

A BILL

ENTITLED

AN ACT to Amend the Food Storage and Prevention of Infestation Act; and for connected matters.

[]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1.—(1) This Act may be cited as the Food Storage and Prevention of Infestation (Amendment) Act, 2019, and shall be read and construed as one with the Food Storage and Prevention of Infestation Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

Short title,
construction
and
commence-
ment.

(2) This Act shall come into operation on a day appointed by the Minister by notice published in the *Gazette*.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended—

(a) in the definition of “article to which this Act applies” by inserting immediately after the word “storing” the word “, transporting”;

(b) by inserting immediately before the definition of “container” the following definition—

““Chief Food Storage Officer” means the person for the time being in charge of the operations of the Division;”;

(c) by inserting next after the definition of “container”, the following definitions—

““contamination” means any unsanitary condition including the presence of bacteria, pesticide residues, mycotoxins, bacterial toxins, pathogenic micro-organisms or any biological, physical or chemical hazard in numbers or under conditions which involve an immediate or potential risk to the health of consuming individuals;

“device” includes compact discs and any other readable electronic item;

“Division” means the entity responsible for the food storage and prevention of infestation in the Ministry responsible for the administration of this Act;

“document” means, in addition to a document in writing, any thing or manner in which information of any description is recorded or stored;”;

(d) by deleting the definitions of “food” and “infestation” and inserting, next after the definition of “document” the following definitions—

“ “equipment” includes sampling equipment and pesticide application equipment;

“food” means any substance ingested by man or animal to provide for their biological needs, including any substance used in the composition of feeds, or the preparation of food or animal feed, but does not include crops before they are harvested;

“infestation” means the presence of fungi, insects, arachnids, rodents or other animals in numbers or under conditions, which involve an immediate or potential risk of loss or damage to or contamination of food, and including all other pests so identified as being capable of causing infestation;”;

- (e) by deleting the definition of “place” and substituting therefor the following—

““place” includes any premises, building, or shipping container;”.

3. Section 4 of the principal Act is amended—

- (a) in subsection (1), by—

- (i) inserting in paragraph (a) immediately after the words “any place” the words “(wherever situated)”;
- (ii) inserting in paragraph (b) immediately after the word “applies”, the words “and may charge and recover from the owner or person in possession of the article the expenses reasonably incurred in opening and examining such container”;
- (iii) inserting in paragraph (c) immediately after the word “food” the words “(wherever situated)”;
- (iv) inserting in paragraph (d) immediately before the word “article” the words, “defective equipment, or any device or document or”;

Amendment
of section 4
of principal
Act.

- (v) deleting from paragraph (e) the word “article” and substituting therefor the words, “equipment, device or article found to be in a dangerous state or injurious to the health of human beings, animals or plants, which has been”;
- (vi) inserting in paragraph (f) immediately after the word “infested” the words, “or contaminated”;
- (vii) deleting from paragraph (g) the words “liable to infestation” and substituting therefor the words “, contaminated or liable to such infestation or contamination”;
- (viii) inserting in paragraph (h) immediately after the word “infestation”, wherever it appears, the words, “or contamination”;
- (ix) deleting the full stop appearing at the end of paragraph (i), substituting therefor a semicolon, and inserting next after paragraph (i) the following as paragraph (j)—
 - “ (j) prohibit any place, which is found to be infested or contaminated, from being used to sell, store, manufacture or transport food.”;

- (b) by inserting next after subsection (2), the following as subsection (2A)—

“ (2A) Subject to subsection (3), an inspector may charge and recover from the owner or person who has responsibility for an article referred to in subsection (2), the amount of any expenses reasonably incurred in connection with the seizure or removal of such article.”.

Amendment
of section 5
of principal
Act.

4. Section 5 of the principal Act is amended in subsection (1) by deleting the words “are rodents, insects, mites or fungi in numbers or under conditions which involve” and substituting therefor the words “is infestation or contamination which involves”.

5. Section 6 of the principal Act is amended in subsection (1)(b) by deleting the words “liable to infestation” and substituting therefor the words “contaminated or liable to such infestation or contamination”. Amendment of section 6 of principal Act.

6. Section 7 of the principal Act is amended by inserting immediately after the word— Amendment of section 7 of principal Act.

- (a) “Minister” the words “and the Chief Food Storage Officer”;
- (b) “infestation” the words “or contamination”.

7. Section 8 of the principal Act is amended in— Amendment of section 8 of principal Act.

- (a) paragraph (a), by inserting immediately after the word “infestation” the words “or contamination”;
- (b) paragraph (f), by inserting immediately after the word “infestation” the words “or contamination”;
- (c) paragraph (g), by inserting immediately after the word “infestation” the words “or contamination”.

8. Section 9 of the principal Act is amended— Amendment of section 9 of principal Act.

- (a) by deleting subsection (1) and substituting therefor the following—

“ (1) Subject to the provisions of section 10, a person who contravenes any of the provisions of this Act or any regulations made or directions given thereunder, shall be liable upon—

- (a) summary conviction before a Parish Judge to—
 - (i) in the case of a first offence, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years;
 - (ii) if any damage is caused as a result of the commission of the offence, a fine not

under subsection (1), the offender shall be tried on indictment in the Circuit Court and shall be liable upon conviction to a fine or imprisonment for a term not exceeding twenty-five years.

(2) Any person who—

- (a) assaults or obstructs any officer appointed under this Act and acting in the execution of such officer's duties; or
- (b) removes from any container any seal affixed by an officer under this Act,

commits an offence.

(2A) An officer who—

- (a) purposefully fails to discharge that officer's functions under this Act; or
- (b) uses any power afforded to that officer under this Act, for personal gain,

commits an offence.”.

9. The principal Act is amended by inserting next after section 9, the following as section 9A—

“ Minister
may amend
monetary
penalties.

9A. The Minister may by order subject to affirmative resolution amend the monetary penalties prescribed in this Act.”.

Insertion of
new section
9A in
principal Act.

10. Section 10 of the principal Act is amended in subsection (2) by deleting the word “inspector” and substituting therefor the words “Chief Food Storage Officer”.

Amendment
of section 10
of principal
Act.

11.—(1) The provisions of the *Food Storage and Prevention of Infestation (Amendment) Regulations, 1973*, specified in the first column of the Schedule to this Act are amended in the manner set out in relation thereto in the second column of that Schedule.

