

INFORMATION ON HUNGARIAN FOOD LEGISLATION

Act LXXXII of 2003 on Food

**Ministry of Agriculture and Rural Development
Department of Food Industry**

June 2004

Act LXXXII of 2003 on Food*

The Parliament, in order to determine the conditions of operation of food business, thereby ensuring the protection of consumers' health and interests as well as fairness competition on the market, proper information for consumers, free circulation of food between the Member States of the EU and promoting the international trade of food, has adopted the following Act:

General Provisions

§ 1

(1) This Act applies to production and/or placing on the market of food within the territory of the Republic of Hungary.

(2) The scope of application of this Act shall not extend to the production of food in households for private domestic consumption.

(3) The provisions of this Act shall apply in line with the provisions laid down in specific legislation.

§ 2

For the purposes of this Act:

1. *'food'* means any substance or product within the meaning of Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (hereinafter: Regulation No 178/2002);
2. *'novel food'* means any food assessed as novel within the meaning of Article 1(2) Regulation (EC) No 258/97 of the European Parliament and of the Council on novel food and novel food ingredients (hereinafter: Regulation (EC) No 258/97).
3. *'raw food'* means any food suitable for final consumption without food processing operations changing its original state significantly;
4. *'processed food'* means any food made suitable for final consumption by food production operations changing its original state significantly;
5. *'food placed on the market'* means any food placed on the market as provided for in Article 3(8) of Regulation No 178/2002;

* The Act was passed by Parliament on 20 October 2003.

6. '*catering product*' means any food, drink, confectionery or buffet product that is offered for sale to the final consumer at the place of production, at temporary stands, serving hatches or delivered to door;
7. '*food business*' means any food undertaking within the meaning of Article 3(2) of Regulation No 178/2002;
8. '*food business operator*' means a food business operator within the meaning of Article 3(3) of Regulation No 178/2002;
9. '*food producing*' means the whole or parts of the processes of cleaning, grading, preparing, processing, packaging, storage and transport in order to produce processed food;
10. '*food producer*' means the food business operators producing processed food;
11. '*food producing premises*' means an establishment where food production takes place;
12. '*placing on the market of food*' means placing on the market within the meaning of Article 3(8) of Regulation No 178/2002;
13. '*food distributor*' means the food business operators carrying out activities in placing food on the market within the meaning of Article 3(8) of Regulation No 178/2002;
14. '*food trading premises*' means an establishment in which food is placed on the market;
15. '*caterer*' means the food business operators producing catering products;
16. '*consumer*' means the final consumer of the food and the food business operators using the food in their activities;
17. '*final consumer*' means the final consumers within the meaning of Article 3(18) of Regulation No 178/2002;
18. '*food safety*' means ensuring during the whole process of production, processing and distribution that the food will not be hazardous to the final consumer's health if prepared and consumed according to the intended use;
19. '*food quality*' means the entirety of the properties of a food that make it meet the requirements laid down in the relevant provisions and fulfil the consumers' expectations;

20. *'food ingredient'* means any substance, including additives, used during the production of food, and present in the finished product in an unaltered or altered form;
21. *'food additive'* means any natural or artificial substance not normally consumed as food in itself and not normally used as an ingredient whether or not it has nutritive value, the addition of which to food during preparation, treatment, processing, packaging, transport or storage, is intended to serve the purpose of influencing the product's organoleptic, chemical, physical and microbiological properties favourably, and results, or may result, in it or its by-product becoming a component of the food;
22. *'food presentation'* means the entirety of appearance (e.g. form, shape, size), the packaging material and manner of packaging of a food, the environment of placing the food on the market and of information provided to the consumer by any means of communication;
23. *'food packaging'* means any material used to enclose, protect, handle, transport and present the food at all stages of food production, from the raw material to the finished product and from the food business operator to the final consumer;
24. *'official food control'* means any inspection carried out by the competent appointed authorities in order to verify that the food, food ingredients as well as the persons, materials and articles coming into contact with food are in compliance with legislation governing among others the protection of consumer health and interest (including information provided to the consumer) and fair market competition.

Preconditions of establishment and operation of a food business

§ 3

A food business shall be established at a place and in a manner ensuring that the quality and safety of food and the protection of environment meet the requirements laid down in specific legislation.

