THE PURE FOOD ORDINANCE, 1959

ORDINANCE NO. LXVIII OF 1959

[14th October, 1959]

An Ordinance to provide for the better control of the manufacture and sale of food for human consumption.

WHEREAS it is expedient to provide for the better control of the manufacture and sale of food for human consumption;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of East Pakistan is pleased to make and promulgate the following Ordinance, namely:-

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the [* * *] Pure Food Ordinance, 1959.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. [Repeal of Bengal Act VI of 1919 and Assam Act I of 1932.- Repealed by Section 3 and the Second Schedule of The East Pakistan Repealing and Amending Ordinance, 1966 (East Pakistan Ordinance No. XIII of 1966.)]

Throughout this Ordinance, the words “Government”, “Bangladesh” and “taka” were substituted for the words “Provincial Government”, “East Pakistan” and “rupees” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

The words “East Pakistan” were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President’s Order No. 48 of 1972).
3. In this Ordinance, unless there is anything repugnant in the subject or context,-

(1) an article of food shall be deemed to be “adulterated” if-

(a) any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength, or

(b) any substance has been substituted wholly or in part for it, or

(c) any of the normal constituents has been wholly or in part abstracted so as to render it injurious to health, or

(d) it is mixed, coloured, powdered, coated or stained in a manner whereby damage or inferiority is concealed, or

(e) it does not comply with any standard provided by or under this Ordinance or any other law for the time being in force, or

(f) it contains or is mixed or diluted with any substance in such quantity as is to the prejudice of the purchaser or consumer or in such proportion as diminishes in any manner the food value or nutritive qualities which it possesses in its pure, normal, undeteriorated and sound condition, or

(g) it contains any poisonous or deleterious ingredient [including radiation] which may render it injurious to health, or

(h) it is not of the nature, substance or quality which it purports to be or which it is represented to be by the manufacturer or the seller;

(2) “bye-laws” means bye-laws made under this Ordinance;

(2A) “catering establishment” means any hotel, restaurant, cafeteria, canteen, shop and includes any other places where food in any form is consumed, supplied or sold.

1 The words “including radiation” were inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

2 Clause (2A) was inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).
(3) “container” includes a package or receptacle of any kind, whether open or closed or sealed and must be free from rust, lead, arsenic or any heavy metals and must not be prepared from or previously used container and threatening to public health;

(3A) “Court” means a Pure Food Court established under section 41;

(3B) “Cultural practices” includes production, reproduction, housing and management of livestock, processing and preservation of their produces.

(4) “dairy” includes-

(a) any farm, cattle-shed, milk-store, milk-shop or other place, at which milk is stored or supplied for sale or is manufactured into butter, ghee, cheese, curds, or skimmed, condensed, sterilised or desiccated milk, and

(b) in the case of a dairymen or other person selling milk, who does not occupy any premises for the purpose of such sale, any place at which such dairymen or person keeps any container used or intended to be used by him for the purposes of such sale,

but does not include-

(i) a shop or other place at which milk is sold solely in the closed and unopened containers in which it is delivered thereto from any source referred to in sub-clauses (a) and (b), or solely in hermetically closed and unopened containers and in the same condition as that in which it was delivered thereto from such source, or

(ii) a shop or other place at which milk is sold solely for consumption therein;

(4A) “drinking water” means normal water, mineral water and water from any other sources which conforms to the National Standard of Drinking water or mineral water of Bangladesh;

1 Clauses (3), (3A) and (3B) were substituted for former sub-section (3) by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

2 Clauses (4A), (4B) and (4C) were inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).
(4B) “farm” includes a yard, shed and houses for livestock, and their cultural practices;

(4C) “fishery” includes any farm, arat or depot, service center or landing center, fish store, fish shop, fish processing plant and any other places where fish grows, fish and fishery product is processed, dried, transported, supplied or sold.

1[(5) “food” means any kind of edible oil, fish, fruit, meat or vegetable or any other article used as food, drinking water or any other drink for human consumption other than any drug, and includes ice, aerated water, carbonated water or any substance whether processed, semi processed or raw or any substance which has been used in the manufacture, preparation or treatment of food and those articles which will be notified by the Government from time to time, and-

(a) any substance which is intended for use in the composition or preparation of food;

(b) any permitted flavouring matter or any spice or condiment, and

(c) any food grade colouring matter, preservative, anti oxidant and other additives intended for use in food;

(5A) “livestock” includes cattle, buffalo, goat, sheep, pig and poultry (chick, duck, quail, pigeon, goose and guinea fowl);

(5B) “livestock product” includes meat, meat product, blood, bone, bone marrow, milk, milk products, egg, fat, food products of livestock origin.]

(6) “local area” means the area situated within the jurisdiction of a local authority, and includes any area notified by the Government to be a local area for the purpose of this Ordinance;

1 Clauses (5), (5A) and (5B) were substituted for former sub-section (5) by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).
1[(7) “local authority” means-

(a) a Corporation constituted under the Dhaka City Corporation Ordinance, 1983 (Ord. No. XL of 1983), the Chittagong City Corporation Ordinance, 1982 (Ord. No. XXXV of 1982), the Khulna City Corporation Ordinance, 1984 (Ord. No. LXXII of 1984), or any other local authority or person as may be notified by the Government;

(b) a Paurashava constituted under the Paurashava Ordinance, 1977 (Ord. XXVI of 1977); or

(c) in any other local area, such authority or person as may be notified by the Government;]

(8) “manufacture” means manufacture for the purpose of sale or for preparation for sale, and the expressions “manufactured” and “manufacturers” shall be construed accordingly;

(9) “notified” means notified in the official Gazette;

2)[(9A) “poultry” includes any poultry farm or poultry shed, poultry store, dressed poultry store, alive or dressed poultry shop or place or other place at which alive or dressed poultry are stored for sale;]

(10) “prescribed” means prescribed by rules;

(11) “rules” means rules made under this Ordinance;

(12) “sale” means a transfer of ownership in exchange for a price, whether in money or in kind, paid or promised or partly paid or partly promised, and includes-

(a) the making, causing or permitting of such transfer,

(b) the attempt to effect such transfer,

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1 Clause (7) was substituted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).

