

NATIONAL FOOD SAFETY AND QUALITY BILL, 2020

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

Section 4: Risk communication

The governing authority nominated for risk communication under the Schedule to this Act shall ensure the transparent communication of timely, reliable, independent, objective and comprehensible information about food and feed hazards and associated risks to consumers, food or feed business operators and relevant Competent Authorities.

Section 5: Risk management

1. The governing authority nominated for risk management and relevant Competent Authorities nominated under the Schedule to this Act shall ensure that measures which they apply to reduce or eliminate a risk to health from the consumption of food:
 - (a) take into consideration the scientific assessment of the risk as set out pursuant to Section 3 of this Act; and
 - (b) are effective, equitable and proportionate.
2. The governing authority nominated for risk management under the Schedule to this Act shall ensure that the appropriate prevention and control measures are applied at the point in the food supply chain where they can be most effective in reducing or eliminating the risk.

Section 6: Risk assessment

During the assessment of food and feed safety risks, the governing authority nominated under the Schedule to this Act as being responsible for risk assessment shall:

- (a) provide relevant, valid and up to date scientific opinions in relation to food and feed hazards to the Government of Nigeria, the agricultural and food and feed industries and consumers.;
- (b) promote and coordinate the development of uniform risk assessment and official control methodologies in the fields related to safety of food and feed, within Federal, State and Local Governments;
- (c) commission scientific studies necessary for the accomplishment of risk assessment in fields related to safety of food and feed;
- (d) search for, collect, collate, analyse and summarise scientific and technical data in the fields related to safety of food and feed;
- (e) undertake action to identify and characterise emerging risks, in the fields related to safety of food and feed;
- (f) establish a network of scientific organisations operating in the fields related to safety of food and feed; and

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

Section 7: *Precautionary principle*

1. Where there is a possibility of harmful effects on health but scientific uncertainty persists, the governing authority nominated for risk management under the Schedule to this Act may apply provisional risk management measures necessary to eliminate or reduce food and feed safety risks.
2. Measures adopted on the basis of sub-section 1 of this section shall be:
 - (a) proportionate and shall not place additional restriction on internal or external trade other than that required to guarantee protection of health of consumers; and
 - (b) be applied for a limited period pending further scientific investigation for a more comprehensive risk assessment.
3. Where precautionary measures under sub-section 1 of this section are implemented in good faith and in accordance with sub-section 2 of this section, and subsequent removal of scientific uncertainty indicates that they were not required to ensure health protection, the relevant Competent Authority implementing them shall not be held liable for any subsequent losses incurred as a result of the measures.

Section 8: *Transparency*

1. The governing authority nominated for risk management under the Schedule to this Act shall undertake open and transparent public consultation during the preparation, evaluation and revision of risk management measures, except where the urgency of the matter does not allow it for the protection of consumer health.
2. Without prejudice to the applicable provisions of Evidence Act and Freedom of Information Act on access to documents, where there are reasonable grounds to suspect that a food or feed may present a risk for human or animal health, then, depending on the nature, seriousness and extent of that risk, the governing authority for risk communication nominated under the Schedule to this Act shall take appropriate steps to inform the general public of the nature of the risk to health.
3. The governing authority for risk management and relevant Competent Authorities nominated under the Schedule to this Act shall identify to the fullest extent possible the food, or type of food or feed, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

PART 3: GENERAL REQUIREMENTS FOR FOOD AND FEED SAFETY AND QUALITY

Section 9: *Food safety requirements*

1. Food business operators shall not place food on the market if it is unsafe.
2. Food shall be deemed to be unsafe if it is considered to be:

- (a) injurious to health; or
 - (b) unfit for human consumption
3. In determining whether any food is unsafe, regard shall be given to:
 - (a) the normal conditions of use of the food by the final consumer and at each stage of production, processing, storage and distribution, and
 - (b) the information provided to the final consumer, including information on the label, or other information generally available to the final consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.
 4. In determining whether any food is injurious to health, regard shall be had:
 - (a) not only to the probable immediate or short-term and long-term effects of that food on the health of a person consuming it, but also on subsequent generations;
 - (b) to the probable cumulative toxic effects;
 - (c) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers.
 5. In determining whether any food is unfit for human consumption, the relevant Competent Authority shall consider whether the food is unacceptable for human consumption according to its intended use or due to contamination through putrefaction, deterioration, decay or by contact with extraneous matter.
 6. Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment is unsafe.
 7. Food which complies with specific regulations governing food safety shall be deemed to be safe as far as the aspects covered by the specific regulations are concerned.
 8. Compliance of a food with specific provisions applicable to that food shall not prevent the relevant Competent Authority from taking appropriate measures to impose restrictions on it being placed on the market or to require its recall from the market where there are reasons to suspect that, despite such compliance, the food is unsafe.

Section 10: Feed safety requirements

1. Feed shall not be placed on the market or fed to any food-producing animal if it is unsafe.
2. Feed shall be deemed to be unsafe for its intended use if it is considered to:
 - (a) have an adverse effect on human or animal health; or
 - (b) make the food derived from food-producing animals unsafe for human consumption.

3. Where a feed which has been identified as not satisfying the feed safety requirement is part of a batch, lot or consignment of feed of the same class or description, it shall be presumed that all of the feed in that batch, lot or consignment is so affected, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment fails to satisfy the feed safety requirement.
4. Feed which complies with specific regulations governing feed safety shall be deemed to be safe insofar as the aspects covered by the specific regulations are concerned.
5. Compliance of a feed with specific regulations applicable to that feed shall not bar the relevant Competent Authority from taking appropriate measures to impose restrictions on it being placed on the market or to require its recall from the market where there are reasons to suspect that, despite such compliance, the feed is unsafe.

Section 11: Power to make Regulations

1. The Minister on the advice of the National Food Safety Council may by regulation make:
 - (a) provision for requiring, prohibiting or regulating the presence in food or feed of any specified substance, or any substance of any specified class, including additives, contaminants and residues, including residues of pesticides and veterinary medicines, and generally for regulating the composition of food or feed;
 - (b) provision for ensuring that food is fit for human consumption and meets such microbiological or other standards as may be specified by or under the regulations;
 - (c) provision for requiring, prohibiting or regulating the use of any process or treatment in the preparation or packaging of food or feed;
 - (d) provision for securing the observance of hygienic conditions and practices with respect to food or feed business and for the training of operatives;
 - (e) provision for imposing requirements or prohibitions as to the labelling, marking, presenting or advertising of food, the descriptions which may be applied to food, and the language used;
 - (f) provision for securing the observance of hygienic conditions and practices with respect to equipment, packaging or contact materials which are intended to come into contact with food intended for human consumption;
 - (g) provision for the application of internal systems applied by food or feed business operators for ensuring the safety of food or feed placed on the market by them;
 - (h) provision for ensuring that the safety measures applied to exported food and feed are equivalent to those applied to food and feed which is imported into or produced within Nigeria;
 - (i) Provision for regulating the treatment and disposal of any food –
 - i. which is unfit for human consumption; or
 - ii. which fails to comply with the regulations; or