§ 4

In the course of the operation of a food business:

- a) the environment, equipment, instruments, technology, quality of food ingredients used and the health and professional skills of staff employed shall be suitable to guarantee a safe food of appropriate quality;
- b) suitable quality assurance, food safety, traceability and product withdrawal systems or elements of such systems shall be applied to ensure the safety and proper quality of food.

§ 5

(1) Food producers and caterers shall draw up product sheets concerning the food produced by them.

(2) A product sheet shall include:

- a) substance composition of the food, calculated per unit of quantity and/or per portion;
- b) brief description of the production procedure;
- c) compositional data of the food.

§ 6

(1) Food producers shall provide notification of the commencement of their operation –with the date of the commencement of the placing on the market of the food–, the suspension and termination of their operation –with the date of the day of suspension or termination– in written form to the competent veterinary and food control station of the county (or the capital) (hereinafter: the Station);

(2) The notification within the meaning of paragraph (1) shall comprise of:

- a) the name and address of the food producer;
- b) the place of the food production;
- c) the scope of activities of the food business;
- d) quality requirements related to the produced food.

(3) Application for authorisation of operation for the food producing premises shall be submitted in the cases and at the authorities laid down in the specific legislation.

§ 7

(1) Raw and processed food placed on the market shall be safe and of proper quality.

(2) Food legally produced and/or placed on the market in the Contracting States of the European Economic Area may be placed on the market within the territory of the Republic of Hungary.

(3) In the case of food produced within the Republic of Hungary for export purposes, Hungarian provisions shall apply except in the case where the relevant measures of the importer country are in force and the competent authorities thereof require otherwise.

§ 8

(1) To place a novel food on the market, an authorisation within the meaning of Article 4 of Regulation (EC) No 258/97 shall be applied for at the Ministry of Agriculture and Rural Development.

(2) Primary evaluation of the application shall be carried out by the Hungarian Food Safety Office, on the basis of the opinion of “Fodor József” National Public Health Centre - National Institute of Food Hygiene and Nutrition (hereinafter: OÉTI).

Packaging and information provided to the consumer

§ 9

(1) The packaging shall protect the food from contamination and from effects reducing safety, nutritional value and quality.

(2) The packaging shall not be hazardous to consumers' health.

(3) The packaging shall be suitable for reuse, recycling and if destroyed, the impact of polluting the environment shall be as low as possible.

(4) Packaging shall enclose the food in such a way that the food cannot be altered without opening or damaging the packaging.

§ 10

(1) On the packaging of a food to be placed on the market, the labelling necessary for information intended for the consumer – as provided for in specific legislation on the labelling of food – shall appear in Hungarian, in an easily legible, understandable and clear manner.

(2) The presentation of the food and the labelling providing information for the consumer shall not mislead the consumer.

Official food control

§ 11

(1) Tasks of official control, divided according to expertise and provided for in specific legislation, shall be carried out by:

- a) the Stations;
- b) the county (capital) or municipal (district) institutes of the National Public Health and Medical Officer's Service (hereinafter : ÁNTSZ institutes);
- c) the consumer protection inspectorates and the Central Inspectorate for Consumer Protection.

(2) Persons carrying out official food control and experts of the European Commission within the meaning of specific legislation are in particular entitled to

- a) enter the territory of the food business;
- b) consult the documents and data carriers being the objects of the control, possessed by the food business operator, and make copies and/or extracts thereof;
- c) take samples free of charge for the purposes of the analyses.

§ 12

The control work of authorities provided for in 11. § paragraph (1) (hereinafter: food control authorities) shall be co-ordinated by the Hungarian Food Safety Office. In the framework of this co-ordination, the following shall take place in particular:

- a) the co-ordination and harmonisation of inspection programmes and/or methods;
- b) organisation of harmonised joint inspections as appropriate;
- c) exchange of inspection findings and/or inspection reports.

§ 13

The powers of food control authorities in cases where infringements of legal provisions are detected are as follows:

- a) they may prohibit the operation of a food business or a part of it or a specified activity of it, and may make commencement of its operation subject to conditions;
- b) they may prohibit and/or make subject to conditions the placing on the market of a food, or may order its destruction;
- c) they may impose fines and penalties to be paid on the spot on the basis of specific legislation concerning contraventions.

