

Food and Drugs Act (Cap 303)

CHAPTER 303 THE FOOD AND DRUGS ACT

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CHAPTER 303

FOOD AND DRUGS 22 of 1972

13 of 1994

An Act to protect the public against health hazards and fraud in the sale and use of food, drugs, cosmetics and medical devices; and to provide for matters incidental thereto or connected therewith.

[1st December, 1972]

PART I PRELIMINARY

1. This Act may be cited as the Food and Drugs Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"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 or device;

"article" includes-

(a) any food, drug, cosmetic or device and any labelling or advertising materials in respect thereof; or

(b) anything used for the preparation, preservation, packing or storing of any food, drug, cosmetic or device;

"authorised officer" means a Medical Officer of Health, a Health Inspector, or any suitably qualified person authorised in writing by the Minister or by a local authority with the approval of the Minister for the purposes of this Act, and-

(a) for the purpose of taking of samples under sections twenty-four and twenty-six and sending them to a public analyst, and for receiving reports thereof under section twenty-five, includes a police officer of or above the rank of Assistant Inspector and an officer of the Department of Customs and Excise authorised in that behalf by the Controller of Customs and Excise;

(b) for the purpose of exercising control in respect of drugs, cosmetics or devices, includes an inspector as defined in the Dangerous Drugs Act; and Cap. 302

(c) for the purpose of any proceedings under section thirty, includes the principal officer as defined in the Local Government Act; Cap. 281

"Board" means the Food and Drugs Board established by section twenty-two;

"cosmetic" includes any substance or mixture of substances manufactured, sold or represented for use in cleansing, improving or altering the complexion, skin, hair, eyes, teeth or nails, 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; 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" has the meaning assigned to it in the Public Health Act; Cap. 295

"insanitary conditions" means such conditions or circumstances as might cause contamination

of a food, a drug or a cosmetic with dirt or filth or might render the same injurious or dangerous to health;

"label" includes any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to or included in, belonging to, or accompanying any food, drug, cosmetic or device;

"local authority" means-

(a) a municipal council; or

(b) a township council; or

(c) a rural council; or

"Medical Officer of Health" has the meaning assigned to it in the Public Health Act;
Cap.

"municipal council", "District Council" and "township council" have the meanings assigned respectively thereto in section two of the Local Government Act; Cap. 281

"package" includes anything in which any food, drug, cosmetic or device is wholly or partly placed or packed, and includes any basket, pail, tray or receptacle of any kind, whether open or closed;

"premises" includes-

(a) any building or tent or other structures, permanent or otherwise, together with the land on which the same is situated and any adjoining land used in connection therewith, and includes any vehicle, conveyance or vessel; and

(b) for the purpose of section twenty-four, a reference to premises shall be deemed to include reference to any street, open space or place of public resort, bicycle or other vehicle used for the preparation, preservation, packaging, storage or conveyance of any article;

"preparation" includes manufacture and any form of treatment, and "prepare" 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;

"subordinate court" means a subordinate court constituted under the Subordinate Courts Act; Cap. 28

"substance" includes liquid and gas.

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) consists in whole or in part of any filthy, putrid, rotten, decomposed or diseased substance or foreign matter, or is otherwise unfit for human consumption; or

(c) is adulterated;

shall be guilty of an offence. Prohibition against sale of poisonous, unwholesome or adulterated food

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

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

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

B. Drugs Sale and preparation of food under insanitary conditions

(Repealed by Part X, section 65 of Act No. 14 of 2004)

8. Any person who sells any drug that- (a) is adulterated; or

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

shall be guilty of an offence. Prohibited sale of drugs

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

Act, shall be guilty of an offence. Deception

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. Standards of drugs

(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, any person who labels, packages, sells or advertises any other substance or article in such 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, 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.

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, packages or stores for sale any drug under insanitary conditions shall be guilty of an offence.

C. Cosmetics Sale and preparation of drugs under insanitary conditions

(Repealed by Part X, section 65 of Act No. 14 of 2004)

13. Any person who sells any cosmetic that-

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

(i) according to the direction 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, 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, packages or stores for sale any cosmetic under insanitary conditions shall be guilty of an offence.

D. Devices Sale and preparation of cosmetics under insanitary conditions

(Repealed by Part X, section 65 of Act No. 14 of 2004)

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. Prohibited sale of devices

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

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. Standards of devices

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

PART III

IMPORTATION AND WARRANTY

20. (1) Subject to the provisions of subsection (2), the importation of any article which does not comply with the provisions of this Act is hereby prohibited. Importation

(2) Where an article sought to be imported into Zambia would, if sold in Zambia, constitute a contravention of this Act, the article may be imported into Zambia for the purposes of satisfactorily relabelling or reconditioning the same so that the provisions of this Act are complied with and, where such relabelling or reconditioning is not carried out within three months of the importation, such article shall be exported by the importer within a further

period of one month or such other period as the Minister may determine and, where it is not so exported, it shall be forfeited and disposed of as the Minister may direct.

21. (1) No manufacturer or distributor of, or dealer in, any article shall sell such article to any vendor unless he gives a warranty in writing in the prescribed form about the nature and quality of such article to the vendor.

Warranty

(2) If any person contravenes the provisions of subsection (1) or gives a warranty which is false, he shall be guilty of an offence.

PART IV

ADMINISTRATION AND ENFORCEMENT

22. (1) The Minister shall, as soon as may be after the commencement of this Act, constitute a Board called the Food and Drugs Board to advise the Minister on matters arising out of the administration of this Act and to carry out such other functions as may be assigned to it under this Act. Food and Drugs Board

(2) The Board shall consist of the following members:

(a) the Permanent Secretary, Ministry of Health, ex officio, who shall be the chairman;

(b) the Secretary-General of the National Council for Scientific Research, ex officio;

(c) the Chief Health Inspector employed in the Ministry of Health, ex officio;

(d) the Chief Pharmacist employed in the Ministry of Health, ex officio;

(e) one public analyst nominated by the Minister;

(f) one member representing the National Food and Nutrition Commission established under section three of the National Food and Nutrition Commission Act, and nominated by the Commission; Cap. 308

(g) one member nominated by the Minister from amongst the Medical Officers of Health employed by local authorities;

(h) one member who is a person connected with or dealing in the food industry nominated by the Minister;

(i) one member nominated by the Minister from amongst persons who are members of the Pharmaceutical Society of Zambia; and

(j) one member of the Zambian Bureau of Standards Board nominated by the said Board

(3) A member of the Board who is not an ex officio member shall, unless his office becomes vacant earlier by resignation, death or otherwise, be entitled to hold office for three years and shall be eligible for renomination.

(4) The quorum of the Board shall be five.

(5) The Board may invite any person to attend any particular meeting for the purpose of assisting or advising