

CONSTITUTION OF BRUNEI DARUSSALAM

(Order made under Article 83(3))

FOOD ORDER, 2024

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SCHEDULE — FOOD BUSINESS TO BE LICENSED

CONSTITUTION OF BRUNEI DARUSSALAM

(Order made under Article 83(3))

FOOD ORDER, 2024

In exercise of the power conferred by Article 83(3) of the Constitution of Brunei Darussalam, His Majesty the Sultan and Yang Di-Pertuan hereby makes the following Order

—

PART 1

PRELIMINARY

Citation, commencement and long title

1. (1) This Order may be cited as the Food Order, 2024 and shall commence on a date to be appointed by the Minister, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by notification published in the *Gazette*.

(2) Different dates may be appointed under subsection (1) for different provisions of this Order or for different purposes of the same provision.

(3) The long title of this Order is “An Order to control the manufacture, sale, import and export of food, and for regulating food to ensure that food for sale is safe and suitable for human consumption and for matters connected therewith or incidental thereto”.

Interpretation

2. (1) In this Order, unless the context otherwise requires —

“advertisement” includes any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or other disposal of any food;

“analysis” includes micro-biological assay;

“authorised officer” means any person appointed as an authorised officer under section 8(2);

“Authority” means the Brunei Darussalam Food Authority established by section 3 of the Brunei Darussalam Food Authority Act (Chapter 236);

“export” does not include the taking out of Brunei Darussalam of any food in transit or any food which are being transhipped;

“food contact article” means the whole or any part of any utensil, machinery, instrument, device, apparatus, container, appliance or article that is used, or that is designed or intended for use, in or in connection with the handling of food, but does not include any pipe, water fitting, apparatus or appliance used for the supply of water;

“food premises” means any place or any premises or part thereof used for the sale, or for the preparation or manufacture for sale, or for the storage or packing for sale, of food, whether cooked or not, intended for human consumption;

“import” does not include the bringing into Brunei Darussalam by land, water or air of any food which it is proved to be intended to be taken out of Brunei Darussalam on the same or another vehicle without any landing, transit or transshipment within Brunei Darussalam;

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

“in transit” means foods that are brought into Brunei Darussalam solely for the purpose of taking them out of Brunei Darussalam and that remain at all times in the conveyance that brought them into Brunei Darussalam;

“label” includes any tag, brand, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, painted, embossed or impressed on, or attached to, included in, belonging to or accompanying any food;

“licence” means a licence granted under Part 3 or 4;

“licensee” means a person who is the holder of a licence granted under this order;

“manufacturing”, in relation to food for sale, includes any one or more of the

following —

- (a) making food by combining ingredients;
- (b) significantly changing the condition or nature of food by any process, such as milling flour or peeling, cutting and freezing fruits;
- (c) bottling or canning food, including bottling water;
- (d) making ice,

but does not include —

- (i) cooking or otherwise preparing food at a particular place for retail sale at the place, including sale for immediate consumption; or
- (ii) making ice at a particular place for use at the place;

“Minister” means the Minister of Health;

“package” includes anything in which or any means by which food is wholly or partly cased, covered, enclosed, contained, placed or otherwise packed and includes any basket, pail, tray or receptacle of any kind whether opened or closed;

“premises” includes —

- (a) a building, tent or other structure, whether permanent or otherwise, and any adjoining land used in connection therewith; and
- (b) for the purposes of section 43, any public place or vehicle used for or in connection with the preparation, preservation, packaging, storage, conveyance, distribution or sale of any food;

“preparation” includes manufacture, processing and any form of treatment;

“proprietor” means —

(a) for a food business —

(i) the person carrying on the food business; or

(ii) if the person in sub-paragraph (i) cannot be identified, the person in charge of the food business; and

(b) for any food premises, the proprietor of the food business that operates at, on or from the premises;

“sale”, in relation to sale for human consumption or use, includes —

(a) barter and exchange;

(b) import and export;

(c) offering or attempting to sell;

(d) causing or allowing to be sold;

(e) exposing for sale;

(f) receiving, sending, conveying or delivering for sale;

(g) supplying any food where consideration is to be received by the supplier for such supply either specifically or as part of a service contracted for;

(h) having in possession for sale or exchange; or

(i) having in possession any food knowing that the food is likely to be sold, offered or exposed for sale,

and “sell” is to be construed accordingly;

“substance” includes any liquid, mixture or compound;

“tranship” means to bring any food into Brunei Darussalam by land, sea or air from any place which is outside Brunei Darussalam and thereafter to remove those food from the conveyance in which they were brought into Brunei Darussalam and —

- (a) return them to that same conveyance; or
- (b) transfer them to another conveyance for the purpose of being taken out of Brunei Darussalam,

whether those food are to be transferred directly between conveyances or whether they are to be landed and stored in Brunei Darussalam after they were brought into Brunei Darussalam, pending their being taken out of Brunei Darussalam;

“vehicle” includes motor vehicle, ship, aircraft and bicycle.

Meaning of “food”

3. (1) In this Order, “food” includes the following —
- (a) any substance or thing of a kind used, capable of being used, or represented as being for use, for human consumption (whether it is raw, prepared or partly prepared);
 - (b) any substance or thing of a kind used, capable of being used, or represented as being for use, as an ingredient or additive in a substance or thing mentioned in paragraph (a);
 - (c) any substance or thing declared by the Minister, by order published in the *Gazette*, to be food.
- (2) Without limiting subsection (1), “food” includes —
- (a) unprocessed and raw fruits and vegetables that are intended for human consumption;
 - (b) seeds, plants, or plant material intended for human consumption, including seeds that are intended to be sprouted and consumed as sprouts, but not other seeds, plants or plant material intended for planting;
 - (c) drinking water;
 - (d) any thing that is or is intended to be mixed with or added to any food or drink;
 - (e) milk and dairy products;

- (f) meat and meat products;
 - (g) fish and fish products; and
 - (h) eggs.
- (3) For the purposes of this Order, “food” does not include —
- (a) any substance that is a medicinal product and cosmetics within the meaning of the Medicines Order, 2007 (S 79/2007);
 - (b) any controlled drug, controlled material or controlled substance within the meaning of the Misuse of Drugs Act (Chapter 27);
 - (c) any poison within the meaning of the Poisons Act (Chapter 114);
 - (d) any health supplement and traditional medicine;
 - (e) any tobacco product or tobacco substitute within the meaning of the Tobacco Order, 2005 (S 49/2005);
 - (f) any package (except edible packaging);
 - (g) any fodder or feeding stuffs for animals; or
 - (h) any substance or thing declared by the Minister, by order published in the *Gazette*, not to be food.