- iii. which, although not unsafe for human consumption, is prohibited from being sold for such consumption on the basis of religious, ethical or aesthetic reasons;
 - (j) such other provision with respect to food and feed as may be scientifically determined to be necessary for the purpose of ensuring that such food and feed complies with food safety requirements or in the interests of the public health;
 - (k) provision for regulating the placing on the market of novel foods, or for defining procedures for approval prior to placing on the market of any such foods;
 - (l) provision for the application of traceability systems;
 - (m) provisions concerning the labelling and advertising of food, including:
 - i. requiring certain information regarding food to be declared on the label where the food is pre-packaged or by another means in the case of other food
 - ii. requiring certain information regarding other foods to be declared in any other manner
 - iii. prohibiting specific claims or types of claim regarding food
 - iv. establishing common meanings of the name under which food is placed on the market;
 - (n) implementation of official controls to ensure compliance with the provisions of this Act;
 - (o) provision for setting conditions and procedures to be followed in registration and licencing and the application of notices and other actions to be taken when provisions of the Act are contravened, including appeals; and
 - (p) any other matter deemed necessary for the implementation of this Act.
2. Regulations made under this section may refer in full or in part to a Nigerian Standard adopted under the Standards Organisation of Nigeria Act.

Section 12: Food Quality Requirements

1. Food business operators shall ensure that food placed on the market is of the nature, substance and quality expected by the purchaser.
2. The Minister in consultation with the National Food Safety Council may make regulation regarding the quality of food:
 - (a) to prevent:
 - i. fraudulent or deceptive practices;
 - ii. the adulteration of food; and
 - iii. any other practices which may mislead the final consumer.
 - (b) to otherwise protect the economic interests of consumers;
 - (c) to allow consumers to make informed choices in relation to the foods they consume; and

- (d) without prejudice to the economic interests of the final consumer, in the interests of introducing order to the marketing of food.
- 3. Regulations introduced under sub section 2 of this section may establish detailed requirements relating to the:
 - (a) Classification, grading and denomination of food;
 - (b) Organoleptic properties and composition of food;
 - (c) Types and quantities of raw materials, additives and other materials used in the primary production and processing of food;
 - (d) Nature of the technological procedures which are applied in primary production and processing
 - (e) Origin of the food or ingredients used in food; and
 - (f) Any additional data or specific indications which should be specified in product declarations or labels.

PART 4: REGISTRATION AND LICENSING OF ESTABLISHMENTS

Section 13: Registration of Establishments

1. No person may operate a food or feed business unless he registers the establishment from which he operates with the relevant Competent Authority nominated under the Schedule of the Act.
2. The governing authority nominated under the Schedule of the Act shall maintain a central public register of registered establishments.
3. Where a food business operator does not operate from a fixed establishment he shall be required to register his operation with the relevant Competent Authority.
4. The information to be provided as a condition for registration under sub-sections 1 and 3 of this section shall be as determined by Regulations made by the Minister in consultation with the National Food Safety Council.
5. No food or feed business operator shall be required to register a particular establishment or operation with more than one relevant Competent Authority.
6. The food or feed business operator shall communicate any material changes to the information provided at registration to the Competent Authority, including transfer, cessation or suspension of business.
7. An establishment registered under this section which is not used as an establishment for the carrying out of a food or feed business for more than six months shall be de-registered by the relevant Competent Authority.

Section 14: Licensing of Establishments

1. Subject to sub-section (2) of this section, the Minister in consultation with the National Food Safety Council, may by regulations make provision for the issue of licences by the relevant Competent Authority nominated under the Schedule of this Act in respect of the use of an establishment for the purposes of a food or feed business, and for prohibiting the use for those purposes of any establishment except in accordance with a licence issued under the regulations.
2. The Minister shall exercise the power conferred by sub-section (1) of this section above only where it appears to be necessary or expedient to do so –
 - (a) for the purpose of ensuring that food and feed complies with safety requirements or in the interests of public health; or
 - (b) for the purpose of protecting or promoting the interests of consumers.
3. A licence granted by a relevant Competent Authority in accordance with sub-section 1 of this section in respect of an establishment shall authorise that establishment to store, process, package or place food or feed on the market for a defined period and for such products and processes as may be specified in the licence.
4. The governing authority nominated under the Schedule to this Act shall maintain a central public register of licenced establishments and their authorisations pursuant to sub-section 3 of this section.

Section 15: Licence conditions, suspension and cancellation

1. Where an establishment requires a licence under this Act, it shall be subject to any general operating and management conditions which may be prescribed by the relevant Competent Authority:
2. The conditions referred to in sub-section 1 of this section shall relate to:
 - (a) the design, layout and construction of any premises;
 - (b) the design and construction of any equipment used;
 - (c) the conduct of any person entering area in which food or feed is handled;
 - (d) the design and application of internal systems for ensuring the safety of food or feed placed on the market; and
 - (e) the handling of gaseous, liquid and solid wastes and other environmental requirements.
3. In specifying any conditions applied to the award of a licence, the Competent Authority may make reference to existing codes of practice or standards.
4. Where it is considered to be expedient for ensuring the safety of food or feed, the conditions of any licence granted in accordance with Section 14 of this Act may be varied at any time without notice by the written order of the relevant Competent Authority.
5. Any licence granted in accordance with Section 14 of this Act may be altered, suspended or revoked at any time and without notice by the written order of the relevant Competent authority:

- (a) where an establishment has been used in contravention of this Act or any regulations made pursuant to it or in contravention of any of the conditions of the licence; or
 - (b) where such action is deemed necessary or expedient for the purpose of protecting public health.
6. Where a Competent authority alters, suspends or revokes a licence issued under Section 14 of this Act it shall inform the National Food Safety Management Committee within seven working days.

Section 16: Fees for Registration and Licencing

1. Registration under Section 13 of this Act shall be free.
2. An appropriate fee shall be payable to the relevant Competent authority in respect of each application for a licence under Section 14 of this Act and each subsequent application for renewal of a licence granted under this Act.
3. The schedule of fees for different kinds of food business operation shall be determined by regulation made pursuant to this Act and shall reflect the cost of official control, including sampling and testing.
4. Fees received by the relevant competent authority under this Section shall be paid into the Consolidated Revenue of the Federation, or the State Government, as appropriate.