Amendment
of the *Food
Storage and
Prevention of
Infestation
(Amend-
ment)
Regulations,
1973*.

(2) The amendments specified in the second column of the Schedule to this Act shall be read and construed as one with the said Regulations.

SCHEDULE

(Section 11)

*Amendment of Food Storage and Prevention
of Infestation Regulations, 1973*

Provision —————	Amendment —————
Regulation 2	<p>1. Delete from the definition of “operator” the word “licensed” and substitute therefor the word “certified”;</p> <p>2. Insert next after the definition of “operator” the following definition—</p> <p style="padding-left: 40px;">“ “pest” includes insects, arachnids, fungi, bacteria, viruses or other micro-organisms, rodents or other animals, which pose an immediate or potential risk of loss, damage or contamination of any article to which the Act applies;”.</p>
New regulation 2A	<p>Insert next after regulation 2 the following—</p> <p style="padding-left: 40px;">“ PART IA.—<i>Transportation</i></p> <p style="padding-left: 80px;">2A.—(1) Food shall not be transported in a manner that allows any toxic substance to contaminate the food.</p> <p style="padding-left: 80px;">(2) Prior to use for transportation of food any container previously used for the transportation of a toxic substance, shall be cleaned by a method prescribed by the Chief Food Storage Officer.”.</p>
New regulation 2B	<p>Insert immediately after the heading in Part II the following as regulation 2B—</p> <p style="padding-left: 40px;">“ 2B.—(1) Food shall not be stored in a storage area with a toxic substance, unless there is an impermeable partition between the food and the toxic substance.</p> <p style="padding-left: 80px;">(2) Every container used in the storage of food shall be properly labeled.”.</p>
Regulation 3	<p>1. In paragraph (1), delete the words “four inches” and substitute therefor the words “ten centimeters”.</p> <p>2. In paragraph (2), delete—</p> <p style="padding-left: 40px;">(a) from subparagraph (a) the words “two feet” and substitute therefor the words “sixty centimetres”;</p>

Provision

Amendment

- | | |
|--------------|---|
| Regulation 4 | <ul style="list-style-type: none"> (b) from subparagraph (b) the words “one foot” and substitute therefor the words “thirty centimetres”; (c) from subparagraph (c) the words “four feet” and substitute therefor the words “1.2 metres”; (d) from subparagraph (d) the words “two feet” and substitute therefor the words “sixty centimetres”. <p>1. Delete paragraph (1) and substitute therefor the following—</p> <p>“ (1) Any building in which food is kept for sale or used for the manufacture or storage of food, shall—</p> <ul style="list-style-type: none"> (a) be of sound construction; (b) be maintained in sound condition; (c) be, in the case of— <ul style="list-style-type: none"> (i) fabrication of the walls (other than partition walls), weather proof; and (ii) the floors, impermeable; and (d) in the case of all interior wall surfaces and floors be— <ul style="list-style-type: none"> (i) finished so as to provide a reasonably smooth surface; (ii) maintained in good condition; (iii) free from open cracks, crevices, holes or any other conditions of disrepair, whether similar to the foregoing or not, such as might induce pests to harbor therein; |
|--------------|---|

Provision _____	Amendment _____
	<p>(e) in the case of walls and other partitions, be painted from floor to ceiling in white or any other colour approved by the Chief Food Storage Officer;</p> <p>(f) as respects any opening for ventilation, be covered on the inside with mesh wire having no more than twenty openings for every twenty-five millimetres.”.</p>
	<p>2. In subsection (4), delete the words “quarter inch” and substitute therefor the words “six millimeters”.</p>
New regulation 5A	<p>Insert immediately after the heading with respect to Part IV, the following as regulation 5A—</p> <p>“ 5A. Any person who intends to conduct disinfestation operations in or around any article to which this Act applies, shall be certified by the Chief Food Storage Officer.”.</p>
Regulation 6	<p>Delete the regulation and substitute therefor the following—</p> <p>“ 6.—(1) All containers in which food is packed, stored or kept and which are not destroyed immediately after use, shall forthwith after use be properly cleaned and, if necessary, disinfested.</p> <p>(2) Subject to paragraph (1), any destruction, cleaning and disinfestation of a container shall be carried out in such manner and within such time, as the Chief Food Storage Officer may determine.”.</p>
Regulation 8	<p>1. In paragraph (2)(a)(ii), insert immediately after the word “used” the words “and the active ingredients and formulation”.</p> <p>2. In paragraph (2)(b), delete the word “licence” and substitute therefor the word “certificate”.</p>

Provision _____	Amendment _____
	3. Insert next after paragraph (2), the following as paragraph (3)— <p style="margin-left: 40px;">“ (3) The Chief Food Storage Officer shall issue to an owner of any place where disinfestation is carried out under this regulation a certificate in the form prescribed as Form 1 in the Fifth Schedule.”.</p>
Regulation 10	Delete the word “licence” and substitute therefor the word “certificate”.
Regulation 14	1. Delete the word— <p style="margin-left: 40px;">(a) “licence” wherever it appears and substitute therefor in each case, the word “certificate”;</p> <p style="margin-left: 40px;">(b) “licensed” in paragraph (2)(d) and substitute therefor the word “certified”.</p> <p>2. Insert as paragraph (1) next after the words “Fourth Schedule”, the words, in the appropriate form as set out in any of the Forms 2A to 2E of the Fifth Schedule”.</p>
Regulation 16	In paragraph (2)— <p style="margin-left: 40px;">(a) insert immediately after the words “sent by telegraph”, the words, “electronic mail or facsimile”;</p> <p style="margin-left: 40px;">(b) delete the words “given by telegraph”, and substitute therefor the words “such telegraph, electronic mail or facsimile”.</p>
Regulation 18	1. In the marginal note, delete the words “No. 1” and substitute therefor the numeral “3”. <p>2. Delete the words “Form No. 1” and substitute therefor the words “Form 3”.</p>
Regulation 19	1. Delete from the marginal note the words “Form No. 2”, “Form No. 3”, “Form No. 4”, “Form No. 5” and “Form No. 6” and substitute therefor, respectively, the words “Form 4”, “Form 5”, “Form 6”, “Form 7” and “Form 8”. <p>2. In paragraph (1), delete— <p style="margin-left: 40px;">(a) from subparagraph (a) the words “Form No. 2” and substitute therefor the words “Form 4”;</p> </p>

