

REGULATIONS RELATING TO INSPECTIONS AND INVESTIGATIONS

Published under Government Notice No.R 1128 of 24 May 1991

These regulations (R 1128 of 1991) have been amended by the "Regulations Relating to the Powers and Duties of Inspectors and Analysts Conducting Inspections and Analysis on Foodstuffs and Food Premises – R 328 of 2007"

The Minister of National Health has, in terms of sections 33, 34, 35, 37 and 38 of the Health Act, 1977 (Act No. 63 of 1977), and, where necessary, after consultation with the Minister of Water Affairs and Forestry and the Minister of Environment Affairs, made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act, shall bear such meaning and, unless the context otherwise indicates-

"food" means any article or substance [except medicine as defined in the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965)] ordinarily eaten or drunk by man or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance; and **"foodstuff"** has a corresponding meaning;

"inspector" means a person contemplated in section 53(1) of the Act;

"package" means anything by or in which any foodstuff is covered, enclosed, contained or packed; and

"the Act" means the Health Act, 1977 (Act No. 63 of 1977).

Inspection powers

2. (1) An inspector may, with regard to premises in respect of which any provision of the Act is applicable -
 - a. demand that the owner or occupier or the person in charge or apparently in charge of, or any employee on or in, such premises, submit to him any book, document or thing 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 owner, occupier, person or employee or that is on or in such 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. for the purpose of combating a communicable disease, demand any information from a person referred to in paragraph (a) or from any other person who has at any time been on or in such premises;

Sections 2 (1) (e) – (f) have been withdrawn due to R 328 of 2007.

- e. examine any foodstuff that is found in or on such premises, and any appliance, product, material, object or substance that is so found and that is or is suspected to be used, or destined or intended for use, for, in or in connection with the manufacture, treatment, grading, packing, marking, labelling, storage, conveyance, serving or administering of any foodstuff, or for, in or in connection with any other operation or activity with or in connection with any foodstuff, and open any package or container of such foodstuff, product, material, object or substance; and
- f. without making any payment take so much of such foodstuff, in whatever kind of package or container it may be, as he may reasonably require as a sample for the purpose of testing or analysing it if the inspector has reason to suspect that such foodstuff is unsound or unwholesome or unfit for human consumption.

Sections 2 (a) – (d) have been withdrawn due to R 328 of 2007.

(2) (a) A sample contemplated in paragraph (f) of sub regulation (1) shall be taken by an inspector in the presence of -

- i. the owner of the foodstuff concerned; or
- ii. the person in charge of such foodstuff if such owner is not in or on the premises; or
- iii. any other adult person as a witness if neither such owner nor such supervisor is so present.

(b) If such owner or supervisor is present at the taking of a sample, the inspector shall ascertain from the owner or supervisor, as the case may be, whether he requires a part of such sample for examination or analysis.

(c) The inspector shall-

- i. if such owner or supervisor requires a part of such sample as referred to in paragraph (b); or
- ii. in the case where a witness in the circumstances referred to in paragraph (a)(iii), is present,

without delay divide the sample in such manner as its nature permits in the presence of the owner, supervisor or witness, as the case may be, into two separate parts as near as possible identical.

(d) an undivided sample or each of the two parts referred to in paragraph (c) shall be packed and sealed by the inspector in the presence of such owner, supervisor or witness, as the case may be, and marked with-

- i. an identification number allocated by the inspector;
- ii. concise details regarding -
 - aa. the contents; and
 - bb. the nature of the examination or analysis required;
- iii. the date on which the sample was taken; and
- iv. the name and work address of the inspector.

Sections 3 (1) (a) – 3 (3) have been withdrawn due to R 328 of 2007.

Detention of foods

3. (1) (a) An inspector may, pending the examination or analysis of a sample, by written order signed by him, detain the whole lot or consignment of food in whatever kind of package or container it may be, on or in the premises concerned from which that sample was taken.

(b) The inspector may lock up, seal, mark, fasten or otherwise secure such detained food in or upon such premises or any other premises.

(2) An order referred to in sub regulation (1) -

- a. shall be served on the owner or occupier or any other person in charge or apparently in charge of the premises concerned;
- b. is binding for the period stated in the order, which shall not exceed a period of 30 days;
- c. may -
 - i. during that period be withdrawn; or
 - ii. if it was not issued for the full period of 30 days, be extended to such period,

by the inspector who issued the order or any medical officer of health or any medical practitioner or health inspector in the service of the State.

(3) No person may, without the written permission of the inspector referred to in sub regulation (1) or of a person referred to in sub regulation (2)(c), remove any food detained in terms of this regulation from the place where it is being detained, or deal with it in any other manner.

Sections 4 (1) – (9) have been withdrawn due to R 328 of 2007.

