



The Bengal Food Adulteration Act, 1919

Act 6 of 1919

Keyword(s):

Adulterated, Food, Local Area, Local Authority, Public Analyst

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Bengal Act VI of 1919

(The Bengal Food Adulteration Act, 1919.)¹

AMENDED	Ben. Act V of 1925.
REPEALED	...	...	Ben. Act III of 1923.
REPEALED IN PART AND AMENDED	...	...	Ben. Act. V of 1930.
ADAPTED	...	...	<div style="border-left: 1px solid black; border-right: 1px solid black; padding: 0 10px;"> <p>The Government of India (Adaptation of Indian Laws) Order, 1937.</p> <p>The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.</p> <p>The Adaptation of Laws Order, 1950.</p> </div>

(30th July, 1919.)

An Act to make provision for the prevention of adulteration of food in Bengal.

WHEREAS it is expedient to make provisions for the prevention of adulteration of food in Bengal ;

It is hereby enacted as follows :—

CHAPTER I

Preliminary.

1. (1) This Act may be called the Bengal Food Adulteration Act, 1919.

(2) This section shall extend to the whole of ²[West Bengal] except Calcutta as defined in clause (7) of section 3 of the Calcutta

Short title
and local
extent.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1918, Pt. IV, page 179, and for Proceedings in Council, see *ibid.*, Pt. IVA, pages. 1027-1030, and see the *Calcutta Gazette* of 1919, Pt. IVA, pages 146-148, 518-520 and 983-994. This Act is to be deemed as repealed in the area added to Calcutta by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), s. 2(2)(b). For the Sale of Food and Drugs and for Milk Supply in Calcutta, see the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), Chapters XXVIII and XXIX.

²These words were substituted for the word "Bengal" by paragraph (2) of Article 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

(Chapter I.—Preliminary.—Section 2.)

Municipal Act, 1899¹ ; and the ²[State Government] may, after previous publication, by notification in the ³[Official Gazette], extend all or any of the other sections of this Act to any local area outside Calcutta in ⁴(West Bengal).

Ben. Act III
of 1899.

(3) The ²[State Government] in extending all or any of the sections of this Act, as provided in sub-section (2), may extend the same in respect of all articles of food or may limit the operation of the section or sections extended to any specified article of food.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) an article of food shall be deemed to be “adulterated” if it has been mixed or packed with any other substance, or if any part of it has been abstracted so as in either case to affect injuriously its quality, substance or nature ;

(2) “food” includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food ; and also includes flavouring matters and condiments ;

(3) “local area” means any area, urban or rural, declared by the ²[State Government] by notification in the ³[Official Gazette] to be local area for the purposes of this Act ;

(4) “local authority” means—

- (i) in the case of any Municipality, the Municipal Commissioners ;
- (ii) in the case of a Cantonment, the Cantonment Authority; and
- (iii) in the case of any other local area, such authority or officer as the ²[State Government] may appoint in this behalf ;

¹Bengal Act III of 1899 was repealed and re-enacted by the Calcutta Municipal Act 1923 (Ben. Act III of 1923) which Act was again been repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), which was finally repealed and re-enacted by the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980) and this reference should now be construed as a reference to clause (9) of section 2 of the last mentioned Act.

²The words “Provincial Government” were originally substituted for the words “Local Government” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word “State” was substituted for the word “Provincial” by paragraph 4(1) of the Adaptation of Laws Order, 1950.

³These words were substituted for the words “Calcutta Gazette”, by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order 1937.

⁴See foot-note 2 on page 629, *ante*.

of 1919.]

(Chapter I.—Preliminary.—Sections 3, 4.—Chapter II.—General Provisions.—Section 5.)

(5) "Public analyst" means any person appointed by the ¹[State Government], or by a local authority with the approval of the ¹[State Government], to perform the duties and to exercise the powers of a public analyst prescribed by this Act.

3. The ¹[State Government], or a local authority with the approval of the ¹[State Government], may appoint a person to be the public analyst for any area under their control, and such appointment shall be notified in the ²[Official Gazette].