Provision _____	Amendment _____
	<ul style="list-style-type: none"> (b) from subparagraph (b) the words “Form No. 3” and substitute therefor the words “Form 5”; (c) from subparagraph (c) the words “Form No. 4” and substitute therefor the words “Form 6”; (d) from subparagraph (d) the words “Form No. 5” and substitute therefor the words “Form 7”.
	<p>3. In paragraph (2), delete the words “Form No. 6” and substitute therefor the words “Form 8”.</p>
Regulation 20	<p>Delete the regulation and substitute therefor the following—</p> <p style="padding-left: 40px;">“ 20.—(1) An Inspector may, with the written authority of the Chief Food Storage Officer, take photographs of any part of any place or vehicle or use a recording device to record images of any part of any place or vehicle, entered by such Inspector under section 4(1) or 5(2) of the Act.</p> <p style="padding-left: 40px;">(2) Subject to paragraph (1), a written authority given by the Chief Food Storage Officer under paragraph (1), may relate to the taking of photographs or the use of a recording device on one particular occasion or generally.”.</p>
New regulations 22 and 23	<p>Insert next after regulation 21, the following as regulations 22 and 23—</p> <p style="padding-left: 40px;">“ 22.—(1) The Chief Food Storage Officer shall issue a certificate of compliance in the form prescribed as Form 9 in the Fifth Schedule to the owner of the premises, where it is determined that the owner of the premises has complied with the provisions of these Regulations.</p> <p style="padding-left: 40px;">(2) The owner of the premises shall display the certificate referred to in paragraph (1) in a conspicuous place on the premises.</p> <p style="padding-left: 40px;">(3) An owner of the premises who fails to display the certificate referred to in paragraph (1) commits an offence.</p>

Provision

Amendment

23.—(1) The Chief Food Storage Officer may suspend a certificate issued under regulation 22, where there is any contravention of the provision of these Regulations.

(2) Where there is a breach of these Regulations the Chief Food Storage Officer shall issue a notice to the owner of the premises in the form prescribed as Form 10 in the Fifth Schedule no later than the time stated in the notice.

(3) The owner of the premises, who receives a notice under paragraph (2), shall adhere to the recommendations for remedying the breach referred to in the notice within the time stated in the notice.

(4) Where an owner to whom a notice is issued under paragraph (2) fails to remedy the breach concerned, within the time specified in the notice, the Chief Food Storage Officer shall revoke the certificate issued under regulation 22.

(5) An owner or occupier may on revocation of a certificate issued to that owner or occupier under this regulation reapply in the form prescribed.”.

First Schedule

1. Delete paragraph 1(2) and substitute therefor the following—

“ (2) For the purposes of this Schedule, the Local Authority in respect of any parish shall be the Municipal Corporation of that parish.”.

2. In paragraph 3, delete—

(a) from subparagraph (a)—

- (i) the words “2 feet 4 inches” wherever they appear and substitute therefor, in each case, the words “70 centimetres”;
- (ii) the words “12 inches” and substitute therefor the words “30 centimetres”;

Provision

Amendment

- (iii) the words “4 inches” and substitute therefor the words “10 centimetres”;
 - (b) from subparagraph (b), the words “24 inches” and substitute therefor the words “60 centimetres”.
3. In paragraph 4(1), delete the words “24 inches” and substitute therefor the words “60 centimetres”.
4. In paragraph 5, delete—
- (a) the words “6 inches” and substitute therefor the words “15 centimetres”;
 - (b) the words “2 inches” and substitute therefor the words “5 centimetres”.
5. In paragraph 6, delete—
- (a) from subparagraph (1)—
 - (i) the words “2 inches” and substitute therefor the words “5 centimetres”;
 - (ii) the words “6 inches” and substitute therefor the words “15 centimetres”;
 - (b) from subparagraph (3), the words “one-quarter inch” and substitute therefor the words “6 millimetres”.
6. In paragraph 7, delete—
- (a) the words “6 inches” wherever they appear and substitute therefor, in each case, the words “15 centimetres”;
 - (b) the words “2 inches” and substitute therefor the words “5 centimetres”.
7. In paragraph 9, delete the words “one-quarter inch” and substitute therefor the words “6 millimetres”.

Provision

Amendment

8. In paragraph 10, delete the words “one-quarter inch” and substitute therefor the words “6 millimetres”.
9. In paragraph 11, delete the words—
- (a) “one-quarter inch” and substitute therefor the words “6 millimetres”;
 - (b) “12 inches” and substitute therefor the words “30 centimetres”.
10. Delete paragraph 13 and substitute therefor the following—
- “ 13. All windows capable of being operated shall be covered with metal formed hardware cloth screens or tight-fitting metal screens.”.
11. In paragraph 14, delete—
- (a) from subparagraph (c)(ii)—
 - (i) the words “12 inches” and substitute therefor the words “30 centimetres”;
 - (ii) the words “9 inches” and substitute therefor the words “23 centimetres”;
 - (iii) the words “one-quarter inch” and substitute therefor the words “6 millimetres”;
 - (b) from subparagraph (c)(iii)—
 - (i) the words “18 inches” and substitute therefor the words “45 centimetres”;
 - (ii) the words “one-quarter inch” and substitute therefor the words “6 millimetres”;
 - (c) from subparagraph (c)(iv)—
 - (i) the words “18 inches” and substitute therefor the words “45 centimetres”;

Provision

Amendment

- (ii) the words “9 inches” and substitute therefor the words “23 centimetres”;
- (iii) the words “one-quarter inch” and substitute therefor the words “6 millimetres”;
- (d) from subparagraph (c)(v)—
 - (i) the words “1 inch” and substitute therefor the words “25 millimetres”;
 - (ii) the words “one-quarter inch” and substitute therefor the words “6 millimetres”;
 - (iii) the words “18 inches” wherever they appear and substitute therefor, in each case, the words “45 centimetres”;
- (e) from subparagraph (c)(vi)—
 - (i) the words “1 inch” and substitute therefor the words “25 millimetres”;
 - (ii) the words “24 inches” and substitute therefor the words “60 centimetres”;
 - (iii) the words “one-quarter inch” and substitute therefor the words “6 millimetres”;
 - (iv) the words “18 inches” and substitute therefor the words “45 centimetres”;

Provision

Amendment

- (f) from subparagraph (c)(vii)—
- (i) the words “18 inches” and substitute therefor the words “45 centimetres”;
 - (ii) the words “one-quarter inch” and substitute therefor the words “6 millimetres”;
- (g) from subparagraph (c)(viii), the words “one-quarter inch” and substitute therefor the words “6 millimetres”.

