

FOOD CONTROL ACT
(Cap. 65:05)

FOOD CONTROL (INSPECTIONS AND INVESTIGATIONS OF FOOD AT FOOD
PREMISES) REGULATIONS, 2023

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SCHEDULES

IN EXERCISE of the powers conferred on the Minister of Health by section 13 of the Food Control Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Food Control (Inspections and Investigations of Food at Food Premises) Regulations, 2023. Citation
2. In these Regulations, unless the context otherwise requires — Interpretation
 - “handle” includes the manufacturing, processing, production, packaging, preparation, keeping, offering, storage, transportation or display of food for sale or for serving, and “handling” has a corresponding meaning;
 - “lot” means the definitive quantity of a commodity produced essentially under the same conditions;
 - “person in charge”, includes a person who is responsible for the food or food premises, or the agent in the case of imported food; and
 - “sample” means a portion consisting of one or more units of a food of a larger quantity of a food, drawn by an authorised officer in terms of the provisions of these Regulations.
3. These Regulations shall apply to the conduct of authorised officers and public analysts during inspections and investigations of food and food premises as provided for under the Act. Application
4. (1) An authorised officer may, with regard to food premises — Inspection and investigation powers
 - (a) demand from the person in charge of such food premises, any book, document or object that must be kept or displayed in terms of the Act or that relates to any matter provided for by the Act and that is or was in the possession or in the custody or under the control of such person, or that is on or in the food premises;

- (b) make an extract from or a copy of a book or document referred to in paragraph (a);
 - (c) question the person referred to in paragraph (a) with regard to any matter provided for in the Act and obtain information regarding any activity or process or entry in a book or document referred to in paragraph (a);
 - (d) demand any information for the purpose of preventing a foodborne disease, from
 - (i) the person referred to in paragraph (a), or
 - (ii) any other person who has at any time been on the premises;
 - (e) examine any food that is found on the food premises and take appropriate action;
 - (f) examine any appliance, product, material, object or substance that is found and that is used or suspected to be used, destined or intended for use in connection with the manufacture, treatment, grading, packing, marking, labelling, storage, conveyance, serving, administration or handling of any food or any other operation or activity in connection with any food, and open any package or container of the food, product, material, object or substance; or
 - (g) where he has reason to suspect that the food is unsound or defective, adulterated, contaminated and not fit for human consumption, take some of the food contemplated in paragraph (e), in whatever kind of package or container as he may require, as a sample, for the purpose of testing or analysing by a public analyst —
 - (i) without payment, where the authorised officer has reason to suspect that the food is unsound or defective, adulterated, contaminated and not fit for human consumption; or
 - (ii) by offering payment to the person in charge, where the authorised officer is taking the sample for purposes of verifying compliance with any other requirement of the Act.
- (2) An authorised officer shall, for the purpose of collecting a sample in accordance with these Regulations —
- (a) take a sample of the food in the presence of —
 - (i) the person in charge of food premises, or
 - (ii) any other person who is employed in those premises, as a witness if the person in charge is not present;
 - (b) as soon as practicable after obtaining the sample in accordance with paragraph (a) (ii) notify, in writing, the person in charge, of the taking of the sample and of the purpose thereof;
 - (c) notify, in writing, the person in charge, whether a part of the sample is required for examination or analysis, in Form A set out in Schedule I, and if so, the authorised officer shall —
 - (i) divide the sample in a manner as its nature permits, into three separate parts which shall be as identical as possible, and one of the portions shall be handed to the person in charge, another one sent to a public analyst for analysis or examination and the other to be appropriately preserved by the authorised officer until the case is finalised,
 - (ii) if the contents of one package are not sufficient for analysis or examination when divided in accordance with subparagraph (i), obtain additional packages of the food, similarly labelled of the same lot and purporting to contain a similar article and mix the contents of two or more of the packages and divide the mixture and deal with it as provided for in subparagraph (i), and

- (iii) pack, seal, using temper seal proof, and label, with indelible marking, each of the three parts of the sample referred to in sub paragraphs (i) and (ii), using Form B set out in Schedule I, to indicate the sample's nature, origin and identify it with –
 - (aa) an identification number,
 - (bb) concise details regarding the contents,
 - (cc) the nature of the examination or analysis required,
 - (dd) the date on which the sample was taken,
 - (ee) the name and work address of the person referred to in paragraph (a) from whom the sample was taken, and
 - (ff) the quantity of the sample taken;
- (d) in the case of perishable food, or food in a sealed package, or where the opening of the package would hamper analysis or examination, or where no person referred to in paragraph (a) is present, pack, seal and label the sample to indicate its origin, nature and to identify it as indicated in paragraph (c) (iii) and send to a public analyst for analysis or examination;
- (e) send to a public analyst the original label of the sample, if any, or a copy thereof shall accompany the sample;
- (f) in the case of milk or cream sampled for chemical or compositional analysis, add a recommended preservative under Schedule II, where necessary:

Provided that the preservative is added to the sample after consulting a public analyst and in the presence of the person referred to in paragraph (a), and the person has been informed of the nature of the preservative;

- (g) use a sterilised equipment for taking a sample for bacteriological analysis and shall transfer the sample to a sterile container to prevent the contamination of the sample; and
- (h) deliver the sample to a public analyst by any convenient means provided the authorised officer's seal remains intact and maintains the sample's integrity during transportation.

(3) The sterile container referred to under subregulation (2) (g), shall immediately be placed in a container or cooler box surrounded by ice packs or any other suitable refrigerant which comes into contact with the sterile container and is capable of reducing the temperature of the sample to seven degrees Celsius and maintaining it at or below seven degrees Celsius, but not frozen, until it is delivered to a public analyst.

(4) An authorised officer shall deliver a sample to a public analyst by any convenient means;

Provided that the seal remains intact to maintain the sample's integrity during transportation.

(5) In carrying out the procedure outlined under subregulation (2), an authorised officer shall, when sampling milk or milk products, where applicable, take into consideration contents of the International Standard: ISO 707: Milk and Milk Products-Guidance on Sampling, and Codex Alimentarius Guidelines on Sampling.

(6) An authorised officer shall take measures to prevent contamination during handling; sampling, division, sealing, transportation and storage before submission to a public analyst.

Detention of
food

(7) Any person who obstructs an authorised officer from carrying out his duties commits an offence.

5. (1) An authorised officer may, pending the examination or analysis of a sample by a public analyst, by a written notice, in accordance with Form C set out in Schedule I, detain the whole lot or consignment of food in any kind of package or container it may be, on or in the premises concerned from which that sample was taken.

(2) The authorised officer may lock up, seal, mark, fasten or otherwise secure the detained food in the premises or any other premises.

(3) A notice referred to in subregulation (1) —

(a) shall be served on the person referred to in regulation 4 (1) (a);

(b) shall be binding for the period stated in the notice, which period shall not exceed a period of 30 days provided that the food is maintained in an unadulterated state;

(c) may be withdrawn at any time during the period referred to in the notice; or

(d) may be extended to a maximum period of 30 days if the initial period was less than 30 days.

(4) A person shall not, without the written permission of an authorised officer, remove any food detained in terms of subregulation (1) from the place where it is being detained, or deal with it in any other manner.

(5) If the results of an examination or analysis of a sample indicate that a sample is wholesome, the lot or food consignment detained under these Regulations may, by a written notice in accordance with Form D set out in Schedule I, be released.

Seizure and
destruction of
food

6. (1) An authorised officer may —

(a) after an examination of any food in accordance with regulation 4 (1) (e), where he is satisfied that the food is defective, adulterated or contaminated and not fit for human consumption; or

(b) where it appears from the testing or analysis of a sample referred to in regulation 4 (1) (g) that the sample or any part of it is defective, adulterated or contaminated and not fit for human consumption,

by a written notice in accordance with Form E set out in Schedule I, seize and destroy the food concerned, the lot or consignment of food from which the sample was taken if the authorised officer is satisfied that the food in the lot or consignment is in the same condition or possesses the same properties as the sample.

(2) A notice referred to in subregulation (1) shall —

(a) be served on the person in charge referred to in regulation 4 (1) (a); and

(b) clearly set out the applicable provisions of this regulation.

(3) A lot or consignment of food seized under this regulation shall be held at a place selected by the authorised officer until destroyed and disposed of in a manner approved by the authorised officer.

(4) Subject to the provisions of this regulation, a person in charge shall not, without any written authority from an authorised officer —

(a) remove any food seized in terms of this regulation from the premises referred to in subregulation (3); or

(b) sell the food, or deal with the food in any other manner.

(5) An authorised officer who grants a written authority referred to in subregulation (4) may impose any necessary conditions with regard to the transportation and further storage of the food concerned.

(6) An authorised officer acting in terms of this regulation shall issue to the person in charge referred to in regulation 4 (1) (a), a written certificate for the removal and safe disposal of the seized food, in accordance with Form F set out in Schedule I, stating the kind and quantity of food removed for safe disposal and the reason for removing it.

