

FOOD SAFETY AND QUALITY BILL, 2019

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SCHEDULE



A BILL EXECUTIVE

FOR

AN ACT TO ESTABLISH THE NATIONAL FOOD SAFETY COUNCIL AND THE NATIONAL FOOD SAFETY MANAGEMENT COMMITTEE FOR THE OFFICIAL CONTROL OF FOOD AND FEED SAFETY, THE OBLIGATIONS OF FOOD AND FEED BUSINESS OPERATORS AND DEFINE THE FUNCTIONS AND POWERS OF INSTITUTIONS OF GOVERNMENTS WITH THE OBJECTIVE OF ENSURING THAT FOOD AND FEED SAFETY RISKS ARE EFFECTIVELY MANAGED, AND FOR RELATED MATTERS

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

PART I - OBJECTIVES, APPLICATION AND SCOPE

1. The primary objective of this Act is to provide the regulatory framework to-

Objectives of the Act

(a) protect the health of consumers from hazards which may be present in food and animal feed;

(b) establish the general principles of official control of food and feed safety, the obligations of food and feed business operators; and

(c) define the functions and powers of institutions of Federal and State Governments with the objective of ensuring that food and feed safety risks are effectively managed and that food is of the nature, substance and quality expected by the consumer.

2.-(1) This Act shall apply to commercial activities concerning the safety of food and feed affecting the health of consumers.

Application and Scope of the Act

(2) The Act shall apply to all stages of production, processing, preparation, packaging, storage and distribution of food and feed commodities, which are undertaken in the course of a food or feed business.

(3) The control measures under this Act shall be applied in an

1 independent, scientifically objective and transparent manner.

2 (4) Subject to Item 62, Part I of the Second Schedule to the
3 Constitution of the Federal Republic of Nigeria, 1999 (as amended), this Act,
4 shall apply throughout the Federation of Nigeria.

5 PART II - PRINCIPLES OF FOOD SAFETY

Scientific basis
for food safety
measures

6 3. In order to achieve the general objective of a high level of
7 protection of human health and life, the governing authority nominated for risk
8 management under the Schedule to this Act shall ensure that food and feed
9 safety measures made and implemented under this Act shall be based on an
10 assessment of the available scientific evidence in relation to food safety risks.

Risk
communication

11 4. The governing authority nominated for risk communication under
12 the Schedule to this Act shall ensure the transparent communication of timely,
13 reliable, independent, objective and comprehensible information about food
14 and feed hazards and associated risks to consumers, food or feed business
15 operators and relevant competent authorities.

Risk
management

16 5.-(1) The governing authority nominated for risk management and
17 relevant competent authorities nominated under the Schedule to this Act shall
18 ensure that measures which they apply to reduce or eliminate a risk to health
19 from the consumption of food-

20 (a) take into consideration the scientific assessment of the risk as set
21 out pursuant to section 3 of this Act; and

22 (b) are effective, equitable and proportionate.

23 (2) The governing authority nominated for risk management under
24 the Schedule to this Act shall ensure that the appropriate prevention and control
25 measures are applied at the point in the food supply chain where they can be
26 most effective in reducing or eliminating the risk.

Risk assessment

27 6. During the assessment of food and feed safety risks, the governing
28 authority nominated under the Schedule to this Act as being responsible for risk
29 assessment shall-

30 (a) provide relevant, valid and up to date scientific opinions in relation

1 to food and feed hazards to the Government of Nigeria, the agricultural and
2 food and feed industries and consumers;

3 (b) promote and coordinate the development of uniform risk
4 assessment and official control methodologies in the fields related to safety
5 of food and feed within Federal, State and Local Government Areas;

6 (c) commission scientific studies necessary for the
7 accomplishment of risk assessment in fields related to safety of food and
8 feed;

9 (d) search for, collect, collate, analyse and summarise scientific
10 and technical data in the fields related to safety of food and feed;

11 (e) undertake action to identify and characterise emerging risks, in
12 the fields related to safety of food and feed;

13 (f) establish a network of scientific organisations operating in the
14 fields related to safety of food and feed; and

15 (g) provide scientific and technical assistance, when requested to
16 do so by Government, in relation to emergency procedures referred to under
17 sections 29 and 30 of this Act.

18 7.-(1) Where there is a possibility of harmful effects on health but
19 scientific uncertainty persists, the governing authority nominated for risk
20 management under the Schedule to this Act may apply provisional risk
21 management measures necessary to eliminate or reduce food and feed safety
22 risks.

Precautionary
Principle

23 (2) Measures adopted on the basis of sub-section (1) of this section
24 shall be-

25 (a) Proportionate and shall not place additional restriction on
26 internal or external trade other than that required to guarantee protection of
27 health of consumers; and

28 (b) applied for a limited period pending further scientific
29 investigation for a more comprehensive risk assessment.

30 (3) where precautionary measures under sub-section (1) of this

1 section are implemented in good faith and in accordance with sub-section (2)
2 of this section, end subsequent removal of scientific uncertainty indicates that
3 they were not required to ensure health protection, the relevant competent
4 authority implementing them shall not be held liable for any subsequent losses
5 incurred as a result of the measures.

Transparency

6 8.-(1) The governing authority nominated for risk management under
7 the Schedule to this Act shall undertake open and transparent public
8 consultation during the preparation, evaluation and revision of risk
9 management measures, except where the urgency of the matter does not allow
10 it for the protection of consumer health.

11 (2) without prejudice to the applicable provisions of Evidence Act
12 and Freedom of information Act on access to document, where there are
13 reasonable grounds to suspect that a food or feed may present a risk for human or
14 animal health, then depending on the nature seriousness and extent of that risk,
15 the governing authority for risk communication nominated under the Schedule
16 to this Act shall take appropriate steps to inform the general public of the nature
17 of the risk to health.

18 (3) The governing authority for - risk management and relevant
19 Competent Authorities nominated under the Schedule to this Act shall identify
20 to the fullest extent possible the food, or type of food or feed, the risk that it may
21 present, and the measures which are taken or about to be taken to prevent,
22 reduce or eliminate that risk.

23 PART III - GENERAL REQUIREMENTS FOR FOOD AND FEED SAFETY
24 AND QUALITY

Food Safety
Requirements

25 9.-(1) Food business operators shall not place food on the market if it
26 is unsafe.

27 (2) Food shall be deemed to be unsafe if it is considered to be-

28 (a) injurious to health; or

29 (b) unfit for human consumption.

1 (3) In determining whether any food is unsafe, regard shall be
2 given to-

3 (a) the normal conditions of use of the food by the final consumer
4 and at each stage of production, processing, storage and distribution, and

5 (b) the information provided to the final consumer, including
6 information on the label, or other information generally available to the final
7 consumer concerning the avoidance of specific adverse health effects from a
8 particular food or category of foods.

9 (4) In determining whether any food is injurious to health, regard
10 shall be had-

11 (a) not only to the probable immediate or short-term and long-term
12 effects of that food on the health of a person consuming it, but also on
13 subsequent generations;

14 (b) to the probable cumulative toxic effects;

15 (c) to the particular health sensitivities of a specific category of
16 consumers where the food is intended for that category of consumers.

17 (5) In determining whether any food is unfit for human
18 consumption, the relevant competent authority shall consider whether the
19 food is unacceptable for human consumption according to its intended use
20 or due to contamination through putrefaction, deterioration, decay or by
21 contact with extraneous matter.

22 (6) Where any food which is unsafe is part of a batch, lot or
23 consignment of food of the same class or description, it shall be presumed
24 that all the food in that batch, lot or consignment is also unsafe, unless
25 following a detailed assessment there is no evidence that the rest of the
26 batch, lot or consignment is unsafe.

27 (7) Food which complies with specific regulations governing food
28 safety shall be deemed to be safe as far as the aspects covered by the specific
29 regulations are concerned.

30 (8) Compliance of a food with specific provisions applicable to

1 that food shall not prevent the relevant Competent Authority from taking
2 appropriate measures to impose restrictions on it being placed on the market or
3 to require its recall from the market where there are reasons to suspect that,
4 despite such compliance, the food is unsafe.

