

(b) jiżguraw it-tharis tal-htigiet ta' kondizzjonijiet u Prattika ta' iġjene u ta' sanità in konnessjoni mat-tmexxija ta' operazzjonijiet kummerċjali għal dak li għandu x'jaqsam ma' l-ikel jew sorsi ta' l-ikel, u bla hsara għall-ġeneralità ta' dak li intqal qabel, dawk ir-regolamenti jistgħu partikolarment -

(i) jimponu l-htigiet dwar il-kostruzzjoni, it-tqassim, id-drenagg, it-tagħmir, il-manutenzjoni, l-indaġġa, il-ventilazzjoni, id-dawl, il-fornitura ta' ilma u l-użu ta' post li fih jew minnu ikel mahsub għall-konsum mill-bniedem jiġi prodott jew mibjugħ, jew jiġi offrut, muri, mahzun jew preparat għall-bejgh, inklużi kull partijiet ta' dak il-post li fihom apparat jew utensili jitnaddfu, jew li fihom iż-żibel jintefa' jew jiġi mahzun;

(ii) jimponu l-htigiet dwar il-provvista, il-manutenzjoni u t-tindif ta' faċilitajiet sanitarji u ta' hasil li

ghandhom x'jaqsmu ma' dak il-post, ir-rimi ta' zibel u l-manutenzjoni u t-tindif ta' apparat, taghmir, fornituri u utensili wżati f' dak il-post;

(iii) jipprojbixxu jew jirregolaw il-bejgh jew ta' l-importazzjoni ta' apparat jew utensili maghmula għall-użu fil-preparazzjoni ta' l-ikel mahsub għall-konsum mill-bniedem u li jkun fihom materjal speċifiku jew materjal ta' klassi speċifika;

(iv) jikkontrollaw jew mod ieħor jirregolaw l-użu ta' mhafen, u l-ippakkjar jew it-tgeżwir ta' xi ikel mahsub għall-bejgh għall-konsum mill-bniedem jew ta' xi ingredjenti tiegħu;

(v) jimponu htigiet dwar l-ilbies li għandu jintlibes minn persuni f' kull post bhal dak;

(vi) jippreskrivu l-prekawzjonijiet li għandhom jittiehdu biex l-ikel jithares minn infezzjoni jew kontaminazzjoni;

(vii) jirregolaw b' mod ġenerali it-trattament u r-rimi ta' kull ikel li ma jkunx tajjeb għall-konsum mill-bniedem;

(ċ) jiżguraw it-tharis ta' kondizzjonijiet igġeniċi dwar materjali li jiġu f'kuntatt ma' ikel li huma mahsuba li jiġu f'kuntatt ma' ikel għall-konsum mill-bniedem;

(d) jimponu l-htigiet jew projbizzjonijiet, jew mod ieħor jirregola t-tikkettjar, l-immakar jew ir-reklamar tal-materjali msemmija fil-paragrafu (ċ), u d-deskrizzjonijiet li jistgħu jiġu applikati għalihom;

(e) jipprojbixxu jew jirregolaw b' mod ieħor t-tmexxija ta' operazzjonijiet kummerċjali dwar il-materjali msemmija fil-paragrafu (ċ);

(f) jipprojbixxu jew jirregolaw t-tmexxija ta' operazzjonijiet kummerċjali dwar ikel introdott ġdid jew ingredjenti ta' ikel ġodda, jew sorsi ta' ikel li minnhom mahsub li jittiehed dak l-ikel, ta' xi klassi kif jista' jiġi speċifikat fir-regolamenti; jew

(g) jipprojbixxu jew jirregolaw t-tmexxija ta' dawk l-operazzjonijiet dwar ikel ġenetikament modifikat jew irradjat, jew ikel derivat minn dawk is-sorsi ta' ikel, ta' kull klassi kif

jista' jiġi speċifikat:

(h) jeskludu, f'kull każ, mill-projbizzjoni ta' importazzjoni jew esportazzjoni ta' kull ikel jew sors ta' ikel li jkun ta' deskrizzjoni speċifikata skond jew taht ir-regolamenti u, f'każ ta' projbizzjoni ta' importazzjoni, jiġi importat jew esportat għall-użu f'dak il-post li jista' jkun awtorizzat;

(i) jirregolaw b'mod ġenerali l-ikel, sorsi ta' l-ikel jew il-materjali li jiġu f'kuntatt ma' l-ikel, inklużi l-projbizzjoni jew ir-regolamentazzjoni tat-tmexxija ta' operazzjonijiet kummerċjali li għandhom x'jaqsmu ma' ikel, sorsi ta' ikel jew materjali li jiġu f'kuntatt ma' ikel, kif jistgħu jidhrulu li jkunu spedjenti jew neċessarji biex jithares xi ftehim internazzjonali li japplika għal Malta;

(j) bla hsara għad-disposizzjonijiet tas-subartikolu (5), jipprovdu għall-htiġa tar-reġistrazzjoni jew tal-pussess ta' liċenza rigward kull post ta' l-ikel, negozji ta' l-ikel u persuni li joperaw f'xi negozju ta' l-ikel jew li jkunu responsabbli għal xi post ta' l-ikel;

(k) jipprovdu għall-hatra ta' laboratorji uffiċjali għall-ghanijiet ta' dan l-Att;

(l) jirregolaw l-affarijiet li għandhom jitqiesu biex jiġi stabbilit jekk, u f'liema zminijiet, għandhom jiġu prokurati kampjuni;

(m) jirregolaw il-mod dwar kif għandhom jiġu prokurati kampjuni, inklużi l-passi li għandhom jittiehdu biex jiġi żgurat li l-kampjuni prokurati jkunu kampjuni sewwa u xierqa;

(n) jirregolaw dwar x'għandu jsir minn kampjuni, inkluż, fejn ikun xieraq, il-qsim tagħhom f'partijiet;

(o) jirregolaw il-persuni li lilhom il-kampjuni jew il-partijiet tal-kampjuni għandhom jiġu konsenjati u l-persuni li għandhom iżommhom;

(p) jirregolaw il-metodi li għandhom jintużaw fl-analiżi u fl-eżami ta' kampjuni, jew fil-klassifikazzjoni jew fl-evalwazzjoni tar-riżultati ta' dawk l-analiżi jew l-eżamijiet; u

(q) jipprovdu biex jingħata seħħ għal kull obbligu jew ftehim internazzjonal li tiegħu Malta tista' tkun waħda mill-partijiet.

(2) Kull partikolarità jew informazzjoni oħra miksuba mill-awtorità tas-sahħa skond xi regolamenti magħmulin skond is-subartikolu (1)(a)(viii) ma għandhiex tiġi svelata lilek skond ma jkun meħtieġ għall-għanijiet ta' xi regolamenti magħmula skond is-subrtikolu (1)(a), (ii), (iii) jew (v) jew għall-għanijiet ta' xi proċedimenti dwar reat.

(3) Il-kondizzjonijiet u l-htigiet imposti fuq postijiet, b'regolamenti magħmulin skond is-subartikolu (1)(b), jistghu jiġu estiżi għal inġenji tal-baħar, posti, u lokalitajiet oħra kif jista' jkun preskritt f'dawk ir-regolamenti.

(4) Għall-finijiet tas-subartikolu (1)(f), (g) u (h), sors ta' ikel jitqies li jkun ġie modifikat ġenetikament jekk xi waħda mill-ġeni jew materjal ieħor ġenetiku fis-sors ta' l-ikel -

(a) tkun ġiet modifikata permezz ta' xi teknika artifiċjali; jew

(b) tintiret jew tkun derivata b'mod ieħor, permezz ta' kull kwantità jew repliki, minn materjal ġenetiku li jkun ġie hekk modifikat; jew

(ċ) tkun ġiet modifikata permezz ta' xi mezz oħra kif jista' jiġi preskritt mill-Ministru.

(5) Regolamenti magħmula skond is-subartikolu (1)(j) jistghu jipprovdu għas-sospensjoni jew għat-thassir ta' kull reġistrazzjoni, jew għal kollox jew dwar parti minn dak in-negozju li għalih tkun qed issir l-applikazzjoni għar-reġistrazzjoni, jew li dwaru jkun hemm reġistrazzjoni, jew għar-rifjut, sospensjoni jew thassir ta' kull liċenza jew ta' applikazzjoni għal liċenza li hemm provdut għaliha f'dan l-Att -

(a) meta l-htigiet tar-regolamenti magħmulin skond dan l-artikolu ma jkunux imħarsa dwar dak in-negozju; jew

(b) meta l-post, il-vettura, il-posti jew lokal ieħor, jew xi parti minnu, jkunu xort'oħra mhux xierqa, meta jiġu konsidrati l-iġjene u b'mod partikolari il-qagħda, il-kostruzzjoni jew il-kondizzjoni ta' dak il-post, vettura, posti jew lokal ieħor, jew xi attivitajiet li jsiru hemmhekk, għall-użu għall-fini jew għall-finijiet speċifikati fl-applikazzjoni relattiva, jew kif huma fil-fatt qed jintużaw, skond il-kaz.

(6) Kull persuna li tikser xi waħda mid-disposizzjonijiet ta' xi regolamenti magħmul skond is-subartikolu (1) tkun hatja ta' reat.

(7) Fejn skond xi liġi tiġi konferita setgħa lil Ministru biex jagħmel regolamenti li għandhom x'jaqsmu ma' l-ikel, din is-setgħa għandha tiġi eżerċitata sugġetta għall-konsultazzjoni mal-Ministru.

Taqsimha IV

Disposizzjonijiet Ġenerali

Registrazzjoni ta' Postijiet ta' l-Ikel, eċċ

11. (1) Ebda persuna ma għandha taħdem f'negozju ta' l-ikel sakemm in-negozju u l-post li għandu jiġi użat għal dak il-ghan ma jkunux ġew reġistrati ma' u, jekk ikun hekk meħtieġ taht jew skond dan l-Att, liċenzjati mill-awtorità tas-saħħa.

Registrazzjoni ta' postijiet ta' l-ikel, eċċ.

(2) L-ebda post ta' l-ikel li jkun reġistrat għall-użu bhala, jew jekk ikun hekk meħtieġ taht jew skond dan l-Att, liċenzjat għall-ghan ta', xi negozju ta' l-ikel ma għandhom jintużaw mod ieħor blief għall-ghan li għalih jkunu ġew reġistrati jew liċenzjati, u skond xi termini jew kondizzjonijiet ta' dik il-liċenza, u skond kull regolament li japplikja għalihom.

(3) Kull persuna li tikser id-disposizzjonijiet tas-subartikoli (1) jew (2) tkun haġja ta' reat kontra dan l-artikolu.

Sigurtà ta' Ikel

12. (1) Kull persuna li, fil-waqt li topera xi negozju ta' l-ikel, xjentement iġġiegħel li ikel, maħsub biex jinbiegħ għal konsum mill-bniedem, isir ta' hsara għas-saħħa b'kull mezz ikun x'ikun tkun haġja ta' reat kontra dan l-artikolu.

Ikel imġiegħel isir ta' hsara għas-saħħa.

(2) Għall-finijiet ta' dan l-artikolu, jiġi determinat jekk ikel ikunx ta' hsara għas-saħħa billi jiġi stmat mhux biss l-effett li dak l-ikel ikollu probabilmment fuq is-saħħa ta' persuna li tikkunsmah, iżda wkoll il-probabilità li l-effett kumulattiv ta' ikel li sożtanżjalment ikun ta' l-istess kompożizzjoni jkollu fuq is-saħħa ta' bniedem li jikkunsmah f'kwantitajiet ordinarji.

13. (1) Kull persuna li taħdem f'xi negozju ta' l-ikel għandha tissorvelja fuq is-saħħa ta' l-ikel kollu li jkun taht il-kontroll tagħha, u meta tkun taf, jew għandha raġuni valida li tissuspetta li xi ikel, sors ta' ikel jew materjal li jiġi f'kuntatt ma' ikel jista' jikkawża hsara għas-saħħa, għandha minnufih, jew kemm jista' jkun malajr, tinforma lill-awtorità tas-saħħa u tiegħu kull azzjoni oħra li l-Ministru jista' jipprekrivi b'regolamenti.

Sorveljar fuq is-sigurtà ta' ikel.

(2) Kull persuna li tonqos li thares id-disposizzjonijiet tas-

Ikel li ma jharisx il-htigiet ta' sigurtà.

subartikolu (1) tkun hatja ta' reat kontra dan l-artikolu.

14. (1) Kull persuna li -

(a) tbiegh, toffri, tesponi jew tirreklama ghall-bejgh, jew ikollha fil-pussess taghha ghall-bejgh jew ghall-preparazzjoni tal-bejgh ghall-konsum mill-bniedem;

(b) tiddepozita ghand, jew tikkonsenja lil, xi persuna ohra, ghall-bejgh jew ghall-preparazzjoni tal-bejgh, ghall-konsum mill-bniedem;

(c) tqassam bhala kumpens jew xort'ohra jew iggorr minn post ghall-ichor, ghall-konsum mill-bniedem;

(d) toffri bhala premju jew rigal, jew taghti biex jigi hekk offrut,

xi ikel li ma jharisx il-htigiet ta' sigurtà ta' ikel tkun hatja ta' reat kontra dan l-artikolu.

(2) Ghall-finijiet ta' dan l-artikolu, ikel jitqies li ma jkun ihares il-htigiet ta' sigurtà ta' ikel fil-każijiet meta-

(a) gic maghmul ta' hsara ghas-sahha permezz ta' xi operazzjoni tkun xi tkun; jew

(b) ma jkunx tajjeb ghall-konsum mill-bniedem; jew

(c) ikun hekk kontaminat, kemm permezz ta' xi materja estranja jew mod ichor, li ma jkunx ragonevoli li wicied jistenna li jintuza ghall-konsum mill-bniedem f'dak l-istat; jew

(d) gic preparat, mahzun, miżmum, proċessat, depożitat, trasportat, offrut jew muri ghall-bejgh jew ikun sar minnu mod ichor f'kondizzjonijiet mhux sanitarji jew mhux igienici; jew

(e) ghandu fih additivi jew dawk il-kwantitajiet jew tahlitiet li għew pprojbiti b'regolamenti maghmulin skond dan l-Att.

u referenzi ghal dawn il-htigiet jew ghal ikel li jhares dawn il-htigiet ghandhom jinftehem skond hekk.

(3) Meta l-ikel ma jharisx il-htigiet ta' sigurtà ta' ikel ikun parti minn ammont, lott jew konsenja ta' ikel ta' l-istess klassi, xorta jew deskrizzjoni, ikun prezunt, sakemm ma jigix ppruvat il-kuntrarju, li l-ikel kollu f'dak l-ammont, lott jew konsenja ma jharisx dawk il-htigiet.

15. (1) Persuni li, fl-eżerċizzju tal-funzjonijiet tagħhom, jiġu f'kuntatt, kemm direttament jew indirettament, mal-materjali u prodotti msemmija fl-artikolu 25(b) sa (f) għandhom ikunu suġġetti għall-ispezzjon ta' iġjene imsemmija fl-artikolu 24(ċ).

Iġjene personali ta' min miss l-ikel.

(2) L-ispezzjoni imsemmija fis-subartikolu (1) għanda ssir għal finijiet tal-verifika li l-istandards ta' saħħa li għandhom x'jaqsmu ma' indafa personali u hwejjeġ huma rispettati. Din l-ispezzjoni tkun minghajr hsara għal kull eżami mediku li jista', minn żmien għal żmien, ikun meħtieġ skond din il-liġi jew xi liġi oħra.

Protezzjoni tal-Konsumatur

16. (1) Ebda persuna ma għandha tipprepara jew tbiegħ, tippakkja, taħzen, toffri, tesponi, iżzomm jew tagħmel reklam għall-bejgħ għall-konsum mill-bniedem, xi oġġetti ta' l-ikel, li jaqblu ma' jew jixbhu fl-għamla tagħhom lil xi oġġett ieħor ta' użu komuni illi wiehed bi żball jista' jiffixkilhom miegħu, b'mod li tikkawża jew tista' tikkawża riskju ta' hsara għas-saħħa.

