

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,
24th June, 1880.

[Statutes Revision Commission.]

ADULTERATION PREVENTION.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>(1.) RESPECTING ADULTERATION GENERALLY.</p> <p>2. Interpretation.</p> <p>3. Penalty for adulteration.</p> <p>4. Abettors liable to like punishment as principal offender.</p> <p>5. Penalty for selling or offering for sale.</p> <p>6. Provisions of last three sections in certain cases not to apply.</p> <p>7. Penalty for admixture for increasing weight or bulk.</p> <p>(2.) ADULTERATION OF FLOUR OR BREAD.</p> <p>8. Interpretation.</p> <p>9. Penalty for adulterating flour or selling flour of one sort of corn as the flour of another.</p> <p>10. Exception of ingredients used for cleaning corn, &c.</p> <p>11. Bakers' shops, &c., may be searched.</p> <p>12. Adulterated articles to be seized.</p> <p>13. And disposed of at discretion of Justices.</p> <p>14. Penalty for having ingredients for the adulteration of bread.</p> <p>15. Penalty for obstructing search.</p> <p>(3.) MANUFACTURE OF BREAD.</p> <p>16. Bread for sale to be made of certain ingredients only.</p> <p>17. Bread to be well made. Alum and other improper ingredients not to be put into bread.</p> <p>18. "Standard wheaten bread."</p> <p>19. "Household wheaten bread."</p> <p>20. "Mixed bread."</p> | <p>21. Penalty for not marking "household" or "mixed" bread.</p> <p>22. Bread to be sold by weight.</p> <p>23. Except French or fancy bread or rolls.</p> <p>24. Penalty on bakers using any other than the avoirdupois weight.</p> <p>25. Selling bread not weighed.</p> <p>26. Bakers to provide in their shops beams, scales, and weights, &c.</p> <p>27. Selling bread made of unwholesome flour.</p> <p>28. Limitation of prosecutions.</p> <p>(4.) ANALYSIS OF FOOD OR DRUGS.</p> <p>29. Analysts to be appointed.</p> <p>30. Inspectors of Nuisances or Weights and Measures to procure and submit samples of articles to be analyzed.</p> <p>31. Offenders to be prosecuted.</p> <p>32. Costs of prosecutions.</p> <p>33. Proof by Inspectors as to samples being in the same condition as when obtained.</p> <p>34. Fees to be charged.</p> <p>35. Samples to be taken and sealed.</p> <p>36. Governor may appoint fees for analysis.</p> <p>37. Expenses of analysis to be paid by offenders on conviction.</p> <p>38. Analyst to report annually.</p> <p>(5.) MISCELLANEOUS PROVISIONS.</p> <p>39. Recovery of penalties. Appropriation thereof.</p> <p>40. After second conviction offender's name may be advertised.</p> <p>41. Protection to officers.</p> <p>42. Other proceedings not affected. "Sale of Poisons Act, 1871," not affected.</p> <p>43. Repeals. Saving.</p> |
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AN ACT to consolidate the Law for preventing the Adulteration of Food or Drugs, Title.
and for regulating the Manufacture and Sale of Bread.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Adulteration Prevention Act, 1880." Short Title.

(1.) RESPECTING ADULTERATION GENERALLY.

2. In this Act, if not inconsistent with the context,—

"Food" includes every article used or capable of being used for food or drink by man, other than drugs: Interpretation. 1877, No. 48, sec. 3.

"Drug" includes drugs used or capable of being used internally or externally, and extends to all articles usually taken or sold as medicines:

"Justice" means a Justice of the Peace.

3. Every person who shall wilfully admix with any article of food any injurious or poisonous ingredient or material to adulterate the same for sale, or who shall wilfully admix any ingredient or material with any drug to adulterate the same for sale, shall— Penalty for adulteration. Ib., sec. 4.

For the first offence, be liable to a penalty not exceeding fifty pounds ;
For the second offence shall be guilty of a misdemeanour, and be imprisoned for a period not exceeding six calendar months with hard labour.

Abettors liable to like punishment as principal offender.

Ib., sec. 4.

Penalty for selling or offering for sale. 1877, No. 48, sec. 5.

Provisions of last three sections in certain cases not to apply.

Ib., sec. 6.

Penalty for admixture for increasing weight or bulk. *Ib.*, sec. 7.