Feed Safety
Requirements

5 10.-(1) Feed shall not be placed on the market or fed to any food-
6 producing animal if it is unsafe.

7 (2) Feed shall be deemed to be unsafe for its intended use if it is
8 considered to-

9 (a) have an adverse effect on human or animal health; or

10 (b) make the food derived from food-producing animals unsafe for
11 human consumption.

12 (3) Where a feed which has been identified as not satisfying the feed
13 safety requirement is part of a batch, lot or consignment of feed of the same
14 class or description, it shall be presumed that all of the feed in that batch, lot or
15 consignment is so affected, unless following a detailed assessment there is no
16 evidence that the rest of the batch, lot or consignment fails to satisfy the feed
17 safety requirement.

18 (4) Feed which complies with specific regulations governing feed
19 safety shall be deemed to be safe insofar as the aspects covered by the specific
20 regulations are concerned.

21 (5) Compliance of a feed with specific regulations applicable to that
22 feed shall not bar the relevant Competent Authority from taking appropriate
23 measures to impose restrictions on it being placed on the market or to require its
24 recall from the market where there are reasons to suspect that, despite such
25 compliance, the feed is unsafe.

Power to make
Regulations

26 11.-(1) The Minister on the advice of the National Food Safety
27 Council may by Regulations make-

28 (a) provision for requiring, prohibiting or regulating the presence in
29 food or feed of any specified substance, or any substance of any specified class,
30 including additives, contaminants and residues, including residues of

1 pesticides and veterinary medicines, and generally for regulating the
2 composition of food or feed;

3 (b) provision for ensuring that food is fit for human consumption
4 and meets such microbiological or other standards as may be specified by or
5 under the regulations;

6 (c) provision for requiring, prohibiting or regulating the use of any
7 process or treatment in the preparation or packaging of food or feed;

8 (d) provision for securing the observance of hygienic conditions
9 and practices with respect to food or feed business and for the training of
10 operatives;

11 (e) provision for imposing requirements or prohibitions as to the
12 labelling, marking, presenting or advertising of food, the descriptions which
13 may be applied to food, and the language used;

14 (f) provision for securing the observance of hygienic conditions
15 and practices with respect to equipment, packaging or contact materials
16 which are intended to come into contact with food intended for human
17 consumption;

18 (g) provision for the application of internal systems applied by
19 food or feed business operators for ensuring the safety of food or feed placed
20 on the market by them;

21 (h) provision for ensuring that the safety measures applied to
22 exported food and feed are equivalent to those applied to food and feed
23 which is imported into or produced within Nigeria;

24 (i) Provision for regulating the treatment and disposal of any food-

25 (a) which is unfit for human consumption,

26 (b) which fails to comply with the regulations, or

27 (c) which, although not unsafe for human consumption, is
28 prohibited from being sold for such consumption on the basis of religious,
29 ethical or aesthetic reasons;

30 (j) such other provision with respect to food and feed as may be

1 scientifically determined to be necessary for the purpose of ensuring that such
2 food and feed complies with food safety requirements or in the interests of the
3 public health;

4 (k) provision for regulating the placing on the market of novel foods,
5 or for defining procedures for approval prior to placing on the market of any
6 such foods;

7 (l) provision for the application of traceability systems;

8 (m) provisions concerning the labeling and advertising of food,
9 including-

10 (i) requiring certain information regarding food to be declared on the
11 label where the food is pre-packaged or by another means in the case of other
12 food,

13 (ii) requiring certain information regarding other foods to be declared
14 in any other manner,

15 (iii) prohibiting specific claims or types of claim regarding food, and

16 (iv) establishing common meanings of the name under which food is
17 placed on the market;

18 (n) implementation of official controls to ensure compliance with the
19 provisions of this Act;

20 (o) provision for setting conditions and procedures to be followed in
21 registration and licensing and the application of notices and other actions to be
22 taken when provisions of the Act are contravened, including appeals; and

23 (p) any other matter deemed necessary for the implementation of
24 this Act.

25 (2) Regulations made under this section may refer in full or in part to a
26 Nigerian Standard adopted under the Standards Organisation of Nigeria Act.

27 **12.-(1)** Food business operators shall ensure that food placed on the
28 market is of the nature, substance and quality expected by the purchaser.

29 (2) The Minister in consultation with the National Food Safety
30 Council may make Regulations regarding the quality of food-

- 1 (a) to prevent-
- 2 (i) fraudulent or deceptive practices,
- 3 (ii) the adulteration of food, and
- 4 (iii) any other practices which may mislead the final consumer;
- 5 (b) to otherwise protect the economic interests of consumers;
- 6 (c) to allow consumers to make informed choices in relation to the
- 7 foods they consume; and
- 8 (d) without prejudice to the economic interests of the final
- 9 consumer, in the interests of introducing order to the marketing of food.
- 10 (3) Regulations introduced under sub-section (2) of this section
- 11 may establish detailed requirements relating to the -
- 12 (a) classification, grading and denomination of food;
- 13 (b) organoleptic properties and composition of food;
- 14 (c) types and quantities of raw materials, additives and other
- 15 materials used in the primary production and processing of food;
- 16 (d) nature of the technological procedures which are applied in
- 17 primary production and processing;
- 18 (e) origin of the food or ingredients used in food; and
- 19 (f) any additional data or specific indications which should be
- 20 specified in product declarations or labels.

21 PART IV - REGISTRATION AND LICENSING OF ESTABLISHMENTS

22 13.-(1) No person may operate a food or feed business unless he

23 registers the establishment from which he operates with the relevant

24 competent authority nominated under the Schedule to this Act.

Registration of
establishments

25 (2) The governing authority nominated under the Schedule to this

26 Act shall maintain a central public register of registered establishments.

27 (3) Where a food business operator does not operate from a fixed

28 establishment he shall be required to register his operation with the relevant

29 competent authority.

30 (4) The information to be provided as a conditions for registration

1 under sub-sections (1) and (3) of this section shall be as determined by
2 Regulations made by the Minister in consultation with the National Food
3 Safety Council.

4 (5) No food or feed business operator shall be required to register a
5 particular establishment or operation with more than one relevant competent
6 authority.

7 (6) The food or feed business operator shall communicate any
8 material changes to the information provided at registration to the competent
9 authority, including transfer, cessation or suspension of business.

10 (7) An establishment registered under this section which is not used as
11 an establishment for the carrying out of a food or feed business for more than
12 six months shall be de-registered by the relevant competent authority.

Licensing of
establishments

13 14.-(1) Subject to sub-section (2) of this section, the Minister in
14 consultation with the National Food Safety Council, may by Regulations make
15 provision for the issue of licences by the relevant competent authority
16 nominated under the Schedule to this Act in respect of the use of an
17 establishment for the purposes of a food or feed business, and for prohibiting
18 the use for those purposes of any establishment except in accordance with a
19 licence issued under the Regulations.

20 (2) The Minister shall exercise the power conferred by sub-section (1)
21 of this section only where it appears to be necessary or expedient to do so-

22 (a) for the purpose of ensuring that food and feed complies with safety
23 requirements or in the interests of public health; or

24 (b) for the purpose of protecting or promoting the interests of
25 consumers.

26 (3) A licence granted by a relevant competent authority in accordance
27 with sub-section (1) of this section in respect of an establishment shall
28 authorize that establishment to store process, package or place food or feed on
29 the market for a defined period and for such products and processes as may be
30 specified in the licence process, package or place food or feed on the market for

1 a defined period and for such products and processes as may be specified in
2 the licence.

3 (4) The governing authority nominated under the Schedule to this
4 Act shall maintain a central public register of licenced establishments and
5 their authorisations pursuant to sub-section (3) of this section.

6 15.-(1) Where an establishment requires a licence under this Act, it
7 shall be subject to any general operating and management conditions which
8 may be prescribed by the relevant competent authority:

Licence conditions,
suspension and
cancellation

9 (2) The conditions referred to in sub-section (1) of this section shall
10 relate to the -

11 (a) design, layout and construction of any premises;

12 (b) design and construction of any equipment used;

13 (c) conduct of any person entering area in which food or feed is
14 handled;

15 (d) design and application of internal systems for ensuring the
16 safety of food or feed placed on the market; and

17 (e) handling of gaseous, liquid and solid wastes and other
18 environmental requirements.

