

FOOD SAFETY AND QUALITY BILL, 2015

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OBJECTS AND REASONS



FOOD SAFETY AND QUALITY BILL, 2015

**A BILL FOR AN ACT TO REGULATE FOOD SAFETY AND QUALITY
AT ALL STAGES IN THE FOOD CHAIN; TO PROVIDE THE
APPROPRIATE FOOD SAFETY MEASURES; TO FACILITATE TRADE
IN SAFE FOOD AND TO REGULATE OTHER MATTERS
CONNECTED THERETO**

Enacted by the Parliament of The Bahamas

PART I – PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Food Safety and Quality Act, 2015.
- (2) This Act shall come into force on a day to be appointed by the Minister by notice published in the Gazette and different dates may be appointed by such a notice for the coming into force of particular sections or parts of this Act.

2. Interpretation.

In this Act —

“**additive**” means any substance not normally consumed as food by itself and not normally used as a typical ingredient of food, whether or not it has nutritional value; the intentional addition of which to food for a technological (including organoleptic) purpose in the production, manufacture, preparation, treatment, packing, packaging, transport or storage of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food, but does not include contaminants or

substances added to food for the purpose of maintaining or improving nutritional qualities;

“Authority” means the Bahamas Agricultural Health and Food Safety Authority, the body corporate established under section 4 of the Bahamas Agricultural Health and Food Safety Authority Act, 2015;

“authorized officer” means so person designated under section 14 and qualified to perform certain specified functions of a food inspector;

“Committee” means the Food Safety and Quality Committee established under section 9 of this Act;

“contaminant” means any substance not intentionally added to food, which is present in food as a result of the production (including operations carried out in crop production, animal production and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport and holding of food or as a result of environmental contamination, including chemical and microbial contamination;

“enforcement agency” means a Ministry, Department, agency or other other body responsible for administering legislation relevant to food safety or food trade;

“exporter” means any persons who, as an owner or as consignor, consignee, agent or broker is in possession of or is in any way entitled to the custody or control of any food exported from The Bahamas respectively;

“food” means any substance, whether processed, semi-processed or raw, which is intended, or reasonably intended for human consumption, and includes drink, including water, chewing gum and any substance which has been used in the production, manufacture, preparation or treatment of food, but does not include cosmetics or tobacco or substances used only as drugs;

“food business” or **“business”** means any business, however small, where production, manufacture, preparation, treatment, packing, packaging, transport, handling, serving, storage or sale in relation to food is carried out, whether for profit or not, whether a permanent or temporary structure and whether on land or at sea;

“food business operator” or **“operator”** means a person who owns or is in charge of a food business, including farms, agricultural units, collection and storage facilities, importers, exporters and other person having for the time being the possession, custody or control thereof at any stage of the food chain;

“food chain” consists of the entire sequence of stages and operations involved in the creation and consumption of food products; and

includes every step from initial production to final consumption of all food and food ingredients;

“**food safety system**” means a system which identifies, evaluates and controls hazards which are significant for food safety, which include, but are not limited to the following—

- (a) Hazard Analysis Critical Control Point (HACCP); and
- (b) Good Manufacturing Practices (GMP);

“**hazard**” means a biological, chemical or physical agent in, or condition of food with the potential to cause an adverse human health effect;

“**importer**” means any persons who, as an owner or as consignee, consignee, agent or broker is in possession of or is in any way entitled to the custody or control of any food imported into The Bahamas respectively;

“**inspector**” means a person designated under section 13 and qualified to act as such under this Act;

“**Minister**” means the Minister responsible for food safety;

“**premises**” includes any building, tent or other structure, permanent or otherwise, together with the land on which the same is situated and any adjoining land employed in connection therewith, used for the production, manufacture, packing, packaging, transport, handling, serving, storage or sale of any food;

“**production of food**” means the cultivation, rearing or growing of food including harvesting, milking and farmed animal production prior to slaughter;

“**risk assessment**” means a scientifically based process consisting of —

- (a) hazard identification;
- (b) hazard characterization;
- (c) exposure assessment; and
- (d) risk characterization;

“**risk communication**” means the interactive exchange of information and opinions concerning risks among risk assessors, risk managers, consumers and other interested parties;

“**risk management**” means the process of weighing policy alternatives in the light of results of risk assessment, and, if required, selecting and implementing appropriate control options, including regulatory measures;

“**Sanitary and Phytosanitary Appeal Tribunal**” means the Appeal Tribunal established under section 25 of the Bahamas Agricultural Health and Food Safety Authority Act, 2015;

“**sell**” includes to offer, advertise, keep, store, display, transmit, consign, convey or deliver for sale, or to exchange or to dispose of to any person in any manner whether for consideration or otherwise, and “sold”, “selling” and “sale” shall have corresponding meanings;

“**SPS Agreement**” means the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures;

“**vehicle**” means any vessel, aircraft, conveyance, cart, container, animal or other thing that can transport food from one place to another.

3. Objectives of Act.

- (1) The objectives of this Act are—
 - (a) to regulate food safety and quality at every stage of the food chain;
 - (b) to regulate all food, including fish and meat; and
 - (c) generally, to protect human health, and consumer interests, including fair practices in trade.
- (2) In order to achieve the objectives specified in paragraph (1), food safety and quality shall be based on risk assessment, which is based on the available scientific evidence, undertaken in an independent, objective and transparent manner.
- (3) Where relevant scientific evidence is insufficient, food safety measures may be adopted on the basis of available pertinent information, including information from relevant international organizations.

4. Application of Act.

- (1) This Act applies to food businesses.
- (2) Food shall be handled in accordance with the Health Rules, *Ch. 231* and as provided by any Regulations under this Act.
- (3) Nothing in this Act shall be construed as affecting or derogating from the functions of the Director under the Animal Health and Production Act or any officer under any other law with responsibility to ensure that animal and plant production are carried out using good agricultural practices.
- (4) For the avoidance of doubt, in the event of any conflict or inconsistency between the provisions of this Act and any other enactment in force in The Bahamas, the provisions of this Act shall prevail.

PART II - ADMINISTRATION

5. Director of Food Safety.

- (1) There shall be a Director of Food Safety, (hereinafter referred to as “the Director”) appointed under section 12 of the Bahamas Agricultural Health and Food Safety Authority Act, 2015.
- (2) The Director shall be responsible for administering and carrying out the objectives of this Act.
- (3) The Director shall be a food scientist, chemist or any suitably qualified person with experience in food safety and quality.