Projbizzjoni ta' bejgħ ta' prodotti li jixbhu.

(2) Kull persuna li tikser id-disposizzjonijiet tas-subartikolu (1) tkun hatja ta' reat kontra dan l-artikolu.

17. (1) Ebda persuna ma għandha tbiegħ, bi preġudizzju għax-xerrej, xi ikel maħsub għal konsum mill-bniedem li ma jkun tax-xorta, sustanza jew kwalità ta' ikel mitlub mix-xerrej.

Bejgħ ta' ikel bi preġudizzju għax-xerrej.

(2) Kull persuna li tikser id-disposizzjonijiet tas-subartikolu (1) tkun hatja ta' reat kontra dan l-artikolu.

(3) F'kull proċedimenti għal-reat taht dan l-artikolu, l-akkuzat ma jistax jiddefendi ruhu billi jiddikjara li x-xerrej ma għax preġudikat minhabba f'li kien xtara l-oġġett għal analiżi jew eżami.

18. (1) Kull persuna li tagħti, ma' xi ikel mibjugħ minnha, jew turi ma' xi ikel offrut jew muri minnha għall-bejgħ jew li jkollha fil-pussess tagħha għall-finijiet ta' bejgħ, xi tikketta, sew jekk mehmuża jew stampata fuq il-maħfen jew dak li jkunu mgeżwrin fiha sew jekk le, u kull persuna li tirreklama jew tghin fir-reklamar li f'kull wiehed miż-żewġ każijiet -

Tikkettjar, eċċ., ta' ikel.

(a) tiddeskrivi l-ikel b'mod falz; jew

(b) x'aktarx tqarraq dwar ix-xorta, sustanza jew kwalità ta' l-ikel.

tkun hatja ta' reat kontra dan l-artikolu:

Iżda, f'kull proċedimenti taht dan is-subartikolu, l-akkuzat

jista' jiddefendi ruhu billi jipprova li hu agixxa bid-diligenza xierqa u li ma kienx jaf, jew u li hu ma setghax ikun jaf, li r-reklam kiser dan l-artikolu.

(2) Kull persuna li tbiegh, jew toffri jew tesponi ghall-bejgh jew ikollha fil-pussess taghha ghall-finijiet ta' bejgh, xi ikel li l-prezentazzjoni tiegħu x'aktarx tqarraq dwar ix-xorta, is-sustanza jew il-kwalità ta' l-ikel tkun hatja ta' reat kontra dan l-artikolu.

(3) F'kull procedimenti dwar reat kontra xi wahda mid-disposizzjonijiet ta' dan l-artikolu, il-fatt li t-tikketta jew ir-riklam li dwaru ikun allegat li jkun sar ir-reat ikun fihom dikjarazzjoni ezatta tal-kompożizzjoni ta' l-ikel ma jwaqqafx lill-Qorti milli ssib li r-reat ikun sar.

(4) F'dan l-artikolu ir-riferenza għal "bejgh" għandha tinftehem bhala riferenza għall-bejgh għall-konsum mill-bniedem.

Ikel ippakkjat għandu jkollu tikketta.

19. (1) Ebda persuna ma għandha tbiegh, jew toffri jew tesponi jew tagħmel reklam għall-bejgh, jew ikollha fil-pussess taghha għall-finijiet ta' bejgh, xi ikel f'xi mahfen mhux miftuh sakemm ma jkunx hemm dik it-tikketta kif jista' jigi preskritt mehmuża jew imwahnha, jew inkluzja, mal-mahfen.

(2) Kull persuna li tikser id-disposizzjonijiet tas-subartikolu (1) tkun hatja ta' reat kontra dan l-artikolu.

Informazzjoni u dokumentazzjoni

Għoti ta' informazzjoni.

20. L-awtorità tas-sahha tista' tordna li kull persuna li tmexxi negozju ta' l-ikel tagħtiha, f'dak iż-żmien li jkun speċifikat fid-direttiva, dik l-informazzjoni li tista' tigi verifikata, kif jista' jkun speċifikat fid-direttiva, inkluzja informazzjoni dwar dawk l-affarijiet li jistgħu jkunu speċifikati minn żmien għal żmien b'regolamenti, dwar kull ikel jew sors ta' ikel li l-persuna li tmexxi n-negozju jkollha x'taqsam miegħu, u kull persuna li ma tharixx htiega bhal dik tkun hatja ta' reat kontra dan l-artikolu.

Dokumentazzjoni, eċċ., għandha tkun bil-miktub.

21. (1) Kull dokument li jkun meħtieġ jew awtorizzat skond jew taht dan l-Att li jinghata jew jigi notifikat lil xi persuna jista', f'kull każ fejn ma jkunx hemm disposizzjoni oħra f'dan l-Att, jinghata jew jigi notifikat jew -

(a) billi jigi konsenjat lil dik il-persuna; jew

(b) fil-każ ta' xi ufficjal ta' l-awtorità tas-sahha, billi jithalla jew jinbagħat bil-posta indirizzat lilu, fl-ufficju tiegħu; jew

(c) fil-każ ta' kumpannija jew soċjetà oħra jew enti korporata oħra, billi jiġi kkonsenjat lil impjegat tal-kumpannija jew tas-soċjetà jew ta' l-enti korporata fl-uffiċċju registrazzjoni jew prinċipali ta' dik il-kumpannija jew dik is-soċjetà jew dik l-enti korporata, jew billi jinbagħat bil-posta indirizzata lil fl-uffiċċju tiegħu; jew

(d) fil-każ ta' xi persuna oħra billi jithalla jew jinbagħat bil-posta indirizzata lil fir-residenza tas-soltu tiegħu jew dik l-aħhar magħrufa.

(2) Meta d-dokument għandu jingħata jew jiġi notifikat lis-sid jew lil minn jokkupa xi post u ma jkunx possibbli, wara li jsir tiftix raġonevoli li jinstab l-isem u l-indirizz tal-persuna li lilha għandu jingħata jew jiġi notifikat, jew jekk il-post ma jkunx okkupat, d-dokument jitqies li jkun ġie notifikat sewwa jekk kopja tiegħu titwāħhal ma' xi parti fil-post li tidher, u avvizz dwar dik l-affissjoni jiġi pubblikat f'għall-anqas gazzetta waħda ta' kuljum.

Infurzar

22. (1) Ebda persuna ma għanda tiġi mpjegata jew taħdem fi, jew in konnessjoni ma', il-preparazzjoni jew il-manijġ ta' xi l-ikel maħsub għall-bejgħ għall-konsum mill-bniedem jekk il-prinċipal ikun jaf li dik il-persuna tkun, jew, skond il-każ, jekk dik il-persuna mfifisha tkun taf li tkun, tbat minn, jew tkun *carrier* ta', tifojde, paratifojde jew xi infezzjoni oħra, salmonella jew dissenterija jew xi infezzjoni stafilokokka jew xi infezzjoni oħra li x'aktarx tipproduċi avvelenament ta' l-ikel, jew xi marda oħra li l-Ministru jista', b'ordni, jiddikjara li hi marda li għaliha japplika dan l-artikolu.

Projbizzjoni
milli jgħaddmu
persuni b'erti
infezzjonijiet.

(2) Ordni magħmul skond is-subartikolu (1) jista' jiġi revokat, mibdul jew sostitwit b'ordni ieħor u jista' japplika għal kull ikel, jew għal klassi ta' ikel, jew xi ikel partikolari, maħsub għall-bejgħ għall-konsum mill-bniedem.

23. Ebda persuna ma tista' timporta f'Malta xi ikel maħsub għall-bejgħ għall-konsum mill-bniedem jew għall-preparazzjoni għall-bejgħ, għall-konsum mill-bniedem li -

Projbizzjoni ta'
importazzjoni
ta' erti ikel.

(a) ġie magħmul ta' hsara għas-saħħa permezz ta' xi operazzjoni tkun xi tkun;

(b) jekk jinbiegħ f'Malta, ikun ta' ksur tad-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmula tahtu;

(c) jkun mhassar, hżien jew xort'oħra mhux tajjeb

ghall-konsum mill-bniedem; jew

(d) fil-preparazzjoni tiegħu ikun intuża xi ikel kif deskritt fil-paragrafu (ċ).

Kontroll ta' ikel.

24. Bla hsara għad-disposizzjonijiet ta' l-*Artikoli* 25 u 26, il-kontroll ta' l-ikel ikun magħmul minn waħda jew iżjed mill-operazzjonijiet li ġejjin:

(a) spezzjon ta' postijiet ta' l-ikel;

(b) teħid ta' kampjuni u analiżi ta' ikel u, jew sorsi ta' ikel;

(ċ) spezzjoni ta' iġjene u kwalifiki ta' persunal;

(d) eżami ta' materjal miktub u dokumentat; u

(e) eżami ta' sistemi ta' verifika stabbiliti minn negozju ta' l-ikel u r-riżultati miksuba permezz ta' dawk is-sistemi ta' verifika.

Suġġett ta' l-ispezzjonijiet.

25. Dawn li ġejjin jistgħu jkunu suġġetti għal spezzjon minn uffiċjal awtorizzat fl-infurzar u fl-eskuzzjoni ta' dan l-*Artikolu*:

(a) l-istat u l-użu li jsir minn, fi stadji differenti, tas-sit, post, uffiċċji, postijiet ta' negozju u ta' madwarhom, makkinarju u tagħmir;

(b) materja prima, ingredjenti, għajnuniet teknoloġiċi u prodotti oħra użati fil-preparazzjoni u fil-produzzjoni ta' hwejjeg ta' l-ikel;

(ċ) oġġetti nofshom lesti;

(d) oġġetti lesti;

(e) materjali u oġġetti maħsuba li jiġu f'kuntatt ma' hwejjeg ta' l-ikel;

(f) prodotti u proċessi ta' hasil u manutenzjoni, u pestiċidi;

(g) proċessi użati fil-manifattura jew proċessar ta' hwejjeg ta' l-ikel;

(h) it-tikkettjar u preżentazzjoni ta' affarijiet ta' l-ikel; u

(i) metodi li jippreżervaw l-ikel; u

- (j) dawk il-hwejjeg l-ohra kif jista' jiġi preskritt b'regolamenti.

26. (1) L-ispezzjonijiet isiru -

Spezzjonijiet

(a) regolarment u, jew, kull meta ikun hemm suspett ta' ksur ta' xi waħda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu; u

(b) billi jintużaw mezzi proporzjonati mal-fini li jrid jintlahaq.

u għandhom ikopru l-istadji kollha ta' produzzjoni, manifattura, importazzjoni, proċessar, hażna, trasport, distribuzzjoni, kummerċ, rimi u qirda ta' ikel.

(2) L-uffiċjal awtorizzat għandu f'kull każ jiddeċiedi liema stadju jew stadji jidhirlu li jkunu l-aktar xierqa biex jiġu eżaminati minn dawk imsemmija fis-subartikolu (1).

(3) L-uffiċjal awtorizzat jista' jkun assistit minn xi persuna oħra li jidhirlu meħtieġa.

27. Hlief bil-permess bil-miktub tal-Kummissjoni jew ta' l-awtorità tas-saħħa, kif ikun il-każ, ebda persuna ma tista' tippublika jew iġġieghel li tiġi pubblikata f'kull għamla, dikjarazzjoni maħsuba biex tippromwovi, jew li tista' tippromwovi, l-provvista jew l-użu ta' ikel, hwejjeg ta' l-ikel, jew servizzi li għandhom x'jaqsmu ma' ikel, billi timplika li l-Kummissjoni jew l-awtorità tas-saħħa, kif ikun il-każ, tapprova jew ma tapprovax dak l-użu.

Projbizzjoni tal-pubblikazzjoni ta' dikjarazzjonijiet uffiċjali mingħajr permess bil-miktub.

28. (1) Kull persuna nominata biex tagħmilha ta' uffiċjal awtorizzat skond dan l-Att, għandha tiddikjara u tikkonferma li ma tkunx taħdem, la direttament u lanqas indirettament, f'xi negozju ta' l-ikel.

Uffiċjali awtorizzati.

(2) Uffiċjal awtorizzat jista' jispezzjona kull ikel maħsub għall-konsum mill-bniedem, jew li raġonevolment jahseb li jista' jkun hekk maħsub, li -

(a) ikun ġie mibjugħ jew ġie offrut jew muri għal bejgħ; jew

(b) hu, jew kien fil-pussess ta', jew ġie depożitat ma' jew konsenjat lil, xi persuna għall-għan ta' bejgħ jew preparazzjoni għall-bejgħ; jew

(ċ) ikun qiegħed jiġi konsenjat qabel jew wara li jsir il-

bejgh għall-konsum mill-bniedem, inkluż meta dan l-ikel ikun f'xi vettura.

u d-disposizzjonijiet ta' l-artikolu 31 għandhom japplikaw fejn, meta ssir dik l-ispezzjon, l-uffiċjal awtorizzat jidhirlu li xi ikel ma jharixx il-htigiet ta' sigurtà ta' ikel.

(3) Uffiċjal awtorizzat jista' -

(a) jeżamina kull haġa li għaliha japplikaw dan l-Att jew xi regolamenti magħmulin tahtu u jichu, meta jhallas l-valur kurrenti fis-suq ta' dak l-oġġett, jekk ikun hekk meħtieġ, kampjuni għall-analiżi jew għal eżami batterjologiku jew xi eżami iċhor; u

(b) jaqbad u jneħhi kull haġa li dwarha hemm raġuni valida biex wieħed jissuspetta li hemm ksur jew kien hemm ksur ta' xi disposizzjoni ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu.

(4) Fis-subartikolu (3), il-kliem "kull haġa" tinkludi -

(a) kull ikel, jew kull sustanza li tista' tiġi użata fit-tahlita jew fil-preparazzjoni ta' xi ikel;

(b) kull haġa użata jew li tista' tiġi użata għall-manifattura, il-preparazzjoni, l-ippreżervar, it-tgħewir jew hażna ta' dak l-ikel, inkluż materjal li jigi f'kuntatt ma' ikel; u

(c) kull tikketta jew materjal ta' reklamar;

Iżda t-teħid ta' xi haġa skond is-subartikolu (3)(a) għandu, għall-finijiet ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu, jitqies bħala bejgh ta' dik il-haġa.

Setgħa ta' dhuł
tiffix u qbid.

29. (1) Kull uffiċjal awtorizzat ikollu, meta jipproduċi, jekk hekk meħtieġ, xi dokument awtentikat kif imiss li juri l-awtorità tiegħu, id-dritt f'kull hin raġonevoli li -

(a) jidhol f'kull post ta' l-ikel sabiex jistabbilixxi jekk hemmx jew kienx hemm jew x'aktarx ikun hemm xi ksur ta' xi wahda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmulin tahtu;

(b) jidhol f'kull post ta' l-ikel sabiex jistabbilixxi jekk hemmx, f'dak il-post, xi xieħda ta' xi ksur ta' xi wahda mid-disposizzjonijiet ta' dan l-Att;

(ċ) jahmel kull spezzjoni skond dan l-Att;

(d) jispezzjona kull *record*, tkun xi tkun il-forma tagħhom, li għandhom x'jaqsmu man-negozju ta' l-ikel u, meta dawn ir-records huma miżmuma permezz ta' kompjuter -

(i) ikollu access għal u jispezzjona u jivverifika kif jahdem kull kompjuter, kull apparat assoċjat jew materjal li hu jew li kien użat in konnessjoni mar-records; u

(ii) jista' jehlieg li kull persuna li tkun responsabbli għal, jew mod iehor tkun konnessa mat-thaddim tal-kompjuter, apparat jew materjal tagħtih dik l-assistenza li jista' raġonevolment jehlieg;

(e) jahtaf u jzomm kull *record* li raġonevolment jahseb li jista' jkun mehtieg bhala xiehda fi proċedimenti skond id-disposizzjonijiet ta' dan l-Att jew skond regolamenti magħmulin tahtu;

(f) fejn ir-records huma miżmuma permezz ta' kompjuter, jehlieg li r-records jiġu prodotti f'għamla li jistgħu jittiehdu.

