

CHAPTER 4

Public Health Legislation

Introduction

One of the oldest functions of government was to protect and promote public health. For this purpose legislation relating to public health became a very important instrument, and practically all countries having health programmes have enacted various public health legislations. In Sri Lanka written laws relating to public health were introduced during the early British period, and the initial legislation mostly concerned prevention and control of major communicable diseases. Strict implementation of these laws was responsible for a reduction in the incidence of diseases such as smallpox, plague and cholera. Legislation drafted in relation to major communicable diseases included measures such as restricting the movements of people during the epidemics, Immunization, and compulsory notification. Notifiable diseases were gazetted and the chief occupant of the house in which a case of a notifiable disease occurred, was expected to inform the health authorities about the case. Police and the Village Headmen were legally bound to extend their co-operation to the health authorities during epidemics.

Public Health Inspector plays a very important role in the implementation of public health legislations. It is he who has to handle the legal proceedings in connection with the implementation of public health legislation. Therefore he has to be quite conversant with the following enactments which have a key relevance to his duties:-

- 1 - Nuisances Ordinance
- 2 - Quarantine & Prevention of Diseases Ordinance
- 3 - Cemeteries & Burials Ordinance
- 4 - Housing & Town Improvement Ordinance
- 5 - Butchers Ordinance
- 6 - Food Act
- 7 - Act by the National Authority on Tobacco & Alcohol
- 8 - Prevention of Mosquito Breeding Act

The other important enactments the PHI should be conversant with are as follows:-

- 1 - Infectious Diseases Ordinance
- 2 - Ordinance on Diseases among labourers
- 3 - Municipal Council Ordinance
- 4 - Urban Councils Ordinance
- 5 - Pradeshiya Sabha Act
- 6 - By-laws relating to Municipal Councils, Urban Councils, and Pradeshiya Sabhas.

Authority to act under an Act/ Ordinance

Other than in the case of Food Act and the Act of the national Authority on Tobacco and Alcohol, the PHI should get the written authority from the proper source, to perform his duties concerning the other acts.

The Chairman of the local authority is the proper authority for the following Ordinances:-

1. Housing & Town Improvement Ordinance
2. Nuisances Ordinance
3. Cemeteries & Burials Ordinance
4. Butchers Ordinance
5. Regulations relating to Mosquito Borne Diseases framed under the Quarantine & Prevention of Diseases Ordinance
6. Local government Ordinances & By-laws

The Medical Officer of Health is the proper authority under the following enactments:-

1. Prevention of Mosquito Breeding Act
2. Regulations relating to ankylostomiasis framed under the Q & P Ordinance
3. Regulations relating to storage of grain framed under the Q & P Ordinance
4. Quarantine regulations framed under the Q & P Ordinance

Unless the PHI is properly authorized by the relevant authority, his reports and evidence would be treated as null and void in a court of law.

4.1 Food Legislation

The most important legislative enactment relating to Food Safety is Food Act No. 26 of 1980, which was amended by Food (amendment) Act No. 20 of 1991, which regulates the manufacture, importation, sale, exposure for sale, storage and distribution of food.

The Director General of Health Services, who is designated as the Chief Food Authority, is responsible for the administration of the Act. He is assisted by the Deputy Director General (Public Health Services) and the Director (Environmental & Occupational Health).

Local authorities are appointed as Area Food Authorities for their respective areas of administration. The Principal Collector of Customs and the Commissioner of Excise, also function as Food Authorities in respect of imported foods and excisable foods respectively.

Medical Officers of Health, Food & Drugs Inspectors (F&DI), and Public Health Inspectors, are designated Authorized Officers under the Act and assist the local authorities in the implementation of the Act, by inspecting food establishments, sampling foods and conducting prosecutions. They also advise the traders on technical matters, and are responsible for consumer education.

Authorized Officers – their powers and functions

Section 13 of the Food Act provides for the appointment of PHII as Authorized Officers. Medical Officers of Health, Food and Drugs Inspectors, Food Inspectors, and Veterinary Surgeons are the other officers who may be so appointed. In the case of Veterinary Surgeons, their powers are restricted to the examination and seizure of meat; whereas other authorized officers are empowered to examine and take appropriate action regarding any kind of food including meat.

An Authorized Officer is empowered to enter any premises at any reasonable time, examine, seize and take samples from any article of food (Section 14). An “article” is defined in section 14(2). “Food” is defined as “any article manufactured, sold or represented for use as food or drink for human beings, and includes any article which ordinarily enters into or is used in the composition or preparation of food”.

An Authorized Officer is empowered to act on suspicion (that is if “he believes”) that an offence has been committed although after investigation it may be disclosed that such an offence has not in fact, been committed. Legal proceedings cannot be instituted against the Authorized Officer if he has acted in good faith (Section 28).

When there is sufficient evidence to prove that an offence has been committed, action could be taken under the relevant sections on prohibitions (see later) and seizure (Section 15) or under any other relevant regulation.

Sampling

Authorized officers are empowered to take samples of food, in the course of their duties. The Authorized officer should follow the correct procedure regarding sampling, which is published in the Government General Gazette No. 353 of 07.06.1985, and the amendment published in the Govt. Gazette Extra Ordinary No. 615/11 of 19.06.1990. The Authorized officer is expected to pay for the samples they obtain for analysis or examination, according to the Gazette Extra Ordinary mentioned last. This is a legal requirement and the lapses on the part of the Authorized Officer may result in the discharge of the accused. It is important that all Authorized Officers be conversant with these two Gazette notifications.

In addition to the powers provided under section 14, Authorized Officers can exercise the powers of police officers, in terms of the Code of Criminal Procedure Act No. 15 of 1979, for the purpose of discharging their functions under the Food Act.

It must however, be realized that legislation is primarily a deterrent. It is a powerful tool in the hands of the Authorized Officer, and must be used with caution and restraint after all other methods of persuasion and education have failed to correct the faulty practice, unless the fault is of a serious nature. Prosecution is not useful in changing attitudes, but advice and counseling, on the other hand, have lasting effects. An Authorized Officer should have the knowledge, understanding and the skill to change attitudes, in order to bring about the anticipated changes.

However, when compelled to enforce the law, it must be done rigorously. Authorized Officers should study the provisions under the law thoroughly in order to enforce it effectively. To enable more effective enforcement of the Food Act, the following legislative enactments should also be well studied.

- (a) Code of Criminal Procedure Act No. 15 of 1979.
- (b) Evidence Ordinance.
- (c) Interpretation Ordinance.

Provisions of the Food Act

Guidance notes on some of the important provisions in the Food Act are given below. They should be read along with the relevant sections in the Food Act.