6. Functions of the Director.

- (1) For the purposes of this section “**food fraud**” means a false representation of a food—
 - (a) whether by description, labelling, false misleading allegations; or by concealment of what should have been disclosed;
 - (b) that deceives and is intended to deceive another so that the individual will act upon it to his injury.
- (2) The functions of the Director shall be—
 - (a) to formulate a food safety and quality policy and strategy and regulate all food, including fish and meat;
 - (b) to establish a coordinated and integrated risk based food safety and quality control action plan, inclusive of mitigation and containment mechanisms designed to protect, enhance and ensure food safety and to protect consumers against food fraud;
 - (c) to develop a national food emergency alert plan to deal with food emergencies and to take action in a food safety emergency or the risk of a food safety emergency;
 - (d) to approve food safety measures and ensure that all measures taken under this Act are done so on the basis of risk assessment;
 - (e) to use risk management to ensure that all food produced, distributed or marketed in The Bahamas, whether for domestic consumption or export, and whatever its origin, meets the highest standards of food safety;
 - (f) to provide advice, information or assistance to all enforcement agencies with responsibility for any aspect of food safety or food trade;
 - (g) to serve as the National

- x contact point and to distribute information received from the Codex Alimentarius Commission and other international or regional entities and coordinate the circulation of draft standards within The Bahamas and the collection of comments thereon from interested governmental and non-governmental stakeholders;
 - (h) to act as the coordinating body for the audit of food safety systems;
 - (i) to advise the Committee on the preparation of draft food safety and quality standards harmonized to international standards;
 - (j) to promote and carry out consumer education regarding food safety and quality as well as other aspects of risk communication and to promote and encourage research in food safety;
 - (k) to develop training programmes required to carry out the objectives of this Act;
 - (l) to evaluate equivalence of sanitary measures taken by trading partners; and
 - (m) to do all such acts as appears to be requisite, advantageous or convenient for or in connection with the carrying out of the functions of the Food Safety and Quality Unit or to be incidental to the proper discharge and may carry on any such activities in that behalf either alone or in association with any other person or body whether public or private.
- (3) The Director shall have under his charge—
- (a) a public officer appointed pursuant to section 13(1);
 - (b) any duly qualified person designated as an authorized officer under section 14(1).
- (4) The Director shall develop and implement training programs, required to carry out the objectives of this Act, including, but not limited to—
- (a) food safety systems;
 - (b) analytical methods and laboratory quality assurance;
 - (c) risk based food safety for food businesses; and
 - (d) risk based inspection and food safety systems for food businesses.
- (5) The Director shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of its functions or to be incidental to their proper discharge and may carry on any activities in that behalf either alone or in association with any other person or body whether public or private.

7. Powers of the Director.

- (1) The Director shall—
 - (a) regulate the limits or ban the presence of additives and contaminants in food or animal feed;
 - (b) prohibit the production, harvesting, import, export or consumption of any food, where the Authority determines that the food or any specified class or description of that food is dangerous or injurious to persons consuming the food.
- (2) The Director may —
 - (a) cause any food to be tested or examined as prescribed;
 - (b) cause any food to be held or isolated in any place, and prohibit the removal of food from that place for such time as shall be prescribed; or
 - (c) require the disposal or destruction of any food in accordance with regulations under the Environmental Health Services Act (*Ch. 232*).
- (3) The Director shall, in consultation with the Bahamas Agricultural Health and Food Safety Board, prepare a national food emergency alert plan, which shall updated from time to time.
- (4) The national food emergency alert plan shall be published in the official Gazette and shall give the Director the primary responsibility in the event of a food emergency.

8. Powers of the Minister.

In the interest of public safety, the Minister may on the recommendation of the Director—

- (a) by Order, prohibit the production, manufacture, preparation or sale of any food or any specified class or description food for a specified period;
- (b) stipulate conditions for the production, manufacture, preparation or sale of any food or any specified class or description of food.

FOOD SAFETY AND QUALITY SCIENTIFIC ADVISORY COMMITTEE

9. Establishment of the Food Safety and Quality Committee.

- (1) There is hereby established a Food Safety and Quality Committee (hereafter referred to as “the Committee”).

- (2) The Committee shall be comprised of representatives from the Ministries and public authorities which play a role in food safety, as well as representatives from the private sector as specified in the *First Schedule*.
- (3) The public authorities represented on the Committee shall designate members with a qualification or function related to food safety and quality as members of the Committee.
- (4) The membership of the Committee, the rules to be admitted as a member and the internal procedures of the Committee shall be prescribed by regulations.

10. Functions of the Committee.

- (1) The functions of the Committee are—
 - (a) to advise the Director on food safety and quality matters, including those related to the production, manufacture, import, export, labelling and sale of food;
 - (b) to advise on food-consumers protection and on emerging food safety and quality issues, including those related to street food vending;
 - (c) to provide assistance and advice to the Director on the formulation, review and implementation of a food safety and quality policy, including procedures for emergency response;
 - (d) to propose and assist in the formulation and amendment of regulations, orders, food standards, codes of practice and notices under this Act;
 - (e) to advise The Bahamas participation in the work of the Codex Alimentarius Commission and other international and regional entities, including representation at meetings and to forge linkages with local, regional and international entities;
 - (f) to encourage consumer education regarding food safety and quality as well as other aspects of risk communication;
 - (g) to, on its own initiative, discuss any matter connected with food in The Bahamas, and the Director shall report to the Authority on its discussions;
 - (h) to serve as the National Codex Committee; and
 - (i) to perform all other functions assigned to it under this Act.
- (2) The Committee may, where necessary, establish *ad-hoc* or permanent sub-committees to advise the Committee.

11. Appointment of Scientific Committee.

- (1) The Minister shall, on the advice of the Committee, appoint an independent scientific committee (to be known as “the Scientific Committee”) to assist the Director in conducting food safety risk assessments.
- (2) The composition and functions of the Scientific Committee shall be as specified in the *Second Schedule*.

12. Functions of Scientific Committee.

In this section “**risk analysis**” means a process composed of risk assessment, risk management and risk communication in accordance with internationally accepted procedures and standards.

- (1) The Scientific Committee shall be responsible for—
 - (a) evaluating, in response to official requests or on its own initiative, physical, chemical or biological risks to health arising throughout the food chain;
 - (b) advising the Director on the appropriate measures to be taken to protect consumer safety; and
 - (c) providing input into and developing proposed regulations or proposed rules on any subject matter within its mandate.
- (2) In carrying out its functions, the Scientific Committee shall take into account—
 - (a) the latest scientific research;
 - (b) information on risk analysis from recognized international and national institutions and other information regarding procedures, methods and means of production;
 - (c) the results of sampling and analysis; and
 - (d) any other relevant data.
- (3) The Scientific Committee shall cooperate with the Director, the Food Safety and Quality Committee and all other relevant authorities regarding risks, risk factors and risk perception, and shall scientifically justify its decisions based on risk assessments.

FOOD INSPECTORS

13. Food inspectors.

- (1) The Chairman of the Authority may designate a person who is serving as a public officer to carry out the functions of a food inspector.

- (2) The Chairman shall issue a certificate of appointment to every person under this section.

