

ANTIGUA AND BARBUDA



THE FOOD SAFETY ACT, 2017

NO. OF 2017

THE FOOD SAFETY ACT, 2017

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ANTIGUA AND BARBUDA
THE FOOD SAFETY ACT, 2017

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AN ACT to provide for the safety of food produced, processed or packaged in, imported into, or exported from Antigua and Barbuda, intended for human consumption; to ensure that consumers are presented with food that is pure, safe, unadulterated and is of good quality; to provide for a health certification programme respecting food handlers and for incidental and connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I

PRELIMINARY

1. Short title

This Act may be cited as the Food Safety Act, 2017.

2. Interpretation

(1) In this Act, unless the context requires otherwise—

“adulterate” means to make impure in order to give a false impression or value or to hide defects or cause injury to human health, by the addition of biological, chemical, physical or radiological agents to food, or by the exclusion or removal of a valuable or necessary ingredient of food;

“agricultural input” includes—

- (a) feedstuff;
- (b) fertilizers;
- (d) manure and other biosolids;
- (e) soil conditioners, supplements, additives and treatments;
- (f) growth promotants; and
- (g) any substance or organism that may be used in—
 - (i) the production of food,
 - (ii) the growing of a plant or an organism, or
 - (iii) the raising of an animal;

“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 nutritive 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;

“analyst” means a person or institution designated as an analyst for the purpose of the enforcement of this Act;

“batch” means a specific quantity of ingredients or a food that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture;

“certification” means the procedure by which official certification bodies or officially recognized certification bodies provide written or equivalent assurance that foods or food control systems conform to requirements. Certification of food may be, as appropriate, based on a range of inspection activities which may include continuous on-line inspection, auditing of quality assurance systems, and examination of finished products;

“CODEX” means The Codex Alimentarius or “Food Code” which was established by the Food and Agriculture Organisation of the United Nations (FAO) and the World Health Organization in 1963 to develop harmonised international food standards, which protect consumer health and promote fair practices in food trade;

“contaminant” means any biological or chemical agent, foreign matter, or other substance not intentionally added to food, which is present in such food as a result of the production, manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination which may compromise food safety or suitability;

“contamination” means the introduction or occurrence of a contaminant in food or food environment;

“critical control point”, in relation to a food safety hazard, means a step at which control is essential—

- (a) to prevent or eliminate the food safety hazard; or
- (b) to reduce the food safety hazard to an acceptable level;

“examination”, in relation to food inspection, means physical examination, chemical examination, microbiological examination, organoleptic examination or labelling;

“export” means the sending of commodities out of Antigua and Barbuda to another country by any means;

“exporter” includes any person who, whether as owner, consignor, consignee, agent or broker, is in—

- (a) possession of any food to be exported from Antigua and Barbuda; or

- (b) any way entitled to the custody or control of any food to be exported from Antigua and Barbuda;

“fish” means any of the cold-blooded (ectothermic) aquatic vertebrates, including—

- (a) fresh water and marine animal, turtle, mollusc, coral, sponge, echinoderm, shellfish and crustaceans, whether piscine or not;
- (b) any parts of fresh water and marine animals, turtle, mollusc, coral, sponge, echinoderm, shellfish and crustaceans; and
- (c) the eggs, sperm, spawn, larvae, spat and juvenile stages of any organism referred to in paragraph (a);

“food” includes—

- (a) any substance whether processed, semi-processed or raw, which is—
 - (i) intended for use as food or drink for human beings, or
 - (ii) reasonably expected to be ingested by human beings;
- (b) a food source, agricultural input, plants and micro-organisms that may be used as food,
- (c) water, intentionally incorporated into any food during the manufacture, preparation or treatment of the food;
- (d) chewing gum; and
- (e) any ingredient that may be mixed with food for any purpose whatever; but does not include—
 - (f) cosmetics;
 - (g) tobacco;
 - (h) substances used only as drugs.
 - (i) residues and contaminants;
 - (j) live animals unless such animals are prepared for placing on the market for human consumption; or
 - (k) plants prior to harvesting;

“food-borne disease” means an infectious or toxic illness caused by agents that enter the body through the ingestion of food or any food-borne disease set out in the Sixth Schedule;

“food business” includes—

- (a) food producers;
- (b) street food vending;
- (c) home food business;
- (d) food service establishment
- (e) other establishments that handle and distribute food, including but not only, hospitals and public canteens and school kitchens;
- (f) activities carried on for profit or not, whether public or private, and which involve the production, processing, storage and distribution of food; and
- (g) the business of preparing, making, storing, transporting, and serving or dispensing food;

“food business identification number” means the number issued by the Food Safety Authority to identify the location of a food business where a food is grown, harvested or stored, or to distinguish it from other food businesses;

“food business operator” includes the owner of a food business, the person in charge of a food business, producers, wholesalers, distributors, importers, exporters and retailers;

“food control”, in relation to food safety, means a mandatory regulatory activity of enforcement by national or local authorities—

- (a) to provide consumer protection; and
- (b) to ensure that all foods during production, handling, storage, processing and distribution—
 - (i) are safe, wholesome and fit for human consumption,
 - (ii) conform to quality and safety requirements, and
 - (iii) are honestly and accurately labelled as prescribed by law;

“food defence” means protection of food and food products from intentional adulteration by biological, chemical, physical or radiological agents;

“food handler” means every person handling or coming into contact with food, at a food business;

“food handler’s badge” means a badge certifying the person’s status as food handler that has undergone specific training in accordance with this Act;

“food handling” means any operation in the purchase, receipt, storage, preparation, processing, cooking, packaging, transport, distribution and service of food;

“food hazard” means—

- (a) a biological, chemical or physical agent in or on food; or
- (b) any condition of, food with the potential to cause harm;

“food hygiene” means the conditions or measures necessary to ensure the safety, soundness and wholesomeness of food at all stages of the food chain, from its growth, production or manufacture until its final serving to individuals;

“food inspector” means a person so assigned as a food inspector under section 20 of this Act;

“food safety” means the assurance that food will not cause harm to the consumer when it is prepared or eaten according to its intended use;

“food source” means any growing crop, plant, micro-organism, live animal, bird or fish from which food is intended to be derived, whether by harvesting, slaughtering, milking, collecting eggs or otherwise;

“food suitability” means the assurance that food is acceptable for human consumption according to its intended use;

“growth promotant” includes any agent or substance used to increase the rate of body weight gain;

“HACCP” or Hazard Analysis and Critical Control Point Principles means a system which identifies, evaluates, and controls hazards which are significant for food safety;

“HACCP plan” means a document prepared in accordance with the principles of HACCP to ensure control of hazards which are significant for food safety in the segment of the food chain under consideration;

“HACCP system” means—

- (a) a scientific and systematic way of enhancing the safety of foods from primary production to final consumption through the identification and evaluation of specific hazards and measures for the control of the hazards to ensure the safety of food; or
- (b) a tool to assess hazards and establish control systems that focus on prevention rather than relying mainly on end-product testing;

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

“hazard analysis”, in relation to HACCP, means the process of collecting and interpreting information on hazards and conditions leading to the presence of hazards to decide which—

- (a) are significant for food safety; and
- (b) by reason of their significance, should be addressed in any HACCP plan;

“home food business” means a small food business that is operated from the dwelling house of the food business operator;

“import” means import into Antigua and Barbuda by any means;

“importer” includes any person who, whether as owner, consignor, consignee, agent or broker is in possession of or in any way entitled to the custody or control of any food imported into Antigua and Barbuda;

“ingredient” means any substance, including a food additive, used in the manufacture or preparation of a food and present in the final product although possibly in a modified form;

“inspection” means the examination of food or systems for food control of food, raw materials, processing, and distribution including in-process and finished product testing, in order to verify that they conform to requirements;

“label” means—

- (a) any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of food; or
- (b) any legend, word or mark, attached to, included on, belonging to or accompanying—
 - (i) any commodity or its container, or
 - (ii) any goods or package containing goods;

“lot or batch number” means a reference number assigned by a food business operator to a series of similar goods, or goods produced under similar conditions. For crops, the lot number is the crop harvesting date, as decided when the crop starts;

“manufacture” includes processing and preservation and any other related activity;

“Medical Officer of Health” means a Medical Officer of Health under the Public Health Act;

“medical practitioner” means a physician registered and licensed to practise medicine in Antigua and Barbuda;

“Minister” means the Minister with responsibility for health;

“package” includes—

- (a) any basket, container, pail, tray and receptacle of any kind, whether open or closed; and
- (b) anything in which food is wholly or partially contained, placed or wrapped;

“person” means any natural or legal person;

“person in charge”, in relation to a food business, means any individual present in the food business who is the apparent supervisor at the time of an inspection or, if no individual is the apparent supervisor, then any employee present;

“plant” includes—

- (a) a botanical plant, in whole or in part;
- (b) any fresh water plant; and
- (c) any marine plant;

“potentially hazardous food” means food capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms;

“product subject to traceability and recall” means a food and any other substance entering, within, or exiting within from an operation or intended to be, or expected to be, incorporated into a food. This includes: all food ingredients, raw materials, packaging materials in direct contact with food or packaging intended or expected to be in direct contact with food, and all finished products through all stages of processing and distribution;

“premises” includes any place, vehicle, stall, moveable structure, ship, watercraft, aircraft, land, building, tent or other structure and parts of buildings and structures, 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; but does not include a private dwelling house;

“private dwelling house” means a building or place used exclusively and wholly for the purpose of a private dwelling;

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

“recall” means the action to remove food from the market at any stage of the food chain, including that possessed by consumers;

“record” means a document containing information on involved parties and actions involving the food or product subject to traceability and recall covered product under consideration that has occurred, such as a sale;

“Regulations” means regulations made under this Act;

“requirements” means the criteria set down by the Food Safety Authority;

“risk”, in relation to food safety, means a function of the probability of an adverse health effect and the severity of that effect, consequential to a hazard;

“risk analysis” means a process consisting of risk assessment, risk management and risk communication;

“risk assessment” means the evaluation of the likelihood and severity of adverse effects on public health arising for example, from the presence in foodstuffs of additives, contaminants, residues, toxins or disease-causing organisms. The evaluation follows a scientifically based process consisting of the following steps: (i) hazard identification, (ii) hazard characterization, (iii) exposure assessment and (iv) 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 the results of risk assessment and, if required, selecting and implementing appropriate control options, including regulatory measures;

“sale” includes 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 a consideration or otherwise;

“sale of food” includes any activity where food is—

(a) offered as a prize or reward or given away—

- (i) in connection with any entertainment to which the public is admitted, whether on payment of money or not, as if the food were, or had been, exposed for sale by each person concerned in the organization of the entertainment; or
- (ii) for the purpose of advertisement or in furtherance of any trade or business, as if the food was, or had been, exposed for sale by the person offering or giving it away; and

(b) exposed or deposited in any premises for the purpose of being offered or given away in the circumstances referred to in paragraph (a), as if the food was or had been exposed for sale by the occupier of the premises;

“soil conditioners” means any materials added to a soil with the primary function of improving the physical condition of the soil;

“street food” means any food or drink that is prepared or sold along streets, or outside the home or at other places;

“supplements”, in relation to agricultural inputs, means anything added to a soil in order to complete the soil, make up for a deficiency in the soil or strengthen the soil;

“supply” includes dispose of to an agent for the purpose of sale on consignment;

“this Act” means this Food Safety Act, its implementing regulations and standards;

“traceability” means the ability to discern, identify and follow the movement of a food or substance intended to be or expected to be incorporated into a food, through all stages of production, processing and distribution;

“traceable item” means any item that is subject to the obligation of traceability under this Act encompassing food, all food ingredients, feed, raw materials used in food production, and any other substance entering, within, or exiting from an operation or intended to be, incorporated into a food through all stages of processing and distribution, as well as packaging materials intended to be in direct contact with food;

“vehicle”, in relation to the transportation of food, means an aircraft, bicycle, motorcycle, conveyance, cart, animal, train, vessel, motor car, bus, van, truck, or other thing used to transport food or other food-related items to which this Act applies;

“WTO” means the World Trade Organization;

(2) Grammatical variations of any expression or term defined in subsection (1) shall be construed accordingly.

