

PURE FOOD (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to revise section 4 of the Pure Food Act, 1908, by redefining some of the terms used in the Act and by providing new definitions of “advertisement”, “advisory committee”, “analysis”, “analyst”, “consumers”, “publish”, “vehicle” and “vermin” (Schedule 1 (3));
- (b) to provide for the Act and for regulations made under the Act to apply to food offered as a prize or reward and to food given away for the purpose of advertisement or in furtherance of trade or business in the same way as it applies to food for sale (Schedule 1 (4));
- (c) to reconstitute the advisory committee under section 6 of the Act as the Pure Food Advisory Committee (Schedule 1 (6));
- (d) to provide for the remuneration of certain members of the Pure Food Advisory Committee (Schedule 1 (8));
- (e) to clarify section 9 of the Act which relates to the responsibility for administering and enforcing the Act (Schedule 1 (9));
- (f) to provide for the appointment of inspectors for the purposes of the Act and for the issue of certificates of authority to those inspectors (Schedule 1 (10));
- (g) to clarify and revise section 14 of the Act which relates to the labelling of packages containing food, by removing words inconsistent with the Weights and Measures Act, 1915 (Schedule 2 (3));
- (h) to revise and extend section 22 of the Act with respect to the powers of an inspector to enter and inspect premises in which he reasonably believes any article of food is manufactured, prepared, preserved, packed, stored or kept for sale, to examine any such article, to take or purchase samples of food which appears to be intended for sale for human consumption or use, to examine records found in any such premises, and to seize and detain certain articles so found (Schedule 3 (1));
- (i) to insert in the Act a new section, 22A, to enable persons from whom food and other articles have been seized to apply to the District Court for disallowance of the seizure and for compensation for depreciation in the value of any such food or articles (Schedule 3 (1));
- (j) to revise and extend sections 23 and 24 of the Act with respect to obtaining samples of food for examination and analysis under the Act (Schedule 3 (2));

- (k) to revise and extend section 25 of the Act relating to the forwarding for analysis of samples taken or obtained by inspectors under section 23 of the Act and to insert a new section, 25A, imposing a duty on an inspector to obtain a sample of food when requested to do so by a member of the public (Schedule 3 (2));
- (l) to revise section 27 of the Act with respect to the appointment of analysts for the purposes of the Act so as to provide for them to be appointed by the Health Commission of New South Wales instead of by the Governor (Schedule 3 (3));
- (m) to revise and clarify sections 29 and 30 of the Act which relate to the analysis of any food submitted for analysis under section 25 of the Act, certificates of the results of analyses and the admissibility of such certificates in legal proceedings and in particular to enable an analyst to give a certificate of the result of an analysis which has been carried out under his supervision as well as one which he has carried out personally (Schedule 3 (5));
- (n) to omit section 31 of the Act relating to the mode of determining strength of liquors and to substitute in its place a provision requiring the production of part of a sample retained by an officer for future comparison to be produced in relevant legal proceedings and empowering the court to have the sample or part analysed (Schedule 3 (5));
- (o) to revise and extend section 32 of the Act by enabling the Health Commission of New South Wales to disqualify an analyst from being, and holding appointment as, an analyst for a contravention of or failure to comply with *any* provision of the Act, or of regulations made under the Act, which is applicable to analysts, either permanently or for such period as the Commission may determine (Schedule 3 (5));
- (p) to revise section 33 of the Act so as to empower a court to order a person found guilty of an offence against the Act or regulations under the Act to pay the expenses incurred by the prosecution in respect of the analysis of a sample of food (Schedule 3 (5));
- (q) to clarify and update section 34 of the Act with respect to the supply of copies of certificates of results of analyses under the Act (Schedule 3 (5));
- (r) to revise section 36 of the Act so as to provide, inter alia, for a single maximum penalty of \$2,000 for certain offences against the Act instead of the present three-tiered scale which is dependent on the number of convictions that a defendant has for the offence with which he is charged (Schedule 4 (1));
- (s) to revise and extend section 37 of the Act, relating to interference with official marks, fastenings and seals placed by inspectors in the exercise of their powers under the proposed section 22 (1) (f) of the Act, so as to make the occupier of any place, or the person in charge of any vehicle, in which an offence against the section is committed guilty of an offence unless he proves that he took all reasonable steps to prevent the commission of that offence (Schedule 4 (2));

- (t) to revise and update section 39 of the Act so as to empower a court, on finding a person guilty of an offence against the Act or regulations under the Act, to order the forfeiture to the Crown of any article of food, appliance, package or labelling or advertising material to which the finding relates and any similar article, appliance, package or material found in a place owned or occupied by, or on a vehicle owned by or in the charge of, that person, or in his possession, at the time of the commission of the offence (Schedule 4 (4));
- (u) to revise and update section 39A of the Act which relates to the power of a court, on convicting a person for an offence against the Act or regulations under the Act, to prohibit that person from engaging in the sale of food (Schedule 4 (5));
- (v) to revise sections 40 and 41 of the Act relating to prosecutions under the Act or regulations under the Act and the time limit for the commencement of certain prosecutions (Schedule 4 (6), (7));
- (w) to revise section 43 of the Act so as to require a copy of a certificate of analysis to be served on a defendant who is charged with an offence against the Act or regulations under the Act at least 7 days before the hearing of the information for the offence in order for the certificate to be admissible at the hearing (Schedule 4 (9));
- (x) to replace section 44 of the Act, which is redundant, with a new provision providing for the admissibility in proceedings under the Act or regulations under the Act of copies made by an inspector pursuant to the Act (Schedule 4 (10));
- (y) to revise and update section 46 of the Act, which relates to onus of proof in prosecutions for offences of selling food in contravention of the Act and regulations under the Act (Schedule 4 (11));
- (z) to revise and update section 47 of the Act, which at present relates to the pleading of a "guarantee" as a defence, so as to provide that, in proceedings against a person for an offence against the Act relating to the sale of food, that person has a sufficient defence if he proves that he purchased the food under a warranty given by the person from whom the purchase was made and that, if the food had conformed to the warranty, the sale of the food would not have constituted the offence (Schedule 4 (12));
- (aa) to revise section 48 of the Act so that the section will deal with prosecutions of principals and employers for offences against the Act and regulations under the Act as well as with prosecutions of agents and servants of principals and employers for such offences (Schedule 4 (13));
- (ab) to repeal section 49 of the Act which is now obsolete and section 50 of the Act which relates to matters now dealt with in the revised section 47 of the Act (Schedule 4 (14));
- (ac) to replace section 51 of the Act, which is redundant, with a provision prohibiting inspectors and certain other persons from disclosing information relating to manufacturing or commercial secrets or working processes obtained by them in connection with the administration or execution of the Act or regulations under the Act (Schedule 5 (1));

- (ad) to revise section 54 of the Act by extending the powers of the Health Commission of New South Wales with respect to the making of regulations for the purpose of the Act (Schedule 5 (4));
- (ae) to replace section 55 of the Act, which is redundant, with a new provision which will enable regulations under the Act to adopt by reference certain prescribed publications such as the British Pharmaceutical Codex, the British Pharmacopoeia and the United States Food Chemicals Codex (Schedule 5 (4)); and
- (af) to make other amendments to the Act of a consequential, ancillary or revisionary nature.

PURE FOOD (AMENDMENT) BILL, 1978

No. , 1978.

A BILL FOR

An Act to amend the Pure Food Act, 1908, for the purposes of constituting the Pure Food Advisory Committee and of making further provision with respect to the sampling and analysis of food, and for certain other purposes.

[MR K. J. STEWART—10 March, 1978.]

Pure Food (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
5 follows:—

1. This Act may be cited as the "Pure Food Short title.
(Amendment) Act, 1978".

2. (1) This section and sections 1 and 3 shall Commence-
commence on the date of assent to this Act. ment.

10 (2) Sections 4 and 5 shall, in their application to a
provision of Schedules 1–6, respectively commence on the
day on which that provision commences.

(3) The several provisions of Schedules 1–6 shall
commence on such day or days as may be appointed by the
15 Governor in respect thereof and as may be notified by
proclamation published in the Gazette.

3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
PURE FOOD ACT, 1908.

20 SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PURE FOOD ACT, 1908.

SCHEDULE 3.—AMENDMENTS TO PART III OF THE
PURE FOOD ACT, 1908.

25 SCHEDULE 4.—AMENDMENTS TO PART IV OF THE
PURE FOOD ACT, 1908.

Pure Food (Amendment).

SCHEDULE 5.—AMENDMENTS TO PART V OF THE
PURE FOOD ACT, 1908.

SCHEDULE 6.—SAVINGS AND TRANSITIONAL
PROVISIONS.

5 4. The Pure Food Act, 1908, is amended in the manner set forth in Schedules 1–5. Amendment
of Act No.
31, 1908.

5. Schedule 6 has effect.

Savings and
transitional
pro-
visions.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO PART I OF THE PURE FOOD ACT, 1908.