(7) Where the person referred to in regulation 4 (1) (a) does not consent to the seizure and destruction of food referred to in subregulation (1), an authorised officer may apply to the court of a Magistrate Grade I, Senior Magistrate or Principal Magistrate, for permission to destroy any such food or article, and the court may make such order as it may deem fit.

(8) Where the court orders for the condemnation of food, an authorised officer shall —

- (a) dispose of the food in accordance with the decision of the magistrate;
- (b) ensure that the method of disposal used, completely removes the food from the channels of trade; and
- (c) fill in and issue a condemnation certificate in accordance with Form G set out in Schedule I, to the person in charge, owner or owner's agent.

(9) A person in charge who fails to comply with the provisions of this regulation commits an offence.

7. (1) If an authorised officer is of the opinion that, in relation to food premises or food contemplated in the Act, activities or conditions exist which are dangerous or harmful or likely to be dangerous or harmful to health or which are likely to favour the spread or impede the prevention of a food borne disease, he shall issue a written notice, in accordance with Form H set out in Schedule I instructing that —

Rectification of certain conditions

- (a) any activity or condition stated in the notice must be rectified immediately or within a specified period determined by the authorised officer; or
- (b) if the activity or condition is due to failure to comply with the requirements of the Act, the person in charge must comply with the requirements of the Act.

(2) A person in charge who fails to comply with the provisions of this regulation commits an offence.

8. (1) An authorised officer shall, within 14 days after completing an inspection or an investigation of food premises, compile an inspection report, in accordance with Form I set out in Schedule I and —

Inspection report

- (a) deliver by hand a copy of the report; or
 - (b) send a copy of the report by registered mail or courier,
- to the person referred to in regulation 4 (1) (a).

(2) An authorised officer who fails to comply with the provisions of this regulation commits an offence.

9. A public analyst shall —

Duties of a public analyst

- (a) after testing any sample referred to him by an authorised officer under section 6 (11) or regulation 4 (2), complete Form J set out in the Schedule I;
- (b) in case of milk or cream or other liquid form, besides any other aspects which have to be investigated, determine and report whether a preservative is present and, if so, whether it is a preservative prescribed by regulation for that purpose;

Offences and
penalties

- (c) in case of a sample of food which is not perishable and which is found on analysis or examination to be adulterated or falsely described or otherwise not to comply with the requirements of the Act, and which was not divided by an authorised officer, close, seal and carefully retain the unused portion of the sample, if any, until after the conclusion of any prosecution in connection with the case;
- (d) where possible, retain the sample referred to in paragraph (c), in an original container;
- (e) ensure that container or storage conditions shall not affect the integrity of a sample;
- (f) use a tamper proof seal whose composition shall not alter the chemical or biological composition of the sample therein;
- (g) ensure that a non-perishable sample shall be preserved appropriately to prolong its stability pending conclusion of the case; and
- (h) apply the corporate procedures to ensure the validity of the results as stipulated in ISO 17025.

10. (1) A person who —

- (a) obstructs or impedes an authorised officer from carrying out any work in the exercise of the authorised officer's powers under these Regulations;
- (b) gives an authorised person information which, to the knowledge of the person giving it, is false or misleading; or
- (c) fails or refuses to comply with the direction or requirements of an authorised person,

commits an offence.

(2) A person who contravenes the provisions of these Regulations commits an offence and is liable —

- (a) for a first offence, to a fine not exceeding P1 000 or to imprisonment for a term not exceeding three months, and where the offence is a continuing offence, to an additional fine not exceeding P500 or imprisonment for a term not exceeding one month for each day on which the offence continues; and
- (b) for a second or subsequent offence, to a fine not exceeding P5 000 or to imprisonment for a term not exceeding six months, and where the offence is a continuing offence, to an additional fine not exceeding P2 000 or imprisonment for a term not exceeding two months for each day on which the offence continues.

(3) A court may, on the conviction of any person for an offence under these Regulations, in addition to any other penalty it may impose, revoke or suspend any licence or permit issued to that person which is relevant to the offence committed.

(4) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in such capacity, the person as well as the body corporate commits an offence and liable to a fine not exceeding P4 000 or to imprisonment for a term not exceeding three months, or to both.

SCHEDULES

SCHEDULE I

FORM A
(reg. 4 (2) (c))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)

SAMPLING NOTIFICATION AND RECEIPT FOR EXAMINATION OR ANALYSIS

To:
[Name and Address of food business/ owner/ agent]

I.....have this day of20..... taken/procured/purchased sample of the hereunder detailed product (s) from the premises situated at, under the powers vested in me under section 6 (1b) of the Food Control Act, 1993 for further examination. If I consider it necessary, will have the same analysed by an Analyst.

