

(b) "adulterated foodstuffs" means the foodstuffs under any of the following conditions:-

- (1) foodstuffs rotten so as to be harmful to health, or prepared or kept in a filthy or toxic condition,
- (2) foodstuffs wholly or partially made of any sick or disease carrying animal or bird or of harmful plant so as to be unfit for human consumption,
- (3) foodstuffs that may be harmful to health as any food additive, colour, preservative, internally or externally mixed chemical compound or pesticide exceeds the ceiling as prescribed.

(c) "sub-standard foodstuffs" means the foodstuffs under any of the following conditions:

- (1) foodstuffs whose main ingredient is reduced in quantity or which is mixed with any other substance whereby lowered its natural quality,

Provided that, if the name and quantity of any foodstuff made of two or more items are clearly marked in such foodstuff and if it is not harmful to health, such foodstuff shall not be deemed as sub-standard foodstuff.

- (2) foodstuffs below the standard as set under Section 7 or below the minimum necessary standard as prescribed in the Rules or Orders framed under this Act or above the standard if maximum standard is prescribed.

(d) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules or Orders framed under this Act.

- * 3. **Prohibition on production, sale or distribution of adulterated foodstuff or sub-standard foodstuff:** No person shall produce, sell, distribute, export or import the adulterated foodstuffs or sub-standard foodstuffs or possess such foodstuff for any of such purposes.
4. **Prohibition on sale of foodstuff by lying or misleading:** No person shall sell or distribute any foodstuff in the name of any other foodstuffs or any foodstuff below the standard in the name of the foodstuff of higher standard by lying or misleading.
- %4A. **Powers to withhold Foodstuffs:** (1) The designated authority may, if he/she suspects that any foodstuff is * adulterated or substandard, withhold such foodstuff upon sealing it and shall receive receipt upon granting custody of such foodstuff to the owner.
- (2) The Government of Nepal may confiscate such foodstuff withheld pursuant to Sub-section (1) by the order of the designated authority upon considering the gravity of crime, its nature and harm it may cause upon final settlement holding that such foodstuff is * adulterated or sub-standard.
- %4B. **License to be obtained:** (1) A person intending to produce, sell, distribute, store or process the prescribed foodstuffs shall have to obtain license as prescribed.
- (2) Notwithstanding anything contained in Sub-section(1), in the case of the sealed foodstuffs, a retailer who has received the deed of guarantee from the licensed producer or wholesaler as prescribed shall not be required to obtain the license pursuant to this Section.
- * 5 **Punishments:** (1) A person who produces, sells, distributes, exports or imports the sub-standard foodstuffs may be penalized with a fine from One Thousand Rupees

* Amended by the third amendment

% Inserted by the first Amendment

to Two Thousand Rupees for the first time and with a fine from Two Thousand Rupees to Five Thousand Rupees or with an imprisonment for a term from Six months to One year or with both for each time from the second time onwards.

(2) Notwithstanding anything contained in Sub-section (1), if a mobile vender selling milk, curd and other foodstuffs without opening a fixed shop violates this Act, or Rules or Orders framed under this Act, such a person may be penalized with a fine from Fifty Rupees to Rs. Two Hundred Rupees for the first time, with a fine from Two Hundred Rupees to Five Hundred Rupees or with an imprisonment for a term not exceeding Three months or with both for the second time and with a fine from Five Hundred Rupees to One Thousand Rupees or with an imprisonment for a term from Three months to Six months or with both for each time from the third time onwards

(3) A person who produces, sells, distributes, exports or imports the adulterated foodstuffs may be penalized with a fine from Five Thousand Rupees to Ten Thousand Rupees or with an imprisonment for a term from one year to two years or with both.

(4) If any person upon consuming any adulterated foodstuff is likely to die or dies or sustains an irreparable damage to the body or is likely to sustain such damage, the person who produces, sells or distributes such adulterated foodstuff may be penalized with a fine from Ten Thousand Rupees to Twenty Five Thousand Rupees and with an imprisonment for a term not exceeding three years and such a person shall have to compensate a sum from Twenty Five Thousand Rupees to One Hundred Thousand Rupees to the victim of such adulterated foodstuff or his/her heir.

(5) A person who violates this Act, or the Rules or Orders framed under this Act in a manner other than those as referred to in Sub-sections (1), (2), (3) and (4) may be penalized with a fine not exceeding One Thousand Rupees.

6. Liability of crime committed by firm or body corporate: If any firm or body corporate violates this Act, or Rules or Orders framed under this Act, the partner

or owner in the case of the firm and the chief administrative officer carrying out the functions of that body in the case of the body corporate shall be liable to the punishment for the purpose of Sub-section (1) of Section 5.

Provided that, such a person shall not be liable to punishment for any act committed prior to his/her appointment as a partner and an administrative officer or if he/she proves that he/she was not in a position to know such a violation.