10 (1) Section 1—

Omit “, hereinafter called the Principal Act”.

(2) (a) Section 2—

From the matter relating to Part I, omit “9”,
insert instead “9A”.

15 (b) Section 2—

From the matter relating to Part IV, omit “50”,
insert instead “48”.

Pure Food (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

(3) Section 4—

5 Omit the section, insert instead :—

4. (1) In this Act, except in so far as the context Interpretation.
or subject-matter otherwise indicates or requires—

“advertisement”, in relation to any food or
appliance, means—

10 (a) any words, whether written or
spoken; or

(b) any pictorial representation or
design,

15 used or apparently used to promote the sale
of the food or appliance;

“advisory committee” or “committee” means the
Pure Food Advisory Committee established
under section 6;

20 “analysis”, in relation to any food, means a
biochemical, biological, chemical, electrical,
electro-chemical, microbiological, patho-
logical or physical assay of the food, but
does not include any visual examination of
the food;

25 “analyst” means a person for the time being
appointed to be an analyst under section 27
or 28;

30 “appliance” means the whole or any part of any
utensil, machinery, instrument, apparatus or
article which is used, or apparently used, in
or in connection with the manufacture,
preparation, preservation, packing, storage,
handling, decorating, serving, conveyance,
delivery or consumption of any food;

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 “Commission” means the Health Commission of
New South Wales;

“consumers” means persons—

- (a) to whom food is sold in the course
of a business carried on by the
person who sold the food; and
- 10 (b) who do not receive or seek to receive
the food in connection with any
business carried on by them relating
to the sale of food;

15 “council” has the meaning ascribed to that
expression by section 4 of the Local
Government Act, 1919;

20 “food” or “article of food” means a substance or
compound commonly used, or represented
as being for use, as food or drink, and
includes—

- (a) confectionery;
- (b) chewing gum;
- (c) any spice, flavouring substance,
essence, colouring matter or any
other ingredient whatever that enters
25 into, or is used in, the composition
or preparation of food or drink; and
- (d) any substance or compound for the
time being proclaimed under
30 subsection (2) to be food;

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 “inspector” means a person appointed under
section 9A to be an inspector for the
purposes of this Act;

“local authority” means—

- (a) in relation to a city, municipality or
shire, the council; and
- 10 (b) in relation to an area forming or
forming part of a police district, the
member of the police force for the
time being appointed by the Com-
mission under the Principal Act to
15 be a local authority;

“package” includes anything in or by which
goods for carriage or sale may be cased,
covered, enclosed, contained or packed and,
20 in the case of goods carried or sold or
intended for carriage or sale in more than
one package, includes every such package;

“place” includes any house, apartment, stall,
building or premises;

25 “Principal Act” means the Public Health Act,
1902;

“publish” means—

- (a) insert in any newspaper, journal,
30 magazine or other periodical pub-
lication printed or published in New
South Wales;

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

- 5 (b) send to any person by post or by
any other means of delivering
letters;
- (c) deliver to any person or leave on any
premises;
- 10 (d) cause to be broadcast by radio
transmission;
- (e) cause to be televised by television
transmission;
- (f) exhibit by means of posters, film or
videotape; or
- 15 (g) bring to the notice of the public in
New South Wales by any other
means whatever;

“regulations” means regulations made under this
Act;

20 “retail trade” means trade with consumers;

“sell” means sell for human consumption or use,
and includes—

- 25 (a) barter, offer or attempt to sell,
receive for sale, have in possession
for sale, expose for sale, send, for-
ward or deliver for sale, or cause or
permit to be sold or offered for sale,
for human consumption or use;

30 (b) sell for resale for human consump-
tion or use; and

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 (c) supply for human consumption or
use pursuant to a contract, together
with accommodation, service or
entertainment, in consideration of
an inclusive charge for the article
10 supplied and the accommodation,
service or entertainment ;

“vehicle” means any means of transport, whether
self-propelled or not, which is used or is
capable of being used for the carriage or
15 storage, or in connection with the sale, of
food, and includes any aircraft, ship or
vessel or hovercraft which is used or is
capable of being so used ;

“vermin” includes rodents, reptiles and insects of
all descriptions ;

20 “writing” includes printing, stencilling and typing
and also includes any means of representing
or reproducing words or figures in a visible
form.

(2) In this Act, a reference to—

25 (a) an officer of the Commission is a reference
to an officer or employee appointed and
employed as referred to in section 14 of the
Health Commission Act, 1972; and

30 (b) a servant of the Commission is a reference
to a servant appointed and employed under
section 14A of the Health Commission Act,
1972.

Pure Food (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 (3) The Governor may, by order published in
the Gazette, proclaim to be food any substance or
compound used or represented as being for use for
human consumption or use.

 (4) For the purposes of this Act and the
regulations—

10 (a) any article of food included in, or supplied
with, any meal or food—

 (i) for which payment is made or
required to be made; and

15 (ii) which is supplied for consumption in
any shop, factory, canteen, hotel,
boarding-house, restaurant, eating
house or licensed premises, or at any
stall, or in any vehicle,

shall be deemed to have been sold;

20 (b) any article of food included in, or supplied
with, any meal or food which is supplied
by an employer to an employee in accord-
ance with a term of the employee's contract
of service for consumption by the employee
25 at his place of work shall be deemed to
have been sold;

 (c) a person shall be deemed to sell food if he
sells for human consumption or use any
substance or compound of which the food is
30 a constituent;

 (d) any substance or compound commonly used
as food, or as an ingredient of food, which
is found in any place or vehicle used for or
in connection with the manufacture,
35 preparation, preservation, packing, storage,
handling, decorating, serving, conveyance,

Pure Food (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 delivery or sale of food shall be presumed,
unless in any proceedings the contrary is
proved, to be sold as food; and

10 (e) an advertisement published by a person on
behalf of another person shall be treated as
being an advertisement published by that
other person.

(4) Section 4A—

After section 4, insert :—

4A. This Act and the regulations shall apply—

15 (a) in relation to any food offered as a prize
or reward, whether in connection with any
entertainment or for the purpose of adver-
tisement or in furtherance of any trade or
business or otherwise, as if the food were,
or had been, exposed for sale by each
20 person offering the prize or reward;

(b) in relation to any food given away for the
purpose of advertisement, or in furtherance
of trade or business, as if the food were, or
had been, sold by the person giving away
the food; and

25 (c) in relation to any food which is exposed or
deposited in any premises for the purpose
of being so offered as a prize or reward or
given away, as if the food were, or had been,
30 exposed for sale by the occupier of the
premises.

(5) (a) Section 5 (ia), (ib)—

After section 5 (i), insert :—

35 (ia) when it contains any matter foreign to
the nature of the food; or

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 (ib) when it is unfit for human consumption
or use; or

(b) Section 5 (1)—

After “Act;”, insert “or”.

(6) Section 6—

Omit the section, insert instead :—

10 6. (1) There shall be established a committee, to ^{Pure Food}
be known as the Pure Food Advisory Committee, ^{Advisory}
consisting of 13 members appointed by the Minister. ^{Com-}
^{mittee.}

(2) Of the members of the committee—

15 (a) one shall be a member or an officer of the
Commission;

(b) two shall be food technologists;

(c) one shall be an analyst who is an officer of
the Commission;

20 (d) one shall be a nutritionist;

(e) one shall be a microbiologist;

(f) one shall be a medical practitioner;

(g) three shall be persons who, in the opinion
of the Minister, are conversant with the
interests of the public as consumers of food;
and

25 (h) the remainder shall be persons who, in the
opinion of the Minister, are concerned in or
conversant with the food trade.

30 (3) The members referred to in subsection (2)
(a), (b), (c), (d), (e) and (f) shall be appointed
on the nomination of the Commission.

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 (4) The member referred to in subsection (2)
(a) shall be the chairman of the committee.

(5) Subject to subsections (6) to (9), a member of the committee shall hold office for a period of 2 years.

10 (6) On the expiration of any period of appointment or re-appointment, a member of the committee may be re-appointed for a further period of 2 years.

(7) A member of the committee may at any time resign his membership by notice in writing addressed to the Minister.

15 (8) The Minister may at any time remove from office a member of the committee by notice in writing addressed and delivered to that member.

20 (9) If a member (being a member referred to in subsection (2) (a) or (c)) ceases to be a member or an officer of the Commission he shall cease to be a member of the committee.

25 (10) If the member referred to in subsection (2) (a) is unable to carry out his duties as chairman of the committee for any period, the Minister may appoint another member or officer of the Commission to act in his place during that period, and that member or officer of the Commission, during that period, shall be deemed to be a member of the committee and shall perform the duties and may exercise the powers of
30 chairman of the committee.