19 (3) In specifying any conditions applied to the award of a licence,
20 the competent authority may make reference to existing codes of practice or
21 standards.

22 (4) Where it is considered to be expedient for ensuring the safety of
23 food or feed, the conditions of any licence granted in accordance with
24 Section 14 may be varied at any time without notice, by the written order of
25 the relevant competent authority.

26 (5) Any licence granted in accordance with section 14 of this Act
27 may be altered, suspended or revoked at any time and without notice by the
28 written order of the relevant competent authority-

29 (a) where an establishment has been used in contravention of this
30 Act or any Regulations made pursuant to it or in contravention of any of the

1 conditions of the licence; or

2 (b) where such action is deemed necessary or expedient for the
3 purpose of protecting public health.

4 (6) Where a competent authority alters, suspends or revokes a licence
5 issued under section 14 of this Act, it shall inform the National Food Safety
6 Management Committee within seven working days.

Fees for
registration and
Licensing

7 16.-(1) Registration under section 13 of this Act shall be free.

8 (2) An appropriate fee shall be payable to the relevant competent
9 authority in respect of each application for licence under section 14 of this Act
10 and each subsequent application for renewal of a licence granted under this
11 Act.

12 (3) The schedule of fees for different kinds of food business operation
13 shall be determined by Regulations made pursuant to this Act and shall reflect
14 the cost of official control, including sampling and testing.

15 (4) Fees received by the relevant competent authority under this
16 section shall be paid into the Consolidated Revenue of the Federation, or the
17 State Government, as appropriate.

18 PART V - RESPONSIBILITIES OF FOOD AND FEED BUSINESS OPERATORS

Responsibilities
with respect to
unsafe food and
feed

19 17.-(1) Where a food or feed business operator considers or has
20 reason to believe that a food or feed in his possession or which he has sold or
21 consigned to another person is unsafe, he shall immediately initiate procedures
22 to prevent the consumption of the product through recall or communication.

23 (2) Where the food or feed has left the immediate control of that initial
24 food or feed business operator, he shall take all reasonable steps to recall the
25 food or feed in question from the market and inform the relevant competent
26 authority thereof.

27 (3) Where there is a presumption that the product has reached the final
28 Consumer, the food or feed business operator shall effectively and accurately
29 inform the final consumers of the reason for its recall and where other measures
30 are not sufficient to protect the health of consumers, recall any products already

1 supplied to them.

2 (4) A food business operator responsible for retail or distribution
3 activities which do not affect the packaging, labeling, safety or integrity of
4 the food shall, within the limits of his respective activities, initiate
5 procedures to recall from the market products not in compliance with the
6 food-safety requirements.

7 (5) Food business operators responsible for retail or distribution
8 activities shall communicate to the relevant competent authority relevant
9 information necessary to trace a food and shall cooperate with any action to
10 recall a product from the market taken by producers, processors,
11 manufacturers and for safety of food.

12 (6) A food or feed business operator shall immediately inform the
13 relevant competent authority if he considers or has reason to believe that a
14 food which it has placed on the market may be injurious to human health.

15 (7) Food or feed business operators shall inform the relevant
16 competent authority of any actions taken to prevent risks to the final
17 consumer from food which is unsafe, and shall not prevent or discourage
18 any person from cooperating with the relevant competent authority where
19 this may prevent, reduce or eliminate a risk arising from a food.

20 18.-(1) Food and feed business operators shall establish measures
21 for tracing of food-producing animals, food or feed and any other substance
22 intended to be, or expected to be, incorporated into a food at all stages of
23 production, processing and distribution, including packaging materials.

Requirement for
traceability of
Food and Feed

24 (2) Food or feed business operators shall put in place systems and
25 procedures to identify any business operator-

26 (a) from whom they have received a food-producing animal, food
27 or feed or any substance intended to be, or expected to be, incorporated into a
28 food or feed; and

29 (b) to whom their products have been supplied.

30 (3) Food or feed business operators shall ensure that the

1 information set out in sub-section (2) of this section is recorded and made
2 available to the relevant competent authority on demand.

3 (4) Food or feed which is placed on the market or is likely to be placed
4 on the market shall be labelled or otherwise identified through relevant
5 documentation or other information to ensure its traceability.

6 PART VI - DECLARATIONS AND LABELLING

False and
misleading
descriptions

7 19.-(1) The labeling of food shall not mislead the purchaser,
8 particularly with regard to-

9 (a) the characteristics of the foodstuff and, in particular, as to its
10 nature, identity, properties, composition, quantity, durability, origin or
11 provenance, method of manufacture or production;

12 (b) attributing to the foodstuff effects or properties which it does not
13 possess; or

14 (c) suggesting that the foodstuff possesses special characteristics
15 when in fact all similar foodstuffs possess such characteristics.

16 (2) Subject to specific regulations as may be introduced regarding
17 foodstuffs for particular nutritional uses, the labeling of food shall not attribute
18 to any foodstuff the property of preventing, treating or curing a human disease,
19 or refer to such properties.

20 (3) The labeling of food shall not be in a language other than English
21 unless accompanied by a statement in English of information required by this
22 Act or Regulations made pursuant to it.

23 (4) The prohibitions or restrictions referred to in this section shall also
24 apply to-

25 (a) the presentation of foodstuffs, in particular their shape,
26 appearance or packaging, the packaging materials used, the way in which they
27 are arranged and the setting in which they are displayed; and

28 (b) advertising.

29 PART VII - OFFICIAL CONTROL OF SAFETY OF FOOD AND FEED

Official control
of safety of food
and feed

30 20.-(1) Official control of safety of food and feed shall, subject to any

1 subsequent actions under Part XIII of this Act, be comprised of one or more
2 of the following operations-

3 (a) inspection;

4 (b) sampling and analysis;

5 (c) medical examination and inspection of staff health and
6 hygiene;

7 (d) examination of written and documentary material;

8 (e) examination of the records described in section 22 (2) of this
9 Act; and

10 (f) investigation of compliance with the requirements of this Act
11 and Regulations made pursuant to it, including in consideration of the issue
12 of a licence under section 16 of this Act.

13 (2) The relevant competent authorities nominated under the
14 Schedule to this Act shall be respectively responsible for the
15 implementation of official controls under this section.

16 (3) The relevant competent authority shall conduct official controls
17 according to written procedures, and shall inform the food or feed business
18 operator in writing of the results of any official controls conducted.

19 21.-(1) The relevant Competent Authority shall carry out
20 inspections for official control of safety of food and feed -

General principles
of inspection

21 (a) regularly and according to priorities determined by risk
22 management; and

23 (b) where non-compliance is suspected.

24 (2) Inspections shall be carried out using means appropriate to the
25 objective of the inspection.

26 (3) Inspection may cover all stages of production, processing,
27 storage, transport, distribution, retail trade including import and export.

28 (4) Where practicable, inspections may be carried out without prior
29 notice.

30 (5) A business operator shall be subject to official controls under

1 this Act from only one of the competent authorities listed in the Schedule to this
2 Act.

3 (6) Where a business operator is subject to controls for food or feed
4 safety by more than one Authority he may inform the National or State Food
5 Safety Management Committee who shall nominate a single Competent
6 Authority.

Content of
inspection

7 **22.**-(1) Inspections for official control of safety of food and feed shall
8 include an investigation by an authorised officer into-

9 (a) the state and use which is made of the site, establishment, offices,
10 plant surroundings, means of transport, machinery and equipment of food and
11 feed business operators, particularly in relation to licence conditions specified
12 under section 15 of this Act;

13 (b) raw materials, ingredients, technological aids and other products
14 used for the preparation and production of food and feed;

15 (c) semi-finished food and feed;

16 (d) finished food and feed products;

17 (e) materials and articles intended to come into contact with food and
18 feed;

19 (f) cleaning and maintenance products and processes and pesticides
20 used by food and feed business operators in the course of their business;

21 (g) processes used for the manufacture or processing of food and feed;

22 (h) labelling and presentation of food; and

23 (i) preservation methods.