14. Designation of authorized officers.

- (1) The Bahamas Agricultural Health and Food Safety Authority Board shall, in consultation with the Minister, in writing, and for a prescribed period, designate any duly qualified person, not being a public officer, as an authorized officer to perform certain specified functions of a food inspector as shall be stipulated in writing.
- (2) The Director shall not delegate any of the following functions to an authorized officer—
 - (a) issuing any official documentation;
 - (b) acting as an official liaison with other Ministries or foreign authorities or any notification responsibilities;
 - (c) approving food standards or food safety measures; and
 - (d) other functions as may be prescribed by regulations.
- (3) The Director shall issue to every food inspector and authorized officer an identification badge showing his designation and in the case of an authorized officer, the duration of his service shall also be stipulated on his identification badge.
- (4) Any person with any actual or reasonably perceived interest in a matter or other action taken by the Director, whether such interest is direct or indirect shall not deal with such matter.
- (5) Where a person under subsection (4) becomes aware of such interest, he must notify the Director in writing within three days of becoming aware of such interest.
- (6) Upon receipt of the notice in subsection (5), the Director shall as soon as possible reassign such matter to another officer.

15. Duties and powers of inspectors.

- (1) An inspector may, at all reasonable times, upon presentation of his identification badge, enter any place where he has reason to believe that food is produced, manufactured, preserved, prepared, packaged, stored, sold, transported, imported or exported and may—
 - (a) examine any such food and take samples thereof for testing, and examine or test anything which the inspector has reason to believe is used or is capable of being used in such foods;

- (b) enter or examine any vehicle that he believes on reasonable grounds is used to carry food that contravenes this Act and examine any such food found therein and take samples thereof for testing;
- (c) stop and search any vehicle in which food is being or is reasonably suspected of being handled or stored or in which any other activity in connection with food is being, or is suspected of being carried out;
- (d) open and examine any receptacle or package that the inspector believes on reasonable grounds contains any food;
- (e) examine and make copies of or extracts from any books, documents or other records found in any place referred to in this section that the inspector believes on reasonable grounds contain any information relevant to the enforcement of this Act;
- (f) seize and detain for such time as may be necessary any food or any article that is intended for sale and that is likely to be mistaken for that food unless the article complies with the prescribed food standard;
- (g) take photographs, conduct video taping or demand from the food business operator, the production of any records or any explanation with respect thereto, regarding the food business and the operation thereof, and where necessary, make copies or take extracts there from;
- (h) in the prescribed manner, examine, take samples, test or analyse any food, substance or other thing;
- (j) seal off access to or close the business, where he has reasonable grounds to believe that the continued operation thereof can be injurious to public health;
- (k) read any measuring instruments installed on the premises or use any other means necessary to record data generated in that business;
- (l) determine whether any of the provisions of this Act are being violated;
- (m) ensure that proper food safety measures are being carried out;
- (n) examine and inspect food handlers and other personnel employed therein;
- (o) by notice in writing, prohibit the distribution or sale of food for the period specified in the notice, where he has reasonable grounds to believe that such food is contaminated or unwholesome;
- (p) serve a suspension order or revocation order issued by the Director suspending or revoking the operation of a food business for the

reasons stipulated in section 27 and shall stipulate reasons for such service;

- (q) inspect any operation or process carried out on such premises.
- (2) An inspector or peace officer may, without a warrant, apprehend any person who refuses to allow the inspector entry under subsection (1) and the inspector shall take him forthwith before a magistrate to be dealt with according to law.
- (3) A person apprehended under this section shall be taken with all practicable speed before a magistrate and shall not be detained without a warrant longer than is necessary for that purpose.
- (4) An inspector shall investigate an offence or alleged or suspected offence under this Act or any regulations and shall have all powers, privileges, protections and authorities conferred by law on a police officer for and in relation to the investigation of an offence.
- (5) Where it appears to an inspector that the food at a food business is unfit for human consumption; that the food is harmful or is likely to cause harm to human health, the inspector shall order the operator to remove the food for a specified period in order to take samples of the food for analysis and if the operator fails to do so, the food inspector shall—
 - (a) seize and seal such food, and issue a notice to the food business operator that the food or any portion thereof is for a specified period of time not to be sold, removed, manipulated, tampered with or otherwise altered without the inspector's authorization; or
 - (b) issue a written notice temporarily ordering the food to be removed to a specified place;
 - (c) take samples of the food for analysis.
- (6) The food inspector shall immediately notify the Director where action is taken under subsection (5) in instances where it appears that any food is likely to harm or cause harm to human health.
- (7) The Director shall immediately give written notification to the relevant governmental and non-governmental entities so that all measures necessary to ensure the protection of consumers, including public warnings, recalls orders, marketing restrictions, marketing bans or other appropriate measures, are carried out.
- (8) The inspector shall give a food business operator written notification of the results of the analysis under subsection (5) (c) and where the analysis shows that the food is unfit for human consumption, the food inspector shall order the immediate destruction of the food.
- (9) Within fourteen days of any action taken by the food inspector under subsection (5), the food inspector shall review the circumstances to

determine whether the circumstances that gave rise to the notice still exist.

- (10) Where the food inspector—
 - (a) determines that the circumstances no longer exists, he shall withdraw the notice, and where appropriate, allow the release of any food from the place where it is stored;
 - (b) determines that the circumstances still exists, he may order that any such food be destroyed or disposed of so as to prevent its use for human consumption, and shall supervise the destruction or disposal.
- (11) The costs of any action taken by the food inspector under this section shall be borne by the food business operator.

16. Inspector to issue notice.

- (1) Where an inspector takes any action or applies any food safety measure to implement this Act, he shall prepare a written notice, and provide a copy to the operator of the business.
- (2) All food safety measures and actions shall be based on risk assessment.
- (3) Where no person is in actual occupation of a food business, or where the operator cannot be located, service of any notice under this Act shall be made by affixing the notice in a conspicuous place on the outside of the business, and such affixing shall be deemed good service of the notice.
- (4) It shall be an offence to remove or tamper with a notice issued under subsection (3).

17. Improvement notices.

- (1) Where an inspector has reasonable grounds to believe that a food business is failing to comply with any regulations to which this section applies, he shall, by written notice, hereinafter referred to as an “improvement notice”, served on the operator—
 - (a) state the inspector's grounds for believing that the operator is failing to comply with the regulations;
 - (b) specify the matters which constitute the operator's failure to comply;
 - (c) specify the measures which the operator must take to remedy the failures referred to in paragraph (b);
 - (d) require the operator to implement those measures, or measures which are at least equivalent to them, within the time period as shall be specified in the improvement notice.

- (2) The provisions of this section 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 hygienic conditions and practices in connection with the carrying out of any process or treatment in the preparation of food.
- (3) Any person who fails to comply with an improvement notice commits an offence.