Prohibitions – Prohibitions are given in Part 1 (Section 2 to 7), Sections 14(4 to 9) and in the regulations framed under the Act.

If it appears that several prohibitions have been contravened, in framing charges it is advisable to select one of them which the officer is confident, can be proved.

Food injurious to health – Expert evidence of a Medical Officer is essential to prove that a particular food is injurious to health under the section 2(1) (a).

Food unfit for human consumption – Section 2(1) (b)

It is always preferable to get an analyst's report to substantiate the charge. The Authorized Officer is competent enough to satisfy the court regarding the causes which had led to the putrefaction or decomposition of any food resulting from speedy and natural decay and he may give evidence. Other evidence of the MOH, F&DI, or a senior PHI may be submitted.

Adulteration – The provision under Section 2(1) (d) on “adulteration” should be used, only if there are no provisions under the regulations framed in respect of the food standards. “Adulteration” has to be proved in terms of Section 33; using regulations on food standards, on the other hand, is straightforward and conclusive and therefore is preferable.

If a food standard is available the charge should be under section 2(1) (F) as amended by Section 2(1) (A) of the Food (Amendment) Act No. 20 of 1991.

Where the standards prohibit an addition, the relevant section used in the charge is section 2(1) (e) as amended by Section 2(1)(A) of the Food (amendment) Act No. 20 of 1991.

Insanitary conditions – When the charge is under Section 2(2) or 2(3), it is important to understand the meaning of “insanitary conditions” as defined in Section 33. Detailed notes on the sanitary conditions of the premises, its surroundings and of the manufacturing processes, and the relevant details of various practices involved and on the employees must be made on the spot. These should be corroborated by the evidence of witnesses.

Defective Labeling – The reasons why a label is considered defective has to be proved in accordance with the provisions in Section 3(1). The food (labeling and advertising) regulations 2005 contain directions on labeling and should be studied carefully and consulted whenever necessary.

When a sample is secured for a labeling offence, officer should enter a detailed description of the label in their Pocket Note Book, prior to sealing the sample. Even if the label is subsequently lost or damaged, the notes written contemporaneously will serve as relevant evidence.

Food rendered unfit – The intention of Section 5 is to facilitate the proper disposal of food which is “spoilt or rendered unfit”. Once the permission of the Food Authority has been obtained the Authorized Officer should ensure that the food is properly disposed of and never used for consumption.

Notes on the correct weight or measure are essential to avoid embarrassing allegations.

Warranty – To ensure that charges are brought against those responsible for the offence, it is best to advise traders to obtain a warranty from the distributor whenever goods are bought.

A distributor failing or refusing to give a warranty can be charged under Section 6, if the following conditions are satisfied:-

- (a) The retail trader agrees to give evidence
- (b) The detection is made at the time of the refusal (on a complaint made by the trader)

Registration of Food Handling Premises – The procedure for registration of food handling premises, under Section 7, will be set out in Regulations on Manufacture, Storage and Sale of Food (to be gazetted).

In inspecting establishments for registration, the Food Regulations (1988) dealing with hygiene requirements should be consulted.

Charging some other person – There are three instances when a person other than the accused may be charged with the commissioning of the offence:

- (1) Under Section 21(1), the accused is given the opportunity of bringing before court the actual offender (manufacturer or distributor) prior to the commencement of the trial. Once the commissioning of the offence has been proved, the accused will have to prove to the satisfaction of the court that the other person is the actual offender. It should be borne in mind that both parties are liable to conviction.
- (2) The court may at any time during a trial, withdraw charges against an accused and charge some other person, if the court is satisfied, on the evidence adduced, that the other person is concerned with the commissioning of the offence – Section 20(2).
- (3) If the Food Authority is satisfied that a person other than the vendor is responsible for committing the offence, and the vendor is able to establish that fact, action may then be taken against the other person – Section 21(3).

In a case where both the seller and the manufacturer are charged, the manufacturer is liable for the offence although the manufactory may be situated outside the area of jurisdiction of the court, in which the offence has been committed. Section 130 of the Code of Criminal Procedure Act applies in such a situation.

Procedure of submitting samples for analysis – Authorized Officers are empowered to take samples for analysis 14(1), and submit them to an approved Analyst - Section 16(1). The analyst is obliged to send a report on the analysis of the sample, to the Authorized Officer- Section 16(2). Section 23 lays down that this report is “sufficient evidence”. This is a special procedure applicable to the Food Act. In other legislation, provision is made for samples to be submitted to the analyst through the court, in accordance with the Code of Criminal Procedure – Section 116(2), (3). Yet section 5 of the Code of Criminal Procedure recognizes that special procedures applicable to specific legislation should be followed as directed therein.

Using the Analyst’s report as evidence – The most appropriate and practical method of making available a copy of the report of the approved analyst, to the defense, is by handing over it in open courts and requesting the magistrate to make a note of it in the case record. It gives the defense reasonable notice vide Section 23(3), as the evidence would be recorded only at the trial which is on a subsequent day. Handing over a copy of the analyst’s report at a place other than the courts might lead to “unnecessary suspicion”.

Productions – When a food sample containing the original label is sent to the analyst, the Authorized Officer should make a request to the analyst to preserve a portion of the sample duly sealed, along with the original label on the sample, without being disposed of. The Authorized Officer should visit the laboratory and collect them as the analyst may not return these. The Authorized Officer should mark section 3(3) of the memorandum with a high-lighting pen to make sure that the analyst will keep them safe for collection. It has been the experience in courts that the inability to submit them as productions has led to the collapse of cases. Whenever samples are sent under registered cover, keep the receipt issued regarding the transaction and the slip issued by the post office. They have to be marked and produced before the magistrate at the trial. Lapses on the part of the Authorized Officers in not producing them will lead to being reprimanded by the magistrate.

Division of a sample – The regulations indicate the instances when a sample should be divided into two parts, and only one of the parts of the sample should be submitted. In such a case, one sample should be retained by the Authorized Officer, to be produced at the hearing of the case. The responsibility for the safety of this sample and the proper preservation (e.g. refrigeration if required) will be on the Authorized Officer, and he would be required in his evidence, to mention how he held the sample.

Presumptions – It is very necessary that Authorized Officers familiarize themselves with the presumptions given in 26(1), (2) and (3) as these could be used by both the prosecution and defense in arguing cases.

It should be understood that Section 26(3) refers to a presumption where a charge is based on the facts given on a label. It does not compel the Authorized Officer to charge the person whose name and address appear on the label, but the Authorized Officer can decide whom to charge.

It is to be noted that when a party other than the vendor is to be charged, approval should be obtained from the Food Authority - Section 21(3).

Offences Committed by a Body of Persons – When an offence is committed by a body of persons there is no direction that everyone comprising that body should be charged. The Authorized Officer is free to decide.

