

THE FOOD, DRUGS AND CHEMICAL SUBSTANCES ACT, 1965

No. 8 of 1965

Date of Assent: 5th May 1965

Date of Commencement: 11th May 1965

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

Section

- 1—Short title.
- 2—Interpretation.

PART II—GENERAL PROVISIONS

A—Food

- 3—Prohibition against sale of unwholesome, poisonous or adulterated food.
- 4—Deception.
- 5—Standards of foods.
- 6—Prohibition against sale of food not of nature, substance or quality demanded.
- 7—Preparation of food under insanitary conditions.

B—Drugs

- 8—Prohibited sale of drugs.
- 9—Deception.
- 10—Standards of drugs.
- 11—Prohibition against sale of drugs not of the nature, substance or quality demanded.
- 12—Preparation of drug under insanitary conditions.

C—Cosmetics

- 13—Prohibited sale of cosmetics.
- 14—Standards of cosmetics.
- 15—Preparation of cosmetic under insanitary conditions.

D—Devices

- 16—Prohibited sales of devices.
- 17—Deception.
- 18—Standards of devices.
- 19—Preparation of devices under insanitary conditions.

E—Chemical Substances

- 20—Adulteration of chemical substances.
- 21—Deception.
- 22—Standards of chemical substances.
- 23—Professed standards.
- 24—Disposal of chemical substances in certain manner prohibited.

ARRANGEMENT OF SECTIONS—(Contd.)

Section

- 25—Prohibited sale of chemical substances.
26—Preparation of chemical substances under insanitary conditions.

PART III—ADMINISTRATION AND ENFORCEMENT

- 27—Establishment of Board.
28—Regulations.
29—Inspection of animals by authorized officers.
30—Powers of authorized officers.
31—Power of Director of Medical Services or Director of Agriculture to have articles analysed.
32—Duty of local authority to enforce Act.
33—Power of Minister to obtain particulars of certain food ingredients.

PART IV—LEGAL PROCEEDINGS

- 34—Power of court to order licence to be cancelled.
35—Prosecution.
36—Penalties.
37—Certificates of analysis and presumptions.
38—Saving of Public Health Act and Dangerous Drugs Act.
39—Minister's power to amend Schedule.

PART V—REPEAL

- 40—Amendment of Cap. 63.
41—Amendment of Cap. 244.
42—Amendment of Cap. 127 (1948).

SCHEDULE

An Act of Parliament to make provision for the prevention of adulteration of food, drugs and chemical substances and for matters incidental thereto and connected therewith

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Food, Drugs and Chemical Substances Act, 1965.

Interpretation.

2. In this Act, except where the context otherwise requires—

“advertisement” includes any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic, device or chemical substance;

“article” includes—

- (a) any food, drug, cosmetic, device or chemical substance and any labelling or advertising materials in respect thereof;
- (b) anything used for the preparation, preservation, packing or storing of any food, drug, cosmetic, device or chemical substance;

“authorized officer” means a medical officer of health, a health inspector or any suitably qualified person authorized in writing by a local authority for the purposes of this Act, and—

- (a) for the purpose of any provision of this Act relating to the taking of samples, includes a police officer of or above the rank of Sub-Inspector;
- (b) for the purpose of section 29 of this Act, includes a Cap. 366.
Veterinary Surgeon registered or licensed under the Veterinary Surgeons Act;
- (c) for the purpose of any proceedings under section 35 of this Act, includes the Clerk of a local authority;

“Board” means the Public Health (Standards) Board established by section 27 of this Act;

“chemical substance” means any substance or mixture of substances prepared, sold or represented for use as—

- (a) a germicide;
- (b) an antiseptic;
- (c) a disinfectant;
- (d) a pesticide;
- (e) an insecticide;
- (f) a rodenticide;
- (g) a vermicide; or
- (h) a detergent;

or any other substance or mixture of substances which the Minister may, after consultation with the Board, declare to be a chemical substance;