Power of State Government or local authority to appoint public analyst.

4. The ¹[State Government] may declare the normal constituents of any article of food and may determine, by rules in this behalf, what deficiency in any of these constituents, or what addition of extraneous matters or proportion of water in a sample of any article of food, shall, for the purposes of this Act, raise a presumption until the contrary is proved that the article of food is not genuine or is injurious to health ; and public analyst shall have regard to such rules in certifying the result of any analysis under this Act.

Power of State Government to declare normal constituents of any article of food.

CHAPTER II

General Provisions.

Sale of food.

5. (1) No person shall, directly or indirectly, himself or by any other person on his behalf, sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchasers ; and no person shall, directly or indirectly, himself or by any other person on his behalf, manufacture for sale any article of food which is not of the nature, substance or quality which it purports or is represented to be :

Prohibition of sale, etc., of food not of the proper nature, substance or quality.

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say :—

- (a) where any matter or ingredient not injurious to health has been added to any article of food because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consump

¹See foot-note 2 on page 630. ante.

²See foot-note 3 on page 630. ante.

(Chapter II.—General Provisions.—Section 6.)

tion and not fraudulently to increase the bulk, weight or measure of the article or to conceal the inferior quality thereof; or

- (b) where any article of food is unavoidably mixed with some extraneous matter in the process of collection or preparation ; or
- (c) where a patent has been granted under any law for the time being in force in respect of any article of food, and the article is sold in the state required by the specification of the patent.

(2) In any prosecution under this section it shall be no defence to allege that the vendor or manufacturer was ignorant of the nature, substance or quality of the article sold, exposed for sale or manufactured for sale by him.

(3) In any prosecution under this section, the Court shall, unless and until the contrary is proved, presume that any article of food found in the possession of a person who is in the habit of manufacturing like articles for sale has been manufactured for sale by such person.

6. (1) No person shall, directly or indirectly, himself or by any other person on his behalf, sell, expose for sale or manufacture or store for sale, any of the following articles, namely :—

- (a) milk ¹* * * *
- (b) butter,
- (c) ghee,
- (d) wheat flour,
- (e) mustard oil, and
- (f) any other article of food which may be notified by the ²[State Government] in this behalf,

unless the following conditions are fulfilled, namely :—

- (i) in the case of milk (other than condensed, sterilized or desiccated milk in hermetically closed receptacles), the animal from which the milk is derived shall be definitely stated in such manner as the local authority may, by general or special order, require, and the article sold, exposed for sale or stored for sale, as the case may be, shall be the

Prohibition of sale, etc., of articles of food which are not of the prescribed standard of purity.

¹The words and brackets "(other than condensed, sterilized or desiccated milk, in hermetically closed receptacles)" were omitted by s. 2(1)(a) of the Bengal Food Adulteration (Amendment) Act, 1930 (Ben. Act V of 1930).

²See foot-note 2 on page 630, *ante*.

of 1919.]

(Chapter II.—General Provisions.—Section 6.)

natural secretion from the udder of such animal, from which no ingredient has been extracted and to which no water or other substance (including any preservative) has been added, and shall not contain a less proportion of non-fatty solids and of fat than such as the ¹[State Government] may prescribe ;

- ²(ia) in the cases of condensed, sterilized or desiccated milk in hermetically closed receptacles, each such receptacle shall be labelled and marked in such manner as the ¹[State Government] may prescribe and the article sold, exposed for sale or stored for sale, as the case may be, shall not contain a less proportion of non-fatty solids and of fat than such as the ¹[State Government] may prescribe ;
- (ii) in the case of butter, it shall be exclusively derived from milk or cream (other than condensed, sterilized or desiccated milk, or cream), or both with or without salt, or other preservative, and with or without the addition of colouring matter, such preservative or colouring matter being of such a nature and in such quantity as not to render the article injurious to health, and shall not contain a greater proportion of water than may be prescribed by the ¹[State Government] in this behalf ;
- (iii) in the case of ghee, it shall contain only substances, other than curds, which are derived exclusively from the milk of cows or of buffaloes, and shall fulfil such conditions as may be prescribed by the ¹[State Government] ;
- (iv) in the case of wheat flour, it shall not contain any substance which is not derived exclusively from wheat ;
- (v) in the case of mustard oil, it shall be derived exclusively from mustard seed ; and
- (vi) in the case of any food notified by the ¹[State Government] under clause (f), it shall fulfil such conditions as may be prescribed by the ¹[State Government] in regard to such food.