PART 5: RESPONSIBILITIES OF FOOD AND FEED BUSINESS OPERATORS

Section 17: Responsibilities with respect to unsafe Food and Feed

1. Where a food or feed business operator considers or has reason to believe that a food or feed in his possession or which he has sold or consigned to another person is unsafe, he shall immediately initiate procedures to prevent the consumption of the product through recall or communication.
2. Where the food or feed has left the immediate control of that initial food or feed business operator, he shall take all reasonable steps to recall the food or feed in question from the market and inform the relevant competent authority thereof.
3. Where there is a presumption that the product has reached the final consumer, the food or feed business operator shall effectively and accurately inform the final consumers of the reason for its recall and where other measures are not sufficient to protect the health of consumers, recall any products already supplied to them.
4. A food business operator responsible for retail or distribution activities which do not affect the packaging, labelling, safety or integrity of the food shall, within the limits of his respective activities, initiate procedures to recall from the market products not in compliance with the food-safety requirements.
5. Food business operators responsible for retail or distribution activities shall communicate to the relevant Competent Authority relevant information necessary to trace a food and

shall cooperate with any action to recall a product from the market taken by producers, processors, manufacturers and for safety of food.

6. A food or feed business operator shall immediately inform the relevant Competent Authority if he considers or has reason to believe that a food which it has placed on the market may be injurious to human health.
7. Food or feed business operators shall inform the relevant Competent Authority of any actions taken to prevent risks to the final consumer from food which is unsafe, and shall not prevent or discourage any person from cooperating with the relevant Competent Authority where this may prevent, reduce or eliminate a risk arising from a food.

Section 18: Requirement for Traceability of Food and Feed

1. Food and feed business operators shall establish measures for tracing of food-producing animals, food or feed and any other substance intended to be, or expected to be, incorporated into a food at all stages of production, processing and distribution, including packaging materials.
2. Food or feed business operators shall put in place systems and procedures to identify any business operator:
 - (a) from whom they have received a food-producing animal, food or feed or any substance intended to be, or expected to be, incorporated into a food or feed; and
 - (b) to whom their products have been supplied.
3. Food or feed business operators shall ensure that the information set out in sub-section (2) of this section is recorded and made available to the relevant Competent Authority on demand.
4. Food or feed which is placed on the market or is likely to be placed on the market shall be labelled or otherwise identified through relevant documentation or other information to ensure its traceability.

PART 6: DECLARATIONS AND LABELLING

Section 19: False and misleading descriptions

1. The labelling of food shall not mislead the purchaser to a material degree, particularly with regard to:
 - (a) the characteristics of the foodstuff and, in particular, as to its nature, identity, properties, composition, quantity, durability, origin or provenance, method of manufacture or production;
 - (b) attributing to the foodstuff effects or properties which it does not possess; or
 - (c) suggesting that the foodstuff possesses special characteristics when in fact all similar foodstuffs possess such characteristics.

2. Subject to specific regulations as may be introduced regarding foodstuffs for particular nutritional uses, the labelling of food shall not attribute to any foodstuff the property of preventing, treating or curing a human disease, or refer to such properties.
3. The labelling of food shall not be in a language other than English unless accompanied by a statement in English of information required by this Act or regulations made pursuant to it.
4. The prohibitions or restrictions referred to in this section shall also apply to:
 - (a) the presentation of foodstuffs, in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed; and to
 - (b) advertising.

PART 7: OFFICIAL CONTROL OF SAFETY OF FOOD AND FEED

Section 20: Official control of safety of food and feed

1. Official control of safety of food and feed shall, subject to any subsequent actions under Part 13 of this Act, be comprised of one or more of the following operations:
 - (a) inspection;
 - (b) sampling and analysis;
 - (c) medical examination and inspection of staff health and hygiene;
 - (d) examination of written and documentary material;
 - (e) examination of the records described in Section 22 (2) of this Act; and
 - (f) investigation of compliance with the requirements of this Act and regulations made pursuant to it, including in consideration of the issue of a licence under Section 16 of this Act.
2. The relevant Competent Authorities nominated under the Schedule to this Act shall be respectively responsible for the implementation of official controls under this Section.
3. The relevant Competent Authority shall conduct official controls according to written procedures, and shall inform the food or feed business operator in writing of the results of any official controls conducted.

Section 21: General principles of inspection

1. The relevant Competent Authority shall carry out inspections for official control of safety of food and feed:
 - (a) regularly and according to priorities determined by risk assessment; and
 - (b) where non-compliance is suspected.

2. Inspections shall be carried out using means appropriate to the objective of the inspection.
3. Inspection may cover all stages of production, processing, storage, transport, distribution, retail trade, including import and export.
4. Where practicable, inspections may be carried out without prior notice.
5. A business operator shall be subject to official controls under this Act from only one of the Competent Authorities listed in the Schedule to this Act.
6. Where a business operator is subject to controls for food or feed safety by more than one Authority he may inform the National or State Food Safety Management Committee who shall nominate a single Competent Authority.

Section 22: Content of Inspection

1. Inspections for official control of safety of food and feed shall include an investigation by an authorized officer into:
 - (a) the state and use which is made of the site, establishment, offices, plant surroundings, means of transport, machinery and equipment of food and feed business operators, particularly in relation to licence conditions specified under Section 15 of this Act;
 - (b) raw materials, ingredients, technological aids and other products used for the preparation and production of food and feed;
 - (c) semi-finished food and feed;
 - (d) finished food and feed products;
 - (e) materials and articles intended to come into contact with food and feed;
 - (f) cleaning and maintenance products and processes and pesticides used by food and feed business operators in the course of their business;
 - (g) processes used for the manufacture or processing of food and feed;
 - (h) labelling and presentation of food;
 - (i) preservation methods.
2. The operations enumerated in sub-section (1) of this section may, where necessary, be supplemented by:
 - (a) interviews with the food or feed business operator and with persons in the food or feed business;
 - (b) the reading of values recorded by measuring instruments installed by the undertaking;

- (c) measurements carried out by the relevant Competent Authority, with its own instruments, or with instruments installed by the undertaking; or
- (d) information contained in written and documentary material held by food or feed business operators.

Section 23: Health and hygiene inspection of persons in contact with food

1. Persons who handle food, or materials which come into contact with food shall be subject to a hygiene inspection.
2. The inspection referred to in sub-section 1 of this section shall establish whether such persons comply with regulations concerning periodic medical examinations, technical qualification, health status, personal cleanliness and clothing.

Section 24: Sampling for laboratory analysis

1. The Competent Authority may take samples of food and feed and other substances and materials used in the production, processing, packaging and placing on the market of food and feed for analysis to provide information for the purposes of assessing whether food and feed is in compliance with the requirements of this Act.
3. Samples collected for the purpose of official control shall be selected and transmitted to the official laboratory by an authorised officer of the relevant Competent Authority or a body to which responsibilities have been delegated. The costs of the analyses for official controls are borne by the relevant Competent Authority.
4. The costs of the analyses for other purposes, including certification for import or export, shall be borne by the food or feed business operator.