Meaning of “food business”

4. (1) In this Order, “food business” means a business or an undertaking or activity that involves, in whole or part —
- (a) the handling of food intended for sale; or
 - (b) the sale of food (on the Internet or otherwise).
- (2) For the purposes of this Order, food business does not include a business or an undertaking or activity —
- (a) that is part of a business other than trading in food and, in the course of which doing so, acts as an intermediary between persons who trade in food by providing, for reward, a place (including mobile premises) or services (such as an Internet service provider or an auction site on the Internet);
 - (b) that consists exclusively of letting for hire marquees, tables, chairs and other similar furniture; or
 - (c) that is declared by the Minister, by order published in the *Gazette*, not to be a food business.

Meaning of “unsafe food”

5. (1) For the purposes of this Order, food is unsafe at a particular time if it would be likely to cause illness or injury or other physical harm to a person who might later consume it, assuming —

(a) it was, after that particular time and before being consumed by the person, properly subjected to all processes (if any) that are relevant to its reasonable intended use;

(b) nothing happened to it after that particular time and before being consumed by the person that would prevent it being used for its reasonable intended use; and

(c) it was consumed by the person according to its reasonable intended use.

(2) For the purposes of this Order, food is not unsafe merely because —

(a) any individual objects to it because of personal preference;

(b) any part of the community objects to it on moral, ethical, cultural, spiritual or religious grounds;

(c) its consumption in inappropriate quantities may damage an individual’s health; or

(d) its presence or consumption is unhealthy for any individual who has an allergy or other personal health condition.

(3) In subsection (1)(a), a reference to processes includes a reference to processes involving storage and preparation.

Meaning of “unsuitable food”

6. (1) For the purposes of this Order, food is unsuitable if it is food that —

(a) is damaged, deteriorated or perished to an extent that affects its reasonable intended use;

(b) contains, or has attached to it or enclosed with it, any damaged, deteriorated, perished or contaminated substance or thing to an extent that affects its reasonable intended use;

(c) is the product of a diseased animal, or an animal that has died otherwise than by slaughter, and has not been declared by or under any other written law to be safe for human consumption;

(d) contains a biological or chemical agent, or other matter or substance, that is foreign to the nature of the food and the presence of which would be unexpected and unreasonable in food prepared or packed for sale in accordance with good trade practice; or

(e) has packaging that is damaged, deteriorated, perished or contaminated to the extent of affecting the food's reasonable intended use.

(2) For the purposes of this Order, food is not unsuitable merely because —

(a) at any particular time before it is sold for human consumption it contains an agricultural or veterinary chemical;

(b) when it is sold for human consumption it contains an agricultural or veterinary chemical or other contaminant, so long as it does not contain the chemical or contaminant in an amount that contravenes any food regulations;

(c) any individual objects to it because of personal preference;

(d) any part of the community objects to it on moral, ethical, cultural, spiritual or religious grounds;

(e) its consumption in inappropriate quantities may damage an individual's health;
or

(f) its presence or consumption is unhealthy for any individual who has an allergy or other personal health condition.

(3) In this section, a reference to slaughter of an animal includes a reference to the killing of an animal in the process of capturing, taking or harvesting it for the purposes of preparing it for use as food.

PART 2

ADMINISTRATION

Administration of this Order

7. The Authority shall be responsible for the administration of this Order, subject to any direction of the Minister.

Appointment of authorised officers

8. (1) The Minister may in writing appoint any public officer to be an authorised officer for the purposes of this Order.

(2) The Authority may appoint such number of authorised officers to carry into effect any specific provision of this Order or any regulations made thereunder.

(3) The Authority may delegate the exercise of all or any of the powers conferred or duties imposed on the Authority by this Order to any authorised officer.

(4) All authorised officers are deemed to be public servants within the meaning of the Penal Code (Chapter 22).

Authority card

9. (1) The Authority shall issue an authority card to each authorised officer.

(2) Every authorised officer whose appointment as such ceases shall return to the Authority any authority card issued to him under subsection (1).

(3) An authorised officer shall produce his authority card for inspection —

(a) before exercising a power under this Order; and

(b) at any time during the exercise of a power under this Order, if asked to do

so.

(4) Any person who fails to return his authority card is guilty of an offence and liable on conviction to a fine not exceeding \$10,000.

PART 3

CONTROL OF IMPORT, EXPORT OR TRANSHIPMENT OF FOOD

Prohibition of import or export of food without licence

10. (1) No person shall import or export any food, except under and in accordance with the conditions of a licence granted by the Authority.

(2) Any person who —

(a) imports or export any food without a licence; or

(b) fails to comply with any of the conditions of his licence,

is guilty of an offence and liable on conviction to a fine not exceeding \$50,000, imprisonment for a term not exceeding 2 years or both and, in the case of a second or subsequent conviction, to a fine not exceeding \$100,000, imprisonment for a term not exceeding 3 years or both.

Prohibition of import, export or transhipment of food without permit

11. (1) Notwithstanding the provisions of any other written law, no licensee shall import any food for sale, supply or distribution in Brunei Darussalam unless —

(a) the licensee has obtained a permit from the Authority in respect of each consignment of food to be imported by him and the importation is carried out in accordance with the conditions of the permit; and

(b) the food constituting the consignment are packaged and labelled in the prescribed manner.

(2) No licensee shall export any food for sale, supply or distribution to any other country, territory or place unless -

(a) the licensee has obtained a permit from the Authority in respect of each consignment of food to be exported by him and the export of each such consignment is carried out in accordance with the conditions of the permit;

(b) the whole consignment to be exported conforms to the description as contained in the permit;

(c) the food constituting the consignment has been processed in a processing establishment licensed under this Order;

(d) the cold store in which the consignment has been or is being stored is licensed under this Order;

(e) the licensee provides the Authority with satisfactory evidence that the whole consignment meets with the requirements of the country, territory or place to which it is being exported; and

(f) the food constituting the consignment are packaged and labelled in the prescribed manner.

(3) No person shall tranship any food in Brunei Darussalam unless he has obtained a permit from the Authority in respect of each consignment of the food to be transhipped by him and the transhipment is carried out in accordance with the conditions of the permit.

(4) Any person who contravenes or fails to comply with this section is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000, imprisonment for a term not exceeding 2 years or both.

(5) Subject to subsection (6), in any proceedings for an offence against subsection (3), it shall be a defence for the person charged to prove that —

(a) the commission of the offence was due to the act or default of another person or to some other cause beyond his control; and

(b) he took all reasonable precautions and exercised all due diligence to avoid the commission of such offence by himself or by any person under his control.

(6) If in any case the defence provided by subsection (5) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period of not more than 7 days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of that other person.