(2) Kull persuna li, meta tkun dahlet f'xi post bis-sahha ta' dan l-artikolu, tiżvela lil xi persuna oħra xi informazzjoni miksuba minnha f'dak il-post, liema informazzjoni tkun tirrigwarda xi sigriet kummerċjali, tkun hatja ta' reat, sakemm dak l-iżvelar ma jkunx sar fit-tweqqiq tad-dmirijiet tagħha.

(3) Id-dhul, għall-finijiet tas-subartikolu (1), ġewwa xi post li jkun użat biss bhala dar ta' abitazzjoni jista' jsir biss jekk ikun awtorizzat b'mandat iffirmat minn maġistrat jew mill-Avukat Ġenerali.

(4) Kull mandat hekk mahruġ għandu jibqa' jschh għal perijodu ta' mhux iktar minn xahar.

30. Uffiċjal awtorizzat li għandu raġuni għaliex jahseb li xi vettura jew *container* ikun fihom xi ikel li hu mahsub għal bejgħ għall-konsum mill-bniedem jew li jkun qiegħed jiġi kkonsenjat wara il-bejgħ għall-konsum mill-bniedem, jista' jeżamina x'ikun hemm fil-vettura jew fil-mahfen u, għal dak l-ghan, jista' jzomm il-vettura jew mahfen jekk dan ikun mehtieg.

Spezzjon ta' vetturi, eċċ.

31. (1) Jekk uffiċjal awtorizzat jidhirlu, kemm waqt spezzjon jew mod iehor, li xi ikel ma jkunx tajjeb għall-konsum mill-

Dmirijiet ta' uffiċjali awtorizzati.

bniedem, jew x'aktarx jaghmel hsara, avvelenament ta' ikel jew xi mard li jittiched mill-bnedmin, l-ufficjal awtorizzat jista' jew -

(a) javza lill-persuna licenzjata, *manager* jew xi persuna ohra li tkun responsabbli ghall-post ta' l-ikel f'dan il-hin, illi sakemm l-avviz ma jigix irtirat, l-ikel jew xi parti speċifikata tieghu -

(i) ma ghandux jintuza ghall-konsum mill-bniedem; u

(ii) ma ghandux jigi mnehhi jew ma ghandux jigi mnehhi jekk mhux ghal xi post speċifikat fl-avviz; u, jew

(iii) ma ghandux jinbiegh jew jinqered jew isir mod iehor minnu, kemm jekk ikun gie mnehhi ghal dawkl-ghanijiet u kemm jekk le; jew

(b) jista' jaqbad dak l-ikel, jew kampjun tieghu, biex jigi prodott bhala xiehda f'kull qorti; jew

(c) meta ma jkunx jehtieg li jigi prodott bhala xiehda kif intqal qabel, bil-kunsens u ghas-spejjez tal-persuna responsabbli, jista' jeqred l-ikel.

(2) Kull persuna li xjentement tikser il-htigiet ta' avviz moghti skond is-subartikolu (1) tkun hatja ta' reat.

(3) Meta l-ufficjal awtorizzat iwettaq s-setghat moghtija skond is-subartikolu (1) hu ghandu fi zmien ragonevoli, jiddetermina jekk dak l-ikel ihariss il-htigiet dwar sigurta ta' ikel jew le; u -

(a) jekk dak l-ikel jitqies bhala li hu tajjeb ghall-konsum mill-bniedem, ghandu minnufih jirtira l-avviz u jippermetti r-rilaxx ta' l-ikel mill-post fejn ikun mahzun skond it-termini ta' l-avviz; jew

(b) jekk dak l-ikel jitqies mhuwiex tajjeb ghall-konsum mill-bniedem, ghandu jaqbad dak l-ikel, jew kampjun tieghu, biex l-istess jigi prodott bhala xiehda f'kull qorti.

(4) Meta ufficjal awtorizzat iwettaq is-setghat moghtija lilu skond is-subartikolu (1) jew (3), ghandu jinforma lill-persuna responsabbli ghall-ikel bil-hsieb tieghu li l-ikel isir minnu skond ma tiddeċiedi l-qorti, u ghandu jaghti r-ragunijiet ghal hekk u kull pesuna li, skond is-subartikolu (1) jew (3), jistghu jittichdu proċedimenti kontriha ghar-rigward ta' dak l-ikel ikollha d-dritt li tinstema' u li

ssejjah xhieda.

(5) Jekk il-qorti jidhirlha, skond dik ix-xiehda li tkun meqjusa xierqa fié-óirkostanzi li xi ikel li tkun qed tittratta dwaru skond dan l-artikolu, ma iharisx il-htigiet ta' sigurtà ta' ikel, il-qorti ghandha tikkundanna l-ikel u tordna li jiġi meqrud jew isir minnu b'tali mod li ma jkunx jista' jintuza għall-konsum mill-bniedem.

(6) Il-qorti ghandha wkoll, wara rikors mill-awtorità tas-sahha, tordna lill-persuna li tkun instabet hatja ta' reat biex thallas lill-awtorità tas-sahha l-ispejjeż li tkun hallset għall-prosekuzzjoni dwar ir-reat, inkluża kull spezzjon li tkun wasslet għal dik il-prosekuzzjoni u kull eżami li jkun sar għall-ghan ta' dik l-ispezzjon.

32. (1) Persuna li -

Tfixkil u skiel.

(a) intenzjolament tfixkel jew tikkawża t-tfixkil lil xi persuna fil-qadi ta' dmirijietha skond dan l-Att; jew

(b) minghajr kawża raġonevoli, tonqos li tagħti lil xi persuna fil-qadi ta' dmirijietha skond dan l-Att, dik l-għajna jew l-informazzjoni li tkun meħtieġa li tagħti taht jew skond dan l-Att,

tkun hatja ta' reat kontra dan l-artikolu.

(2) Kull persuna li, fit-tharis intenzjonat ta' xi disposizzjoni ta' dan l-Att -

(a) tagħti informazzjoni li tkun taf li hi falza jew qarricqa f'partikolarità sostanzjali; jew

(b) b'traskuraġni tagħti informazzjoni li tkun falza jew qarricqa f'partikolarità sostanzjali,

tkun hatja ta' reat kontra dan l-artikolu.

(3) Ebda haġa fis-subartikolu (2) ma ghandha tinftehem li persuna teħtieġ li tirrispondi xi mistoqsija jew tagħti xi informazzjoni jekk, billi tagħmel hekk, tinkrimina lilha nnifisha.

Avviżi u Ordnijiet

33. (1) Jekk uffiċjal awtorizzat ikollu raġuni biżżejjed biex jahseb li l-persuna responsabbli għal negozju ta' l-ikel jew post ta' l-ikel ma tkunx qed thares xi regolamenti li għalihom japplika dan l-artikolu, l-uffiċjal jista', permezz ta' avviż bil-miktub, hawnhekk iżjed l-quddiem f'dan l-Att imsejjah "avviż ta' titjib", li jiġi

Avviż ta' titjib.

notifikat lil dik il-persuna, fejn -

(a) jiddikjara r-raġunijiet ta' l-uffiċjal għaliex jahseb li l-persuna mhix thares ir-regolamenti;

(b) jispeċifika l-materji li jikkostitwixxu n-nuqqas ta' tharis mill-persuna;

(c) jispeċifika l-miżuri li, fil-lehna ta' l-uffiċjal, il-persuna għandha tiegħu biex tiżgura tharis; u

(d) jehtieg lill-persuna biex tiegħu dawk il-miżuri, jew miżuri li huma għall-inqas bħalhom, fi żmien dak il-perjodu li jista' jiġi speċifikat fl-avviż ta' titjib.

(2) Kull persuna li tonqos milli thares avviż ta' titjib tkun hatja ta' reat kontra dan l-artikolu.

(3) Id-disposizzjonijiet ta' dan l-artikolu għandhom japplikaw għal kull regolament li jista' jsir taht dan l-Att biex -

(a) jehtieg, jipprojbixxi jew jiġi regolat l-użu ta' xi proċess jew trattament fil-preparazzjoni ta' l-ikel; jew

(b) jiġi żgurat it-tharis ta' kondizzjonijiet u prattiċi iġġenerali għal dak li għandu x'jaqsam mat-tweqqif ta' operazzjonijiet kummerċjali għar-rigward ta' ikel jew sorsi ta' ikel; jew

(c) jipprovdi għall-protezzjoni tal-konsumatur, il-kwalità ta' l-ikel jew l-ghoti ta' informazzjoni pubblika dwar l-ikel, prodotti ta' l-ikel jew l-użu li għalih jista' jitqiegħed dak l-ikel jew dawk il-prodotti ta' l-ikel.

Il-qorti tista' timponi projbizzjoni xierqa.

34. (1) Jekk il-persuna responsabbli ta' negozju ta' l-ikel tinstab hatja ta' reat kontra xi regolamenti li għalihom japplika dan l-artikolu, u jekk il-qorti, li minnha l-persuna responsabbli tkun instabet hatja, tkun sodisfatta li tkun teżisti kondizzjoni ta' riskju għas-saħħa rigward dak in-negozju, il-qorti tista' b'ordni timponi l-projbizzjoni xierqa msemmija fis-subartikolu (3).

(2) Fil-verifika jekk tkunx teżisti kondizzjoni ta' riskju għas-saħħa rigward xi negozju ta' l-ikel, il-qorti għandha teżamina jekk xi waħda minn dawn il-kondizzjonijiet li ġejjin jinvolve riskju ta' hsara għas-saħħa jiġifieri -

(a) l-użu, għall-ghanijiet ta' negozju ta' xi proċess jew trattament;

(b) il-kostruzzjoni ta' xi post użat għall-ghanijiet tan-negozju, jew l-użu, għal dawk l-ghanijiet, ta' xi tagħmir;

(ċ) l-istat jew il-kondizzjoni ta' kull post jew tagħmir użat għall-ghanijiet tan-negozju; u

(d) l-aġir jew il-prattika ta' kull persuna impjegata f' dak in-negozju.

(3) Il-projbizzjonijiet xierqa li jista' jkunu imposti huma -

(a) f'każ li jaqa' taht is-subartikolu (2)(a), projbizzjoni mill-użu tal-proċess jew trattament għall-ghanijiet tan-negozju;

(b) f'każ li jaqa' taht is-subartikolu (2)(b), projbizzjoni mill-użu tal-post jew tagħmir għall-ghanijiet tan-negozju jew xi negozju ieħor ta' l-ikel ta' l-istess klassi jew deskrizzjoni;

(ċ) f'każ li jaqa' taht is-subartikolu (2)(ċ), projbizzjoni mill-użu tal-post jew tat-tagħmir għall-ghanijiet ta' xi negozju ta' l-ikel;

(d) f'każ li jaqa' taht is-subartikolu (2)(d), projbizzjoni milli jtkompla l-aġir jew il-prattika in kwistjoni.

(4) Jekk il-persuna responsabbli għal negozju ta' l-ikel tinstab hatja ta' reat kontra regolamenti kif imfisser fl-artikolu 33(3)(b), u l-qorti li minnha l-persuna responsabbli tkun instabet hatja jidhrilha li jkun hekk xieraq fiċ-ċirkostanzi tal-każ, il-qorti tista' b' ordni, timponi projbizzjoni fuq il-persuna responsabbli milli tippartecipa fl-amministrazzjoni ta' xi negozju ta' l-ikel, jew xi negozju ta' l-ikel ta' klassi, xorta jew deskrizzjoni, kif jista' jkun imfisser fl-ordni, għal kull perjodu li jista' jiġi speċifikat fl-ordni, liema perjodu ma għandux ikun ta' inqas minn sitt xhur.

(5) Meta jsir ordni skond is-subartikolu (1) jew (4), hawnhekk iżjed 'il quddiem imsejjah "ordni ta' projbizzjoni". l-awtorità tas-sahha għandha, mill-aktar fis possibbli -

(a) timnotifika kopja ta' l-ordni ta' projbizzjoni lil persuna responsabbli għal dak in-negozju; u

(b) fil-każ ta' ordni skond is-subartikolu (1), twahhal kopja ta' l-ordni ta' projbizzjoni f' post fejn jidher f' dak il-post użat għall-ghanijiet tan-negozju, kif jidhrilha xieraq.

u kull persuna li xjentement ma tharisx ordni bhal dan tkun hatja ta' reat kontra dan l-artikolu.

(6) Ordni ta' projbizzjoni ghandu jicqaf mis-schh -

(a) fil-każ ta' ordni moghti skond is-subartikolu (1), mal-hruġ, mill-awtorità tas-sahha, taċ-ċertifikat li juri li l-awtorità tas-sahha tkun sodisfatta li l-persuna responsabbli tkun hadet miżuri suffiċjenti biex tiżgura li l-kondizzjoni ta' riskju ghas-sahha ma tkunx teżisti aktar rigward dak in-negozju; u

(b) fil-każ ta' ordni moghti skond is-subartikolu (4), meta l-qorti taghti ordni skond hekk.

(7) L-awtorità tas-sahha ghandha tohroġ ċertifikat skond is-subartikolu (6)(a) fi żmien tliet ġranet tax-xoghol minn meta tkun sodisfatta li l-miżuri hemmhekk imsemmija jkunu ttehdud; u meta ssir applikazzjoni mill-persuna responsabbli għal ċertifikat bħal dak, l-awtorità tas-sahha ghandha -

(a) tiddeċiedi, mill-aktar fis possibbli u f'kull każ mhux aktar tard minn erbatax-il ġurnata wara li ssir applikazzjoni bħal dik, jekk hiex sodisfatta jew le; u

(b) jekk tiddeċiedi li mhix sodisfatta, taghti avviż lil persuna responsabbli bir-raġunijiet għal dik id-deċiżjoni.

(8) Il-qorti ghandha taghti ordni skond is-subartikolu (6)(b) jekk, wara li ssir applikazzjoni mill-persuna responsabbli, il-qorti jidhirlha li jkun xieraq li tagħmel hekk wara li tqis je-ċirkostanzi kollha tal-każ, inkluż partikolarment l-aġir tal-persuna responsabbli minn meta jkun inghata l-ordni, izda ebda applikazzjoni ma tigi kkunsidrata jekk issir -

(a) qabel ma jghaddu sitt xhur minn meta jkun inghata ordni ta' projbizzjoni; jew

(b) fi żmien tliet xhur minn meta l-persuna responsabbli tkun għamlet applikazzjoni preċedenti għal ordni bħal dak.

(9) Kull persuna li tikser xi ordni ta' projbizzjoni tkun hatja ta' reat kontra dan l-artikolu.

(10) Id-disposizzjonijiet tas-subartikolu (4) għandhom japplikaw rigward il-*manager* ta' negozju ta' l-ikel bl-istess mod kif japplikaw rigward il-persuna responsabbli għal dak in-negozju; u kull riferenza fis-subartikolu (5) jew (8) għall-persuna responsabbli għan-negozju, jew għall-persuna responsabbli, għandha tinftehem skond hekk; għall-finijiet ta' dan is-subartikolu, "*manager*", rigward negozju ta' l-ikel, ifisser kull persuna li tkun għet fdata mill-persuna responsabbli bit-tmexxija ta' kuljum tan-negozju, jew xi parti minnu.

35. (1) L-awtorità tas-sahha tista' tippubblika jew iġġiegħel li tiġi ppubblikata kopja ta' l-ordni mogħti skond l-artikolu 34(4) fil-gurnali lokali kemm fl-ilsien Malti kif ukoll fl-ilsien Inġliż.

Pubblikazzjoni ta' kopja ta' ordni ta' projbizzjoni.