4. Every person who shall order or cause any other person to do any of the acts hereinbefore specified shall be guilty of the like offences and liable to the like penalty or punishment, as the case may be, as if such first-named person had himself done the acts hereby made liable to penalty or punishment.

5. Every person who shall sell or offer for sale any article of food with which, to the knowledge of such person, any ingredient or material injurious to the health of persons eating or drinking such article has been mixed, and every person who shall sell as unadulterated any article of food, or any drug, which is adulterated, shall, on conviction, for every such offence be liable to a penalty not exceeding twenty pounds.

6. The provisions of the last three foregoing sections shall not be deemed to apply in cases where arsenic or any other drug is mixed with any colouring matter in accordance with the provisions of any Act relating to the sale of poisons.

7. Any person who shall sell any article of food or any drug which shall have been mixed with any other substance with intent fraudulently to increase its weight or bulk, and who shall not declare such admixture to any purchaser thereof before delivering the same, and no other, shall be deemed to have sold an adulterated article of food or drug, as the case may be, under this Act.

(2.) ADULTERATION OF FLOUR OR BREAD.

Interpretation.

8. For the purposes of the sections of this Act from eight to twenty-eight, both inclusive,—

“ Corn ” includes grain of every kind, and also pease, beans, rice, and potatoes ;

“ Flour ” includes meal of any kind ;

“ Bread ” includes dough ;

“ Premises ” include any building of any kind, and the land upon which it stands and which is used with it.

Penalty for adulterating meal or flour, or selling flour of one sort of corn as the flour of another. 1871, No. 52, sec. 15.

9. If any person shall at any time put into any corn or flour which shall be ground, dressed, or manufactured any ingredient or mixture whatever not being the real and genuine produce of the corn which shall be so ground, dressed, or manufactured ;

Or if any person shall knowingly sell or offer for sale, either separately or mixed, any flour of one sort of corn as the flour of any other sort of corn, or any ingredient whatsoever mixed with the flour so sold, or offered or exposed for sale ;

Every person so offending shall, for every such offence, be liable to a penalty not exceeding twenty pounds nor less than five pounds.

Exception of ingredients using for cleaning corn, &c.

Ib., sec. 15.

10. Nothing herein shall apply to any ingredient used for cleansing or preserving such corn from smut or other disease or impurity, so as that every such ingredient so used be effectually removed from such corn before the same shall be ground.

Bakers' shops, &c., may be searched.

Ib., sec. 16.

11. Any Justice, or any constable authorized by any warrant under the hand of a Justice, shall have and may exercise the following powers :—

(1.) At seasonable times in the day-time enter into any premises belonging to any person who shall grind corn or dress flour, or make bread for reward or sale, and

(2.) Search or examine whether any mixture or ingredient not the genuine produce of the corn which such flour shall import or ought to be, shall have

been mixed up with or put into any flour in the possession of such person whereby the purity of any flour is or shall be in anywise adulterated,

- (3.) Or whether any mixture or ingredient other than is allowed by this Act shall have been mixed up with or put into any bread in the possession of any baker or other person, whereby any such bread is or shall be in anywise adulterated ;
- (4.) And also to search for any mixture or ingredient which may be intended to be used in or for any such adulteration and mixture.

12. If upon any such search and examination it shall appear that any such flour or bread so found shall have been so adulterated by the person in whose possession it shall then be, or any mixture or ingredient shall be found which shall seem to have been deposited there in order to be used in the adulteration of flour or bread,

Adulterated articles to be seized, 1871, No. 52, sec. 16.

Then every such Justice, or constable authorized as aforesaid, may seize and take any flour or bread which shall be found in any such search and deemed to have been adulterated, and all ingredients and mixtures which shall be found and deemed to have been used or intended to be used in or for any such adulteration as aforesaid.

13. Such part thereof as shall be seized by any constable authorized as aforesaid shall with all convenient speed after seizure be carried to a Justice.

And disposed of at discretion of Justices. *Ib.*

If any Justice who shall make any such seizure in pursuance of this Act, or to whom anything so seized under the authority of this Act shall be brought, shall adjudge, upon the evidence of any competent person taken upon oath,—

- (1.) That any such flour or bread so seized shall have been adulterated by any mixture or ingredient put therein other than is allowed by this Act, or
- (2.) That any ingredient or mixture so found as aforesaid shall have been deposited or kept where so found for the purpose of adulterating flour or bread,

every such Justice is required to dispose of the same as he in his discretion shall from time to time think proper.