Seizure of food

4. (1) An inspector who is a medical officer of health, medical practitioner, health inspector or veterinary surgeon may -

- a. If, after an examination of any food contemplated in regulation 2(1)(e), he is satisfied that such food is unsound, or unwholesome or contaminated; or
- b. where it appears from an examination or analysis of a sample referred to in regulation 2(1)(f), that the sample or any part of it is unsound unwholesome or contaminated,

by written order signed by him seize the food concerned or, in the case of an unsound, unwholesome or contaminated sample, the lot or consignment of food from which the sample was taken if he is satisfied that the food in that lot or consignment is in the same condition or possesses the same properties as the sample.

(2) An order referred to in sub regulation (1) -

- a. shall be served on the owner or occupier or any other person in charge or apparently in charge of premises referred to in regulation 2(1);
- b. is binding from the time of such service until such food that has been seized-
 - i. has been used for purposes other than human consumption;
 - ii. has been destroyed; or
 - iii. has, in terms of sub regulation (6), been released for human consumption;
- c. may at any time be withdrawn by the inspector who issued such order or by a medical officer of health or a medical practitioner or health inspector in the service of the State; and
- d. shall clearly set out the provisions of this regulation.

(3) Wherever food has been seized under sub regulation (1), the owner thereof may choose at his expense and with the permission of the inspector, to have such food treated, disposed of or used for purposes other than human consumption or destroyed in a manner approved by the inspector.

(4) A choice referred to in sub regulation (3) shall be made known in writing to the inspector within 24 hours after seizure.

(5) If the owner of food which has been seized by an inspector in terms of sub regulation (1)-

- a. refuses or fails to exercise a choice referred to in sub regulation (3) within 24 hours after such seizure; or
- b. exercises such choice but thereafter refuses or fails to act in accordance with that choice within a further period of 24 hours,

the inspector may, at any time thereafter, and for the account and risk of such owner, destroy such food or cause such food to be destroyed or otherwise disposed of.

(6) A medical officer of health or a health inspector, medical practitioner or veterinary surgeon in the service of the State or a local authority may release for human consumption food which, after treatment referred to in sub regulation (3), is in his opinion fit for human consumption, by withdrawing or amending the order pertaining to such food that was issued in terms of sub regulation (1).

(7) Subject to the provisions of this regulation no person shall, without the written authority and direction of a medical officer of health or a health inspector, medical practitioner or veterinary surgeon in the service of the State or a local authority, remove any food seized in terms of sub regulation (1.) from the premises referred to in that sub regulation, sell such food or deal with it in any other manner.

(8) A medical officer of health, health inspector, medical practitioner or veterinary surgeon who grants a written authority referred to in sub regulation (7) may, in such authority, impose any condition regarding the transportation and further storage of the food concerned.

(9) An inspector acting in terms of this regulation shall, at the request of any person who is affected by such action, issue to such person a written document under his signature and designation stating the kind and quantity of food seized and the reason for the seizure.

Rectifying of certain conditions

5. If an inspector is of the opinion that, in relation to-
- a. premises or articles contemplated in section 33(1)(p) of the Act;
 - b. buildings, caravan parks, camping sites, holiday resorts, places used for public gatherings, swimming baths and premises contemplated in section 34(m) of the Act;
 - c. dairy-cattle, animals intended for human consumption, dairies, milking sheds, milk shops and milk vessels, and factories, stores, shops and other places where food is handled, processed, manufactured, prepared, kept, packed, displayed, sold or served, contemplated in section 35(1)(n) of the Act;
 - d. premises, systems or processes used in connection with the provision of water, contemplated in section 37(l) of the Act;
 - e. activities contemplated in section 38(1)(j) of the Act and any waste or product contemplated in section 38 (1) (a) of the Act before or after its treatment, purification, utilization or disposal,

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 eradication of a communicable disease, he may issue a written order signed by him and addressed to the owner or occupier or any other person in charge of such premises, in which he instruct that -

- i. any condition stated in the order shall be rectified immediately or within a specified period determined by the inspector; or
- ii. if such a condition is due to failure to comply with the requirements of the Act, such owner, occupier or other person shall comply with the requirements of the Act.

Inspection report

6. An inspector shall, within 14 days after completing an inspection or an investigation referred to in these regulations, compile an inspection report and hand or send by registered post a copy thereof to the owner or occupier or the person supervising the premises concerned.

Withdrawal

The regulations published under Government Notices Nos. R. 963 of 24 June 1966 and R.2127 of 22 November 1974 are hereby withdrawn.

These regulations (R 1128 of 1991) have been amended by the "Regulations Relating to the Powers and Duties of Inspectors and Analysts Conducting Inspections and Analysis on Foodstuffs and Food Premises – R 328 of 2007"