3. Scope and application of Act.

(1) The provisions of this Act apply to—

- (a) food businesses and their surroundings and installations including the facilities, equipment, materials and the means of transportation;
- (b) all food, food ingredients, additives, disinfectants and any substances or processes used in the production, manufacturing or handling of food, including feedstuff and agricultural additives;
- (c) personnel employed at a food business;
- (d) packaging materials;
- (e) cleaning, disinfecting and maintenance at the food business;
- (f) the production, processing, manufacturing or other preparation of foods;
- (g) labelling and packaging of foods;
- (h) the handling of food for sale or for distribution including street food vending;
- (i) the import and export of foods; and
- (j) any other activity related to the activities mentioned in paragraphs (a) to (i).

(2) The provisions of this Act shall not apply to food—

- (a) for personal consumption;
- (b) brought into Antigua and Barbuda in vessel’s or aircraft’s stores used for the sailors, crew or passengers on board the vessel or aircraft; or
- (c) transported in transit through Antigua and Barbuda but not intended for sale or distribution in Antigua and Barbuda.

PART II

ADMINISTRATION AND STANDARDS

4. Responsibilities and powers of the Minister

(1) The Minister of Health is responsible for the overall administration and management of this Act and the Regulations.

(2) Without prejudice to the generality of subsection (1), the Minister may, in the exercise of his or her responsibilities under this Act—

- (a) designate points of entry and exit for food;
- (b) declare a food safety emergency and take measures to safeguard public health;
- (c) establish food safety laboratories or designate laboratories that shall serve as food safety laboratories for the purposes of this Act;
- (d) publish guidelines, standards and targets for the provision of the protection programmes and services related to food safety under this Act and the Regulations;
- (e) lead coordination efforts with relevant authorities relevant to food safety;
- (f) approve regulations.

(3) The Minister may give to the Authority such directions in writing as to the policy to be followed by the Authority in the performance of its functions as appear to the Minister to be necessary in the public interest.

5. Establishment of Food Safety Committee

(1) There is hereby established a Food Safety Committee which shall—

- (a) advise the Food Safety Authority on all aspects and matters pertaining to food safety and hygiene;
- (b) carry out the following responsibilities—
 - (i) advise government on the implications of food standardization, food quality and safety issues;
 - (ii) analyse data issued by Codex and carry out or commission studies analysing Antigua and Barbuda interests in food standards and Codex;
 - (iii) carry out such other function as required by the Food Safety Authority.
- (c) assist in formulating national food safety policy;
- (d) make recommendations to the Food Safety Authority with respect to making Regulations and Rules; and
- (e) participate in public education programmes which foster food safety and hygiene.

(2) The provisions of the First Schedule have effect with respect to the composition and proceedings of the Committee.

6. Establishment of Food Safety Authority

(1) There is hereby established the Food Safety Authority under the Ministry responsible for health.

(2) The person, from time to time, holding or acting in the office of the Chief Health Inspector shall be the Head of the Food Safety Authority.

7. Chief Health Inspector

For the purposes of this Act, the Chief Health Inspector shall—

- (a) be responsible for the day to day administration and supervision of the Food Safety Authority;
- (b) be assisted by such number of food inspectors as may be appointed or designated for the purpose.

8. Powers and Responsibilities of Food Safety Authority

(1) The Food Safety Authority shall—

- (a) develop science-based food control strategies;
- (b) approve food safety measures and undertake sanitary action based on risk analysis and effectiveness of risk management;
- (c) maximize risk reduction by applying the principle of prevention throughout the food chain from production to consumption;
- (d) establish emergency procedures and rapid alert systems to facilitate withdrawal or recall of food;
- (e) support the development of traceability systems;
- (f) control food-borne illnesses;
- (g) recommend standards and requirements for food safety and quality;
- (h) carry out risk assessment based on available scientific evidence and in an independent, objective and transparent manner, and issue guidelines for risk assessment methodologies;
- (i) prohibit or set limits for food additives usage, pesticide and veterinary residues, heavy metals, antibiotics and irradiation of food and such other substances and food processing methods as may be prescribed by regulation;
- (j) promote, encourage and foster at all stages of food production, from primary production through to final use by the consumer, the establishment and maintenance of high standards of food hygiene and safety;
- (k) recognize certification bodies and set out the mechanisms and guidelines for the accreditation of certification bodies engaged in certification of food safety management system for food businesses;
- (l) with regard to food business operators—
 - (i) issue, suspend or cancel a food business operator license;

- (ii) maintain an up-to-date registry of food business operators that includes the name and current contact information for each food business operator;
- (iii) assign to each food business operator an identification number or another means of identifying and distinguishing that food business operator as determined by the Food Safety Authority; and
- (iv) assign the locations from which the food business operator grows or distributes its covered goods and shall assign to each location an identifier or another means of identifying and distinguishing that location;
- (m) in consultation with other competent authorities, regional and international bodies and persons, food business operators, consumer organizations and other relevant parties establish a coordinated and integrated system to promote, protect and enhance food safety systems and a Food Safety Programme, including effective and transparent communication with the public, including outreach and education programs and information exchange on food safety risks and mitigation;
- (n) designate official and reference laboratories and authorize private laboratories to undertake official analysis under this Act;
- (o) ensure harmonization among national, regional and international food safety standards for domestic and foreign foods;
- (p) implement the aspects of the WTO Agreement on Sanitary and Phytosanitary Measures relating to food safety and any amendments made thereto in relation to—
 - (i) the approval of food safety measures;
 - (ii) the import and export of foods;
 - (iii) the carrying out of inspections for the purpose of preventing food safety risks;
 - (iv) providing justification to other countries concerning sanitary measures applied, either through risk analysis or by reference to Codex Alimentarius or HACCP standards; and
- (iv) issuing notices of non-compliance with import requirements;
- (q) develop an effective mechanism for food risk communication, transparency and access to food safety information;
- (r) strengthen policy, planning and services capacity of the national, public and private sector and community institutions and organizations in the area of food safety;
- (s) strengthen national capacity to develop and sustain effective surveillance and response programmes in relation to food borne diseases;
- (t) ensure that food safety training programmes are developed for persons working in institutions, food business, food industry, tourism, food processing plants and street food vending;
- (u) develop training and evaluation programmes for food inspectors in modern food safety systems;
- (v) establish databases for imported and domestic foods, including inspections;
- (w) develop and carry out national food handlers' training;
- (x) support the training of laboratory staff in current analytical methods and quality control programmes;
- (y) enhance the awareness of food-borne diseases and evaluate intervention strategies;

- (z) represent the interests of Antigua and Barbuda at meetings, workshops, and seminars on global food issues;
- (aa) ensure that food defence systems are in place;
- (bb) make recommendations to enhance the legal and institutional framework for food safety including recommending suitably qualified persons for the execution of the Food Safety Programme; and
- (cc) ensure the enforcement of this Act and compliance in all matters and activities deemed necessary to achieve the objectives of this Act.

(2) For the purposes of subsection (1), the Food Safety Authority may arrange for adequate and continuing training courses in food safety for persons who are, or intend to become food business operators or food handlers.

(3) Where the Food Safety Authority has reasons to believe that an imminent or substantial food safety risk exists in Antigua and Barbuda, nothing in this Act shall be construed to prevent the Food Safety Authority from taking any necessary programme or enforcement action for the protection of the public health and safety in line with Food Safety Authority powers and responsibilities under the Law.

9. Standards and requirements

The Food Safety Authority, shall implement any requirements and national standards for food safety control systems used by food businesses including but not limited to good hygiene practices, good manufacturing practices, good agricultural practices and HACCP, in collaboration with other responsible authorities including the Bureau of Standards.

10. Food safety training

A person wishing to conduct food safety training for food handlers shall register with the Food Safety Authority.

11. Delegation of functions

(1) The Food Safety Authority may delegate to suitably qualified persons or agencies, either public or private, the power to carry out on its behalf, such functions as the Food Safety Authority may determine.

(2) The Food Safety Authority shall enumerate the responsibilities and such other particulars as may be prescribed in the instrument of delegation and in all cases, shall monitor and supervise the performance of the entity to which functions have been delegated.

(3) A public officer designated a food inspector under this section shall continue to be employed by such other department of government according to the terms of employment that existed before the appointment as food inspector was made.

PART III

REQUIREMENTS FOR FOOD BUSINESSES, FOOD HANDLERS AND STREET FOOD

12. Licensing of food business operators

(1) A person shall not operate or carry on a food business unless the person first obtains from the Food Safety Authority, a licence for that purpose.

(2) Any person who wishes to operate a food business shall, in the form set out as Form 1 in the Second Schedule, apply to the Food Safety Authority for a licence to operate a food business.

(3) The application referred to in subsection (2) shall be accompanied by—

- (a) such information or supporting document that the Food Safety Authority may require as established in the Second Schedule;
- (b) a certificate of completion of food safety training; and
- (c) the prescribed non-refundable application processing fee.

(4) The Food Safety Authority shall carry out an inspection of the premises indicated in the application as the location for the food business, and shall evaluate the application on the basis of the criteria established in the Seventh Schedule.

(5) If the Food Safety Authority is satisfied that prescribed requirements for a food business are met, the Food Safety Authority may grant to the applicant a licence, subject to such terms and conditions as the Food Safety Authority may impose, if, upon evaluation of the application made under subsection (2) and the inspection of the premises and systems of the applicant in accordance with this Act and the Regulations, the Food Safety Authority is satisfied that the applicant has—

- (a) paid the prescribed fees; and
- (b) complied with the licensing requirements of this Act and the Regulations.

(6) The licence granted in respect of an application made under subsection (2) shall be in the form set out as Form 2 in the Second Schedule.

(7) The operator of an existing food business shall, within 12 months of the date of commencement of this Act, comply with the licensing requirements of this Act.

(8) The fee for the continuation of the license shall be paid before the 1st day of February in each year.

(9) Where the owner of the premises or a licensee fails to pay the fee for the continuation of the license—

- (a) subject to paragraph (b), before the 1st day of May in any year, the Food Safety Authority may suspend or revoke the licensee; or
- (b) before the 1st day of February in any year, the licensee shall pay double the annual fee, if payment is made before 1st day of May in that year.

(10) A person who fails or neglects to comply with subsection (1) or (6) commits an offence and is liable, on summary conviction—

- (a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months, or to both such fine and term of imprisonment; and
- (b) in the case of a continuing offence, to an additional fine of \$1,000 for each day during which the offence continues after conviction.