Proving good faith – If acting on bad faith is alleged, it will be necessary for the Authorized Officer to provide proof of his acting in good faith (Section 28). For this purpose, reliable witnesses and a well-bound, properly maintained and a page-numbered Pocket Note Book are the best safeguards.

Complaints or reports to Court

A copy of a draft plaint is annexed (Annexure 1, 2, 3). Officers should alter the text according to each individual situation. When drafting the charge, attention should be paid to Sections 164 and 165 of the Criminal Procedure Code. Sufficient information should be included to enable the accused to know the charge he has to face. The date and time, the place, how the offence was committed, the relevant sections of the Act, Gazette numbers, the section which deals with the offence - Section 18(1) and the penal section must be clearly stated.

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Magistrate's Court

Case No.

Mr.

Authorized Officer under the Food Act and PHI

Versus

Mr. /Mrs. /Miss.

Accused

.....200...

I, Authorized Officer under the Food Act No. 26 of 1980 and Public Health Inspector do hereby report to this Court, under section 136(1)(b) of the Code of Criminal Procedure Act No. 15 of 1979, that the above named accused, on or about200.....at.....within the jurisdiction of the court, did commit an offence under section 2(1) () of the Food Act No. 26 of 1980 as amended by section 2(1)() of the Food (amendment) Act No. 20 of 1991, by(the offence).....

and punishable ;under section 18(1)() of the main Act as amended by section 14(1) () of the Food (Amendment) Act No. 20 of 1991.

Authorized Officer under the Food Act PHI

Witnesses

- 1. Mr.
2. Mr.

Productions

- 1. Receipt No. /Hand written receipt of200...
2. Report of Govt. Analyst / Approved Analyst /Additional Approved Analyst - No
3. Duplicate of the food sample No.

Annexure- 2

Charge Sheet

(Sections 164 & 165 of the CCP Act)

Accused:

You are hereby charged as follows:-

You have on or about the(date) at..... within the jurisdiction of this courts, did commit an offence under section 2(1)() of the Food Act No. 26 of 1980 as amended by section 2(1)() of the Food (Amendment) Act No.21 of 1996 by(offence).....and punishable under section 18(1) () of Food Act No. 26 of 1980 as amended by section 14(1) () of the Food (Amendment) Act No. 21 of 1996.

Date:-

Sgd. Magistrate

Annexure- 3

Charges

These instructions are designed to provide the PHI with knowledge regarding the basic charges that will be generally framed.

The officer should be able to compile an understandable paragraph taking a statement from groups ABCE and also D as relevant.

Group

- A**
- Selling to _____ (name of the buyer) _____
 - Exposing for sale at _____ (place of offence) _____
 - Storing at _____ (place of offence) _____
 - Distributing to _____ (name of the recipient) _____
 - Manufacturing at _____ (place of offence - if the place is within the jurisdiction of Court).
 - Manufacturing and selling through _____ (name of person who sold and address - if out of jurisdiction of Court)
 - Manufacturing and exposing for sale* / storing* at _____ (address where detected for out of jurisdiction of Court)

* delete whichever is inapplicable

- B**
- an article of food demanded, called _____ (name of food) _____ which contained _____ (offensive material) _____
 - adulterated with _____ (type of adulterant) _____
 - labeled in a manner which is false /misleading/or
_____ (describe how mislabeled) _____ - relevant section 3(1)
 - labeled in a manner as is likely to be mistaken for the food for which the standard has been prescribed - relevant section 4
 - manufactured under insanitary conditions - relevant section 2(2)

- C**
- and thereby rendering it injurious to health - if under 2(1)(a)
 - and thereby rendering it unfit for human consumption - if under 2(1)(b)

- D**
- in contravention of section ----- of the said Food Act
 - in contravention of section ----- of the _____ (name of regulation) regulation
No. _____ of _____ (year) _____ gazetted by No. _____ of _____ (date) _____
 - in contravention of section (2-7) of the said Food Act read with section _____ of the _____ (name of regulation) _____ regulation No. _____ of _____ (year) _____ gazetted by No. _____ of _____ (date) _____

4.2 Housing and related legislation

The PHI should familiarize himself with the relevant legislation relating to the housing, applicable to his area. The Housing and Town Improvement Ordinance is applicable to all the Pradeshiya Sabha areas which are not declared under the Urban Development Authority. He is legally required to get himself authorized either by the MOH or the Chairman of the Pradeshiya Sabha, as the case may be, to perform duties under the Housing & Town Improvement Ordinance. These are discussed in detail, and the other relevant legislation to which reference should be made when appropriate, is also mentioned.

• Housing and Town Improvement Ordinance

In areas where the Housing and Town Improvement (H & TI) Ordinance is in force, no buildings can be erected, re-erected or altered without the approval of the Chairman of the local authority (Section 5, 6). A building includes any outer houses or other appurtenances and any masonry boundary wall or gateway.

Alteration of a building could be carried out with the consent of the Chairman. Submission of plans may not always be necessary for this purpose, if the work could be adequately described. The following works are considered as alterations:

- (a) Construction of a roof (or part) or an external or party wall
- (b) Closing or construction of a door or a window in an external wall
- (c) Construction of an internal wall or partition
- (d) Any change affecting the drainage, ventilation, sanitary arrangements and open space attached to a building
- (e) Addition of a building, outer house or room
- (f) Construction of a roof between one or more walls or buildings
- (g) Conversion of a building, not originally constructed for dwelling, into a dwelling house
- (h) Conversion of one dwelling house into more than one dwelling house
- (i) Conversion of two or more dwelling houses into a greater number of such houses
- (j) Alteration of a building for the purpose of effecting a partition among joint owners
- (k) Re-erection of any part of the building demolished for the purpose of such re-erection, or otherwise destroyed

The following are not considered as 'alterations'

- (a) Re-roofing of a building with cadjan or similar material
- (b) Re-erection of any damaged wall or a thatched mud and wattle building rendered unfit for dwelling, by stress of weather or similar reason
- (c) Any minor repair or alteration declared by the Chairman as not requiring consent

Approval and Commencement of operations

The Chairman is expected to grant approval or consent within two months of receipt of an application (Section 9).

Notice of commencement of construction or resumption of construction after suspension for a period exceeding three months, has to be given to the Chairman seven days before commencement / resumption (Section 10). Such operation could be commenced / resumed only if approval for building had been obtained within the preceding one year before the date of notice.

Inspections

During building operations, inspections can be done by the public health officer at any time without prior notice (Section 11).