(2) Meta tiegħi deċiżjoni skond is-subartikolu (1), l-awtorità tas-sahha għandha thares il-prinċipji ta' imparzjalità u oġġettività.

(3) Il-Gvern, l-awtorità tas-sahha u kull uffiċjal pubbliku li jaġixxi skond l-istruzzjonijiet jew l-awtorità ta' l-awtorità tas-sahha ma jkunx u ma jistawx isiru responsabbli għal xi għemil li jkun sar *bona fide* skond is-subartikolu (1); l-eżenzjoni mir-responsabbiltà għandha tkun estiża għal kull persuna li tippubblika, tistampa, tirrekordja, ixxandar, tikkomunika jew tirriproduċi dik l-informazzjoni f'kull għamla.

36. (1) Meta l-awtorità tas-sahha tkun sodisfatta li tkun teżisti kondizzjoni ta' riskju għas-sahha għar-rigward ta' xi negozju ta' l-ikel, hi tista', permezz ta' ordni notifikat lill-persuna responsabbli ta' dak in-negozju, hawnhekk il' quddiem f'dan l-Att imsejjaħ "ordni ta' projbizzjoni ta' emerġenza", timponi l-projbizzjoni skond dan l-artikolu.

Ordnijiet ta' projbizzjoni ta' emerġenza.

(2) Kull persuna li tikser ordni ta' projbizzjoni ta' emerġenza tkun hatja ta' reat kontra dan l-artikolu.

(3) Id-disposizzjonijiet ta' l-artikolu 34(2) u (3) għandhom, *mutatis mutandis*, japplikaw għar-rigward ta' ordnijiet ta' projbizzjoni ta' emerġenza taħt dan l-artikolu bħallikieku riferenza għall-qorti f'dawk is-subartikoli kienet riferenza għall-awtorità tas-sahha, u bħallikieku r-riferenza fl-artikolu 34(2) għal riskju ta' hsara kienet riferenza għal riskju imminenti ta' hsara.

(4) Id-disposizzjonijiet ta' l-artikolu 34(10) għandhom, *mutatis mutandis*, japplikaw dwar ordni ta' projbizzjoni ta' emerġenza.

(5) Malajr kemm jista' jkun, wara li jkun sar ordni ta' projbizzjoni ta' emerġenza, l-awtorità tas-sahha għandha -

(a) tinnotifika kopja ta' l-ordni lill-persuna responsabbli tan-negozju; u

(b) twahħal kopja ta' l-ordni f' post fejn jidher fil-post użat għall-għanijiet ta' dak in-negozju kif jidhrilha xieraq.

u kull persuna li xjentement ma tharisx dak l-avviż, jew b'xi mod ieħor tgharraq, thassar, tghatti, teqred jew tneħhi l-imsemmija kopja ta' dak l-avviż, tkun hatja ta' reat kontra dan l-artikolu.

(6) Ordni ta' projbizzjoni ta' emerġenza għandha tiegħaf mis-schh bil-hruġ ta' ċertifikat mill-awtorità tas-sahha li hija sodisfatta li l-persuna responsabbli tkun hadet miżuri suffiċjenti biex tassikura illi dak ir-riskju għas-sahha ma għadux jeżisti għar-rigward in-negożju.

(7) L-awtorità tas-sahha għandha tohroġ ċertifikat skond is-subartikolu (6) fi żmien tliet ijiem li hija tkun sodisfatta li l-miżuri msemmija ttehdju; u fuq applikazzjoni mill-persuna responsabbli għal dak iċ-ċertifikat, l-awtorità tas-sahha għandha -

(a) tiddetermina, mill-aktar fis possibbli u f'kull każ mhux iktar tard minn għaxart ijiem wara dik l-applikazzjoni, jekk tkunx hekk sodisfatta jew le; u

(b) jekk tiddetermina li ma tkunx hekk sodisfatta, tavża lill-persuna responsabbli bir-raġunijiet għal dik id-deċiżjoni.

(8) (a) Kull persuna li thoss ruhha aggravata b'ordni ta' projbizzjoni ta' emerġenza mogħti lilha tista', fi żmien hmistax-il ġurnata minn meta jsir l-ordni, b'rikors notifikat lill-awtorità tas-sahha, tappella kontra dak l-ordni lill-Prim Awla tal-Qorti Ċivili u, jekk il-qorti, wara li tappunta r-rikors għas-smiġh u wara li teżamina dik ix-xiġha li tista' tiġi prodotta mill-partijiet -

(i) tkun sodisfatta li r-riskju imminenti għas-sahha jeżisti skond id-disposizzjonijiet ta' l-artikolu 34(2), il-qorti għandha tiegħad l-appel u tikkonferma l-ordni;

(ii) ma tkunx sodisfatta li r-riskju imminenti għas-sahha jeżisti skond id-disposizzjonijiet ta' l-artikolu 34(2), il-qorti tista' tordna lill-awtorità tas-sahha biex thallas lill-persuna li tkun għamlet ir-rikors somma raġonevoli bhala kumpens għal kull telf li tkun baġħtiet b'riżultat tat-tharis ta' l-ordni.

(b) L-awtorità tas-sahha għandha tippreżenta risposta għar-rikors f'dak iż-żmien, li ma jkunx inqas minn erbgħa u għoxrin siegħa, kif il-qorti tiddeċiedi.

Nuqqas ta' tharis ta' ordni ta' projbizzjoni ta' emerġenza.

37. (1) Jekk ma jittiehdjux dawk il-passi jew azzjoni ohra skond l-artikolu 34(2) kif jiġi applikat bl-artikolu 36(3), li għandhom jittiehdju bhala riżultat ta' ordni ta' projbizzjoni ta' emerġenza, fiż-żmien speċifikat fl-ordni, l-awtorità tas-sahha tista' tidhol ġewwa l-post li għalih jirreferi l-ordni ta' projbizzjoni ta' emerġenza u tiegħu dawk il-passi, inkluż l-egħluq tal-post jew kull azzjoni ohra kif jista' jenħtieġ fiċ-ċirkostanzi.

Kap. 319.

(2) Bla hsara għad-disposizzjonijiet tal-Kapitolu IV tal-Kostituzzjoni u ta' l-Att dwar il-Konvenzjoni Ewropea, minkejja d-

disposizzjonijiet ta' kull liġi oħra, l-ebda mandat kawtelatorju jew ordni ieħor ma għandu jinhareġ jew isir minn xi qorti li jwaqqaf l-awtorità tas-sahha mill-eżerċizzju ta' xi wahda mis-setgħat mogħtija lilha bl-artikolu 36 u bis-subartikolu (1) ta' dan l-artikolu.

(3) L-ispejjeż kollha li jkunu saru mill-awtorità tas-sahha biex twettaq ordni ta' projbizzjoni ta' emerġenza skond l-artikolu 36, skond is-subartikolu (1) ta' dan l-artikolu, għandhom jingabru lura mill-awtorità tas-sahha bhala dejn ċivili mill-persuna responsabbli tan-negozju li għalih jirreferixxi l-ordni ta' projbizzjoni ta' emerġenza.

38. (1) Jekk l-awtorità tas-sahha jidhrilha li t-tmexxija ta' operazzjonijiet kummerċjali fir-rigward ta' ikel, sorsi ta' ikel jew materjali li jiġi f'kuntatt ma' ikel ta' xi klassi jew deskrizzjoni tinvolvi, jew tista' tinvolvi riskju imminenti ta' hsara għas-sahha, hija tista', b'ordni imsejjah bhala "ordni ta' kontroll ta' emerġenza", u suġġett għal kull kondizzjoni li jidhrilha xieraq li timponi, tipprojbixxi t-tmexxija ta' dawk l-operazzjonijiet għar-rigward ta' ikel, sorsi ta' ikel jew materjali li jiġu f'kuntatt ma' ikel ta' dik il-klassi jew deskrizzjoni.

Ordni ta' kontroll ta' emerġenza.

(2) Kull persuna li xjentement tikser ordni ta' kontroll ta' emerġenza tkun haġja ta' reat kontra dan l-artikolu.

(3) L-awtorità tas-sahha tista' tagħti l-kunsens tagħha bil-miktub, kemm mingħajr kondizzjoni kif ukoll suġġett għal xi kondizzjoni jew kondizzjonijiet li jidhrilha xierqa, biex issir, f'dak il-każ li jista' jiġi speċifikat fil-kunsens, xi haġa li mod ieħor tkun għiet projbita b'ordni ta' kontroll ta' emerġenza.

(4) Persuna akkużata b'reat kontra s-subartikolu (2) tista' tiddefendi ruhha billi turi li l-kunsens kien ingħata biex isir att li għalih tkun mixlija skond is-subartikolu (3) u li kull kondizzjoni li għaliha l-kunsens kien soġġett kienet għiet imħarsa.

(5) L-awtorità tas-sahha tista' -

(a) tagħti ordnijiet li jidhrilha meħtieġa jew spedjenti biex tevita t-tmexxija ta' operazzjonijiet kummerċjali rigward xi ikel, sorsi ta' ikel jew materjal li jiġi f'kuntatt ma' ikel li hi jkollha raġuni xierqa biex tahseb, li jkunu ikel, sorsi ta' ikel jew materjali li jiġu f'kuntatt ma' l-ikel li dwarhom japplika ordni ta' kontroll ta' emerġenza; u

(b) tagħmel kull haġa li jidhrilha neċessarja jew spedjenti għal dak l-ghan.

(6) Kull persuna li xjentement tikser xi ordni taht dan l-artikolu tkun hatja ta' reat.

(7) Il-qorti ghandha wkoll, wara rikors mill-awtorita' tas-sahha, tordna lill-persuna li tkun instabet hatja ta' reat biex thallas lill-awtorita' tas-sahha l-ispejjez li tkun hallset ghall-prosekuzzjoni dwar ir-reat, inkluza kull spezzjon li tkun wasslet ghal dik il-prosekuzzjoni u kull ezami li jkun sar ghall-ghan ta' dik l-ispezzjon.

Garanziji.

39. (1) Meta l-awtorita' tas-sahha jidhrilha li xi persuna li tkun tahtem f'xi negozju ta' ikel tkun agixxiet b'xi kondotta li tikkostitwixxi reat skond l-artikoli 11 sa 14 u l-artikoli 16 sa 19, l-awtorita' tas-sahha tista', fid-diskrezzjoni taghha, minflok ma tibda proċedimenti kontra dik il-persuna, twissi dik il-persuna bil-miktub u titlob minghandha garanzija bil-miktub li tieqaf mill-kondotta speċifikata fil-garanzija ghal dak il-perjodu li jkun miftiehem bejn il-partijiet konċernati, u, minghajr hsara ghas-subartikolu (3), meta tinghata dik il-garanzija, ma jittiehdu ebda proċedimenti ohra rigward dak ir-reat.

(2) L-awtorita' tas-sahha ghandha zzomm registru ta' garanziji maghmulin skond is-subartikolu (1) liema registru ghandu jinzamm f'ufficēju speċifikat mill-awtorita' tas-sahha, u jista' jigi spezzjonat minn kull persuna f'dawk il-hinijiet li jigu stabbiliti mill-awtorita' tas-sahha.

(3) Kull persuna li tikser xi garanzija maghmula skond is-subartikolu (1) tkun hatja ta' reat kontra dan l-artikolu.

Difizi

Ghemil ta' reat bl-ommissjoni ta' persuna ohra.

40. Meta l-fatti li, bla hsara ghad-disposizzjonijiet ta' l-artikolu 41, jistghu jikkostitwixxu l-ghemil ta' reat, minn xi persuna, kontra xi wahda mid-disposizzjonijiet ta' din it-Taqsima jew ta' xi regolamenti mahruġa taht l-artikolu 10, jkun b'rizultat ta' xi att jew ommissjoni ta' xi persuna ohra, dik il-persuna l-ohra tkun hatja tar-reat; u persuna tista' tigi mixlija u misjuba hatja ta' reat permezz ta' dan l-artikolu kemm jekk ikunu ittiedu proċedimenti kontra l-persuna l-ewwel imsemmija u kemm jekk le.

Diligenza xierqa.

41. (1) Bla hsara ghad-disposizzjonijiet tas-subartikolu (5), fi proċedimenti ghal offiza kontra xi wahda mid-disposizzjonijiet ta' qabel ta' din it-Taqsima jew ta' xi regolamenti mahruġa taht l-artikolu 10, persuna li tkun akkuzata tista' tiddefendi ruhha billi tipprova li tkun hadet il-prekawzzjonijiet kollha ragonevoli u li tkun eżerċitat id-diligenza kollha xierqa biex tevita li jsir ir-reat minnha jew mill-persuna taht il-kontroll taghha.

(2) Minghajr hsara għall-ġeneralità tas-subartikolu (1), persuna mixlija b'reat kontra l-artikolu 14, jew 17, jew 18 li -

(a) ma tkunx ippreparat l-ikel li dwaru r-reat ikun ġie allegatament magħmul; jew

(b) ma tkunx importat l-ikel f'Malta,

titqies li tkun iddefendiet ruħha skond kif provdut f'dak is-subartikolu jekk tissodisfa l-htigiet tas-subartikolu (3).

(3) Persuna titqies li tkun issodisfat il-htigiet ta' dan is-subartikolu jekk tapprova -

(a) li l-ghemil tar-reat kien dovut għal xi att jew ommissjoni ta' persuna oħra li ma kienitx taht il-kontroll tagħha, jew fuq dipendenza għal informazzjoni provduta minn persuna oħra;

(b) li tkun għamlet dawk il-verifiki kollha neċessarji fuq l-ikel in kwistjoni li kienu raġonevoli, fiċ-ċirkostanzi kollha u li kien raġonevoli fiċ-ċirkostanzi li dik il-persuna tiddependi mill-verifiki magħmulin mill-persuna li tkun ipprovdiet l-ikel lilha;

(ċ) li l-bejgħ jew il-bejgħ maħsub, li kien jikkonsisti fir-reat li jkun qed jiġi allegat, ma kienx bejgħ jew bejgħ maħsub, taht isimha jew il-marka tagħha; u

(d) li ma kenitx taf, u ma kellha ebda raġuni tissuspetta fil-hin ta' l-ghemil tar-reat allegat li l-aġir tagħha jew l-ommissjoni tagħha tkun tikkostitwixxi reat kontra d-disposizzjoni rilevanti.

(4) Il-persuna mixlija ma tkunx tista', minghajr il-permess tal-qorti, tuża d-difiża imsemmija fis-subartikolu (3) jekk dik id-difiża tinvolvi l-allegazzjoni li l-ghemil tar-reat kien dovut għal xi att jew ommissjoni ta' persuna oħra jew dipendenza fuq informazzjoni provduta minn persuna oħra, sakemm, wara li tinqara l-akkuża fil-qorti u mhux aktar tard minn erbgħa u għoxrin siegħa wara, tippreżenta nota fil-qorti biex tiġi notifikata lill-prosekutur li jkun fiha informazzjoni, li kienet f'dak il-hin fil-pussess tagħha, li tidentifika jew li tgħin fl-identifikazzjoni tal-persuna l-oħra.

(5) (a) Fil-proċedimenti għal reat kontra xi wahda mid-disposizzjonijiet ta' qabel ta' din it-Taqsima, li għandhom x'jaqsnu mar-reklamar għall-bejgħ ta' xi ikel, il-persuna mixlija tista' tiddefendi ruħha billi tapprova -

(i) li hi persuna li n-negozju taghha huwa li tippubblika jew tirranġa għall-pubblikazzjoni ta' rekami; u

(ii) li hi rċeviet ir-reklam fil-kors ordinarju tan-negozju u li, minkejja li tkun osservat il-linji ta' gwida magħmulin skond il-paragrafu (b), ma kienitx taf u ma kellha ebda raġuni biex tissuspetta li l-pubblikazzjoni ta' dak ir-reklam kienet t'fisser reat kontra dik id-disposizzjoni.

