

SAMOA

Arrangement of Provisions

PART 1 PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Purposes
4. Relationship with other Acts

PART 2 DEALING WITH FOOD

5. Safe food
6. Suitable food
7. False descriptions of food
8. Labelling requirements
9. Expiry and best before dates
10. Food for infants and children
11. Import and export of food
12. Inspection of imported food

PART 3 FOOD BUSINESS

13. Certificate of health
14. Operators of food business
15. Operators to ensure that food can be traced
16. Food handlers

PART 4 ADMINISTRATION

17. Responsibility of the Ministry

18. Food and Nutrition Policy Committee
19. Functions of the Committee
20. Food safety officers
21. Power of Director General to issue directions and controls
22. Privileged statements
23. Approvals

PART 5 FOOD INSPECTION AND ANALYSIS

24. Powers of entry and search
25. Closing orders
26. Assistance from the police
27. Sampling
28. Appointment of analyst and certificate of analyst
29. Copy of certificate
30. Right to request a second test
31. Cost of analysis
32. Seizing food or associated things
33. Destruction and disposal of seized food or associated things

PART 6 OFFENCES

34. Offences involving misleading conduct
35. Offences involving obstruction of officers

- | | |
|---|--|
| <p>36. Offences involving publishing non-complying advertisements</p> <p>37. Offences involving donation of unsafe food</p> <p>38. Offences by body corporate</p> | <p>42. Order to cease use of label, etc</p> <p>43. Order to restrict or prohibit dealing with food</p> |
|---|--|

PART 8
MISCELLANEOUS

PART 7
**EVIDENTIAL PRESUMPTIONS
AND COURT ORDERS**

- | | |
|---|---|
| <p>39. Evidential presumptions</p> <p>40. Order to pay expenses</p> <p>41. Order to forfeit and dispose of food or associated thing</p> | <p>44. Protection from personal liability</p> <p>45. Delegation</p> <p>46. Regulations</p> <p>47. Fees and forms</p> <p>48. Reference to standard works</p> <p>49. Transitional</p> <p>50. Consequential amendments</p> |
|---|---|

2015, No. 16

AN ACT:

- (a) to regulate dealing with food, food business and inspection and analysis of food; and**
- (b) to provide functions, duties and powers for the purpose of this Act; and**
- (c) to regulate production, manufacture, importation and exportation, sale, donation, processing, cooking, handling, labeling, advertising, promotion of and information on food, including provision of food for community and traditional events and ceremonies; and**
- (d) for related purposes.**

[03rd June 2015]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

PART 1
PRELIMINARY

1. Short title and commencement-(1) This Act may be cited as the Food Act 2015.

(2) This Act commences on the date of assent by the Head of State.

2. Interpretation - In this Act, unless the context otherwise requires:

“Act” includes Ordinance;

“advertisement” means any form of communication made to a person for the purpose of selling or promoting or appearing to sell or to promote the sale of food or associated thing;

“analysis” means an analysis and examination undertaken under Part 5;

“associated thing”:

(a) means a thing that is used, or represented for use, in or for the production, processing, cooking, handling or sale of food; and

(b) includes -

(i) a thing that is enclosed with, attached to, in contact with, or contained in food; or

(ii) an infant feeding accessory; or

(iii) a place.

“best before date” means the date which signifies the end of the period under any stated storage conditions during which the product will:

(a) remain fully marketable; and

(b) retain a specific quality for which tacit or express claims have been made, even though, beyond that date the food may still be perfectly satisfactory.

“business”, in relation to food, includes any activity aimed at generating revenue in trade, commerce or industry;

“business licence” means a business licence for a food business issued under the Business Licences Act 1998;

“certificate of analysis” means a certificate issued under section 28;

“certificate of health” for a food business, means a certificate of health issued under section 13;

“closing order” means an order issued under section 25(1);

“*Codex Alimentarius* Commission” means the body created in 1963 by the Food and Agriculture Organisation and the World Health Organisation to develop and maintain international food standards, guidelines and related texts, such as codes of practice;

“dealing with food” means any of the following:

(a) producing food;

(b) processing, cooking or handling food;

(c) selling food;

- (d) importing or exporting food;
- (e) labeling, advertising, promoting or providing information about food;
- (f) storing food;
- (g) transporting food;
- (h) providing food for community or traditional purposes;
- (i) donating food.

“Director General” means the Chief Executive Officer of the Ministry appointed pursuant to section 9 of the Ministry of Health Act 2006;

“exempted food” means food exempted by regulations;

“expiry date” means the date which signifies the end of the estimated period under any stated storage conditions, after which the food probably will not be satisfactory or have the quality attributes normally expected by consumers;

“export”:

- (a) means to send out of Samoa; and
- (b) includes to send to an agent in Samoa for the purpose of being held prior to re-exportation.

“food”:

- (a) means any substance, whether processed, semi-processed, raw or cooked, which is intended for human consumption; and
- (b) includes any drink, chewing gum or substance used in the manufacture, preparation or treatment of the substance; and
- (c) does not include cosmetics, tobacco or a substance used only as medicine.

“food business”:

- (a) means a business that deals with food; and
- (b) includes a business that -
 - (i) sells, transports or stores food; or
 - (ii) sells food on the internet; or
 - (iii) operates, for reward, places (including mobile premises) or services in connection with or for the purpose of dealings with food; or
 - (iv) is prescribed by regulations to be a food business for the purposes of this Act; but
- (c) does not include a business that is prescribed by regulations not to be a food business for the purposes of this Act.

“food handler” means a person who:

- (a) directly handles unpackaged food or any food equipment and utensils, or food contact surfaces; and
- (b) is expected to comply with food hygiene requirements under this Act.

“food safety officer” means a person designated as such under section 20;

“hazard” means a biological, chemical, or physical agent that:

- (a) is in the food or has the potential to be in the food, or is a condition of the food, or has the potential to affect the condition of the food; and
- (b) causes or could cause an adverse or injurious effect on the life or health of a person or on public health.

“infant feeding accessory” means a thing that is intended for the feeding of infants, such as infant feeding bottles and teats;

“import” means to bring into Samoa;

“importer” means a person who imports food or an associated thing, and includes the following:

- (a) the agent or representative in Samoa of a person who is based overseas and who has arranged the importation of food or associated thing;
- (b) the consignee of the imported food or associated thing;
- (c) the person who is or becomes the owner of, or entitled to the possession or control of, or beneficially interested in, the imported food or associated thing, on or at any time after its importation and before it has ceased to be subject to the control of Customs.

“intended use” means the use for the food that is specifically stated, or could reasonably be presumed, to be intended, taking into account the nature, labeling, packaging, or identification of the food;

“Judge” means a judge of the District Court or Supreme Court;

“label” means any tag, brand, mark, pictorial or other descriptive matter that is written, printed, stenciled, marked, embossed, impressed on or attached to the food or associated thing;

“Minister” means the Minister responsible for Health;

“Ministry” means the Ministry responsible for Health;

“operator of a food business” means:

- (a) the owner of the business; or
- (b) the person in possession or control of the business operations.