Certificate of Conformity (C.O.C)

No building can be occupied after construction without obtaining a Certificate of Conformity – except by a caretaker. The Chairman is expected to inform the applicant within 30 days of receipt of the application, of his decision whether or not a certificate will be issued. For the purpose of inspecting the building, the public health officer may enter the building at any time during daylight, after giving prior notice (Section 15).

Unauthorized buildings

In the event of building operations carried out in contravention of the provisions of the Ordinance, the Chairman may require the person carrying out the operations, to show cause either in writing or personally why the building should not be demolished on a specified date (not less than seven days from the date of notice). If the person fails to show sufficient cause, the Chairman may require him to demolish the building or he may himself get the order executed, and recover the expenses (Section 12). Legal action under Section 13 may also be instituted against the offender.

PHII should prepare notices and guide the Chairman, regarding the correct procedure.

Temporary buildings

The Chairman is permitted under Section 17 to issue a permit for the erection of temporary buildings which may otherwise conflict with or contravene the provisions of the Ordinance. The maximum period allowed for the building to stand is one year and the permit holder is required to demolish the building within the specified time. A deposit is kept with the local authority and is refunded after demolition.

Appeal

The procedure for appeal by any person, who is not satisfied with a decision made by the Chairman to refuse approval of a building application, or to refuse the issue Certificate of Conformity etc., is laid down in Section 16.

Insanitary Dwellings

If a dwelling house is considered unfit for human habitation the Chairman can apply to the magistrate to make a mandatory order prohibiting the use of such a dwelling until it is rendered fit for human habitation. This is called a 'closing order' (Section 77). The procedure to be followed after making the closing order is given in Section 77, 78 79, 80, 81 (q.v.).

Offences

Offences are described in Section 13. A person is liable, on conviction, to a fine not exceeding 300 rupees and to a daily fine of 25 rupees for each day that the offence is continued. Magistrate may, on the application of the Chairman, make a mandatory order requiring such person or the owner of the building, or both, within a time specified in the order, to demolish the building in question, or to alter it in such a way so as to bring it in accordance with law. In the event of such a mandatory order not being complied with, the Magistrate may authorize the Chairman to demolish, alter or otherwise deal with the building, in such a manner as to secure compliance with the order and recover expenses.

Streets and Street Lines

All buildings, including masonry boundary walls and gateways (Section 111) should be erected upon 'street lines' or 'building limits' defined or approved by the Chairman (Section 19).

The PHII should obtain particulars from the local authority in respect of each street. For streets maintained by the local authority the building limits are given in the MC/UC/PS ordinance. For streets maintained by the Highways Department details should be obtained from the District Engineer (Highways). It is advisable, unless otherwise directed, to obtain certificates from relevant authorities on this aspect prior to making your recommendations.

Standards for Buildings, Rooms and Streets

Standards for buildings, rooms and streets are detailed in the schedule. PHII should be thoroughly conversant with the rules given in the schedule.

Height of Buildings

In general, buildings other than religious building situated on a street should be of such a height that no portion of the front intersects a line drawn at 63.5 degrees to the horizontal from the opposite side of the street at floor level.

The Chairman is, however, given the power to authorize buildings exceeding this height using his discretion under certain circumstances (q.v.)

Size and Ventilation of Inhabited Rooms

The minimum requirements are as follows:

- (a) Height – Average 9 feet; minimum 7 feet.
- (b) Area – 1st room – 120sq.ft. Other rooms – 90sq.ft.
- (c) Minimum width of room – 8 ft.
- (d) Height of doors – minimum 6 ft.
- (e) Minimum area of windows – 8 sq. ft.
- (f) It must have windows and doors of not less than 1/7 floor area, where windows should not be less than 1/15 of the floor area, opening into an external space directly or through an open verandah into a standard light plane.

Open air spaces at side or interior of buildings

The open space referred to in (f) above:

- (a) must not be less than 7 1/2 ft. in width
- (b) must be reserved for the building or public use
- (c) must be of such a width that no portion of the face of the building intersects a series of imaginary lines drawn at 63.5 degrees to the horizontal from the side opposite to the face at the level of the lowest storey

Two owners of adjoining buildings can register an agreement binding each to preserve a common space of 15 feet.

Open space at rear of buildings

An open space of 7 1/2 feet should be reserved on the face of the building farthest from any street, or when a building is situated on more than one street, from the widest street or lane not less than 20 feet wide.

Road Access

The minimum width for road access that may be sanctioned by the Chairman in respect of a limited number of premises is as follows:

- (a) Not more than four premises – minimum width 10 feet.
- (b) More than four but less than eight premises – minimum width is 15 feet.
- (c) More than eight but less than 20 premises – minimum width 20 feet.

Reporting on a Building Application

When a building application is referred to the PHI for inspection and reporting, the PHI should ascertain whether the Chairman has obtained observations from other officers on any matters not directly related to public health. If so, the PHI need not comment on them unless he observes any glaring errors or omissions. It is the PHI's responsibility to report on all aspects related to public health. He should ensure that the building application contains the three main sections: (a) the site plan (b) the ground plan and (c) a cross-section of each separate building block.

The PHI should note and report on the following:

Site Plan

- (i) Location and distances from proposed building to boundaries and other building, wells, latrines, sewer lines, electricity posts etc.
- (ii) Access – vide requirements in schedule
- (iii) Distance form centre of road (PHI need not comment if this has already been done by a competent person)

If PHI is expected to report he should familiarize himself with the following information;

- Gazette notification dealing with distances form centre of the roads in the relevant local authority area
- Street lines and building limits of roads in the area

If the roads are maintained by the Highways Department PHI should request the Chairman to obtain approval from the Highways Authority

- (iv) Rear space (read section 5(1)(2) in Act No. 38 to 1980).
A rear open space of 7 1/2 feet throughout the entire building is required, unless the rear abuts on a 20 foot public street or lane. An average of 7 1/2 feet may be allowed if the minimum width is not less than 3 feet.

Ground Plan

- i. Comment on size of living rooms, height, adequacy of light and ventilation
- ii. Toilets – type, sanitary requirements, soakage pit, septic tank, distance from wells
- iii. Store-rooms – beware of habitable rooms being referred to as store-rooms to circumvent requirements of light and ventilation

- iv Area covered by building should not exceed 3000 sq.ft. (vide ceiling on houses)
- v Requirements for open spaces
- vi Check on proportion of site area covered by building – 2/3 for residential, 4/5 for commercial and industrial

**Areas under the Greater Colombo Economic Commission
(Act No. 4 of 1978)**

It should be noted that the provisions of the Municipal Council Ordinance are enforced deleting Sections I, II, III, IX, X, XIV. Other Ordinances in force are:

- (a) Housing and Town Improvement Ordinance (Cap 268)
- (b) Town and Country Planning Ordinance (Cap 269)
- (c) Thorough fares Ordinance (Cap 193)

**Areas under the Urban Development Authority
(Act No. 41 of 1978)**

The Planning and Building Regulations (1986), under the Urban Development Authority (UDA) Act are published in the Government Gazette No. 392/2 of 10 March 1986. PHII working in areas where the UDA Act is in force are advised to study these regulations thoroughly.