Application for licence and permit

12. (1) An application for a licence under sections 10 and 11 or for a permit under section 11 shall be —

(a) made to the Authority in such form and manner as the Authority may determine;

(b) accompanied by —

- (i) the prescribed fee;
- (ii) such particulars, information, documents and other requirements as the Authority may specify; and
- (iii) if required by the Authority, a statutory declaration by the applicant verifying any information contained in or relating to the application.

(2) On being satisfied with the application under subsection (1), the Authority may

—

(a) grant the licence or permit applied for, with or without conditions; or

(b) refuse to grant the licence or permit applied for.

(3) Where the Authority has refused to grant a licence or permit under subsection(2)(b), it shall, if requested to do so by the applicant, state in writing the reasons for its refusal.

(4) The conditions which the Authority may impose under subsection (2)(a) may include any condition which restricts or prohibits the export of any food from Brunei Darussalam to any country, territory or place.

(5) The Authority may at any time vary or revoke any of the existing conditions imposed under subsection (2)(a) or impose new conditions.

(6) Every licence or permit granted under this section —

(a) shall be in such form as the Authority may determine;

(b) shall be valid for the period stated therein unless it is sooner suspended or revoked under section 13(1); and

(c) in the case of a licence, may be renewed on its expiry.

(7) Subsections (1) to (6) apply, with the necessary modifications, to an application for the renewal of a licence.

Licence and permit not transferable

13. A licensee and permit holder shall not transfer his licence and permit to, or permit his licence and permit to be used by, another person.

Suspension and revocation of licence and permit

14. (1) The Authority may suspend or revoke a licence or permit granted under section 12(2)(a) if it is satisfied that —

(a) the grant of the licence or permit has been obtained by fraud or misrepresentation;

(b) the licensee or permit holder is contravening, has contravened or has failed to comply with —

(i) any provision of this Order or any regulations made thereunder;

(ii) any condition of his licence or permit; or

(iii) any direction given to him by the Authority or an authorised officer under this Order or any regulations made thereunder; or

(c) it is in the public interest to suspend or revoke the licence or permit.

(2) The Authority shall, before suspending or revoking the licence or permit under subsection (1), give to the licensee or permit holder notice in writing of its intention to do so and shall in such notice call on the licensee or permit holder to show cause within such period of time as may be specified in the notice why his licence or permit should not be suspended or revoked.

(3) If the licensee or permit holder —

(a) fails to show cause within the period of time given to him to do so or such extended period of time as the Authority may allow; or

(b) fails to show sufficient cause,

the Authority shall give notice in writing to the licensee or permit holder of the date from which the suspension or revocation of his licence or permit is to take effect.

Appeals

- 15.** (1) Any person who is aggrieved by —
- (a) the imposition of any condition by the Authority on granting or renewing a licence or on granting a permit under section 12(2)(a);
 - (b) the refusal of the Authority to grant or renew a licence or to grant a permit under section 12(2)(b), or
 - (c) the decision of the Authority to suspend or revoke a licence or permit under section 13(1),

may, within 14 days of the date of receipt of the notice informing him of the imposition of such conditions, refusal, suspension or revocation, as the case may be, appeal in writing to the Minister whose decision is final.

- (2) Notwithstanding that any appeal under subsection (1) is pending —
- (a) any condition imposed by the Authority on granting or renewing a licence or permit under section 12(2)(a); or
 - (b) the suspension or revocation of a licence or permit under section 13(1), shall take effect from the date specified in the notice given by the Authority in respect thereof, unless the Minister otherwise orders.

(3) On the suspension or revocation of a licence or permit, the licensee or permit holder shall surrender the licence or permit to the Authority within the period of time specified in the notice referred to in subsection (1), failing which the licensee or permit holder is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both.

Inspection of food on import or prior to export

- 16.** (1) Any person who —
- (a) has imported any food for sale, supply or distribution in Brunei Darussalam; or
 - (b) intends to export any food for sale, supply or distribution to any other country, territory or place,

shall forthwith arrange, at his own expense, for the food to be inspected, examined and certified by an authorised officer before it is sold, distributed or exported, as the case may be.

(2) Where any food which has been inspected and examined under subsection (1) is found by the authorised officer to be diseased, adulterated or otherwise unfit for human consumption —

(a) the authorised officer shall issue to the person who imported, or who intends to export, the food a report stating his finding; and

(b) the person who imported, or who intends to export, the food shall, at his own expense and within the time stated in the report —

(i) in the case of an imported food, remove the food from Brunei Darussalam or destroy or dispose of the food in such manner as the Authority may determine;

(ii) in the case of any food which is intended for export, destroy or otherwise dispose of the food in such manner as the Authority may determine.

(3) Any licensee who requires an export health certificate for the export of any consignment of food may apply to the Authority for the issue of the export health certificate in such form and manner as the Authority may determine, accompanied by the prescribed fee.

(4) Where a person who has imported, or who intends to export, any food fails to comply with subsection (1) or (2)(b), he is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both.

(5) Where a person to whom subsection (2)(b) applies fails to comply with that subsection, an authorised officer may take such steps as he thinks fit to secure the removal, destruction or disposal of the food and the costs and expenses incurred by him shall be borne by that person.

Prohibition of import or manufacture of prepacked food without registration

17. (1) No person shall import or manufacture any prepacked food unless it is registered with the Authority.

(2) An application for registration under this section shall be —

(a) made to the Authority in such form and manner as the Authority may determine; and

(b) accompanied by the prescribed fee.

(3) Where after the prepacked food has been registered, a change occurs in any information, the importer shall forthwith notify the Authority in writing of the particulars of the change, accompanied by the prescribed fee, and the Authority shall make an alteration in the registered particulars.

(4) This section does not apply to prepacked food that —

(a) is loosely packed in the business place;

(b) is weighed, counted or measured in the presence of the purchaser.

PART 4

LICENSING OF FOOD BUSINESS

Food business to be licensed

18. No person shall operate or carry on food business specified in the Schedule unless he obtains a licence from the Authority.

Authority may issue temporary licence

19. The Authority may issue a temporary licence to operate a food business in any temporary fair or in other such function or activity for such period as the Authority may determine

Application for licence

20. (1) An application for a licence under section 18 or 19 shall be —

(a) made to the Authority in such form and manner as the Authority may determine;

(b) accompanied by the prescribed fee.

(2) In considering any application under subsection (1), the Authority may require the applicant to —

(a) furnish such additional documents or information; and

(b) satisfy such other matters as the Authority may determine.

(3) On considering an application received under subsection (1), the Authority may —

(a) grant a licence, with or without conditions; or

(b) refuse to grant a licence.

(4) A licence shall not be renewable as of right and an application to renew shall be treated as an application for a licence.