14. Every miller, mealman, or baker in whose premises or possession any ingredient or mixture shall be found which shall after due examination be adjudged by any Justice to have been deposited there for the purpose of being used in adulterating the purity or wholesomeness of any flour or bread shall be liable to a penalty—

Penalty for having ingredients for the adulteration of bread. 1871, No. 52, sec. 17.

- (1.) Not exceeding five pounds for the first offence,
- (2.) Ten pounds for the second offence,
- (3.) And fifteen pounds for every subsequent offence,
- (4.) Unless it shall be made to appear to the satisfaction of any such Justice that such ingredient or mixture was so deposited without the knowledge or privity of the party accused.

15. If any person shall—

Penalty for obstructing search. *Ib.*, sec. 18.

- (1.) Wilfully obstruct or hinder any such search hereinbefore authorized to be made, or the seizure of any flour or bread, or of any ingredient or mixture which shall be found on any such search and shall be deemed to have been lodged with an intent to adulterate the purity or wholesomeness of any flour or bread, or
- (2.) Wilfully oppose or resist any such search being made or the carrying-away any such ingredient or mixture as aforesaid, or any flour or

bread which shall be seized as being adulterated, or as not being made pursuant to this Act, the person so offending shall be liable to a penalty not exceeding ten pounds.

(3.) MANUFACTURE OF BREAD.

Bread for sale to be made of certain ingredients only.
1871, No. 52, sec. 4.

16. All bread made for sale, or sold or exposed for sale, within any part of New Zealand, shall be made of pure and sound flour of wheat, barley, rye, oats, buckwheat, Indian corn, pease, beans, rice, or potatoes, or any of them, and with any common salt, pure water, eggs, milk, barm, leaven, potato or other yeast, and mixed in such proportions as may be thought fit, and with no other ingredient or matter whatsoever.

Bread to be well made.
Ib., sec. 5.

17. The several sorts of bread which shall be made for sale, or sold or exposed for sale, shall always be well made and in their several degrees according to the quality of the flour whereof the same ought to be made.

Alum and other improper ingredients not to be put into bread.

No alum or mixture in which alum shall be an ingredient, or any other mixture or ingredient whatsoever other than and except as herein mentioned, shall be put into or in anywise used in making bread for sale, under any colour or pretence whatsoever.

Penalty.

Every person who shall knowingly offend in the premises shall be liable to a penalty not exceeding ten pounds nor less than forty shillings.

"Standard wheaten bread."
Ib., sec. 6.

18. All bread made of the flour of wheat, which flour without any mixture or division shall be the whole produce of the grain, the bran or hull thereof only excepted, shall be called "standard wheaten bread."

"Household wheaten bread."
Ib., sec. 7.

19. All wheaten bread made for sale of any flour in which a portion of the bran or hull thereof shall have been retained, shall be called "household wheaten bread," and every loaf of such bread shall be marked with a large Roman H.

"Mixed bread."
Ib., sec. 8.

20. All bread made for sale wholly or partially of the flour of any other sort of corn than wheat, or of the flour of any pease, beans, or potatoes, shall be called "mixed bread," and every loaf of such bread shall be marked with a large Roman M.

Penalty for not marking household or mixed bread.
Ib., sec. 9.

21. Every person who shall make for sale, or sell or expose for sale, any such household wheaten bread, or any mixed bread, without being respectively marked as hereinbefore is directed, shall be liable to a penalty of ten shillings for every pound weight of such bread which shall be so made for sale, or sold or exposed for sale, without being so marked as aforesaid.

Bread to be sold by weight.
Ib., sec. 10.

22. All bread shall be sold by weight and not otherwise, and may be made of such weight or size as the seller thinks fit; and in case any seller of bread shall sell, or cause to be sold, bread in any other manner than by weight, every such seller shall be liable to a penalty not exceeding forty shillings.

Except French or fancy bread or rolls.
Ib.

23. Nothing in this Act contained shall extend to prevent any seller of bread from selling bread usually sold under the denomination of French or fancy bread, or rolls, without previously weighing the same.