In these areas buildings are classified into three categories A,B and C. Only buildings falling under category C are likely to be referred to PHII. These would include residential buildings not exceeding 300 sq. meters in extent with not more than two floors including the ground floor and buildings other than residential buildings not exceeding 100 sq. meters in extent with not more than two floors including the ground floor.

Urban Development Regulations

Internal clear dimensions of rooms.

- i - Where there is only one room in a dwelling unit – 11sq.metres, with minimum width 3metres
- ii - Where there are more than one room in a dwelling unit
 - a – first room - 8.5sq.metres
minimum width - 2.4metres
 - b – additional rooms - 7.5sq.metres
minimum width - 2.4metres
- iii - Rooms in non-residential buildings - 7.5sq.metres
minimum width - 2.4metres
- iv -a - Kitchen - 5.5sq.metres
minimum width -1.8metres

- b - Kitchen alcove
 - minimum length - 0.9metres
 - minimum width - 0.4metres

- v - a - Bathrooms
 - minimum length - 1.2metres
 - minimum width - 0.9metres

- b - Toilets
 - minimum length - 1.2metres
 - minimum width - 0.9metres

- c - Combined Bath and Toilets
 - minimum length - 1.7metres
 - minimum width - 0.9metres

- vi - Light and Ventilation
 - a – Bath Rooms & Toilets - 1/10
 - b - Vehicle parking garage - 1/10
 - c - Factories & warehouses - 1/10
 - d - All other rooms - 1/7

Road Access to residential units

- a - under 4 dwelling units - minimum length 50metres
minimum width 3metres

- b -more than 4, but not more than 8 - minimum length 100metres
dwelling units - minimum width 4.5metres

- c -more than 8, but not more than 20
dwelling units minimum width 6metres

- d -more than 20 dwelling units minimum width 9metres

• Other Relevant Legislations

When reporting on building applications the relevant provisions in the following legislative enactments should also be taken into consideration:

- i. Pradeshiya Sabha Act No. 15 of 1987.
- ii. Metric Units (Consequential Provisions) (Amendment) Act, No. 15 of 1983.
- iii. Coast Conservation Act No. 57 of 1981.
- iv. Thoroughfares Ordinance (Cap 193).
- v. Housing and Ceiling on Property Act.
- vi. Town and Country Planning Ordinance (Cap 269).

Annexure- 4

NOTICE NO.01

My No:
Office of the Pradeshiya
Sabha
Date:

Mr. /Mrs.
.....

UNAUTHORISED CONSTRUCTIONS – NOTICE

I have been informed that you are effecting / have effected an unauthorized erection / re-erection / alteration at (place of offence) _____ without getting plans approved in writing from me and violated section 5/6 of the Housing and Town Improvement Ordinance No. 19 of 1915, Chapter 268.

By virtue of the powers vested in me by Section 12(1) of the said ordinance, you are /or an agent duly authorized by you is, hereby noticed to show cause within 8 days from the date of receipt of this notice as to why the building or work in question shall not be removed, altered or pulled down.

Sgd.
.....
Chairman Pradeshiya Sabha

Copy to: MOH...../PHI

Annexure- 5

NOTICE NO.01

My No:
Office of the Pradeshiya Sabha
Date:

Mr. /Mrs.
.....

UNAUTHORISED CONSTRUCTIONS – NOTICE

I wish to invite your attention to my notice No. of (date) on the above subject.

I have observed that you have failed to show cause as to why the unauthorized erection /re-erection/alteration that you have affected/ effecting at _____ shall not be removed, altered or demolished or pulled down within the time specified in the said notice.

By virtue of the powers vested in me by Section 12(2) of the Housing and Town Improvement Ordinance No.19 of 1915, Chapter 268, you are hereby ordered to remove/alter/pull down the said unauthorized erection/ re-erection / alteration within 8 days from the date of receipt of this notice, failing which action will be taken by due to remove, alter or pull down it and recover the expenses thereby incurred from you.

Sgd.
.....
Chairman Pradeshiya Sabha

Copy to: MOH...../PHI- for N.A.

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Magistrate's Court

Case No.....

Mr.

Public Health Inspector

Complainant
Versus

Mr/Mrs

.....

.....
IPublic Health Inspector do hereby report to this courts under Section 136(1)(B) of the Code of Criminal Procedure Act No. 15 of 1979 that the above named accused on or about the200.... at..... within the jurisdiction of his courts, did commit an offence under Section 5/6 of the Housing and Town Improvement ordinance Chapter 268 No. 19 of 1915 by effecting an erection/re-erection/alteration
.....
without plans, drawings and specifications approved in writing by the Chairman, Pradeshiya Sabhaand punishable under Section 13(1) () of the said ordinance.

.....
Public Health Inspector
Complainant

Witness

- 1.....
- 2.
- 3.

Productions

- 1. Report of MOH/PHI dated
- 2. Notice No. (1) of
- 3. Notice No. (2) of

Production Authorized

.....
Chairman Pradeshiya Sabha
Date:

**Charge Sheet
(Sections 164 & 165 of the CCPA)**

Case No.
.....

Accused:

You are hereby charged as follows;

You have on a about theday of200.....
at
within the jurisdiction of this court did commit an offence under Section 5/6 of the
Housing & Town Improvement Ordinance, Chapter 268 No. 19 of 1915 by effecting
an erection/re-erection/alteration
..... without plans, drawing, and
specifications approved in writing by the Chairman, Pradeshiya Sabha
.....and punishable under Section 13(1) of the
said ordinance.

4.3 Quarantine & Prevention of Diseases Ordinance

The Quarantine & Prevention of Diseases Ordinance chapter 222, No.3 of 1897 makes provision for preventing of the introduction into Sri Lanka of the plague and all other contagious and infectious diseases and preventing the spread of said diseases in and outside Sri Lanka.

The Honorable Minister of Health has been vested with the power of making and revoking or varying any regulation to fulfill the above objectives. The Public Health Inspector should be conversant with the regulations gazetted to perform his duties, as the prevention and control of communicable diseases is his main duty.

In most regulations framed under this ordinance the Director General of Health Services is the proper authority. The Chairmen of the local authorities too have been appointed as the proper authority in relation to certain regulations. The Director General of Health services has delegated some of his powers to the Medical Officer of Health and the Chairman of the local authority vide Govt. Gazette Notification No. 7481 of 28-08-1925 & 10713 of 17-09-1954.