I now offer to divide the same into three (3) parts to be now separated, each part to be labelled, one of them to be tendered to you. Do you require a sample? Yes / No.

Details of food article (s) sampled

Food Article (s)	Quantity taken	Batch No:	Date of manufacture	Expiry date	Estimated monetary value

Indicate whether sample was divided or not?

Nature of examination

Name of authorised officer

Signature of authorised officer

Date and time of sampling

Authorised officer's identity number

Name of owner/person from whom
sample was obtained or his/her agent

Signature

Date and time

Person in charge's identity number

STATEMENT BY PERSON IN CHARGE

I certify that
(Name of authorised officer)
has collected the above-mentioned sample(s) and divided it into three (3) approximately equal
parts and that —

- (a) one part of each sample has been given to me and was accepted;
- (b) I did not accept the offer of division of the sample. (delete where appropriate).

Signature of person in charge

Date and time

Endorsement of refusal to sign

Date and time

Where the person in charge refuses to sign, an authorised officer shall call upon one or more
witnesses and take their signature, in lieu of the signature of such person.

Witnesses:

1

2

FORM B
(reg. 4 (2) (c)(iii))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)

LABEL OF A SAMPLE TAKEN FOR ANALYSIS OR EXAMINATION

Name and physical address of business

.....

Name of person in charge from whom the sample was obtained

.....

Name and type of product/ concise details of contents

.....

.....

Authorised officer's seal number*

Nature of examination or analysis required

.....

.....
Date of sampling

.....
Time

Quantity taken

.....

Indicate whether sample was divided or not?

.....

Date dispatched to analyst

.....

.....
Name of authorised officer

.....
Signature of authorised officer

.....
Date

.....
Authorised officer's identity number

.....
*insert seal number/ or describe the seal (whichever is applicable)

FORM C
(reg. 5 (1))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)

NOTICE FOR DETENTION OF FOOD

To:.....
(Name and Address of food business / owner/ agent)

In terms of the above mentioned regulations, the following food article (s) are hereby detained at the premises situated at....., from.....to..... pending the examination or analysis of the sample.

Food Article (s)	Quantity	Batch No.:	Expiry date	Estimated monetary value	Reason for detention

Name of authorised officer

Signature of authorised officer

Date

Authorised officer's identity number

ACKNOWLEDGMENT OF CUSTODY BY THE PERSON IN CHARGE

I..... (name of person in charge) acknowledge that I will provide safe custody to the food article(s).

Signature of person in charge

Person in charge's identity number

Date and time

Person in charge statement or remarks (if any):.....
.....
.....

Endorsement of refusal to sign

Date and time

Where the person in charge refuses to sign, an authorised officer shall call upon one or more witnesses and take their signature, in lieu of the signature of such person.

Witnesses:

1

2

FORM D
(reg. 5 (5))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)

FOOD RELEASE NOTICE

To:.....
(Name and Address of food business/owner/agent)

Further to the notice served on you under regulation 5 (1), the under-mentioned food (s) or food product (s) have been found to comply with the Act. You are hereby informed that the said notice is withdrawn, and the detention of the said food (s) or food product(s) is therefore lifted.

Details of the food article (s) released

Food Article (s)	Quantity	Batch No:	Expiry date	Estimated monetary value

Name of authorised officer

Signature of authorised officer

Date

Authorised officer's identity number

ACKNOWLEDGMENT OF RELEASE BY THE PERSON IN CHARGE.

I..... (name of person in charge) acknowledge that the above mentioned food article (s) have been received.

Signature of person in charge

Person in charge's
identity number

Date and time

Person in charge statement or remarks (if any):.....
.....
.....

FORM E
(reg. 6 (1))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)

NOTICE FOR THE SEIZURE OF FOOD

To:.....
(Name and Address of owner/agent)

Whereas I(Name of Authorised Officer) have reason to believe that the stock of food article (s) detailed below which is in your possession at the premises at.....contravenes the provisions of the Food Control Act or the regulations made thereunder. In terms of the above mentioned regulations, the following food (s) is deemed to be unfit for human consumption, non-compliant to specification and/or regulations as verified by an inspection and examination or analysis. Now therefore, I hereby seize the said food articles (s) under the provisions of section.....of the said Act, and direct you to keep the said stock in safe custody subject to such orders as may be issued subsequently in relation thereto. Be it known to you that removal or alteration or interference in any way with the said food article (s) without my authority is an offence under section..... of the said Act.