(2) No person shall, directly or indirectly, himself or by any other person on his behalf, sell, expose for sale, or manufacture or store for sale anything which is similar to any of the articles specified in clauses

¹See foot-note 2 on page 630, *ante*.

²Clause (ia) was inserted by s. 2(1)(b) of the Bengal Food Adulteration (Amendment) Act, 1930 (Ben. Act V of 1930).

(Chapter II.—General Provisions.—Section 7.)

(a), (b), (c), (d) and (e) of sub-section (1) or to any article notified by the ¹[State Government] under clause (f) of that sub-section, under a name which in any way resembles the name of such article.

²(2a) No person shall, directly or indirectly, himself or by any other person on his behalf, sell, expose for sale or manufacture or store for sale any food in the preparation of which any of the articles specified in clauses (a), (b), (c), (d) and (e) of sub-section (1) or any article notified by the ¹[State Government] under clause (f) of that sub-section has been used unless such article fulfils the conditions set forth in that sub-section.

(3) In any prosecution under this section it shall be no defence to allege that the vendor, manufacturer or storer was ignorant of the nature, substance or quality of the article sold, exposed for sale, or manufactured or stored for sale by him ³[or of any article used in the preparation of any food sold, exposed for sale, or manufactured or stored for sale by him.]

(4) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any of the articles specified in clauses (a), (b), (c), (d) and (e) of sub-section (1) or any article notified by the ¹[State Government] under clause (f) of that sub-section ⁴[or the food referred to in sub-section (2a)] found in the possession of a person who is in the habit of manufacturing or storing like articles for sale has been manufactured or stored for sale by such person.

Prohibition of adulterants in places where ghee, wheat flour, etc., are manufactured.

7. (1) No person shall keep or permit to be kept in any manufactory, shop or place, in which butter, ghee, wheat flour, mustard oil or any article notified by the ¹[State Government] under clause (f) of sub-section (1) of section 6 is manufactured, any substance intended to be used for the adulteration of such butter, ghee, wheat flour, mustard oil or other article.

(2) If any article capable of being so used is found in such manufactory, shop or place, the Court shall, unless and until the contrary is proved, presume in any prosecution under this section that it is intended to be used for the purposes of adulteration.

¹See foot-note 2 on page 630, *ante*.

²Sub-section (2a) was inserted by s. 2(2) of the Bengal Food Adulteration (Amendment) Act, 1930 (Ben. Act V of 1930).

³These words were inserted by s. 2(3), *ibid*.

⁴These words, brackets, figure and letter were inserted by s. 2(4), *ibid*.

of 1919.]

(Chapter II.—General Provisions.—Sections 8—10.)

8. [Receptacles for separated or skimmed condensed milk to be marked.]—Rep. bys. 3 of the Bengal Food Adulteration (Amendment) Act, 1930 (Ben. Act, V of 1930).

Analysis of food.

9. Any purchaser of an article of food shall be entitled, on payment of such fee as the ¹[State Government] may prescribe, to have such article analysed by the public analyst appointed for the area within which such article is purchased and to receive from him a certificate, in the form prescribed in the schedule to this Act, of the result of his analysis.

Power of purchaser to have article of food analysed.

10. (1) Any person duly authorised by the ¹[State Government] or by any local authority empowered by the ¹[State Government] in this behalf, may require, on tendering the price for it, the sale to him during the process of manufacture, for the purpose of analysis, of such quantity of —

Compulsory sale of food, etc., for purpose of analysis.