18. Disclosure of information.

- (1) For the purposes of this section “**information**” includes any item or thing relevant to the information.
- (2) An inspector shall not disclose any information to a third party acquired in the performance of the inspector's duties unless otherwise ordered to do so in writing by the Director or by a court.
- (3) Notwithstanding, subsection (2) an inspector may disclose information in accordance with the law to any of the persons under subsection (4) where the inspector is of the opinion that—
 - (a) there is a food safety risk; and
 - (b) disclosure to any of those persons is necessary to protect the health or safety of the public or that of an individual.
- (4) A disclosure under subsection (3) shall be made immediately to—
 - (a) a Minister for the purpose of the administration of this or any other Act dealing with public health or safety;
 - (b) the Chief Medical Officer or medical officer where the risk occurs; or
 - (c) any person whom the Director considers affected or may be affected by the risk or who may contribute to the prevention, reduction or elimination of the risk.
- (5) Subject to subsection (3), in any instance where an inspector obtains information from a person who asserts a claim that the information provided to the food inspector should be treated as a trade secret or as confidential business information, the Director, any person or entity to whom or to which the information is disclosed shall treat that information as a trade secret or as confidential.

LABORATORIES

19. Designation of laboratories.

- (1) The Minister shall designate an official laboratory which shall be operated by officers under this Act.
- (2) Notwithstanding subsection (1) the Minister may on the advice of the Director, designate any suitable laboratory as an “official laboratory” for the purposes of this Act.
- (3) No person who has any actual or reasonably perceived interest in a matter or other action to be taken by the Director, whether such interest is direct or indirect interest, shall act or perform any duties with regard to any such matter.
- (4) Where a person designated under subsection (1) becomes aware of such interest, he must notify the Director in writing within three days.
- (5) Upon receipt of a notice referred to subsection (4), the Director shall immediately transfer the matter to another laboratory.

PART III – STANDARDS FOR FOOD SAFETY AND QUALITY

20. Food standards.

- (1) Food standards shall be formulated or adopted by the Bureau of Standards in consultation with the Food Safety and Quality Committee based on relevant regional and international standards and such standards shall be declared a national standard by the Bureau of Standards.
- (2) The Director of Food Safety shall be responsible for the enforcement of food standards.
- (3) Any person who prepares or sells any food for which there is a food standard and such food does not comply with that standard, commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars.

21. Traceability of food.

- (1) For the purpose of this section, “**traceability**” means the ability to follow the movement of food through all stages of production, processing and distribution.
- (2) The operator of every food business shall establish a system to trace the origin and movement of food items.

- (3) Every operator must—
 - (a) be able to identify the source of all food, animal feed, or any substance intended to be, or expected to be, incorporated into food or animal feed;
 - (b) be able to identify the businesses to which his products have been supplied; and
 - (c) ensure that food and animal feed are adequately labelled with a batch identity to facilitate its traceability.
- (4) The information referred to in subsection (3) must—
 - (a) be recorded in the Food Register under section 22; and
 - (b) be in a form that enables it to be made available to the competent authorities on demand.

22. Food register.

The operator of every food business shall keep a register specifying—

- (a) the daily quantities of food produced, purchased, transported, distributed or sold;
- (b) the full name and address of each person—
 - (i) from whom food is bought;
 - (ii) in the case of food distributed or sold in bulk, to whom it is distributed or sold;
 - (iii) all persons employed therein; and
 - (iv) such other particulars as may be required by the Director;
- (c) the type, make, model and licence number of each vehicle which transports food to or from the business;
- (d) the source of ingredients used in food production or food preparation; and
- (e) the type and quantity of packaging material used in the packaging of food.

23. Labelling and advertising.

- (1) No person shall offer for sale in The Bahamas any package of food unless the label thereon—
 - (a) is written in English;
 - (b) specifies the product name;
 - (c) specifies the date of manufacture and expiration;
 - (d) permits the traceability of the food as prescribed in regulations; and
 - (e) sets out such particulars as may be prescribed in regulations.

- (2) Where food that is not packaged is displayed for sale, it shall bear an identification mark.
- (3) The Director shall prescribe requirements for food advertising in accordance with applicable legislation.
- (4) Any foods not in compliance with the requirements under this section shall be confiscated by the Director.
- (5) Any person selling food in contravention of this section commits an offence and shall be liable to a fixed penalty as prescribed by regulations.

24. Responsibilities of medical practitioners and nurses.

- (1) It shall be the duty of all medical practitioners and nurses to report every incidence or suspected incidence of a food-related illness to the Director and the Chief Medical Officer on a regular basis.
- (2) Any person who fails to act in accordance with subsection (1) commits an offence and shall be liable upon summary conviction to a fine of three thousand dollars.

PART IV - FOOD BUSINESSES OPERATORS

REGISTRATION REQUIREMENTS FOR FOOD BUSINESSES

25. Requirements for operation of food businesses.

- (1) No person shall operate any premises as a food business unless—
 - (a) the premises are registered as a food business;
 - (b) the business has in place food safety systems; and food safety standards; and
 - (c) the business meets all requirements under this Act.
- (2) Any person who operates a food business without being registered commits an offence and is liable to a fixed penalty as prescribed by regulations.

26. Registration of food businesses.

- (1) Any person who is desirous of operating a food business shall—
 - (a) make an application to the Director to be registered using the prescribed form; and
 - (b) pay the prescribed fee.
- (2) Notwithstanding subsection (1), a person who is desirous of operating a food business that cultivates food or rears animals for food shall make

application to be registered under the Plant Protection Act or the Animal Health and Production Act respectively.

- (3) Once an applicant under subsection (1) satisfies the requirements for registration, the Director shall—
 - (a) register the business;
 - (b) issue such business a certificate of registration, with a unique identification number, specifying such terms and conditions as the Director deems necessary.
- (4) Where the application is denied, the Director shall inform the applicant of the reasons in writing.
- (5) A certificate of registration shall be valid for a year and subject to renewal upon payment of the requisite fee.
- (6) The grant of a certificate of registration shall be a pre-condition to the issuance of a business licence under the Business Licence Act (*No. 25 of 2010*).

27. Suspension or revocation of certificate of registration.

- (1) Where an operator fails to—
 - (a) observe any provision of this Act; or
 - (b) observe the terms and conditions of a certificate of registration; or
 - (c) has been convicted of an offence under this Act,the Director may order the immediate suspension or revocation of the registration.
- (2) If the Director proposes to suspend or revoke the registration, he must
 - (a) give the operator notice in writing of the proposal;
 - (b) give written reasons specifying the grounds for the proposal; and
 - (c) invite the operator to show cause why the Director should not proceed as proposed.
- (3) Where the Director has ordered the immediate suspension or revocation of the registration—
 - (a) the operator shall immediately cease all operations of the business until further notice;
 - (b) he shall stipulate the actions that the operator must take to in order to resume operations.

DUTIES OF FOOD BUSINESS OPERATORS

28. Food Handler's Certificate.

- (1) For the purposes of this section, a “**food handler**” is a person whose duties bring him in contact with food, whereby such handling may render the food unsafe for human consumption”.
- (2) No person shall employ an individual to handle food—
 - (a) within a food business; or
 - (b) within a street food vending business under section 33,unless the person so employed is in possession of a food handler's certificate issued to him by the relevant enforcement agency under rule 77 of the Heath Rules (*Ch. 231*).
- (3) No person shall work as a food handler without being in possession of a food handlers certificate.
- (4) A Food Handler’s Certificate may be suspended or revoked where—
 - (a) the certificate holder is found to be suffering from a communicable disease;
 - (b) information given by the food handler in relation to his application is false;
 - (c) the food handler is in breach of the Act or Regulations made thereunder; or
 - (d) the holder requests its revocation.
- (5) A person who contravenes subsection (2) or (3) commits an offence.