(11) The committee shall have the following functions :—

35 (a) submitting to the Commission recommendations for more effectively securing the wholesomeness and purity of food ;

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

- 5 (b) reporting to the Commission on such matters relating to food or to the operation of this Act and the regulations as the Commission may from time to time refer to the committee;
- 10 (c) making recommendations with respect to the making of regulations under section 54; and
- (d) such other functions relating to food as may be prescribed.

(7) (a) Section 7 (2)—

Omit “five”, insert instead “6”.

15 (b) Section 7 (3), (4), (5)—

Omit section 7 (3), insert instead :—

(3) At any meeting of the committee the decision of a majority of its members present and voting shall be the decision of the committee.

20 (4) The committee may co-opt any person who in its opinion has expertise with respect to any matter being considered by it, and a person co-opted shall, when attending a meeting of the committee, be deemed to be a member of the committee and have a right to participate in the

25 proceedings of the committee but shall not have a right to vote on any matter arising in those proceedings.

30 (5) Subject to this section, the committee may regulate the procedure at its meetings in such manner as it thinks fit.

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

(8) Section 8—

5 Omit the section, insert instead :—

8. Each member of the committee, unless he is a member, officer or servant of the Commission or an officer of the Public Service, is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

10

Remuneration of members of advisory committee.

(9) Section 9—

Omit the section, insert instead :—

9. (1) Subject to subsection (2), the Commission shall have the responsibility of administering and enforcing this Act and the regulations.

15

Administration of Act.

(2) The Governor may, by order published in the Gazette, direct that the local authority of any city, municipality, shire or police district specified in the order shall have the responsibility of administering and enforcing this Act and the regulations, or such provisions of this Act or the regulations as may be specified in the order, within the city, municipality, shire or district, as the case may be, and every such order shall, subject to section 24 of the Principal Act, have effect according to its tenor.

20

25

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

(10) Section 9A—

5 After section 9, insert :—

9A. (1) The Commission may appoint any mem- Appoint-
ment and
powers,
etc., of
inspectors.
ber, officer or servant of the Commission, or, subject
to subsection (2), any health inspector appointed
under section 93A or 94 of the Local Government Act,
10 1919, whom it considers to be suitably qualified for
the purpose to be an inspector for the purposes of this
Act.

(2) Where a health inspector referred to in
subsection (1) is employed by a council, he may be
15 appointed as an inspector under that subsection only
with the consent of that council.

(3) The Commissioner of Police or any
superintendent of police may appoint any member of
the police force to be an inspector for the purposes of
20 this Act.

(4) A certificate of authority shall be issued
to an inspector—

(a) if appointed or deemed to be appointed
under subsection (1), by the Commission;
25 or

(b) if appointed or deemed to be appointed
under subsection (3), by the Commissioner
of Police or, as the case may be, the
superintendent of police who made the
30 appointment.

Pure Food (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PURE FOOD ACT,
1908—*continued.*

5 (5) A certificate of authority may authorise the inspector to whom it is issued to exercise and perform the powers, authorities, duties and functions conferred or imposed on inspectors by this Act and the regulations—

10 (a) in relation to all places and in relation to all vehicles or in relation to such places or vehicles or classes of places or vehicles as may be specified in the certificate;

(b) at all times or at such times as may be specified in the certificate; and

15 (c) in respect of all articles of food, appliances, packages and labelling and advertising material or in respect of articles of food, appliances, packages or labelling or
20 advertising material of such classes or descriptions as may be specified in the certificate.

(6) An inspector shall not exercise or perform any power, authority, duty or function conferred or imposed on inspectors by or under this Act except
25 in accordance with the certificate of authority issued to him under subsection (4).

(7) Where an inspector exercises or performs or seeks to exercise or perform any power, authority, duty or function conferred or imposed on inspectors
30 by or under this Act at or in relation to any place or vehicle, he shall, if requested to do so by any person in or apparently in charge of that place or vehicle, produce the certificate of authority issued to him under subsection (4).

Pure Food (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO PART I OF THE PURE FOOD ACT,
 1908—*continued.*

- 5 (8) Where an inspector is employed by a council, he may not exercise or perform any power, authority, duty or function conferred or imposed on inspectors by or under this Act otherwise than within the area of that council or on any part of a road, river, stream or watercourse, the centre or middle line of
- 10 which forms a common boundary between that area and an adjoining area of another council or a police district.

 SCHEDULE 2.

Sec. 4.

AMENDMENTS TO PART II OF THE PURE FOOD ACT, 1908.

- 15 (1) Section 10—
- Omit “, or which is packed or enclosed for sale in any manner contrary to any provision of this Act”.
- (2) Section 10A—
- Omit “or article”.

Pure Food (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PURE FOOD ACT,
1908—*continued.*

(3) Section 14—

5 Omit the section, insert instead :—

14. (1) Subject to this section, no person shall
sell a package containing an article of food unless
there is legibly and durably written on the package,
or on a label securely attached to the package, a
statement specifying—
10 Packages of food to be labelled with description of contents, etc.

(a) the general description of the food or, where
a special description is prescribed in respect
of that food, that description;

15 (b) the name and sole or principal business
address of—

(i) the vendor, packer or manufacturer
of the food;

(ii) the owner of the right to manufac-
ture the food; or

20 (iii) the agent of that vendor, packer,
manufacturer or owner; and

(c) such other particulars (if any) as may be
prescribed.

25 (2) Where any vendor, packer, manufacturer,
owner or agent referred to in subsection (1) (b)—

(a) is a company incorporated under the Com-
panies Act, 1961, or is a foreign company
registered under that Act or is a recognised
company within the meaning of that Act
which has a place of business, or which is
30 carrying on business, within New South
Wales; or

*Pure Food (Amendment).*SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PURE FOOD ACT,
1908—*continued.*

5 (b) is a firm having its business name registered
under the Business Names Act, 1962,
the address of the company or firm may be omitted
from the statement.

10 (3) The regulations may provide that sub-
section (1), or such of the provisions of that subsec-
tion as are specified in the regulations, shall not apply
in respect of packages containing food of a class or
description so specified and where the regulations so
provide, that subsection, or such of the provisions of
15 that subsection as are so specified, shall not apply in
respect of those packages.

(4) Subsection (1) shall, subject to regula-
tions under subsection (3), have effect in respect of
a package containing food for sale notwithstanding
that the package may be marked with a brand
20 approved under section 29P of the Weights and
Measures Act, 1915.

(4) Section 15—

Omit the section, insert instead :—

25 15. Where any offence against this Act or the
regulations is committed in respect of any food
contained in a package, any person who appears from
any statement on the package, or on a label attached
to the package, to have imported, manufactured or
prepared the food, or to have enclosed it in the
Liability of person named on package.

Pure Food (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PURE FOOD ACT,
1908—*continued.*

5 package shall, unless he proves the contrary, be presumed to have imported, manufactured, prepared or enclosed the food, and shall be guilty of that offence unless he proves that—

(a) the offence was due to the default of some other person; or

10 (b) the commission of the offence was due to causes beyond his control.

(5) (a) Section 16 (1)—

15 Omit “which is advertised”, insert instead “in respect of which an advertisement has been published”.

(b) Section 16 (1)—

Omit “any advertisement which relates to the food or appliance”, insert instead “the advertisement”.

20 (c) Section 16 (2), (3)—

Omit “or public print” wherever occurring, insert instead “, journal, magazine or other periodical publication”.

Pure Food (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PURE FOOD ACT,
1908—*continued.*

(6) Section 17 (2), (3)—

5 Omit section 17 (2), insert instead :—

(2) While a notification referred to in subsection (1) remains in force, no person shall—

(a) sell; or

(b) publish any advertisement in respect of,

10 any food or appliance to which the notification applies.

(3) A notification under subsection (1) may be varied or revoked at any time by a subsequent notification under that subsection.

15 (7) Section 17A—

Omit “advertises any statement”, insert instead “publishes any advertisement”.

(8) (a) Section 21 (1)—

20 Omit “for the food of man”, insert instead “as food”.

(b) Section 21 (2)—

Omit the subsection, insert instead :—

25 (2) If, in any proceedings against a person for a contravention of subsection (1), it is proved that the milking herd of that person contained a diseased cow and that he sold milk or any product of milk taken from that herd, it shall be presumed, unless the contrary is proved, that

Pure Food (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PURE FOOD ACT,
1908—*continued.*

5 that milk or that product included milk, or, as
the case may be, a product of milk, taken from
that cow.

(c) Section 21 (3)—

After “may”, insert “, by notice published in the
Gazette.”.

10 (d) Section 21 (3)—

After “section”, insert “, and any such notice
may be varied or revoked by a subsequent notice
under this subsection”.

SCHEDULE 3.

Sec. 4.

15 AMENDMENTS TO PART III OF THE PURE FOOD ACT, 1908.

(1) Sections 22, 22A and short heading before section 22—

Omit section 22 and the short heading before that
section, insert instead :—

Entry and Inspection.