(b) Il-Ministru jista' b'regolamenti jipprovdi għall-hruġ u l-ghoti ta' linji ta' gwida lill-persuni li jahdmu fin-negozju msemmi fil-paragrafu (a), u partikolarment biex tiġi evitata l-pubblikazzjoni tar-reklami li ma jharsux dan l-Att.

Taqsim V

Proċedimenti kriminali

Bidu ta' proċedimenti kriminali.

42. (1) Meta jkun hemm raġuni biżżejjed biex wiehed jahseb li xi persuna tkun kisret xi wahda mid-disposizzjonijiet ta' dan l-Att jew ta' xi regolamenti magħmula bis-sabha tiegħu, il-Pulizija għandha, fuq ir-rapport ta' l-awtorità tas-sabha, tibda proċedimenti kriminali kontra l-hati quddiem il-qorti kompetenti.

(2) Meta l-proċedimenti jkunu nbdew mill-Pulizija għal reat kontra dan l-Att, l-awtorità tas-sabha jew kull uffiċjal, avukat jew prokuratur legali inkarigati mill-awtorità tas-sabha jistgħu, minkejja kull liġi li tghid mod ieħor, iġibu l-akkuza quddiem il-Qorti tal-Maġistrati, iġibu l-provi u jmxxu l-prosekuzzjoni minflok il-Pulizija.

(3) Id-dikjarazzjoni bil-ġurament ta' kull uffiċjal, avukat jew prokuratur legali fis-sens li jkun ġie inkarigat skond kif provdut fis-subartikolu (2) tkun prova finali tal-fatt, jekk l-akkuzat jillob il-prova tiegħu.

Reati u pjeni.

43. (1) Kull min jinsab hati ta' reat kontra l-artikolu 31 jehel, meta jinsab hati, multa ta' mhux inqas minn mitejn lira u mhux iżjed minn elf lira jew priġunerija għal żmien ta' mhux aktar minn sitt xhur jew dik il-multa u priġunerija flimkien.

(2) Kull min jinsab hati għat-tieni darba u għad-drabi ta' wara, jehel, meta jinsab hati, multa ta' mhux inqas minn elf lira u mhux iżjed minn elfejn lira jew priġunerija għal żmien ta' mhux inqas minn sena u mhux aktar minn sentejn jew dik il-multa u priġunerija flimkien.

(3) Kull min jinsab hati ta' xi reat ieħor kontra dan l-Att jehel -

(a) meta jinsab hati għall-ewwel darba, multa ta' mhux inqas minn mitejn lira u mhux iżjed minn elfejn lira jew prigunerija għal żmien ta' mhux aktar minn sentejn jew dik il-multa u prigunerija flimkien;

(b) meta jinsab hati drabi oħra, multa ta' mhux inqas minn hames mitt lira u mhux iżjed minn hamest clef lira jew prigunerija għal żmien ta' mhux aktar minn erba' snin jew dik il-multa u prigunerija flimkien.

44. Meta xi persuna tkun misjuba hatja ta' reat, minbarra reat kontra d-disposizzjonijiet ta' l-artikolu 31, il-qorti tista' tordna s-suspensjoni jew it-tahsir ta' kull liċenza jew liċenzi f'isem il-persuna akkuzata jew il-post li jkun s-suġġett tal-proċedimenti.

Suspensjoni jew tahsir ta' liċenzi.

45. Meta persuna tinsab hatja ta' reat kontra dan l-Att, il-qorti għandha, meta jkun mehtieg, barra li tagħti l-piena, tordna lill-hati li jneħhi kull inkonvenjent li jinqala' mir-reat jew, jekk iċ-ċirkostanzi hekk jehtiegu, li jhares il-liġi, f'kull każ f'dak iż-żmien li jista' jiġi stabbilit mill-qorti għal dak l-ghan, u, f'każ ta' nuqqas ta' tharis ta' xi ordni bħal dak, hu jehel multa oħra ta' mhux iżjed minn hamsin lira għal kull gurnata ta' nuqqas ta' tharis wara li jghaddi z-żmien stabbilit kif intqal qabel.

Min jinsab hati għandha jhares il-liġijiet u r-regolamenti.

46. Meta reat kontra xi wahda mid-disposizzjonijiet ta' dan l-Att jew xi regolamenti magħmula bis-sahha tiegħu jiġi ppruvat li jkun sar, il-qorti għandha tordna l-konfiska u l-qirda ta' l-ikel li għalih ikun jirreferi r-reat.

Konfiska ta' ikel rigward kazijiet fil-qorti.

47. Meta persuna tkun akkuzata b'reat kontra xi disposizzjoni ta' dan l-Att iżda tinsab mhux hatja ta' dak ir-reat, il-qorti tista', jekk jidhrilha xieraq skond iċ-ċirkostanzi tal-każ, tordna lill-Gvern, kif rappreżentat mill-awtorità tas-sahha, li jhallas lil dik il-persuna ammont stabbilit mill-qorti bhala kumpens għal xi hsara li tkun saret fl-oġġetti maqbuda jew f'xi parti minnhom, bl-eżami jew bl-analisi msemmi fl-artikolu 10(1)(k) sa (p).

Hlas ta' kumpens ordnat mill-qorti.

48. (1) Bla hsara għad-disposizzjonijiet ta' dan l-artikolu, f'kull proċedimenti dwar reat skond dan l-Att jew skond regolamenti magħmula bis-sahha tiegħu, li jkun reat li jikkonsisti fil-bejgh, jew offerta, wiri jew reklam għall-bejgh, jew li jkollu fil-pussess tiegħu għall-bejgh, xi oġġett jew sustanza, l-akkuzat ikun jista' jiddefendi ruhu billi jipprova -

Meta garanzija tista' tingieb bhala difiża.

(a) li hu jkun xtrah bhala oġġett jew sustanza li tista' legalment tinbiegħ jew xort'oħra trattata kif intqal qabel, jew, skond il-każ, li tkun tista' tiġi hekk mibjugħa jew trattata taht l-isem jew id-deskrizzjoni jew għall-ghan li bih jew li għalih ikun

biegħha jew ittratta biha, u b'garanzija bil-miktub f'dak is-sens;

(b) li hu ma kellu ebda raġuni li jahseb, fiż-żmien ta' l-egħmil tar-reat allegat, li kien xort'ohra: u

(c) li kienet, fiż-żmien ta' l-egħmil tar-reat allegat, fl-istess stat bhal meta kien xtraha.

(2) Meta l-akkużat f'xi proċedimenti bhal dawk ikun impjegat jew agent tal-persuna li tkun xtrat l-oġġett jew is-sustanza taht garanzija, hu jkollu dritt li japplika d-disposizzjonijiet ta' dan l-artikolu bl-istess mod kif min ihaddmu jew il-prinċipal tiegħu kien ikollu dritt jagħmel li kieku kien l-akkużat.

(3) Meta l-akkużat f'xi proċedimenti bhal dawk ikun ġie liberat bis-sahha tad-disposizzjonijiet ta' qabel ta' dan l-artikolu, jistgħu jinbdew proċedimenti godda kontra l-persuna li tkun allegata li għamlet il-garanzija li l-akkużat fil-proċedimenti oriġinali kien qagħad fuqha.

(4) Għall-finijiet ta' dan l-artikolu u ta' l-artikolu 49, isem jew deskrizzjoni mniżżla f'fattura għandhom jitqiesu li huma garanzija bil-miktub li l-oġġett jew is-sustanza li għaliha jirreferu tista' tinbiegħ jew xort'ohra tiġi trattata taht dak l-isem jew dik id-deskrizzjoni.

Garanzija
qarricqa.

49. (1) Akkużat li, f'xi proċedimenti skond dan l-Att, volontarjament japplika għal xi oġġett jew sustanza garanzija mogħtija dwar xi oġġett ichor jew sustanza ohra jkun hati ta' reat kontra dan l-Att.

(2) Persuna li, dwar xi oġġett jew sustanza, li dwarhom tista' teċċepixxi garanzija skond id-disposizzjonijiet ta' l-artikolu 48, taġhti lix-xerrej garanzija falza bil-miktub, tkun hatja ta' reat kontra dan l-Att, kemm-il darba ma tipprovax li tkun tat il-garanzija iktar minn sena qabel jew dak il-perjodu itwal li dwaru tkun ingħatat il-garanzija qabel ma l-fatti li jikkostitwixxu r-reat kienu ġraw.

L-uffiċjali
prosekuturi
jistgħu jissejju
bhala xhieda.

50. (1) Kull wiehed mill-uffiċjali msemmija fl-artikolu 42(2) jista' jissejjah bhala xhud fuq it-talba ta' l-akkużat.

(2) Meta, iżda, ix-xiehda ta' dak l-uffiċjal tkun mitluba mill-Pulizija, l-imsemmi uffiċjal għandu jinstema' qabel ma jibda d-dmirijiet ta' uffiċjal prosekutur, kemm-il darba l-htieġa tax-xiehda tiegħu ma tinqalax aktar tard fil-proċedimenti.

Taqsimha VI

Mixxellanji

51. Meta xi ikel ikun ġie maqbud skond id-disposizzjonijiet ta' dan l-Att, u s-sid tiegħu jagħti l-kunsens bil-miktub biex dak l-ikel jinqered, l-awtorità tas-sahħa tista', wara li tiegħu dawk il-kampjuni li jistgħu jenħtieġu biex jiġi ppruvat ir-reat, tordna li l-imsemmi ikel jinqered, mingħajr preġudizzju għat-tehid ta' xi proċedimenti kontra l-persuna responsabbli għar-reat.

Ikel li jiġi cedut
volontarjament
biex jinqered.

52. (1) B'effett minn dik id-data li l-Ministru jista', b'ordni fil-Gazzetta, jistabbilixxi, l-Att dwar Hwejjeġ ta' l-Ikel, Mediċinali u Ilma tax-Xorb ikun imhassar:

Thassir u
riżerva,
Kap. 231.

Izda ordni bħal dan jista' jirreferixxi jew għall-Att kollu jew għal dawk id-disposizzjonijiet li jkunu msemmija fl-ordni.

(2) Kull regolament jew ordni magħmula, jew kull liċenza mogħtija, skond id-disposizzjonijiet ta' l-Att dwar Hwejjeġ ta' l-Ikel, Mediċinali u Ilma tax-Xorb qabel it-thassir tad-disposizzjoni li taħtha jkunu ġew magħmula jew mogħtija, għandhom, sakemm ma jkunux inkonsistenti mad-disposizzjonijiet ta' dan l-Att, jew ta' xi regolamenti magħmulin tahtu, jibqgħu jsseħħu u jkollhom effett bhallikieku kienu saru jew ġew mogħtija taht id-disposizzjonijiet relattivi ta' dan l-Att.

(3) Kull proċediment legali mibdi taht l-Att dwar Hwejjeġ ta' l-Ikel, Mediċinali u Ilma tax-Xorb qabel it-thassir tiegħu għandu jitkompla bhallikieku dawk il-proċedimenti kienu ġew mibdija taht dan l-Att.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 774 tal-15 ta' Lulju, 2002.

ANTON TABONI
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

A 1196

I assent.

(L.S.)

GUIDO DE MARCO
President

19th July, 2002

ACT No. XIV of 2002

AN ACT to make provision for any matter related to food safety and to establish a Food Safety Commission, to introduce new provisions for enforcement in relation to food, and to repeal the Food, Drugs and Drinking Water Act.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Part I

Preliminary

Short title and commencement.

1. (1) The short title of this Act is Food Safety Act, 2002.

(2) This Act shall come into force on such date as the Minister responsible for public health may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires -

"additive" means any substance not normally consumed as a food in itself and not normally used as a characteristic ingredient of food whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing, preparation, treatment, packaging, transport or storage of

such food results, or may be reasonably expected to result, in it or its by-products becoming directly or indirectly a component of such foods:

"advertisement" includes any notice, circular, label, wrapping, invoice or other document or presentation, and any broadcast or public announcement by visual or acoustic presentation or both, and "to advertise" shall be construed accordingly:

"authorised technique" shall not include any technique which involves no more than, or no more than the assistance of, naturally occurring processes of reproduction, including selective breeding techniques or *in vitro* fertilisation:

"authorised officer" means any person suitably qualified to the satisfaction of the health authority:

"authorised place" means any port, airport or other place authorised by or under the regulations which is used, or is capable of being used, for the importation or exportation of food or food sources, and, in relation to food in a particular consignment, includes any place so authorised for the importation of that consignment:

"commercial operation" in relation to any food or contact material means any of the following:

- (a) selling, possessing for sale, and offering, exposing or advertising for sale;
- (b) consigning, delivering or serving by way of sale;
- (c) preparing for sale or presenting, labelling or wrapping for the purpose of sale;
- (d) storing or transporting for the purpose of sale;
- (e) importing or exporting;

and, in relation to any food source, means deriving food from that food source for the purpose of sale or for purposes connected with sale:

"Commission" means the Food Safety Commission established under article 5:

"consumer" means any natural or legal person who, not in the course of a business, trade or profession, buys or otherwise receives food or food sources within the meaning of the provisions of this Act:

"contact material" means any article or substance which is intended to come into contact with food:

"container" includes any basket, pail, tray, package or receptacle of any kind, whether open or closed:

"court" means such court having jurisdiction according to law over any person charged with having committed offences against any of the provisions of this Act:

"description", in relation to food, includes any description of its origin or of the manner in which it is packed:

"food" means any substance or products, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans:

"food" includes -

(i) drink, including potable water in liquid or solid state;

(ii) chewing gum and products of a similar composition and use;

(iii) any substance, intentionally incorporated into the food during its manufacture, preparation or treatment; and

(iv) any other substance as the Minister may by regulation prescribe.

Water used for human consumption must comply with any criteria which the Minister may by regulation prescribe:

"food" shall not include -

(i) live animals or birds, or live fish which are not used or intended for human consumption while alive;

(ii) fodder or feeding stuff for animals, birds or fish;

(iii) cosmetics;

(iv) narcotic or psychotropic substances within the meaning of the United Nations Single Convention on Narcotic Drugs, 1961, and the United Nations Convention

"licence" means any authorising document issued by any body or authority appointed by the Government for that purpose:

"licensee" means any person to whom the licence is issued or any person acting in his stead:

"Minister" means the Minister responsible for public health:

"novel food" means any food which has not previously been used for human consumption in Malta, or has been so used only to a very limited extent, or food produced, prepared or processed in such manner by using methods which produce significant changes in the compositional or nutritional value of the food, or the use to which it is put:

"nutritional" means of nutritive value; deriving from nutrients in the composition of food: such nutrients include proteins, dietary fats, carbohydrates, minerals, vitamins, dietary fibres and other nutrients with energy content:

"preparation" includes manufacture and any form of treatment or alteration, including handling, and "preparation for sale" includes packaging and "to prepare for sale" shall be construed accordingly:

"responsible person" means the person responsible for the food business, food premises or food product and, in his absence, includes such employee or other person, being the senior employee or person present, engaged in operating the food business or food premises at the time; such senior employee or person shall be presumed to be acting on the authority of the person responsible unless the person responsible produces proof to the contrary:

"sale" shall be construed as a reference to sale for human consumption:

"source of supply" shall include any spring, well, tank, cistern, conduit, aqueduct, reservoir and other waterworks.

(2) For the purpose of this Act -

(a) the supply of food, otherwise than by sale, in the course of a business; and

(b) any other thing which is done with respect to food which may, from time to time, be specified by regulations made under this Act.

shall be deemed to be a sale of the food, and references to "purchases"

and "purchasing" shall be construed accordingly.

3. (1) This Act shall apply to all food products, whether produced in Malta, imported into Malta or exported therefrom, and whether intended for sale on the local market or intended for export. Applicability of this Act.