“container” includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

“cosmetic” includes any substance or mixture of substances manufactured, sold or represented for use in cleansing, improving or altering the complexion, skin, hair, eyes or teeth, and includes deodorants and perfumes;

“device” means any instrument, apparatus or contrivance, including components, parts and accessories thereof, manufactured, sold or represented for use in the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or the symptoms thereof, in man or animal;

“drug” includes—

- (a) any substance included in any publication mentioned in the Schedule to this Act; and
- (b) any substance or mixture of substances prepared, sold or represented for use in—
 - (i) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal physical state, or the symptoms thereof, in man or animal; or
 - (ii) restoring, correcting or modifying organic functions in man or animal;

“food” includes any article manufactured, sold or represented for use as food or drink for human consumption, chewing gum, and any ingredient of such food, drink or chewing gum;

“health inspector” means any person for the time being lawfully appointed by the Minister or by a local authority to be a health inspector or a sanitary inspector;

“insanitary conditions” means such conditions or circumstances as might contaminate food, a drug or a cosmetic with dirt or filth or might render the same injurious or dangerous to health;

“label” includes any legend, work or mark attached to, included in, belonging to or accompanying any food, drug, cosmetic, device or chemical substance;

“medical officer of health” means a person appointed as a medical officer of health in accordance with the Public Health Act, and includes a deputy medical officer of health and an assistant medical officer of health so appointed;

“package” includes anything in which any food, drug, cosmetic, device or chemical substance is wholly or partly placed or packed;

“premises” includes any building or tent together with the land on which the same is situated and any adjoining land used in connexion therewith, and includes any vehicle, conveyance or vessel;

“preparation” includes manufactured and any form of treatment, and “prepared” shall be construed accordingly;

“public analyst” means a person appointed by the Minister, or by a local authority with the approval of the Minister, to act as an analyst for the purposes of this Act;

“sell” includes offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale or exchange, dispose of for any consideration whatsoever, or transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid;

“ship” includes any boat or craft;

“substance” includes liquid.

PART II—GENERAL PROVISIONS

A—Food

3. Any person who sells any food that—

(a) has in or upon it any poisonous or harmful substance;
or

(b) is unwholesome or unfit for human consumption; or

(c) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance or foreign matter; or

(d) is adulterated,

shall be guilty of an offence.

Prohibition against sale of unwholesome, poisonous or adulterated food.

4. Any person who labels, packages, treats, processes, sells or advertises any food in contravention of any regulations made under this Act, or in a manner that is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety, shall be guilty of an offence.

Deception.

5. Where a standard has been prescribed for any food, any person who labels, packages, sells or advertises any food which does not comply with that standard, in such a manner that it is likely to be mistaken for food of the prescribed standard, shall be guilty of an offence.

Standards of foods.

Prohibition against sale of food not of nature, substance or quality demanded.

6. Any person who sells to the prejudice of the purchaser any food which is not of the nature, or is not of the substance, or is not of the quality, of the article demanded by the purchaser shall be guilty of an offence.

Preparation of food under insanitary conditions.

7. Any person who sells, prepares, packages, conveys, stores or displays for sale any food under insanitary conditions shall be guilty of an offence.

B—Drugs

Prohibited sale of drugs.

8. Any person who sells any drug that—

(a) is adulterated; or

(b) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance or foreign matter,

shall be guilty of an offence.

Deception.

9. Any person who labels, packages, treats, processes, sells or advertises any drug in contravention of any regulations made under this Act, or in a manner that is false, misleading or deceptive as regards its character, constitution, value, potency, quality, composition, merit or safety, shall be guilty of an offence.

Standards of drugs.

10. (1) Where a standard has been prescribed for a drug, any person who labels, packages, sells or advertises any substance in such a manner that it is likely to be mistaken for that drug shall be guilty of an offence unless the substance is the drug in question and complies with the prescribed standard.