20 22. (1) An inspector may do all or any of the following :—

(a) enter and inspect any place or vehicle in
which he reasonably believes any article of
food is manufactured, prepared, preserved,
packed, stored or kept for sale;

Powers of
entry,
inspection
and
seizure.

25

Pure Food (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

- 5 (b) examine any article of food manufactured, prepared, preserved, packed, stored or kept for sale, open and examine any appliance or package that he reasonably believes contains any such article of food, and
- 10 examine any labelling or advertising material which appears to him to be intended for use in connection with the sale of any such article of food or to have been so used;
- 15 (c) subject to sections 23 and 24, demand, select and obtain for analysis by an analyst or for examination samples of any article of food which appears to him to be intended for sale or to have been sold;
- 20 (d) examine any records kept in a place or vehicle entered pursuant to paragraph (a) that relate to the manufacture, preparation, preservation, packing, storage or keeping of articles of food for sale and make copies of those records or of any part of those
- 25 records;
- 30 (e) seize and detain any article of food, appliance, package or labelling or advertising material in respect of which he reasonably believes an offence against this Act or the regulations is being or has been committed; and

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (f) place any article, appliance, package or
material referred to in paragraph (e) in a
container and, where any such article,
appliance, package or material was seized in
10 a place or vehicle, place that article,
appliance, package or material in a room,
compartment or cabinet in that place or
vehicle, and mark, fasten and seal that con-
tainer or, as the case may be, the door or
opening providing access to that room,
compartment or cabinet.

15 (2) For the purpose of and in connection with
an inspection of any place or vehicle entered pursuant
to subsection (1) (a), an inspector may request any
person engaged or employed in that place or vehicle to
20 produce to him for examination such records relating
to the manufacture, preparation, preservation, pack-
ing, storage or keeping of articles of food for sale as
are in the custody or under the control of that person,
and, if that person fails forthwith to comply with the
request when it is within his power to do so, he is
25 guilty of an offence and is liable on conviction to a
penalty not exceeding \$500.

(3) If, on the sworn information in writing of
an inspector, a stipendiary magistrate or 2 justices of
the peace—

30 (a) is or are satisfied that there is reasonable
ground for entry into any place or vehicle
referred to in subsection (1) (a); and

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

(b) is or are also satisfied either—

5 (i) that admission to the place or
vehicle has been refused, or a
refusal is reasonably expected, and
that notice of the intention to apply
10 for a warrant to enter the place or
vehicle has been given to the
occupier or person in charge of the
place or vehicle; or

15 (ii) that an application for admission,
or the giving of such a notice, would
defeat the object of the entry, or
that the case is one of urgency, or
that the place or vehicle is unoccu-
20 pied or the occupier or person in
charge is temporarily absent there-
from,

the magistrate or, as the case may be, the justices may
issue a warrant authorising that inspector, or another
inspector specified in the warrant, to enter the place or
vehicle.

25 (4) An inspector authorised by warrant issued
under subsection (3) to enter a place or vehicle may
execute that warrant at any time within 1 month after
the date of its issue and, for the purpose of effecting
30 that execution, may use such force as is reasonably
necessary.

(5) Nothing in this section shall be construed
as authorising an inspector who is not authorised by
warrant issued under subsection (3) to use force in
the exercise of the power conferred by subsection
35 (1) (a), but a person who, after being requested to

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 do so by such an inspector and, where appropriate, on the production by that inspector of his certificate of authority, refuses or fails to allow that inspector to exercise that power shall, for the purpose of section 38 (a), be regarded as having obstructed that inspector in the exercise of that power.

10 (6) An inspector entering any place or vehicle by virtue of subsection (1) or of a warrant issued under subsection (3) may take with him such other persons as may be necessary, and on leaving any unoccupied place or vehicle which he has entered by
15 virtue of such a warrant shall, as far as practicable, leave it as effectively secured against trespassers as he found it.

20 (7) Any article, appliance, package or material seized under subsection (1) (e) may, at the option of the inspector who made the seizure or of any inspector acting in his place, be detained in the place or vehicle where it was found or be removed to another place and detained there.

25 (8) If before any article, appliance, package or material seized under subsection (1) (e) is forfeited to the Crown by virtue of subsection (9)—

(a) the Commission—where the seizure was made by an inspector appointed by the Commission; or

Pure Food (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (b) the Commissioner of Police—where the seizure was made by an inspector appointed by the Commissioner of Police or a superintendent of police.

10 becomes satisfied that there has been no contravention or failure to comply with any of the provisions of this Act or of the regulations in respect of the article, appliance, package or material, the Commission or, as the case may be, the Commissioner of Police shall forthwith cause the article, appliance, package or material to be delivered to the person from whom it was seized or to such other person as appears to the Commission or the Commissioner of Police to be entitled to it.

(9) Where—

20 (a) any article, appliance, package or material seized under subsection (1) (e) has not been disposed of as referred to in subsection (8) and no application for disallowance of the seizure has been made within the period allowed by section 22A (1); or

25 (b) if any such application has been made within that period, the application has been refused or has been withdrawn before a decision in respect of the application has been made,

30 the article, appliance, package or material shall be forfeited to the Crown and may be destroyed or disposed of as the Commission determines.

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (10) If, after any article, appliance, package
or material seized under subsection (1) (e) is forfeited to the Crown by virtue of subsection (9) because no application for disallowance of the seizure was made within the period allowed by section 22A (1), the Commission becomes satisfied that no contra-
10 vention of or failure to comply with this Act or the regulations has been committed in respect of the article, appliance, package or material and the article, appliance, package or material has not been destroyed or disposed of in a manner that would prevent its
15 being dealt with in accordance with this subsection, the Commission shall forthwith cause the article, appliance, package or material to be delivered to the person from whom it was seized or to such other person as appears to the Commission to be entitled to it,
20 and on being so delivered such proprietary and other interests in the article, appliance, package or material as existed immediately before the forfeiture shall obtain.

25 (11) Notwithstanding anything in this section to the contrary, where an inspector who has seized an article of food under subsection (1) (e) is satisfied on reasonable grounds that it consists wholly or partly of a filthy, decomposed or putrid animal or vegetable substance, he may cause the article to be destroyed
30 forthwith.

22A. (1) Any person claiming to be entitled to any article, appliance, package or material seized under section 22 (1) (e) may, within 10 days after the date on which the seizure took place, make an
Disallowance of seizure.

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 application to the District Court for an order disallowing the seizure of the article, appliance, package or material.

(2) An application made under subsection (1) shall not be heard unless the applicant has previously served a copy of the application—

10 (a) where the seizure was made by an inspector appointed by the Commission—on the Commission; or

15 (b) where the seizure was made by an inspector appointed by the Commissioner of Police or a superintendent of police—on the Commissioner of Police.

(3) The Commission or, as the case may be, the Commissioner of Police shall be entitled to appear as respondent at the hearing of an application made under subsection (1).

(4) The Court shall, on the hearing of an application made under subsection (1), make an order disallowing the seizure—

25 (a) if it is proved by or on behalf of the applicant that he would, but for the seizure, be entitled to the article, appliance, package or material and if it is not proved by or on behalf of the respondent beyond all reasonable doubt that an offence was being or had been, at the time of the seizure, committed in relation to the article, appliance, package or material; or

30 (b) if, in the opinion of the Court, there are exceptional circumstances justifying the making of an order disallowing the seizure,
35 but otherwise the Court shall refuse the application.

Pure Food (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (5) Where on the hearing of an application
made under subsection (1) it appears to the Court
that the article, appliance, package or material that is
the subject of the application is required to be pro-
duced in evidence in any pending proceedings in
10 connection with an offence against this Act or the
regulations, the Court may, either on the application
of the respondent or on its own motion, adjourn the
hearing until the conclusion of those proceedings.

15 (6) Where the Court makes an order under
subsection (4) disallowing the seizure of any article,
appliance, package or material, it shall also make one
or both of the following orders :—

20 (a) an order directing the respondent to cause
the article, appliance, package or material
to be delivered to the applicant or to such
other person as appears to the Court to be
entitled to it;

25 (b) where the article, appliance, package or
material cannot for any reason be so
delivered or has in consequence of the
seizure depreciated in value, an order
directing the Commission or, as the case
30 may be, the Commissioner of Police to pay
to the applicant such amount by way of
compensation as the Court considers to be
just and reasonable.

(7) The award of costs with respect to the
hearing of an application made under this section shall
be in the discretion of the Court.

*Pure Food (Amendment).*SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (8) Where the Court makes an order for the payment of any amount as compensation under subsection (6) (b) or awards any amount as costs under subsection (7), that order shall be enforceable as a judgment of the Court.

10 (2) Sections 23, 24, 25, 25A and short heading before section 23—

Omit sections 23–25 and the short headings before sections 23 and 24, insert instead :—

Obtaining of Samples for Analysis or Examination.