24 (2) The operations enumerated in subsection (1) of this section may,
25 where necessary, be supplemented by-

26 (a) interviews with the food or feed business operator and with-
27 persons in the food or feed business;

28 (b) the reading of values recorded by measuring instruments installed
29 by the undertaking;

30 (c) measurements carried out by the relevant Competent Authority,

1 with its own instruments, or with instruments installed by the undertaking;

2 (d) information contained in written and documentary material
3 held by food or feed business operators;

4 23.-(1) Persons who handle food or materials which come into
5 contact with food shall be subject to a hygiene inspection

Health and hygiene
inspection of
persons in contact
with food

6 (2) The inspection referred to in sub-section (1) of this section shall
7 establish whether such persons comply with regulations concerning
8 periodic medical examinations, technical qualification, health status,
9 personal cleanliness and clothing.

10 24.-(1) The Competent Authority may take samples of food and
11 feed and other substances and materials used in the production, processing,
12 packaging and placing on the market of food and feed for analysis to provide
13 information for the purposes of assessing whether food and feed is in
14 compliance with the requirements of this Act.

Sampling for
laboratory analysis

15 (2) Samples collected for the purpose of official control shall be
16 selected and transmitted to the official laboratory by an authorised officer of
17 the relevant Competent Authority or a body to which responsibilities have
18 been delegated.

19 (3) The costs of the analyses for official controls are borne by the
20 relevant Competent Authority.

21 (4) The costs of the analyses for other purposes, including
22 certification for import or export, shall be borne by the food or feed business
23 operator.

24 25.-(1) The relevant Competent Authority shall prepare an annual
25 food safety control plan, specifying the-

Annual food
safety control plan
and report

26 (a) number and type of controls to be carried out; and

27 (b) criteria applied in drawing up the programme.

28 (2) The relevant Competent Authority shall prepare an annual
29 report on official control activities conducted in relation to food and feed
30 safety, specifying-

1 (a) the number and type of control activities carried out in relation to
2 the programme;

3 (b) the number and type of infringements identified; and

4 (c) actions taken in the case of non-compliance.

5 (3) Where the relevant competent authority delegates responsibilities
6 to other bodies in accordance of this Act, the annual plans and report shall
7 specify the information set out in subsections (1) and (2) of this section in
8 relation to each body to which responsibilities are delegated.

9 (4) The annual plans and annual reports of the relevant competent
10 authority shall be subject to the comment and approval of the governing
11 authority nominated in the Schedule to this Act.

12 (5) The relevant competent authority shall make the annual plans and
13 annual reports approved under this Section available in a publicly accessible
14 format.

Imported and
exported food
and feed

15 26.-(1) Food and feed imported into Nigeria for placing on the market
16 shall comply with the relevant requirements of this Act.

17 (2) Unless otherwise there is a specific informed consent provided by
18 the authorities of the importing country, food and feed exported or re-exported
19 from Nigeria for placing on the market of another country shall not be unsafe
20 and shall comply with the relevant requirements of such importing country.

21 (3) Food and feed imported into Nigeria, or exported or re-exported
22 from Nigeria shall be subject to an official control and certification of
23 compliance with this Act and provisions made there under issued by a relevant
24 Federal Competent Authority listed in the Schedule to this Act.

25 (4) A business operator required being subject to official controls and
26 certification under this section shall be subject to such official controls and
27 certification from only one of the competent authorities listed in the Schedule
28 to this Act.

Nomination of
official testing
laboratories

29 PART VIII - OFFICIAL TESTING AND REFERENCE LABORATORIES

30 27.-(1) The National Food Safety Management Committee shall

1 authorise laboratories to undertake testing of samples collected for analysis
2 under section 22 of this Act for the purpose of official control of food and
3 feed safety.

4 (2) Official testing laboratories authorised under sub-section 1
5 may be either private or public sector bodies.

6 (3) The official testing laboratories authorised under subsection (1)
7 of this section for the purposes of analysis in support of official control shall
8 comply with the General Requirements for the Competence of Calibration
9 and Testing Laboratories laid down in ISO Standard 17025 and will
10 participate in appropriate proficiency testing schemes

11 (4) Subject to an application by the competent authority, the
12 requirements set out in subsection (3) may be derogated by the specific
13 approval of the National Food Safety Management Committee, providing
14 that the scope of the derogation is defined and that the application is
15 accompanied by a written commitment to meet the requirement within a
16 time acceptable to the Committee.

17 (5) The National Food Safety Management Committee shall
18 maintain and publish a list of the official testing laboratories authorized for
19 different types of analysis in connection with official control by different
20 Competent Authorities.

21 (6) This list of official testing laboratories shall be published
22 annually in the Official Gazette of the Government of the Federal Republic
23 of Nigeria.

24 (7) The relevant competent authorities shall name in the control
25 plans required under section 25 of this Act, the authorised laboratory
26 selected to undergo testing for official controls.

27 (8) The authorisation and nomination of testing laboratories
28 referred to in this section may relate to individual tests or groups of tests.

29 28.-(1) The National Food Safety Management Committee may
30 nominate one laboratory as a reference laboratory for each test required for

Nomination of
reference
laboratories

1 the purposes of official control.

2 (2) Reference laboratories nominated under this Section shall be
3 responsible for the following duties-

4 (a) advising the relevant competent authorities and the National Food
5 Safety Management Committee on the nomination of official laboratories
6 whose task it is to conduct analyses for the purpose of official control;

7 (b) co-ordinating and supporting, including the offering of training
8 and other services, the activities of official laboratories in respect of the
9 technical standards and methodologies of the testing services which they
10 undertake;

11 (c) organising and participating in comparative tests of standardised
12 samples, on a national and international basis, with a view to monitoring the
13 proficiency of official laboratories;

14 (d) ensuring that all official laboratories maintain internal systems of
15 quality assurance, including method validation, record keeping, reagent
16 storage, safety, and routine calibration of equipment;

17 (e) development and promulgation of new testing methods and new
18 application of existing methods;

19 (f) disseminating information from the reference laboratories to the
20 relevant competent authorities and other laboratories carrying out the testing of
21 food and feed, whether or not for the purposes of official control; and

22 (g) arbitration in situations where test results of official testing laboratories are
23 disputed,

24 (3) The costs of the services delivered by reference laboratories under
25 the terms of this section shall be compensated by the governing authority
26 nominated in the Schedule to this Act.

27 PART IX - EMERGENCIES AND CRISIS MANAGEMENT

28 29. Where the governing authority nominated for risk management
29 has reason to believe that food or feed or any class of food or feed constitutes a
30 serious risk to human health and that such risk cannot be contained

1 satisfactorily by means of measures-taken under the existing provisions of
2 this Act, such governing authority may immediately adopt one or more of
3 the following measures, depending on the gravity of the situation-

4 (a) in the case of food and feed of national origin-

5 (i) suspension of the placing on the national or international market
6 or use of the food and feed in question,

7 (ii) laying down special conditions for the food and feed in
8 question, or

9 (iii) any other appropriate interim measure;

10 (b) in the case of imported food and feed-

11 (i) suspension of imports of the food and feed in question from all
12 or part of country concerned and, where applicable, from the country of
13 transit,

14 (ii) laying down special conditions for the food and feed in
15 question from all or part of the country concerned, or

16 (iii) any other appropriate interim measure.

17 **30.-(1)** The National Food Safety Management Committee shall
18 adopt in cooperation with relevant competent authorities and Ministries, a
19 general plan for crisis management in the field of the safety of food and feed
20 to be applied where it is evident that food or feed presents a serious risk to
21 human health and that such risk cannot be contained satisfactorily by means
22 of measures taken under the existing provisions of this Act.

23 (2) The crisis management plan shall specify the conditions under
24 which a crisis may be declared and by whom, the responsibilities of different
25 competent authorities and Ministries and the practical procedures necessary
26 to manage a crisis, including the organization and staffing of a crisis unit, the
27 principles of transparency to be applied and a communication strategy.

28 (3) The National Food Safety Management Committee shall
29 coordinate a system of notifications and alerts regarding food and feed
30 safety incidents, with a view to reducing impact of possible and imminent

General plan for
crisis management

1 emergencies and guiding future preventive measures.