12. In paragraph 15, delete the words “one-quarter inch” and substitute therefor the words “6 millimetres”.

13. In paragraph 16, delete the words “3 feet” and substitute therefor the words “90 centimetres”.

14. In paragraph 17, delete the words “one-quarter inch” and substitute therefor the words “6 millimetres”.

15. In paragraph 18, delete—

- (a) the words “3 feet” and substitute therefor the words “90 centimetres”;
- (b) the words “one-quarter inch” and substitute therefor the words “6 millimetres”.

16. In paragraph 19, delete the words “one-quarter inch” and substitute therefor the words “6 millimetres”.

17. In paragraph 25(2), delete the words “twelve inches” and substitute therefor the words “30 centimetres”.

18. In paragraph 26, delete the words “6 inches” and substitute therefor the words “15 centimetres”.

Provision _____	Amendment _____
	19. In paragraph 27(2), delete the words “one-quarter inch” and substitute therefor the words “6 millimetres”.
Second Schedule	Delete the Second Schedule and substitute therefor the following—
	“ SECOND SCHEDULE (Regulations 9 and 19)
	<i>Part I</i>
	Phosphine
	Mixtures of phosphine and carbon dioxide
	<i>Part II</i>
	Pirimiphos-methyl
	Pyrethrins and synergized pyrethrins
	<i>Part III</i>
	Bendiocarb
	Chlorpyrifos-methyl
	Cyfluthrin
	lambda-Cyhalothrin
	Deltamethrin
	Diazinon
	Permethrin
	Pirimiphos-methyl
	Propoxur
	Pyrethrins and pyrethroid combinations
	Synergized pyrethrins and pyrethroids
	<i>Part IV</i>
	<i>Rodenticides</i>
	Brodifacoum
	Bromodialone
	Chlorophacinone
	Coumatetralyl
	Diphacinone
	Difenacoum
	Flocoumafen
	Pindone
	Warfarin

Insecticides

Abamectin
Borax
Boric acid
Hydramethylnon
Imidachloprid

Part V

Pirimiphos-methyl

Part VI

Phosphine
Mixtures of phosphine and carbon dioxide

Part VII

Rodenticides

Brodifacoum
Bromodialone
Chlorophacinone
Coumatetralyl
Diphacinone
Difenacoum
Flocoumafen
Pindone
Warfarin

Insecticides

Abamectin
Borax
Boric acid
Hydramethylnon
Imidachloprid

Part VIII

Bendiocarb
Chlorpyrifos-methyl
Cyfluthrin
lambda-Cyhalothrin
Deltamethrin
Diazinon
Permethrin

Pirimiphos-methyl
 Propoxur
 Pyrethrin and pyrethroid combinations
 Synergized pyrethrins and pyrethroids

Note: All substances shall be used in accordance with the manufacturer's label.”.

Third Schedule

1. In paragraph 4(1)(h), delete the words “Part IX of the Second Schedule to be dry-cleaned at least once every six days in which it has been so worn” and substitute therefor the words “the Second Schedule to be cleaned in the manner, and at intervals, approved by the Chief Food Storage Officer”.
2. In paragraph 14(i)(b), insert immediately after the word “used”, the words “and the active ingredients and formulation, in respect thereof”.
3. In paragraph 15(1)(iii), insert immediately after the words “telephone numbers” the words “or identifying any other means of communication”.
4. In paragraph 16, delete subparagraphs (3) and (4).
5. In paragraph 17, delete subparagraphs (a) and (b).

Fourth Schedule

1. Delete from the heading, the word “Licences” and substitute therefor the word “Certificates”.
2. In paragraph 1, delete the word “licence” wherever it appears and substitute therefor in each case the word “certificate”.
3. In paragraph 2, delete—
 - (a) the word “licences” and substitute therefor the word “certificates”;
 - (b) from column (1), the word “licence” and substitute therefor the word “certificate”.
4. Renumber paragraph 2 as paragraph 2(1) and insert the following as subparagraph (2)—
 - “ (2) Any person authorized by the Chief Food Storage Officer as an operator shall be issued with a certificate as specified in column (1) of this paragraph.”.

5. In column (1), insert in item A, immediately after the word “spraying,” the words “dusting or insect-baiting.”

6. Delete from column (2), in relation to item A—

- (a) the proviso in relation to (a), (b), (c) and (d) and substitute therefor the following—

“ Provided that the treatments specified in paragraphs (a), (b), (c) and (d) above may be carried out as specified in the certificate of the substances specified in Part I of the Second Schedule;”;

- (b) paragraph (e);

- (c) paragraph (g) and substitute therefor the following—

“ (g) treatment of buildings, places or vehicles in which food is, or is likely to be kept for sale or stored or manufactured—

- (i) with any of the insecticides specified in paragraph (f), applied as a thermally-generated fog or mechanically-generated mist-spray; or

- (ii) with any of the insecticides specified in Parts III and IV of the Second Schedule;”;

- (d) from paragraph (h), the word “licence” and all the words appearing thereafter and substitute therefor the word “certificate”.

7. Delete from column 2 in relation to item B, paragraph (d) and substitute therefor the following—

“ (d) fumigation of grain storage bins:

Provided that the treatments specified at paragraphs (a), (b), (c) and this paragraph may be carried out with any one of the substances specified in Part I of the Second Schedule as specified in the certificate;”.

8. Delete items C, D, E, F and G and insert the following as items C, D and E—

- “ C— (a) treatment of food contained in unlined and unprotected cloth bags or sacks or similar permeable containers with any of the substances specified in Part II of the Second Schedule;
- Authorized operator— spraying, dusting, insect-baiting, misting and fogging of food or buildings or both and rodent baiting (b) treatment of buildings, places or vehicles in which food is or is likely to be kept for—
- (i) sale; or
- (ii) stored or manufactured, with any of the—
- (A) substances specified in Part II of the Second Schedule, applied as a thermally-generated fog or mechanically-generated mist-spray;
- (B) insecticides specified in Parts III and IV of the Second Schedule;
- (c) rodent-baiting treatments employing any of the rodenticides listed in Part IV of the Second Schedule.