29. Certificate of sanitation.

- (1) No person shall operate a food business unless he is in possession of a certificate of sanitation signed by an inspector stating the the business can be conducted.
- (2) Such certificate shall be renewable annually provided the food business is being operated in a satisfactory sanitary manner.
- (3) If the business fails to maintain the premises in a satisfactory sanitary manner, the certificate shall be revoked at the instruction of the Director.

30. Duty of operator to conduct proper operations.

- (1) A food business operator shall ensure that the preparation, processing, manufacturing, packaging, storage, transportation, distribution, handling and offering for sale or supply of food is carried out in accordance with this Act and regulations made thereunder.

- (2) The operator shall —
- (a) prominently display in a conspicuous place, the certificate of registration issued by the Director under section 26;
 - (b) ensure that the premises used for the preparation, sale, exposure or storage of food is constructed in accordance with the Building Code of The Bahamas;
 - (c) ensure the proper keeping of records required to be kept under this Act;
 - (d) implement appropriate food safety systems in accordance with best practices, and ensure that such systems are available for audit by the Director when required;
 - (e) ensure that all food handlers receive training in food safety and hygienic practices; are monitored to ensure compliance with food safety and hygienic practices and are in possession of a food handlers certificate as specified under section 28;
 - (f) inform the Director and consumers regarding actual or potential food safety risks.

31. Duty of operator to cooperate with inspector.

During an inspection of a food business, the operator or an employee of the business shall—

- (a) provide assistance or carry out instructions as may be reasonably necessary to facilitate the exercise of the food inspector's functions or to implement the provisions of this Act;
- (b) provide all information as may be reasonably necessary in connection with the furtherance of the enforcement of this Act;
- (c) have the right to—
 - (i) accompany the inspector throughout the inspection;
 - (ii) request the inspector to provide written reasons for the actions taken during an inspection.

32. Duty of operator to report suspicion of risk.

(1) Where an operator suspects that a person who—

- (a) is employed within his business;
- (b) supplies food to his business;
- (c) lives on the premises housing his food business;

is suffering from an infectious or communicable disease, the operator shall immediately notify the Director of the name and address of the

employee or person; and the circumstances which gave rise to the suspicion.

- (2) The Director shall require a person to whom a notification under subsection (1) relates, to submit to a medical examination by a registered medical practitioner to certify whether or not the person is suffering from an infectious or communicable disease likely to contaminate food.
- (3) Where the medical practitioner certifies that the person is suffering from a disease likely to contaminate food, the Director may, for the purpose of safeguarding the public health, by notice in writing—
 - (a) cancel or suspend that person's Food Handler's Certificate; and
 - (b) prohibit the person from working in the business.
- (4) Any person who continues to handle food contrary to the provisions of subsection (3), commits an offence and is liable on summary conviction to a fine not exceeding seven thousand dollars.

33. Street food vending.

- (1) For the purposes of this section—

“street food” means raw or cooked food prepared and sold outside of established premises;

“street food vending” means preparing and selling raw or cooked food outside of established premises either from—

 - (a) a vehicle, or
 - (b) a tray, container or other article used to move food from one place to another.
- (2) A person who is desirous of engaging in street food vending, whether permanently or temporarily, shall apply for—
 - (a) a food vendor permit from the relevant enforcement agency; and
 - (b) make application and pay the prescribed fee to the Director for a certificate of registration and a badge to indicate such registration,and any person who contravenes this section, commits an offence and is liable to a fixed penalty as prescribed by regulations.
- (3) The application under subsection (2)(b) shall be accompanied by two recent photographs of the applicant and any other particulars which the Director may require.
- (4) Once the applicant satisfies the requirements for registration as set out in the prescribed form, the Director shall—
 - (a) register the street vendor; and

- (b) issue a certificate of registration and a badge to show that he has been registered and while street vending, a person shall at all times prominently display the badge on his clothing.
- (5) A certificate of registration and a badge shall—
 - (a) be valid for a year and subject to renewal upon payment of the requisite fee; and
 - (b) where an application for their renewal is made before their expiration date, continue to be force until the effective date of the grant or refusal of a certificate of registration and badge.
- (6) Where the application is denied, the Director shall inform the applicant of the reasons in writing.
- (7) A certificate of registration issued under this section shall be a pre-condition to the issuance of a business licence under the Business Licence Act (*No. 25 of 2010*).

34. Recall of food products.

- (1) The Director may initiate recall procedures for imported, exported or domestically produced food products—
 - (a) for analysis or destruction if he has reason to believe the product is hazardous or if the product is hazardous;
 - (b) if the product is not in compliance with this Act or any regulations made thereunder.
- (2) An operator having possession, custody or control of a hazardous food product shall be held liable, notwithstanding his action against food business operators responsible at previous stages of the food chain.
- (3) When a product is recalled, the Director shall notify—
 - (a) the supplier of the product;
 - (b) the competent authority of the country from which the product was imported or the country to which the product was exported; and
 - (c) the relevant international organizations.
- (4) Upon receiving a recall notice from his supplier, an operator shall—
 - (a) immediately inform the Director and initiate recall of the food product for disposal;
 - (b) advise the Director of actions taken to protect the consumer;
 - (c) comply with all directives issued by the Director; and
 - (d) liaise with the supplier from whom the food product was imported or to whom the product was exported.

- (5) Where the operator fails to take action under subsection (4), the Director will carry out such actions, and the operator shall bear the costs of carrying out those actions.
- (6) An operator shall comply with all conditions and guidelines related to food recall procedures as prescribed by regulations.

PART V - IMPORT AND EXPORT OF FOOD

35. Import of food.

- (1) No person shall import into The Bahamas any food unless it is—
 - (a) accompanied by an import permit, certificate of origin and where applicable, a sanitary certificate or a phytosanitary certificate;
 - (b) meets the labelling requirements under section 23;
 - (c) meets the traceability requirements under section 21;
 - (d) meets any other requirements under this Act; and
 - (e) is inspected at the port of entry or exit, as the case may be.
- (2) Notwithstanding subsection (1), the Director may not require an importer to meet the requirement under subsection (1) (a).
- (3) Where no food standards exists for a food product, the Director, in collaboration with the Committee, may prescribe import requirements based on risk assessment.
- (4) A customs officer shall—
 - (a) promptly notify the Director of the arrival of any food in The Bahamas; and
 - (b) not release or dispose of imported food unless so authorized by the Director.