(i) any food, or

(ii) any ingredients used in the manufacture of food,

as is reasonably requisite for division and disposal under section 11; and any person in possession of the said food or ingredients shall be bound to sell such quantity.

(2) Any person duly authorised by the ¹[State Government] or by any local authority empowered by the ¹[State Government] in this behalf, may also require the surrender to himself, for the purpose of analysis, of such quantity as is reasonably requisite for division and disposal under section 11, of any food which for the purpose of sale is—

(a) in course of transit in any local area, or

(b) stored in any place in the said local area ;

and any person in possession of the said food shall be bound to surrender such quantity :

Provided that in every such case the price of the food so surrendered shall be payable from such fund as the ¹[State Government] may prescribe to the owner of the food, if claimed by such owner within one month from the date of the said surrender.

(3) Any person duly authorised by the ¹[State Government] or by any local authority empowered by the ¹[State Government] in this behalf, may also require, by tender of the price, the sale to him, for the purpose of analysis, of such quantity of any food exposed or intended for sale, as is reasonably requisite for division or disposal under section 11 ; and any person in possession of or exposing the same for sale shall be bound to sell such quantity.

¹See foot-note 2 on page 630. ante.

(Chapter II.—General Provisions.—Sections 11, 12.)

Procedure
for analysis
of food.

11. (1) Any purchaser who wishes to have an article of food analysed under section 9, and any person who purchases for the purpose of analysis, a sample of food under section 10, sub-section (1) or sub-section (3), shall, after the purchase has been completed, forthwith notify to the seller, or his agent selling the article, his intention to have the same analysed, and shall divide the article into three parts, to be then and there separated, and each part to be marked and sealed or fastened up in any manner which its nature will permit.

(2) The person purchasing the article or sample shall deliver one of the said parts to the seller or his agent, and shall retain another part for future comparison, and shall send the remaining part to the public analyst appointed for the area where the article is sold.

(3) When any food is surrendered under section 10, sub-section (2), the person to whom it is surrendered shall forthwith notify to the person in charge of the said food his intention to have the same analysed, and shall thereupon deal with the food so surrendered in the manner provided in sub-sections (1) and (2).

Inspection and seizure of food.

Power to
seize food
which is
believed to
be
adulterated.

12. (1) Any person duly authorised in this behalf by rule made under this Act may, at any time by day or by night, inspect and examine any food which is being manufactured for sale, or is in course of transit or stored for sale, or is hawked about or exposed for sale, and utensil or vessel used for preparing, manufacturing or containing any such food ; and no person shall offer resistance to, or obstruct, any such inspection or examination.

(2) If the person so authorised has reason to believe any such food to be adulterated, he may seize and remove such food, utensil or vessel in order that the same may be dealt with in accordance with the provisions of section 13 ; and no person shall offer resistance to, or obstruct, any such seizure or removal.

(3) The person authorised as aforesaid may, instead of carrying away any food, utensil or vessel seized under sub-section (2), leave the same in such safe custody as he thinks fit in order that the same may be dealt with as provided in section 13 ; and no person shall remove such food, utensil or vessel from such custody or interfere or tamper with the same in any way while so detained.

(4) When any food is seized under sub-section (2), the person seizing it shall separate therefrom such quantity as is reasonably requisite for division and disposal for the purposes of this sub-section, and shall thereupon divide and dispose of such quantity in the manner provided in section 11, sub-sections (1) and (2).

of 1919.]

(Chapter II.—General Provisions.—Sections 13, 14.)

13. (1) Any food, utensil or vessel seized under section 12, sub-section (2), shall, subject to the provisions of sub-sections (3) and (4) of that section, be taken as soon as may be after such seizure, before a Magistrate.

Food, etc., seized under section 12 to be taken before Magistrate.