15 23. (1) In obtaining a sample of food under section 22 (1) (c), an inspector shall— **Obtaining of samples.**

- (a) subject to subsection (4), pay, or tender payment of, an amount equal to the current market value of the sample to the person from whom the sample is obtained; and
- 20 (b) before or as soon as practicable after obtaining the sample, inform the owner of the food comprised in the sample or, if he is not present or available, the person having charge of that food of his intention to have
- 25 the sample analysed by an analyst or, as the case may be, examined.

30 (2) An inspector may, for the purpose of enabling him to exercise the power conferred by section 22 (1) (c), require the owner or person having charge of the food to show and permit the inspection of any package containing the food and to take from the package the sample demanded.

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (3) Where food is kept for sale in an
unopened package (not being a package containing 2
or more other packages containing food), an inspec-
tor, in obtaining a sample of the food under section
22 (1) (c), is not, without the concurrence of the
owner or person having charge of the food, entitled
10 to obtain less than the whole of the contents of the
package.

15 (4) Where, in respect of food of a class or
description specified in the regulations, any amount
or rate is fixed by the regulations for payment for any
sample of food obtained under section 22 (1) (c), an
inspector is not, when obtaining such a sample,
required to pay or tender a larger amount or, as the
case may be, make or tender payment at a higher rate
than that so fixed.

20 (5) Where an inspector obtains a sample of
food from a vending machine and no person in the
place or vehicle in which the machine is situated
admits to being the owner or in charge of the machine,
the inspector may, if he has properly paid for the
25 sample, obtain the whole sample without following
the procedure prescribed in subsection (1), and, if
the sample is obtained for analysis by an analyst, he
shall mark, fasten and seal the sample in such manner
as its nature will permit and retain it for analysis by
30 an analyst.

(6) An inspector may obtain a sample of
food under section 22 (1) (c) without complying
with this section or, where applicable, section 24, but
in that event no account shall be taken of the results

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 of any such analysis or examination in a prosecution
for an offence against this Act or the regulations.

10 (7) The obtaining of a sample of food by an
inspector under section 22 (1) (c) shall, in any pro-
ceedings for an offence of selling food in contraven-
tion of this Act or the regulations, be deemed to be a
sale of the food for human consumption or use, unless
the defendant proves that the bulk from which the
sample was obtained was being kept, offered or
exposed or was intended to be used for a purpose other
than sale for human consumption or use.

15 24. (1) Except as otherwise provided in this sec- Procedure
tion and section 23 (5), when an inspector has on obtain-
obtained a sample for analysis in accordance with ing
section 23, he shall— sample for
analysis.

20 (a) divide the sample into 3 parts and mark,
fasten and seal each part in such manner as
its nature will permit;

25 (b) leave one part with the owner of the food
from which, or the person from whom, the
sample was obtained, or with any person
apparently employed by that owner or
person;

(c) retain one of the remaining parts for
analysis; and

30 (d) retain the other remaining part for future
comparison.

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (2) When a sample of food which an inspector intends to obtain for analysis by an analyst is contained in a package in such quantity that its division into 3 parts as provided in subsection (1) would, in his opinion, provide parts insufficient for accurate analysis, he may, in addition to obtaining
10 that package—

(a) obtain one or more further packages containing food which appears to be of the same description and to have been packed by or under the control or authority of the
15 same person or group of persons as that contained in that package; and

(b) mix together the contents of all of the packages,

and on so doing, he shall deal with the mixture as
20 a sample in the manner prescribed by subsection (1).

(3) Where an inspector wishes to obtain for analysis by an analyst a sample consisting of a particular article of food but is of the opinion that the division of that article into parts—

25 (a) is not reasonably practicable; or

(b) might impair or affect the quality or composition, or impede the proper analysis, of the food,

30 he may, subject to section 23, obtain a sample consisting of 3 or more of those articles of food, and thereupon subsection (1) with respect to the division of samples into parts shall be deemed to be complied with if the inspector divides those articles into lots and

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 deals with each lot as if it were a part in the manner provided by that subsection, and references in this Act to a part of a sample shall be construed accordingly.

10 25. (1) An inspector who has retained a sample or part of a sample in accordance with section 23 (5) or section 24 shall, unless he no longer considers that the sample or part ought to be analysed, submit it as soon as practicable to an analyst for analysis. Submission of samples, etc., for analysis.

15 (2) Where any part of a sample has been left in accordance with section 24 with the owner of the food from which, or the person from whom, the sample was obtained, or with any person apparently employed by that owner or person that sample may be submitted to an analyst (being an analyst belonging to a class of analysts prescribed for the purpose of this subsection) for analysis.

20

25 (3) The certificate of an analyst that, on receipt by him of a sample or part of a sample submitted to him by an inspector, owner or person under this section, the seal securing the sample or part was unbroken shall be admissible in any proceedings under this Act or the regulations and shall be evidence—

30 (a) that the sample or part was the same sample or, as the case may be, part of the same sample as the sample obtained by the inspector; and

(b) that the sample or part had not been tampered with before it was received by the analyst.

*Pure Food (Amendment).*SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (4) An analyst is not required to analyse a sample or part of a sample submitted to him under subsection (2) unless any fee demanded by him for the analysis (being, in the case of an analysis for which a maximum fee is prescribed, a fee not exceeding that maximum) has been paid to him.

10 25A. Where any person—

(a) has requested an inspector in writing to obtain a sample of any food from a specified place or vehicle for the purpose of having it analysed by an analyst or examined; and

Duty of inspector to obtain sample for analysis or examination on request.

15

(b) has paid the prescribed fee (if any) for obtaining the sample,

it shall be the duty of the inspector to obtain, or to arrange for another inspector to obtain, a sample of that food.

20

(3) Section 27—

Omit the section, insert instead :—

25 27. (1) The Commission may from time to time appoint any person (including an officer or servant of the Commission) who holds a qualification prescribed for the purpose of this section to be an analyst for the purposes of this Act.

Appointment of analysts.

Pure Food (Amendment).

SCHEDULE 3—continued.

AMENDMENTS TO PART III OF THE PURE FOOD ACT, 1908—continued.

5 (2) The Commission shall prepare and maintain a list of persons holding office as analysts and, not less than once each year, revise that list and publish the revised list in such manner as it thinks fit.

(4) Section 28—

10 Omit "Governor, appoint an analyst to analyse", insert instead "Commission, appoint a person as an analyst for the purpose of analysing and supervising the analysis of".

(5) Sections 29-34—

15 Omit the sections, insert instead :—

20 29. (1) An analyst to whom any sample or part of a sample has been submitted for analysis under section 25 shall, as soon as practicable thereafter, carry out an analysis of the sample or part, and where a method of carrying out the analysis is prescribed, carry out the analysis in accordance with that method. Analysis and certificates of analysis.

25 (2) An analysis referred to in subsection (1) may be carried out by a person acting under the supervision of an analyst and in that event the analysis shall be deemed to have been carried out by the analyst.

Pure Food (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (3) On the completion of an analysis in
accordance with subsection (1), the analyst shall—

10 (a) except as provided in paragraph (b), give
to the inspector or person who submitted the
sample or part for analysis, or to any inspec-
tor or person who appears to the analyst to
be acting in place of that inspector or, as
the case may be, on behalf of that person, a
certificate in or to the effect of the
prescribed form of the result of the analysis;
or

15 (b) where the sample or part was submitted by
an inspector and—

20 (i) the inspector has, either generally
or in that particular case, indicated
that, in the event of the analysis
producing a result specified by the
inspector; and

(ii) the analysis produces that result,
give to the inspector a report of the result.

25 30. (1) Subject to section 43, a document purport-
ing to be a certificate given under section 29 of the
result of an analysis, or of a document supplied under
section 34 as being a copy of such a certificate, shall,
unless the analyst who carried out, or supervised the
carrying out of, the analysis is called as a witness, be
admissible in any proceedings under this Act or the
30 regulations and shall be evidence of the facts stated
therein.

Certificate
of analysis
to be
evidence.

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (2) Where a method of analysis is prescribed
in respect of any food, a certificate given under section
29 of the result of an analysis or, as the case may be,
a copy of that certificate shall not be admissible in any
proceedings referred to in subsection (1) unless the
10 certificate contains a declaration that that method has
been followed in the analysis.

15 31. (1) Where proceedings are taken under this Act or the regulations in respect of any part of a
sample retained under section 24 (1) (c), the court
before which the proceedings are taken may, and,
subject to subsection (2), at the request of either party
to the proceedings shall, direct that the part of the
sample retained for future comparison pursuant to
section 24 (1) (d) be submitted to an analyst for
analysis.

Production
of sample
in proceed-
ings.

20 (2) The court shall not give a direction under
subsection (1) unless the part of the sample left
pursuant to section 24 (1) (b) has been analysed and
the result of that analysis shows that the food com-
prised in that part or sample complied with or, as the
25 case may be, did not contravene the provision of this
Act or the regulations to which the proceedings relate.