Penalty on bakers using any other than the avoirdupois weight.
Ib., sec. 11.

24. In the sale of bread the avoirdupois weight of sixteen ounces to the pound, according to the legal standard in New Zealand, shall be used, and the several gradations of the same for any less quantity than a pound.

In case any seller of bread shall at any time use any other than the avoirdupois weight and the several gradations of the same, he shall be liable to a penalty not exceeding *five* pounds nor less than *five* shillings.

Selling bread not weighed.
Ib., sec. 12.

25. In case any seller of bread shall sell or deliver in his shop, house, or premises, any bread which shall not have been previously weighed in the presence of the party purchasing the same when required by the purchaser so to do, every such seller so offending shall be liable to a penalty not exceeding *five* pounds.

26. Every seller of bread shall cause to be fixed in some conspicuous part of his shop on or near the counter a beam and scales with proper weights, or other sufficient balance, in order that all bread there sold may from time to time be weighed in the presence of the purchaser thereof, except as aforesaid.

Bakers to provide in their shops beams, scales, and weights, &c.
1871, No. 52, sec. 13.

- (1.) If such seller shall neglect to fix such beam and scales or other sufficient balance in manner aforesaid, or
- (2.) To provide and keep for use such proper beams and scales and proper weights or balance, or shall have or use any incorrect or false beam or scales, or balance, or any false weight, not being of the weight it purports to be according to the said standard,

in every such case he shall be liable to a penalty not exceeding five pounds.

27. Any baker or confectioner who shall wilfully or knowingly have upon his premises used by him as such baker or confectioner any impure, unsound, or unwholesome flour, or who shall sell or offer to sell any bread for bread or biscuit or confectionery containing any such flour, shall be liable to a penalty not exceeding twenty pounds ;

Selling bread made of unwholesome flour.
Ib., sec. 14.

And such bread, biscuit, confectionery, or flour shall be liable to be seized and confiscated as unwholesome and adulterated, and shall be disposed of as the convicting Justices shall in their discretion think proper.

28. No person shall be convicted of any offence under the sections of this Act from *eight to twenty-eight* inclusive, unless the complaint be made within seventy-two hours next after the time the offence shall have been committed, and no conviction under this Act shall be removed by writ of *certiorari* or otherwise in the Supreme Court.

Limitation of prosecutions.
Ib., sec. 21.

(4.) ANALYSIS OF FOOD OR DRUGS.

29. The Governor may from time to time appoint persons possessing competent knowledge to be Analysts, and may pay to them such remuneration as may be appropriated by the General Assembly for the purpose.

Analysts to be appointed.
1877, No. 48, sec. 8.

Notice shall be gazetted whenever any such appointment is made, stating the residence or place of abode of the person appointed.

30. Every Inspector of Nuisances or *Inspector of Weights and Measures* shall, on being required thereto by any person having reasonable cause to suspect any article of food or any drug to be adulterated, procure and submit samples of such articles respectively to be analyzed under this Act.

Inspectors of Nuisances or Weights and Measures to procure and submit samples of articles to be analyzed.
Ib., sec. 9.

31. Upon receiving a certificate stating that any of such articles of food or drugs are adulterated, any such Inspector shall cause a complaint of an offence against this Act by the party selling or adulterating such articles of food or drugs, to be made before a Justice, and thereupon such Justice shall issue a summons requiring the alleged seller or adulterator to appear before two Justices to answer such complaint.

Offenders to be prosecuted.
Ib.

32. Such summons shall be served by delivering the same or a true copy thereof upon the premises where such samples were obtained or sold, or by personal service.

Procedure.
Ib.

The expense of such prosecutions, if not ordered to be paid by the party complained against, shall be deemed part of the expense of executing this Act.

Costs of prosecutions.
Ib.

33. On the hearing of any complaint under the *thirty-first* section of this Act the purchaser, the Inspector of Nuisances, or the *Inspector of Weights and Measures*, as the case may be, shall prove to the satisfaction of such Justices that the article of food or drugs alleged to be adulterated was delivered to the Analysts in the same condition, as regards its purity or impurity,

Proof by Inspectors as to samples being in the same condition as when obtained.
Ib., sec. 11.

as it was when received from the seller, and shall further prove that upon delivery of such article the seller was informed that it was intended to forward such article to an Analyst pursuant to the provisions of this Act.