- a) Quarantine Regulations
- b) Regulation relating to the storage of grain
- c) Regulations relating to Anchylostomiasis give equal powers to the MOH and the Chairman of local Authority.

Offences

The section 4 of the Q & P Ordinance deals with the offences. Contravention of the provisions of the Ordinance or any Regulation framed there under and obstructing the Inspector or other officer appointed under the Ordinance, or any police officer in the execution of any provision of the Ordinance and regulations made there under shall be offences against the Ordinance.

Punishment

Any person convicted of an offence under this ordinance is liable to an imprisonment of either description for a term not exceeding 6 month and rupees not less than Two Thousand and not more than Ten Thousand (vide page 23 of the Increase of Fines Act No. 12 of 2005) or to both.

Authorized officers under the Quarantine & Prevention of Diseases Ordinance

-Inspectors, Other officers appointed under the Ordinance and Police Officers.

The term "Inspector" for the purpose of this ordinance or any regulation made there under, shall be deemed to include "Sanitary Assistants" of the Department of Medical and Sanitary Services and any Inspector or Sub Inspector of Health Department in any Municipality, District Council or Local Board, or any Inspector appointed by the Director or Deputy Director of Quarantine Department – Gazetted nos. 9134 of 11-06-1943 and 6365 of 22-04-1938. The Sanitary Assistant referred to in this regulation is none other than the Public Health Inspector.

Every Public Health Inspector should study the General regulations framed under the ordinances (from 37 to 89).

Nuisances caused to the people, by the non-availability of latrines, and by the existing defective latrines rendered injurious to the health, are two common problems a Public Health Inspector has to face in his day to day routine work. Therefore he should be conversant with these regulations framed under the ordinance. The MOH or the Chairman of the local authority is the "Proper Authority" under these regulations. Therefore the PHI should prepare the notices according to the sections relevant to the problem.

Regulations relating to Anchylostomiasis 10713 / 17-09-1954

The owner, occupier or lessee of every building shall when notified in writing by the proper authority, provide latrine accommodation sufficient for the use of the occupants of the said building, to the satisfaction of such proper authority, within a period of two months from the date of such notification.

The proper authority shall have the right to order the demolition or alteration of any pit, trench or other latrine already in use on any land which shall in his opinion, be a nuisance or likely to be dangerous to become a nuisance, or be dangerous or likely to be dangerous to the health of any person or persons residing or employed in the neighborhood.

Every latrine built after these regulations shall have come into force, whether on orders of the proper authority under the preceding regulation or otherwise, shall be built on a site to be approved by the proper authority and in accordance with plans to be approved by the proper authority.

Every latrine shall be all times kept in a clean and sanitary state and in good state of repair and the owner, occupier or lessee of the building which the latrine serves shall cause to be carried out within the time to be allowed by the proper authority any alterations, repairs, additions or other requirements directed by the proper authority which the proper authority may deem to be necessary for the purpose of abating any nuisance artisan or likely to arise from the faulty condition or control of such latrine.

General Regulation 84

Service of Notices – where any notice is required to be served on the owner or the occupier of any house or premises under this ordinance, and if the notice cannot be served owing to the address of the owner or occupier not being known or by his refusal to accept the same, such notice may be posted in some conspicuous part or land and it shall not be necessary in any such notice to name the occupier or the owner.

Among the other regulations gazetted under the Quarantine & Prevention of Diseases Ordinance, Mosquito-Borne Diseases (prevention) Regulations 9570/ 21-06-1946, 10340- 10-02-1952 and 10395 / 21- 06- 1952 are still in force. They were not repealed by the Prevention of Mosquito Breeding Act No. 11 of 2007.

Notice

My No:-
Office of the Medical officer of Health
.....

Mr. /Mrs. -.....
.....

It is reported that there is no latrine accommodation at premises No -----
/ Land called ----- situated at ----- which is owned / occupied /
leased / by you.

By virtue of the powers vested in me by Regulation No. 119 relating to
Anchylostomiasis framed under the Quarantine & Prevention of Diseases Ordinance
chapter 222 No 03 of 1897 and published in the Gazette No. 10713 of 17-09-1954
you are hereby noticed to provide latrine accommodation sufficient for the use of
occupants of the said building within 2 months from the date of receipt of this notice.

If you fail to comply with this notice you will be prosecuted and shall be liable
on conviction to imprisonment of either description for a term not exceeding six
months or to a fine not less than two thousand rupees and not exceeding ten
thousand rupees or both.

Sgd. -----

Medical Officer of Health
(Proper authority)

Copy to:-

- 1- PHI ----- for necessary action.
- 2- ----- (complainant , if any)

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
Magistrate's Court.....

Case No.....

Mr.....
Public Health Inspector.....
Complainant

Versus

Mr / Mrs.....
Accused
..... 200...

I, Public Health Inspector..... do hereby report to this court under section 136 (1)(b) of the Code of Criminal Procedure Act No. 15 of 1979, that the above named accused on or about day of 200... at..... within the jurisdiction of the court did commit an offence under section 4 of the Quarantine & Prevention of Diseases Ordinance No. 03 of 1897 chapter 222 by failing to provide latrine accommodation sufficient for the occupants of the said building and thereby contravening Regulation No. 120 relating to Anchylostomiasis framed under section 3 of said Ordinance and published in the Government Gazette No. 10713 of 17-09 1954 and punishable under section 05 of the said Ordinance.

.....
PHI.....
Complainant

Witness:-

- 1-
- 2-
- 3-

Productions:-

- 1- Notice No of MOH.....
- 2- (any other document)
- 3-

Prosecution authorized

.....
Medical Officer of Health

Date: -.....

Charge Sheet
(Sections 164, 165 of the C.C.P. Act)

Case No: -.....

Accused: -.....

You are hereby charged as follows;

You have on or about the.....at..... within the jurisdiction of this court, did commit an offence under section 4 of the Quarantine & Prevention of Diseases Ordinance No. 3 of 1897 chapter 222 by failing to provide latrine accommodation sufficient for the use of the occupants of the said building and thereby contravening Regulation No. 120 relating to Anchylostomiasis framed under section 3 of the said Quarantine & Prevention of Diseases Ordinance and published in the Government Gazette No. 10173 of 17-09-1954 and punishable under section 5 of the said Ordinance.

4.4 Nuisance Ordinance

Public Health Inspector plays a very important part in the suppression of Nuisances. He is guided by the Nuisance Ordinance chapter 230 No. 15 of 1862 in performing this work. There are twelve offences under section 2. Any other offence which does not fall within the above twelve offences could be dealt with under section 10 of the Ordinance.