(2) Where a standard has not been prescribed for a drug but a standard for the drug is contained in any of the publications specified in the Schedule to this Act, any person who labels, packages, sells or advertises any other substance or article in such a manner that it is likely to be mistaken for such drug shall be guilty of an offence.

(3) Any person who labels, packages, sells or advertises any drug for which no standard has been prescribed or for which no standard is contained in any of the publications specified in the Schedule to this Act, shall be guilty of an offence unless such drug—

(a) is in accordance with the professed standard under which it is labelled, packaged, sold or advertised; and

- (b) does not resemble, in a manner likely to deceive, any drug for which a standard has been prescribed or which is contained in any of the publications specified in the Schedule to this Act.

11. Any person who sells to the prejudice of the purchaser any drug which is not of the nature, or is not of the substance, or is not of the quality, of the article demanded by the purchaser shall be guilty of an offence.

Prohibition against sale of drugs not of the nature, substance or quality demanded.

12. Any person who sells, prepares, preserves, packages, stores or conveys for sale any drug under insanitary conditions shall be guilty of an offence.

Preparation of drug under insanitary conditions.

C—Cosmetics

13. Any person who sells any cosmetic that—

Prohibited sale of cosmetics.

(a) has in or upon it any substance that may cause injury to the health of the user when the cosmetic is used—

- (i) according to the directions on the label of or accompanying such cosmetic; or
 (ii) for such purposes and by such methods of use as are customary or usual therefor; or

(b) consists in whole or in part of any filthy, disgusting, rotten, decomposed or diseased substance or of any injurious foreign matter; or

(c) was prepared, preserved, packed or stored under insanitary conditions,

shall be guilty of an offence.

14. Where a standard has been prescribed for a cosmetic, any person who labels, packages, sells or advertises any article in such a manner that it is likely to be mistaken for a cosmetic of the prescribed standard shall be guilty of an offence unless the article complies with the prescribed standard.

Standards of cosmetics.

15. Any person who sells, prepares, preserves, packages, conveys, stores or displays for sale any cosmetic under insanitary conditions shall be guilty of an offence.

Preparation of cosmetic under insanitary conditions.

D—Devices

Prohibited
sale of
devices.

16. Any person who sells any device that, when used according to directions on the label or contained in a separate document delivered with the device or under such conditions as are customary or usual, may cause injury to the health of the purchaser or user thereof shall be guilty of an offence.

Deception.

17. Any person who labels, packages, treats, processes, sells or advertises any device in contravention of any regulations made under this Act, or in a manner that is false, misleading or deceptive as regards its character, value, composition, merit or safety, shall be guilty of an offence.

Standards of
devices.

18. Where a standard has been prescribed for a device, any person who labels, packages, sells or advertises any article in such a manner that it is likely to be mistaken for that device shall be guilty of an offence unless the article complies with the prescribed standard.

Preparation of
devices under
insanitary
conditions.

19. Any person who sells, prepares, preserves, packages, stores or conveys for sale any device under insanitary conditions shall be guilty of an offence.

E—Chemical Substances

Adulteration
of chemical
substances.

20. Any person who sells any chemical substance that—
(a) is adulterated; or
(b) consists in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance or foreign matter,

shall be guilty of an offence.

Deception.

21. Any person who labels, packages, treats, processes, sells or advertises any chemical substance in contravention of any regulations made under this Act, or in a manner that is false, misleading or deceptive as regards its character, value, quality, composition, merit or safety, shall be guilty of an offence.

Standards of
chemical
substances.

22. Where a standard has been prescribed for a chemical substance, any person who labels, packages, sells or advertises any other substance in such a manner that it is likely to be mistaken for that chemical substance shall be guilty of an offence unless the substance complies with the prescribed standard for such chemical substance.

23. Any person who sells any chemical substance which—

Professed standards.