36. Inspection of imported and exported food.

- (1) An inspector may inspect food imported into or exported from The Bahamas and, for the purposes of inspection or analysis thereof, take samples of the food.
- (2) Where samples are taken under subsection (1), the food inspector—
 - (a) shall in the presence of the importer or exporter, seal and mark the samples as prescribed; and
 - (b) may according to the prescribed regulations and procedures—
 - (i) release the food for distribution and sale or for export;

- (ii) detain the food and issue a written notice temporarily ordering its removal to a specified place;
 - (iii) issue a written notice ordering the re-export of the imported food;
 - (iv) issue a written notice ordering the destruction of food intended for export;
 - (v) where the operator fails to comply with notice issued under paragraphs (iii) or (iv), immediately destroy the food.
- (3) Any food detained or removed under subsection (2)(b) shall not be released to the importer or exporter except upon production of an official analyst certificate indicating that the food complies with the requirements of this Act.
- (4) The costs of inspection, transport, analysis, storage, re-export or destruction of food under this section shall be borne by the importer.
- (5) Where the imported food lies unclaimed for a prescribed period after its entry into or transit through The Bahamas, or after any treatment thereof, the Director may take action to destroy or dispose of it.
- (6) The Government shall bear no liability for actions taken in good faith for the destruction or disposal of food imported or exported in contravention of this Act.

37. Duties of importers and exporters of food.

All importers and exporters of food shall, not later than ninety days after the end of the operating year, submit to the Director in the prescribed form a report relating to the activities carried out in the previous calendar year including—

- (a) types and quantities of food imported or exported;
- (b) data concerning shipments of food;
- (c) food found by the Director not to be in compliance with the statutory requirements of The Bahamas;
- (d) a summary of any incidents or accidents that may have occurred and any action taken regarding food found not to be safe for export;
- (e) any other matter the Director may require.

38. Relabelling and reconditioning.

- (1) Subject to the provisions of subsection (2), the importation of any food which does not comply with the provisions of this Act is prohibited.
- (2) Where any food sought to be imported into The Bahamas would, if sold in The Bahamas, constitute a contravention of this Act, the Director may

nonetheless permit its importation solely for the purpose of relabelling or reconditioning as prescribed.

- (3) In the event that any relabelling or reconditioning authorized under subsection (2) is not carried out within the prescribed time period, the Director shall cause the importer to re-export or destroy such food at his expense.
- (4) Where an importer fails to re-export or destroy imported food as required under subsection (3), the Director may order the destruction of the imported food.
- (5) The costs incurred under subsection (3) shall be borne by the importer.

PART VI - OFFENCES AND PENALTIES

39. Offences and penalties.

- (1) A person who sells any food that—
 - (a) contains any poisonous or harmful substance;
 - (b) is unwholesome, or is otherwise unfit for human consumption;
 - (c) is adulterated; or
 - (d) is injurious to human health,commits offence under this Act, and shall be liable on summary conviction to a fine not exceeding seventy five thousand dollars and based on the severity of the hazard shall be subject to having his licence suspended or revoked.
- (2) In determining whether any food is injurious to human health in subsection (1), due regard shall be given not only to the probable effect of such food on the health of a person consuming it, but also to the probable cumulative effect of food of substantially similar composition on the health of a person consuming such food in ordinary quantities.
- (3) A person who—
 - (a) prepares, stores, handles or sells food under unsanitary conditions;
 - (b) fails to establish and implement a traceability system in accordance with this Act;
 - (c) imports, exports, produces, manufactures, prepares, stores or sells food contrary to the provisions of this Act;
 - (d) fails to follow the applicable hygiene code;
 - (e) fails to ensure that all personnel of a food business follow prescribed procedures;

- (f) for the purpose of effecting or promoting the sale of any food, publishes or causes to be published an advertisement which is false or misleading,

commits an offence and shall be liable on summary conviction to a fine not exceeding seventy five thousand dollars and may be subject to having his licence suspended or revoked.

- (4) A person who—
 - (a) operates a food business without any license or permit under this Act or by any other legislation in force in The Bahamas, constructs a food business except as prescribed by the Building Code of The Bahamas, or fails to submit a report under this Act;
 - (b) attempts to improperly influence an inspector or authorized officer in the exercise of his official functions under this Act;
 - (c) poses as an inspector or authorized officer;
 - (d) fails to provide access, samples or information to an inspector or authorized officer upon request, gives false information to an authorized officer, or otherwise fails to comply with an order or improvement notice lawfully made under this Act;
 - (e) tampers with any samples taken under this Act or breaks any seal or alters any markings made by an authorized officer without permission;
 - (f) alters, forges, defaces, or destroys any document issued under this Act or knowingly or recklessly provides information which is false, for the purpose of obtaining any document under this Act; or
 - (g) packs or labels any food in a manner which is false or misleading, or does not follow the prescribed rules for labelling,

commits an offence and shall be liable on summary conviction to a fine of not exceeding seven thousand dollars.

40. Offences by food inspectors.

- (1) A food inspector or authorized officer commits an offence if he—
 - (a) seizes food for any reason other than those prescribed in this Act;
 - (b) discloses any information acquired in the course of exercising his official functions under this Act, except where required to do so by his supervisor or by a court;
 - (c) accepts any monetary or other benefit from a person affected by any of his actions under this Act; or
 - (d) otherwise acts outside the scope of his duties,

and shall be liable on summary conviction to a fine not exceeding three thousand dollars.

- (2) Upon conviction for an offence under subsection (1), an inspector shall be liable to dismissal or in the case of an authorized officer he shall cease to function as such and the inspector and authorised officer may be ineligible for reappointment.

41. General penalty.

- (1) A person who fails to carry out or contravenes any of the provisions of this Act or any regulations made thereunder is guilty of an offence and where there is no specific penalty provided, is liable on summary conviction to a fine not exceeding seven hundred dollars and in the case of a second offence or subsequent offence, to a fine not exceeding three thousand dollars.
- (2) In the case of a continuing offence, the offender is liable to a further fine not exceeding five hundred dollars for each day that such offence continues after the date of conviction thereof.

42. Fixed penalty offences.

- (1) Notwithstanding anything to the contrary in this Act or any other applicable law, where an inspector has reasonable grounds to believe that a person is committing or has committed certain minor offences, the food inspector may then and there serve notice in writing upon the alleged offender charging him with the commission of the offence.
- (2) The food inspector shall at the time of the service of notice referred to in subsection (1), inform the alleged offender that he shall—
 - (a) appear before a magistrate on the date specified; or
 - (b) in accordance with procedures set out in subsections (3) and (4) of this section, pay the fixed penalty, in lieu of appearance before a magistrate.
- (3) An alleged offender who chooses to pay the fixed penalty referred to in subsection (2)(b) shall—
 - (a) within seven days of the date of the notice, sign the notice in acknowledgement of guilt and return it, together with the sum cited therein, to the Magistrate's Court;
 - (b) be treated for all purposes in law as a person who has not committed, been charged with, prosecuted for, convicted of or sentenced for the offence in respect of which payment was made.
- (4) The admission of guilt and the fixed penalty paid under this section shall be dealt with by the magistrate in the same manner as adjudication in

court of an offence punishable on summary conviction and for which no conviction is recorded.