Section 25: Annual food safety control plan and report

1. The relevant Competent Authority shall prepare an annual food safety control plan, specifying the:
 - (a) number and type of controls to be carried out; and
 - (b) criteria applied in drawing up the programme.
2. The relevant Competent Authority shall prepare an annual report on official control activities conducted in relation to food and feed safety, specifying the:
 - (a) number and type of control activities carried out in relation to the programme;
 - (b) number and type of infringements identified; and
 - (c) actions taken in the case of non-compliance.
3. Where the relevant Competent Authority delegates responsibilities to other bodies in accordance of this Act, the annual plans and report shall specify the information set out in sub-sections 1 and 2 of this section in relation to each body to which responsibilities are delegated.

4. The annual plans and annual reports of the relevant Competent Authority shall be subject to the comment and approval of the governing authority nominated in the Schedule to this Act.
5. The relevant Competent Authority shall make the annual plans and annual reports approved under this Section available in a publicly accessible format.

Section 26: Imported and exported food and feed

1. Food and feed imported into Nigeria for placing on the market shall comply with the relevant requirements of this Act.
2. Unless otherwise there is a specific informed consent provided by the authorities of the importing country, food and feed exported or re-exported from Nigeria for placing on the market of another country shall not be unsafe and shall comply with the relevant requirements of such importing country.
3. Food and feed imported into Nigeria, or exported or re-exported from Nigeria shall be subject to an official control and certification of compliance with this Act and provisions made pursuant to it issued by a relevant Federal Competent Authority listed in the Schedule of this Act.
4. A business operator required to be subject to official controls and certification under this section shall be subject to such official controls and certification from only one of the Competent Authorities listed in the Schedule of this Act.

PART 8: OFFICIAL TESTING AND REFERENCE

LABORATORIES

Section 27: Nomination of official testing laboratories

1. The National Food Safety Management Committee shall authorise laboratories to undertake testing of samples collected for analysis under Section 22 of this Act for the purpose of official control of food and feed safety.
2. Official testing laboratories authorised under sub-section 1 of this section may be either private or public sector bodies.
3. The official testing laboratories authorised under sub-section 1 of this section for the purposes of analysis in support of official control shall comply with the General Requirements for the Competence of Calibration and Testing Laboratories laid down in ISO Standard 17025 and will participate in appropriate proficiency testing schemes.
4. Subject to an application by the Competent Authority, the requirements set out in sub-section 3 of this section may be derogated by the specific approval of the National Food Safety Management Committee, providing that the scope of the derogation is defined and that the application is accompanied by a written commitment to meet the requirement within a time acceptable to the Committee.

5. The National Food Safety Management Committee shall maintain and publish a list of the official testing laboratories authorized for different types of analysis in connection with official control by different Competent Authorities.
6. This list of official testing laboratories shall be published annually in the Official Gazette of the Government of the Federal Republic of Nigeria.
7. The relevant Competent Authorities shall name in the control plans required under Section 25 of this Act the authorised laboratory selected to undertake testing for official controls.
8. The authorisation and nomination of testing laboratories referred to in this Section may relate to individual tests or groups of tests.

Section 28: Nomination of reference laboratories

1. The National Food Safety Management Committee may nominate one laboratory as a reference laboratory for each test required for the purposes of official control.
2. Reference laboratories nominated under this Section shall be responsible for the following duties:
 - (a) advising the relevant competent authorities and the National Food Safety Management Committee on the nomination of official laboratories whose task it is to conduct analyses for the purpose of official control;
 - (b) co-ordinating and supporting, including the offering of training and other services, the activities of official laboratories in respect of the technical standards and methodologies of the testing services which they undertake;
 - (c) organising and participating in comparative tests of standardised samples, on a national and international basis, with a view to monitoring the proficiency of official laboratories;
 - (d) ensuring that all official laboratories maintain internal systems of quality assurance including method validation, record keeping, reagent storage, safety, and routine calibration of equipment;
 - (e) development and promulgation of new testing methods and new application of existing methods;
 - (f) disseminating information from the reference laboratories to the relevant competent authorities and other laboratories carrying out the testing of food and feed, whether or not for the purposes of official control; and
 - (g) arbitration in situations where test results of official testing laboratories are disputed.
3. The costs of the services delivered by reference laboratories under the terms of this Section shall be compensated by the governing authority nominated in the Schedule of this Act.

PART 9: EMERGENCIES AND CRISIS MANAGEMENT

Section 29: Emergency measures for ensuring safety of food and feed

Where the governing authority nominated for risk management has reason to believe that food or feed or any class of food or feed constitutes a serious risk to human health and that such risk cannot be contained satisfactorily by means of measures taken under the existing provisions of this Act, such governing authority may immediately adopt one or more of the following measures, depending on the gravity of the situation:

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

- i. suspension of the placing on the national or international market or use of the food and feed in question;
- ii. laying down special conditions for the food and feed in question; or
- iii. any other appropriate interim measure;

(b) in the case of imported food and feed:

- i. suspension of imports of the food and feed in question from all or part of country concerned and, where applicable, from the country of transit;
- ii. laying down special conditions for the food and feed in question from all or part of the country concerned;
- iii. any other appropriate interim measure.

Section 30: General plan for crisis management

1. The National Food Safety Management Committee shall adopt in cooperation with relevant Competent Authorities and Ministries, a general plan for crisis management in the field of the safety of food and feed to be applied where it is evident that food or feed presents a serious risk to human health and that such risk cannot be contained satisfactorily by means of measures taken under the existing provisions of this Act.
2. The crisis management plan shall specify the conditions under which a crisis may be declared and by whom, the responsibilities of different Competent Authorities and Ministries and the practical procedures necessary to manage a crisis, including the organization and staffing of a crisis unit, the principles of transparency to be applied and a communication strategy.
3. The National Food Safety Management Committee shall coordinate a system of notifications and alerts regarding food and feed safety incidents, with a view to reducing impact of possible and imminent emergencies and guiding future preventive measures.

PART 10: ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF THE NATIONAL FOOD SAFETY COUNCIL AND THE NATIONAL FOOD SAFETY MANAGEMENT COMMITTEE

Section 31: Establishment of the National Food Safety Council

1. There is established National Food Safety Council (herein after in this Act referred to as the “Council”).

Section 32: Functions of the National Food Safety Council shall be to:

1. The functions of the Council shall be to:
 - (a) consider and approve recommendations on food safety and quality matters from the National Food Safety Management Committee;
 - (b) ensure the provision of sustainable financial support for the Food Safety Management Committee and its programmes;
 - (c) authorise the processes for collaboration, coordination and partnership between stakeholders that will assure food safety, address public health and barriers to trade;
 - (d) decide on the specific allocation of mandates between relevant Competent Authorities of Federal Government under the Schedule of this Act;
 - (e) provide financial and technical support to accomplish an effective food safety management system;
 - (f) give other directives as may be necessary to advance effective Food Safety System in Nigeria;
 - (g) appoint a chair and a co-chair for the National Food Safety Management Committee; and
 - (h) conduct a regular monitoring and evaluation of the implementation of the National Food Safety System.