(2) This Act shall also apply -

(a) in relation to any food which is offered as a prize or reward or given away in connection with any entertainment to which the public is admitted, whether on payment of money or not, as if the food were, or had been, exposed for sale by each person concerned in the organization of the entertainment;

(b) in relation to any food which, for the purpose of advertisement or in furtherance of any trade or business, is offered as a prize or reward or given away, as if the food were, or had been, exposed for sale by the person offering or giving away the food; and

(c) in relation to any food which is exposed or deposited in any premises for the purpose of being so offered or given away as mentioned in paragraphs (a) and (b), as if the food were, or had been, exposed for sale by the responsible person in respect of the premises.

and in this article "entertainment" includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

4. (1) For the purposes of this Act, any food commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold, or, as the case may be, to have been or to be intended for sale for human consumption. Presumptions.

(2) Unless the contrary is proved, it shall be presumed that -

(a) any food commonly used in the manufacture of food for human consumption; and

(b) any article or substance commonly used in the manufacture of food for human consumption,

which is found on premises used for the preparation, storage, or sale of that food is intended for sale, or for manufacturing food for sale, for human consumption.

(3) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

Part II

Food Safety Commission

Food Safety
Commission.

5. (1) There is hereby established a Food Safety Commission which shall consist of:

- (a) a chairperson;
- (b) the senior public officer operationally responsible for public health, designated by the Minister responsible for public health;
- (c) the senior public officer operationally responsible for veterinary services, designated by the Minister responsible for veterinary services;
- (d) the senior officer operationally responsible for food stuffs within the Malta Standards Authority, designated by the Chairman of that Authority;
- (e) the senior public officer operationally responsible for consumer affairs, designated by the Minister responsible for consumer affairs;
- (f) the senior public officer operationally responsible for health promotion, designated by the Minister responsible for health promotion;
- (g) the senior public officer operationally responsible for environment protection, designated by the Minister responsible for environment protection; and
- (h) the senior public officer operationally responsible for plant health, designated by the Minister responsible for plant health.

(2) In addition, the Minister may also appoint three other members from among persons not having any direct or indirect interest in any food business.

(3) The Chairperson and the members of the Commission, appointed by the Minister under subarticle (2), shall be so appointed for a term of three years.

(4) The Chairperson and the other members of the Commission referred to in subarticle (3) may resign their office at any time by giving notice in writing to the Minister.

(5) The Minister may at any time remove the Chairperson and, or, any of the members appointed under subarticle (2) on grounds of disability to perform their functions, bankruptcy or neglect of duty.

(6) The quorum necessary for meetings of the Commission shall be the Chairperson and not less than half the other members:

Provided that the Commission may act notwithstanding any vacancy among its members.

(7) The decisions of the Commission shall be taken by a majority of votes of members present at the meeting. The Chairperson of the Commission shall have an original vote and, in the case of equality of votes, also a second or casting vote.

(8) The Minister shall designate a public officer in a department within his Ministry to act as the secretary to the Commission.

(9) Subject to the provisions of article 9, and to the other provisions of this Act, the Commission may regulate its own procedures and meetings in such manner as it deems proper.

6. The judicial and legal representation of the Commission shall vest in the Chairperson:

Judicial and legal representation.

Provided that the Commission may appoint any one or more of the other members to appear in the name and on behalf of the Commission in any judicial proceedings, and in any act, contract, instrument or other transaction whatsoever.

7. (1) It shall be the duty of the Commission to monitor, co-ordinate and keep under review all practices, operations and activities relating to food, and for such purpose it shall:

Functions of the Commission.

(a) effectively apply the precautionary principle when a significant risk to consumers is identified or reasonably suspected:

(b) monitor the enforcement of any relevant legislation.

standards and practices in relation to food business, food premises, and persons operating in the food business:

(c) administer an efficient and effective system for rapid alert, product recall and product withdrawal in order to protect the consumer from any risk that may have been identified or suspected for products already available to the consumer:

(d) do all such things as may be necessary to ensure that international obligations entered into by the Government on all matters relating to food are complied with:

(e) formulate and implement policies and strategies with short-term and long-term objectives, in relation to all matters relating to food, including the development of a national surveillance and enforcement plan for food safety and to ensure the effective, transparent and comprehensive implementation of such plan:

(f) give advice to the Minister on any matter relating to food safety either at the request of the Minister or, when it deems it appropriate, without such a request:

(g) carry out studies, research or investigations on any matter relating to food and for such purpose shall require the submission of any information and shall analyse and interpret any data or information submitted to it:

(h) ensure that proper records and registers are kept to ensure that the persons responsible for any food product may be identified:

(i) issue such guidelines as may be necessary in relation to food safety:

(j) consider and keep under review the efficacy of food safety practices being adopted from time to time and make a report thereon at least annually to the Minister:

(k) carry out such other functions as the Minister may prescribe by regulations: and

(l) carry out such other duties as may be conducive to the better performance of its functions under this Act.

(2) The functions of the Commission shall be vested in:

(a) in relation to food hygiene and matters concerning

public health, the public officer referred to in article 5(1)(b):

(b) in relation to veterinary matters and to food of animal origin, the public officer referred to in article 5(1)(c):

(c) in relation to risk assessment in food, the officer referred to in article 5(1)(d):

(d) in relation to matters concerning consumer protection, the public officer referred to in article 5(1)(e):

(e) in relation to nutrition and matters concerning health promotion, the public officer referred to in article 5(1)(f):

(f) in relation to genetically modified organisms, novel foods and to environmental matters, the public officer referred to in article 5(1)(g); and

(g) in relation to phytosanitary measures and to matters relating to food of plant origin, the public officer referred to in article 5(1)(h).

(3) For the purposes of this Part, "food" includes:

(a) any substance used, available to be used, or intended to be used for food or drink by humans;

(b) any substance used, available to be used, or intended to be used for food or drink by animals or for food or irrigation of plants that are wholly or partially intended for human consumption; and

(c) any substance which enters into or is used in the production, composition or preparation of the substances referred to in paragraphs (a) and (b).

8. (1) The Commission may make or issue public statements identifying and giving warnings or information about any of the following:

Power to publish warnings and information.

(a) food or food sources that are injurious to health or unfit for human consumption;

(b) the supply of food or food sources, by whomsoever supplied, which are or which may potentially cause injury to health or which are unfit for human consumption, and the persons engaged in the supply of such food or food sources;

(c) practices, conducted in relation to any food business, which are detrimental to the interests of consumers, and, or the persons who engage in such practices;

(d) any other matter that adversely affects or may adversely affect the health of consumers in connection with the acquisition or use of food or food sources.

(2) When making a statement as is referred to in subarticle (1), the Commission shall adhere to the principles of consistency, fairness and objectivity, and shall not make such a statement unless it is in the public interest to do so.

(3) The Government, the Commission and any public officer acting on the instructions or authority of the Commission, shall not be or become liable for any acts done in good faith under subarticle (1); such exemption from liability shall extend to all persons publishing, printing, recording, broadcasting, communicating or reproducing such information in any form whatsoever.

Conduct of
business of
Commission.

9. (1) For the purposes of article 27(2)(d) of the Product Safety Act, the Director of the Market Surveillance Directorate shall periodically advise, supervise and audit the functions of the Commission.

(2) Where under any other law, a person or authority is empowered to take any measure or action which relates to food safety, such person or authority shall, on taking such measure or action, immediately inform the Commission thereon.

(3) The Minister may make, amend or revoke regulations for the proper conduct of the business of the Commission.

Part III

Regulations

Power of
Minister to
make
regulations.

10. (1) The Minister may make regulations -

(a) regarding the importation, exportation, preparation, composition, advertising, sale, disposal and, or destruction of food and prescribing standards of minimum permissible quality, composition or other property of such food and without prejudice to the generality of the aforesaid, such regulations may in particular -

(i) require, prohibit or regulate the addition of any specified additive or substance, a combination of

additives or substances, or any substance or additive of any specified class, to any food intended for human consumption or to any class of such food, or the use of such substance as an ingredient in the preparation of such food:

(ii) require, prohibit or regulate the use of any materials or any process or treatment in the preparation of any food intended for sale for human consumption, or of any class of such food including in the storage of food or in food sources:

(iii) prohibit or regulate the sale, possession for sale, or offering, exposing or advertising for sale, of any specific substance, or of any substance of any specific class, with a view to its use in the preparation of any food intended for human consumption, and the possession of any such substance for use in the preparation of food intended for sale for human consumption:

(iv) impose requirements or prohibitions as to, and otherwise regulate, the labelling, stamping, marking, presenting or advertising of any food intended for sale for human consumption, and the descriptions which may be applied to any such food: and may in any regulations under this paragraph require that such labels be in Maltese and, or, in English:

(v) prohibit or regulate the sale, possession for sale, offer, exposure or advertisement for sale, importation, consignment, or delivery, or exportation, of any food intended for human consumption which does not comply with any regulations made under this article, or in relation to which an offence has been committed against any of the said regulations:

(vi) prohibit or impose requirements as to, or otherwise regulate the sources of supply of water used in the preparation, processing, alteration or sale of food for human use or consumption, whether or not for drinking purposes:

(vii) prescribe standards of hygiene in connection with food, utensils, equipment and any other article used for the manufacture, preparation, preservation, packaging, storing, handling, transportation, distribution, disposal, destruction, and testing of food:

(viii) empower the health authority to require any person who carries on a business which includes the production, importation, exportation, use or distribution of any substance used in the process, preparation or production of any food intended for human consumption, to furnish to the health authority such particulars as may be specified in any such regulations regarding the composition and use of any such substance:

(b) for securing the observance of hygienic and sanitary conditions and practices in connection with the carrying out of commercial operations with respect to food or food source and without prejudice to the generality of the aforesaid, such regulations may in particular -

(i) impose requirements as to the construction, layout, drainage, equipment, maintenance, cleanliness, ventilation, lighting, water supply and use of premises in, at or from which food intended for human consumption is produced or sold, or is offered, exposed, stored or prepared for sale, including any parts of such premises in which apparatus or utensils are cleansed, or in which refuse is disposed of or stored:

(ii) impose requirements as to the provision, maintenance and cleanliness of sanitary and washing facilities in connection with such premises, the disposal of refuse and the maintenance and cleanliness of apparatus, equipment, furnishings and utensils used in such premises:

(iii) prohibit or regulate the sale or importation of apparatus or utensils designed for use in the preparation of food intended for human consumption and containing any specific material or material of any specific class:

(iv) control or otherwise regulate the use of containers, and the packaging or wrapping of any food intended for sale for human consumption or of any ingredients thereof:

(v) impose requirements as to the clothing which is to be worn by persons in any such premises:

(vi) prescribe the precautions to be taken for protecting food against infection or contamination:

(vii) regulate generally the treatment and disposal

of any food unfit for human consumption:

(c) require the observance of hygienic conditions with respect to contact materials which are intended to come into contact with food for human consumption:

(d) impose requirements or prohibitions as to, or otherwise regulating, the labelling, marking or advertising of materials referred to in paragraph (c), and the descriptions which may be applied to them:

(e) otherwise to prohibit or regulate the carrying out of commercial operations with respect to materials referred to in paragraph (c):

(f) prohibit or regulate the carrying out of commercial operations with respect to novel foods and novel food ingredients, or food sources from which such foods are intended to be derived, of any class as may be specified in the regulations:

(g) prohibit or regulate the carrying out of such operations with respect to genetically modified or irradiated foods, or foods derived from such food sources, of any class as may be specified; or

(h) exclude, in each case, from the prohibition of importation or exportation of any food or food source which is of a description specified by or under the regulations and, in the case of a prohibition on importation, is imported or exported for use at such place as may be authorised:

(i) generally regulate food, food sources or contact materials, including the prohibition or regulation of the carrying out of commercial operations with respect to food, food sources or contact materials, as may appear to him to be expedient or necessary in order to conform with any international agreement which applies to Malta

(j) subject to the provisions of subarticle (5), provide for the requirement of the registration or the holding of a licence, in connection with any food premises, food businesses or person engaged in any food business or who is responsible for any food premises:

(k) provide for the appointment of official laboratories for the purposes of this Act:

(l) regulate the matters to be taken into account in determining whether, and at what times, samples should be procured:

(m) regulate the manner of procuring samples, including the steps to be taken to ensure that the samples procured are fair and adequate samples;

(n) regulate the method of dealing with samples, including, where appropriate, their division into parts:

(o) regulate the persons to whom the samples or parts of the samples are to be delivered and the persons by whom they are to be retained:

(p) regulate the methods which are to be used in the analysis or examination of samples, or in the classification and evaluation of the results of such analyses or examinations: and

(q) make provision for giving effect to any international obligation or agreement to which Malta may be a party.

(2) Any particulars or other information obtained by the health authority pursuant to any regulations made under subarticle (1)(a)(viii) shall not be disclosed except as may be necessary for the purposes of any regulations made under subarticle (1)(a), (i), (ii), (iii) or (v) or for the purposes of any proceedings for any offence.

(3) The conditions and requirement imposed on premises, by regulations made under subarticle (1)(b), may be extended to apply to seacraft, stalls and other places, as may be prescribed in such regulations.

(4) For the purposes of this subarticle (1)(l), (g) and (h), a food source shall be considered to be genetically modified if any of the genes or other genetic material in the food source -

(a) has been modified by means of an artificial technique; or

(b) is inherited or otherwise derived, through any number of replications, from genetic material which was so modified; or

(c) has been modified by any other means as the Minister may prescribe.

(5) Regulations made under subarticle (1)(j) may provide for the suspension or cancellation of any registration, either wholly or in respect of a part of the business for which the registration is applied for or is held, or for the refusal, suspension or cancellation of any licence or licence application provided for under this Act -

(a) where the requirements of regulations made under this article are not complied with in relation to that business, or

(b) where the premises, vehicle, stall or other place, or any part thereof, are otherwise unsuitable, having regard to considerations of hygiene and in particular to the situation, construction or condition of such premises, vehicle, stall or other place, or to any activities carried on therein, for the purpose or purposes specified in the relative application, or for which they are actually used, as the case may be.

(6) Any person who contravenes any of the provisions of any regulation made under subarticle (1) shall be guilty of an offence.

(7) Where under any other law a power is conferred on a Minister to make regulations in relation to food, such power is exercisable subject to consultation with the Minister.

Part IV

General Provisions

Registration of Food Premises, etc.

11. (1) No person shall engage in any food business unless such person, the food business and the food premises to be used for that purpose are registered with and, where required by or under this Act, licensed by the health authority.

Registration of
premises, etc.

(2) No food premises which are registered for use or, where required by or under this Act, licensed for the purposes of, any food business, shall be otherwise used than for the purpose for which they are registered or licensed, and in accordance with any terms or conditions to such licence, and in accordance with any regulation applicable thereto.

(3) Any person who acts in contravention of subarticles (1) or (2) shall be guilty of an offence against this article.

Food Safety

Rendering food injurious to health.

12. (1) Any person who, in carrying out any food business, knowingly renders any food intended to be sold for human consumption injurious to health by any means whatsoever shall be guilty of an offence against this article.

(2) For the purposes of this article, whether any food is injurious to health shall be determined by assessing not only the probable effect of that food on the health of a person consuming it, but also the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities.

Monitoring the safety of food.

13. (1) Any person engaged in any food business shall monitor the safety of all food within his control, and when he knows, or has reasonable cause to suspect that any food, food source or contact material may cause injury to health he shall immediately, or as soon as practicable, inform the health authority and take any other action as the Minister may by regulation prescribe.

(2) Any person who fails to comply with the provisions of subarticle (1) shall be guilty of an offence against this article.

Food which fails to comply with safety requirements.

14. (1) Any person who -

(a) sells, offers, exposes or advertises for sale or has in his possession for sale or for preparation for sale for human consumption:

(b) deposits with, or consigns to, any other person for the purpose of sale or preparation for sale for human consumption:

(c) supplies by way of compensation or otherwise or conveys from one place to another for human consumption:

(d) offers as a prize or reward, or gives away to be so offered,

any food which fails to comply with food safety requirements, shall be guilty of an offence against this article.