§ 14

(1) The food control authority shall impose a quality protection fine if it finds in the course of its procedures that a food produced or placed on the market fails to meet the parameters legally required and/or indicated on the labelling.

(2) The quality protection fine is to be paid by the producer, caterer and/or food distributor who caused the fault. If the person liable for the fault cannot be established, the fine shall be paid by the person at the point where the food control authority found the defective product.

(3) The amount of the quality protection fine shall be:

- a) in the case of a food safety failure hazardous to consumers' health, the value of the defective batch multiplied by 1.5;

- b) in the case of a compositional or quality failure endangering consumers' interests, equal to the value of the defective batch;
- c) in the case of a labelling failure jeopardising true information for the consumer, 60% of the value of the defective batch;

- but in all cases at least 50 000 Forints.

(4) The value of the batch is the quantity of the batch multiplied by the unit price used at the place of food producing and/or marketing as at the date of sampling.

(5) A quality protection fine may also be imposed in addition to the measures provided for in § 13.

§ 15

(1) The quality protection fine shall be paid to the bank account of the food control authority that has imposed the fine. The collected sum shall be used for the continuous development of methods of inspection and analysis. It is the ministry supervising the relevant food control authority that shall decide on the particular use of the amount collected – in the case of ÁNTSZ institutes it shall be according to a proposal from the head of the ÁNTSZ.

(2) Defaulted fines shall be charged interest for default, the rate of which shall be twice the prevailing interest rate of the National Bank. The fine and interest for default shall be collected as taxes under the responsibility of Tax and Financial Control Administration.

Food regulation

§ 16

(1) In the food regulation the rules and recommendations of international associations –especially FAO/WHO Codex Alimentarius (hereinafter: Codex)– shall be taken into consideration.

(2) The Hungarian National Committee of Codex Alimentarius shall be responsible for the professional direction of the Codex work of Hungary.

(3) The Hungarian National Committee of Codex Alimentarius shall consist of 15 members appointed by the chairman of the Hungarian National Committee of FAO from the representatives of food business, science, consumers, the Ministry of Agriculture and Rural Development, the Ministry of Health, Social and Family Affairs and the Ministry of Economy and Transport.

(4) The secretarial duties of the Hungarian National Committee of Codex Alimentarius shall be performed by the Ministry of Agriculture and Rural Development.

§ 17

(1) Mandatory provisions and guidelines on food shall be incorporated in the Hungarian Food Codex.

(2) The volumes of the Hungarian Food Codex shall comprise of the following:

- a) Volume I shall comprise of mandatory provisions prepared by implementing the Directives of the European Community and setting up national product specifications in fields not listed in paragraphs (3), (4) and (6)-(13) of § 20.
- b) Volume II shall comprise of recommended guidelines drawn up in the light of the recommendations of international organisations, taking account of the domestic capabilities.
- c) Volume III (Selected Official Methods of Food Analysis) shall comprise of provisions concerning methods of analysis – prepared by implementing the Directives of the European Community, and additionally, recommended Hungarian Standards (MSZ) and recommended Guidelines on methods of analysis.

§ 18

(1) Provisions and guidelines of the Hungarian Food Codex shall be elaborated upon by the Hungarian Food Codex Committee.

(2) The Hungarian Food Codex Committee shall consist of 15 members appointed by the Minister of Agriculture and Rural Development in agreement with the Minister of Health, Social and Family Affairs, the Minister of Economy and Transport and the Minister of Environment and Water, from the representatives of food business, science, food control, consumer organisations, the Hungarian Food Safety Office, the Ministry of Agriculture and Rural Development, the Ministry of Health, Social and Family Affairs, the Ministry of Economy and Transport and the Ministry of Environment and Water.

(3) Members of the Hungarian Food Codex Committee shall elect from among themselves a chairman, a vice-chairman and a secretary. The Committee shall develop its terms of reference to be approved by the Minister of Agriculture and Rural Development.