Licence not transferable

21. A licensee shall not transfer his licence to, or permit his licence to be used by, another person.

Grant etc. of licence

22. (1) Subject to subsection (4), the grant of any licence issued, or to be issued under this Order, shall be in the absolute discretion of the Authority.

(2) Any license granted shall be valid for such period as the Authority may determine from the date of issue, unless suspended or revoked.

(3) The Authority may suspend or revoke a licence granted to any person on proof to its satisfaction of an offence against this Order or other misconduct by such person.

(4) Any person who is aggrieved by the refusal of the Authority to grant a licence or by a decision of the Authority to suspend or revoke a licence may, within 14 days of the date of receipt of the notice of such refusal, suspension or revocation, appeal in writing to the Minister whose decision is final.

Changes in particulars of licence

23. Whenever any change is made or occurs to the name or address of the licensed place, the licensee shall within 30 days of such change —

(a) furnish to the Authority a statement in writing specifying the nature and date of the change; and

(b) surrender the licence to the Authority,

and the Authority shall, as soon as practicable, issue a new licence to the licensee, accompanied by the prescribed fee.

Replacement of lost or defaced licence

24. (1) Where it is proved to the satisfaction of the Authority that a licence has been lost, destroyed or so mutilated or defaced as to be illegible, the Authority may, on receipt of an application from the licensee and accompanied by the prescribed fee, issue a replacement licence to the licensee, and the replacement licence so issued shall have the same effect as the original.

(2) If at any time after the issue of a replacement licence the original licence is found, the licensee shall return the original licence to the Authority.

Display of licence

25. Every licensee shall exhibit his original licence in a conspicuous place at the licensed place.

Persons with infectious diseases not to carry on business

26. (1) The Authority may require —

(a) any licensee;

(b) any assistant or employee of the licensee; or

(c) any applicant for a licence under this Part,

to submit to medical examination.

(2) If such licensee, assistant, employee or applicant is suffering from or is suspected to be suffering from an infectious disease or is suspected to be a carrier thereof, the Authority may require him to undergo treatment.

(3) The Authority may require that treatment to be obtained at any hospital as it may think fit.

(4) The Authority may require any licensee or any assistant or employee of the licensee to submit to immunisation against any infectious disease.

(5) Every licensee shall ensure that his assistant or employee is immunised against any infectious disease as required by the Authority.

(6) The Authority may, at any time, suspend or revoke any licence granted under this Part if—

- (a) the licensee is suffering from an infectious disease;
- (b) the licensee knowingly employs any person who is suffering from or is suspected to be suffering from an infectious disease;
- (c) the licensee, his assistant or employee refuses to comply with any requisition made by the Authority under subsection (1), (2) or (3); and
- (d) the licensee does not comply with subsection (4).

(7) In this section, “infectious disease” means —

- (a) any disease set out in the First or Second Schedule to the Infectious Diseases Act (Chapter 204); and
- (b) any skin disease which is likely to be contagious.

Cleanliness of food business

27. (1) Every licensee shall keep the food business in a clean and sanitary condition.

(2) Where, in the opinion of the Authority, a licensee has failed to comply with subsection (1), the Authority may, by notice in writing, require such licensee, within such period as may be specified therein, to take such steps as the Authority may think fit for the purpose of complying with that subsection.

Cleanliness of vehicles, food contact article etc.

28. (1) Any person who uses a vehicle for the transportation of food shall ensure that the surface of the vehicle with which the food is likely to come into contact is kept in a state of cleanliness, good order and condition so as to prevent any risk of contamination of the food.

(2) The Authority may, by notice in writing, require any person who uses a vehicle to transport food to use or install in or on the vehicle any food contact article as it thinks fit to ensure that the food carried in or on the vehicle will not be contaminated.

Registration of food handlers

29. (1) No food handler shall be engaged in the sale or preparation for sale of any food unless the food handler is registered with the Authority.

(2) The Authority may register a food handler under subsection (1) subject to such conditions as the Authority may think fit.

(3) No food handler shall engage in the sale or preparation for sale of any food unless he has successfully completed such course (including a refresher course) on food hygiene as the Authority may require within such time as the Authority may specify or such extended period of time as the Authority may allow.

(4) In this section, “food handler” includes any person who —

- (a) is directly involve in the preparation of food;
- (b) comes into contact with food or food contact articles; and
- (c) handles packaged or unpackaged food, or food contact article,

in any food premises.

PART 5
SALE OF FOOD

Adulterated food

30. (1) No person shall prepare or sell any adulterated food.

(2) For the purposes of this Order and without prejudice to the generality of subsection (1), any food is deemed to be adulterated if—

(a) it contains or is mixed or diluted with any substance which diminishes in any manner its nutritive or other beneficial properties as compared with such food in a pure, normal or specified state and in an undeteriorated and sound condition, or which in any other manner operates or may operate to the prejudice or disadvantage of the purchaser or consumer;

(b) any substance or ingredient has been extracted, wholly or in part, or omitted, from the food and by reason of such extraction or omission, the nutritive or other beneficial properties of the food are less than those of the food in its specified state, or the food operates or may operate to the prejudice or disadvantage of the purchaser or consumer;

(c) it contains or is mixed or diluted with any substance of lower commercial value than such food in a pure, normal or specified state and in an undeteriorated and sound condition;

(d) it contains any substance the addition of which is not permitted by this Order or any regulations made thereunder;

(e) it does not comply with the prescribed standards or specifications;

(f) it contains a greater proportion of any substance than is permitted by this Order or any regulations made thereunder;

(g) it is mixed, coloured, powdered, coated, stained, prepared or otherwise treated in a manner whereby damage or inferiority may be concealed; or

(h) it is in a package and the contents of the package as originally packed have been removed in whole or in part and other contents have been placed in the package.

(3) For the purposes of this Order and without prejudice to the generality of subsection (2)(d), the addition of any substance to the food is deemed to be not permitted or is deemed to be prohibited by or under this Order if the prescribed standards or specifications for the food do not expressly provide for the addition of such substance.

(4) Any person who contravenes any of the provisions of this section is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years or both.

Food containing substances injurious to health

31. (1) No person shall prepare or sell any food that has in or on it any substance which is poisonous, harmful or otherwise injurious to health.

(2) In determining whether any food is injurious to health for the purpose of subsection (1), it shall not only consider the probable effect of that food on the health of a person consuming it but also the probable cumulative effect of the food of substantially the same composition on the health of a person consuming the food in ordinary quantities.

Food containing prohibited substances

32. No person shall sell any food which contains any substance the addition or use of which is prohibited by any regulations made under this Order.

Food containing substances in excess of permitted proportion

33. No person shall sell any food containing a greater proportion of any substance than is permitted by any regulations made under this Order.

Food containing alcohol etc.

34. No person shall sell any food which contains more than 50 parts of methyl alcohol, isopropyl alcohol or denatured alcohol in one million parts of the food.

Food unfit for human consumption

35. (1) No person shall prepare or sell any food that consists wholly or in part of—
- (a) any diseased, filthy, decomposed or putrid animal or vegetable substance;
 - (b) any portion of an animal unfit for food; or
 - (c) the product of an animal which has died otherwise than by slaughter or as game,

whether manufactured or not.

(2) No person shall prepare or sell any food that contains or on which there is any matter foreign to the nature of such food, or is otherwise unfit for human consumption, whether manufactured or not.

(3) No person shall prepare or sell any food, whether manufactured or not, that is enclosed in a sealed package and the package is damaged and can no longer ensure protection to its contents from contamination or deterioration.

Selling unsafe or unsuitable food

36. (1) No person shall sell food that the person knows or ought reasonably to have known is unsafe.

(2) No person shall sell food that the person knows or ought reasonably to have known is unsuitable.

(3) For the purposes of subsection (2), it is immaterial whether the food concerned is safe.

Offences concerning labelling

37. (1) No person shall sell any food that is packaged or labelled in a manner that does not comply with all applicable requirements of this Order relating to identification and labelling of that food.

(2) In a prosecution for an offence under section 42 for contravening subsection (1), it is not necessary for the prosecution to prove that the defendant intended to commit the offence.

Offences involving non-compliant advertising

38. (1) This section applies to an advertisement relating to any food or food contact article that —

(a) does not comply with all applicable requirements of this Order relating to advertisements promoting the food or food contact article;

(b) is false as to the age, composition, effects, nature, origin, purity, quality or strength of the food or the safety or suitability of the food or food contact article;

(c) is likely to deceive a purchaser as to the age, composition, effects, nature, origin, purity, quality or strength of the food or the safety or suitability of the food or food contact article;

(d) is prohibited by an applicable requirement of this Order from being marked or attached to the kind of food or food contact article, or packages containing that kind of food;

(e) makes a statement prohibited by an applicable requirement of this Order to be made in an advertisement relating to the kind of food or food contact article;

(f) expressly or impliedly qualifies, or is contrary to, details required by an applicable requirement of this Order to be marked or attached to the kind of food, or packages containing that kind of food or food contact article;

(g) omits from the name or description of the food or food contact article any word or words required by an applicable requirement of this Order to be included in the name or description marked on or attached to the kind of food or food contact article, or packages containing that kind of food;

(h) fails to make a statement required by an applicable requirement of this Order to be made in an advertisement relating to the kind of food or food contact article; or

(i) fails to show, in an advertisement shown on a screen, a word or words required by paragraph (g) or (h) in clearly legible lettering for a sufficient length of time for an ordinary viewer to read them.

(2) A person who is —

(a) the person selling, promoting the sale, or appearing to promote, the sale of any food or food contact article; or

(b) the agent or employee of the person selling, promoting the sale, or appearing to promote the sale of any food or food contact article,

shall not publish an advertisement described in subsection (1) relating to the food or food contact article.

(3) In a prosecution for an offence under section 42 for contravening subsection (2), it is not necessary for the prosecution to prove that the defendant intended to commit the offence.

(4) In a prosecution for an offence under section 42 for contravening subsection (2) concerning an advertisement mentioned in subsection (1)(b), the advertisement is taken to be false as to the relevant matter in that subsection unless evidence is adduced by the defendant to the contrary.

(5) For the avoidance of doubt, subsection (4) does not —

(a) have the effect that, merely because such evidence to the contrary is adduced, the advertisement is not false as to the relevant matter in subsection (1)(b);

or

(b) have the effect of placing on any person the onus of proving that the advertisement is not false as to the relevant matter in subsection (1)(b).

(6) Without affecting section 50, in any proceedings for an offence under section 42 in relation to the publication of an advertisement in contravention of subsection (2), it is a defence to the charge for the defendant to prove, on a balance of probabilities —

- (a) that -
 - (i) the defendant was acting in the course of a business of delivering, transmitting or broadcasting communications (in whatever form or by whatever means) or making data available; and
 - (ii) the nature of the business is such that persons undertaking it have no control over the nature or content of the communications or data; or
- (b) that the defendant -
 - (i) carried on the business of publishing or arranging for the publication of advertisements; and
 - (ii) published or arranged for the publication of the advertisement in question in the ordinary course of that business.

(7) Subsection (6) does not apply if the defendant concerned —

- (a) ought reasonably to have known that the publication of the advertisement was an offence under this Part;
- (b) had previously been informed in writing by or on behalf of the Authority that publication of such an advertisement would constitute an offence under this Part; or
- (c) is the proprietor of a food business or is otherwise engaged in the conduct of a food business for which the advertisements concerned were published.

False labelling etc.

39. No person shall sell any food which is labelled or advertised in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its value, merit or safety.

Sale of food not of the quality etc. demanded

40. No person shall sell to the prejudice of the purchaser any food which is not of the quality or not of the nature, or not of the substance of the food demanded by the purchaser.

Sale of food prepared under insanitary conditions

41. No person shall sell any food which is manufactured, prepared, preserved, packaged or stored under insanitary conditions.

Offences

42. Any person who contravenes any provision of this Part is guilty of an offence.

PART 6

ENFORCEMENT

Power to close insanitary premises

43. (1) Where the Authority or an authorised officer is of the opinion that any premises preparing or selling food is in a condition that fails to comply with the sanitary and hygienic requirements, the Authority or authorised officer may give written directions requiring the closure of the premises for such time as the Authority may determine.

(2) The Authority or authorised officer shall, as soon as possible after the Authority or authorised officer has given written directions under subsection (1), inform the owner or occupier of the premises in writing of the reasons why the directions were given.

(3) Any person who fails to comply with the directions under subsection (1) is guilty of offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years or both.

Powers of entry, seize etc.

44. (1) Any authorised officer may —

(a) at any reasonable time enter and inspect any premises which he believes to be food premises and examine any food found and take samples of such food, and examine anything that he believes is used or capable of being used for the preparation, preservation, packaging, storage, conveyance, distribution or sale of the food;

(b) stop, search or detain any vehicle in which he has reasonable grounds to believe any food of being conveyed, and examine such food and take samples thereof;

(c) open and examine any package which he has reasonable grounds to believe contains any food to which this Order applies;

(d) examine and seize any book, document or other records in any form found on any premises mentioned in paragraph (a) which he has reasonable grounds to believe contains any information relevant to the enforcement of this Order, and make or cause to be made copies thereof or take extracts therefrom;

(e) seize and detain for such time as may be necessary any food or food contact article by means of or in relation to which he has reasonable grounds to believe any provision of this Order has been contravened;

(f) demand the production of proof of identity, food business licence or any other document which he considers relevant;

(g) mark, seal, detain or otherwise secure, weigh, count or measure any food or food contact article, the preparation, preservation, manufacturing, packaging, storage, conveyance, distribution or sale of which is, or which he has reasonable grounds to believe to be, contrary to this Order;

(h) take photographs (including a video recording), or make sketches, of the premises or any substance or thing at the premises; and

(i) recall, remove or withdraw from sale of food, food product or food contact article that is harmful, injurious to health or adulterated from food premises.