(2) For the purposes of this article, food shall be considered as having failed to comply with food safety requirements in the cases where -

(a) it has been rendered injurious to health by any

means whatsoever; or

(b) it is unfit for human consumption; or

(c) it is so contaminated, whether by extraneous matter or otherwise, that it would not be reasonable to expect it to be used for human consumption in that state; or

(d) it has been prepared, stored, kept, processed, deposited, transported, offered or exposed for sale, or otherwise dealt with under insanitary or unhygienic conditions; or

(e) it contains additives or such quantities or combinations of additives which have been prohibited by regulations made under this Act.

and references to such requirements or to food complying with such requirements shall be construed accordingly.

(3) Where any food fails to comply with food safety requirements is part of a batch, lot or consignment of food of the same class, type or description, it shall be presumed, until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements.

15. (1) Persons who, in the exercise of their functions, come into contact, whether directly or indirectly, with the materials and products referred to in article 25(b) to (f) shall be subjected to the hygiene inspection referred to in article 24(c).

Personal
hygiene of food
handlers.

(2) The inspection referred to in subarticle (1) shall be carried out for the purposes of checking that the health standards concerning personal cleanliness and clothing are respected. This inspection shall be without prejudice to any medical examinations that may, from time to time, be required under this or any other law.

Consumer Protection

16. (1) No person shall prepare or sell, package, store, offer, expose, keep or advertise for sale for human consumption any article of food equal or similar in appearance to any article of common use for which it might be mistaken so as to cause or to potentially cause risk of injury to health.

Prohibition of
sale of similar
products.

(2) Any person who acts in contravention of the provisions of subarticle (1) shall be guilty of an offence against this article.

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Selling food to the prejudice of the purchaser.

17. (1) No person shall sell, to the prejudice of the purchaser, any food intended for human consumption which is not of the nature, substance or quality of the food demanded by the purchaser.

(2) Any person who acts in contravention of the provisions of subarticle (1) shall be guilty of an offence against this article.

(3) In any proceedings for an offence against this article, it shall not be a defence for the accused to state that the purchaser was not prejudiced because he had purchased the item for analysis or for examination.

Labelling, etc. of food.

18. (1) Any person who gives with any food sold by him, or displays with any food offered or exposed by him for sale or who has in his possession for the purpose of sale, a label, whether or not attached to or printed on the wrapper or container, and any person who advertises or is party to an advertisement which in either case -

(a) falsely describes the food; or

(b) is likely to mislead as to the nature, substance or quality of the food,

shall be guilty of an offence against this article:

Provided that, in any proceedings under this subarticle, it shall be a defence to prove that the accused acted with reasonable diligence, and did not know or could not ascertain that the advertisement contravened this article.

(2) Any person who sells, or offers or exposes for sale, or has in his possession for the purpose of sale, any food the presentation of which is likely to mislead as to the nature, substance or quality of the food, shall be guilty of an offence against this article.

(3) In any proceedings for an offence against any of the provisions of this article, the fact that the label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food shall not preclude the court from finding that the offence was committed.

(4) In this article the reference to "sale" shall be construed as a reference to sale for human consumption.

Packaged food to be labelled.

19. (1) No person shall sell, or offer or expose or advertise for sale, or have in his possession for the purpose of sale, any food in an unopened container, unless such label as may be prescribed is

attached or affixed to, or included in, the container.

(2) Any person who acts in contravention of the provisions of subarticle (1) shall be guilty of an offence against this article.

Information and documentation

20. The health authority may direct any person carrying on a food business to furnish it, within a time period specified in the direction, such verifiable information, as may be specified in the direction, including information on such matters as may be specified from time to time by regulations, in relation to any food or food source in relation to which the person carries on business and any person failing to comply with such a requirement shall be guilty of an offence against this article.

Supply of information.

21. (1) Any document which is required or authorised by or under this Act to be given or served on any person, may, in any case for which no other provision is made in this Act, be given or served either -

Documents, etc., to be in writing.

(a) by delivering it to that person; or

(b) in the case of an officer of the health authority by leaving it or sending by post addressed to him, at his office; or

(c) in the case of a company or other commercial partnership or other corporate body, by delivering it to an employee of such company, commercial partnership or corporate body at the registered or principal office of such company, commercial partnership or corporate body, or by sending it by post addressed to him at that office; or

(d) in the case of any other person, by leaving it or sending it by post addressed to him at his usual or last known residence.

(2) Where the document is to be given or served on the owner or the occupier of any premises and it is not possible, after reasonable enquiry, to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, the document shall be deemed to have been properly served if it is affixed on a conspicuous place on the premises and notice of such affixture is published in at least one daily newspaper.

Enforcement

Prohibition to employ persons with certain infections.

22. (1) No person shall be employed or work in, or in connection with, the preparation or the handling of any food intended for sale for human consumption if the employer is aware that such person is, or, as the case may be, if such person is himself aware that he is, suffering from, or is the carrier of, typhoid fever, paratyphoid fever or any other salmonella infection or dysentery, staphylococcal infection, and any other infection likely to cause food poisoning, or any other disease which the Minister may, by order, declare to be a disease to which this article applies.

(2) An order made under subarticle (1) may be revoked, varied or substituted by a subsequent order and may apply to any food, or any class of food, or any particular food, intended for sale for human consumption.

Prohibition of the importation of certain foods.

23. No person shall import into Malta any food, intended for sale or for preparation for sale, for human consumption which -

(a) has been rendered injurious to health by any means whatsoever;

(b) if sold in Malta, would constitute a violation of the provisions of this Act or of any regulations made thereunder;

(c) is unsound or unwholesome or otherwise unfit for human consumption;

(d) in the preparation of which, any such food as is described in paragraph (c) has been used.

Food control.

24. Subject to the provisions of articles 25 and 26, food control shall comprise one or more of the following operations:

(a) inspection of food premises;

(b) sampling and analysis of food and, or food sources;

(c) inspection of staff hygiene and qualifications;

(d) examination of written and documentary material;

and
(e) examination of any verification systems set up by the food business and of the results obtained through such verification systems.

25. The following may be subject to inspection by an authorised officer in the enforcement and execution of this Act: Subject of inspections.

(a) the state and use which is made, at the different stages, of the site, premises, offices, business premises and their surroundings, machinery and equipment;

(b) raw materials, ingredients, technological aids and other products used for the preparation and production of foodstuffs;

(c) semi-finished goods;

(d) finished goods;

(e) materials and articles intended to come into contact with foodstuffs;

(f) cleaning and maintenance products and processes, and pesticides;

(g) processes used for the manufacture or processing of foodstuffs;

(h) labelling and presentation of foodstuffs; and

(i) preserving methods; and

(j) such other matters as may be prescribed by regulations.

26. (1) Inspections shall be carried out - Inspections.

(a) regularly and, or, whenever there exists a suspicion of non-compliance with any of the provisions of this Act or of any regulations made thereunder; and

(b) by using means proportionate to the end to be achieved.

and shall cover all stages of production, manufacture, importation, processing, storage, transport, distribution, trade, disposal and destruction of food.

(2) The authorised officer shall in each case, decide the stage or stages which he considers the most appropriate for its examination from those listed in subarticle (1).

(3) The authorised officer may be assisted by any other person

whom he considers necessary.

Prohibition to publish official statements without written permission.

27. Except with the written permission of the Commission or the health authority, as the case may be, no person may publish or cause to be published in any form, a statement intended to, or which may, promote the supply or use of food, food goods, or services relating to food by implying that the Commission or the health authority, as the case may be, approves or otherwise such use.

Authorised officers.

28. (1) Every person appointed to carry out the function of authorised officer in accordance with this Act, shall declare and confirm that he is not, directly or indirectly engaged in any food business.

(2) An authorised officer may inspect any food intended for human consumption, or which he may reasonably believe to be so intended, which -

(a) has been sold or is offered or exposed for sale; or

(b) is, or has been in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale; or

(c) is in the course of delivery before or after sale for human consumption, including where this is present in any vehicle.

and the provisions of article 31 shall apply where, on such inspection, it appears to the authorised officer that any food fails to comply with food safety requirements.

(3) An authorised officer may -

(a) examine any article to which this Act or any regulations made thereunder apply and take, on payment of the current market value, if so required, samples for analysis or for bacteriological or other examination; and

(b) seize and remove any such article in relation to which reasonable ground for suspicion exists that any provisions of this Act or of any regulations made thereunder are being or have been contravened.

(4) In subarticle (3), the expression "any article" includes -

(a) any food, or any substance capable of being used in the composition or preparation of any food;

(b) any thing used or capable of being used for the manufacture, preparation, preservation, packing or storage thereof, including contact material; and

(c) any labelling or advertising material:

Provided that the taking of any article under subarticle (3)(a) shall, for the purpose of this Act or of any regulations made thereunder, be deemed to be a sale of that article.

29. (1) Any authorised officer shall, on producing, if so required, some duly authenticated document showing his authority, have a right at any reasonable time to - Power of entry, search and seizure.

(a) enter any food premises for the purpose of ascertaining whether there is or has been or there is likely to be any contravention against any of the provisions of this Act, or of regulations made thereunder;

(b) enter any business premises for the purpose of ascertaining whether there is on the premises any evidence of any contravention against any of the provisions of this Act:

(c) carry out any inspections under this Act:

(d) inspect any records, in whatever form they are held, relating to a food business and, where any such records are kept by means of computer -

(i) may have access to, and inspect and check the operation of any computer, any associated apparatus or material which is or has been in use in connection with the records; and

(ii) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford him such assistance as he may reasonably require;

(e) seize and detain any records which he has reason to believe may be required as evidence in proceedings under any of the provisions of this Act or of regulations made thereunder; and

(f) where the records are kept by means of a computer, require the records to be produced in a form in which they may be taken away;

(2) Any person who, having entered any premises by virtue of this article, discloses to any other person any information obtained by him in the premises with regard to any trade secret shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(3) Admission, for the purpose of subarticle (1), to any premises used only as a private dwelling house may only be had if authorised by a warrant signed by a magistrate or by the Attorney General.

(4) Every warrant so granted shall continue in force for a period not exceeding one month.

Inspection of vehicles, etc.

30. An authorised officer who has reason to believe that any vehicle or container contains any food which is intended for sale for human consumption, or which is in the course of delivery after sale for human consumption, may examine the contents of the vehicle or container, and, for that purpose, he may, if necessary, detain the vehicle or container.

Duties of authorised officers.

31. (1) If it appears to any authorised officer, upon an inspection or otherwise, that any food is unfit for human consumption, or is likely to cause injury, food poisoning or any disease communicable to human beings, the authorised officer may either -

(a) give notice to the licensee, manager or any other person in charge of the food premises at the time, that until the notice is withdrawn, the food or any specified portion of it -

(i) is not to be used for human consumption; and

(ii) is not to be removed or is not to be removed except to some place specified in the notice; and, or

(iii) is not to be sold or destroyed or otherwise dealt with, whether or not removed for those purposes; or

(b) may seize the food, or any sample thereof to be produced as evidence before any court; or

(c) where not required to be produced as evidence as aforesaid, with the consent and at the expense of the responsible person, may destroy the food.

(2) Any person who knowingly contravenes the requirements of a notice given under subarticle (1) shall be guilty of an offence.

(3) Where the authorised officer exercises the powers granted under subarticle (1), he shall, within a reasonable time, determine whether or not such food satisfies food safety requirements, and -

(a) if such food is deemed to be fit for human consumption, he shall forthwith withdraw the notice, and allow the release of the food from the place where it is stored under the terms of the notice; or

(b) if such food is deemed to be unfit for human consumption, he shall seize the food, or a sample thereof, in order to produce the same as evidence before any court.

(4) Where an authorised officer exercises the powers conferred to him by subarticle (1) or (3), he shall inform the person in charge of the food of his intention to have it dealt with by the court, and he shall give the reasons therefor, and any person who, under subarticle (1) or (3), may be liable to be prosecuted in respect of the food shall be entitled to be heard and to call witnesses.

(5) If it appears to the court, on the basis of such evidence as may be considered appropriate in the circumstances, that any food falling to be dealt with by it under this article, fails to comply with food safety requirements, it shall condemn the food and order the food to be destroyed or to be so disposed of so as to prevent it from being used for human consumption.

(6) The court shall also, upon an application by the health authority, order the person found guilty of an offence to pay the health authority the costs incurred by it for the prosecution in connection with the offence, including any inspection which led to such prosecution and any examination pursuant to such inspection.

32. (1) A person who -

Hindrance or
obstruction.

(a) intentionally obstructs or causes the obstruction of any person acting in the performance of his duties under this Act; or

(b) without reasonable cause, fails to give any person acting in the performance of his duties under this Act, such assistance or information which he is required to give by or under this Act.

shall be guilty of an offence against this article.

(2) Any person who, in the purported compliance with any provision of this Act -

(a) furnishes information which he knows to be false or misleading in a material particular; or

(b) recklessly furnishes information which is false or misleading in a material particular;

shall be guilty of an offence against this article.

(3) Nothing in subarticle (2) shall be construed as requiring any person to answer any question or give any information if, by so doing, he may incriminate himself.

Notices and Orders

Improvement
notice.

33. (1) If an authorised officer has reasonable grounds to believe that the person responsible for a food business or food premises is failing to comply with any regulations to which this article applies, he may, by a written notice, hereinafter in this Act referred to as an "improvement notice", served on that person -

(a) state the officer's grounds for believing that the person is failing to comply with the regulations;

(b) specify the matters which constitute the person's failure to comply;

(c) specify the measures which, in the officer's opinion, the person must take in order to secure compliance; and

(d) require the person to take those measures, or measures which are at least similar to them, within such period as may be specified in the improvement notice.

(2) Any person who fails to comply with an improvement notice shall be guilty of an offence against this article.

(3) The provisions of this article shall apply to any regulations which may be made under this Act for the purpose of -

(a) requiring, prohibiting or regulating the use of any process or treatment in the preparation of food; or

(b) securing the observance of hygiene conditions and practices in connection with the carrying out of commercial operations with respect to food or food sources; or

(c) providing for the protection of the consumer, the quality of food or the provision of public information about

food, food products or the use to which such food or food products may be put.

34. (1) If the person responsible for a food business is convicted for an offence against any regulations to which this article applies, and if the court by which the person responsible is convicted, is satisfied that there exists a health risk condition with respect to that business, the court may by an order, impose the appropriate prohibition referred to in subarticle (3).

Court may impose appropriate prohibition.

(2) In assessing whether a health risk condition exists with respect to any food business, the court shall examine if any of the following involve risk of injury to health, namely -

(a) the use, for the purposes of the business, of any process or treatment;

(b) the construction of any premises used for the purposes of the business, or the use, for those purposes, of any equipment;

(c) the state or condition of any premises or equipment used for the purposes of the business; and

(d) the conduct or practice of any persons engaged there.

(3) The appropriate prohibitions which may be imposed are:

(a) in a case falling within subarticle (2)(a), a prohibition on the use of the process or treatment for the purpose of the business;

(b) in a case falling within subarticle (2)(b), a prohibition on the use of the premises or equipment for the purposes of the business or any other food business of the same class or description;

(c) in a case falling within subarticle (2)(c), a prohibition on the use of the premises or equipment for the purposes of any food business;

(d) in a case falling within subarticle (2)(d), a prohibition on the conduct or practice in question.

(4) If the person responsible for a food business is convicted of an offence against any regulations as is referred to in article 33(3)(b), and the court by which the responsible person is convicted

deems it proper so to do in the circumstances of the case, the court may, by an order, impose a prohibition on the responsible person from participating in the management of any food business, or any food business of a class, type or description, as may be stated in the order, for whatever period as may be specified in the order, such period not being less than six months.

(5) Upon the making an order under subarticle (1) or (4), hereinafter in this Act referred to as a "prohibition order", the health authority shall, as soon as is practicable, -

(a) serve a copy of the prohibition order on the responsible person of the business; and

(b) in the case of an order under subarticle (1), affix a copy of the prohibition order in a conspicuous place on such premises used for the purposes of the business, as it may consider appropriate.

and any person who knowingly contravenes any such order shall be guilty of an offence against this article.