- | | |
|--|--|
| D—
Authorized
operator—
spraying,
dusting,
insect
baiting,
misting and
fogging of
food or
buildings or
both | <ul style="list-style-type: none"> (a) treatment of food contained in unlined and unprotected cloth bags or sacks or similar permeable containers with any of the substances specified in Part II of the Second Schedule; (b) treatment of buildings, places or vehicles in which food is or is likely to be kept for sale or stored or manufactured, with any of the— <ul style="list-style-type: none"> (i) substances specified in Part II of the Second Schedule, applied as a thermally-generated fog or mechanically-generated mist-spray; (ii) insecticides specified in Part III and IV of the Second Schedule; |
| E—
Authorized
operator—
rodent
baiting | <ul style="list-style-type: none"> (c) rodent-baiting treatments employing any of the rodenticides listed in Part IV of the Second Schedule.”. |

9. Delete paragraph 3(1) and substitute therefor the following—

“ 3.—(1) The minimum qualifications required of the applicant for the certificates above respectively referred to, or of persons to be named in the certificates as operators shall be as follows—

- (a) certificate A—
 - (i) a science degree obtained in a relevant area of study

at a university approved by the Minister, and a subsequent period of special training including practical experience;

- (ii) a special diploma in a relevant area of study approved by the Minister and a period of twelve months' practical experience;
- (iii) a period of training not shorter than eighteen months with a commercial organization; or
- (iv) training in a relevant area of study approved by the Chief Food Storage Officer;

(b) certificate B—

- (i) extensive experience of a wide variety of fumigation work with the fumigants specified in Part I of the Second Schedule, obtained during a period not shorter than eighteen months; or
- (ii) training from a body approved by the Chief Food Storage Officer;

(c) certificate C—

- (i) seven days' intensive training in the use of spraying equipment and an additional like period of detailed instruction in the principles underlying the safe use of insecticides on

food or in any place or vehicles in which food is or is likely to be kept for sale or stored or manufactured;

- (ii) for rodent baiting, not less than three months' practical experience, or a training period not shorter than one month, including detailed instruction in the use of a variety of rodenticides; or
 - (iii) training from a body approved by the Chief Food Storage Officer;
- (d) certificate D—
- (i) seven days' intensive training in the use of spraying equipment and an additional like period of detailed instruction in the principles underlying the safe use of insecticides on food or in any place or vehicles in which food is or is likely to be kept for sale or stored or manufactured; or
 - (ii) training from a body approved by the Chief Food Storage Officer;
- (e) certificate E—
- (i) not less than three months' practical experience in rodent-baiting, or a training period not shorter than one month, including detailed instruction in the use of a variety of rodenticides; or

- (ii) training from a body approved by the Chief Food Storage Officer.”.

Fifth Schedule

1. In Forms 1, 2, 3, 4, 5 and 6—

- (a) delete the words “Ministry of Marketing and Commerce” and substitute therefor the words “Ministry responsible for Commerce”;
- (b) renumber the forms as Forms 3, 4, 5, 6, 7 and 8, respectively; and
- (c) insert immediately before Form 3, as renumbered, the following as Forms 1, 2A, 2B, 2C, 2D and 2E—

“ FORM 1 (Regulation 8(3))

The Food Storage and Prevention of Infestation Act

Certificate of Disinfestation

To:

Address:.....

With reference to you are hereby notified that the article(s) was/ were hereby by Inspector ... at ... Parish..... Date.....

.....
Inspector

.....
Date

FORM 2A (Regulation
14(1))

Government of Jamaica
Food Storage and Prevention of
Infestation Division

hereby awards this

Certificate A to

an authorized operator, for fumigation,
spraying, dusting, insect-baiting,
misting, fogging and rodent-baiting
under the Food Storage and Prevention
of Infestation Act and Regulations, 1973

Chief Food Storage
Officer

Date

This certificate shall bear the seal of the
Food Storage and Prevention of
Infestation Division

FORM 2B (Regulation
14(1))

Government of Jamaica
Food Storage and Prevention of
Infestation Division

hereby awards this

Certificate B to

an authorized operator—fumigation
(General) under the Food Storage and
Prevention of Infestation Act and
Regulations, 1973

Date

Chief Food Storage
Officer

This certificate shall bear the seal of the
Food Storage and Prevention of
Infestation Division

FORM 2C (Regulation
14(1))

Government of Jamaica
Food Storage and Prevention of
Infestation Division

hereby awards this
Certificate C to

an authorized operator—spraying,
dusting, insect-baiting, misting and
fogging of food or buildings or both and
rodent-baiting under the Food Storage
and Prevention of Infestation Act and
Regulations, 1973

Date *Chief Food Storage Officer*

This certificate shall bear the seal of the
Food Storage and Prevention of
Infestation Division

FORM 2D (Regulation
14(1))

Government of Jamaica
Food Storage and Prevention of
Infestation Division

hereby awards this
Certificate D to

an authorized operator—spraying,
dusting, insect-baiting, misting and
fogging of food or buildings or both
under the Food Storage and Prevention
of Infestation Act and Regulations, 1973

Date *Chief Food Storage Officer*

This certificate shall bear the seal of the
Food Storage and Prevention of
Infestation Division

FORM 2E (Regulation
14(1))

Government of Jamaica
Food Storage and Prevention of
Infestation Division

hereby awards this
Certificate E to

an authorized operator—rodent-baiting
under the Food Storage and Prevention
of Infestation Act and Regulations, 1973

Date *Chief Food Storage Officer*

This certificate shall bear the seal of the
Food Storage and Prevention of
Infestation Division”.

2. Insert next after Form 8, as re-
numbered, the following as Forms 9 and
10—

FORM 9 (Regulation
22)

Food Storage and Prevention of
Infestation Act

Certificate of Compliance

For compliance with the Food Storage
and Prevention of Infestation Act, 1958
and Food Storage and Prevention of
Infestation Regulations, 1973

Chief Food Storage Officer

Date issued:

This certificate expires on: *

*Any breach of the FSPI Act and
Regulations may result in the revocation
of this certificate

This certificate shall bear the seal of the
Food Storage and Prevention of
Infestation Division

FORM 10 (Regulation 23(2))

FOOD STORAGE AND PREVENTION OF INFESTATION ACT

Notice of Suspension or Revocation of Certificate of Compliance (Under regulation 23(2))

Licence No.