(11) The food safety and hygiene requirements for food businesses shall be established in the Seventh Schedule.

(12) The Food Safety Authority shall—

- (a) maintain an up-to-date registry of food business operators that includes the name and current contact information for each food business operator;
- (b) assign to each food business operator a food business identification number as determined by the Food Safety Authority;
- (c) assign an identifier that identifies and distinguishes each of the locations from which the food business operator grows or distributes its traceable item;
- (d) conduct informational or training sessions on the requirements under the traceability system for capacity building for food business operators, regulatory officials and the public; and
- (e) issue supplementary regulations and record keeping requirements for particular food sectors when appropriate, for ensuring the effectiveness of the food traceability system.

13. Food handler's badge

Any person who prepares or handles food in a food business or for street food, shall apply to the Food Safety Authority for a food handler's badge by submitting the certificate of completion of food safety training in accordance with section 10 of this Act.

14. Street food

Any person who wishes to sell street food shall submit an application in the Third Schedule to the Food Safety Authority, together with either a certificate of training in accordance with section 10 of this Act or shall apply for training to be supplied by the Food Safety Authority for food handlers.

15. Traceability system

1. A food business operator shall establish a traceability system which can:

- (a) trace back through all stages of processing to the supplier of ingredients, raw material and primary packaging materials, including transportation, storage and distribution; and

- (b) trace forward from the supplier of ingredients, raw material and primary packaging materials through all stages of processing, including transportation, storage and distribution, finally to the sale to the customer.

2. A food business operator shall be able to identify the direct source or supplier and direct recipient or purchaser of a traceable item.

3. A food business operator shall assign an identification number and either a batch or lot number to a food under the traceability system. The traceability system shall enable the identification of all traceable items throughout the food production chain.

16. Record-keeping for traceability

(1) A food business operator shall establish and maintain records and other documentation which enables tracing the movement of a traceable item, specifically records and documentation identifying the—

- (a) immediate previous source of a traceable item well as the traceable item itself; and
- (b) immediate subsequent recipient of a traceable item, as well as the traceable item itself.

2. A food business operator shall be able to identify its supplier and its trading partner, through either a food business operator identification number or other means of identification as established by the Food Safety Authority.

3. Upon request of the Food Safety Authority, a food business operator shall make available to the Food Safety Authority as soon as possible all information and records collected and maintained under the traceability system mandated by Section 15 of this Act.

4. In a case deemed by the Food Safety Authority as an emergency or threat to public health, a food business operator shall submit all requested information and records collected and maintained following the schedule set by the Food Safety Authority.

17. Recall

1. Where a food business operator knows or reasonably believes that a traceable item which the food business operator has imported, produced, processed, manufactured, held, stored or distributed presents a food safety risk or is not otherwise in compliance with this Act or with the relevant food standards, the food business operator shall immediately take the necessary measures to—

- (a) stop the distribution of the traceable item;
- (b) notify the Food Safety Authority and provide detailed information on the actions taken for recall and the information provided to consumers;
- (c) notify the public, consumers and relevant parties of the reason behind the product's recall and withdrawal in accordance with the procedure established by the Food Safety Authority;

- (d) withdraw from the market any product that may create a food safety risk or potentially mislead consumers; and
- (e) recall from consumers and other relevant parties the traceable item already purchased when other measures are not sufficient to guarantee food safety.

2. The Food Safety Authority shall, by regulation, approve a classification system for food which is not in compliance with the food standards, depending on the risk to public health.

3. A food business operator may voluntarily initiate recall actions due to deficiency in the quality of the food, food labelling or packaging, when such deficiency does not pose any risk to food safety according to the classification in subsection (2) and does not mislead consumers on the content of the product, its intended use and handling instructions.

4. The Food Safety Authority may issue a recall order to be taken by a food business operator where a food presents a food safety risk or does not otherwise comply with the food standard.

5. Where the responsible food business operator fails to comply with his or her obligations related to the recall following a written notification by the Food Safety Authority, the Food Safety Authority shall initiate a recall action and shall dispose of the traceable item in accordance with prescribed procedures.

6. In emergency cases, the Food Safety Authority may take a recall action without giving prior notice to the responsible food business operator.

7. Any food business operator that fails to comply with the recall obligations under this Act shall be responsible for the costs of enforcement action incurred by the Food Safety Authority.

18. Obligations of food business operators

(1) Food business operators are primarily responsible to maintain food safety in all stages of food handling under their responsibility

(2) Every food business operator shall ensure that the requirements of this Act and any other enactment applicable to food businesses and standards established by the Food Safety Authority are met by the food business or activity under the control of that food business operator.

(3) Without prejudice to the generality of subsection (2), every food business operator shall—

- (a) In respect of any food handler in their employment, shall ensure that the food handler has—
 - (i) attended and successfully completed a food training programme conducted by the Food Safety Authority or a person approved by the Food Safety Authority before employing any person to work in a food business;
 - (ii) ensured that the person is trained in food safety and hygiene practices approved by the Food Safety Authority; and
 - (iii) furnish evidence of such training to the Food Safety Authority;

- (b) comply with the standards established under subsection (2) and the conditions listed in the Seventh Schedule to acceptable standards determined by the Food Safety Authority.
- (c) comply with the traceability and recall obligations included in part III of this Act, including keeping records; and
- (d) allow access to premises and records by inspectors lawfully carrying out their duties in connection with this Act;

(4) A food business operator shall keep record of the food business operator's operations under this Act and make available to the Food Safety Authority, the prescribed information and records for inspection.

(5) A food business operator who contravenes subsection (1) or (2) commits an offence and is liable, on summary conviction, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months, or to both such fine and imprisonment.

(6) Relating to cases of recall, the Food Safety Authority shall apply the penalty and take the enforcement measures that are consistent with the class of recall.

19. Labelling and packaging

(1) Any packaged food intended for sale in Antigua and Barbuda shall bear a label which is in English, enables traceability and meets the requirements set forth by the Food Safety Authority. Where food other than packaged food is displayed for sale, it shall be labelled as prescribed.

(2) Any label for a food shall indicate the nutritional content and composition of such food, and shall not contain any statement which is false or misleading. The Food Safety Authority shall approve standards for food packaging and food labelling, including claims on health, nutrition and special dietary uses.

(3) A food business operator shall adequately label the traceable item that is subject to the traceability requirements under this Act, in accordance with the standards set by the Food Safety Authority.

PART IV

INSPECTION, SEIZURE AND FORFEITURE

20. Appointment of food inspectors

(1) The Minister may, on the recommendation of the Food Safety Authority and by instrument in writing, designate such number of suitably qualified and approved persons as food inspectors as may be necessary for the purposes of this Act.

(2) The Food Safety Authority shall consult with the Food Safety Committee before submitting any advice to the Minister pursuant to subsection (1).

(3) Every Public Health Inspector is deemed to be a food inspector by virtue of the appointment of that Public Health Inspector under the Public Health Act, Cap 353.

21. Identification cards

The Food Safety Authority shall issue to every food inspector an identification card in a form established by the Minister—

- (a) containing a photograph of the holder; and
 - (b) attesting to the designation of that food inspector.
- (2) A food inspector shall, on entering any premises under section 24, if so required, produce the identification card to the person in charge of the premises or vehicle.

22. Analysts

(1) The Minister may, subject to subsection (2), designate any person or institution as an analyst for the purpose of the enforcement of this Act.

(2) A person or institution appointed as an analyst must possess such qualifications as the Minister may, by Regulations, prescribe.

23. Meaning of “unsafe food”

(1) For the purposes of this Act, food is, or shall be deemed to be, unsafe if the food is determined in accordance with—

- (a) subsections (2) and (3), to be injurious to health; or
- (b) subsections (2) and (4), to be unfit for human consumption.

(2) In determining whether any food is unsafe or shall be deemed to be unsafe, regard shall be had to—

- (a) the normal conditions—
 - (i) at each stage of production, processing and distribution of the food; and
 - (ii) of use of the food by the consumer; and
- (b) the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.

(3) In determining whether any food is injurious to health, regard shall be had to—

- (a) the probable immediate, short-term or long term effects of the food on the health of a consumer and subsequent generations of the consumer;
- (b) the probable cumulative toxic effects of the food; or
- (c) any particular health sensitivities of a specific category of consumers if the food is intended for that category of consumers.

(4) In determining whether any food is unfit for human consumption, regard shall be had to whether the food is unacceptable for human consumption according to its intended use, for reasons

of contamination, whether by extraneous matter or otherwise, or through putrefaction, deterioration or decay.

24. Powers of entry

(1) Subject to section 25, a food inspector may, at any reasonable time, enter and inspect any food business premises—

- (a) in which any food is being, or is suspected of being, produced, manufactured, treated, graded, packed, packaged, labelled, stored, handled, prepared, served or sold;
- (b) in which any other operation or activity in connection with food is being, or suspected of being, carried out; or
- (c) for the purpose of determining whether any provisions of this Act is being contravened.

(2) In the exercise of the power of entry under subsection (1), a food inspector may enter any food business premises or vehicle if the food inspector believes on reasonable grounds that—

- (a) the premises are being used for the purposes of carrying on any of the following activities as a food business—
 - (i) production, processing, manufacturing or other preparation of food for human consumption;
 - (ii) handling or sale of food including street food vending;
 - (iii) the import and export of food;
 - (iv) the growing, harvesting or other preparation of plants and micro-organisms for use as food; or
 - (v) any other activity related to the activities described in sub-paragraphs (i) to (iv);
- (b) the premises contain anything that is or may be a food safety risk that constitutes a significant risk to public health or safety; and
- (c) the entry is necessary to ascertain whether there is a violation of, or non-compliance with, the provisions of this Act or the Regulations.

(3) A food inspector may, for the purpose of enforcing the provisions of this Act—

- (a) demand the production of—
 - (i) any food sample or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk, if the thing is capable of being produced; or
 - (ii) any books, records or other documents related to the source, use or disposition of the food or thing mentioned in subparagraph (i) or copies of extracts from the books, records or other documents;
- (b) examine, test, analyze, take samples of or dispose of samples of any food or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk, at the risk and expense of the owner of such food or thing;

- (c) reasonably delay, for the time necessary to complete the inspection, the transportation of any food or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk;
- (d) seize or detain, on reasonable grounds and for such time as may be necessary, any food or other thing that is or may be a food safety risk or that may be relevant to the existence of a food safety risk, if the thing is capable of being seized or detained;
- (e) require or authorize a person who has or had custody of the food or other thing at the time that the food inspector seized or detained them under paragraph (d), to remove them from the place of detention at the person's expense;
- (f) inquire into all information, records and other matters that—
 - (i) are relevant to the source, use or disposition of any food or other thing that is or may be a food safety risk;
 - (ii) are relevant to anything that is or may be a food safety risk; or
 - (iii) may be relevant to the existence of a food safety risk;
- (g) pass through or over any land, other than the curtilage surrounding a dwelling house, without being liable to trespass or any other action in relation to that land, in order to gain access to the premises that are subject to inspection under this section, where it is—
 - (i) necessary to pass over the land in order to gain access or to gain the access in a timely manner, and
 - (ii) impractical to use any other means to gain the access;
- (h) demand the delivery for inspection of anything described in paragraph (f);
- (i) use any data storage, processing or retrieval device or system belonging to the person being inspected in order to produce a record in readable form of the information, records and other matters described in paragraph (f)(i), (ii) or (iii);
- (j) inspect and take copies of any entry in any records; or
- (k) require any person to provide such facilities and assistance within that person's control or in relation to which that person has responsibilities as are necessary to enable the food inspector to exercise any of the powers conferred on the food inspector by or under this section.