2 Clause (9A) was inserted by section 2 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).
(c) any possession, storage, offer, exposure, despatch, consignment, deposit or receipt for the purposes of such transfer or for preparation for such transfer, and the expression “sell”, “seller”, “sells” and “sold” shall be construed accordingly; and

(13) “transit” includes every stage of transit from the place of manufacture or other source of origin to the consumer.

4. [(1) Every local authority shall appoint one or more persons to be the Public Analyst of Food within its area to carry out the purposes of this Ordinance.

(1A) The Government may, except for an area of a City Corporation or a Paurashava or an area notified as local authority under section 3(7)(c), appoint one or more persons to be the Public Analysts of Food for such local area as may be specified by the Government.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A), the Government may appoint a public Analyst of Food appointed under sub-sections (1) and (1A) for such other area in addition to his local area.]

(2) No person shall be appointed a public analyst for any area-

(a) if he is directly or indirectly engaged in any trade or business connected with the manufacture or sale of any article of food, and

(b) unless he possesses, on the date of his appointment, such qualifications as may be prescribed.

(3) The appointment by a local authority of any person to be a public analyst, and the removal of any person so appointed, shall be subject to the approval of the Government.

(4) The salary payable to, and the conditions of appointment of, a public analyst appointed under this section shall be such as may be prescribed.

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1 Sub-sections (1), (1A) and (1B) were substituted for former sub-section (1) by section 3 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).
(5) The Government, or the local authority, with the approval of the Government, may appoint a person to act as public analyst during any vacancy in the office of, or during the absence or in capacity of, the public analyst.

1[4A. (1) The Government shall constitute a National Food Safety Advisory Council. The Council shall consist of the following members, namely-

(a) Minister for Ministry of Local Government, Rural Development and Co-operatives, who shall also be the Chairman of the Council;

(b) a representative of the Ministry of Local Government, Rural Development and Co-operatives, not below the rank of Joint Secretary, who shall also be the member secretary of the Council;

(c) a representative of the Ministry of Agriculture, not below the rank of Joint Secretary;

(d) a representative of the Ministry of Commerce, not below the rank of Joint Secretary;

(e) a representative of the Ministry of Food and Natural Disaster Management, not below the rank of Joint Secretary;

(f) a representative of the Ministry of Health and Family Welfare, not below the rank of Joint Secretary;

(g) a representative of the Ministry of Industry, not below the rank of Joint Secretary;

(h) a representative of the Ministry of Environment and Forest, not below the rank of Joint Secretary;

(i) a representative of the Ministry of Home Affairs, not below the rank of Joint Secretary;

(j) a representative of the Ministry of Fishery and Livestock, not below the rank of Joint Secretary;

(k) a representative of the Ministry of Establishment, not below the rank of Joint Secretary;

1 Section 4A was inserted by section 4 of the Bangladesh Pure Food (Amendment) Act, 2005 (Act No. XXVII of 2005).
(1) Deputy Commissioner, Dhaka;

(m) Director General, Bangladesh Standards and Testing Institution;

(n) Chairman, Department of Food and Nutrition, University of Dhaka;

(o) Chairman, Department of Chemistry, University of Dhaka;

(p) a representative of the Federation of Bangladesh Chambers of Commerce and Industries.

(2) The National Food Safety Advisory Council shall advise to the Government on the following subjects-

(a) matters related to the safety of food and to the administration of this Ordinance,

(b) standard and quality control (National and Codex Standard) for food with a view to ensuring their purity, safety and proper nutritional value,

(c) technical matters arising out of the administration of this Ordinance,

(d) development of man-power services and facilities required for ensuring safety, quality and pure food for human consumption, and

(e) policies and strategies related to food safety and quality control.

5. (1) The Government may determine by rules in this behalf-

(a) the normal constituents and the values of the chemical and physical constants of any article of food, and

(b) in respect of a sample of any article of food, the deficiency in any such constituent or the addition of any extraneous matter or the proportion of water which shall, for the purpose of this Ordinance and until the contrary is proved, raise a presumption that such article is adulterated.
(2) A public analyst shall, when certifying the result of any analysis made under this Ordinance, have regard to the rules referred to in sub-section (1).

(3) When any rule referred to in sub-section (1) has been made, the purchaser of any article of food to which rule applies shall, until the contrary is proved, be deemed to have demanded food complying with such rule.

CHAPTER II
MANUFACTURE AND SALE OF FOOD

6. (1) No person shall, directly or indirectly and whether by himself or by any other person acting on his behalf,-

(a) manufacture or sell any article of food which is adulterated, or

(b) sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality demanded by the purchaser.

(2) An offence shall not be deemed to have been committed under sub-section (1), if the article of food contains the normal constituents prescribed under clause (a) of sub-section (1) of section 5, and if the chemical and physical constants of the article are in accordance with those referred to in the said clause-

(a) where any innocuous substance or ingredient has been added thereto, if such substance or ingredient-

(i) is required for the production or preparation of such article as an article of commerce in a condition fit for carriage or consumption, and

(ii) is not so added fraudulently to increase the bulk weight or measure, or to conceal the inferior quality, of such article:

Provided that the admixture of such substance or ingredient does not render such article to be injurious to health; or