2 PART X - ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF THE
3 NATIONAL FOOD SAFETY COUNCIL AND THE NATIONAL FOOD SAFETY
4 MANAGEMENT COMMITTEE

Establishment
of the National
Food Safety
Council

5 31. There is established National Food Safety Council (in this Act
6 referred to as the "Council").

Functions of
the Council

7 32. The functions of the Council shall be to-

8 (a) consider and approve recommendations on food safety and quality
9 matters from the National Food Safety Management Committee;

10 (b) ensure the provision of sustainable financial support for the Food
11 Safety Management Committee and its programmes;

12 (c) authorise the processes for collaboration, coordination and
13 partnership between stakeholders that will assure food safety, address public
14 health and barriers to trade;

15 (d) decide on the specific allocation of mandates between relevant
16 competent authorities of Federal Government under the Schedule to this Act;

17 (e) provide financial and technical support to accomplish an effective
18 food safety management system;

19 (f) give other directives as may be necessary to advance effective
20 Food Safety System in Nigeria;

21 (g) appoint a chair and a co-chair for the National Food Safety
22 Management Committee; and

23 (h) conduct a regular monitoring and evaluation of the
24 implementation of the National Food Safety System.

Composition
of the Council

25 33.-(1) The Council shall comprise of-

26 (a) the Vice President who shall be Chairman;

27 (b) the Ministers of the Federal Ministries responsible for-

28 (i) Health,

29 (ii) Industry, Trade and Investment,

30 (iii) Agriculture and Rural Development,

- 1 (iv) Science and Technology, and
2 (v) Environment;
3 (c) a representative of the Manufacturers Association of Nigeria;
4 and

5 (d) a representative of the Consumer Coalition Group of Nigeria.
6 (2) The Council may co-opt any other member from among the
7 stakeholders as deemed necessary.

8 (3) The Council shall meet at least twice a year.

9 (4) The Ministry of the Federal Government specified in the
10 Schedule to this Act shall provide the Secretariat to the Council.

11 **34.**-(1) There is established National Food Safety Management
12 Committee (in this Act referred to as "the Committee") with the objective of
13 implementing the National Policy on Food Safety and its implementation
14 strategy.

Establishment of
the National Food
Safety Management
Committee

15 (2) The National Food Safety Management Committee shall report
16 to the National Food Safety Council.

17 **35.** The functions of the Committee shall be to-

Functions of the
Committee

- 18 (a) advise the Council on matters related to food safety and quality;
19 (b) coordinate all governmental programs and activities related to
20 food safety, and specifically to receive comment and adopt the annual plans
21 and report on official control activities submitted by competent authorities
22 in line with section 25 of this Act;

23 (c) carry out strategic planning, monitor performance and
24 periodically evaluate progress of the implementation strategy of the
25 National Policy on Food Safety;

26 (d) facilitate the design, and coordinate training programmes for
27 stakeholders along the food supply chain;

28 (e) coordinate risk assessment and risk management;

29 (f) initiate and coordinate the drafting of the legislation concerning
30 food safety and quality;

1 (g) facilitate the development or updating of standards, regulations,
2 guidelines, code of practice, manuals, and similar documents for public and
3 private sectors;

4 (h) inform the public and private sectors regarding current and
5 emerging food safety issues and provide advice on improved food safety
6 conditions;

7 (i) coordinate programs and seek financial and technical assistance
8 from donor agencies and development partners;

9 (j) provide advice, information or assistance to any public authority in
10 relation to food safety;

11 (k) examine complaints and objections lodged in respect of decisions
12 made or official actions taken under this Act; and

13 (l) prepare an annual report on its activities.

Composition
of the Committee

14 **36.-(1)** The he National Food 'Safety Management Committee shall
15 comprise of one representative who shall not be below the rank of an Assistant
16 Director from each of the following-

17 (a) Federal Ministry responsible for-

18 (i) Health,

19 (ii) industry trade and investment,

20 (iii) Science and Technology,

21 (iv) Environment,

22 (v) Finance, and

23 (vi) Justice;

24 (b) Federal Department of Agriculture;

25 (c) Federal Department of Livestock;

26 (d) Federal Department of Fisheries;

27 (e) Nigeria Agricultural Quarantine Services;

28 (f) Agricultural Research Council of Nigeria;

29 (g) National Planning Commission;

30 (h) National Agency for Food and Drug Administration and Control;

- 1 (i) Institute of Public Analysts of Nigeria;
2 (j) Standards Organisation of Nigeria;
3 (k) Consumers Protection Council;
4 (l) Nigeria Export Promotion Council;
5 (m) Federal Produce Inspection Services;
6 (n) Commodities Association of Nigeria;
7 (o) National Biotechnology Development Agency;
8 (p) National Environmental Standards and Regulations
9 Enforcement Agency;
10 (q) Environmental Health Officers Registration Council of
11 Nigeria;
12 (r) Mycotoxicology Society of Nigeria;
13 (s) Nigerian Institute of Food Science and Technology;
14 (t) Association of Food Beverage & Tobacco Employers;
15 (u) National Association of Small Scale Industrialist;
16 (v) National Association of Chambers of Commerce, Industry
17 Mines and Agriculture;
18 (w) Nutrition Society of Nigeria;
19 (x) Raw Materials Research and Development Council;
20 (y) National Biosafety Management Agency;
21 (z) Veterinary Council of Nigeria;
22 (aa) Nigerian Institute of Animal Sciences; and
23 (bb) representative of the government of each of the States of the
24 Federation and the Federal Capital Territory, Abuja.
- 25 (2) Members of the Committee and a single substitute for each
26 shall be nominated in writing by the body which they are to represent and
27 shall be appointed for a term of four years by the Council, which may be
28 renewed for another term of four years and no more.
- 29 (3) The Chairperson and Co-Chairperson of the Committee shall
30 be appointed by the Council from the members of the Committee, subject to

1 the conditions that the individuals appointed shall-

2 (a) come from the public and private sector alternately; and

3 (b) possess a track record of administrative and leadership qualities
4 not below the level of a Director in the public service or its equivalent in the
5 private sector.

6 (4) The tenure of the Chairperson and co-Chairperson shall be for a
7 period of two years and may be renewed for another two years and no more.

8 (5) The Authority of the Federal Government specified in the
9 Schedule to this Act shall provide the Secretariat to the Committee.

Meetings of the
Committee

10 37.-(1) The Committee shall meet quarterly or as often as is expedient
11 to perform its functions.

12 (2) The meetings of the Committee shall be presided over by the
13 Chairperson, co-Chairperson or a member of the Committee in their absence
14 appointed by the National Food Safety Council.

15 (3) The rules of business of the Committee shall be adopted in its first
16 meeting by a majority vote of members present, and shall be subject to the
17 approval of the Council.

18 (4) In determining its recommendations and decisions, the
19 Committee shall apply the principles set out in Part II of this Act.

20 (5) All recommendations, determinations and decisions of the
21 Committee shall be reduced in writing, shall be signed by the Chairperson and
22 co-Chairperson, and shall be made public.

23 (6) Dissenting opinions shall be recorded, along with a rationale.

24 (7) In the discharge of their responsibilities in law, the relevant
25 competent authorities specified in Schedule to this Act shall be obliged to take
26 account of the recommendations and decisions of the Committee.

27 (8) The Committee may establish additional sub-committees for the
28 purpose of more efficiently discharging its functions, and may appoint
29 members to those sub-committees.

1 38.-(1) A sub-committee on science shall be appointed and be
2 responsible for developing and proposing the scientific opinions of the
3 Committee, including the assessment of food and feed safety risks, and
4 requesting information and research directed at providing information for
5 the assessment of food and feed safety risks.

Scientific sub-
committee of the
Committee

6 (2) The sub-committee on science shall be composed of six
7 independent experts in the field of science with relevant qualifications and
8 experience of food and feed safety hazard and their risks, whose term of
9 appointment will be for three year period which shall be renewable for
10 another term and no more.

11 (3) The sub-committee on science shall adopt its working
12 procedures in relation to the preparation of scientific opinion on matters of
13 food and feed safety.