“Nuisance” includes any act, omission or thing occurring or likely to occur injury, annoyance, offence, harm, danger or damage to the sense of sight, smell or hearing or which is likely to be dangerous or injurious to health or property.

Noticing Authority

According to the 1956 revision of the Nuisance Ordinance people who are responsible for the Nuisance could be noticed by the Board of Health, or Urban Council or Town Council or any of its officers or the Magistrate. There is a discrepancy between the contents of the 1956 revision and the Sinhalese Translation of the Nuisances Ordinance published in 1957 where Urban Council and Town council are not included as Noticing Authorities. As the original ordinance has been printed in English language the court would be guided by the English copy.

According to the section 221 of the Pradeshiya Sabha act No.15 of 1987, a reference in any written law in operation on the date appointed under section of the Act (a) A Town Council or a Village Council shall be deemed to be a reference to a Pradeshiya Sabha. As the Board of Health is a defunct body, a notice signed by the MOH or the PHI as an officer under it might lead to the failure of the court case. Therefore PHI should get himself authorized by the Urban Council or the Pradeshiya Sabha to perform his duties legally.

Public Nuisance

Section 261 of the Penal Code of Sri Lanka defines public nuisance as “A person is guilty of a public nuisance, who does not act on an illegal omission, or guilty of an illegal omission, which causes any common injury, danger or annoyance to the public or to the people who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right”.

A common nuisance is not excused on grounds that it causes some conveniences or advantages. The Public Health Inspector is a key person among those who could take legal action to abate or put an end to the same, the others being Police and Local Authorities, etc. Section 98 of the Code of Criminal Procedure Act No. 15 of 1979 deals with public nuisances.

Section 100-107 of the Pradeshiya Sabhas Act No. 15 of 1987, section 83 of the Urban Councils Ordinances No. 61 of 1947 and the Municipal Councils Ordinances No 29 of 1947 stipulates powers of the local authorities to deal with nuisances. The National Environmental Act No 47 of 1980 and No. 56 of 1988 are also there to deal with nuisances.

Action under section 98 of the C.C.P. Act

When a PHI observes a nuisance he should make comprehensive notes of it. A sketch map showing where nuisance occurs and the dwellings or houses affected by the nuisance should also be marked. Photographs of the nuisance would add to the weight to the case. An affidavit with all the details & productions should be annexed and submitted to the court under Section 136 (1) (b) of the C.C.P. Act.

4.5 National Authority on Tobacco and Alcohol Act, No 27 of 2006

This is an important piece of legislation which provides for the establishment of the National Authority on Tobacco and Alcohol for the purpose of identifying the policy of protecting public health, to which tobacco and alcohol pose a great threat. Special attention has been paid to make provisions discouraging person, especially children, from smoking and consuming alcoholic products.

National Authority on Tobacco & Alcohol comprises 16 members appointed by the Hon. Minister of Health. One of these members will be appointed as the chairman who shall be the Chief Executive Officer of the Authority. It is vested with a lot of powers to deal with tobacco and alcoholic products.

Authorized Officers

The Authority implements the legal part of the Act through the Authorized Officers appointed under section 16 (a) of the Act. The Minister has gazetted all Food and Drugs Inspectors and PHII, by the Extraordinary Gazette No: 1481 / 25 of 24th January 2007.

Powers of Authority Officers

Where any Authorized Officer has reasonable grounds to believe that there has been a violation of any provision of this Act or any regulation made there under, he may –

- a. At any reasonable time enter any place where he believes any tobacco product or alcohol product is manufactured, prepared, preserved, packaged, exposed for sale or stored, examine anything that he believes is used for the manufacture, preparation, preservation, packaging or storing of that tobacco product or alcohol product
- b. For the purpose of carrying out effective search operations, stop or detain any vehicle in which he believes that any tobacco product or alcohol product is being conveyed, search that vehicle and examine any tobacco product or alcohol product which is being so carried and take samples thereof

- c. Open and examine any receptacle or package that he believes contains any tobacco product or alcohol product
- d. Seize and detain for such time as may be necessary, any tobacco product or alcohol product, by means of or in relation to which, he believes any provision of this Act or regulation made there under has been contravened

Offences and Fines

Sections in the relevant Act

31. (1) A person shall not sell, offer for sale, or permit or promote the sale of any tobacco product or alcohol product to any person under twenty one years of age.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding four thousand rupees or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

32. (1) A person shall not install, or permit the installation an operation of, any automatic vending machine that dispenses, or is capable of dispensing, any tobacco product or alcohol product, in any place to which the public have access.

Any person who contravenes the provision of sub-section (1) shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two thousand rupees or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

33. (1) A person shall not manufacture, import, sell or offer for sale, any tobacco product as may be prescribed by regulations.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence under this Act and shall conviction after summary trial before a Magistrate be liable to a fine not exceeding two thousand rupees, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

34. (2) A person shall not sell or offer for sale, a packet containing tobacco products unless there is displayed on such packet, a label of the prescribed dimensions containing a statement of the tar and nicotine content in each tobacco product in such packet and prescribed health warning. Penalty for contravention of the above section is a fine not exceeding two thousand rupees or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

35. (1) A person shall not sell, not publish or cause to be published, or authorize the publication of a tobacco advertisement or an alcohol advertisement. Penalty for contravention of the above is a fine not exceeding two million rupees.

36. This section deals with prohibitions of sponsorships under brand name or trade mark of any tobacco product or alcohol product in connection with certain events. Penalty for contravention of the above is a fine not exceeding fifty thousand rupees or imprisonment for a period not exceeding two years, or both.

37. Free distribution of tobacco products or alcohol products is prohibited, and the penalty for violation is a fine not exceeding fifty thousand rupees or imprisonment for a period not exceeding two years, or both.

38. For offences relating to trade marks of tobacco products and alcohol products, the fine is fifty thousand rupees or imprisonment for a period not exceeding two years, or both.

39. Smoking in an enclosed area is prohibited, the violation of which carries a fine not exceeding is two thousand rupees or a sentence of imprisonment for a period not exceeding one year, or both .

40. Deals with miscellaneous offences, and the fine is two thousand rupees or imprisonment for a period not exceeding six months, or both.

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Magistrate's Court

Case No.

.....

Authorized Officer under the National Authority on Tobacco & Alcohol Act, and

PHI.....

Complainant
Versus

Mr./Mrs./Miss.....

.....

Accused

..... day of.....20....

I, Authorized Officer under the National Authority on Tobacco & Alcohol Act 27 of 2006 do hereby report to this court under section 136(1)(b) of the Code of Criminal Procedure Act No. 15 of 1979, that the above accused, on or about theday of.....20.... within the jurisdiction of this court did commit an offence under section.....of the said act by

.....and punishable under section.....of the said National Authority on Tobacco & Alcohol Act 27 of 2006.