Fees to be charged.
1877, No. 48, sec. 12.

34. Any purchaser of any article of food or any drug shall be entitled, on payment to any Inspector aforesaid of the *prescribed fee in such case*, to have any such article analyzed by an Analyst, and to receive from such Analyst a certificate of the result of his analysis, specifying—

- (1.) Whether in his opinion such article is adulterated ;
- (2.) If it be an article of food or drug, whether it is so adulterated as to be injurious to the health of persons eating or drinking the same ;

Certificate to be evidence.

and such certificate, duly signed by such Analyst, shall, in the absence of any evidence before the Court to the contrary, be sufficient evidence of the matters therein certified.

Samples to be taken and sealed.
Ib., sec. 13.

35. All articles of food or drugs to be analyzed under this Act shall be received by any Inspector as aforesaid, and shall be taken to the Analyst and a portion thereof sealed in the presence of the Analyst by such Inspector, to be retained by him and produced in case the Justices shall order other analyses to be made.

Governor may prescribe fees for analysis.
1878, No. 6, sec. 2.

36. The Governor may from time to time, by Order in Council, prescribe fees to be paid in respect of the analysis of any articles of food or drugs by any Analyst.

All such fees shall be paid by the person receiving the same into the Public Account, *and every Order in Council so made shall be gazetted.*

Expenses of analysis to be paid by offenders on conviction.
Ib., sec. 3.

37. When any person shall be convicted of any offence under this Act, the convicting Justices shall order that all fees and other expenses incident to the analysis of any article of food or drug in respect of which the conviction is obtained shall be paid by the person convicted.

All such fees and expenses shall be deemed to be part of the costs attending the conviction, and shall be recoverable in the same manner as such costs are ordinarily recoverable.

(5.) MISCELLANEOUS PROVISIONS.

Analyst to report annually.
1877, No. 48, sec. 10.

38. Every Analyst appointed under this Act shall report annually to the Governor the number of articles analyzed by him under this Act during the foregoing twelve months, and shall specify the result of each analysis.

A copy of such report shall be presented to each House of the General Assembly within fifteen days after the same shall be received by the Governor, if such Houses are then in session, and if not, then to each such House within fifteen days after the commencement of the next ensuing session.

Recovery of penalties.
1871, No. 52, sec. 19.

39. Except in the cases hereinbefore provided to be heard and determined by one Justice, all offences against this Act shall be heard and determined in a summary way before two Justices.

Appropriation thereof.

All fines and penalties awarded and imposed *under sections eight to twenty-eight, both inclusive*, shall be distributed, the one moiety to the Consolidated Fund and the other moiety to the use of the informer or party prosecuting.

After second conviction offender's name may be advertised.
Ib., sec. 20.

40. If any person convicted of any offence under this Act shall afterwards commit a like offence, it shall be lawful for the Justices before whom the second conviction shall take place to cause the offender's name, place of abode, and offence, and the penalty imposed, to be published at the expense of such offender in such newspaper or in such other manner as the Justices shall direct.

The expense of such publication shall be deemed part of the costs attending the conviction, and shall be recoverable in the same manner as costs are recoverable.

41. If any action or suit shall be commenced against any Justice, constable, or other person for any matter or thing done in pursuance of this Act, the defendant in any such action or suit may plead a general denial, and give this Act and the special matter in evidence at any trial thereupon, and that the same was done in pursuance and by authority of this Act.

Protection to officers.
1871, No. 52, sec. 22.

42. Nothing in this Act shall be held to affect the power of proceeding by indictment, or to take away any other remedy against any offender under this Act; nor to repeal any of the provisions of "The Sale of Poisons Act, 1871."

Other proceedings
not affected.
1877, No. 48, sec. 15.
"Sale of Poisons Act,
1871," not affected.
Ib., sec. 16.

43. The Acts mentioned in the Schedule hereto are hereby repealed :

Repeals.
Saving.

But all appointments made under the repealed Acts and in force at the date of the passing of this Act shall be deemed to have been made under this Act.

SCHEDULE.

Schedule.

1871, No. 52.—The Bakers and Millers Act, 1871.

1877, No. 48.—The Sale of Food and Drugs Act, 1877.

1878, No. 6.—The Sale of Food and Drugs Amendment Act, 1878.