Section 33: Composition of the National Food Safety Council

1. The Council shall comprise of:
 - (a) the Vice President who shall be chairman
 - (b) the Ministers of the Federal Ministries responsible for:
 - i. Health;
 - ii. Industry, Trade and Investment;
 - iii. Agriculture and Rural Development;
 - iv. Science and Technology; and
 - v. Environment.
 - (c) a representative of the Manufacturers Association of Nigeria; and
 - (d) a representative of the Consumer Coalition Group of Nigeria.
2. The Council may co-opt any other member from among the stakeholders as deemed necessary.

3. The Council shall meet at least twice a year.
4. The Ministry of the Federal Government specified in the Schedule to this Act shall provide the Secretariat to the National Food Safety Council.

Section 34: Establishment of the National Food Safety Management Committee

1. There is the established National Food Safety Management Committee (herein after in this Act referred to as the “Committee”) with the objective of implementing the National Policy on Food Safety and its Implementation Strategy.
2. The National Food Safety Management Committee shall report to the National Food Safety Council.

Section 35: Functions of the National Food Safety Management Committee

1. The functions of the Committee shall be to:
 - (a) advise the National Food Safety Council on matters related to food safety and quality;
 - (b) coordinate all governmental programs and activities related to food safety, and specifically to receive comment and adopt the annual plans and report on official control activities submitted by competent authorities in line with Section 25 of this Act;
 - (c) carry out strategic planning, monitor performance and periodically evaluate progress of the implementation strategy of the National Food Safety Policy;
 - (d) facilitate the design, and coordinate training programmes for stakeholders along the food supply chain;
 - (e) coordinate risk assessment and risk management;
 - (f) initiate and coordinate the drafting of the legislation concerning food safety and quality
 - (g) facilitate the development and/or updating of standards, regulations, guidelines, code of practice, manuals, and similar documents for public and private sectors;
 - (h) inform the public and private sectors regarding current and emerging food safety issues and provide advice on improved food safety conditions;
 - (i) coordinate programs and seek financial and technical assistance from donor agencies and development partners.
 - (j) provide advice, information or assistance to any public authority in relation to food safety;
 - (k) examine complaints and objections lodged in respect of decisions made or official actions taken under this Act; and

- (l) prepare an annual report on its activities;

Section 36: Composition of the National Food Safety Management Committee

1. The National Food Safety Management Committee shall comprise of one technical representative who shall not be below the rank of an Assistant from each of the following:
 - (a) Federal Ministry responsible for -
 - (i) Health;
 - (ii) Industry Trade and Investment;
 - (iii) Science and Technology;
 - (iv) Environment;
 - (v) Finance; and
 - (vi) Justice;
 - (b) Federal Department of Agriculture;
 - (c) Federal Department of Livestock;
 - (d) Federal Department of Fisheries;
 - (e) Nigeria Agricultural Quarantine Services;
 - (f) Agricultural Research Council of Nigeria;
 - (g) National Planning Commission;
 - (h) National Agency for Food and Drug Administration and Control;
 - (i) Institute of Public Analysts of Nigeria;
 - (j) Standards Organisation of Nigeria;
 - (k) Consumers Protection Council;
 - (l) Nigeria Export Promotion Council;
 - (m) Federal Produce Inspection Services;
 - (n) Nigeria Commodities Exchange;
 - (o) National Biotechnology Development Agency;
 - (p) National Environmental Standards and Regulations Enforcement Agency
 - (q) Environmental Health Officers Registration Council of Nigeria;

- (r) Mycotoxicology Society of Nigeria;
 - (s) Nigerian Institute of Food Science and Technology;
 - (t) Association of Food Beverage & Tobacco Employers;
 - (u) National Association of Small Scale Industrialist;
 - (v) National Association of Chambers of Commerce, Industry Mines and Agriculture
 - (w) Nutrition Society of Nigeria;
 - (x) Raw Materials Research and Development Council;
 - (y) National Biosafety Management Agency
 - (z) Veterinary Council of Nigeria
 - (aa) Nigerian Institute of Animal Sciences
 - (bb) A representative of the Government of each of the States of the Federation and the Federal Capital Territory, Abuja
2. Members of the Committee and a single substitute for each shall be nominated in writing by the body which they are to represent and shall be appointed for a term of four years by the Council, which may be renewed once for a term of four years.
 3. The Chairperson and co-Chairperson of the Committee shall be appointed by the Council from the members of the Committee, subject to the conditions that the individuals appointed shall:
 - (a) come from the public and private sector alternately;
 - (b) possess a track record of administrative and leadership qualities not below the level of a Director in the public service or its equivalent in the private sector.
 4. The tenure of the Chairperson and co-Chairperson shall be for a period of two years and may be renewed for another two years and no more;
 5. The Authority of the Federal Government specified in the Schedule of this Act shall provide the Secretariat to the Committee.

Section 37: Meetings of the National Food Safety Management Committee

1. The Committee shall meet quarterly or as often as is expedient to perform its functions.
2. The meetings of the Committee shall be presided over by the Chairperson, co-Chairperson or a member of the Committee in their absence appointed by the Council.
3. The rules of business of the Committee shall be adopted in its first meeting by a majority vote of members present, and shall be subject to the approval of the Council.
4. In determining its recommendations and decisions, the Committee shall apply the principles set out in Part II of the Schedule of this Act.

5. All recommendations, determinations and decisions of the Committee shall be reduced in writing, shall be signed by the Chairperson and shall be made public.
6. Dissenting opinions shall be recorded, along with a rationale.
7. In the discharge of their responsibilities in law, the relevant Competent Authorities specified in Schedule of this Act shall be obliged to take account of the recommendations and decisions of the Committee.
8. The Committee may establish additional sub-committees for the purpose of more efficiently discharging its functions, and may appoint members to those sub-committees.

Section 38: Scientific sub-committee of the National Food Safety Management Committee

1. A sub-committee on science shall be appointed and be responsible for developing and proposing the scientific opinions of the Committee, including the assessment of food and feed safety risks, and requesting information and research directed at providing information for the assessment of food and feed safety risks.
2. The sub-committee on science shall be composed of six independent experts in the field of science with relevant qualifications and experience of food and feed safety hazard and their risks, whose term of appointment will be for three-year period which shall be renewable for another term and no more.
3. The sub-committee on science shall adopt its working procedures, in relation to the preparation of scientific opinion on matters of food and feed safety.
4. These procedures referred to in sub-section 3 of this section shall be approved by the Committee and will relate in particular to the:
 - (a) the manner in which tasks and requests for scientific opinions are assigned to the sub-committee on science;
 - (b) the organisation of the work of the sub-committee on science; and
 - (c) the possibility of co-opting additional members to the sub-committee on science on an AdHoc basis as required to meet the needs for specialised scientific advice
5. The members of the sub-committee on science shall be appointed on merit by the Committee, following a call for expressions from candidates published in the national media and relevant scientific journals.