43. Offences by corporate entities and penalties.

Where an offence under this Act or regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who is purporting to act in any such capacity, such director, manager, secretary or other officer as well as the body corporate is guilty of that offence and is liable to the penalty prescribed by this Act for that offence.

44. General provisions for prosecutions under this Act.

- (1) Subject to the provisions of Article 78 of the Constitution, proceedings for an offence under this Act shall not be instituted except —
 - (a) by or with the consent of the BAHFSA Board; or
 - (b) by an inspector or other officer authorised in that behalf by special or general directions of the Board.
- (2) Any such inspector or other officer may, although not a counsel and attorney, prosecute or conduct before a court of summary jurisdiction any such proceedings as aforesaid.

45. Forfeiture.

Upon the conviction of any person for any offence under this Act, the court may, in addition to any other sentence imposed, declare any food, appliance, product, material, substance or other object in respect of which the offence has been committed or which was used in connection with the commission of the offence forfeited to the Government and disposed of as the court may direct.

PART VII - MISCELLANEOUS

46. Confidentiality.

No person carrying out functions under this Act shall disclose any information acquired in the performance of his official duties except as directed to by the Director or by a court.

47. Duty to assist and cooperate.

Customs, port, airport, airline, postal, shipping, police, consumer protection, and local authorities shall assist inspectors and authorized officers in the performance of their functions under this Act by providing such facilities and assistance as the Director may request from time to time.

48. Right of appeal.

- (1) Any person aggrieved by an action or decision, of an an inspector or authorized officer under this Act may within the forty-eight hours of the action or decision, appeal, in writing, to the Director.
- (2) An appeal shall lie to the Sanitary and Phytosanitary Appeal Tribunal within forty eight hours of the decision of the Director.
- (3) An appeal shall lie within seven days to the Supreme Court on a question of law from a decision of the Appeal Tribunal which otherwise shall be final on technical issues.

49. Good faith defence by public authorities.

No person shall be liable to suit or to prosecution in respect of anything done in good faith in the performance of his official functions under this Act.

50. General defences.

- (1) In any proceedings for an offence under this Act it shall be a defence for the accused to establish that he could not, with reasonable diligence, have ascertained that the sale of the food would contravene this Act.
- (2) It shall be a defence that —
 - (a) someone could not reasonably have ascertained that packaging or labelling was false or misleading;
 - (b) a person whose business it is to publish or broadcast, or arrange for the publication of advertisements, received the offending material in the ordinary course of business and did not make any material alterations to it.

51. Presumptions.

- (1) In any proceedings under this Act, a certificate of analysis purporting to be signed by the Director or head of an official laboratory shall be accepted as *prima facie* evidence of the facts stated therein, provided that —

- (a) the party against whom it is produced may require the attendance of the head of official laboratory or the analyst who performed the analysis, for the purpose of cross examination;
 - (b) no such certificate shall be admissible in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate.
- (2) Evidence that a package containing any food to which this Act applies bore a name, address or registered trademark of the food business operator or food business, by which it was produced, manufactured or packed, shall be *prima facie* evidence that such food was produced, manufactured or packed, as the case may be, by that business or operator.
- (3) Any substance commonly used for human consumption, if sold or offered for sale, shall be presumed, until the contrary is proven, to have been sold or to have been intended for sale or to be intended for sale for human consumption.
- (4) 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 production or manufacture of food for human consumption which is found on premises used for the preparation, storage or sale of that food, shall be presumed, until the contrary is proven, to be intended for human consumption.
- (5) Where any person demands any food by a name prescribed for a food for which there is a prescribed standard, the person shall be deemed to have demanded food which complies with that prescribed standard.

52. Regulations.

- (1) The Minister may, on the advice of the Bahamas Agricultural Health and Food Safety Board and in consultation with the Director, make regulations for the purpose of carrying out the provisions of this Act and without prejudice to the generality of the foregoing, such regulations may—
- (a) impose requirements for and otherwise regulate the —
 - (i) preparation, handling and serving of food;
 - (ii) packaging, labeling, marking and advertising of food; and
 - (iii) manufacture, transport, storage and sale of food, including food that is organically produced, genetically modified; diet foods, and food intended for infants and other population groups;
 - (b) impose requirements for and otherwise regulate the importation and exportation of processed food;

- (c) prescribe standards for the preparation and handling of food or any of the ingredients of such food;
 - (d) prescribe food standards, including setting limits for contaminants in foods;
 - (e) approve and audit self imposed industry standards for specific foods;
 - (f) provide for the inspection, examination, sampling, analysis, testing, certification, treatment, seizure, condemnation or destruction of food;
 - (g) prescribe standards, including public health standards, for the inspection and maintenance of food manufactories; food markets; slaughterhouses; food processing and packaging facilities; dairies; restaurants; food retailers and food wholesalers, street food vendors; and vehicles which transport foods;
 - (h) prescribe the locations from which street food vending can be conducted and prescribe the specifications for vehicles and other articles used for street food vending;
 - (i) prescribe the grounds and the procedures applicable for the approval, denial, suspension and revocation of certificates of registration and permits issued under the authority of the Director;
 - (j) prescribe food traceability systems to ascertain all places of origin and destination of food or any thing used in or related to a food business including requiring persons who come into contact with the food, to identify themselves and to maintain records and other documents with respect to themselves in the prescribed manner and at the prescribed times;
 - (k) prescribe the procedures to be followed by authorized officers, and official laboratories in the exercise of their functions under this Act;
 - (l) prescribe fees and cost recovery mechanisms for the purposes of this Act;
 - (m) the qualifications, education, training and certification that a food inspector or authorized officer is required to have in order to exercise powers or carry out duties under this Act;
 - (n) the offences that will be subject to a fixed penalty; and
 - (o) any other matter required or permitted by this Act to be prescribed, or necessary or convenient for carrying out or giving effect to this Act.
- (2) Any Regulations made pursuant to subsection (1) shall be published forthwith in order to comply with obligations under the SPS Agreement.

53. Functions of Minister responsible for Health.

Nothing in this Act shall be construed as affecting or derogating from the functions of the Minister responsible for Health.

54. Savings.

- (1) Any statutory, rules or orders under the Food Act (*Ch. 236*) shall remain in force unless and until specifically repealed.
- (2) The Food (Seafood Processing and Inspection) Regulations shall fall under this Act and shall be known as the The Food Safety and Quality (Seafood Processing and Inspection) Regulations.

55. Repeal and conflicts.

- (1) The Acts mentioned in the first column of the *Third Schedule* are amended to the extent specified in the second column of the *Third Schedule*.
- (2) In the event of any conflict or inconsistency between the provisions of this Act and any other enactment in force, the provisions of this Act shall prevail.

**FIRST SCHEDULE
(section 9)**

Food Safety and Quality Committee.