14 (4) These procedures referred to in subsection (3) of this section
15 shall be approved by the Committee and shall relate in particular to the-

16 (a) manner in which tasks and requests for scientific opinions are
17 assigned to the sub-committee on science;

18 (b) organisation of the work of the sub-committee on science;

19 (c) possibility of co-opting additional members to the sub-
20 committee on science, on an adhoc basis as required to meet the needs for
21 specialised scientific advice.

22 (5) The members of the sub-committee on science shall be
23 appointed on merit by the Committee, following a call for expressions from
24 candidates published in the national media and relevant scientific journals.

25 39.-(1) The sub-committee on science shall issue a scientific
26 opinion-

Scientific opinions

27 (a) at the request of the Committee, in respect of any matter within
28 its mission, and in all cases where legislation makes provision for the sub-
29 committee on science to be consulted; or

30 (b) on its own initiative, on matters falling within its mission.

1 (2) Requests referred to in subsection 1 (a) of this section shall be
2 accompanied by background information explaining the scientific issue to be
3 addressed.

4 (3) The sub-committee on science shall issue scientific opinions
5 within the time limit specified in the requests for opinions, except in duly
6 justified circumstances.

7 (4) The sub-committee on science shall provide an opinion by a
8 majority of their members.

9 (5) The sub-committee on science shall exercise vigilance in order to
10 identify at an early stage any potential source of divergence between its
11 scientific opinions and the scientific opinions issued by other bodies carrying
12 out similar tasks whether in Nigeria or elsewhere.

13 (6) Where the sub-committee on science identifies a potential source
14 of divergence of opinion with other bodies, it shall contact the body in question
15 to ensure that all relevant scientific information is shared and in order to
16 identify potentially contentious scientific issues.

17 (7) Where members of the sub-committee on science cannot agree
18 unanimously on the scientific advice to be offered, a minority opinion may be
19 recorded.

Fees and expenses

20 **40.-(1)** Members of the Committee and its sub-committees shall be
21 reimbursed by the nominated governing authority responsible for its
22 secretariat for their justifiable expenses in undertaking their responsibilities on
23 behalf of the Committee, but will not otherwise receive any payment for their
24 services, except as provided in subsection (2) of this section.

25 (2) Members of the Committee on science will in addition receive a
26 fee for their services from the governing authority responsible for the
27 secretariat of the Committee.

28 (3) Amounts of expenses and fees paid to named individuals
29 participating in the Committee and its sub-committees will be published and
30 stated in the annual accounts of the relevant governing authority.

1 PART XI - POWERS AND RESPONSIBILITIES OF
2 COMPETENT AUTHORITIES

3 41.-(1) The relevant Competent Authority may authorise any
4 appropriately qualified public officer to act as an authorised officer for the
5 purposes of implementing the responsibility of the relevant competent
6 authority under this Act.

Authorised
officers

7 (2) The Minister shall by Regulations, establish the qualifications
8 considered to be appropriate for authorised officers responsible for
9 implementation of relevant provisions of this Act.

10 (3) The powers of the authorised officer shall be limited to the
11 jurisdiction of the relevant competent authority by which he is authorised.

12 (4) The relevant competent authority shall issue a certificate of
13 authority to every person authorised to act as an authorised officer.

14 (5) A list of the authorised officers nominated under this Section
15 along with their qualifications shall be included in the annual control plans
16 prepared by the competent authority pursuant to section 25 of this Act.

17 42.-(1) An authorised officer may-

Powers of
authorised officers

18 (a) at any reasonable hour or whenever work is in progress in any
19 establishment in which food or feed is believed to be stored, processed or
20 packaged, enter and search that establishment for the purposes of
21 determining the existence, nature and extent of any trade or business in food
22 or feed, except that entry to a dwelling place may only be demanded
23 following twenty four hours' notice;

24 (b) examine any food or feed product in any establishment to which
25 he believes this Act applies, take samples thereof and examine anything
26 which he believes is used or capable of being used for the preparation of any
27 food or feed;

28 (c) stop search or detain any vehicle in which he believes that any
29 food or feed to which this Act applies is conveyed, examine the food or feed
30 and take samples thereof;

1 (d) open and examine any receptacle or package which he believes
2 contains any food or feed to which this Act applies, examine the article and take
3 samples thereof;

4 (e) call for any books, documents or other records in any medium
5 which he believes contain any information relevant to the enforcement of this
6 Act with respect to any food or feed, make copies thereof and take extracts
7 therefrom;

8 (f) subject to written notice detain for such time as may be specified or
9 seize any food or feed by means of, or in relation to which, he believes this Act,
10 or the conditions of a licence issued under this Act, have been contravened;

11 (g) exercise any other functions assigned to him by the relevant
12 competent authority.

13 (2) Any person who prevents an authorised officer from exercising his
14 powers under subsection (1) of this section shall be considered to have
15 obstructed the officer.

16 (3) An authorised officer shall, in the exercise of his powers under
17 subsection (1) of this section, where required by any person affected, produce
18 his certificate of authority issued to him under section 41 (4) of this Act.

19 (4) An authorised officer shall release any food or feed detained or
20 seized by him under Subsection 1 (f) of this section where he is satisfied that the
21 provisions of this Act in relation to the food have been complied with.

22 (5) Where an authorised officer has detained or seized any food or
23 feed under this Act and the destruction or disposal, the food or feed shall be
24 destroyed or otherwise disposed of in a safe and permanent manner, as the
25 authorised officer may direct.

26 (6) Where an authorised officer is unable to obtain the consent
27 required under subsection (5) of this section for the destruction or disposal of
28 the food or feed which he has detained or seized, he may after the issue of
29 written notice to the owner or the person in whose possession the food or feed
30 was at the time of detention or seizure, apply to a Magistrate Court for an order

1 to destroy the food or feed.

2 (7) Where it appears to the Magistrates Court, on the basis of such
3 evidence as he considers appropriate in the circumstances, that any food
4 falling to be dealt with by him under this section fails to comply with food
5 safety requirements, he shall condemn the food and order the food to be
6 destroyed or to be so disposed of as to prevent it from being used for human
7 consumption.

8 (8) Where food or feed is seized and subsequently destroyed or
9 disposed of pursuant to subsections (5) or (6) of this section, the competent
10 authority shall be entitled to recover the costs of destruction or disposal from
11 the food or feed business operator less any residual value of the food or feed
12 material concerned.

13 (9) The owner or occupier or person in charge of any establishment
14 entered into by an authorised officer pursuant to subsection (1) or any
15 employee found therein or any person who when requested to give
16 information or any assistance to an authorised officer-

17 (a) fails to give the information or assistance reasonably requested;

18 (b) knowingly makes any statement which he knows or believes to
19 be false or does not believe to be true, shall be considered to have obstructed
20 the authorised officer.

21 (10) No authorised officer shall be liable to suit or to prosecution in
22 respect of anything done in good faith in the performance of his or her
23 functions under this Act.

24 43.-(1) No information relating to any individual business which is
25 obtained by the relevant Competent Authority or by the National Food
26 Safety Management Committee or its sub-committees in the course of
27 fulfilment of their obligations under this Act shall be disclosed without the
28 previous consent in writing of the person carrying on the business, except-

29 (a) where required to prevent a risk to health, so far as may be
30 necessary for the purposes of this Act; or

1 (b) for the purposes of any proceedings for an offence against the
2 order or any report of those proceedings, and any person who discloses any
3 such information in contravention of this sub-section shall be guilty of an
4 offence.

Conflicts of
interest

5 44.-(1) Any persons who is-

6 (a) an authorized officer or a member of a relevant Competent
7 Authority; or

8 (b) an employee or a member of a governing authority nominated
9 under the Schedule to this Act, who becomes aware of a conflict between his
10 personal and professional interests in matters subject to this Act shall declare
11 that interest in writing to the Chairman or Senior Executive Officer of the
12 Competent Authority or governing authority concerned, and shall conduct his
13 professional duties so as to reduce or eliminate such conflict.

14 (2) In the case of a conflict of interest involving the Chairman or
15 Senior Executive Officer of the Competent Authority or governing authority,
16 the declaration shall be made to the Minister.

17 PART XII - ACTIONS IN RESPECT OF CONTRAVENTIONS

Improvement
notice

18 45.-(1) Where a relevant competent authority has reason to believe
19 that any food business operator has failed to comply with any provisions of this
20 Act, or Regulations made pursuant to it, it may serve an improvement notice
21 upon the food or feed business operator.