(6) A prohibition order shall cease to have effect -

(a) in the case of an order given under subarticle (1), on the issue, by the health authority, of a certificate to the effect that it is satisfied that the responsible person has taken sufficient measures to secure that the health risk condition no longer exists with respect to the business; and

(b) in the case of an order given under subarticle (4), on the giving by the court of a direction to that effect.

(7) The health authority shall issue a certificate under subarticle (6)(a) within three working days of its being satisfied that the measures therein mentioned have been taken; and on an application by the responsible person for such a certificate, the health authority shall -

(a) determine, as soon as is reasonably practicable and in any event not later than fourteen days after such application, whether or not it is so satisfied; and

(b) if it determines that it is not so satisfied, give notice to the responsible person of the reasons for that determination.

(8) The court shall give a direction under subarticle (6)(b) if, on an application by the responsible person, the court deems it proper

so to do having regard to all the circumstances of the case, including in particular the conduct of the responsible person since the making of the order, but no such application shall be entertained if it is made -

(a) before the lapse of six months from the making of the prohibition order; or

(b) within three months after the making by the responsible person of a previous application for such a direction.

(9) Any person who fails to comply with a prohibition order shall be guilty of an offence against this article.

(10) The provisions of subarticle (4) shall apply in relation to the manager of a food business as they apply in relation to the responsible person of such business; and any reference in subarticle (5) or (8) to the responsible person of the business, or to the responsible person, shall be construed accordingly; for the purposes of this subarticle, "manager", in relation to a food business, shall mean any person who is entrusted by the responsible person with the day-to-day running of the business, or any part thereof.

35. (1) The health authority may publish or cause to be published a copy of the order given under article 34(4) in the local media in both the Maltese and English languages.

Publication of a copy of a prohibition order.

(2) When making a decision under subarticle (1) the health authority shall adhere to the principles of fairness and objectivity.

(3) The Government, the health authority and any public officer acting on the instructions or authority of the health authority shall not be or become liable for any acts done in good faith under subarticle (1); the exemption from liability shall extend to all persons publishing, printing, recording, broadcasting, communicating or reproducing such information in any form.

36. (1) Where the health authority is satisfied that a health risk condition exists with respect to any food business, it may, by order served on the responsible person of the business, hereinafter in this Act referred to as an "emergency prohibition order", impose the appropriate prohibition in accordance with this article.

Emergency prohibition orders.

(2) Any person who fails to comply with an emergency prohibition order shall be guilty of an offence against this article.

(3) The provisions of article 34(2) and (3) shall, *mutatis mutandis*, apply with regard to emergency prohibition orders under

this article as if reference to the court in such subarticles were a reference to the health authority, and as if the reference in article 34(2) to risk of injury were a reference to imminent risk of injury.

(4) The provisions of article 34(10) shall, *mutatis mutandis*, apply with respect to an emergency prohibition order.

(5) As soon as is practicable, after the making of an emergency prohibition order, the health authority shall -

(a) serve a copy of the order on the responsible person of the business; and

(b) affix a copy of the order in a conspicuous place on the premises used for the purposes of that business as it may consider appropriate.

and any person who knowingly contravenes such an order or in any way defaces, erases, obscures, damages or removes the said copy of the order, shall be guilty of an offence against this article.

(6) An emergency prohibition order shall cease to have effect on the issue by the health authority of a certificate to the effect that it is satisfied that the responsible person has taken sufficient measures to secure that the health risk no longer exists with respect to the business.

(7) The health authority shall issue a certificate under subarticle (6) within three days of its being satisfied that the measures therein mentioned have been taken; and on an application by the responsible person for such a certificate, the health authority shall -

(a) determine, as soon as is reasonably practicable and in any event not later than ten days after such application, whether or not it is so satisfied; and

(b) if it determines that it is not so satisfied, give notice to the responsible person of the reasons for that determination.

(8) (a) Any person who feels himself aggrieved by any emergency prohibition order made on him may, within fifteen days from the making of the order, by application served on the health authority, appeal against it to the First Hall of the Civil Court and, if the court, after appointing the application for hearing and after examining such evidence as may be produced by the parties, is

(i) satisfied that the imminent risk to health exists in accordance with the provisions of article 34(2), the court shall

dismiss the appeal and confirm the order.

(ii) not satisfied that the imminent risk to health exists in accordance with the provisions of article 34(2), it may order the health authority to pay to the person making the application a reasonable amount as compensation for any loss suffered by reason of his complying with the order.

(b) The health authority shall file a reply to such application within such time, not being less than twenty-four hours, as the court may determine.

37. (1) If any steps or other action in pursuance of article 34(2) as made applicable by article 36(3), to be taken as a result of an emergency prohibition order, have not been taken within the time specified therein, the health authority may enter the premises to which the emergency prohibition order relates and take such steps, including the closure of the premises or other action as may be required in the circumstances.

Failure to abide by emergency prohibition order.

(2) Saving the provisions of Chapter IV of the Constitution or of the European Convention Act, notwithstanding the provisions of any other law, no precautionary warrant or other order shall be issued or made by any court restraining the health authority from the exercise of any of the powers conferred upon it by article 36 and by subarticle (1) of this article.

Cap. 319.

(3) All expenses reasonably incurred by the health authority to carry out an emergency prohibition order under article 36 in pursuance of subarticle (1) of this article shall be recoverable as a civil debt by the health authority from the responsible person of the business to which the emergency prohibition order relates.

38. (1) If it appears to the health authority that the carrying out of commercial operations with respect to food, food sources or contact materials of any class or description involves, or may involve an imminent risk of injury to health, it may, by an order referred to as an "emergency control order", and subject to any condition it may deem fit to impose, prohibit the carrying out of such operations with respect to food, food sources or contact materials of that class or description.

Emergency control order.

(2) Any person who knowingly contravenes an emergency control order shall be guilty of an offence against this article.

(3) The health authority may in writing consent either unconditionally or subject to any condition or conditions that it may consider appropriate, to the doing, in such case as may be specified in

the consent, of anything which has otherwise been prohibited by an emergency control order.

(4) It shall be a defence for a person charged with an offence against subarticle (2) to show that consent had been given for the doing of the act charged under subarticle (3), and that any condition subject to which the consent was given was complied with.

(5) The health authority may -

(a) give directions as appear to it necessary or expedient for the purpose of preventing the carrying out of commercial operations with respect to any food, food source or contact materials which it believes, on reasonable grounds, to be food, food sources or contact materials to which an emergency control order applies; and

(b) do anything which appears to it to be necessary or expedient for that purpose.

(6) Any person who knowingly fails to comply with a direction under this article shall be guilty of an offence.

(7) The court shall also, upon an application by the health authority, order the person found guilty of an offence to pay the health authority the costs incurred by it for the prosecution in connection with the offence, including any inspection which led to such prosecution and any examination pursuant to such inspection.

Undertakings.

39. (1) When it appears to the health authority that any person engaged in any food business has engaged in any conduct that constitutes an offence against articles 11 to 14 and articles 16 to 19, the health authority may, at its discretion, instead of causing proceedings to be instituted against that person, caution that person in writing, and seek an undertaking in writing from that person that he shall refrain from the conduct specified in the undertaking for such period as may be agreed to by the parties concerned, and, without prejudice to subarticle (3), upon the making of such undertaking no further proceedings may be instituted with respect to such offence.

(2) The health authority shall maintain a register of undertakings made under subarticle (1), which register shall be kept at an office specified by the health authority, and shall be available for viewing by any person at such times as may be established by the health authority.

(3) Any person who acts in contravention of an undertaking made in accordance with subarticle (1) shall be guilty of an offence

against this article.

Defences

40. Where the facts which, subject to the provisions of article 41, would constitute the commission, by any person, of an offence against any of the preceding provisions of this Part or of any regulations issued in virtue of article 10, are due to an act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this article whether or not proceedings are taken against the first mentioned person.

Commission of an offence by default of another person.

41. (1) Subject to the provisions of subarticle (5), in any proceedings for an offence against any of the preceding provisions of this Part or of any regulations issued in virtue of article 10, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

Due diligence.

(2) Without prejudice to the generality of subarticle (1), a person charged with an offence against article 14, or 17, or 18 who -

- (a) has not prepared the food in respect of which the offence is alleged to have been committed; or
- (b) has not imported it into Malta.

shall be taken to have established the defence provided by that subarticle if he satisfies the requirements of subarticle (3).

(3) A person shall be deemed to satisfy the requirements of this subarticle if he proves -

- (a) that the commission of the offence was due to an act or default of another person who was not under his control, or to reliance on information supplied by another person;
- (b) that he carried out all necessary checks on the food in question as were reasonable, in all the circumstances, and that it was reasonable in the circumstances for him to rely on checks carried out by the person who supplied the food to him;
- (c) that the sale or intended sale of which the alleged offence consisted was not a sale or intended sale under his name or mark; and
- (d) that he did not know, and had no reason to suspect at

the time of the commission of the alleged offence that his act or omission would amount to an offence against the relevant provision.

(4) The person charged shall not, without the leave of the court, be entitled to rely on the defence referred to in subarticle (3) if the defence involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, unless, after the reading of the charge in court and not later than twenty-four hours thereafter, he files a notice in court to be served on the prosecutor containing such information identifying or assisting in the identification of that other person as was then in his possession.

(5) (a) In proceedings for an offence against any of the preceding provisions of this Part, relating to the advertisement for sale of any food, it shall be a defence for the person charged to prove -

(i) that he is a person whose business it is to publish or arrange for the publication of advertisements; and

(ii) that he received the advertisement in the ordinary course of business and that, notwithstanding that he complied with any guidelines made under paragraph (b), he did not know and had no reason to suspect that its publication would amount to an offence against that provision.

(b) The Minister may by regulations make provision for the issue and supply of guidelines for persons engaged in the business referred to in paragraph (a), and in particular for the avoidance of the publication of advertisements not in conformity with this Act.

Part V

Legal proceedings

Initiation of
criminal
proceedings.

42. (1) Where there is reasonable cause to believe that any person has contravened any of the provisions of this Act or of any regulations made thereunder, the Police shall, on the report of the health authority, institute criminal proceedings against the offender before the competent court.

(2) In any criminal proceedings instituted by the Police for an offence under this Act, the health authority or any officer, lawyer or legal procurator deputed by the health authority may, notwithstanding any law to the contrary, lay the charge before the Court of Magistrates, produce evidence, plead and otherwise conduct the prosecution instead of the Police.

(3) The sworn statement of any officer, lawyer or legal procurator to the effect that he is deputed as provided in subarticle (2) shall be conclusive evidence of the fact, should proof thereof be required by the accused.

43. (1) A person found guilty of an offence against article 31 shall be liable, on conviction, to a fine (*multa*) of not less than two hundred liri and not exceeding one thousand liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Offences and penalties.

(2) A person found guilty of a second or subsequent conviction shall be liable, on conviction, to a fine (*multa*) of not less than one thousand liri and not exceeding two thousand liri or to imprisonment for a term of not less than one year and not exceeding two years or to both such fine and imprisonment.

(3) A person found guilty of any other offence against this Act shall be liable -

(a) on conviction for a first offence to a fine (*multa*) of not less than two hundred liri and not exceeding two thousand liri or to imprisonment for a term not exceeding two years or to both such fine and imprisonment;

(b) on conviction for a subsequent offence, to a fine (*multa*) of not less than five hundred liri and not exceeding five thousand liri or to imprisonment for a term not exceeding four years or to both such fine and imprisonment.

44. Upon conviction for any offence, other than an offence against the provisions of article 31, the court may order the suspension or cancellation of any licence or licences issued in respect of the person charged or the premises forming the subject of the proceedings.

Suspension or cancellation of licences.

45. Where a person is found guilty of an offence against this Act, the court shall, where necessary, besides awarding punishment, order the offender to abate any nuisance arising from the offence or, if the circumstances so require, to comply with the law, in either case within such time as shall be fixed by the court for the purpose and, in the case of non-compliance with any such order, the offender shall be liable to a further fine (*multa*) not exceeding fifty liri for every day of non-compliance after the expiration of the said time fixed as aforesaid.

Offender to conform with laws and regulations.

46. Where an offence against any of the provisions of this Act or of any regulations made thereunder is proved to have been

Seizure of food in relation to court cases.

committed, the court shall order the forfeiture and destruction of the food to which the offence relates.

Payment of compensation as ordered by the court.

47. Where a person is charged with an offence against any of the provisions of this Act but is not found guilty of such offence, the court may, if it deems fit according to the circumstances of the case, order the Government, as represented by the health authority, to pay such person an amount fixed by the court as compensation for any damage caused in the articles seized or in any part thereof, by the examination or analysis referred to in article 10(1)(k) to (p).

Accused may plead warranty.

48. (1) Subject to the provisions of this article, in any proceedings for an offence against this Act or any regulations made thereunder, being an offence consisting of selling, or offering, exposing or advertising for sale, or having in one's possession for the purpose of sale, any article or substance, it shall be a defence for the accused to prove that -

(a) he purchased it as being an article or substance which could lawfully be sold or otherwise dealt with as aforesaid, or, as the case may be, could lawfully be so sold or dealt with under the name or description or for the purposes under or for which he sold or dealt with it, and with a written warranty to that effect;

(b) that he had no reason to believe, at the time of the commission of the alleged offence, that it was otherwise; and

(c) it was, at the time of the commission of the alleged offence, in the same state as when he purchased it.

(2) Where the accused in any such proceedings is an employee or an agent of the person who purchased the article or substance under a warranty, he shall be entitled to rely on the provisions of this article in the same way as his employer or principal would have been entitled to do if he had been the accused.

(3) Where the accused in any such proceedings has been acquitted under the foregoing provisions of this article, new proceedings may be taken against the person by whom the warranty relied on by the accused in the original proceedings is alleged to have been given.

(4) For the purposes of this article and article 49, a name or description entered in an invoice shall be deemed to be a written warranty that the article or substance to which the entry refers can be sold or otherwise dealt with under that name or description.

49. (1) An accused who, in any proceedings under this Act wilfully applies to any article or substance a warranty given in relation to any other article or substance shall be guilty of an offence against this Act.

Misleading warranty.

(2) A person who, in respect of any article or substance in respect of which a warranty might be pleaded under the provisions of article 48, gives to the purchaser a false warranty in writing, shall be guilty of an offence against this Act, unless he proves that he gave such warranty more than one year or such longer period in respect of which the warranty was given before the facts otherwise constituting the offence took place.

50. (1) Any of the officers mentioned in article 42(2) may be called as a witness at the request of the accused.

Prosecution officers may be called as witnesses.

(2) Where, however, the evidence of such officer is required by the Police, the said officer shall be heard before he assumes the duties of prosecuting officer, unless the necessity of his evidence arises at a later stage of the proceedings.

Part VI

Miscellaneous

51. Where any food has been seized under the provisions of this Act, and the owner thereof consents in writing to the destruction of such food, the health authority may, after taking such samples as may be required to prove the offence, direct that the said food be destroyed, without prejudice to the taking of any proceedings against the person responsible for the offence.

Voluntary surrender of food for destruction.

52. (1) With effect from such date as the Minister may, by order in the Gazette, establish, the Food, Drugs and Drinking Water Act shall be repealed:

Repeals and savings. Cap. 231.

Provided that any such order may refer either to the whole Act or to such of its provisions as may be referred to in the order.

(2) Any regulation or order made, or any licence granted, under the provisions of the Food, Drugs and Drinking Water Act prior to the repeal of the empowering provision shall, in so far as they are not inconsistent with the provisions of this Act, or of any regulations made thereunder, continue in force and have effect as if they had been made or granted under the relative provisions of this Act.

(3) Any legal proceedings instituted under the Food, Drugs and Drinking Water Act prior to its repeal shall continue as if those

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proceedings had been commenced under this Act.

Passed by the House of Representatives at Sitting No. 774 of the
15th July, 2002.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives