

CHAPTER 327**FOOD AND DRUGS ADULTERATION****ARRANGEMENT OF SECTIONS****SECTION**

1. Short title

PART I*Preliminary*

2. Interpretation.

PART II*General Provisions*

3. Restrictions on mixing food and drugs with other ingredients.
4. Prohibition against sale of articles of food and drugs not of the nature, substance or quality demanded.
5. Provision as to sale of compounds.
6. Protection from liability where article properly labelled.
7. Offences in relation to the abstraction from articles of foods of parts thereof.

PART III*Provisions with Respect to Special Articles*

8. Conditions to be observed in dealings in margarine, margarine-cheese, and milk-blended butter
9. Power to make regulations as to constituents of milk, butter, etc.
10. Special provisions relating to sale of milk.
11. Limits of moisture in milk-blended butter.
12. Restrictions on the importation of agricultural and other produce.

THE LAWS OF BARBADOS

SECTION

PART IV

Administration

13. Appointment of analysts.
14. Powers of sampling.
15. Right to have samples analysed.
16. Division of and dealing with samples.
17. Special provisions as to sampling of milk.
18. Obstruction of officers in discharge of duties.
19. Quarterly reports by analysts.

PART V

Legal Proceedings

20. Prosecutions and penalties for offences.
21. Service and evidence of certificates of analysts.
22. Conditions under which warranty may be pleaded as defence.
23. False warranties and certificates.
24. Saving for contracts.
25. Power of court to require analysis.
26. Form not in First Schedule not to apply to certificates of Chief Agricultural Officer.

FIRST SCHEDULE

Form of Certificate

SECOND SCHEDULE

Special Provisions as to Milk

CHAPTER 327

FOOD AND DRUGS ADULTERATION

An Act to amend the law relating to the sale of food and drugs.

1933-2.
1943-34.
1948-24.
1950-32.
1958-55.
L.N. 168/
1967.

[31st March, 1933] Commence-
ment.

1. This Act may be cited as the Food and Drugs (Adultera- Short title.
tion) Act.

PART I

Preliminary

2. For the purposes of this Act, the expression—

Inter-
pretation.

“butter” means the substance usually known as butter, made exclusively from milk or cream or both, with or without salt or other preservative and with or without the addition of colouring matter;

“cheese” means the substance usually known as cheese, containing no fat derived otherwise than from milk;

“drugs” includes medicine for internal or external use;

“food” includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food and also includes flavouring matters and condiments;

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

THE LAWS OF BARBADOS

- “ margarine ” means any article of food, whether mixed with butter or not, which resembles butter and is not milk-blended butter;
- “ margarine-cheese ” means any substance, whether compound or otherwise, which is prepared in imitation of cheese and which contains fat not derived from milk;
- “ milk-blended butter ” means any mixture produced by mixing or blending butter with milk or cream other than condensed milk or cream;
- “ Minister ” means the Minister responsible for Health.

PART II

General Provisions

Restrictions
on mixing
food and
drugs with
other
ingredients.

3. (1) No person shall mix, colour, stain or powder, or order or permit any other person to mix, colour, stain or powder—

- (a) any article of food with any ingredient or material so as to render the article injurious to health;
- (b) any drug with any ingredient or material so as to affect injuriously the quality or potency of the drug,

with the intent that the article of food or drug may be sold in that state.

(2) No person shall sell any article of food or drug so mixed, coloured, stained or powdered.

(3) Subject to subsection (4), any person who contravenes any of the provisions of this section is guilty of an offence and shall—

- (a) in the case of a first offence in relation to an article of food or a drug be liable on summary conviction to a fine of two hundred and forty dollars; and
- (b) in the case of any offence in relation to an article of food after conviction for a first offence in relation to an article of food or in the case of any offence in relation to a drug after conviction for a first offence in relation to a drug,

be liable on conviction on indictment to imprisonment for six months.

(4) A person shall not be liable to be convicted under this section in respect of the sale of any article of food or of any drug if he shows to the satisfaction of the court before which he is charged that he did not know, and could not with reasonable diligence have ascertained, that the article of food or drug sold by him was so mixed, coloured, stained or powdered.

4. (1) No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature or not of the substance or not of the quality of the article demanded by the purchaser.

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

(2) Subject to subsection (3), any person who contravenes this section is guilty of an offence.

(3) An offence under this section shall not be deemed to have been committed—

- (a) where any ingredient or material not injurious to health has been added to the article of food or drug because it is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the article of food or drug or to conceal the inferior quality thereof;
- (b) where the food or drug is the subject of a patent in force and is supplied in the state required by the specification of the patent or is a proprietary medicine;
- (c) where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation;
- (d) where the article being whisky, brandy, rum or gin is not adulterated otherwise than by the admixture of water and it is proved that such admixture has not reduced the spirit more than twenty-five degrees under proof.

(4) In any prosecution under this section it shall be no defence to allege that the purchaser, having bought only for analysis, is not prejudiced.

THE LAWS OF BARBADOS

Provision as to sale of compounds.

5. Any person who sells any compound article of food, or any compounded drug, which is not composed of ingredients in accordance with the demand of the purchaser, is guilty of an offence.

Protection from liability where article properly labelled.

6. (1) No person is guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any ingredient or material not injurious to health and not intended fraudulently to increase its bulk, weight or measure or to conceal its inferior quality if at the time of delivering the article of food or drug he supplies to the person receiving it a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that it is mixed.

(2) For the purposes of this section, a label shall not be deemed to be distinctly and legibly written or printed if the notice of mixture given by the label is obscured by other matter on the label.

(3) Nothing in subsection (2) shall hinder or affect the use of any registered trade mark or of any label which had been continuously in use for at least seven years before the 1st January, 1900.

(4) The Registrar shall not register any trade mark purporting to describe a mixture unless it complies with the requirements of this section.

Offences in relation to the abstraction from articles of foods of parts thereof.

7. Any person who abstracts from any article of food any part of it so as to affect injuriously its nature, substance or quality, with the intent that it may be sold in its altered state without notice or who sells any article so altered without making disclosure of the alteration is guilty of an offence.

PART III

Provisions with Respect to Special Articles

Conditions to be observed in dealings in margarine, margarine-cheese, and milk-blended butter.

8. (1) Margarine, margarine-cheese and milk-blended butter whenever sold or forwarded by any public conveyance shall be sold or consigned as margarine or margarine-cheese or, in the

case of milk-blended butter, under such name or names as may be approved by the Minister.

(2) It shall not be lawful to manufacture, sell or expose for sale any margarine the fat of which contains more than ten per cent of fat derived from milk.

(3) Every person dealing in margarine, whether wholesale or retail and whether as manufacturer, importer, consignee, consignee, commission agent or otherwise, shall conform to such of the following regulations as may be applicable, that is to say—

- (a) every package containing margarine, whether open or closed, shall have the word “Margarine” branded or durably marked on the top, bottom and sides thereof, in printed capital letters not less than three quarters of an inch square, the brand or mark being on the package itself and not solely on a label, ticket or other thing attached thereto:

Provided that in the case of locally manufactured margarine, every such package shall have the word “Margarine” branded or durably marked in printed capital letters of a size approved by the Comptroller of Customs; 1950-32.

- (b) there shall be attached to every parcel of margarine exposed for sale by retail, in such manner as to be clearly visible to the purchaser, a label marked “Margarine” in printed capital letters not less than one and a half inches square;
- (c) margarine shall not be described in any wrapper enclosing it or on any package containing it or on any label attached to a parcel thereof or in any advertisement or invoice thereof, by any name other than either “Margarine” or a name combining the word “Margarine” with a fancy or other descriptive name approved by the Minister and printed in type not larger than, and in the same colour as, the word “Margarine”.

(4) The requirements of paragraphs (a) and (b) of subsection (3) shall apply to margarine-cheese and to persons dealing therein with the substitution of “Margarine-cheese” for “Margarine”:

THE LAWS OF BARBADOS

Provided that where margarine-cheese is sold or dealt in otherwise than by retail, it shall be sufficient compliance with those requirements if it is itself conspicuously branded with the words "Margarine-cheese".

(5) The requirements of paragraphs (a) and (b) of subsection (3) shall apply to milk-blended butter and to persons dealing therein with the substitution of a name approved by the Minister for the word "Margarine".

(6) Any substances purporting to be butter or cheese which are exposed for sale and not marked in the manner in which margarine, margarine-cheese or milk-blended butter is required to be marked under this Act shall be presumed to be exposed for sale as butter or cheese, as the case may be.

(7) Any person who contravenes any of the provisions of this section is guilty of an offence.

Power to make regulations as to constituents of milk, butter, etc.

9. (1) The Minister may, after such enquiry as he deems necessary, make regulations for determining what deficiency in any of the normal constituents of genuine milk, cream, butter or cheese or what addition of extraneous matter or proportion of water in any sample of milk (including condensed milk), cream, butter or cheese or what proportion of any milk-solid other than fat in any sample of butter or milk-blended butter shall, for the purpose of this Act, raise a presumption, until the contrary is proved, that the milk, cream, butter, cheese or milk-blended butter is not genuine or is injurious to health, and an analyst shall have regard to such regulations in certifying the result of an analysis under this Act.

(2) Any regulations made under this section shall be notified in the *Official Gazette* and, shall also be made known in such other manner as the Minister may direct.

Special provisions relating to sale of milk. 1948-24.

10. (1) No person shall—

(a) add any water or colouring matter or any dried or condensed milk or liquid reconstituted therefrom to milk intended for sale for human consumption; or

(b) add any separated milk or any mixture of cream and separated milk to unseparated milk intended for such sale; or

(c) sell or offer or expose for sale or have in his possession for the purpose of sale, for human consumption any milk to which any addition has been made in contravention of this subsection.

(2) No person shall sell or offer or expose for sale, under the designation of milk, any liquid in the making of which any separated milk or any dried or condensed milk has been used.

(3) For the purposes of this section, the expression "separated milk" includes skimmed milk.

(4) A person who contravenes any of the provisions of this section is guilty of an offence.

11. Any person who manufactures, sells or exposes or offers for sale or has in his possession for the purpose of sale any milk-blended butter which contains more than twenty-four per cent of water is guilty of an offence.

Limit of moisture in milk-blended butter.

12. (1) Where there is imported into this Island any of the following articles, namely—

Restrictions on the importation of agricultural and other produce.

(a) margarine or margarine-cheese, except in packages conspicuously marked "Margarine" or "Margarine-cheese", as the case may require;

(b) adulterated or impoverished milk or cream, except in packages or cans conspicuously marked with a name or description indicating that the milk or cream has been so treated;

(c) condensed, separated or skimmed milk, except in tins or other receptacles which bear a label whereon the words "Machine-skimmed Milk" or "Skimmed Milk" as the case may require, are printed in large and legible type;

(d) any adulterated or impoverished article of food to which the Minister may by order direct that this section shall be applied, unless the same be imported in packages or receptacles conspicuously marked with a name or description indicating that the article has been so treated;

(e) butter containing more than sixteen per cent of water;

THE LAWS OF BARBADOS

- (f) margarine containing more than sixteen per cent of water or more than ten per cent of fat derived from milk;
 - (g) milk-blended butter containing more than twenty-four per cent of water;
 - (h) milk-blended butter, except in packages conspicuously marked with such name as may be approved by the Minister for the purpose,
- the importer is guilty of an offence.

(2) Prosecutions for offences under this section shall be undertaken by the Comptroller of Customs and, subject to this Act, this section shall have effect as if it were part of the Customs Act.

Cap. 66.

(3) Where in any case the Comptroller of Customs is of opinion that an offence against this section has been committed, he shall communicate to the Minister for his information the name of the importer and such other facts as he possesses or may obtain as to the destination of the consignment.

(4) For the purposes of this section, an article of food shall be deemed to be adulterated or impoverished if it has been mixed with any other substance or if any part has been abstracted so as in either case to affect injuriously its nature, substance or quality:

Provided that an article of food shall not be deemed to be adulterated by reason only of the addition of any preservative or colouring matter of such a nature and in such quantity as not to render the article injurious to health.

PART IV

Administration

Appoint-
ment of
analysts.

13. The Governor-General shall appoint one or more persons possessing competent knowledge, skill and experience as analysts of articles of food and drugs (in this Act referred to as public analysts).

Powers of
sampling.
1958-55.

14. (1) Any Medical Officer of Health, government or local government medical officer, Public Health Inspector, Inspector

of Weights and Measures, inspector of a market or police constable may purchase any sample of any food or drug, and any such officer, inspector, or constable is in this Act referred to as a sampling officer.

(2) A sampling officer may take at the place of delivery any sample of any food in course of delivery to the purchaser or consignee in pursuance of any contract for the sale thereof to the purchaser or consignee:

Provided that no sample of food other than milk shall be taken under this subsection except upon the request or with the consent of the purchaser or consignee.

(3) A sampling officer may, without going through the form of purchase, take for the purposes of analysis—

(a) samples of any butter or cheese or substances purporting to be butter or cheese which are exposed for sale and are not marked in the manner in which margarine, margarine-cheese or milk-blended butter is required to be marked under this Act;

(b) samples of milk at any time before it is delivered to the consumer.

(4) Any officer of Customs and any sampling officer if he has reason to believe that any package forwarded by any public conveyance contains margarine, margarine-cheese or milk-blended butter which is not consigned in accordance with this Act may examine and take samples from that package and ascertain if necessary by submitting the same to be analysed, whether an offence under this Act has been committed.

(5) Where—

(a) any sampling officer applies to purchase any article of food or any drug exposed for sale or on sale by retail on any premises (including any street or open space of public resort) and tenders the price for the quantity which he requires for the purpose of analysis not being more than is reasonably requisite and the person exposing the article or drug for sale, or having it for sale on the premises, refuses to sell to the officer such quantity thereof; or

(b) the seller or consignor or any person entrusted by him

THE LAWS OF BARBADOS

for the time being with the charge of any article of food of which a sampling officer is empowered to take a sample in course of delivery or transit refuses to allow the officer to take the quantity which he requires for the purpose of analysis,

the person so refusing is guilty of an offence and shall be liable to a fine of forty-eight dollars:

Provided that where any article of food or drug is exposed for sale in an unopened tin or package duly labelled, no person shall be required to sell it except in the unopened tin or package in which it is contained.

Right to
have samples
analysed.

15. (1) Where a sampling officer procures a sample of food or of a drug, he shall, if he suspects the sample or the article from which the sample is taken to have been sold contrary to any provision of this Act or that this Act has otherwise been infringed with respect to that article, submit it to be analysed by a public analyst.

(2) Any purchaser of an article of food or of a drug shall be entitled to submit it to be analysed by a public analyst.

(3) The public analyst shall, upon payment to him of a sum not exceeding sixty cents, as soon as practicable analyse any sample sent to him in pursuance of this Act and shall give to the persons by whom the sample is sent a certificate specifying the result of the analysis in the form set forth in the First Schedule or a form to the like effect.

First
Schedule.

Division of
and dealing
with samples.

16. (1) The person purchasing a sample of any article with the intention of submitting it to analysis shall, after the purchase has been completed, forthwith notify to the seller or his agent who sold the sample his intention to have it analysed by a public analyst and shall then and there divide the sample into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit and shall—

- (a) if required to do so, deliver one part to the seller or his agent;
- (b) retain one part for future comparison;
- (c) if he thinks fit to have an analysis made, submit one part to the analyst.

(2) In the case of a sample taken of milk in course of delivery or transit or of margarine, margarine-cheese or milk-blended butter forwarded by a public conveyance, the person taking the sample shall, if the name and address of the consignor appear on the can or package containing the article sampled, forward to him by registered parcel or otherwise a portion of the sample marked and sealed or fastened up.

17. (1) The provisions of this Act relating to the taking of samples and proceedings in connection therewith shall, in relation to milk, have effect subject to the Second Schedule. Special provisions as to sampling Second Schedule.

(2) So much of any contract as requires a purveyor of milk, on a sample of his milk being taken under this Act, to send to the person from whom he procured the milk any part of such sample or to give that person notice that a sample has been so taken shall be void.

(3) For the purposes of this section and of the Second Schedule, the expression "purveyor of milk" includes a seller of milk whether wholesale or by retail.

18. (1) Any person who wilfully obstructs or impedes any inspector or other officer in the course of his duties or by any gratuity, bribe, promise or other inducement prevents, or attempts to prevent, the due execution by the inspector or officer of his duty under this Act shall be guilty of an offence. Obstruction of officers in discharge of duties.

(2) Without prejudice to subsection (1), where any milk vendor or any servant or agent of any milk vendor, having in his possession or under his control any milk-can or other receptacle capable of containing milk, refuses or fails—

- (a) to stop, when requested so to do by a sampling officer; or
- (b) to give any sampling officer all reasonable assistance in his power to enable such officer to examine such milk-can or other receptacle; or
- (c) to permit any sampling officer to take a sample or samples of milk from any such milk-can or other receptacle in which milk is found,

he is guilty of an offence.

THE LAWS OF BARBADOS

Quarterly reports by analysts.

19. Every public analyst shall report quarterly to the Minister the number of articles analysed by him under this Act during the foregoing quarter and shall specify the result of each analysis and the sum paid to him in respect thereof.

PART V

Legal Proceedings

Prosecutions and penalties for offences.

20. (1) Save as otherwise expressly provided, all offences under this Act shall be prosecuted and all fines recoverable summarily before a magistrate:

Provided that where a sample has been purchased for test purposes, any prosecution under this Act in respect of the sale thereof shall not be instituted after the expiration of twenty-eight days from the time of the purchase.

(2) Where an analyst having analysed any article has given his certificate of the result from which it appears that an offence under this Act has been committed, the person causing the analysis to be made may take proceedings under this Act before a magistrate having jurisdiction in the place where the article of food or drug was actually delivered to the purchaser or the sample was taken.

(3) A person found guilty of an offence for which no special penalty is imposed by this Act shall be liable on conviction—

- (a) in the case of a first offence, to a fine of ninety-six dollars;
- (b) in the case of a second offence, to a fine of two hundred and forty dollars; and
- (c) in the case of a subsequent offence, to a fine of four hundred and eighty dollars; or if, in the opinion of the court, the offence was committed by the personal act, default or culpable negligence of the person accused and the court is of opinion that a fine will not meet the circumstances of the case, to imprisonment for three months:

Provided that, where the offence is the importation, in contravention of this Act, of butter, margarine, margarine-cheese or milk-blended butter, the maximum fine shall be

either that above mentioned or at the election of the Comptroller of Customs a sum equal to the value of the goods imported bearing the same mark or description, to be estimated and taken according to the rate and price for which goods of the like kind but of the best quality were sold at or about the time of the importation.

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

(5) Where an employer is charged with an offence under Part III, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of Part III and that the other person had committed the offence in question without his knowledge, consent or connivance, that other person shall be summarily convicted of the offence and the employer shall be exempt from any penalty.

21. (1) Where a certificate of analysis has been obtained on behalf of a prosecutor, a copy thereof shall be served with the summons.

Service and evidence of certificates of analysis.

(2) Where a copy of a certificate of a public analyst is intended to be produced by a defendant, a copy thereof shall be sent to the prosecutor at least three clear days before the return day and if it is not so sent, the court may, if it thinks fit, adjourn the hearing on such terms as may seem proper.

(3) In any proceedings for an offence under the foregoing provisions of this Act, the production by one of the parties of a certificate of a public analyst in the form prescribed by this Act shall be sufficient evidence of the facts stated therein unless the other party requires that the analyst shall be called as a witness.

(4) In any proceedings under this Act the part of the sample retained by the person who procured it shall be produced at the hearing.

THE LAWS OF BARBADOS

(5) In any proceedings for an offence under the provisions of this Act restricting the importation of articles of food, the certificate of the Chief Agricultural Officer of the result of the analysis shall be sufficient evidence of the facts therein stated unless the defendant requires that the person who made the analysis shall be called as a witness.

(6) In any proceedings for any such offence—

- (a) the certificate of the Chief Agricultural Officer, or if the person who made the analysis is called as a witness, the evidence of that person, that an imported substance is margarine or milk-blended butter shall raise a presumption, until the contrary is proved, that the substance is margarine or milk-blended butter; and
- (b) the defendant shall not be entitled to require the person who made the analysis to be called as a witness unless three clear days before the return day he gives notice to the prosecutor that he requires his attendance and deposits with the prosecutor a sum sufficient to cover the reasonable costs and expenses of his attendance, which costs and expenses shall be paid by the defendant in the event of his conviction.

Conditions
under which
warranty
may be
pleaded as
defence.

22. (1) Subject to this section, a defendant shall be discharged from the prosecution if he proves to the satisfaction of the court—

- (a) in the case of a prosecution under Part III for dealing with, selling, exposing or offering for sale or having in his possession for sale margarine, margarine-cheese or milk-blended butter, that he had purchased the article in question as butter or cheese, as the case may be, and with a written warranty or invoice to that effect and that he had no reason to believe at the time of the commission of the alleged offence that the article was other than butter or cheese and that, at that time, the article was in the same state as when he purchased it; and
- (b) in the case of any other prosecution under this Act in respect of the sale of an article, that he had purchased the article in question as the same in nature, substance

and quality as that demanded of him by the person to whom he sold the article and with a written warranty to that effect and that he had no reason to believe at the time he sold it that it was otherwise and that he sold the article in the same state as when he purchased it.

(2) A warranty or invoice shall only be a defence to proceedings under this Act if—

- (a) the defendant has, within seven days of the service of the summons, sent to the prosecutor a copy of the warranty or invoice with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person; and
- (b) in the case of a warranty or invoice by a person resident outside the Island, the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of his statement contained therein; and
- (c) in the case of a prosecution in respect of a sample of milk, the defendant has within sixty hours after the sample was procured served such a notice as is prescribed in paragraph 2 of the Second Schedule.

Second
Schedule.

(3) The person by whom the warranty or invoice is alleged to have been given shall be entitled to appear at the hearing and to give evidence and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(4) Where the defendant is a servant of the person who purchased the article under a warranty or invoice, he shall be entitled to rely on this section in the same way as his employer would have been entitled to do if he had been the defendant, provided that the servant further proves that he had no reason to believe that the article was otherwise than that demanded by the prosecutor.

23. (1) Every person who wilfully applies to an article of food or drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article of food or drug or who wilfully gives a label with any article of food or drug

False
warranties
and
certificates.

THE LAWS OF BARBADOS

Printed in England by Eyre and Spottiswoode Limited, 2 Serjeants' Inn, London EC4,
by authority of the Government of Barbados

sold by him which falsely describes the article sold is guilty of an offence.

(2) Every person who, in respect of an article of food or drug sold by him as principal or agent, gives to the purchaser a false warranty in writing, is guilty of an offence, unless he proves to the satisfaction of the court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true.

(3) Where the defendant in a prosecution under this Act has been discharged under the provisions of this Act relating to warranties, any proceedings under this section for giving the warranty relied on by the defendant in the prosecution may be taken as well before a court having jurisdiction in the place where the article of food or drug to which the warranty relates was purchased for analysis as before a court having jurisdiction in the place where the warranty was given.

Saving for contracts.

24. Nothing in this Act, save as otherwise expressly provided, shall affect any contract or any rights or remedies belonging to the parties thereto:

Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug, he may recover either alone or in addition to any damages recoverable by him the amount of any fine to which he may have been sentenced in respect of the transaction, together with any costs incurred by him in or about his defence, if he proves that—

- (a) the article of food or drug the subject of the transaction was sold to him as and for an article of food or drug of the same nature, substance and quality as that demanded from him; and
- (b) he purchased it not knowing it to be otherwise and afterwards sold it in the same state in which he purchased it,

so, however, that the defendant in the action shall be at liberty to prove that the conviction was wrongful or that the amount of costs incurred was unreasonable.

25. (1) The court before which any proceedings are taken or appeal heard under this Act may, if it thinks fit, and shall, upon the request of either party, cause any article of food or drug to be sent to the Chief Agricultural Officer who shall make an analysis and give a certificate of the result of the analysis.

Power of court to require analysis.

(2) The expense of such analysis shall be paid by the prosecutor or the defendant as the court may by order direct.

26. The form prescribed in the First Schedule does not apply to the certificates mentioned in subsections (5) and (6) of section 21 and in section 25 of this Act.

Form in First Schedule not to apply to certificates of Chief Agricultural Officer.

s. 15(3).

FIRST SCHEDULE

FORM OF CERTIFICATE

To*

I, the undersigned, public analyst, do hereby certify that I received on the day of 19 from a sample of for analysis (which when weighed), and have analysed it and declare the result of my analysis to be as follows:—

I am of opinion that it is a sample of genuine or

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

Observations §

As witness my hand this day of 19 A. B. at

* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable or palatable or of preserving it or of improving the appearance or was unavoidable and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are, or are not, injurious to health.

In the case of a certificate regarding milk, butter or any article liable to decomposition, the analyst shall specially report whether any change has taken place in the constitution of the article that would interfere with the analysis.

THE LAWS OF BARBADOS

s. 16.

SECOND SCHEDULE

Special Provisions as to Milk

1. Where a sample of milk is procured from a purveyor of milk, he shall, on being required to do so by the person by whom or on whose behalf the sample was taken, state the name and address of the seller or consignor from whom he received the milk.

2. (1) The sampling officer who took the sample may take or cause to be taken one or more samples of milk in course of transit or delivery from such seller or consignor.

(2) Within sixty hours after the sample of milk was procured from the purveyor he may serve on the sampling officer a notice stating the name and address of the seller from whom he received the milk and the time and place of delivery to the purveyor by the seller or consignor from a corresponding milking and requesting him to take immediate steps to procure, as soon as practicable, a sample of milk in the course of transit or delivery from the seller or consignor to the purveyor, unless a sample has been so taken since the sample was procured from the purveyor or within twenty-four hours prior to the sample being procured from the purveyor:

Provided that the purveyor shall not have any such right to require that such a sample shall be taken in cases where the milk from which the sample procured from the purveyor was taken was a mixture of milk obtained by the purveyor from more than one seller or consignor.

(3) Where a purveyor has served on the sampling officer such a notice and the sampling officer has not procured a sample of milk from the seller or consignor in accordance with the foregoing provisions, no proceedings under this Act shall be taken against the purveyor in respect of the sample of milk procured from him.

3. Any sample of milk so taken in the course of transit or delivery shall be submitted for analysis to the analyst to whom the sample procured from the purveyor is or was submitted.

4. Where proceedings are taken against the purveyor of milk, a copy of the certificate of the result of the analysis of every sample so taken in the course of transit or delivery shall be furnished to the purveyor, and every such certificate shall, subject to section 21 be sufficient evidence of the facts stated therein and shall be admissible as evidence on any question whether the milk sold by the purveyor was sold in the same state as he purchased it.

5. The sampling officer by whom the first-mentioned sample was taken may, instead of or in addition to taking proceedings against the purveyor of milk, take proceedings against the seller or consignor.

6. Where a sample of milk of cows in any dairy is taken in course of transit or delivery from that dairy, the owner of the cows may, within sixty

hours after the sample of milk was procured, serve on the sampling officer a notice requesting him to take immediate steps to procure as soon as practicable a sample of milk from a corresponding milking of the cows, and the foregoing provisions shall apply accordingly:

Provided that the person taking the sample shall be empowered to take any such steps at the dairy as may be necessary to satisfy him that the sample is a fair sample of the milk of the cows when fully and properly milked.

7. For the purposes of this Schedule, the expression "dairy"—
- (a) includes any land, cowshed, milk-store, milk shop or other place from which milk is supplied on or for sale or in which milk is kept or used for the purposes of sale or manufacture into butter for sale; and
 - (b) in the case of a purveyor of milk who does not occupy any premises for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk; but
 - (c) does not include a shop from which milk is not supplied otherwise than in properly closed and unopened receptacles in which it was delivered to the shop or a shop or other place in which milk is sold for consumption on the premises only.