TO:

(Name of Holder of Certificate)

(Address) or (registered office)

WHEREAS the Minister pursuant to the Food Storage and Prevention and Infestation Act, 1958 and the Food Storage and Prevention of Infestation Regulations, 1973, authorize and issued a certificate of compliance to you indicating that you being the owner of the premises has complied with the provisions of the Act and Regulations:

AND WHEREAS the Minister is satisfied that there has been a breach of the conditions (s) subject to which the certificate is granted, as specified in the Regulations:

AND WHEREAS on the day of 20....., the Minister gave notice of the breach of the conditions and required herein that such action be taken or work carried out as should remedy the breach:

AND WHEREAS the Minister is satisfied that the breach has not been satisfactorily remedied:

THE MINISTER HEREBY SUSPENDS Certificate No.until such time as the breach has been remedied to the satisfaction of the Minister.

OR

THE MINISTER HEREBY REVOKES Certificate No. with effect from theday of....., 20.....

You may apply in writing, to the Minister to be heard on the matter within 14 days of the day of this Notice.

Dated this.....day of....., 20.....

The effective date of this Notice is the.....day of....., 20.....

(Signature of Minister)".

Passed in the House of Representatives this 26th day of February, 2019.

PEARNEL P. CHARLES, CD, MP, JP

Speaker.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Food Storage and Prevention of Infestation Act, 1958, so as to—

- (a) strengthen the existing legislation including the Food Storage and Prevention Regulations, 1973, in order to ensure the safety and wholesomeness of food, in light of developments in the relevant industries;
- (b) modernize the legislation in keeping with the advancement in technologies and other changes.

This Bill, therefore, seeks to give effect to that decision.

AUDLEY SHAW
Minister of Industry, Commerce,
Agriculture and Fisheries

A BILL

ENTITLED

AN ACT to Amend the Food Storage and
Prevention of Infestation Act; and for
connected matters.

As passed in the Honourable House of Representatives.

PRINTED BY JAMAICA PRINTING SERVICES (1992) LTD.,
(GOVERNMENT PRINTERS), DUKE STREET, KINGSTON, JAMAICA.

SECTION 2 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

2. In this Act—

“analyst” means an analyst appointed pursuant to section 3;

“article to which this Act applies” includes—

(a) any food; and

(b) anything used for the manufacture, preparation, packing, storing or keeping of any such food;

“container” includes sacks, boxes, tins and other similar articles;

“food” includes any substance ordinarily used in the composition or preparation of food, the seeds of any cereal or vegetable, and any feeding stuffs for animals, but does not include growing crops;

“infestation” means the presence of rodents, insects, mites or fungi in numbers or under conditions which involve an immediate or potential risk of loss of or damage to food;

“inspector” means an inspector appointed under section 3;

“manufacture” includes processing;

“the Minister” means the Minister responsible for trade;

“place” includes premises;

“poisoning” includes contamination;

“prescribed article” means any article declared by the Minister by order made pursuant to section 5 to be a prescribed article for the purposes of this Act;

“vehicle” includes any vessel or aircraft.

SECTION 4 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

4.—(1) An inspector, if so authorized by virtue of section. 3, may at any reasonable time—

- (a) enter any place where he reasonably believes that any article to which this Act applies is kept for sale, stored or manufactured, or any vehicle which he reasonably believes to be used for purpose of transporting any such article, and may examine any such article found therein or thereon, and take samples thereof free of charge, and may examine such place or vehicle or anything which he reasonably believes to be used or capable of being used for the keeping, storing, manufacturing or transporting of such article;

- (b) open and examine any container that he reasonably believes contains any article to which this Act applies;
- (c) inspect or tag in accordance with this Act any article of food kept for sale, stored or manufactured;
- (d) seize and detain any article to which this Act applies by means of or in relation to which he reasonably believes any provision of this Act or of any regulations made thereunder has been contravened;
- (e) condemn, destroy or otherwise dispose of any article seized and detained pursuant to paragraph (d);
- (f) prohibit the sale or transportation of any article of food which appears to him to be infested;
- (g) give to the owner or person in charge of a place or vehicle entered pursuant to this subsection or to the owner or person in possession of any article to which this Act applies which is infested or liable to infestation, such directions as he considers necessary or expedient for preventing or mitigating infestation;
- (h) with the consent of any on such terms as may be agreed with the owner or person in possession of any article to which this Act applies which is infested or liable to infestation, take such steps as he considers necessary for preventing or mitigating infestation in relation to such article and in respect of any steps so taken may charge and recover from such owner or person the amount of any expenses reasonably incurred;
- (i) exercise any such further powers subject to such conditions or restrictions as may be prescribed.

(2) An article seized under this Act may at the option of an inspector be stored or kept in the place where it was seized or may on his direction be removed to any other place which he considers satisfactory for the purpose.

... ..

SECTIONS 5 AND 6 OF THE PRINCIPAL ACT
WHICH IT IS PROPOSED TO AMEND

5.—(1) Where the Minister is satisfied that in any article (not being an article to which this Act applies) which is—

- (a) kept for sale, stored or manufactured in any place; or
- (b) transported in any vehicle,

8. The Minister may make regulations for carrying into effect the provisions of this Act, and in particular but without prejudice to the generality of the foregoing may make regulations—

(a) with respect to the method of manufacture, storing, keeping, examination and testing of any article to which this Act applies, including the method of cleaning containers, and the type of building to be used in connection with the storage of any such article, for the prevention of infestation;

... ..

(f) prescribing, controlling or approving the methods which may be used for preventing or mitigating infestation, or prohibiting the use of any method other than a method so approved;

(g) imposing restrictions or conditions as to the purposes for which, the circumstances in which, or the methods or means by which, anything may be used for the purpose of preventing or mitigating infestation;

... ..

9.—(1) Subject to the provisions of section 10 any person who contravenes any of the provisions of this Act or any regulations made or directions given thereunder shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

(2) It shall be a contravention of this Act for any person to assault or obstruct any officer appointed under this Act acting in the execution of his duty under this Act.

(3) In any proceedings for an offence under this Act the production of a certificate, direction or other document in the prescribed form shall be sufficient evidence of the facts stated therein unless the contrary is shown.

SECTION 10 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

10.—(1) Where directions are given under paragraph (f) of subsection (1) of section 4 or in pursuance of subsection (2) of section 5 requiring the carrying out of any structural works or the destruction of any food or container, any person aggrieved thereby may appeal to the Resident Magistrate's Court for the parish in which the place is situated or the vehicle was entered by the inspector.