(a) is not in accordance with the professed standard under which it is sold; and

(b) resembles in a manner likely to deceive any branded chemical substance sold under a professed standard,

shall be guilty of an offence.

24. Any person who uses or disposes of any chemical substance in a manner likely to cause contamination of food or water for human consumption or in a manner liable to be injurious or dangerous to the health of any person shall be guilty of an offence.

Disposal of chemical substances in certain manner prohibited.

25. Any person who sells any chemical substance which, when used according to the instructions of the manufacturer or under such conditions as are customary or usual, might cause injury to the health of any person shall be guilty of an offence.

Prohibited sales of chemical substances.

26. Any person who sells, prepares, preserves, packages, stores or conveys for sale any chemical substance under insanitary conditions shall be guilty of an offence.

Preparation of chemical substances under insanitary conditions.

PART III—ADMINISTRATION AND ENFORCEMENT

27. (1) There is hereby established a Board, to be known as the Public Health (Standards) Board, which shall consist of ten members appointed by the Minister unless otherwise provided.

Establishment of Board.

(2) The members of the Board shall be—

(a) a chairman, who shall be the Director of Medical Services, or a person deputed by him in writing for the purposes of this Act;

(b) a vice-chairman, who shall be the Chief Health Inspector, Ministry of Health and Housing, or a person deputed by him in writing for the purposes of this Act;

(c) four members appointed to represent the Government;

(d) one member with special knowledge of the food-packing industry;

(e) one member representing local authorities;

(f) one member nominated by the Pharmaceutical Society of Kenya; and

(g) one member representing the National Assembly.

(3) All appointments made under this section shall be notified in the Gazette.

(4) The members of the Board appointed under paragraphs (d), (e), (f) and (g) of subsection (2) of this section—

(a) shall each hold office for a period of three years, and shall then retire but shall be eligible for reappointment;

(b) may at any time resign by instrument in writing addressed to the chairman.

(5) The quorum of the Board shall be four.

(6) The Board may invite any person to attend any particular meeting for the purpose of assisting or advising the Board, but no such person shall have any right to vote at such meeting.

(7) Subject to this Act, and to any general or special directions in writing by the Minister, the Board shall regulate its own proceedings.

Regulations.

28. (1) The Minister, after consultation with the Board, may make regulations—

(a) declaring that any food, drug or chemical substance or class of food, drugs or chemical substances is adulterated if any prescribed substance or class of substances is present therein or has been added thereto or extracted or omitted therefrom;

(b) respecting—

(i) the labelling and packing and the offering, exposing and advertising for sale of food, drugs, chemical substances, cosmetics and devices;

(ii) the size, dimensions and other specifications of packages of food, drugs, chemical substances, cosmetics and devices;

(iii) the sale or the conditions of sale of any food, drug, chemical substance, cosmetic or device; and

(iv) the use of any substance as an ingredient in any food, drug, chemical substance or cosmetic or device,

to prevent the consumer or purchaser thereof from being deceived or misled as to its quality, quantity, character, value, composition, effect, merit or safety or to prevent injury to the health of the consumer or purchaser;

- (c) prescribing standards of composition, strength, potency, purity, quality or other property of any food, drug, chemical substance, cosmetic or device;
- (d) respecting the importation or exportation of food, drugs, chemical substances, cosmetics and devices in order to ensure compliance with this Act and any regulations made hereunder;
- (e) respecting the method of preparation, preserving, packing, storing, conveying and testing of any food, drug, chemical substance, cosmetic or device in the interests of, or for the prevention of injury to the health of the consumer, user or purchaser;
- (f) respecting the carriage of goods subject to the provisions of this Act, including the licensing of vehicles used in such carriage;
- (g) requiring persons who sell food, drugs, chemical substances, cosmetics or devices to maintain such books and records as the Board considers necessary for the proper enforcement and administration of this Act and any regulations made hereunder;
- (h) requiring manufacturers of any drugs or chemical substances to submit test portions of any batch of such drugs or chemical substances;
- (i) providing for the analysis of food, drugs, chemical substances, cosmetics or devices for the purposes of this Act or for any other purpose and prescribing a tariff of fees to be paid for such analysis and for prescribing methods of analysis;
- (j) providing for the taking of samples of any article for the purposes of this Act or for any other purpose;
- (k) exempting any food, drug, cosmetic, chemical substance or device from all or any of the provisions of this Act and prescribing the conditions of such exemption.