(4) In the exercise of the powers under subsection (3), a food inspector shall—

- (a) carry out any reviewing or copying of a thing with reasonable dispatch; and
- (b) after the reviewing or copying referred to in paragraph (a), forthwith return the thing to the person who produced the thing.

(5) A copy of an entry copy made under subsection (3)(j) certified by a food inspector as a copy made under that subsection is admissible in evidence to the same extent, and has the same evidentiary value, as the thing copied.

(6) Except with the authority of a food inspector, a person shall not remove, alter or interfere in any way with anything seized under this Part.

(7) A food inspector who exercises or performs any powers or duties under this section and section 25—

- (a) may call for the assistance of any member of the Royal Police Force of Antigua and Barbuda where such assistance is required to preserve the peace; and
- (b) shall not be liable in any civil or criminal proceedings for anything done in the performance of the duties if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(8) The Minister may, by Regulations, make provisions respecting the procedure to be followed in connection with the examination, testing, analysis, taking of, disposal of, and the dealing with, samples under subsection (3)(b).

25. Warrants

(1) Where a private dwelling house is part of any premises mentioned in section 24(1), a food inspector may not enter that private dwelling house without the consent of the occupier except under the authority of a warrant issued under subsection (2).

(2) A Magistrate may issue a warrant under his or her hand authorizing the food inspector named in the warrant to enter that private dwelling house, subject to such conditions as may be specified in the warrant if, on an application without notice, the Magistrate is satisfied by information on oath that—

- (a) the conditions for entry described in section 24(1) exist in relation to a private dwelling house;
- (b) the entry to the private dwelling house is necessary for any purpose relating to the administration and enforcement of this Act; and
- (c) the entry to the private dwelling house has been refused by the occupier or that there are reasonable grounds for believing that entry to the private dwelling house will be refused by the occupier.

(3) A warrant issued under this section shall specify the date on which the warrant expires, which date shall not be later than 30 days after it is issued.

(4) A Magistrate may extend the date on which a warrant expires for an additional period of not more than 30 days upon application without notice by the food inspector named in the warrant.

(5) A warrant issued under this section authorizes the food inspector named in the warrant to call upon police officers as necessary to execute the warrant.

(6) A Magistrate who issues a warrant under this section may authorize the food inspector named in the warrant to use as much force as is reasonably necessary to execute the warrant or to exercise any authority specified in the warrant.

(7) Unless otherwise ordered, a warrant issued under this section shall be executed only during normal business hours for the premises named in the warrant.

(8) When executing the warrant, a food inspector may pass through or over any land, other than the curtilage surrounding a private dwelling house, without being liable to trespass or any

other action in relation to that land, in order to gain access to the premises that are subject to inspection under this section if it is—

- (a) necessary to do so in order to gain access or to gain access in a timely manner to the private dwelling house; and
- (b) impractical to use any other means to gain access to the private dwelling house.

26. Disclosure of information or thing

(1) Where a food inspector or an authorized person receives information or thing in response to an inquiry or a demand under section 24 or 25, the food inspector or authorized person shall not disclose the information or thing except in accordance with this section.

(2) Where any food inspector or authorized person receives information or thing in response to an inquiry or a demand under subsection (1), the food inspector or, as the case may be, the authorized person may disclose the receipt of the information or thing in accordance with the limitations, if any, specified in Regulations made for that purpose to any person or body specified in subsection (4) if the food inspector or authorized person is of the opinion that—

- (a) the information or thing relate to a food safety risk; and
- (b) the disclosure of the information or thing to any specified person or body is necessary to protect the health or safety of the public or any other person.

(3) Where a food inspector receives information or thing in the exercise of duties under this Act, the food inspector may disclose the receipt of the information or thing in accordance with the limitations, if any, specified in Regulations made for that purpose to any person or body specified in subsection (4) if the food inspector is of the opinion that—

- (a) the information or thing relate to a food safety risk; and
- (b) the disclosure of the information or thing to any specified person or body is necessary to protect the health or safety of the public or any other person.

(4) A food inspector or, as the case may be, the authorized person may make the disclosure under subsection (2) or (3) to—

- (a) a Minister for the purpose of the administration of any other Act dealing with public health or safety;
- (b) the Chief Medical Officer or the Medical Officer of Health; or
- (c) any other person whom the Food Safety Authority or authorized person considers—
 - (i) is or may be affected by the food safety risk, or
 - (ii) may contribute to preventing, decreasing or eliminating the food safety risk.

(5) Subject to subsection (2) and (3), where—

- (a) a food inspector or, as the case may be, authorized person obtains information from any other person under this section; and

- (b) the other person asserts a claim that the information provided to the food inspector or the authorized person should be treated as a trade secret or confidential business information,

the Food Safety Authority or any person or entity to whom or to which the information is disclosed shall treat such information as confidential or, as the case may be, a trade secret.

(6) For the purposes of this section “authorized person” means a person authorized in writing by the Food Safety Authority for the purpose of receiving information or thing under this section.

27. Seizure, sealing and condemnation of food

(1) Where a food inspector has reasons to believe or suspects that food at a food business is unsafe or otherwise unfit for human consumption the food inspector shall—

- (a) seize and seal the food; and
- (b) immediately upon the seizure and sealing of the food, issue to the owner or the person in charge of the food business a written notice—
 - (i) temporarily ordering that the food or any specified portion of the food not to be sold, removed, manipulated, tampered with or otherwise altered without the authorization of the food inspector;
 - (ii) temporarily ordering the food removed to a specified place; or
 - (iii) ordering the immediate destruction of the food.

(2) Without prejudice to subsection (1), where a food inspector has reasons to believe or suspects that food a food business otherwise presents a food safety risk the food inspector shall—

- (a) seize and seal the food; and
- (b) immediately upon the seizure and sealing of the food, issue to the owner or the person in charge of the food business a written notice—
 - (i) temporarily ordering that the food or any specified portion of the food not to be sold, removed, manipulated, tampered with or otherwise altered without the authorization of the food inspector;
 - (ii) temporarily ordering the food removed to a specified place; or
 - (iii) ordering the immediate destruction of the food.

(3) Where—

- (a) a food inspector takes any action is taken under sub-section (1) or (2) by reason of a threat to human health, the food inspector shall immediately notify the Food Safety Authority of such action; and
- (b) the Food Safety Authority is notified under paragraph (a), the Food Safety Authority shall notify other relevant governmental and non-governmental actors of the action taken and request the adoption of all measures necessary to ensure public safety and the protection of consumers, including public warnings, recall orders, marketing restrictions and marketing bans.

(4) Without prejudice to subsection (3), a food inspector—

- (a) shall in relation to food seized under this Part, take such other steps as are prescribed by the Regulations; or
 - (b) may require or direct a person who has or had custody of the food or other thing at the time that the food inspector seized or detained the food or other thing under subsection (1), to remove it from the place of detention at the person's expense.
- (5) Where a food inspector orders the immediate destruction of any food, the food inspector shall simultaneously condemn the food.
- (6) Where a food inspector condemns any food—
- (a) the food inspector shall place a seal on the condemned goods or the place or container in which condemned goods are kept for the purpose of securing or identifying the condemned goods or the place or container in which condemned goods are kept if the food is not immediately destroyed; and
 - (b) the Food Safety Authority shall issue a certificate of condemnation in every instance food is condemned.
- (7) A person shall not, without the permission of the Food Safety Authority remove or tamper with any seal placed on—
- (a) any goods under subsection (2), (3) or (6);
 - (b) any place or container in which condemned goods are kept for the purpose of securing or identifying the condemned goods; or
 - (c) any place or container in which condemned goods are kept.
- (8) Any person who contravenes any provision of subsection (7) commits an offence and is liable on summary conviction to a fine of \$15,000.
- (9) Where an offence is committed under subsection (8), the person in charge of the goods at the time of the commission of the offence also commits an offence and is liable on summary conviction to a fine of \$15,000.
- (10) For the purposes of this section, where goods are on premises the goods are deemed to be in the charge the occupier of the premises.

28. Analysis and examination

- (1) Where an analyst analyses or examines food under this Act, the analyst shall issue a certificate setting out, in brief, the results of the analysis or examination.
- (2) A certificate given by an analyst under subsection (1) shall be signed by the analyst; but any person acting under the direction of the analyst may make the analysis or examination.
- (3) In any proceedings under this Act, the production by one of the parties of a document—
- (a) purporting to be a certificate given by an analyst under subsection (2); or
 - (b) supplied by the other party as being a copy of such certificate,

shall be sufficient evidence of the facts stated in the certificate without proof of the signature or official character of the person appearing to have signed the certificate unless, in a case falling within paragraph (a), the other party requires that the analyst be called as a witness.

(4) A certificate shall not be admitted into evidence under subsection (3) unless, before the trial, the party intending to produce the certificate has given reasonable notice of that intention, together with a copy of the certificate, to the party against whom it is intended to be produced.

(5) For the purposes of this Act, service of a certificate referred to in subsection (4) may be proved by oral evidence given under oath by, or by the affidavit or solemn declaration of the person claiming to have served the certificate.

(6) Notwithstanding subsection (5), a court may require the person who appears to have signed an affidavit or solemn declaration referred to in that subsection to appear before the court for examination or cross-examination in respect of the issue of proof of service.

29. Improvement notice

(1) Where a food inspector has reasonable grounds for suspecting that a food business operator fails or neglects to comply with the requirements of this Act or the Regulations, the food inspector may serve on the food business operator an improvement notice in accordance with subsection (2).

(2) The improvement notice shall—

- (a) briefly describe the reasons for the order and the circumstances on which the reasons are based;
- (b) specify the matters which constitute the non-compliance with the requirements of this Act or the Regulations;
- (c) specify the measures which the food business operator is required to take to prevent, decrease, control or eliminate a food safety risk that has resulted from or is likely to result from anything that the food business operator has done or not done and to ensure compliance;
- (d) specify the period within which, the measures referred to in paragraph (c) shall be taken;
- (e) specify the time within which the person should report to the food inspector any measures taken; and
- (f) specify that the food business operator to whom it be directed has the right to request a hearing by the Food Safety Authority.

(3) Without prejudice to the generality of subsection (2), the improvement notice may direct the food business operator to—

- (a) clean and disinfect premises or equipment;
- (b) modify equipment;
- (c) alter production or processing practices for any food, agricultural commodity or agricultural input;

- (d) desist from, and cease using pesticides or other agricultural inputs specified in the order during the time period specified in the order;
- (e) modify or stop operations until the person has taken the remedial actions specified in the order; or
- (f) train food handlers in food safety methods or food hygiene.

(4) The improvement notice shall not require a food business operator to recall any food to a point from which it has been moved or transported.

(5) A food business operator who is served with an improvement notice under this section shall comply with the improvement notice within the period of time specified in the improvement notice.