(4) The Hungarian Food Codex Committee shall establish technical committees as provided for in (2), to develop the draft provisions and guidelines in the relevant special fields.

(5) The secretarial duties related to the operation of the Hungarian Food Codex Committee shall be performed by the Ministry of Agriculture and Rural Development.

§ 19

On the basis of proposals from the Hungarian Food Codex Committee, the Minister of Agriculture and Rural Development shall:

- a) issue by decree, in agreement with the Minister of Economy and Transport and the Minister of Health, Social and Family Affairs, the number, code, title, the number of governing Community legislation and the date of mandatory application of provisions included in Volume I and III of the Hungarian Food Codex ;
- b) publish in the Official Journal of the ministry the codes and titles of the guidelines incorporated in Volumes II and III of the Hungarian Food Codex, providing that they are not implementation of Directives of the European Community.

Closing provisions

§ 20

(1) This Act shall enter into force on the day when the Act promulgating the International Agreement on Accession of the Republic of Hungary to the European Union enters into force.

(2) Concurrently with the entry into force of this Act, the following cease to have effect:

- a) Act XC of 1995 on foods as amended by Act LIV of 2001;
- b) § 33 paragraph (3) of Act XXVII of 1998 on genetic engineering;
- c) § 41 and § 49 paragraph (4) subparagraph h) of Act LVIII of 2002 amending specified acts related to health and social insurance;
- d) the words "and § 27 paragraph (2) subparagraph b) of Act XC of 1995 on foods" in § 246 paragraph (1) subparagraph c) of Act CLIV of 1997 on health; and
- e) § 119 point b) of Act XI of 1997 on the protection of trademarks and geographical production markings.

(3) The Minister of Agriculture and Rural Development is hereby authorised to regulate by joint decree with the Minister of Health, Social and Family Affairs and Minister of Economy and Transport:

- a) the labelling of food;
- b) rules of official food control;
- c) conditions of food production;

- d) rules concerning the bottling and distribution of drinking water and mineral water; and
- e) the fees of necessary licences and analyses, the payment and uses thereof, in agreement with the Minister of Finance.

(4) The Ministry of Agriculture and Rural Development is hereby authorised to regulate by joint decree with the Ministry of Health, Social and Family Affairs and the Minister of Economy and Transport the food hygiene conditions of food production and placing food on the market.

(5) The Minister of Agriculture and Rural Development is hereby authorised to issue by decree in agreement with the Minister of Economy and Transport and the Minister of Health, Social and Family Affairs the mandatory provisions of the Hungarian Food Codex.

(6) The Minister of Agriculture and Rural Development is hereby authorised to regulate by decree in agreement with the Minister of Economy and Transport the operation of the certification system concerning the specific character of agricultural products and foodstuffs.

(7) The Minister of Agriculture and Rural Development is hereby authorised to regulate by decree:

- a) the control of fruits and vegetables, and
- b) the conformity of the certification of foodstuffs of excellent quality.

(8) The Minister of Health, Social and Family Affairs is hereby authorised to regulate by joint decree with the Minister of Agriculture and Rural Development and Minister of Economy and Transport:

- a) nutritional claims, and
- b) processing aids.

(9) The Minister of Health, Social and Family Affairs is hereby authorised to regulate by joint decree with the Minister of Economy and Transport and the Minister of Agriculture and Rural Development the hygiene conditions of catering.

(10) The Minister of Health, Social and Family Affairs is hereby authorised to regulate by decree in agreement with the Minister of Agriculture and Rural Development the admissible levels of microbiological contaminants and the provisions on radioactive and chemical contamination.

(11) The Minister of Health, Social and Family Affairs is hereby authorised to regulate by decree:

- a) food for particular nutritional uses, and
- b) food supplements.

(12) The Minister of Economy and Transport is hereby authorised to regulate by joint decree with the Minister of Health, Social and Family Affairs and the Minister of Agriculture and Rural Development the conditions concerning the placing food on the market and production of catering products.

(13) The Minister of Economy and Transport is hereby authorised to regulate by joint decree with the Minister of Agriculture and Rural Development the permitted weight and volume ranges of pre-packaged food and their control methods.

Ferenc Mádl
President of the Republic

Mandur László
President of the Parliament