22 (2) An improvement notice served under subsection (1) of this section
23 shall state the-

24 (a) grounds for believing that the food or feed business operator has
25 failed to comply with any provisions of this Act or Regulations made pursuant
26 to it;

27 (b) matters which constitute the food or feed business operator's
28 failure so to comply;

29 (c) measures which the food or feed business operator should take in
30 order to secure compliance with the relevant provisions of the law; and

1 (d) date by which time such measures should have been
2 implemented,

3 46.-(1) Where a food or feed business operator is convicted of an Prohibition orders
4 offence under this Act and the Court is satisfied that a continuing health risk
5 exists with respect to the food or feed business the Court may in addition or
6 as an alternative to any penalty imposed, and on the application of the
7 relevant Competent Authority, issue an order which prohibits the food or
8 feed business operator from-

9 (a) using any specified process, treatment, premises or equipment
10 for purposes of the food or feed business; or

11 (b) conducting or operating any food or feed business.

12 (2) A prohibition order issued under subsection (1) of this section
13 may be issued with or without specifying the period of prohibition

14 47.-(1) Where a relevant Competent Authority has reason to Emergency
15 believe that a serious risk to human health exists with respect to any food or prohibition orders
16 feed business which cannot be resolved with recourse to other powers under
17 this Act, it may, by notice served on the food or feed business operator
18 prohibit the food or feed business operator from using any specified process,
19 treatment, premises or equipment for purposes of the food or feed business.

20 (2) An emergency prohibition order served under subsection (1) of
21 this section shall state the-

22 (a) grounds for believing that the food or feed business operator
23 presents a serious risk to health;

24 (b) activities subject to the prohibition;

25 (c) measures which the food or feed business operator should take
26 in order to remove the serious risk to health; and

27 (d) period of the prohibition.

28 (3) An emergency prohibition order served under subsection (1) of
29 this section shall not be issued with a period greater than one month.

30 (4) the relevant competent shall affix a copy of the Emergency

1 Prohibition Order on the exterior of any premises to which it applies, on or
2 adjacent to the main entrance, and may use reasonable force to ensure that the
3 order is complied with, including sealing the premises.

Food or feed
recall orders

4 **48.-(1)** Where the relevant Competent Authority has reason to believe
5 that food or feed which presents a serious risk to health has been consigned by a
6 food or feed business operator to other food or feed business operators or
7 consumers it may by notice order the food or feed business operator to recall
8 the food or feed from distribution.

9 (2) A food or feed recall order issued under subsection (1) of this
10 section shall-

11 (a) identify the food or feed consigned;

12 (b) state grounds for believing that the food or feed presents a serious
13 risk to health;

14 (c) state the treatment which should be applied to the food or feed
15 subject to recall; and

16 (d) state the information which must be provided to the competent
17 authority in relation to the implementation of the order.

Serious risk to
health

18 **49.** In considering whether a serious risk to health exists in relation to
19 any business with regard to justifying the issue of an emergency prohibition
20 order or a food or feed recall order under this Part of this Act, the relevant
21 competent authority shall take into account the level of risk, the severity of the
22 food safety hazard concerned and the dimensions of the business.

Offences and
penalties

23 **50.-(1)** Any person who contravenes the provisions of this Act or
24 Regulations made pursuant to it or who fails to obey an order issued under this
25 Act within the prescribed time commits an offence and shall be liable on
26 conviction to a fine not exceeding the sum of One Million Naira or to
27 imprisonment for a term not exceeding one year or to both such fine and
28 imprisonment.

29 (2) A person who obstructs an authorized officer in the performance
30 of his duties under this Act or Regulations made pursuant to it commits an

1 offence and shall be liable on conviction to a fine not exceeding the sum of
2 Two Million Naira or to imprisonment for a term not exceeding two years or
3 to both such fine and imprisonment.

4 (3) Where an offence under this Act which has been committed by a
5 body corporate is proved to have been committed with the consent or
6 connivance of, or to be attributable to any neglect on the part of the director,
7 manager, secretary or other similar officer of the body corporate, such
8 officer of the body corporate commits an offence and shall be liable on
9 conviction to a fine not exceeding the sum of Two Million Naira while the
10 body corporate shall be liable on conviction to a fine not exceeding the sum
11 of Twenty Million Naira.

12 51. The Federal High Court, the High Court of States of the
13 Federation and of the Federal Capital Territory and Magistrate Courts
14 throughout the Federation shall have jurisdiction to try offences under this
15 Act.

Jurisdiction

16 52.-(1) In any proceedings for an offence under any of the
17 preceding provisions of this Act it shall be a defence for the person charged
18 to prove that he took all reasonable precautions and exercised all due
19 diligence to avoid the commission of the offence by himself or by a person
20 under his control.

Due diligence
defence

21 (2) A person charged with an offence under this Act, who neither
22 prepared the food or feed in respect of which the offence is alleged to have
23 been committed, nor imported it into Nigeria, shall be taken to have
24 established the defence under subsection (1) of this section where he
25 satisfies the requirement that-

26 (a) the commission of the offence was due to an act or default of
27 another person who was not under his control, or to reliance on information
28 supplied by such a person; and

29 (b) he carried out all such checks of the food or feed in question as
30 were reasonable in all the circumstances, or that it was reasonable in all the

1 circumstances for him to rely on checks carried out by the person who supplied
2 the food or feed to him.

Appeals

3 **53.**-(1) Where the relevant competent authority has taken action
4 under this Act to ensure that an alleged contravention is corrected by a food or
5 feed business operator, the food or feed business operator may appeal to the
6 Magistrate Court on the basis that the-

7 (a) act or omission in question does not contravene the provisions of
8 this Act;

9 (b) measures taken by the relevant competent authority are not
10 proportionate to the contravention;

11 (c) food or feed was not unsafe, in the case of food or feed destroyed or
12 disposed of under section 42(5) of this Act.

13 (2) The onus of proof in the case of appeal is on the food or feed
14 business operator.

15 (3) Appeals lodged under this section on the part of the food or feed
16 business operator shall be made within seven days from the action taken by the
17 competent authority.

18 PART XIII - NOMINATION OF COMPETENT AUTHORITIES

Nomination of
competent
authorities

19 **54.**-(1) In respect of risk analysis, risk communication and risk
20 management relating to the safety of food or feed, the governing authority is set
21 out in the Schedule to this Act.

22 (2) In respect of official controls in relation to the safety of food or
23 feed, the relevant competent authority is set out in the Schedule to this Act.

24 (3) All Federal Departments and Agencies listed as competent
25 authorities in the Schedule to this Act or subsequently nominated by the
26 Council pursuant to section 32 of this Act shall, subject to the provisions of this
27 Act, operate within their statutory mandates,

28 (4) The relevant competent authorities nominated in the Schedule to
29 this Act may delegate some or all of their powers to another public or private
30 body subject to-

1 (a) clear definition of the scope of delegation in terms of the
2 specific powers and functions being delegated, and their spatial and
3 temporal limits;

4 (b) adequate arrangements being in place for the monitoring of the
5 implementation of the delegated responsibilities, including the preparation
6 of annual inspection plans and reports according to section 25 of this Act,
7 which are subject to the approval of the delegating authority; and

8 (c) the conditions set out in paragraphs (a) and (b) of this
9 subsection being specified in written form, and communicated without
10 delay to the Committee,

11 55.-(1) State Governments shall nominate the competent
12 authorities for States and Local Government Areas primarily responsible for
13 managing food or feed safety conditions within their jurisdiction.

14 (2) State Governments shall establish a State Food Safety
15 Management Committee for each State of the Federation as a means of
16 coordinating food and feed safety measures within their jurisdiction, to
17 include representatives of consumers, food and feed business operators and
18 State and all Local Government Authorities in the State.

19 (3) Where it is considered to be justified on the grounds of limiting
20 the regulatory impact on small scale food business operators or due to
21 particular food or feed safety conditions which are characteristic of a State,
22 such a State Government may modify, derogate or exempt the provisions of
23 this Act and Regulations made pursuant to it insofar as they apply to any
24 class of establishment to which the State competent authorities apply
25 official controls as set out in the Schedule to this Act.