30. Cessation orders

(1) Where the Food Safety Authority has reasons to believe that the continued operation of a food business or part of a food business would create an imminent or substantial food safety risk, the Food Safety Authority may issue against the food business a cessation order requiring the immediate cessation of the operations of the food business or part of the food business.

(2) In accordance with section 23, a food safety risk exists with respect to any food business if—

- (a) any food or a food source which—
 - (i) is deemed to be unsafe;
 - (ii) has or may have an adverse effect on the health or safety of a person who consumes the food or food source; or
 - (iii) may, by any means, directly or indirectly, in whole or in part, affect the safety for human consumption of the food or the food source; or
- (b) any agricultural input or any other substance or thing that may, by any means, directly or indirectly, in whole or in part, make the food unsafe for human consumption;
- (c) any environmental condition, or the state of any premises or the mode of transportation that has, or may have, an adverse effect on the health or safety of a person who consumes food subjected to the environmental condition, the state of the premises or the mode of transportation; or
- (d) any of the following poses a risk of injury to health, namely—
 - (i) the process or treatment that is used for the purposes of the food business;
 - (ii) the construction of any premises used for the purposes of the food business;
 - (iii) the state or condition of any premises or equipment used for the purposes of the food business;
 - (iv) the lack of refrigeration and adequate hot-holding equipment;
 - (v) the presence of vermin, pests, rodent infestation or sewage overflows into any building and premises used for the purposes of the food business;
 - (vi) the absence of clean running water;
 - (vii) infected food-handlers practising poor personal hygiene; or

(viii) any other incident, which in the opinion of the food inspector presents a food safety risk.

(3) The cessation order mentioned in subsection (1) may be issued in respect of—

- (a) the use of the process or treatment used by the food business; or
- (b) the use of the premises or equipment used for the purposes of the food business.

(4) As soon as practicable after the making of the cessation order mentioned in subsection (1), the Food Safety Authority shall—

- (a) serve a copy of the cessation order on the food business operator; or
- (b) affix a copy of the cessation order in a conspicuous place on the premises of the relevant food business.

(5) Where the Food Safety Authority issues a cessation order under subsection (1) against a food business ordering the food business to cease food operations—

- (a) the food business shall not resume operations until the Food Safety Authority determines, upon re-inspection, that the conditions, which necessitated the issuance of the cessation order, have ceased to exist; and
- (b) the food business operator may request a re-inspection at any time after the making of the cessation order by the Food Safety Authority.

(6) A cessation order shall cease to have effect where the Food Safety Authority—

- (a) is satisfied that the food safety risk no longer exists; and
- (b) issues a certificate to that effect.

(7) A person who knowingly contravenes a cessation order commits an offence and is liable on summary conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

31. Restraining orders

Where a person—

- (a) contravenes this Act or the Regulations; or
- (b) fails to comply with an order under this Act,

the Food Safety Authority may, without prejudice to any other remedy and to any penalty imposed by law, apply to the High Court for an order restraining the person from continuing the contravention or failure.

32. Offences against food inspectors

(1) Where a food inspector makes a demand for anything under section 24(3), the person having custody of the thing shall—

- (a) produce the thing demanded to the food inspector; and

(b) at the request of the food inspector, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form, if the demand is for a document.

(2) A person commits an offence if the person—

- (a) wilfully obstructs, assaults, threatens or delays a food inspector in the exercise of any power under this Act;
- (b) without reasonable cause, fails to give to a food inspector any assistance or information which the food inspector may reasonably require or demand for the performance of the food inspector's functions under this Act;
- (c) fails to comply with any reasonable request or demand of a food inspector under this Act; or
- (d) in purported compliance with any such requirement as is mentioned in paragraph (b)—
 - (i) furnishes information which the person knows to be false or misleading in a material particular; or
 - (ii) recklessly furnishes information which is false and misleading in a material particular.

(3) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a period not exceeding one year, or to both such fine and term of imprisonment.

(4) Nothing in subsection (1)(b) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate the person.

PART V

IMPORT AND EXPORT OF FOOD

33. Import and export of food

(1) With effect from the commencement of this Act, a person who intends to import or export food shall, prior to such importation or exportation, submit, in the form set out in the Fourth Schedule, a notice of the intention to import or export food to the Food Safety Authority for the consideration of the Food Safety Authority.

(2) A notice of intention to import food mentioned in subsection (1) shall be accompanied by—

- (a) a Certificate of Compliance from the exporting country which indicates that the required standards and requirements established by this Act or prescribed by the Regulations are met in respect of the food; and
- (b) a signed, written contract or a series of such contracts, excluding any confidential financial information, between the exporter and the person who is importing the food into Antigua and Barbuda or, between representatives of the entity in both countries.

(3) A written contract referred to in subsection (2)(b) must contain a term that requires the person who imports the food into Antigua and Barbuda which is subsequently found not to be safe or not meet the requirements of this Act or Regulations to re-export such food from Antigua and Barbuda to the exporter or to such place as the Food Safety Authority may approve, or to otherwise destroy the product.

(4) The Food Safety Authority may dispense with, or modify any of, the requirements under subsection (1) in relation to a notice of intention to import food where it considers it appropriate to do so on the grounds that the information to which the requirement relates is already available to the Food Safety Authority.

(5) The requirements of this section shall be in addition to the requirements of the Customs (Control and Management) Act, 2013 [Act No 3 of 2013], the Plant Protection Act, 2012, [Act 18 of 2012]] or any other relevant enactment respecting the importation and exportation of foods, and nothing in this Act relieves a person from the requirements of those enactments.

34. Approval and refusal of release of imported food

(1) The Food Safety Authority shall review the contents of the notice referred to in section 33(1) to determine whether—

- (a) the importer has complied with the requirements of this Act;
- (b) a physical examination or a sample examination shall be made by the Food Safety Authority in respect of the food to be imported at the point of entry or at the country of origin as the case may be; or
- (c) the food may be released without examination to the exporter or importer.

(2) In the case of imports, where the Food Safety Authority determines upon the basis of a risk assessment and according to the risk categorisation of food products as included in Section 17 (2) that an examination of the food is required—

- (a) the Food Safety Authority shall notify the Customs and Excise Division and the importer; and
- (b) the shipment of food shall not be released pending a physical inspection, and where necessary, the collection of a sample for analysis.

(3) A decision to collect a sample or to inspect food that is to be imported or exported shall be based on risk assessment and—

- (a) the nature of the food;
- (b) the past history of the commodity or the importer.

(4) Any sample that is collected by the Food Safety Authority shall be immediately sent to an analyst for analysis or examination.

(5) The Food Safety Authority shall notify the Customs and Excise Division that food referred to in subsection (1) may be released to the importer or exporter on record upon the

importer paying to the Food Safety Authority a fee of \$50.00 if the Food Safety Authority determines that—

- (a) an examination of the food is not required; and
- (b) the importer or exporter on record has complied with the requirements of sections 33(2) and 33(3).

35. Compliance, non-compliance, of imports

(1) In the case of imports, where, after taking a sample of food under section 34(2), the Food Safety Authority finds that the sample is in compliance with the requirements of this Act and the Regulations, the Food Safety Authority shall submit to the Customs and Excise Division and the importer a notice authorizing the release of the shipment of food in respect of which the sample was taken.

(2) In the case of imports, where the Food Safety Authority finds that the sample appears not to be in compliance with the requirements of this Act and the Regulations, the Food Safety Authority shall submit to the Customs and Excise Division and the importer a Notice of Detention in the form set out in the Fifth Schedule.

(3) The Notice of Detention referred to in subsection (2) shall—

- (a) specify the nature of the non-compliance;
- (b) advise the importer of the right to present detailed particulars to the Food Safety Authority as the manner in which and the time by which the shipment of food may be—
 - (i) made eligible for import;
 - (ii) made suitable as food for human consumption; or
 - (iii) converted into a non-food use.

(4) An importer may, under subsection (3), submit to the Food Safety Authority—

- (a) evidence that the food is in compliance with the requirements of this Act and regulations; and
- (b) certified analytical results of samples examined by a laboratory.

(5) The Food Safety Authority shall, on receipt of the particulars submitted under subsections (3) and (4), consider the particulars and make a determination in accordance with subsection (6).

(6) Where the food to be imported—

- (a) is non-perishable goods, the Food Safety Authority shall make the determination no later than 5 days after the submission of a Notice of Detention; and
- (b) is perishable goods, the Food Safety Authority shall make the determination within 2 days after the submission of a Notice of Detention.

(7) The Food Safety Authority shall seize the shipment of food or cause the shipment of food to be seized if the Food Safety Authority determines that the importer has not established that the shipment of food may be—

- (a) made eligible for import;
- (b) made suitable as food for human consumption; or
- (c) converted into a non-food use,

(8) Where the Food Safety Authority seizes a shipment of food or causes a shipment of food to be seized under subsection (7), the Food Safety Authority may supervise and direct the destruction of the shipment of food.

(9) Where the Food Safety Authority determines that the importer or exporter on record has established that the food can be made eligible for shipment, the Food Safety Authority shall—

- (a) notify the importer or, as the case may be—
 - (i) the steps that are required to be taken; and
 - (ii) the time-frame within which the food may be submitted for re-inspection; and
- (b) release the shipment of food for import or export accordingly.

(10) Where upon re-inspection the food is found not to meet the requirements referred to in subsection (9), the food shall be seized and destroyed under the supervision and direction of the Food Safety Authority.

(11) The importer on record shall be responsible for any costs associated with the seizure and destruction of any food under this section.

36. Export certification

(1) In the case of exports, and where food exports require certification by the importing country, the Food Safety Authority shall certify food products, after carrying out inspections of the exporting food business, including premises, records and where relevant, taking a sample of food for analysis,

- (a) where the Food Safety Authority finds that food to be exported meets the requirements of the importing country, the Food Safety Authority shall provide a certificate or other documentation as required to the exporter.
- (b) where the Food Safety Authority finds that the food inspected is not in compliance with the requirements of the importing country, the Food Safety Authority shall deny issuance of a certificate or other documentation and provide the reasons in a written notice to the exporter, including where requested any remedial action or treatment that may be taken.

(2) Where the exporter takes the remedial action or treatment under (1)(b), the exporter may apply for inspection by the Food Safety Authority in accordance with section 33.

37. Offence respecting importation and exportation of food

A person who imports or exports food in contravention of the provisions of this Act commits an offence and is liable, on summary conviction, to a fine of \$200,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

38. Report on activities

(1) Every person who imports or exports food into or from Antigua and Barbuda shall, no later than 45 days after the end of the operating year, prepare a report relating to the activities for 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 importing country not to be in compliance with the statutory requirements of the importing country;
- (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; or
- (e) any other matter the Food Safety Authority may require.

(2) The report prepared under subsection (1) shall be—

- (a) signed by the importer or exporter of the food; and
- (b) submitted to the Food Safety Authority—
 - (i) in an electronic format acceptable to the Food Safety Authority, and
 - (ii) as a hard copy generated from the electronic format.

(3) A person who fails to comply with the requirements of this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding 3 months, or to both such fine and imprisonment.

PART VI

FOOD SAFETY EMERGENCIES AND FOOD BORNE DISEASES

39. Duty to notify food hazard or outbreak of foodborne disease

(1) A person who has reasons to suspect that a food hazard or an outbreak of food borne disease exists shall within 24 hours notify the Food Safety Authority or the Chief Medical Officer or the Medical Officer of Health of that suspicion.