(2) Where any regulations made under this Act or under the Public Health Act prohibit or restrict the addition of any preservative or other ingredient or material to any food, the

addition of such preservative, ingredient or material, if made in contravention of the regulations, shall, for the purposes of this Act, be deemed to render the food injurious to health.

(3) Where any regulations made under this Act or under the Public Health Act prescribes the composition of any article of food intended for sale, or prohibit or restrict the addition of any preservative or other ingredient or material to any such article, the purchaser of such article shall, unless the contrary is proved, be deemed for the purposes of this section to have demanded an article complying with the provisions of the regulations as regards the presence or amount of any constituent, ingredient or material specified in the regulations.

(4) The Minister, after consultation with the Board, may make regulations generally for carrying any of the purposes or provisions of this Act into effect.

Inspection of
animals by
authorized
officers.

29. An authorized officer may, for the purposes of this Act, inspect any animal intended for slaughter and may seize and examine any meat which he considers to be unfit for consumption.

Powers of
authorized
officers.

30. (1) An authorized officer may, at any hour reasonable for the proper performance of his duty—

- (a) enter any premises where he believes any article to which this Act or any regulations made hereunder apply is prepared, preserved, packaged, stored or conveyed, examine any such article and take samples thereof, and examine anything that he believes is used or capable of being used for such preparation, preservation, packaging or storing or conveying;
- (b) stop or search or detain any aircraft, ship or vehicle in which he believes that any article subject to the provisions of this Act is being conveyed and to examine any such article and take samples thereof for the purposes of this Act;
- (c) open and examine any receptacle or package which he believes contains any article to which this Act or any regulations made hereunder apply;
- (d) examine any books, documents, or other records found in any place mentioned in paragraph (a) of subsection (1) of this section that he believes contain

any information relevant to the enforcement of this Act with respect to any article to which this Act or any regulations made hereunder apply and make copies thereof or take extracts therefrom;

(e) seize and detain for such time as may be necessary any article by means of or in relation to which he believes any provision of this Act or any regulations made hereunder has been contravened.

(2) An authorized officer acting under this section shall, if so required, produce his authority.

(3) Any owner, occupier or person in charge of any premises entered by an authorized officer pursuant to paragraph (a) of subsection (1) of this section, or any person found therein, who does not give to the authorized officer all reasonable assistance in his power and furnish him with such information as he may reasonably require, shall be guilty of an offence.

(4) Any person who obstructs or impedes any authorized officer in the course of his duties or by any gratuity, bribe, promise, or other inducement prevents, or attempts to prevent the due execution by the authorized officer of his duty under this Act or any regulations made hereunder shall be guilty of an offence.

(5) Any person who knowingly makes any false or misleading statement either verbally or in writing to any authorized officer engaged in carrying out his duties under this Act or any regulations made hereunder, shall be guilty of an offence.

(6) An authorized officer shall release any article seized by him under this Act when he is satisfied that all the provisions of this Act and any regulations made hereunder with respect thereto have been complied with.

(7) Where an authorized officer has seized an article under this Act and the owner thereof or the person in whose possession the article was at the time of seizure consents to the destruction thereof, the article may be destroyed or otherwise disposed of as the authorized officer may direct.

(8) Where a person has been convicted of an offence under this Act or any regulations made hereunder, the court may order that any article by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the convicted person or

found with such article, be forfeited, and upon such order being made such articles and things may be disposed of as the court may direct.