30 (3) The analyst to whom a part of a sample is
submitted pursuant to a direction given under sub-
section (1) shall carry out an analysis of that part and
transmit to the court a certificate of the result of the
analysis.

(4) The costs of carrying out an analysis under
subsection (3) shall be paid by such of the parties to
the proceedings as the court may order.

Pure Food (Amendment).

SCHEDULE 3—continued.

AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—continued.

5 (5) If, in a case where an appeal is made, no action has been taken under subsection (1), that subsection shall apply in relation to the court by which the appeal is heard.

10 (6) Any certificate transmitted under this section shall be admissible in evidence in the proceedings and shall be evidence of the facts stated therein unless any party to the proceedings requires the person by whom it purports to have been given to be called as a witness in the proceedings.

15 32. (1) Where any analyst is alleged to have contravened or failed to comply with any provision of this Act or of the regulations which is applicable to analysts, the Commission may, if satisfied after inquiry into the matter and after giving him an opportunity to be heard that he contravened or, as the case may be, failed to comply with that provision and that the contravention or failure to comply was committed wilfully or negligently, disqualify him from being, and from holding appointment as, an analyst either permanently or for such period as it may determine.

Disqualification of analyst for contravention of or failure to comply with Act, etc.

25 (2) Where the Commission has disqualified an analyst in accordance with subsection (1), it shall notify him in writing that he is disqualified from being, and from holding appointment as, an analyst either permanently or, as the case may be, for the period determined under that subsection, and while he is so disqualified he shall be deemed not to be an analyst for the purposes of this Act.

30

Pure Food (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

5 (3) Every notification under subsection (2)
shall specify the reasons for the disqualification.

10 33. Where any person is found guilty of an offence Costs of analysis.
against this Act or the regulations, the court may
order him to pay as part of the costs of the prosecution
all fees and other expenses incurred by the prosecutor
with respect to the analysis of any food involved in
the commission of the offence.

15 34. (1) Where any sample or part of a sample Copies of results of analyses.
submitted by an inspector for analysis has been ana-
lysed in accordance with section 29, that inspector
shall, on being requested to do so by the owner of the
food from which, or the person from whom, the
sample or part was obtained or the manufacturer of
the food comprised in the sample or part or his agent
20 in New South Wales, and on being paid the prescribed
fee, supply to that owner, person, manufacturer or
agent a copy of the analyst's certificate of the result
of the analysis or, if there is no such certificate, a copy
of any report made by the analyst in respect of the
sample or part.

25 (2) Except as provided in subsection (1), no
person shall be entitled to be supplied with a copy of
an analyst's certificate or report of the result of an
analysis of any sample or part of a sample submitted
to an analyst for analysis by an inspector in
30 accordance with section 25.

Pure Food (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PURE FOOD ACT,
1908—*continued.*

(6) Section 35—

5 Omit “Any person who contravenes this section shall
be liable to a penalty not exceeding one hundred
dollars.”, insert instead :—

10 (2) Any person who contravenes subsection (1)
is guilty of an offence and is liable on conviction to a
penalty not exceeding \$100.

SCHEDULE 4.

Sec. 4.

AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908.

(1) Section 36—

Omit the section, insert instead :—

15 36. (1) Any person who contravenes section 10, 10A, 11 (1), 11 (2), 12 (1), 12 (2), 13 (2), 13
20 (3), 14 (1), 17 (2), 18 (2), 19 (2), 21 (1), 21
(2A) or 47 (9) or fails to comply with section
17A, is guilty of an offence and is liable on conviction
to a penalty not exceeding \$2,000 or to imprisonment
for a term not exceeding 6 months or both.

25 (2) Where in any proceedings against a person
holding a license under the Liquor Act, 1912, for an
offence against this Act, the court is of the opinion
that the offence has been proved, it may, if it thinks

*Pure Food (Amendment).*SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 fit having regard to the character of the offence and
the circumstances in which the offence was committed
and notwithstanding anything in the Liquor Act,
1912, direct the conviction for the offence not to be
10 recorded against that person, or in relation to any
licensed premises of which that person is the licensee,
for any purpose of that Act, and the conviction shall
accordingly not be recorded.

(2) Section 37—

Omit the section, insert instead :—

15 37. (1) Where an inspector has, in the exercise of
his powers under section 22 (1) (f), marked, ^{Inter-}
fastened or sealed any container containing any ^{ference}
article of food, appliance, package or labelling or ^{with official}
advertising material, or any door or opening providing ^{marks,}
20 access to any room, compartment or cabinet ^{fastenings}
containing any such article, appliance, package or ^{and}
material, any person who, without the permission of ^{seals.}
that inspector or of the Commission, in the case of an
inspector appointed by the Commission, or the Com-
missioner of Police, in the case of an inspector
25 appointed by the Commissioner of Police or a
superintendent of police—

(a) removes, erases, alters, breaks or opens the
mark, fastening or seal; or

30 (b) removes the article, appliance, package or
material from that container, room,
compartment or cabinet,

is guilty of an offence and is liable on conviction to a
penalty not exceeding \$500.

Pure Food (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 (2) If an offence against subsection (1) has
been committed, then whether or not any person has
been charged with or convicted of that offence, the
occupier of the place or, as the case may be, the
person in charge of the vehicle where the offence was
10 committed is, unless he proves that he took all
reasonable steps to prevent the commission of the
offence, guilty of an offence and is liable on conviction
to a penalty not exceeding \$500.

(3) (a) Section 38—

15 Omit “officer” wherever occurring, insert instead
“inspector”.

(b) Section 38 (b)—

Omit “taken”, insert instead “obtained”.

(c) Section 38 (d)—

20 Omit “any food or article seized or sold under
this Act”, insert instead “any article of food,
appliance, package or advertising or labelling
material seized under section 22 (1) (e)”.

(d) Section 38—

25 Omit “shall be liable”, insert instead “is guilty
of an offence and is liable on conviction”.

Pure Food (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

(4) Section 39—

5 Omit the section, insert instead :—

39. (1) Subject to subsection (4), a court may, on finding a person guilty of an offence against this Act or the regulations, order that—

Forfeiture
of food,
etc.

10 (a) any article of food, appliance, package or labelling or advertising material to which the finding relates; and

15 (b) any similar article, appliance, package or material found in any place owned or occupied by, or in any vehicle owned by or in the charge of, that person or in his possession at the time of the commission of the offence,

shall be forfeited to the Crown.

20 (2) Where an order is made under subsection (1) in respect of any thing referred to in that subsection and that thing has not previously been removed by an inspector under this Act, any inspector may, under the authority of the order, enter any place or vehicle in which the thing is being kept and remove it for disposal in accordance with subsection (3).

25

(3) Every thing forfeited pursuant to an order made under subsection (1) shall become the property of the Crown and may be destroyed or disposed of as the Commission determines.

Pure Food (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 (4) A court shall not make an order under subsection (1) in respect of any thing referred to in that subsection which has been seized under section 22 (1) (e).

(5) Section 39A—

Omit the section, insert instead :—

10 39A. (1) Where any person carrying on a business of selling food has been convicted of an offence against this Act or the regulations, the court, on that conviction, or that court or any other court of petty sessions at any later time, may, on the application of an officer of the Commission specifically authorised by the Minister for the purpose, make an order prohibiting that person from engaging in the sale of food, or in the sale of food of such class or description as may be specified in the order, for such period as the court may determine and specify in the order.

Power to prohibit carrying on business of selling food in certain cases.

25 (2) An authority to make an application referred to in subsection (1), purporting to have been signed by the Minister, shall be evidence of that authority, and it shall not be necessary to adduce proof of the Minister's signature.

(3) Any person who contravenes an order made under subsection (1) is guilty of an offence and is liable on conviction to a penalty not exceeding \$1,000.

Pure Food (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 (4) Any person against whom an order has
been made under subsection (1) may appeal against
that order under and in accordance with Part V of the
Justices Act, 1902, and that Part, so far as applicable
and with any necessary modifications, shall apply in
10 respect of the appeal as if it were an appeal from a
determination or order of a justice or justices.

(6) Section 40—

Omit the section, insert instead :—

15 40. Proceedings for an offence against this Act or
the regulations shall be disposed of summarily before
a court of petty sessions constituted by a stipendiary
magistrate sitting alone or 2 justices. Prosecu-
tions.

(7) Section 41—

Omit the section, insert instead :—

20 41. Where a sample of food has been obtained
under this Act for the purpose of analysis, no prosecu-
tion for an offence against this Act or the regulations
in respect of that food shall, except as provided
in section 47 (7), be commenced after the expiration
of 50 days from the date on which the sample was
25 obtained. Time limit
for certain
prosecu-
tions.

(8) Section 42—

Omit the section.

Pure Food (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

(9) Section 43—

5 Omit the section, insert instead :—

43. (1) Where an information is laid against a person for an offence against this Act or the regulations concerning any food of which a sample or part of a sample has been submitted for analysis to an analyst in accordance with section 25, a certificate of the result of the analysis given under section 29 shall not be admissible in evidence at the hearing of the information unless a copy of that certificate has been served on that person at least 7 days before the commencement of that hearing.