Section 39: Scientific opinions

1. The sub-committee on science shall issue a scientific opinion:
 - (a) at the request of the Committee, in respect of any matter within its mission, and in all cases where legislation makes provision for the sub-committee on science to be consulted; or
 - (b) on its own initiative, on matters falling within its mission.

2. Requests referred to in sub-section 1(a) of this section shall be accompanied by background information explaining the scientific issue to be addressed.
3. The sub-committee on science will issue scientific opinions within the time limit specified in the requests for opinions, except in duly justified circumstances.
4. The sub-committee on science shall provide an opinion by a majority of their members.
5. The sub-committee on science shall exercise vigilance in order to identify at an early stage any potential source of divergence between its scientific opinions and the scientific opinions issued by other bodies carrying out similar tasks whether in Nigeria or elsewhere.
6. Where the sub-committee on science identifies a potential source of divergence of opinion with other bodies, it shall contact the body in question to ensure that all relevant scientific information is shared and in order to identify potentially contentious scientific issues.
7. Where members of the sub-committee on science cannot agree unanimously on the scientific advice to be offered, a minority opinion may be recorded.

Section 40: Fees and expenses

1. Members of the Committee and its sub-committees shall be reimbursed by the nominated governing authority responsible for its secretariat for their justifiable expenses in undertaking their responsibilities on behalf of the Committee, but will not otherwise receive any payment for their services, except as provided in sub-section 2 of this section.
2. Members of the sub-committee on science will in addition receive a fee for their services from the governing authority responsible for the secretariat of the Committee.
3. Amounts of expenses and fees paid to named individuals participating in the Committee and its sub-committees will be published and stated in the annual accounts of the relevant governing authority.

PART 11: POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES

Section 41: Authorised officers

1. The relevant Competent Authority may authorise any appropriately qualified public officer to act as an authorised officer for the purposes of implementing the responsibility of the relevant Competent Authority under this Act.
2. The Minister shall by regulation, establish the qualifications considered to be appropriate for authorised officers responsible for implementation of relevant provisions of this Act.
3. The powers of the authorised officer shall be limited to the jurisdiction of the relevant Competent Authority by which he is authorised.
4. The relevant Competent Authority shall issue to every person authorised to act as an authorised officer a certificate of his authority.

5. A list of the authorised officers nominated under this Section along with their qualifications shall be included in the annual control plans prepared by the Competent Authority under Section 25 of this Act.

Section 42: Powers of authorised officers

1. An authorised officer may:
 - (a) at any reasonable hour or whenever work is in progress in any establishment in which food or feed is believed to be stored, processed or packaged, enter and search that establishment for the purposes of determining the existence, nature and extent of any trade or business in food or feed, except that entry to a dwelling place may only be demanded following twenty-four hours' notice;
 - (b) examine any food or feed product in any establishment to which he believes this Act applies, take samples thereof and examine anything which he believes is used or capable of being used for the preparation of any food or feed;
 - (c) stop search or detain any vehicle in which he believes that any food or feed to which this Act applies is conveyed, examine the food or feed and take samples thereof;
 - (d) open and examine any receptacle or package which he believes contains any food or feed to which this Act applies, examine the article and take samples thereof;
 - (e) call for any books, documents or other records in any medium which he believes contain any information relevant to the enforcement of this Act with respect to any food or feed, make copies thereof and take extracts therefrom;
 - (f) subject to written notice detain for such time as may be specified or seize any food or feed by means of, or in relation to which, he believes this Act, or the conditions of a licence issued under this Act, have been contravened
 - (g) exercise any other functions assigned to him by the relevant competent authority
2. Any person who prevents an authorised officer from exercising his powers under sub-section (1) of this section shall be considered to have obstructed the officer.
3. An authorised officer shall in the exercise of his powers under sub-section (1) of this section where required by any person affected, produce his certificate of authority issued to him under Section 41(4) of this Act.
4. An authorised officer shall release any food or feed detained or seized by him under sub-section 1(f) of this section where he is satisfied that the provisions of this Act in relation to the food have been complied with.
5. Where an authorised officer has detained or seized any food or feed under this Act and the owner thereof or the person in whose possession it was at the time of the detention consents to its destruction or disposal, the food or feed shall be destroyed or otherwise disposed of in a safe and permanent manner, as the authorised officer may direct.
6. Where an authorised officer is unable to obtain the consent required under sub-section (5) of this section for the destruction or disposal of the food or feed which he has detained or

seized, he may after the issue of written notice to the owner or the person in whose possession the food or feed was at the time of detention or seizure, apply to a Magistrate's court for an order to destroy the food or feed.

7. Where it appears to the Magistrates Court, on the basis of such evidence as he considers appropriate in the circumstances, that any food falling to be dealt with by him under this section fails to comply with food safety requirements, he shall condemn the food and order the food to be destroyed or to be so disposed of as to prevent it from being used for human consumption.
8. Where food or feed is seized and subsequently destroyed or disposed of pursuant to sub-sections 5 or 6 of this section, the Competent Authority shall be entitled to recover the costs of destruction or disposal from the food or feed business operator less any residual value of the food or feed material concerned.
9. The owner or occupier or person in charge of any establishment entered into by an authorised officer pursuant to sub-section 1 of this section or any employee found therein or any person who when requested to give information or any assistance to an authorised officer –
 - (a) fails to give the information or assistance reasonably requested; or
 - (b) knowingly makes any statement which he knows or believes to be false or does not believe to be true;shall be considered to have obstructed the authorised officer.
10. No authorized officer shall be liable to suit or to prosecution in respect of anything done in good faith in the performance of his or her functions under this Act.

Section 43: Confidentiality

1. No information relating to any individual business which is obtained by the relevant Competent Authority or by the National Food Safety Management Committee or its sub-committees in the course of fulfilment of their obligations under this Act shall be disclosed without the previous consent in writing of the person carrying on the business, except:
 - (a) where required to prevent a risk to health, so far as may be necessary for the purposes of this Act; or
 - (b) for the purposes of any proceedings for an offence against the order or any report of those proceedings;

and any person who discloses any such information in contravention of this sub-section shall be guilty of an offence.

Section 44: Conflicts of interest

1. Any persons who is:
 - (a) an authorized officer or a member of a relevant Competent Authority; or
 - (b) an employee or a member of a governing authority nominated under the Schedule to this Act, who becomes aware of a conflict between his personal and professional interests in matters subject to this Act shall declare that interest in writing to the Chairman

or Senior Executive Officer of the Competent Authority or governing authority concerned, and shall conduct his professional duties so as to reduce or eliminate such conflict.