(9) Where any article has been seized under the provisions of paragraph (e) of subsection (1) of this section and the owner thereof has been convicted of an offence under this Act, the article may be destroyed or otherwise disposed of as the authorized officer may direct.

(10) (a) Any person who removes, alters or interferes in any way with articles seized under this Act without the authority of an authorized officer shall be guilty of an offence.

(b) Any article seized under this Act may at the option of an authorized officer be kept or stored in the premises where it was seized or may at the direction of an authorized officer be removed to any other proper place.

(11) (a) An authorized officer may submit any article seized by him or any sample therefrom or any sample taken by him to a public analyst for analysis or examination.

(b) A public analyst shall as soon as practicable analyse or examine any sample sent to him in pursuance of this Act and shall give the authorized officer a certificate specifying the result of the analysis or examination, and such certificate shall be in such form as may be prescribed by the Minister on the advice of the Board.

(c) No person shall be appointed to be a public analyst for any area in which he is engaged directly or indirectly in any trade or business connected with the sale of food, drugs, cosmetics, devices or chemical substances.

(12) For the purposes of this section, a reference to "premises" shall be deemed to include a reference to any street, open space, place of public resort, bicycle or other vehicle utilized for the preparation, preservation, packaging, storage or conveyance of any article.

31. The Director of Medical Services may, in relation to any matter appearing to him to affect the general interests of the consumer, and the Director of Agriculture may, in relation to any matter appearing to him to affect the general interests of agriculture in Kenya, or any other person authorized in writing by the Minister so to do, may direct a public officer to procure for analysis samples of any food, drug, device, cosmetic or chemical substance and thereupon that

Power of
Director of
Medical Services
or
Director of
Agriculture
to have articles
analysed.

officer shall have all the powers of an authorized officer under this Act and this Act shall apply as if the officer were an authorized officer.

32. (1) It shall be the duty of every local authority to exercise such powers with which it is invested as may be, in its special circumstances, reasonably practicable so as to provide proper safeguards for the sale of food, drugs, cosmetics, devices and chemical substances in a pure and genuine condition, and in particular to direct its officers to procure samples for analysis.

Duty of local authority to enforce Act.

(2) If the Minister is of the opinion that a local authority has failed to execute or enforce any of the provisions of this Act in relation to any article and that its failure affects the general interests of the consumer, the Minister may by order empower an officer to execute and enforce these provisions or to procure the execution and enforcement thereof in relation to any article mentioned in the order.

(3) The expenses incurred under any such order shall be recoverable by the Minister from the local authority and the amount so recovered shall be treated as expenses incurred by the local authority under this Act.

33. (1) The Minister may direct any person who at the date of the direction or at any subsequent time carries on a business which includes the production, importation or use of substances of any class to which this Act applies to furnish to him, within such time as may be specified in such direction, such particulars as may be so specified of the composition and use of any such substance sold or for sale in the course of that business or used in the preparation of food or drugs.

Power of Minister to obtain particulars of certain food ingredients.

(2) Without prejudice to the generality of subsection (1) of this section, a direction made thereunder may require the following particulars to be furnished in respect of any substance, that is to say—

- (a) particulars of the composition and chemical formula of the substance;
- (b) particulars of the manner in which the substance is used or proposed to be used in the preparation of food;
- (c) particulars of any investigations carried out by or to the knowledge of the person carrying on the business in question, for the purpose of determining whether

and to what extent the substance, or any product formed when the substance is used as aforesaid, is injurious to, or in any other way affects health;

- (d) particulars of any investigations or inquiries carried out by or to the knowledge of the person carrying on the business in question for the purpose of determining the cumulative effect on the health of a person consuming the substance in ordinary quantities.