(2) Notice in writing of the appeal shall be served on the inspector—

- (a) in the case of directions requiring the carrying out of any structural works, within twenty-one days from the service of the directions;
- (b) in the case of directions requiring the destruction of any food or container, within seven days from the service of the directions.

... ..

REGULATIONS 2, 3 AND 4 OF THE FOOD STORAGE AND PREVENTION OF INFESTATION REGULATIONS WHICH IT IS PROPOSED TO AMEND

2. In these Regulations unless the context otherwise requires—

(a) the expressions—

“authorized” means authorized by the Chief Food Storage Officer;

“Chief Food Storage Officer” means the person for the time being in charge of the operations of the Division;

“disinfestation” means the prevention, mitigation or eradication of infestation;

“Division” means the Storage and Infestation Division of the Ministry responsible for the time being for the administration of the Act;

“operator” means a person licensed as such in accordance with regulation 14;

“rodent-proofing” in relation to any premises, space or thing means the rendering or maintaining of those premises or that space or thing impervious to rodents;

“substance” means anything used or to be used for the purpose of disinfestation;

(b) a reference by number to a form is a reference to the form so numbered in the Fifth Schedule; and

(c) a reference to place includes a reference to vehicle.

... ..

PART II—*Storage*

3.—(1) Stacks of food in containers which are not waterproof shall rest upon dunnage which consists either of members not less than four inches in height so

arranged that no part of any container in the bottom layer of the stack touches the floor or ground, or of material known to be waterproof which has been approved by the Chief Food Storage Officer as being suitable for this purpose.

(2) Stacks of food in containers shall be clear of—

- (a) all walls by at least two feet;
- (b) all vertical columns and all buttresses by at least one foot;
- (c) all ceilings by at least four feet; and
- (d) all horizontal girders by at least two feet.

... ..

PART III—*Buildings*

4.—(1) Any building used for the manufacture or storage of food, or in which food is kept for sale, shall be of sound construction and shall be maintained in sound condition. The fabric of walls (other than partition walls) and the roof shall be weatherproof, and floors shall be impermeable; and all interior wall surfaces and floors shall be so finished as to provide a reasonably smooth surface, shall be maintained in good condition, and shall be free from open cracks, crevices, holes or any other conditions of disrepair, whether similar to the foregoing or not, such as might induce rodents, insects or mites to harbour therein.

... ..

(4) In any such building as is specified in paragraph (2) any openings for ventilation shall be covered on the outside with quarter inch mesh wire and shall either—

- (a) be fitted with adjustable valves or louvres; or
- (b) be fitted on the inside with hinged shutters having retaining bolts; or
- (c) be provided with some other form of fitted draught-proof covers capable of being firmly attached to the openings from the inside.

REGULATIONS 5, 6 AND 8 OF THE FOOD STORAGE AND PREVENTION OF INFESTATION REGULATIONS WHICH IT IS PROPOSED TO AMEND

5. The provisions of the First Schedule shall apply to buildings in which any article to which the Act applies is kept for sale, stored, or manufactured, and to buildings intended to be used for any such purpose.

PART IV—*Disinfestation—General Provisions*

6. All containers in which food has been packed, stored, or kept, and which are not destroyed immediately after use, shall forthwith be properly cleaned and if necessary disinfested. Such destruction, cleaning and disinfestation shall be carried out in such manner and within such time as the Chief Food Storage Officer may determine.

8.—(1) Where at any time any place in which food is or is likely to be kept for sale, stored or manufactured, or any vehicle in which food is carried, or any food, is treated with any of the substances specified in Parts I, II, III and IV of the Second Schedule, the owner or person in charge of the treated place, vehicle or food shall keep a record of the treatment, and shall produce all such records for inspection if so required by an inspector.

(2) Where any treatment—

(a) is carried out by the owner or person in charge of the place, vehicle or food, he shall make and keep a record including the following particulars—

- (i) information identifying the treated place, vehicle or food;
- (ii) the name of the substance used;
- (iii) the method and rate of application;
- (iv) in the case of a fumigant, the dosage rate, the period of duration of the fumigation, and the method of fumigation (that is to say, whether under gas-proof sheets, or in a gas-tight chamber or as a general fumigation of a building or part of a building);
- (v) the data of the treatment;

(b) is carried out by an operator who is not the owner or person in charge as aforesaid in accordance with his licence, the record provided by that operator pursuant to paragraph 14 of the Third Schedule shall be sufficient.

REGULATION 10 OF THE FOOD STORAGE AND PREVENTION OF INFESTATION REGULATIONS WHICH IT IS PROPOSED TO AMEND

10. No person other than operators or persons employed to and working under the direct supervision of such operators shall use any of the substances referred to in sub-paragraphs (a), (b), (c) and (d) for any such purpose or in any

such manner or place as is therein respectively specified; and any such substance shall be used only in accordance with the licence granted to the operator concerned and subject to any relevant provisions of these Regulations—

- (a) an balances specified in Part V of the Second Schedule, for the treatment of food or for application to the surfaces of unlined or otherwise unprotected cloth sacks or bags or other permeable bags or packages containing food;
- (b) substances specified in Part VI of the Second Schedule, for the treatment of food, or in any place where food is kept for sale, stored or manufactured;
- (c) substances specified in Part VII of the Second Schedule, for the disinfection of any premises in which food is kept for sale, stored or manufactured;
- (d) substances specified in Part VIII of the Second Schedule, for use in any place wherein food is kept for sale, stored or manufactured, for such purposes and in such manner as to ensure that no food which is exposed or is contained in a permeable container comes into contact with any such substance itself, or with surfaces to which any such substance has been applied, or with surfaces which for any other reason are or could be contaminated with any such substance.

REGULATION 14 OF THE FOOD STORAGE AND PREVENTION OF INFESTATION REGULATIONS WHICH IT IS PROPOSED TO AMEND

14.—(1) Every person responsible for the carrying out of any disinfection involving the use of any substance specified in Parts V, VI, VII and VIII of the Second Schedule, in any place where food is kept for sale, stored or manufactured or in any place which is, or is likely to be, used for keeping for sale, storing or manufacturing food, shall hold a licence from the Chief Food Storage Officer in accordance with the Fourth Schedule authorizing him, subject to the provisions of this Part and to the conditions specified in the licence, to carry out such work himself or by a servant or agent acting on his behalf.