(2) Where the Food Safety Authority or the Chief Medical Officer has reasons to believe that a food hazard or outbreak of food borne disease has occurred or presents a threat to human health and safety, the Food Safety Authority or the Chief Medical Officer may, after consultation with the Committee and other appropriate competent authorities or agencies, undertake such measures as are deemed necessary to eliminate the risk to public health and safety.

(3) Without prejudice to the generality of subsection (2), the measure may include—

- (a) prohibiting the production, processing, handling or sale of the suspected food, agricultural commodity or agricultural input;
- (b) recalling food or withdrawal of food from the market in accordance with Section 17 of this Act;
- (c) ordering and monitoring the destruction of suspected food;
- (d) establishing measures for the disposal of food, food products or treatment of vehicles, whether or not they have been found to be affected in order to prevent the further spread of the hazard or disease;
- (e) conducting epidemiological investigations of food borne disease outbreaks;
- (f) ordering that food handlers be medically examined and trained in food safety methods; and
- (g) inform consumers of potential food hazards.

(4) The owner of the food giving rise to the food hazard or the outbreak of food borne disease under this section shall be responsible for the costs associated with the taking of any measure that is required under subsections (2) and (3).

40. Threat in premises

(1) Where the Food Safety Authority or Chief Medical Officer has reasons to believe that a food hazard or the threat of a food borne disease exists in respect of any premises, the Food Safety Authority or Chief Medical Officer shall serve on the owner or occupier of the premises a written notice in a form determined by the Food Safety Authority or Chief Medical Officer.

(2) The written notice referred to in subsection (1) shall contain—

- (a) a request that the owner takes such actions as the Authority determines necessary to eliminate the risk to public health and safety posed by the food hazard or food borne disease within such time as is specified in the written notice; or
- (b) an invitation to the owner or occupier of the premises or vehicle to make representations to the Food Safety Authority concerning the matters specified in the notice within a specified time.

(3) A food inspector may, for the purpose of ensuring compliance with the request or invitation referred to subsection (2) undertake any action included in Section 24 (3).

41. Non-compliance by owners of premises

(1) Where an owner or occupier of any premises on whom a notice has been served under section 41 fails to comply with the requirements of the notice, the Food Safety Authority may authorize a food inspector or other authorized person to—

- (a) enter such premises to carry out the requirements of the notice; and
- (b) take such other action as the Food Safety Authority, food inspector or other authorized person considers necessary.

(2) The Food Safety Authority shall recover the costs of any action taken under subsection (1) from the owner or occupier of the relevant premises.

42. Preventive measures

(1) The Food Safety Authority shall, for the purpose of preventing or eliminating food hazards and outbreaks of food borne diseases, conduct the following activities—

- (a) carry out surveys of food and food businesses;
- (b) maintain food and food related statistics;
- (c) organize testing and analysis of food;
- (d) train food handlers in food safety methods;
- (e) develop HACCP procedures and programmes;
- (f) develop a strategic plan for food safety; and
- (g) conduct public education and consumer awareness programmes.

43. Responsibilities of medical practioners, etc.

Where a medical practitioner or the analyst has information respecting any incidence of a food-related illness, the medical practitioner or, as the case may be, the analyst shall, in writing, make a report of the incidence of the food-related illness to the Food Safety Authority or the Chief Medical Officer.

44. Transmission of disease by food handlers, etc

(1) Where a food business operator has reasons to suspect that—

- (a) a food handler in the employ of his or her food business; or
- (b) any other person who resides at or frequents the premises of his or her food business,

is suffering from an infectious or communicable disease likely to contaminate food, the food business operator shall immediately notify the Food Safety Authority or the Chief Medical Officer of the suspicion.

(2) Where a food hander employed at a food business—

- (a) knows or suspects that he or she is suffering from, or is a carrier of, a disease likely to be transmitted through food;
- (b) is afflicted with an infected wound, a skin infection, sores, diarrhoea or vomiting; or
- (c) is afflicted with any analogous medical condition, or circumstances where there is a likelihood of directly or indirectly contaminating food with pathogenic micro-organisms,

the food hander shall report that knowledge, suspicion or affliction to the food business operator.

(3) A food business operator shall, upon receipt of a report under sub-section (1)—

- (a) inform the Authority of the report and the particulars of the food handler concerned; and

- (b) subject to subsection (4), not permit the food handler concerned to commence or to continue employment as a food handler.
- (4) Where the person referred to in sub-section (2) is the food business operator, the food business operator shall immediately—
 - (a) cease work; and
 - (b) report that knowledge, suspicion or affliction to the Food Safety Authority.
- (5) Where—
 - (a) the Chief Medical Officer, Medical Officer of Health or the Food Safety Authority has reasonable cause to suspect the transmission of any disease by the food handler or other employee of a food business, the Chief Medical Officer, Medical Officer of Health or the Food Safety Authority, as the case may be, may make such investigations as may be considered necessary including securing a morbidity history of the suspected food handler or other employee; and
 - (b) the Food Safety Authority receives a report under sub-section (3) or (4), the Food Safety Authority shall require the person to whom the report relates to submit to a medical examination by a medical practitioner to certify whether or not the person—
 - (i) is free from any infectious or communicable disease likely to contaminate food; and
 - (ii) in the case of a report in relation to subsection (2)(b), that there is no likelihood of the food handler directly or indirectly contaminating food with pathogenic micro organisms.
- (6) A person referred to in subsection (3) or (4), may be permitted to commence or to continue employment as a food handler or, as the case may be, the food business operator, if a medical practitioner certifies—
 - (a) that the food handler is free from any infectious or communicable disease likely to contaminate food; or
 - (b) in the case of a report in relation to sub-section (2)(b), that there is no likelihood of the food handler, directly or indirectly, contaminating food with pathogenic micro-organisms.
- (7) Where—
 - (a) the medical practitioner certifies that the food handler is suffering from a disease likely to contaminate food, the Food Safety Authority may, by notice in writing—
 - (i) revoke or suspend the licence or, as the case may be, the food handler's badge of the food handler; or
 - (ii) prohibit the food handler from working in a food handling business; or
 - (b) the transmission of a disease by a food handler or other employee of a food business is confirmed as a result of a morbidity history or investigation under subsection (5), the Chief Medical Officer, the Medical Officer of Health or the Food Safety Authority, as the case may be, may take all or any of the following measures—

- (i) immediate removal of the food handler or employee concerned from the food business;
- (ii) closure of the food business to the public until the risk no longer exists.

(8) Where a person who receives a notice under subsection (7)(a) works as a food handler after receipt of the notice, the person commits an offence and is liable, on summary conviction, to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding 3 months, or to both such fine and imprisonment.

(9) A food business operator shall not be liable in any civil or criminal proceedings for anything notification given under subsection (1) if the court is satisfied that—

- (a) the notification was given in good faith; and
- (b) there were reasonable grounds for notifying the Food Safety Authority or the Chief Medical Officer.

45. Health of food handlers

(1) Every food handler shall—

- (a) practice and maintain a high degree of personal cleanliness; and
- (b) conform to good personal hygiene practices at the work place.

(2) Without prejudice to section 44(7), a food handler who is—

- (a) affected with a disease in a communicable form that can be transmitted by foods;
- (b) a carrier of any organisms that causes a disease referred to in paragraph (a);
- (c) afflicted with a boil; or
- (d) infected with an acute respiratory infection,

shall not work in a food business in any capacity in which there is a risk of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

PART VII

OFFENCES AND PENALTIES

46. General offences and penalties

(1) A person commits an offence if the person—

- (a) contravenes, or fails to comply with, any provision of this Act or the Regulations or any warrant, notice or licence issued under this Act;
- (b) aids, abets, counsels or procures any contravention or non-compliance referred to in paragraph (a);
- (c) is knowingly involved in or is a party to any contravention or non-compliance referred to in paragraph (a); or

- (d) conspires with any other person to contravene or not to comply with any provision referred to in paragraph (a).

(2) A person who commits an offence under subsection (1), or any offence for which no specific penalty is provided, is liable, on summary conviction, to a fine not exceeding \$10,000 or to imprisonment for 6 months, or to both such fine and imprisonment.

47. Offences relating to food unfit for human consumption

(1) A person commits an offence if the person—

- (a) sells, or offers or exposes for sale any food which is unfit for human consumption;
- (b) has in his or her possession for the purpose of sale or of preparation for sale any food which is unfit for human consumption; or
- (c) deposits with, or consigns to, any other person for the purpose of sale or of preparation for sale any food which is unfit for human consumption;
- (d) intentionally introduces any biological, chemical, physical or radiological agents biological or chemical agent, to food which is meant for human consumption but the introduction of such renders the food unfit for human consumption.

(2) A person who commits an offence under subsection (1) is liable, on summary conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 6 months, or to both such fine and imprisonment.

48. Offences by corporate bodies

(1) Where a corporate body commits an offence under this Act, every officer, director, employee or agent of the corporate body who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is party to the offence and commits the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporate body has been prosecuted for the offence.

(2) For the purpose of jurisdiction over an offence, the contravention or failure to comply that gives rise to the offence shall be deemed to have arisen at the place where the contravention or the failure occurred or at the residence, usual place of residence, place of business or usual place of business of the person charged with the contravention or failure.

49. Continuing offences

Subject to section 12, where—

- (a) a person is convicted of an offence under this Act or the Regulations; and
- (b) the contravention in respect of which the person is convicted continues after conviction,

the person commits a continuing offence and is liable on conviction to a further fine equivalent to one-fourth of the maximum penalty prescribed for that offence for each day on which the offence continues.

50. Other proceedings and remedies not affected

Where a court convicts a person of an offence under this Act, the court may, on its own initiative or on the application of the prosecutor, in addition to any other remedy and to any other penalty imposed by law, make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted.

51. Prohibition order

(1) Nothing in this Act shall—

- (a) prevent the prosecution of any person for an offence under any other law; or
- (b) be construed so as to repeal, remove or reduce any remedy available to any person under any other law.

(2) A civil remedy for an act or omission is not suspended or affected by reason only that the act or omission is an offence

52. Defence of due diligence

(1) In any proceedings for an offence under any this Act it shall, subject to subsection (4), be a defence for the person charged to prove that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself, herself or by a person under his or her control.

(2) Without prejudice to the generality of subsection (1), a person charged with an offence under section 49 who neither prepared, nor imported into Antigua and Barbuda, the food in respect of which the offence is alleged to have been committed shall be taken to have established the defence provided by that subsection if the person charged satisfies the requirements of subsection (3).

(3) A person satisfies the requirements of this subsection if the person proves that—

- (a) the commission of the offence was due to—
 - (i) an act or default of another person who was not under his or her control; or
 - (ii) reliance on information supplied by a person referred to in sub-paragraph (i);
- (b) the person carried out all such checks of the food in question as were reasonable in all the circumstances;
- (c) it was reasonable in all the circumstances for the person to rely on checks carried out by the person who supplied the food to him or her; and
- (d) the person did not know and had no reason to suspect at the time of the commission of the alleged offence that his or her act or omission would amount to an offence under this Act;
- (e) the sale or intended sale of which the alleged offence consisted was not a sale or intended sale under the name or mark of the person; or

- (f) the person did not know, and could not reasonably have been expected to know, at the time of the commission of the alleged offence that his or her act or omission would amount to an offence under the relevant provision.