.....
Complainant

Witness: -

- 1.
- 2.

Authorized Officer under the N.A
on Tobacco & Alcohol Act, and PHI

Productions:

Charge Sheet
(Sections 164 & 165 of the C. C. P Act)

Case No.

Accused

You are hereby charged as follows:-

You have on or about the day of200
at.....
within the jurisdiction of this court did commit an offence under section
.....of the National Authority on Tobacco & Alcohol Act no.....
27 of 2006
.....
.....and punishable under
Section.....of the said National Authority on Tobacco & Alcohol
Act no. 27 of 2006

Magistrate

4.6 Prevention of Mosquito Breeding Act No.11 of 2007

The main objective of the Act is to prevent mosquito breeding which is responsible for the spread of Dengue Fever, Malaria, Filariasis and Japanese encephalitis. The incidence of Dengue Fever & Dengue Haemorrhagic Fever is on the increase, and the morbidity and mortality rates pose a problem to the Health Department. As there is neither a specific drug to treat, nor a vaccine available to prevent the disease, prevention through destruction of breeding places of the mosquito, should receive top priority.

Conditions of prevention under the section 2 of the Act are similar to those under section 2 of the Mosquito Borne Diseases (prevention) regulations framed under the Quarantine & Prevention of Diseases Ordinance. Therefore they are not repeated here. The prohibitions in section 2 of the Act should be studied.

Noticing

The Proper Authority and The PHII are empowered to notice under this Act. The guidelines of the notice are to be gazetted. Failing to comply with the notice is an offence.

Fine

Every owner or occupier who fails to comply with a notice is liable, on conviction to a fine not less than one Thousand Rupees and not exceeding Twenty Five Thousand Rupees. In the case of a continuing offence, an additional fine of one Hundred Rupees for each day on which the offence is continued will be imposed. Where a person has been convicted under section 4 of the Act the magistrate may further order accused to rectify the conditions for which accused was prosecuted and fined. The competent authority may appoint any officer or officers to carry out the work or measures specified in the notice sent under section 3 of the Act which the owner or occupier neglected or failed to attend.

In such a situation the officer or officers mentioned above should show the owner or occupier the copy of document issued by the Competent Authority authorizing him or them to carry out such remedial measures. The owner or occupier has to pay the expenses incurred in connection with the remedial measures within 2 weeks of the date on which the demand for payment of same is communicated. If the owner or occupier fails to make the payment within 2 weeks, the competent authority has to make an application to courts with the particulars of the amount due as expenses.

The competent authority may by notice in writing, on any owner or occupier of a premise to spray the breeding places mentioned in the notice with the type of pesticide he specifies and within the time specified. Failure to comply with the notice issued under section 7 of the Act is an offence punishable with a fine of One Thousand Rupees.

Obstructing or resisting willfully, the Competent Authority or any Authorized Officer, in the lawful exercise of their duties is an offence under that and liable to a fine not exceeding 50,000 Rupees or to a term of imprisonment not exceeding 6 months or both.

No person shall knowingly or willfully commit any act which is likely to lessen the efficiency or cause the deterioration of any of the anti-mosquito measures carried out under the act. Violation of this requirement is an offence punishable with a fine of 10,000 Rupees or a term of imprisonment not exceeding 3 months or both.

Prosecutions

A notice specifying the measures to be taken regarding mosquito breeding should be served on the owner or occupier of the premises, giving 2 weeks time for the measures to be attended to. The person on whom a notice is served may request for an extension of time to rectify the defects. The PHI may grant or not grant the extension after consulting the MOH. The maximum period of extension is further 2 weeks after which the PHI should visit the place and inspect as to whether the person concerned has taken action to rectify the defects. If he has failed to carry out the remedial measures PHI should submit a report to the MOH within one week of carrying out the inspection, with his recommendations for prosecution.

When the PHI makes a recommendation for prosecution, MOH shall approve prosecution within one week of the receipt of such recommendation, or if the M.O.H. is of opinion that a prosecution is not necessary he shall himself inspect the place of offence and submit a report with his recommendation to the Competent Authority. The final decision regarding the prosecution would be taken by the Competent Authority within 2 weeks of receiving the recommendation of the MOH.

Serving of Notice

The notice should be served on the owner or the occupier of the premises by affixing the notice in a conspicuous place within the premises.

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Magistrate's Court.....

Case No.....

Mr.

Complainant

Authorized Officer under the Prevention of Mosquito Breeding Act No . 11
of 2007, and PHI.....

Versus

Mr. / Mrs. / Miss.....

.....

Accused

.....200...

I,..... Authorized Officer under the Prevention of Mosquito Breeding Act, No 11 of 2007, report to this Court under section 136(1) (b) of the Code of Criminal Procedure Act, No. 15 of 1979, that the above named accused on or about day of..... 200 at.....

..... () within the jurisdiction of this court, did commit an offence under section of the said act.....

by.....

.....and punishable under the section..... of the said Prevention of Mosquito Breeding Act, No. 11 of 2007.

.....

Complainant

Authorized Officer and PHI.....

Charge Sheet

(Sections 164 & 165 of C.C.P.A)

Case No.....

Accused.....

You are charged hereby as follows:

You have on or about the.....day of 200...at.....

..... within the jurisdiction of this court did commit an offence under section of the Prevention of Mosquito Breeding Act No 11 of 2007 by.....

.....

and punishable under sectionof the said prevention of Mosquito Breeding Act , No. 11 of 2007.

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Magistrate's Court.....

Case No.....

Mr.....

Complainant

Authorized Officer under the Prevention of Mosquito Breeding Act, No. 11
2007 and PHI.....

Versus

Mr. / Mrs.....

Accused

.....200...

I,..... Authorized Officer under the
Prevention of Mosquito Breeding Act, No 11 of 2007, report to this Court under
section 136(1) (b) of the Code of Criminal Procedure Act, No. 15 of 1979, that the
above named accused on or about day of.....200 at
.....(Place of Offence)
..... within the jurisdiction of this court, did commit an offence under
section..... of the said Act.....

(Describe the offence) and punishable under the sectionof the said Prevention
of Mosquito Breeding Act, No. 11 of 2007.

.....

Complainant
Authorized Officer and PHI.....

**Charge Sheet
(Sections 164 & 165 of C.C.P.A)**

Case No.....

Accused.....

You are charged hereby as follows:

You have on or about the.....day of.....
200...at.....(Place of offence) .
within the jurisdiction of this court did commit an offence under section of
the Prevention of Mosquito Breeding Act, No. 11 of 2007 by
.....

(Describe the offence) and punishable under section..... of the said prevention of
Mosquito Breeding Act , No. 11 of 2007.