10
15

Service of
copy of
analyst's
certificate.

(2) The service of a copy of an analyst's certificate referred to in subsection (1) may be proved by oath or affidavit of the person who served the copy.

(10) Section 44—

20 Omit the section, insert instead :—

44. Where an inspector has made a copy of any record or part of a record pursuant to this Act and has certified the copy to be a true and correct copy of that record or part of a record, that copy shall be admissible in evidence in any proceedings under this Act or the regulations as evidence of the matters contained in the copy and, until the contrary is proved, be deemed to be a true and correct copy.

25

Evidence
of copies,
etc., of
records.

Pure Food (Amendment).

SCHEDULE 4—continued.

AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—continued.

(11) Section 46—

5 Omit the section, insert instead :—

46. In any prosecution for an offence of selling food in contravention of this Act or the regulations, the onus of proving that the food was not sold for human consumption or use shall be on the defendant. Onus of proof in offences relating to sale of food.

10 (12) Section 47—

Omit the section and the short heading before that section, insert instead :—

15 47. (1) In any prosecution for an offence of selling food in contravention of this Act or the regulations, it shall, subject to subsection (2), be a sufficient defence for the defendant to prove— Warranties and guarantees.

20 (a) that he purchased the food in reliance on a written warranty, given by or on behalf of the person from whom the purchase was made, to the effect that the food could lawfully be sold or, as the case may be, could lawfully be sold under the name or description under which, or for the purpose for which, he sold it;

25 (b) that, if the food had conformed to the warranty, the sale of the food by the defendant would not have constituted the offence charged against him;

30 (c) that he had no reason to believe or suspect that the food sold by him did not conform to the warranty; and

Pure Food (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 (d) that, at the time of commission of the
alleged offence, the food was in the same
state as when he purchased it.

(2) A warranty referred to in subsection (1)
may be relied on only if—

10 (a) it was given by or on behalf of—
(i) a person resident in New South
Wales;
(ii) a corporation having a registered
office or a place of business in New
South Wales; or
15 (iii) a firm having a place of business in
New South Wales;

20 (b) it states the name and sole or principal
business address in New South Wales of
that person, corporation or firm and, where
that person, corporation or firm trades
under a name different from that name, that
trading name; and

25 (c) the defendant has, within 7 days after the
service of the summons for the offence—
(i) delivered to the prosecutor a copy
of the warranty and a written notice
indicating that he intends to rely on
the warranty and specifying the
name, the trading name (if any)
and the sole or principal business
30 address in New South Wales of the
person who, or the corporation or
firm which, gave the warranty; and

Pure Food (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 (ii) delivered or sent by post a similar
notice to that person, corporation or
firm.

10 (3) Where the defendant is an employee or
agent of the person who purchased the food under a
warranty, he shall be entitled to rely on the provisions
of this section in the same way as his employer or
principal would have been entitled if he had been
the defendant.

15 (4) The person by whom a warranty is alleged
to have been given shall have the right to appear and
give evidence in any prosecution referred to in sub-
section (1), and the court may, if it thinks fit, adjourn
the hearing of the prosecution to enable him to
exercise that right.

20 (5) For the purposes of subsection (1), a
name or description entered in an invoice or a delivery
note shall be deemed to be a written warranty that
the food to which the entry relates can be sold under
that name or description by any person without
contravening any of the provisions of this Act or the
25 regulations.

30 (6) Where any person has, in respect of food
sold by him, given to the purchaser of that food a
warranty which is or might be pleaded as a defence
under subsection (1) and that warranty is false, that
person is guilty of an offence and is liable on convic-
tion to a penalty not exceeding \$2,000 or imprison-
ment for a term not exceeding 6 months or both,
unless he proves that when he gave the warranty he
had reasonable grounds for believing that the
35 information contained in the warranty was true.

Pure Food (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 (7) Where a warranty given to a person is or
might be pleaded as a defence by that person under
subsection (1) in a prosecution for an offence relating
to the sale of any food, proceedings may, at any time
within 12 months after that sale, be commenced for
10 an offence against subsection (6) relating to the
giving of that warranty or for an offence of selling
that food to that person in contravention of this Act
or the regulations.

15 (8) A prosecution for an offence against sub-
section (6) may be taken before a court having
jurisdiction in the place where the food referred to in
that subsection was sold or before a court having
jurisdiction in the place in which the warranty so
referred to was given.

(9) A person shall not—
20 (a) place on any package of goods sold by him;
(b) attach to any such package any label which
includes; or
(c) publish with respect to any goods any
advertisement which includes,

25 the words “guaranteed under the Pure Food Act,
1908”, or words having the same or a similar effect,
or words or an expression signifying, suggesting or
implying that the goods are guaranteed or warranted
under this Act or the regulations.

30 (13) Section 48—

Omit the section and the short heading before that
section, insert instead :—

Pure Food (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

- 5 48. (1) Where any offence is committed against this Act or the regulations by an agent or employee of another person, that other person shall, without prejudice to the liability of that agent or employee, be guilty of that offence in the same manner as if he had personally committed that offence. Liability of principals, employers, employees and agents.
- 10 (2) Except as provided in this section, in any prosecution for an offence against this Act or the regulations, it shall be no defence that the defendant was, at the time of the commission of the offence, only an agent or employee of another person.
- 15 (3) In any prosecution for an offence against this Act or the regulations, the defendant shall have a good defence to the prosecution if he establishes that, at the time of the commission of the act or default constituting the offence—
- 20 (a) he was an employee—
- (i) of the owner or occupier of the place or, as the case may be, the owner or person in charge of the vehicle in relation to which the offence was committed; or
- 25 (ii) of the proprietor of any business relating to food conducted in relation to that place or vehicle; and
- 30 (b) he was under the personal supervision of that owner, occupier, person in charge or proprietor or of any manager or other person representing that owner, occupier, person in charge or proprietor.

Pure Food (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART IV OF THE PURE FOOD ACT, 1908
—*continued.*

5 (4) Except with the leave of the court, the
defence referred to in subsection (3) may be relied
on only if the defendant has, within 7 days after the
service of the summons for the offence, delivered to
the prosecutor a notice in writing—

10 (a) to the effect that he intends to rely on that
defence; and

15 (b) containing the name and address of the per-
son referred to in paragraph (a) of that
subsection by whom he was employed at
the time of the commission of the act or
default constituting the offence.

20 (5) The court shall not refuse leave under
subsection (4) if it appears to it that the defendant
was not informed of the provisions of that subsection
at the time of the service on him of the summons for
the offence.

(6) In any prosecution for an offence against
this Act or the regulations, the defendant shall have a
good defence to the prosecution if he establishes
that—

25 (a) he committed the act or default constituting
the offence in the course of acting as an
agent or employee of another person and
without knowledge of one or more of the
facts constituting the offence; and

30 (b) that other person is—

(i) a resident of, or has a place of
business in, New South Wales;

Pure Food (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART IV OF THE PURE FOOD ACT,
1908 —*continued.*

5 (ii) a corporation having a registered office or place of business in New South Wales; or

(iii) a firm having a place of business in New South Wales.

10 (7) Where an offence against this Act or the regulations has been committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director or other person concerned in the management of the body corporate,
15 or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to a penalty not exceeding that prescribed for the offence.

(14) Sections 49, 50—

20 Omit the sections.

Pure Food (Amendment).

SCHEDULE 5—continued.

AMENDMENTS TO PART V OF THE PURE FOOD ACT, 1908—continued.

- (2) (a) Section 51A (5)—
 5 Omit “for the district in which the food store is situated or in which is situated the place at which he requested the food vehicle or appliance to be inspected”.
- (b) Section 51A (7)—
 10 Omit “shall be guilty of an offence against this Act and”, insert instead “is guilty of an offence and is”.
- (3) (a) Section 53 (1)—
 After “this Act”, insert “or the regulations”.
- (b) Section 53—
 15 Omit “or article” wherever occurring.
- (4) Sections 54, 55—
 Omit the sections, insert instead :—
 20 54. (1) The Commission may, on the recommendation of the advisory committee but subject to the approval of the Governor, make regulations, not inconsistent with this Act or any regulations made under the Principal Act, for or with respect to any matter that by this Act is required or permitted to Power of Commission to make regulations.