(4) If in any case the defence provided by subsection (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless—

- (a) at least seven clear days before the hearing; and
- (b) where the person charged has previously appeared before a court in connection with the alleged offence, within one month of his or her first such appearance,

the person charged has served on the prosecutor a notice in writing giving such information, as was then in his or her possession, identifying or assisting in the identification of that other person.

1. In subsection (4) any reference to appearing before a court shall be construed as including a reference to being brought before a court.

PART VIII

APPEALS

53. Appeals

A person who is aggrieved by a decision of a food inspector, may at any time within 28 days of the decision, appeal to the Head of the Food Safety Authority in writing, who shall review the appeal and provide a decision to the appellant within 30 days of receipt of the appeal.

A person who is aggrieved by a decision of the Head of the Food Safety Authority, may at any time within 28 days of the decision, appeal to the Minister, who shall review the appeal and provide a decision to the appellant within 30 days of receipt of the appeal. The decision of the Minister is final on technical matters of food safety.

Any person who is aggrieved by a decision of the Minister regarding legal matters, may have recourse to the court system for further appeal.

PART IX

MISCELLANEOUS AND SUPPLEMENTAL

54. Monitoring the premises of food businesses

(1) A food inspector may monitor the premises where a food business is being carried out including any premises where food for human consumption is being prepared so as to ensure that the conditions meet acceptable standards which will ensure the quality and safety of food intended for human consumption.

(2) Subject to subsection (3), the Minister may, by Regulations, make further provisions with respect to the conditions listed in the Seventh Schedule.

(3) The Minister shall, before making any Regulations under subsection (2), consult the Committee and the Food Safety Authority.

55. Time of inspections

Inspections out under this Act shall be carried during the normal business hours of the Food Safety Authority or at such other time as the Food Safety Authority considers necessary.

56. Administrative procedures

(1) Where the Food Safety Authority or a food inspector is required to make a decision or tender an advice respecting the refusal of an application under this Act, the Food Safety Authority or, as the case may be, the food inspector shall make the decision or tender that advice in accordance with the principles of natural justice.

(2) Before the Food Safety Authority refuses to grant a licence or food handler's badge, the Food Safety Authority shall—

- (a) provide a written notice to the applicant of its intention to refuse to issue the licence;
- (b) where applicable, give the applicant a reasonable opportunity to make representation; and
- (c) where the applicant makes representation under paragraph (b), take the representation into consideration in making the decision.

(3) Where the Food Safety Authority refuses to grant a licence to an applicant, the Food Safety Authority shall, in writing, promptly notify the applicant of—

- (a) the refusal and the reasons for the refusal; and
- (b) the right of appeal of the applicant under Part VIII.

(4) Before the Food Safety Authority suspends or revokes the registration of any premises or a licence or food handler's badge granted to a person under this Act, the Food Safety Authority shall—

- (a) provide 14 working days written notice to the owner of the premises or the relevant licensee or food handler of the intention of the Food Safety Authority to suspend or revoke the licence, registration or food handler's badge and the reason for the intended suspension or revocation; and
- (b) give the owner of the premises or the relevant licensee or food handler a reasonable opportunity to make representation.

(5) Where the owner of the premises, the holder of the food handler's badge or the licensee—

- (a) is notified under subsection (4) of the intended suspension or revocation of the licence, registration or food handler's badge; and

(b) makes representation under this section,

the Food Safety Authority shall, within a reasonable period, consider the submission, make a decision and notify the owner of the premises, the food handler or the licensee, as the case may be, of the decision of the Food Safety Authority.

(6) Where the Food Safety Authority suspends or revokes the registration of any premises, a licence or a food handler's badge under this section—

- (a) the Food Safety Authority shall give to the owner of the premises, the food handler or the relevant licensee a notice in writing of the decision of the Food Safety Authority—
 - (i) stating the reasons for the decision, and
 - (ii) informing the licensee of the right of appeal under VIII; and,
- (b) the owner of the premises or the licensee shall, as of the date of receipt of the notice cease to—
 - (i) carry on business as a licensee, or
 - (ii) work as a food handler.

(7) Notwithstanding subsections (2), (3), (4), (5) and (6), a food inspector who makes a decision to which subsection (1) applies shall—

- (a) on request by any person adversely affected by the decision, supply to that person a statement of the reasons for the decision; and
- (b) the right of appeal of the person under Part VIII.

57. Service of notices

(1) Any notice required to be served under this Act or the Regulations shall be properly served on any person if—

- (a) delivered to the person personally;
- (b) left at or posted to his or her home or place of business last known to the Food Safety Authority;
- (c) where the conditions in subsection (2) are satisfied, sent to the person by e-mail.

(2) A notice served on any person by e-mail shall only be properly served on the person if the person has—

- (a) indicated in writing to the Food Safety Authority (and has not withdrawn the indication) that the person is willing to accept service of notices under this Act and the Regulations by e-mail; and
- (b) provided, in writing, to the Food Safety Authority an e-mail address for this purpose.

58. Publication of names of accredited inspection and testing bodies

The Food Safety Committee shall publish or cause to be published, in the Gazette, a list of inspection and testing bodies that are accredited by the Food Safety Authority to conduct inspections and tests in relation to food safety risks.

59. Amendment of Schedules

The Minister may, on the recommendation of the Food Safety Authority, by Regulations, amend any Schedule or the forms specified in the Second Schedule or Third Schedule.

60. Regulations

(1) The Minister may, on the recommendation of the Food Safety Authority, make Regulations—

- (a) respecting the qualifications, education, training and certification necessary in order to carry out prescribed licensed activities;
- (b) establish the qualifications, skills and standards required for a food inspector to carry out the duties and functions under this Act;
- (c) respecting the taking and supplying of food samples and the examination, testing and analysis of food samples;
- (d) respecting the inspection of foods under this Act;
- (e) respecting the seizure, forfeiture and destruction of any food that presents a food safety risk;
- (f) regarding the qualifications, education, training and certification of analysts and food inspectors;
- (g) respecting the use of premises for carrying on food business including the use of private dwelling houses;
- (h) respecting the issuance of licences, certificates or badges;
- (i) regarding the payment of interest on the amount specified by the Minister in respect of fees mentioned in paragraph (q) upon the failure to pay the fees as required;
- (j) respecting the withholding of any service connected with the administration and enforcement of this Act by the Food Safety Authority;
- (k) respecting foods that may be imported into Antigua and Barbuda and the procedure for importation or exportation;
- (l) respecting the clothing to be worn by persons at food processing premises;
- (m) respecting the clothing and personal hygiene practices of food-handlers in a food business;
- (n) regulating the treatment and disposal of any food unfit for human consumption;
- (o) regulating the quality and safety of foods, in accordance with international standards, including the Codex Alimentarius;
- (p) respecting the payment and the recovery of fees—
 - (i) to reimburse the Food Safety Authority for its reasonable costs of providing any service, and

- (ii) for the issuance or renewal of a licence;
 - (q) regarding any code, formula, standard, guidelines, protocol or procedure to be adopted by the Food Safety Authority;
 - (r) regarding traceability;
 - (s) regarding food emergency, early warning and recall;
 - (t) regarding risk communication and consumer information, and
 - (u) for the purpose of better carrying out the provisions of this Act.
- (2) Regulations made under subsection (1) may—
- (a) prohibit any person or class of persons from carrying on a licensed activity—
 - (i) unless, before doing so, the person or class of persons gave notice to the Food Safety Authority and the persons possesses the prescribed qualifications, education, training or certification from performing the prescribed licensed activities, or
 - (ii) where the activity does not meet the basic standards of food safety, quality and hygiene;
 - (b) prohibit the carrying out of food business activities with respect—
 - (i) to new foods, or food sources from which such foods are intended to be derived;
 - (ii) genetically modified food sources, or foods derived from such food sources;
 - (c) require the examining, analyzing, testing or grading of any food;
 - (d) provide for—
 - (i) monitoring the safety of animal feeds used in food-producing animals;
 - (ii) reviewing animal drugs for safety to animals that receive them and humans who eat food produced from such animals;
 - (e) prohibit the importation of any food of a class so specified;
 - (f) prohibit persons from constructing, altering or using premises, facilities, equipment or conveyances to carry out any activities unless a licence or permit has been issued for the premises, facilities, equipment or conveyances in accordance with the regulations; or
 - (g) allow persons or classes of persons who are authorized to issue licences, certificates or permits to attach conditions to the licences, certificates or permits in the prescribed manner.

61. Power of Minister to issue orders

The Minister may, on the recommendation of the Food Safety Authority, issue an order—

- (a) requiring every person who comes into contact with food to—
 - (i) identify himself or herself in the prescribed manner and at the prescribed times, or
 - (ii) maintain records and other documents with respect to himself or herself in the prescribed manner and at the prescribed times;
- (b) prohibiting persons from using, storing or handling prescribed agricultural inputs except in the prescribed manner;

- (c) establishing the requirements for the national food safety policy and programmes;
- (d) providing that a person who is in possession of any food is deemed to possess the food for the purpose specified in the Regulations; or
- (e) requiring the recall of food where the Minister has reasons to suspect that the food presents a food safety risk.

62. Special Effective Date for traceability

The provisions on traceability shall become effective for farmers or other identified groups, 12 months after the date of enactment of this Act.

63. Repeal

Sections 48, 49, 59, 64, 65(1), (2), (3) and (4), 66, 67, 68, 70(a) and (b), and 91 of the Public Health Act Cap. 353 are repealed.

FIRST SCHEDULE

1. Composition of Food Safety Committee

(1) The Food Safety Committee is constituted of members appointed by the Minister who shall represent the following national interests-

- (a) The Chief Health Inspector;
- (b) The Chief Veterinary Officer;
- (c) The Chief Medical Officer;
- (d) The Director of Antigua and Barbuda Bureau of Standards;
- (e) A representative of The Department of Analytical Services, Chemistry and Food Technology;
- (f) A representative from the Antigua and Barbuda Chamber of Commerce;
- (g) A representative from The Antigua Hotel and Tourist Association;
- (h) Three individuals representing the community.

(2) The Minister may appoint one of the members to be the Chairman of the Committee.

(3) Every member shall hold office for such period not exceeding three years as the Minister may direct and shall be eligible for re-appointment.

(4) Every member of the Committee shall be appointed by instrument in writing and published in the *Gazette*.

(5) A Committee member who is unable to attend a meeting shall delegate a representative to attend on his or her behalf.

2. Quorum

(1) The Chairman and four other members shall form a quorum.

(2) The Chairman is entitled to a vote as a member and where the votes are equal he shall have a casting vote also.

3. Functions Of the Committee

The functions of the Food Safety Committee are

- a) to advise the Minister on any matter pertaining to food safety and hygiene;
- (b) to assist in formulating a national food safety policy;
- (c) to assist in making regulations and rules;
- (d) to participate in public education programmes which foster food safety and hygiene;
- (e) to collaborate with the Food Authority in implementing the provisions of this Act and its Regulations

4. Power and Procedure of the Committee

(1) Subject to the provisions of this SCHEDULE the Committee shall have the power to make rules to govern its own proceedings

(2) Every decision of the Committee shall require the concurrence of a majority of all the members entitled to participate in the proceedings of the Committee for the purpose of making that decision.