7. **Powers to set quality and standard of foodstuffs:** The Government of Nepal may issue orders from time to time setting out within what limitation the quality, standard or amount of any ingredient shall have to be used in any foodstuff. Such an order shall be published in the Nepal Gazette.
8. **Examination of Foodstuff:** A test as to whether any foodstuff is * adulterated or sub-standard or not shall be done at the prescribed laboratory and a report from the prescribed official or officials of that laboratory shall be obtained accordingly.
9. **Food standard fixation committee:** The Government of Nepal may from time to time constitute a food Standard Fixation Committee * to set the standard of foodstuffs.
10. **Government to be the Plaintiff:** Government shall be the plaintiff in a case under this Act.
11. **Adjudicating authority:** The □ Chief District Officer shall have powers to originally try and settle the cases under this Act.
12. **Appeal:** A person not satisfied with the decision of the □ Chief District Officer may file an appeal in the △ Court of Appeal within 35 days from the date of such decision.
13. **Powers to frame Rules:** (1) The Government of Nepal may frame Rules to carry out the objectives of this Act.

* Amended by the third amendment.

□ Amended by the Second Amendment.

△ Amended by the Administration of Justice Act, 1991.

(2) Without prejudice to the generality of the powers conferred by Sub-section (1), such Rules may provide for the following matters in particular:

- * (a) laboratory for analyzing or investigating foodstuffs and its proceedings, and the qualifications of expert or official of the laboratory.
- (b) provision of food inspector and his/her powers and duties.
- (c) functions, duties, powers, liabilities and other proceedings of the food standard fixation committee.
- (d) any particular type of label to be used by a producer or a seller in any foodstuff to be produced in Nepal.
- (e) setting ceiling of colour, aroma, spices or any other thing to be used in foodstuffs.
- (f) other necessary measures to be undertaken for maintaining proper standard of foodstuffs.

Modification:- Words modified by the Food (Third Amendment) Act, 1992:-

"food inspectors" instead of the words " food examiner."

Note:-

Places and dates of commencement of the Act:

1. As *per* the Notification published in the Nepal Gazette on 1972/12/4, the Food Act, 1966 came into force in the following Districts on 1972/12/15 :-

Kalimati Village Development Committee, Bhimsengola Village Development Committee, Mahadevsthan Village Development Committee, Pashupati Village Development Committee, Dallu Village Development Committee, Bagwansthan Village Development Committee and Chabahil Village Development Committee in Kathmandu District, Lalitpur Municipality in Lalitpur District and Bhaktapur Municipality in Bhaktapur District.

* Amended by the third amendment.

2. As per the Notification published in the Nepal Gazette on 1973/10/15, the Food Act, 1966 came into force in following Nagar Panchayat areas on 1973/09/17:-
Bhadrapur Municipality, Biratnagar Municipality, Janakpur Municipality and Birgunj Municipality.
3. As per the Notification published in the Nepal Gazette on 1974/10/14, the Food Act, 1966 came into force in all the areas of the following Districts:-
(1) Kathmandu (2) Lalitpur (3) Bhaktapur (4) Parsa (5) Makawanpur (6) Dhanusha (7) Morang (8) Sunsari, and (9) Jhapa.
4. As per the Notification published in the Nepal Gazette on 1975/12/08, the Food Act, 1966 came into force in all the areas of Rupandehi and Banke Districts on 1975/4/24.
5. As per the Notification published in the Nepal Gazette on 1976/11/01, the Food Act, 1966 came into force in all the areas of Kaski, Syangja, Palpa and Kapilbastu Districts on 1977/03/14.
6. As Per the Notification published in the Nepal Gazette 1978/05/8, the Food Act, 1966 came into force in all the areas of Ilam, Saptari, Bara, Rautahat, Chitawan and Kavreplanchowk Districts on 1978/05/14.
7. As Per the Notification published in the Nepal Gazette on 1982/07/26, the Food Act, 1966 came into force in Siraha, Mahattari, Sarlahi, Nawalparasi, Dang, Bardia, Kailali, Kanchanpur, Baitadi and Darchula Districts on 1982/05/15.
8. As Per the Notification published in the Nepal Gazette on 1988/09/15, it is prescribed that the Food Act, 1966 came into force in all the areas of Gorkha, Dhading, Nuwakot, Dhankuta and Surkhet Districts on the date of publication of notification.
9. As Per the Notification published in the Nepal Gazette on 2000/07/9, the Food Act, 1966 came into force in all the areas of the following Districts:-

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| 1. Panchthar | 2. Taplejung | 3. Terhathum | 4. Sankhuwasabha |
| 5. Bhojpur | 6. Khotang | 7. Udayapur | 8. Solukhumbu |
| 9. Okhaldhunga | 10. Dolakha | 11. Ramechhap | 12. Sindhuli |
| 13. Sindhupalchowk | 14. Rasuwa | 15. Tanahu | 16. Lamjung |
| 17. Manang | 18. Arghakhanchi | 19. Gulmi | 20. Parbat |
| 21. Myagdi | 22. Baglung | 23. Mustang | 24. Pyuthan |
| 25. Rolpa | 26. Salyan | 27. Rukum | 28. Dolpa |
| 29. Jajarkot | 30. Dailakh | 31. Jumla | 32. Mugu |
| 33. Kalikot | 34. Humla | 35. Bajura | 36. Achham |
| 37. Doti | 38. Bajhang | 39. Dadelhdhura | |

Modification: As *Per* the Village Development Committee Act, 1991, the words "Village Assembly" or "Village Panchayat" have been converted into "Village Development Committee."