Pure Food (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

- 5 be prescribed or that is necessary or convenient to
be prescribed for carrying out or giving effect to this
Act and, in particular, for or with respect to—
- 10 (a) prescribing standards for the composition,
strength, purity or quality of food or of
food of a specified class or description, or
for the nature or proportion of any
substance which may be mixed with or used
in the preparation or preservation of any
food;
- 15 (b) prohibiting the addition of any specified
substance to any article of food or to any
article of food of a specified class or
description;
- 20 (c) prohibiting the use in the manufacture,
preparation, preservation, packing, storage,
handling, decorating, serving, conveyance,
delivery or consumption of food for sale,
or food of a specified class or description for
sale, of any appliances containing—
- 25 (i) any specified substance; or
(ii) any specified substance in or in
excess of a specified proportion,
and prohibiting or regulating the sale or gift
of any such appliances;
- 30 (d) prohibiting any specified method or means
of manufacturing, preparing, preserving,
packing, storing, handling, decorating,
serving, conveying or delivering food or
food of a specified class or description;

Pure Food (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

- 5 (e) fixing rates for payment for samples of food obtained under this Act;
- (f) prescribing methods of analysing food or food of any specified class or description;
- 10 (g) prescribing qualifications for the appointment of persons as analysts under this Act and determining the fees or remuneration payable to persons so appointed;
- 15 (h) exempting any article of food, or any package containing any article of food, of a specified class or description from any provision of this Act, or of the regulations, relating to the marking or labelling of food or packages of food;
- 20 (i) prohibiting the use of any specified substance or method in the catching, feeding or drugging before death of any animal intended for sale as food or any animal of a specified class or description which is intended for sale as food;
- 25 (j) prohibiting with respect to food the publication of any advertisement which is false or misleading as to a material particular or which is likely to mislead members of the public or any section of the public;

Pure Food (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

- 5 (k) requiring and providing for the destruction
or denaturation of—
- (i) food that has deteriorated or become
impoverished in such degree as is
specified; or
- 10 (ii) food of a specified class or
description;
- (1) requiring statements or labels containing
specified words, or words having the same
or a similar effect, to be written on or
15 attached to food, or food of a specified class
or description, or any package containing
food, or prohibiting the use of specified
words, or words having the same or a similar
effect, in any such statements or labels
20 written on or attached to food or packages
of food;
- (m) requiring statements or labels containing
specified words, or words having the same
or a similar effect, to be written on or affixed
25 to automatic vending machines used in
connection with the sale of food or the sale
of food of a specified class or description or
prohibiting the use of specified words, or
words having the same or a similar effect, in
30 any statements or labels written on or affixed
to those machines;

Pure Food (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

- 5 (n) requiring advertisements relating to food,
or to food of a specified class or description,
to contain specified words, or words having
the same or a similar effect, or prohibiting
the use of specified words, or words having
10 the same or a similar effect, in those
advertisements;
- (o) securing the wholesomeness, cleanliness and
freedom from contamination and adultera-
tion of food or of food of a specified class
or description;
- 15 (p) securing the cleanliness of appliances, places
and vehicles used for or in connection with
the manufacture, preparation, preservation,
packing, storage, handling, decorating,
20 serving, conveyance or delivery of food for
sale or of food of a specified class or
description for sale;
- (q) prescribing requirements to be observed as
to the situation and construction of any
place or vehicle used in or in connection
25 with the manufacture, preparation, preser-
vation, packing, storage, handling, decor-
ating, serving, conveyance or delivery of
food for sale, or of food of a specified class
or description for sale, and as to the
30 sanitation of that place or vehicle and the
provision of satisfactory facilities for
protecting that food from contamination;
and

Pure Food (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

5 (r) prohibiting the placing in food for sale, or
in packages containing any such food, of
any toy, coin or other small article which
might, if swallowed by or placed in the
mouth of any person, reasonably be
expected to harm or injure him.

10 (2) The regulations may be made so as to
apply differently according to such factors, or
according to such limitations or conditions, whether
as to time or circumstance or otherwise, as may be
specified.

15 (3) The regulations may make it an offence to
contravene or fail to comply with any of the
regulations and may impose—

20 (a) in respect of any such offence relating to
the keeping of places, vehicles, food or
appliances clean or free from vermin, a
penalty not exceeding \$2,000 or imprison-
ment for a term not exceeding 6 months, or
both, and, in the case of a continuing
25 offence, a further penalty not exceeding \$50
for each day during which the offence
continues; or

30 (b) in respect of any such offence relating to
any other matter, a penalty not exceeding
\$500 and, in the case of a continuing
offence, a further penalty not exceeding \$10
for each day during which the offence
continues.

Pure Food (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

5 (4) Section 41 of the Interpretation Act, 1897, applies in respect of the regulations as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(5) In this section, “specified” means specified in the regulations.

10 55. (1) In this section—

Adoption
of standards
by reference.

“prescribed publication” means—

- 15 (a) an edition of the British Pharmaceutical Codex (whether published before or after the commencement of Schedule 5 (4) of the Pure Food (Amendment) Act, 1978) that is specified in the regulations;
- 20 (b) an edition of the British Pharmacopoeia (whether published before or after that commencement) that is so specified;
- 25 (c) an edition of any publication of the British Standards Institution specifying standards with respect to food (whether published before or after that commencement) that is so specified;
- 30 (d) an edition of the Food Chemicals Codex (whether published before or after that commencement) that is so specified; or

Pure Food (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

5 (e) an edition of some other publication
(whether published before or after
that commencement) that is so
specified,

10 together with any additions or amendments
to any such edition (whether published
before or after that commencement) that
are so specified;

15 “the British Pharmaceutical Codex” means the
book of that name published by the direc-
tion of the Council of the Pharmaceutical
Society of Great Britain;

20 “the British Pharmacopoeia” means the book of
that name published before the commence-
ment of Part VII of the Medicines Act 1968
of the Parliament of the United Kingdom
under the direction of the General Medical
Council of the United Kingdom or published
after that commencement in accordance
with the provisions of that Part;

25 “the Food Chemicals Codex” means the book of
that name of which the copyright belongs to
the National Academy of Sciences of the
United States of America.

30 (2) The regulations may, in making provision
for or with respect to the determination of any
standards, adopt by reference the whole or any part
of any monograph or other material contained in a
prescribed publication or any such monograph or
material as modified pursuant to subsection (3).

*Pure Food (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO PART V OF THE PURE FOOD ACT,
1908—*continued.*

- 5 (3) The regulations may provide for the modification of any monograph or other material adopted under subsection (2).

SCHEDULE 6.

Sec. 5.

SAVINGS AND TRANSITIONAL PROVISIONS.

- 10 1. Every person or member of the police force who, immediately before the commencement of Schedule 1 (3), is acting as an officer for the purposes of the Pure Food Act, 1908, by virtue of an authority granted by the Health Commission of New South Wales or, as the case may be, the Commissioner of Police or a superintendent of police shall be deemed to be appointed as an inspector under section 15 9A (1) or, as the case may be, section 9A (3) of that Act, as in force immediately after that commencement. **Appointment of inspectors.**
- 20 2. Every proclamation made under section 4 (1) of the Pure Food Act, 1908, as in force immediately before the commencement of Schedule 1 (3), declaring any substance or article to be food or an article of food shall, if in force immediately before that commencement, be deemed to be an order made under section 4 (3) of that Act, as in force after that commencement. **Proclamations.**
- 25 3. Any sample of food taken or obtained in accordance with sections 23 and 24 of the Pure Food Act, 1908, as in force immediately before the commencement of Schedule 3 (2), may be dealt with as if it had been obtained in accordance with those sections as in force after that commencement. **Samples.**
- 30 4. (1) Every person, appointed as an analyst under section 27 of the Pure Food Act, 1908, as in force immediately before the commencement of Schedule 3 (3), and holding appointment as such immediately before that commencement, shall be deemed to be appointed under section 27 (1) of that Act, as in force after that commencement. **Employment of analysts.**

*Pure Food (Amendment).*SCHEDULE 6—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- 5 (2) Every person, appointed as an analyst under section 28 of the Pure Food Act, 1908, as in force immediately before the commencement of Schedule 3 (4), and holding appointment as such immediately before that commencement, shall be deemed to be appointed under that section as in force after that commencement.
- 10 5. All certificates of analysis given under section 29 of the Pure Food Act, 1908, as in force immediately before the commencement of Schedule 3 (5), shall be deemed to have been given under that section, as in force after that commencement. Certificates of analysts.
- 15 6. Any order made under section 39A of the Pure Food Act, 1908, as in force immediately before the commencement of Schedule 4 (5), shall, if in force immediately before that commencement, be deemed to be an order made under that section, as in force after that commencement. Orders under section 39A of the Pure Food Act, 1908.
- 20 7. Any guarantee to which section 47 of the Pure Food Act, 1908, applied immediately before the commencement of Schedule 4 (12) shall, to the extent that it could have effect as a warranty to which that section applies after that commencement, be deemed to be a warranty to which that section, as in force after that commencement, applies. Guarantees.
- 25 8. All regulations in force under section 54 of the Pure Food Act, 1908, as in force immediately before the commencement of Schedule 5 (4), shall, to the extent that they could be made under that section, as in force immediately after that commencement, be deemed to be regulations made under that section as in force after that commencement. Regulations.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978
[72c]