26 (4) Where a State Government adopts a derogation, exemption or
27 modification of a food or feed safety measure as provided in subsection (3)
28 of this section, the State competent authority shall-

29 (a) ensure that the products concerned do not enter inter-state trade;
30 and

Implementation
by State and Local
Governments

1 "final consumer" means the ultimate consumer of a foodstuff who will not use
2 the food as part of any food business operation or activity;

3 "food" or "foodstuff" means any substance or product, whether processed,
4 partially processed or unprocessed, intended to be, or reasonably expected to
5 be ingested by humans;

6 "Food" also includes drink, chewing gum and other masticants, and any
7 substance, including water, intentionally incorporated into the food during its
8 manufacture, preparation or treatment. It includes water after the point where
9 in the case of water-

10 (a) supplied from a distribution network, the point, within an
11 establishment, at which it emerges from the taps;

12 (b) supplied from a tanker, at the point at which it emerges from the
13 tanker;

14 (c) put into bottles or containers intended for sale, at the point at which
15 the water is put into the bottles or containers;

16 (d) used in a food-production undertaking, at the point where the
17 water is used in the undertaking.

18 Food shall not include-

19 (a) animal feed;

20 (b) live animals unless they are prepared for placing on the market for
21 human consumption;

22 (c) plants prior to harvesting;

23 (d) medicinal products within the meaning of the Food and Drugs Act,
24 Cap. F32, Laws of the Federation of Nigeria, 2004;

25 (e) tobacco and tobacco products; and

26 (f) narcotic or psychotropic substances within the meaning of the
27 United Nations Single Convention on Narcotic Drugs, 1961, and the United
28 Nations Convention on Psychotropic Substances, 1971;

29 "food business operator" means the natural or legal persons responsible for
30 ensuring that the requirements of this Act are met within the food business

1 under their control;

2 "food business" means any undertaking, whether for profit or not and
3 whether carried out by a public or private sector operator, which undertakes
4 production, processing, storage and distribution of food, whether in the
5 formal or informal sector but excluding activities which are of an
6 exclusively domestic or private nature;

7 "food quality" means the aggregate characteristics of a food that bear on its
8 ability to satisfy the needs of the final consumer but shall not relate to
9 characteristics which affect the health of the final consumer as determined
10 under section 9 of this Act and it may include characteristics relating to the
11 economic interests of the final consumer;

12 "genetically modified organism" means any biological entity capable of
13 reproducing itself or transferring genetic material, except the human
14 species, whose genetic material has been modified in a way which is
15 produced neither naturally in the environment nor by natural recombination;

16 "hazard" means a biological, chemical or physical agent in, or condition of,
17 food or feed with the potential to cause an adverse effect on human health;

18 "label" means any tag, brand, mark, pictorial or other descriptive matter,
19 written, printed, stenciled, marked, embossed or impressed on, or attached
20 to food or a container of food;

21 "labelling" includes any written, printed or graphic matter that is present on
22 the label, accompanies the food, or is displayed near the food, including that
23 for the purpose of promoting its sale or disposal;

24 "Minister" means the Minister charged with responsibility for Health;

25 "novel foods" means foods and food ingredients which have not hitherto
26 been used for human consumption to a significant degree within Nigeria and
27 which fall under the following categories-

28 (a) foods and food ingredients containing or consisting of
29 genetically modified organisms;

30 (b) foods and food ingredients produced from, but not containing,

- 1 genetically modified organisms;
- 2 (c) foods and food ingredients with a new or intentionally modified
3 primary molecular structure;
- 4 (d) foods and food ingredients consisting of or isolated from micro-
5 organisms, fungi or algae;
- 6 (e) foods and food ingredients consisting of or isolated from plants
7 and food ingredients isolated from animals, except for foods and food
8 ingredients obtained by traditional propagating or breeding practices and
9 having a history of safe food use; and
- 10 (f) foods and food ingredients to which has been applied a production
11 process not currently used, where that process gives rise to significant changes
12 in the composition or structure of the foods or food ingredients which affect
13 their nutritional value, metabolism or level of undesirable substances;
- 14 "official control" shall have the meaning assigned under section 20 of this Act;
- 15 "recall" shall mean an action to remove food or feed from the market at any
16 stage of the food chain, including that possessed by consumers;
- 17 "relevant competent authority" means an authority or institution of the Federal
18 or State Governments of Nigeria responsible for official control as defined
19 under section 54 of this Act and the Schedule to this Act;
- 20 "traceability" means the ability to trace and follow a food, feed, food producing
21 animal or animal used for food production, raw material or substance intended
22 to be, or expected to be incorporated into a food or feed, through all stages of
23 production, processing and distribution; and
- 24 "vehicle" includes any method of transport by land, air or water.

Short Title

25 **58.** This Bill may be cited as the Food Safety and Quality Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Food Safety Council and the National Food Safety Management Committee for the official control of Food and Feed Safety, the obligations of food and feed business operators and define the functions and powers of institutions of governments with the objective of ensuring that Food and Feed Safety risks are effectively managed.

SCHEDULE

[Sections 4; 5; 6; 7(1) &(2); 8(1), (2) & (3); 13(1) & (2); 14(1) & (4); 25(4); 26(3) & (4); 33(4); 36(5) 37 (7); 44(1)(b); 54(1), (2), (3) & (4); 57]

NOMINATION AND RESPONSIBILITIES OF COMPETENT AUTHORITIES

Part 1: Governance functions other than official controls

Responsibilities with respect to implementation of the Act	Governing authority	Authority for approving annual plans and reports
Secretariat to the National Food Safety Council under Section 33 of this Act	Federal Ministry of Health	National Food Safety Council
Food and feed safety risk assessment	Scientific sub-Committee of the National Food Safety Management Committee	National Food Safety Management Committee
Food and feed safety risk communication Food and feed safety risk management. Authorisation of laboratories for: i) testing for official controls under Section 27 of this Act; and ii) Reference functions under Section 28 of this Act.	National Food Safety Management Committee	National Food Safety Council
Secretariat to the National Food Safety Management Committee Maintaining a central public register of establishments under Section 13(2) of this Act Maintaining a central public register of licenced establishments under Section 14(4) of this Act	National Agency for Food and Drug Administration and Control	National Food Safety Management Committee

Part II: Official Controls

Function	Relevant Competent Authorities	Authority responsible for approving annual plans and reports
Registration of establishments under Section 13(1) of this Act	1. National Agency for Food and Drug Administration and Control	National Food Safety Management Committee
Licencing of establishments under Section 14(1) of this Act	2. Standards Organisation of Nigeria	
Official controls under Part VII of this Act in relation to:	3. National Environmental Standards and Regulations Enforcement Agency	
a) Import and export conditions and food and feed business operators engaged in import and export;	4. Consumer Protection Council	
b) food and feed business operators other than primary producers, whose products are distributed outside the State in which they are establishment is located;	5. Department of Livestock and Pest Control, Federal Ministry of Agriculture and Rural Development	
c) food business operators engaged in the production of pre-packaged foodstuffs; and	6. National Agricultural Quarantine Service, Federal Ministry of Agriculture and Rural Development	
d) food and feed business operators which operate establishments in more than one State, including retail establishments.	7. Department of Fisheries, Federal Ministry of Agriculture and Rural Development	
	8. Federal Produce Inspection Service, Federal Ministry of Industry Trade and Investment	

<p>Registration of establishments under Section 13(1) in relation to food business operators other than those listed above</p> <p>Licencing of establishments under Section 16(1) in relation to food business operators other than those listed above</p> <p>Official controls in relation to food business operators other than those listed above</p>	<p>Competent Authorities of States nominated in accordance with Section 55</p>	<p>National Food Safety Management Committee</p>
<p>Registration of establishments under Section 13(1) in relation to food business operators other than those listed above</p> <p>Licencing of establishments under Section 14(1) in relation to food business operators other than those listed above</p> <p>Official controls in relation to food business operators other than those listed above</p>	<p>Competent Authorities of Local Governments nominated in accordance with Section 55</p>	<p>State Food Safety Management Committees</p>