- (2) Any food or food contact article seized may —
- (a) be kept or stored in the place or premises where it was seized;
 - (b) at the direction of the Authority or an authorised officer, be removed to any other place; or
 - (c) where the food is likely to decay or injurious to health, be destroyed or disposed of immediately.

(3) An authorised officer may submit any food seized by him or any sample from it or any other sample taken by him to any recognised laboratory as the Minister may determine, for analysis or examination.

(4) The recognised laboratory shall provide a certificate of the results of an analysis or examination under subsection (3) signed by an authorised analyst and a copy of the certificate may be obtained by the person from whom the food or sample was taken, on payment of prescribed fee.

(5) Any person claiming anything seized under this section may within 48 hours after the seizure complain thereof to a court, and the complaint may be heard and determined by that court, which may either confirm or disallow the seizure wholly or in part and may order the article seized to be restored.

(6) If within 48 hours after such seizure no complaint has been made, or if the seizure is confirmed, the article seized shall become the property of the Authority and shall be destroyed or otherwise disposed of so as to prevent it being used for human consumption.

(7) Where the Authority or an authorised officer seizes any food or food contact article under subsection (1)(e), the Authority or authorised officer shall forthwith give notice in writing of the seizure to the owner of the food or food contact article seized or to the agent of such owner, if the name and address of such owner or agent thereof are known.

(8) The Authority or an authorised officer may mark, seal or label any food or food contact article being detained under subsection (1)(e) in such manner as the Authority or authorised officer thinks fit for the purpose of indicating that the food or food contact article is under detention and may lock or seal the place or premises in which the item is being detained.

(9) Any person who, without the authority of the Authority or authorised officer -

(a) interferes, tampers with, removes, distributes, sells or otherwise disposes of any item seized and detained under subsection (1)(e) or alters, counterfeits, defaces, destroys, erases or removes any mark, seal or label placed by the Authority or authorised officer on such item under subsection (7); or

(b) opens, breaks or otherwise tampers with the lock or seal placed by the Authority or authorised officer on any premises or conveyance or part thereof under subsection (6),

is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both.

Power to call for information

45. (1) Subject to subsection (6), an authorised officer may at any time require any person —

(a) to produce to the authorised officer for inspection any document or record or copies or extracts of any document or record which the authorised officer believes on reasonable grounds contains any information relevant to the administration or enforcement of this Order; or

(b) to furnish any information as the authorised officer may reasonably require.

(2) Any of the authorised officers mentioned in subsection (1) may make, or cause to be made, copies of, or extracts from, any such document or record.

(3) The copies or extracts certified as such by any authorised officer are, unless the contrary is proved, deemed to be true and correct copies or extracts.

(4) Any person who refuses or neglects to comply with any requisition made under this section is guilty of an offence.

(5) Except for the purpose of carrying into effect this Order, any authorised officer who —

(a) does not maintain the secrecy of all matters which come to his knowledge in the performance of his official duties under this section; or

(b) communicates any such matter to any person, is guilty of an offence.

(6) The powers conferred under subsection (1) may only be exercised by an authorised officer —

(a) to determine whether an applicable requirement of this Order with respect to food, food contact articles or food businesses has been, or is being, complied with;

(b) to ensure that an applicable requirement of this Order with respect to food, food contact articles and food businesses has been, or is being, or will be, complied with;

(c) to investigate anything that may have, or might potentially have, contaminated food or food contact articles;

(d) to determine whether food or food contact article is safe or suitable;

(e) to determine whether food or food contact article poses a risk to human life or public health; or

(f) to investigate any offence under this Order or any contravention of or non-compliance with an applicable requirement of this Order.

Power to demand and select and take or obtain samples

46. (1) Without payment to any person selling or manufacturing any food or food contact article or to his agent or employee of the current market value of samples of the food or food contact article, any authorised officer may at any place demand and select and take or obtain such samples for the purpose of analysis or examination.

(2) Any such authorised officer may require that person or his agent or employee to show and permit the inspection of the package in which the food or food contact article is at the time kept, and may take therefrom the samples demanded.

(3) Any person who refuses or neglects to comply with any demand or requisition made by an authorised officer under this section is guilty of an offence.

Power of arrest

47. (1) The Authority, an authorised officer, police officer or officer of customs may arrest without warrant any person committing or attempting to commit, or whom he reasonably suspects of being engaged in committing or attempting to commit, any offence against this Order or any regulations made thereunder, if—

(a) that person refuses to furnish his name and address or furnishes an address outside Brunei Darussalam; or

(b) there are reasonable grounds for believing that he has furnished a false name or address or that he is likely to abscond.

(2) The Authority, authorised officer, police officer or officer of customs making an arrest without warrant shall, subject to subsection (3), without unnecessary delay bring the person arrested before a court.

(3) No person who has been arrested by the Authority, authorised officer, police officer or officer of customs shall be released, except on his own bond, on bail or on an order of the court or of the Authority.

Obstruction of authorised officer etc.

48. (1) Any person who —

(a) wilfully obstructs any authorised officer acting in pursuance of this Order; or

(b) without reasonable cause, fails to give any authorised officer any other assistance, information or document which the Authority or authorised officer may reasonably require for the purpose of the performance of the Authority's or the authorised officer's functions under this Order,

is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both.

(2) Any person who, in giving any such information as is mentioned in subsection (1), makes any statement which he knows to be false is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding one year or both.

PART 7

GENERAL

Forfeiture

49. (1) The court before which any person is tried for an offence against this Order or any regulations made thereunder may make an order for the forfeiture of any item which has been seized under the provisions of this Order if—

(a) the court is satisfied that —

(i) an offence against this Order or any regulations made thereunder has been committed; and

(ii) the item seized was the subject-matter, or was used in the commission, of the offence; and

(b) having regard to the circumstances of the case, the court thinks it fit to order the forfeiture of the item.

(2) Where no party raises the question of forfeiture under subsection (1), the court shall consider the question on its own motion.

(3) The court may make an order under subsection (1) for the forfeiture of any item which has been seized under the provisions of this Order notwithstanding that no person may have been convicted of an offence.