(2) The following provisions shall have effect in relation to a licence under this regulation—

- (a) the person named in the licence as the operator shall be responsible for compliance with the Act and these Regulations in accordance with the terms of the licence;
- (b) the licence shall specify the types of disinfection which the operator therein named is entitled to carry out on his own or by a servant or agent acting on his behalf and under his supervision;

- (c) any person named in the licence as an operator may carry out in accordance with the licence the treatments therein respectively specified;
- (d) a person shall not be licensed as an operator unless he satisfies the Chief Food Storage Officer that he possesses the qualifications specified in the Fourth Schedule for carrying out operations of the type or types stipulated in that licence; or, in the case of an organization, that it has in its employment a person or persons who possess the specified qualifications;
- (e) the granting of a licence in any particular case shall notwithstanding the foregoing provisions be in the discretion of the Chief Food Storage Officer;
- (f) any licence granted under this regulation may be withdrawn by the Chief Food Storage Officer if he is satisfied that—
 - (i) in any particular case, the operator has failed to comply with the relevant provisions of the Act and these Regulations or of any conditions imposed by the licence;
 - (ii) in the case of an organization licensed as an operator, it no longer has in its employment a person or persons who possess the necessary qualifications;
- (g) subject to sub-paragraph (f) of this paragraph, a licence granted under this regulation shall continue in force indefinitely.

(3) It shall be deemed to be a condition of every such licence as aforesaid that the holder thereof shall comply with all relevant provisions of these Regulations.

REGULATIONS 16, 18 AND 19 OF THE FOOD STORAGE AND PREVENTION OF INFESTATION REGULATIONS WHICH IT IS PROPOSED TO AMEND

16.—(1) Service of any such notice or direction may be made by delivery of a true copy thereof to the person to whom it is addressed, or by leaving such a copy at his usual or last-known place of abode or business, or, where addressed to the owner or person in charge of any premises or place then to some adult person or in such premises or place, or, if there be no such person on or in such premises or place who can be so served, then by affixing such copy to some conspicuous part, of the premises or place, or to the article to which the notice or direction relates:

Provided that any such notice or direction may in any case of urgency be given orally in the first instance to the person concerned; but an oral notice or

direction shall be of no effect unless the person giving it duly serves a notice in writing as soon as practicable thereafter; and any time limited by such a notice in writing may therein be expressed as commencing on the date on which the oral notice or direction was given.

(2) Any notice or other document required by the Act or these Regulations to be served on or given to the Minister shall be addressed to the Chief Food Storage Officer and shall, subject to the provisions of paragraph (4), be deemed to be duly served or given if delivered or sent by post to that Officer at the offices of the Division or if delivered to an inspector in person:

Provided that such notice may in any case of urgency be sent by telegraph addressed as aforesaid, but a notice so sent shall be of no effect unless the person giving it duly serves a notice in writing as soon as practicable thereafter; and any time limited by such a notice in writing may be expressed as commencing on the date on which the notice was given by telegraph.

... ..

18. A certificate of appointment furnished under subsection (4) of section 4 of the Act shall be in Form No. 1.

19.—(1) Where an inspector proposes to seize and detain any article under subsection (1) of section 4 of the Act or pursuant to subsection (2) of section 5 thereof—

- (a) he may detain the article or container in which the article is placed by attaching a numbered detention tag in Form No. 2 to the article or, where the article consists of more than one package, to any one such package;
- (b) immediately after attaching such detention tag the inspector shall serve upon the owner or person in charge of the article or container a notice of detention in Form No. 3;
- (c) where the article or container so tagged is, on the authority of the inspector removed for treatment required for the purposes of the Act the inspector shall serve upon the owner or person in charge a notice of removal in Form No. 4;
- (d) upon the release of any detained article or container the inspector shall deliver or post to the owner or person in charge of the article or container a notice of release in Form No. 5.

(2) Where an inspector gives to any person directions for prevention or mitigation of an infestation pursuant to subsection (1) of section 4 or subsection (2) of section 5 of the Act, he shall serve on such a person a notice in Form No. 6 specifying details of the work to be carried out.

(3) Food for human consumption which has been seized and detained or condemned under the Act shall not be disposed of except after consultation with the Medical Officer (Health) for the parish or district in which the food then is; but such food may, in order that the increase or spread of infestation may be prevented, be disinfested in accordance with these Regulations.

REGULATION 20 OF THE FOOD STORAGE AND PREVENTION OF
INFESTATION REGULATIONS WHICH IT IS PROPOSED TO AMEND

20. An inspector may, with the written authority of the Chief Food Storage Officer, take photographs of any part of any place or vehicle entered by such inspector under subsection (1) of section 4 of the Act or pursuant to 10 subsection (2) of section 5 thereof.

A written authority given by the Chief Food Storage Officer under paragraph (1) may relate to the taking of photographs on one particular occasion or generally.

REGULATION 21 OF THE FOOD STORAGE AND PREVENTION OF
INFESTATION REGULATIONS

21. An inspector taking a sample of any article for analysis shall, after obtaining a sufficient quantity of the article, notify the owner thereof or the person from whom such quantity was obtained of his intention to submit a sample thereof to an analyst for analysis or examination, and—

- (a) where, in the opinion of the inspector, division of the quantity obtained would not interfere with analysis or examination, he—
 - (i) shall divide the quantity into three parts:
 - (ii) shall identify the three parts as the owner's part, the sample, and the duplicate sample;
 - (iii) shall so seal each part that it cannot be opened without breaking the seal; and
 - (iv) shall deliver the part identified as the owner's part to the owner or the person from whom the sample was obtained, and shall forward the sample to an analyst for analysis or examination, and shall retain the duplicate sample;
- (b) where, in the opinion of the inspector, division of the quantity obtained would interfere with analysis or examination, he—
 - (i) shall identify the entire quantity as the sample;
 - (ii) shall so seal the sample that it cannot be opened without breaking the seal; and

- (iii) shall forward the sample to an analyst for analysis or examination;
- (c) where at the time when the sample is obtained the owner or person from whom it is obtained objects to the procedure followed by an inspector under either of the foregoing sub-paragraphs, then, if the owner or person from whom the sample was obtained supplies a sufficient quantity of the article, the inspector shall follow the procedures specified in both those sub-paragraphs.