(2) If it appears to the Magistrate that any such food is adulterated, or that any such utensil or vessel is used for preparing, manufacturing or containing the same, he shall cause the food, utensil or vessel to be forfeited to the local authority for the area in which the seizure has taken place, in order that it may be destroyed or otherwise disposed of by that authority, at the cost of the person in whose possession it was at the time of its seizure, and such cost shall be realised as if it were a fine imposed under this Act.

(3) If it appears to the Magistrate that any such food is not adulterated, or that any such utensil or vessel is not used for preparing, manufacturing or containing the same, the person from whose shop or palce the food, utensil or vessel was taken shall be entitled to have it restored to him, and it shall be in the discretion of the Magistrate to award to such person from such fund as the ¹[State Government] may prescribe in this behalf, such compensation, not exceeding the actual loss which he has sustained, as the Magistrate may think proper.

Miscellaneous.

14. (1) Every public analyst to whom any article of food has been submitted for analysis under this Act, shall deliver to the person so submitting it a certificate in the form prescribed in the schedule to this Act, specifying the result of his analysis, and shall send a copy of the same to the local authority concerned.

Duty of public analyst to supply certificate of analysis.

(2) Any document purporting to be such certificate signed by a public analyst shall be sufficient evidence in any inquiry, trial or proceeding under this Act of the result of such analysis :

Provided that any Court before which a case may be pending under this Act, whether exercising original, appellate or revisional jurisdiction, may, of its own motion, or at the request either of the accused or the complainant, cause any article of food to be sent for analysis to the Sanitary Commissioner for ²[West Bengal], or any other officer whom the ¹[State Government] may appoint in this behalf, who shall thereupon analyse the same and report the result of such analysis to the said Court, and the said report shall be admissible in evidence in such Court. The expense of such analysis shall be paid by the accused or the complainant as the Court may, by order, direct.

¹See foot-note 2 on page 630, *ante*.

²See foot-note 2 on page 629, *ante*.

(Chapter II.—General Provisions.—Sections 15—20.)

Cognizance
of offences.

15. No prosecution for any offence under this Act shall be instituted without the order or consent in writing of the local authority within whose jurisdiction the offence is committed :

¹Provided that in the case of an offence committed within a municipality such order or consent shall be valid if made or given by the Chairman of the Commissioners of the Municipality.

Jurisdiction.

16. No Magistrate whose powers are less than those of a Magistrate of the second class shall try any offence under this Act.

Limitation
for
prosecu-
tions.

17. No summons shall issue for the attendance of any person accused of an offence under this Act unless the same is applied for within thirty days from the date upon which the order of consent referred to in section 15 shall have been made or given.

18. [*Fines, etc., how to be credited.*—Omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

Certain
persons to
be deemed
public
servants.
Power of
State
Govern-
ment to
make rules.

19. Every person authorised under section 12 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Act XLV of
1860.

20. (1) The ²[State Government] may, subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the ²[State Government] may make rules—

(a) determining what deficiencies in or additions to any article of food, the normal constituents of which have been declared under section 4, shall raise the presumption that such article is not genuine or is injurious to health ;

(b) prescribing the proportion of non-fatty solids and of fat which must be contained in milk sold, exposed for sale or stored for sale ;

³(bb) specifying the manner in which each receptacle containing condensed, sterilized or desiccated milk sold, exposed for sale ; or stored for sale, is to be labelled and marked, including the size of the lettering, the description of the contained article, its composition and direction for use ;

¹This proviso was added by s. 2 of the Bengal Food Adulteration (Amendment) Act, 1925 (Ben. Act V of 1925).

²See foot-note 2 on page 630, ante.

³Clause (bb) was inserted by s. 4 of the Bengal Food Adulteration (Amendment) Act, 1930 (Ben. Act V of 1930).

of 1919.]

(Chapter III.—Penalties.—Section 21.)