- (1) The Food Safety and Quality Committee shall consist of seven persons, six of whom shall be selected according to their qualifications and appointed by the Minister—
 - (a) the Director of Food Safety and Quality, *ex officio*;
 - (b) one representative from each of the following:
 - (i) Ministry responsible for Agriculture;
 - (ii) Ministry responsible for Marine Resources;
 - (iii) Environmental Health;
 - (iv) Ministry responsible for Health;
 - (v) Bureau of Standards;
 - (vi) a food processor or food manufacturer,
- (2) Where the qualifications of the appointed members do not reflect the following fields:
 - (a) food science and technology;
 - (b) food production;

- (c) agricultural science and animal health;
- (d) food marketing and trade;
- (e) legal or administrative affairs,
- (f) public health,

the Minister may appoint up to three additional members to ensure the Committee reflects these areas of expertise to the greatest extent possible.

(3) The Food Safety and Quality Committee shall act as a quorum of five and the views of the Committee shall be recorded.

SECOND SCHEDULE **(section 11)**

Scientific Committee

- (1) The Scientific Committee shall consist of seven independent scientific experts.
- (2) The Committee shall chose a Chairperson from its members.
- (3) Any additional persons shall be co-opted as needed.
- (4) The Committee shall act by a quorum of four and the views of the Committee shall be recorded.
- (5) The Committee can establish sub-committees and also include external experts.
- (6) The Committee can invite relevant industry and consumer representatives in its deliberations.
- (7) Committee members should serve for two years and are eligible for reappointment for a further period of two years.

THIRD SCHEDULE **(section 55)**

REPEAL

Law

Penal Code
(Ch. 84)

Amendment

Delete section 493

Health Services Rules
(*Ch. 231*)

In Rule 102(2) delete the words, “Aerated and Mineral Water Factories”; “Fish Mongers”; “Ice Cream Manufactories”; “Restaurants”; “Bakeries”; “Dairies”; and “and vendors of soft drinks, ice-cream, candies, fried fish and cookies”.

Environmental Health Services Act
(*Ch. 232*)

In the long title, delete the words “for proper sanitation in matters of food and drinks and generally,”

Delete section 11

In section 17(1)(d), delete paragraph (d)

Food Act
(*Ch. 236*)

Repeal the entire Act

OBJECTS AND REASONS

The Food Safety and Quality Bill seeks to repeal and replace the Food Act (*Ch. 236*).

Clause 2 of the Bill defines the terms used therein. The objectives of the Bill are outlined in clause 3. Clause 4 provides for the persons to whom the Bill applies.

Part II of the Bill deals with the administration of the Act. Clause 5 provides that the Director in charge of Food Safety and Quality, appointed under the Bahamas Agricultural Health and Food Safety Authority Act, 2015 shall be responsible for carrying out the objectives and provisions of this Act. The Bahamas Agricultural Health and Food Safety Authority Act, 2015 establishes the Bahamas Agricultural Health and Food Safety Authority, which will be the body under which all food safety, sanitary and phytosanitary matters will be

administered. Under Bahamas Agricultural Health and Food Safety Authority Act, the Minister shall appoint the Director, who shall be required to follow the directives of the Board of the Authority.

Clauses 6 through 8 outlines the functions of the Director and provides for his powers and those of the Minister respectively. Clause 9 establishes a Food Safety and Quality Committee (hereafter referred to as “the Committee”), which shall advise the Director on matters related to food safety, and shall carry other functions outlined in clause 10. These functions include serving as the National Codex Committee. The Committee will be empowered to establish ad-hoc or permanent sub-committees to perform such advisory functions as the Food Safety and Quality Committee considers necessary.

Clause 11 of the Bill provides that the Minister shall, on the advice of the Committee, appoint an independent scientific committee (to be known as “the Scientific Committee”) to assist the Authority in conducting food safety risk assessments.

Clause 13 of the Bill provides that the Chairman of the Authority can designate a public officer to carry out the functions of a food inspector. The officer shall perform such duties in accordance with clause section 15 and any other relevant provision of this Bill.

The duties and powers of food inspectors are provided for in clause 15.

Clause 15 of the Bill seeks to empower the Minister to designate any duly qualified person who is not a public officer to be perform only certain specified functions of a food inspector. Clause 18 of the Bill provides that information obtained by a food inspector shall not be disclosed to a third party, except where the information poses a food safety risk, in which case the Bill specifies the persons to whom that information can be disclosed. Lastly, clause 18 requires that trade secrets be kept confidential.

Clause 19 of the Bill provides that the Minister may designate suitable laboratory facilities as “official” laboratories for the purposes of this Act.

Part III of the Bill deals with standards for food safety and quality. Clause 20 provides that where food standards have been prescribed, any person who labels, packages or sells any food that contravenes the prescribe standard, commits an offence. Clause 21 of the Bill requires that the operator of every food business must establish a system to trace the origin and movement of its food items.

Clause 22 requires that every food business maintain a food register to include certain particulars in relation to the food. Clause 23 mandates that all food must be labelled and that the label must be in English and shall include other particulars.

Part IV of the Bill deals with the registration requirements for food businesses. Additionally it covers the grounds upon which the registration can be suspended or revoked.

Clause 28 of the Bill deals with the requirement for all food handlers to obtain a Food Handlers Certificate which will continue to be issued by the Department of Public Health. Clause 29 deals with the duty of food business operators to conduct proper operations, which include maintaining proper food safety systems. Clause 30 provides that the operator of a business must cooperate with the inspector.

Clause 31 of the Bill requires that an operator report to the Director, where he suspects that one of his employees, a supplier or a person who lives on the premises housing his business, may be suffering from an infectious or communicable disease. Such persons will be required to submit to a medical examination

Clause 32 of the Bill deals with the mandatory requirement for persons who are selling food on the street, from the back of vehicles, at cook-outs, etc. to obtain a food vendor permit as they currently do from the Licensing Unit of the Royal Bahamas Police Force. Additionally, these person will be required to obtain a certificate of registration from the Director of Food Safety.

Clause 33 deals with the recall of food products that are hazardous or that are not in compliance with the Act or regulations. It also provides that an operator having possession, custody or control of food will be held responsible for food found to not be in compliance with food standards, notwithstanding his action against food business operators responsible at previous stages of the food chain.

Part V of the Bill covers the requirements to import and export of food into and out of The Bahamas, including in clause 35 the requirement for a customs officer to promptly notify the Director of the arrival of any food in The Bahamas and to not release or dispose of any imported food unless so authorized by the Director. Clause 36 of the Bill authorizes an inspector to inspect imported and exported food and to take samples for analysis. The inspector shall also have the power to order the destruction of such foods. Clause 38 deals with labelling and reconditioning.

Part VI of the Bill deals with offences and penalties under the Act and Part VII deals with miscellaneous items. Clause 48 of the Bill provides for the right of appeal. Persons aggrieved of a decision of an inspector or authorized officer may first appeal to the Director of Food Safety and Quality. An appeal from a decision of the Director shall lie to the Sanitary and Phytosanitary Appeals Tribunal, established under the Agricultural Health and Food Safety Authority Act, 2015. The Appeals Tribunal's decision shall be final on any technical issue. An appeal from a decision of the Tribunal shall lie to the Supreme Court on a

question of law only. The Minister under clause 52 is empowered to make regulations under the Act.