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

PART 12: ACTIONS IN RESPECT TO CONTRAVENTIONS

Section 45: Improvement notice

1. Where a relevant Competent Authority has reason to believe that any food business operator has failed to comply with any provisions of this Act, or regulations made pursuant to it, it may serve an improvement notice upon the food or feed business operator.
2. An improvement notice served under sub-section (1) of this section shall state:
 - (a) the grounds for believing that the food or feed business operator has failed to comply with any provisions of the Act or regulations made pursuant to it;
 - (b) the matters which constitute the food or feed business operator's failure so to comply;
 - (c) the measures which the food or feed business operator should take in order to secure compliance with the relevant provisions of the law
 - (d) the date by which time such measures should have been implemented.

Section 46: Prohibition orders

1. Where a food or feed business operator is convicted of an offence under this Act and the Court is satisfied that a continuing health risk exists with respect to the food or feed business the Court may in addition or as an alternative to any penalty imposed, and on the application of the relevant Competent Authority, issue an order which prohibits the food or feed business operator from:
 - (a) using any specified process, treatment, premises or equipment for purposes of the food or feed business; or
 - (b) conducting or operating any food or feed business;
2. A prohibition order issued under sub-section (1) of this section may be issued with or without specifying the period of prohibition

Section 47: Emergency prohibition orders

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

2. An emergency prohibition order served under sub-section (1) of this section shall state the:
 - (a) grounds for believing that the food or feed business operator presents a serious risk to health;
 - (b) activities subject to the prohibition
 - (c) measures which the food or feed business operator should take in order to remove the serious risk to health; and
 - (d) period of the prohibition.
3. An emergency prohibition order served under sub-section (1) of this section shall not be issued with a period greater than one month.
4. The relevant Competent Authority shall affix a copy of the Emergency Prohibition Order on the exterior of any premises to which it applies, on or adjacent to the main entrance, and may use reasonable force to ensure that the order is complied with, including sealing the premises.

Section 48: Food or feed recall orders

1. Where the relevant Competent Authority has reason to believe that food or feed which presents a serious risk to health has been consigned by a food or feed business operator to other food or feed business operators or consumers it may by notice order the food or feed business operator to recall the food or feed from distribution.
2. A food or feed recall order issued under sub-section 1 of this section shall:
 - (a) identify the food or feed consigned;
 - (b) state grounds for believing that the food or feed presents a serious risk to health;
 - (c) state the treatment which should be applied to the food or feed subject to recall;
 - (d) state the information which must be provided to the Competent Authority in relation to the implementation of the order.

Section 49: Serious risk to health

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

Section 50: Offences and penalties

1. Any person who contravenes the provisions of this Act or regulations made under this Act or who fails to obey an order issued under this Act within the prescribed time commits an offence and shall be liable on conviction to a fine not exceeding the sum of One million Naira or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.
2. A person who obstructs an authorized officer in the performance of his duties under this Act or Regulations made pursuant to it commits an offence and shall be liable on

conviction to a fine not exceeding the sum of Two Million Naira or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

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

Section 51: Jurisdiction

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

Section 52: Due diligence defence

1. In any proceedings for an offence under any of the preceding provisions of this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.
2. A person charged with an offence under this Act, who neither prepared the food or feed in respect of which the offence is alleged to have been committed, nor imported it into Nigeria, shall be taken to have established the defence under sub-section (1) of this section where he satisfies the requirement that:
 - (a) the commission of the offence was due to an act or default of another person who was not under his control, or to reliance on information supplied by such a person; and
 - (b) he carried out all such checks of the food or feed in question as were reasonable in all the circumstances, or that it was reasonable in all the circumstances for him to rely on checks carried out by the person who supplied the food or feed to him.

Section 53: Appeals

1. Where the relevant Competent Authority has taken action under this Act to ensure that an alleged contravention is corrected by a food or feed business operator, the food or feed business operator may appeal to the Magistrate's Court on the basis that the:
 - (a) act or omission in question does not contravene the provisions of this Act;
 - (b) measures taken by the relevant Competent Authority are not proportionate to the contravention;
 - (c) Food or feed was not unsafe, in the case of food or feed destroyed or disposed of under Section 42 (5) of this Act.
2. The onus of proof in the case of appeal is on the food or feed business operator.

3. Appeals lodged under this section on the part of the food or feed business operator shall be made within seven days from the action taken by the Competent Authority.

PART 13: NOMINATION OF COMPETENT AUTHORITIES

Section 54: Nomination of competent authorities

1. In respect of risk analysis, risk communication and risk management in relation to the safety of food or feed, the governing authority is set out in the Schedule of this Act.
2. In respect of official controls in relation to the safety of food or feed, the relevant Competent Authority is set out in the Schedule of this Act.
3. All Federal departments and agencies listed as competent authorities in the Schedule to this Act or subsequently nominated by the Council pursuant to Section 32 of this act shall, subject to the provisions of this Act, operate within their statutory mandates.
4. The Relevant Competent Authorities nominated in the Schedule to this Act may delegate some or all of their powers to another public or private body subject to:
 - (a) clear definition of the scope of delegation in terms of the specific powers and functions being delegated, and their spatial and temporal limits;
 - (b) adequate arrangements being in place for the monitoring of the implementation of the delegated responsibilities, including the preparation of annual inspection plans and reports according to Section 25 of this Act, which are subject to the approval of the delegating authority; and
 - (c) the conditions set out in paragraphs (a) and (b) of this sub-section being specified in written form, and communicated without delay to the Committee.

Section 55: Implementation by State and Local Governments

1. State Governments shall nominate the Competent Authorities for State and Local Government Areas primarily responsible for managing food or feed safety conditions within their jurisdiction.
2. State Governments shall establish a State Food Safety Management Committees for each State of the Federation as a means of coordinating food and feed safety measures within their jurisdiction, to include representatives of consumers, food and feed business operators and State and all Local Government Authorities in the State;
3. Where it is considered to be justified on the grounds of limiting the regulatory impact on small scale food business operators or due to particular food or feed safety conditions which are characteristic of a State, such a State Governments may modify, derogate or exempt the provisions of this Act and regulations made pursuant to it insofar as they apply to any class of establishment to which the State Competent Authorities apply official controls as set out in the Schedule of this Act.
4. Where State governments adopt a derogation, exemption or modification of a food or feed safety measure as provided in sub-section 3 of this section, the State Competent Authority shall:
 - (a) ensure that the products concerned do not enter inter-state trade.

- (b) inform the National Committee on Food Safety Management of the provisions so modified, derogated or exempted, the reasons for doing so and the measures taken to ensure compliance with paragraph (a) of this sub-section.