(3) No particulars furnished in accordance with a direction under this section, and no information relating to any individual business obtained by means of such particulars shall, without the previous consent in writing of the person carrying on the business in question, be disclosed except—

(a) in accordance with regulations made by the Minister, so far as may be necessary for the purposes of section 26 of this Act,

(b) for the purposes of any proceedings for an offence against the order or any report of those proceedings;

and any person who discloses any such particulars or information in contravention of this subsection shall be guilty of an offence.

PART IV—LEGAL PROCEEDINGS

Power of court to order licence to be cancelled.

34. On the conviction of any person for any offence under this Act or any regulations made hereunder, the court may, in addition to any other penalty which it may lawfully impose, cancel any licence issued under this Act, or any regulations made thereunder, to such person.

Prosecution.

35. (1) Where a public analyst having analysed or examined any article to which this Act applies or any regulations made hereunder apply, has given his certificate and from that certificate it appears that an offence under this Act has been committed, an authorized officer may take proceedings under this Act before any magistrate having jurisdiction in the place where any food or drug sold was actually delivered to the purchaser or the sample taken.

(2) In any proceedings under this Act, the contents of any container appearing to be intact and in the original state of packing by the manufacturer thereof, shall be deemed, unless the contrary is proved, to be an article of the description specified on the label.

36. (1) A person found guilty of an offence under this Act for which no special penalty is provided shall be liable—

Penalties.

- (a) in the case of a first offence to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment;
- (b) in the case of a subsequent offence, to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) In any prosecution under this Act the summons shall state the particulars of the offence or offences alleged and also the name of the prosecutor and shall not be made returnable in less than fourteen days from the date on which it is served.

37. In any proceedings under this Act—

Certificates of analysis and presumptions.

- (a) a certificate of analysis purporting to be signed by a public analyst shall be accepted as prima facie evidence of the facts stated therein:

Provided that—

- (i) the party against whom it is produced may require the attendance of the public analyst for the purposes of cross-examination, and
 - (ii) no such certificate of a public analyst shall be received in evidence unless the party intending to produce it has, before the trial given to the party against whom it is intended to be produced, reasonable notice of such intention together with a copy of the certificate;
- (b) evidence that the package contains any article to which this Act or any regulations made thereunder apply, bore a name, address or registered mark of the person by whom it was manufactured or packed shall be prima facie evidence that such article was manufactured or packed, as the case may be, by that person;
 - (c) any substance 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;

- (d) any substance commonly used for human consumption which is found on premises used for the preparation, storage, or sale of that substance and any substance commonly used in the manufacture of products for human consumption which is found on premises used for the preparation, storage or sale of those products, shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing products for sale, for human consumption;
- (e) any substance capable of being used in the composition or preparation of any substance commonly used for human consumption which is found on premises on which that substance is prepared shall, until the contrary is proved, be presumed to be intended for such use.

Saving of Public Health Act and Dangerous Drugs Act. Cap. 242. Cap. 245.

38. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Public Health Act and the Dangerous Drugs Act.

Minister's power to amend Schedule.

39. The Minister may by order, amend the Schedule to this Act.

PART V—REPEAL

Amendment of Cap. 63.

40. Sections 187 to 190 (inclusive) of the Penal Code are hereby repealed.

Amendment of Cap. 244.

41. Section 36 of the Pharmacy and Poisons Act is hereby repealed.

Amendment of Cap. 127 (1948).

42. The Food and Drugs (Adulteration) Act is hereby repealed.

SCHEDULE

(ss. 2 and 10)

The current editions of:

<i>Name</i>	<i>Abbreviation</i>
Pharmacopoeia Internationalis	(Ph.I.)
The British Pharmacopoeia	(B.P.)
The Pharmacopoeia of the United States of America	(U.S.P.)
Codex Français	(Codex)
The Canadian Formulary	(C.F.)
The British Pharmaceutical Codex	(B.P.C.)
The National Formulary	(N.F.)
The British Veterinary Codex	(B.Vet.C.)