Details of food article (s) seized

Food Article (s)	Quantity	Batch No:	Expiry date	Estimated monetary value	Reason for seizure

I hereby further order you to sign your name on the seizure form as a declaration of your acknowledgement of receipt of the notice with the said food article(s) intact as mentioned above.

Name of authorised officer

Signature of authorised officer

Date and time

Name of person in charge/owner/agent

Signature

Person in charge's identity number

Date and time

Endorsement of refusal

Date and time

Where the person in charge refuses to sign, an authorised officer shall call upon one or more witnesses and take their signature, in lieu of the signature of such person.

Witnesses:

1

2

FORM F
(reg. 6 (8))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)

CERTIFICATE OF VOLUNTARY SURRENDER AND SAFE DISPOSAL
OF FOODSTUFF

To:.....
(Name and Address of owner/agent)

Date: _____

This is to certify that the undermentioned food has been removed and will be destroyed for the following reasons as indicated.

PART A

Food Article (s)	Quantity	Batch No:	Expiry date	Estimated monetary value	Reason for surrender

PART B

I hereby voluntarily surrender the above named food article (s) to the authorised officer and agree to its removal and safe disposal as he/she deems fit.

Signature of owner/person in charge/agent

Date

Person in charge's identity number

PART C

I certify that I have examined the above name food article (s) and I am of the opinion that it is unsound and unfit for human consumption due to facts stated above and hereby condemn it and destroy/dispose it by..... under my supervision.

Name of authorised officer

Signature of authorised officer

Date and time

Authorised officer identity number

FORM G
(reg. 6 (6))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)
CERTIFICATE OF COMPULSORY CONDEMNATION OF FOOD STUFF

To:.....
(Name and Address of owner/agent)

Date:

PART A

Details of food article (s)

Food Article (s)	Quantity	Batch No:	Expiry date	Estimated monetary value	Reason for unfitness

PART B

I certify that I have examined the above named food article (s) and I am of the opinion that it is unsound and unfit for human consumption due to the reasons stated above and hereby recommend that the said food article (s) be condemned and destroyed or otherwise disposed of by order of court.

Name of authorised officer

Signature of authorised officer

Date and time

Authorised officer identity number

PART C

I certify that I have examined the above named food article (s) and being of the opinion that it is unfit for human consumption, hereby condemn it/them and order it/them to be destroyed or disposed of by –

Name of Magistrate

Signature

Date and time

PART D

I certify that the above named food article (s) has/have been destroyed/disposed of as ordered, under my supervision.

Name of authorised officer

Signature of
Authorised Officer

Date and time

FORM I
(reg. 8 (1))

(HEALTH AUTHORITY'S LETTERHEAD AND CONTACT DETAILS)

INSPECTION REPORT

Name of Establishment:

Address of Premises:

Postal address:

Name of Person in charge:

Date and time of inspection:

Inspection Report:

The inspection report shall include but not limited to the following –

Background:

Findings:

Actions taken by inspector:

Recommendations and follow-up actions required:

Any other additional documentation which may be deemed fit where applicable (e.g. Photographs, laboratory reports etc.)

Name of authorised officer

Signature of authorised officer

Date

Authorised officer identity number

FORM J
(reg. 9 (1) (a))

(LABORATORY'S LETTERHEAD AND CONTACT DETAILS)

CERTIFICATE OF ANALYSIS BY PUBLIC ANALYST

To:

I, a public analyst authorised, under section 5 of the Act, certify that on the day of 20..... I received sample(s) of identification numbers from of a sample stated by him/her to be of The sample was contained in an intact package bearing the authorised officer's identification number, and with the authorised officer's seal impressed (1) which was intact, and with the label/copy of the label attached (2). I further certify that the sample (s) has been analysed by me or under my direction and the results of analysis is as follows:-
.....
..... and I am of the opinion that the sample
.....
.....

Given under my hand this day of,, 20.....

Signature of public analyst

Name of public analyst

(¹) Insert seal number/ or describe the seal (whichever is applicable)
(²) strike out the words if there is no label
Attach original label of copy thereof.

SCHEDULE II

(Reg. 4 (2) (f))

**RECOMMENDED PRESERVATIVES FOR CHEMICAL AND COMPOSITIONAL
ANALYSIS OF MILK AND CREAM**

Preservative	Concentration in the milk (volume for volume)
Broad spectrum microtabs (tablets) containing bronopol and natamycin	1 tablet/40 ml milk
Bronopol	0.04%
Sodium azide	0.02%
Azidiol	0.4%
Tricresol	1%

MADE this 12th day of May, 2023.

DR. EDWIN G. DIKOLOTI,
Minister of Health.