PART 14: MISCELLANEOUS

Section 56: Repeals and Savings

1. The following legislation is hereby repealed:
 - a) Import (Prohibition) Act; and
 - b) Export (Prohibition) Act
2. Any subsidiary legislations made pursuant to any existing Act of the National Assembly relating to food shall, in so far as it is not inconsistent with any provision of this Act, remain in force until revoked.
3. The rights, interests, obligations and liabilities of any establishments existing before the commencement of this Act under any contract or instrument, or in law or in equity shall by virtue of this Act be deemed to have been preserved, assigned and vested in the Council established by this Act to the extent that they are not inconsistent with any provision of this Act.
4. Any contract or instrument under sub-section (3) of this section of this Act shall be of the same force and effect against or in favour of the Council established by this Act, and shall be enforceable as fully and effectively as where instead of the establishments existing before the commencement of this Act, the Council established by this Act had been named therein or had been a party thereto, provided that such contract or instrument is not inconsistent with any provision of this Act.
5. The Council established by this Act shall be subject to all the obligations and liabilities to which the establishments existing before the commencement of this Act was subject immediately before such commencement.

Section 57: Interpretation

In this Act:

“additive” means any substance not normally consumed as food by itself and not normally used as a typical ingredient of food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the production, manufacture, preparation, treatment, packing, packaging, transport or storage of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food, but does not include contaminants or substances added to food for the purpose of maintaining or improving nutritional qualities;

“adulteration” includes the addition to food or feed of any substance which is injurious to health or in which any constituent has been in whole or in part omitted, substituted, damage concealed, or substance added to increase bulk or weight;

“authorised officer” means any public officer designated by the relevant Competent Authority to be an officer authorised under Section 38 of this Act.

“contaminant” means any biological or chemical agent, foreign matter or other substances not intentionally added to food that may compromise food safety or suitability.

“establishment” means any premises engaged in placing food or feed on the market, including premises where products are prepared, processed (including slaughtered), packaged or stored.

“feed” means any single or multiple materials, whether processed, semi-processed or raw, which is intended to be fed directly to food producing animals and includes feed ingredients:

“feed ingredient” means a component part or constituent of any combination or mixture making up a feed, whether or not it has a nutritional value in the animal’s diet, including feed additives.

“feed business operator” means the natural or legal persons responsible for ensuring that the requirements of this Act are met within the feed business under their control;

“final consumer” means the ultimate consumer of a foodstuff who will not use the food as part of any food business operation or activity.

“food” or “foodstuff” for the purposes of this Act, means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans.

“Food” includes drink, chewing gum and other masticates, and any substance, including water, intentionally incorporated into the food during its manufacture, preparation or treatment. It includes water after the point where in the case of water:

- (a) supplied from a distribution network, the point, within an establishment, at which it emerges from the taps;
- (b) supplied from a tanker, at the point at which it emerges from the tanker;
- (c) put into bottles or containers intended for sale, at the point at which the water is put into the bottles or containers;
- (d) used in a food-production undertaking, at the point where the water is used in the undertaking.

“Food” shall not include:

- (a) animal feed;
- (b) live animals unless they are prepared for placing on the market for human consumption;
- (c) plants prior to harvesting;
- (d) medicinal products within the meaning of the Food and Drugs Act 1999
- (e) tobacco and tobacco products
- (f) narcotic or psychotropic substances within the meaning of the United Nations Single Convention on Narcotic Drugs, 1961, and the United Nations Convention on Psychotropic Substances, 1971;

“food business operator” means the natural or legal persons responsible for ensuring that the requirements of this Act are met within the food business under their control;

“food business” means any undertaking, whether for profit or not and whether carried out by a public or private sector operator, which undertakes production, processing, storage and distribution of food, whether in the formal or informal sector but excluding activities which are of an exclusively domestic or private nature.

“food quality” means the aggregate characteristics of a food that bear on its ability to satisfy the needs of the final consumer but shall not relate to characteristics which affect the health of the final consumer as determined under Section 9. It may include characteristics relating to the economic interests of the final consumer.

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

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

“label” means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to food or a container of food.

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

“Minister” means the Minister charged with the responsibility for Health.

“novel foods” means foods and food ingredients which have not hitherto been used for human consumption to a significant degree within Nigeria and which fall under the following categories:

- a. foods and food ingredients containing or consisting of genetically modified organisms
- b. foods and food ingredients produced from, but not containing, genetically modified organisms;
- c. foods and food ingredients with a new or intentionally modified primary molecular structure;
- d. foods and food ingredients consisting of or isolated from micro-organisms, fungi or algae;
- e. foods and food ingredients consisting of or isolated from plants and food ingredients isolated from animals, except for foods and food ingredients obtained by traditional propagating or breeding practices and having a history of safe food use;
- f. foods and food ingredients to which has been applied a production process not currently used, where that process gives rise to significant changes in the

composition or structure of the foods or food ingredients which affect their nutritional value, metabolism or level of undesirable substances.

“**official control**” shall have the meaning assigned under Section 20.

“**recall**” shall mean an action to remove food or feed from the market at any stage of the food chain, including that possessed by consumers

“**relevant Competent Authority**” means an authority or institution of the Federal or State Governments of Nigeria responsible for official control as defined under Section 54 of this Act and the Schedule to this Act.

“**traceability**” means the ability to trace and follow a food, feed, food producing animal or animal used for food production, raw material or substance intended to be, or expected to be incorporated into a food or feed, through all stages of production, processing and distribution;

“**vehicle**” includes any method of transport by land, air or water.

Section 58: Short Title

This Act may be cited as the National Food Safety and Quality Act, 2022

SCHEDULE:

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 32	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; and ii) reference functions under Section 28.	National Food Safety Management Committee	National Food Safety Council
Secretariat to the National Food Safety	National Agency for Food and	National Food Safety

Management Committee Maintaining a central public register of establishments under Section 13(2) Maintaining a central public register of licenced establishments under Section 14(4)	Drug Administration and Control	Management Committee
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Part II: Official Controls

Function	Relevant Competent Authorities	Authority responsible for approving annual plans and reports
Registration of establishments under Section 13(1)	National Agency for Food and Drug Administration and Control Standards Organisation of Nigeria	National Food Safety Management Committee
Licencing of establishments under Section 14(1) And	National Environmental Standards and Regulations Enforcement Agency Consumer Protection Council Department of Livestock and Pest Control, Federal Ministry of Agriculture and Rural Development	
Official controls under Part 7 of this Act in relation to: a) Import and export conditions and food and feed business operators engaged in import and export	National Agricultural Quarantine Service, Federal Ministry of Agriculture and Rural Development	
b) food and feed business operators other than primary producers, whose products are distributed outside the State in which they are establishment is located	Department of Fisheries, Federal Ministry of Agriculture and Rural	
c) food business operators engaged in	Ministry of Agriculture and Rural	

<p>the production of pre-packaged foodstuffs</p> <p>d) food and feed business operators which operate establishments in more than one State, including retail establishments</p>	<p>Development</p> <p>Federal Produce Inspection Service, Federal Ministry of Industry Trade and Investment</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 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</p>	<p>Competent Authorities of Local Governments nominated in accordance with Section 55</p>	<p>State Food Safety Management Committees</p>

food business operators other than those listed above Official controls in relation to		
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