(3) The Committee may, subject to the provisions of this section and to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member.

5. Co-opted Members

The Committee may co-opt any one or more persons with special expertise in a particular area to advise the Committee or to work on a sub-committee investigating some aspect of food safety, but no such co-opted person shall have any right to vote.

SECOND SCHEDULE

[Section 12]

Form I

APPLICATION FOR LICENCE

To the Food Authority-

Pursuant to the Food Safety Act, 2017, I hereby make application for a licence to operate a food business at and attach hereto two photographs of myself taken not more than three months prior to the date hereof and the prescribed fee of fifty dollars..

Dated this day of , 20 .

.....
Signature of Applicant

- N.B.** The following information should be attached prior to consideration of the application by the Food Authority
 - (a) A police record of the applicant.
 - (b) Evidence of training in food safety methods.

SECOND SCHEDULE

[.Section 12]

Form II

LICENCE

.....of.....whose photograph is affixed hereto and whose signature is appended hereunder is licensed to operate a

food business at.....where the food is intended to be offered for human consumption subject nevertheless to the conditions set out hereunder-

Conditions

.....
.....
.....
.....
.....
.....
.....
.....

This licence expires on theday of20..

.....
Food Authority

THIRD SCHEDULE

[Section 14]

APPLICATION TO SELL STREET FOOD

To the Food Authority-

Pursuant to the Food Safety Act, 2017, I hereby make application to sell street food at and attach hereto two photographs of myself taken not more than three months prior to the date hereof and the prescribed fee.

Dated this day of , 20 .

.....
Signature of Applicant

N.B. The following information should be attached prior to consideration of the application by the Food Authority—
Evidence of training in food safety methods.

FOURTH SCHEDULE

Section 33

NOTICE OF INTENTION TO IMPORT/EXPORT

<p>Name of Importer/Exporter</p>	<p>I.....the person providing the information give notice as required under the Food Safety Act of intention to import/export the food described and that information supplied on this Form is correct in every particular</p>
<p>Address of Importer/Exporter.....</p>	
<p>Tel.: Fax.:</p>	<p>Date.....</p>

Email:	
Name of Importer/Exporter	Date inspection requested.....
Tel.: Fax: Email:	Identification marks
Processing date:	Port of landing
Where processed:	Final destination:
Place where product may be inspected:	
Name of ship or flight: Document 5	
Date of export:	

.....
Signature of licensee

FIFTH SCHEDULE

[Section 35]

NOTICE OF DETENTION

To:

TAKE NOTICE that shipment No....is being seized for the following reasons –

.....
.....

.....
.....
.....
.....
.....

In accordance with the provisions of section 26 of the Act as aforesaid, you have the right to present detailed particulars to the Food Authority as to how the shipment of food may be made eligible for import or export, made suitable as food for human consumption; or converted into a non-food use.

.....
Signature of Food Inspector

SIXTH SCHEDULE
FOOD BORNE DISEASES

This classification is based on the aetiologic agents

Bacterial

- Campylobacteriosis
- Salmonellosis
- Listeriosis
- Escherichia coli-infections (ecoli infections)
- Cholera
- Shigellosis
- Yersiniosis
- Brucellosis
- Hepatitis A

Viral

Acute viral gastroenteritis due to-

- (a) Norwalk virus
- (b) Rotavirus
- (c) Adenovirus

Parasitic

Taeniasis
Trichinosis
Giardiasis
Cryptosporidiosis
Toxoplasmosis

Toxins

1. Toxins released by bacterial growth in food before consumption.
 - Botulism
 - Staphylococcal Food Intoxication
 - Clostridium Perfringens Food Intoxication
2. Toxins released by bacterial growth in the intestines
 - Bacillus Cereus Food Intoxication
3. Toxins produced by harmful algal species.
 - Ciguatera fish poisoning
 - Paralytic shellfish poisoning
 - Neurotoxic shellfish poisoning
 - Diarrhetic shellfish poisoning
 - Amnesic shellfish poisoning

Other Agents

Persistent Organic Pollutants (POP)
Metals e.g. lead and mercury
Naturally occurring toxins (mycotoxins, marine biotoxins)

SEVENTH SCHEDULE

MONITORING OF FOOD BUSINESSES

Toilet Facilities

Sufficient toilet facilities shall be provided on the premises and must be accessible to employees and members of the public.

Water Supply

Water supply used in the preparation of foods shall be adequate, safe and of sanitary and of sanitary quality and from an acceptable source.

Sewage and Waste Water Disposal

Food premises must have a sewage and waste water disposal system that will effectively dispose of all sewage and waste water; and is constructed and located so that there is no likelihood of the sewage and waste water polluting the portable water supply or contaminating food.

Garbage and Refuse

Garbage and Refuse are to be stored, handled and disposed of in a manner that protects food and food-contact surfaces from contamination and the premises from litter. Garbage and refuse are to be kept in durable, insect-proof and rodent-proof containers, which can be easily cleaned. Plastic and wet-strength paper bags may be used to line garbage and refuse containers and for storage inside the food service establishment.

Insect and Rodent Control

The premises should be free of insects, rodents, harbourage, and insect or rodent breeding conditions. Openings to the outside are to be protected against the entrance of insects and rodents. Pesticides are not to be used in place of, or as a substitute for proper sanitation.

Equipment

Equipment and utensils are to be constructed of safe materials which will not contaminate or otherwise affect food.

Plumbing

Plumbing is to be sized, installed and maintained to carry adequate quantities of portable hot and cold water at satisfactory pressure to all parts of the food service establishment where needed for satisfactory operation. Sewage and liquid wastes are to be carried to the sewer or sewage disposal facility in a manner, which protects the premises, personnel and contents within the establishment and surroundings from contamination.

Floors

Floors shall be designed and constructed in a way that is appropriate for the activities to be conducted on the food premises and-

- (a) be easily cleaned;
- (b) be unable to absorb grease, food particles or water;

- (c) be laid so that there is no ponding of water; and
- (d) to the extent that it is practicable, be unable to provide harbourage for pests.

Walls and Ceilings

Walls and ceilings must be designed and constructed in a way that is appropriate for the activities conducted on the food premises and must be

- (a) sealed to prevent the entry of dirt, dust and pests;
- (b) unable to absorb grease, food particles or water; and
- (c) be easily cleaned.

Hand washing facilities

Food premises must have hand washing facilities that are located where they can be easily accessed by food handlers -

Premises

Food service establishments and all parts of the property used in connection with operations of the establishments are to be kept clean and free from litter, and are to be maintained in such a manner as to prevent the creation of a nuisance. Only articles necessary to the operation and maintenance of the food service establishment are to be on the premises.

Living Areas

The operation of a food service establishment is not to be conducted in any room used as living or sleeping quarters. Food service operations are to be separated from living or sleeping quarters by complete partitioning and solid self-closing doors.

Laundry Facilities

- (a) Laundry facilities in a food service establishment are restricted to the washing and drying of linens, clothes, uniforms, and aprons necessary to the operation.
- (b) A separate room is required for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods, or packaged single service articles.
- (c) Clean clothes and linens are to be stored until used in a clean place protected from contamination.
- (d) Soiled clothes and soiled linens are to be stored in non-absorbent containers or washable laundry bags until removed for laundering.

Animals

Live animals, including dogs, cats, birds and turtles, are to be excluded from food service operations, this exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs accompanying security police officers or guide dogs accompanying blind persons are permitted in the dining area.

Food Protection

Food shall at all times be protected from potential contamination.

Potentially hazardous foods shall be held at appropriate temperatures during receiving, storage, preparation, display, service, cooling and reheating.

Bottled Water

Bottled Water and packaged water shall be obtained from a safe source and shall be handled and stored in a way that protects it from contamination. Bottled water and packaged potable water shall be dispensed from the original container.

Ice

Ice shall be made from safe water and shall be produced, handled and stored to protect it from contamination.

Air Quality and Ventilation

Adequate means of natural, or mechanical and local exhaust ventilation shall be provided in the food business, to minimize air-borne contaminants of food, and to control odours and control humidity which might affect the suitability of foods.

Lighting

Adequate natural or artificial lighting shall be provided in the food business to enable operations to take place in a hygienic manner.

Construction and layout

Food Businesses are to be designed and constructed of sound material and the layout should prevent food safety risk.

The internal design and layout of a food business shall permit good food safety practices, including protection against cross contamination between, and during operations. Structures in the food business shall be of sound and durable materials and be easily maintained and cleaned.

Temperature Control

Adequate facilities should be available in the food business for cooking, heating/reheating, cooling, refrigeration and freezing food, for storing refrigerated or frozen foods, monitoring food temperature and ensuring safe temperatures during transportation. Systems should be in place to ensure that time and temperature is adhered to.

HACCP (Hazard Analysis Critical Control Point)

Effective systems should be in place to ensure the Hazard Analysis Critical Control Point procedures are in place.

Handling, storage and transport

Adequate facilities should be in place for the storage and handling of food, and ingredients. Chemicals and pesticides should be stored away from food.

Maintenance and cleaning

Food businesses and equipment should be kept in an appropriate state of repair and good condition.

Passed by the House of Representatives on
the , 2017.

Passed by the Senate on the , 2017.

Speaker.

President.

Clerk to the House of Representatives.

Clerk to the Senate.

EXPLANATORY MEMORANDUM

Clauses 1 to 3 comprise Part I of the Bill which deal with the short title, interpretation as well as the scope and application of the Act.

Clauses 4 to 11 comprise Part II of the Bill. This Part is responsible for setting out the responsibilities and powers of the Minister, the establishment of the Food Safety Committee, the establishment of a Food Authority and its responsibilities, the provision of technical assistance, and food safety training material and the power to delegate.

Clauses 12 to 19 comprise Part III of the Bill and focuses on requirements for food business, food handlers and street food

Clauses 20 to 32 comprise Part IV of the Bill which lays down the criteria for Inspection, Seizure and Forfeiture. It includes to process for appointment of food inspectors, the issue of identification cards, powers of entry, exercise of powers, disclosure of information or things, obstruction and interference, analysts, seizure of food, and cessation orders.

Clauses 33 to 38 comprise Part V of the Bill and state the requirements for Import and Export of food.

Clauses 39 to 45 comprise Part VI of the Bill which deals with Food Hazards and the Food Bourne diseases. It includes the duty to notify food hazard or outbreak of food borne disease, threat in premises, non-compliance by owners of premises, preventive measures to be taken, responsibilities of medical practitioners, transmission of disease by food handlers, and health of food handlers.

Clauses 46 to 52 comprise Part VII of the Bill which lays out the various Offences that can be committed under the Food Safety Act and the Penalties that arise as a result.

Clause 53 comprises Part VIII of the Bill and illustrates the process of how to appeal decisions made by the relevant authorities under the Food Safety Act.

Clauses 54 to 63 comprise Part IX of the Bill which deals with Miscellaneous and Supplemental aspects of the Bill such as monitoring the premises of food businesses, time of inspections, administrative procedures, service of notices, publication of names of accredited inspection and testing bodies, the process for amendment of Schedules, the power to make Regulations, the power of the Minister to issue orders and the repeal of existing Legislation

No. of 2017

The Food Safety Act, 2017

Hon. Molwyn Joseph
Minister of Health