(4) If the court, having regard to the circumstances of the case, does not think it fit to order the forfeiture of any item which has been seized under the provisions of this Order, the court shall order that the item be released to the owner thereof or to the person entitled thereto.

(5) In the absence of any prosecution with regard to any item which has been seized under the provisions of this Order, the Authority shall give to the person from whom the item was seized or to the owner of the item, notice in writing that the item, on the expiration of 7 days of the date specified in the notice, is deemed to be forfeited unless a claim thereto is made before then in accordance with subsection (6).

(6) Any person asserting —

- (a) that he is the owner of, or that he is entitled to, any item which has been seized under the provisions of this Order; and
- (b) that the item is not liable to forfeiture,

may, personally or by his agent authorised in writing, give written notice to the Authority that he claims the item.

(7) On receipt of a notice under subsection (6), the Authority may direct that the item be released to the person who has given the notice or may refer the matter to a court for decision.

(8) Where no claim is received on the expiration of the 7 days as referred to in subsection (5), the item to which the notice relates is deemed to be forfeited.

(9) Where the owner of any item seized under the provisions of this Order consents to its disposal, the item is thereon deemed to be forfeited.

(10) Any item forfeited or deemed to be forfeited under this section shall be delivered to an authorised officer and shall be disposed of in such manner as the Authority thinks fit.

Defence

50. In a prosecution for selling any food contrary to the provisions of this Order or of any regulations made thereunder, it shall be no defence that the defendant did not act wilfully unless he also proves that he took all reasonable steps to ascertain that the sale of the food would not constitute an offence against this Order or any regulations made thereunder.

Presumptions etc.

51. (1) In proceedings under this Order —

(a) a package containing any food or food contact article to which this Order applies, or bearing a name, address or mark of the person by whom it was imported, manufactured or packed shall, until the contrary is proved, be presumed to have been imported, manufactured or packed by that person;

(b) any substance commonly used for human consumption, if sold or offered, exposed or kept for sale, shall, until the contrary is proved, be presumed to have been sold or to have been intended for sale, for human consumption;

(c) any substance commonly used for human consumption which is found on premises used for the preparation, storage or sale of that substance and any substance commonly used in the manufacture of products for human consumption which is found on premises used for the preparation, storage or sale of those products

shall, until the contrary is proved, be presumed to be intended for sale, or for the manufacturing of products for sale, for human consumption;

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

(e) the contents of any package appearing to be intact and in the original state of packing by the manufacturer shall, until the contrary is proved, be presumed to be food of the description on the label of such package.

(2) For the purposes of this Order —

(a) every person is deemed to sell any food or food contact article who sells the food or food contact article either on his own account or as the agent or employee of any other person; and

(b) in the case of any sale by an agent or employee, his principal or employer is under the same liability as if he had effected the sale personally.

Non-disclosure of information

52. (1) No prosecutor or witness in any prosecution under this Order is compelled to disclose the fact that he received any information, the nature of the information or the name of any person who gave the information.

(2) Any employee of the Authority and any authorised officer appearing as a witness shall not be compelled to produce any confidential report or document made or received by him in his official capacity or to make any statement in relation thereto.

(3) Any person who discloses any information obtained by him in connection with the administration or execution of this Order or any regulations made thereunder in relation to any manufacturing process or trade secret used in carrying on any particular trade, industry or process, unless the disclosure was made for the purposes of this Order or of any criminal proceedings under this Order or with the consent of the person carrying on that trade, industry

or process, is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 6 months or both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000, imprisonment for a term not exceeding one year or both.

Recovery of fees etc. incidental to prosecution

53. (1) When any person is convicted of an offence under this Order, the court may order that all fees and other expenses incidental to the analysis of any food or food contact article in respect of which the conviction was obtained, and any other reasonable expenses incurred by the prosecution, shall be paid by the person convicted.

(2) All such fees and expenses is recoverable in the same manner as a fine.

(3) The Authority shall not be liable to make good any damage which an owner, occupier or a person in charge of any food premises may sustain as a result of an entry, search or seizure under this Order, unless the damage was caused by the willful neglect or default of an authorised officer.

Service of documents etc.

54. (1) Any notice, order or document required or authorised by this Order or the regulation made thereunder to be served on any person and any summons issued by a court against any person in connection with any offence against this Order or the regulations may be served on the person —

(a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;

(b) by leaving it at his usual or last known place of residence or place of business in an envelope addressed to the person;

(c) by sending it by registered post addressed to the person at his usual or last known place of residence or place of business; or

(d) in the case of an incorporated company, a partnership or a body of persons —

- (i) by delivering it to the secretary or other like officer of the company, partnership or body of persons at its registered office or principal place of business; or
- (ii) by sending it by registered post addressed to the company, partnership or body of persons at its registered office or principal place of business.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) is deemed to be duly served on the person at the time when the notice, order, document or summons, as the case may be, would in the ordinary course of post be delivered and, in proving service of the notice, order, document or summons, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

(3) Any notice, order or document required or authorised by this Order or the regulations made thereunder to be served on the owner or occupier of any premises or any summons issued by a court against any such owner or occupier in connection with any offence against this Order or the regulations may be served by delivering it or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom it can with reasonable diligence be delivered, by affixing the notice, order, document or summons to some conspicuous part of the premises.

(4) Any notice, order or document required or authorised by this Order or the regulation made thereunder to be served on the owner or occupier of any premises or any summons issued by a court against any such owner or occupier in connection with any offence against this Order or the regulations is deemed to be properly addressed if addressed by the description of the owner or occupier of the premises without further name or description.

Protection from personal liability

55. No suit or other legal proceedings shall lie personally against the Authority, any authorised officer or other person acting under the direction of the Authority, for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in —

- (a) the exercise or purported exercise of any power;
- (b) the performance or purported performance of any function,

under this Order or any other written law.

General penalty

56. Any person who contravenes or fails to comply with any provision of this Order for which no penalty is expressly provided is guilty of an offence and liable on conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

Composition of offences

57. (1) The Authority or any person authorised by the Authority in writing in that behalf may, subject to such conditions as it considers fit to impose, compound any offence under this Order which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed that offence a sum not exceeding \$5,000.

(2) On payment of such sum of money, no further proceedings shall be taken against that person in respect of that offence.

(3) All sums collected by the Authority under subsection (1) shall be paid to the Authority.

Offences by body corporate etc.

58. (1) Where an offence against this Order committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence against this Order committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

(4) Where an offence against this Order committed by a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner or manager of the limited liability partnership, the partner or manager (as the case may be) as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.

(5) Where an offence against this Order committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the unincorporated association or a member of its governing body, the officer or member (as the case may be) as well as the unincorporated association is guilty of that offence and liable to be proceeded against and punished accordingly.