- (c) prescribing the maximum proportion of water which may be contained in butter sold, exposed for sale or stored for sale ;
- (d) prescribing the conditions to be fulfilled by any food notified by the ¹[State Government] under clause (f) of sub-section (1) of section 6 ;
- (e) providing for the appointment by the ¹[State Government] or by any local authority empowered by the ¹[State Government] in this behalf, of persons to perform the duties and to exercise the powers mentioned in section 10, or section 12;
- (f) prescribing the fees to be charged by a public analyst for analysing articles of food under this Act ; and

2* * * * *

CHAPTER III
Penalties.

21. Whoever contravenes any of the provisions of this Act mentioned in the first column of the following table shall be punished, for a first offence, with fine to the extent mentioned in that behalf in the third column of the said table, and, for a second or subsequent offence, with fine or imprisonment, or with both, to the extent mentioned in the fourth column thereof.

Penalties.

Explanation.—The entries in the second column of the following table, headed "Subject", are not intended as definitions of the offences described in the provisions mentioned in the first column or even as abstracts or those provisions ; but are inserted merely as references to the subject thereof :—

¹See foot-note 2 on page 630, *ante*.
²Clause (g) was omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—Penalties.—Section 21.)

1	2	3	4
Provisions of the Act.	Subject	Maximum fine which may be imposed for a first offence.	Maximum fine or imprisonment, or both, which may be imposed for a second or subsequent offence.
Section 5, subsection (1).	Sale, etc., of adulterated food.	Two hundred rupees.	One thousand rupees, or imprisonment for three months, or both.
Section 6, subsection (1).	Sale, etc., of milk, butter, ghee, wheat flour, mustard oil or notified article which is not of the prescribed quality ¹ [or is not labelled or marked in the prescribed manner].	Ditto.	Ditto.
Section 6, subsection (2).	Sale, etc., of articles to milk similar to milk, butter, ghee, etc.	One hundred rupees.	Five hundred rupees, or imprisonment for three months, or both.
² [Section 6, subsection (2a).	Sale, etc., food containing any article which is not of the prescribed quality.	Two hundred rupees.	One thousand rupees, or imprisonment for three months, or both.]

¹These words were inserted by s. 5(1) of the Bengal Food Adulteration (Amendment) Act, 1930 (Ben. Act V of 1930).

²This entry was inserted by s. 5(2), *ibid.*

of 1919.]

(Chapter III.—Penalties.—Section 21.)

1	2	3	4
Provisions of the Act.	Subject.	Maximum fine which may be imposed for a first offence.	Maximum fine or imprisonment, or both, which may be imposed for a second or subsequent offence.
Section 7, subsection (1).	Keeping or permitting to be kept substance intended to be used for adulteration of butter, ghee, wheat flour, mustard oil, etc.	One hundred rupees.	Five hundred rupees.
Section 10, subsections (1), (2) and (3).	Refusal to sell or surrender articles of food required for purposes of analysis.	Two hundred rupees.	.....
Section 12, subsections (1) and (2).	Offering resistance or obstruction to any authorised person inspecting or examining food or seizing or removing food believed to be adulterated.	Ditto	.....
Section 12, subsection (3).	Removing interfering or tampering with food, etc., seized and left in custody.	Ditto	.....

¹The entry relating to section 8 was omitted by s. 5(3) of the Bengal Food Adulteration (Amendment) Act, 1930 (Ben. Act V of 1930).

*(The Schedule.)***THE SCHEDULE.****Form of Certificate.***(See sections 9 and 14.)*To¹

I, the undersigned, public analyst for the

, do hereby certify that I received on the
 day of 19 , from² a
 sample of for analysis (which then
 weighed³) and have analysed the same
 and declared the result of my analysis to be as follows :—

I am of opinion that the same is a sample of

⁴*Observations*

Signed this day of 19

A. B.

at

¹Here insert the name of the person submitting the article for analysis.²Here insert the name of the person delivering the sample. If the sample is received by post or by railway, entry should be made accordingly.³When the articles cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.⁴Here the analyst may insert at his discretion, his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether it was in excess of what is ordinary or otherwise.

NOTE.—In the case of a certificate regarding milk, butter or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.