(6) In this section —

“officer” —

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate, and includes a person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary or a member of the committee of the unincorporated association or a person holding a position analogous to that of president, secretary or member of a committee, and includes a person purporting to act in any such capacity;

“partner”, in relation to a partnership, includes a person purporting to act as a partner.

Exemptions

59. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, in writing exempt any person, place or activity or class of persons, places or activities, or any food from all or any of the provisions of this Order, subject to such conditions and for such period as the Authority may determine.

Amendment of Schedule

60. The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, by order published in the *Gazette*, amend the Schedule.

Regulations

61. (1) The Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make such regulations which are necessary or expedient for giving effect to and carrying out the provisions of this Order, including the prescription of fees and other things required to be or which may be prescribed under this Order, and for the due administration thereof.

(2) Without prejudice to subsection (1), the Minister may, with the consent of His Majesty the Sultan and Yang Di-Pertuan, make regulations to —

(a) prescribe the standard of strength, weight, quality or quantity of any food or of any ingredient or component part thereof;

(b) prohibit the addition or use of any specified thing or of more than the specified quantity or proportion thereof to any food or food contact article;

(c) prohibit any mode of manufacture, preparation or preservation of any food or food contact article;

(d) secure the cleanliness and freedom from contamination of any food in the course of its manufacture, preparation, storage, packing, carriage, delivery, exposure for sale or sale and to secure the cleanliness of places, receptacles, food contact articles and vehicles used in such manufacture, preparation, storage, packing, carriage, delivery, exposure for sale or sale and to secure the proper conduct of places in which the sale or preparation for sale of food is carried on and for these purposes to require any person to submit to a medical examination;

(e) regulate the identification and labelling of food or food contact articles for sale, including specifying the matter that shall or shall not be contained in any such label and the manner of labelling;

(f) set out standards for the maintenance, cleanliness, sanitation and hygiene of premises at which a food business is carried out;

(g) set out requirements and procedures for document control and recording by food businesses to achieve the safety and suitability of food and to support a secure and reliable supply of food, including —

- (i) the information that shall be collected about food or food contact article;
- (ii) the periods for which the information shall be kept; and
- (iii) how, when and to whom that information shall be reported;

(h) set out requirements that apply to imported food or food contact article to ensure that the food or food contact article is safe and suitable and to support a secure and reliable supply of imported food in Brunei Darussalam, including keeping of records in relation to the source or traceability and handling of the food or food contact article imported;

(i) fix the fees to be paid in respect of the analysis of the food by an authorised analyst and for any licence or registration issued or effected under this Order and for copies of a certificate of analysis or examination;

(j) prohibit or regulate the promotion and advertising of food and food contact articles, including specifying the matter that shall or shall not be contained in any advertisement and the manner of promotion and advertising;

(k) prohibit the sale of specified food or food contact articles otherwise than by weight;

(l) regulate the seizure and disposal of unwholesome meat, fish, fruit, vegetables or other food or drink exposed or intended for sale;

(m) prescribe the fees to be paid in connection with the administration of this Order, and the waiver, reduction or refund of fees charged;

(n) provide for such saving, transitional and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient; and

(o) generally carry out the purposes of this Order.

(3) The Minister may, in making any regulations under this section, provide that any contravention of or failure to comply with any provision thereof is an offence and may prescribe punishment by a fine not exceeding \$10,000, imprisonment for a term not exceeding 5 years or both.

Repeal

62. Subject to section 63, the following written laws are repealed —

- (a) the Public Health (Food) Act (Chapter 182);
- (b) regulations 19 and 19A of the Public Health (Food) Regulations (Rg 1 of Chapter 182);
- (c) items 5 and 6 in the First Schedule to the Public Health (Food) Regulations (Rg 1 of Chapter 182).

Savings and transitional provisions

63. (1) Any subsidiary legislation or appointment made, and any thing done, under the repealed Act and in force immediately prior to the commencement of this Order and so far as it is not inconsistent with this Order shall continue in force as if made or done under this Order, until it is amended, repealed or revoked under this Order.

(2) Any reference in any written law to the repealed Act or any provision thereof shall, as from the commencement of this Order, be reference to this Order or the corresponding provision of this Order.

(3) In this section, “repealed Act” means the Public Health (Food) Act (Chapter 182) repealed under section 62 (a).

SCHEDULE

(section 18)

FOOD BUSINESS TO BE LICENSED

1. Any food business where food is sold wholly by retail (whether or not the food sold is also prepared, stored or packed for sale or consumed at such premises), including —
 - (a) an eating establishment, such as snack bar, restaurant;
 - (b) a cut fruit shop;
 - (c) a supermarket;
 - (d) a market produce shop (including any premises used for the sale of fish or crustacean, or meat or vegetable);
 - (e) a shop where smoked or barbecued fish or meat is sold
2. As a catering establishment providing a catering service whereby —
 - (a) food is prepared, packed and thereafter delivered to a consumer for his consumption or use; or
 - (b) food is prepared at premises appointed by a consumer for his consumption or use.
3. Without limiting paragraphs (1) and (2), a food business includes (but is not limited to) any of the following food businesses —
 - (a) a factory, plant or other premises where meat products or fish products are processed for sale to wholesalers or retail food businesses, or for export;
 - (b) the preparing or packing of ready-to-eat food¹ for the purpose of sale to wholesalers or retail food businesses, or for export;
 - (c) the manufacturing, preparing or packing of chilled, frozen and shelf-stable meals, condiments or prepared foods for sale to wholesalers or retail food businesses, or for export;

(d) the manufacturing, preparing (including by cutting, mincing, boning, drying, smoking or fermentation after slaughter or harvesting) or packing of meat, poultry or fish products for the purpose of sale to wholesalers or retail food businesses, or for export;

(e) the manufacturing of bottled drinking water or non-alcoholic beverages, for the purpose of sale to wholesalers or retail food businesses, or for export;

(f) brewers and distillers of vinegar, soya sauce or fish sauce for the purpose of sale to wholesalers or retail food businesses, or for export;

(g) wholesale bakeries supplying food prepared to wholesalers or retail food businesses;

(h) the processing or packing of herbs or spices for the purpose of sale to wholesalers or retail food businesses, or for export;

(i) manufacturing or preparing (including by blending and packing) dry mix products such as cake mix, chocolate drink mix², tea bags and powdered soup for sale to wholesalers or retail food businesses, or for export;

(j) a wholesale market where any animal, meat product, fish or fish product is sold wholesale or through auction;

(k) central kitchens supplying food prepared, cooked and packed for the purpose of distribution to retail food businesses;

(l) an operator of a warehouse or cold storage facility for the storage of food intended for sale, whether by wholesalers or retail food businesses.

