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DRAFT FOOD LAW OF THE ISLAMIC REPUBLIC of AFGHANISTAN

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DRAFT FOOD LAW

General Provisions

Article 1: The basis

This Act has been promulgated in the light of provisions of constitutional law of Afghanistan to establish a legal basis for controlling supplying, manufacture, processing, storage, transportation, sale, import and export of food; to guarantee safety, and adequate, nutritious, safe and secure food; and to provide for related matters.

Article 2: Purpose of legislation:

The propose of this Act are to:

- (1) protect human health;
- (2) facilitate trade in food products;
- (3) promote the reconstruction and sustainable development of the national economy;
- (4) improve livelihoods and food security; and
- (5) To establish regular inspection, evaluation, Microbiological and Chemical residue testing
- (6) Examination of food and food products.
- (7) Chemical analysis of food.
- (8) Application of hygienic procedure in food production, processing units, packaging, storage, transportation vehicles and marketing facilities.
- (9) Safety and quality of imported, exported, and locally made foods.
- (10) Promote training and capacity building of workers.
- (11) Improving health of workers involved in food production process, sanitation and environmental pollution.

Article 3: Definitions

Additive means any substance not normally consumed as food by itself, such as spices, flavors, (colors, anti fungal), voltime
 food prof.2191Tc(in6(der1Tf1.94420TD075083ca0))

food or any substance represented as food;

- (4) Appliance means the whole or any part of any implement, machine, instrument, apparatus or other object used or capable of being used in or in connection with the production, manufacture, treatment, packing, packaging, labeling, transport, handling, serving or storage of any food;
- (5) Authorized officer means an authorized and qualified person who carries out his duties in the framework of food control authority;
- (6) Authority means the Food Control Authority established in Article 5 of this Act;
- (7) Board means the Board of the Food Control Authority, established in Article 8 of this Act;
- (8) Committee means the Scientific Committee established in Article 11 of this Act;
- (9) Contaminant means any substance not intentionally added to food, which is present in such food as a result of the production, manufacture, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination, but does not include insect fragments, rodent hairs or other extraneous matter;
- (10) Contamination means the introduction or occurrence of a contaminant in food;
- (11) Export means to export from Afghanistan by any means,
- (12) Exporter includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any food exported from Afghanistan;
- (13) Food means any substance, whether processed, semi processed or raw, which is intended for human consumption and is used in order to fulfill human tissues needs for generating energy and continuity of life. This does not include cosmetics or tobacco or substances used only as drugs;
- (14) Food business means any business, however small, where production, manufacture, preparation, treatment, packing, packaging, transport, handling, serving, storage or sale in relation to food is carried out, whether for profit or not;
- (15) Food Hygiene applies to all the terms and conditions necessary to ensure safety and suitability of food throughout all the stages of production chain;
- (16) Food production chain means all stages of production from primary production of food to food handling and food

- (21) Importer includes any person who, whether as owner, consignor, consignee, agent or broker is in possession of or in any way entitled to the custody or control of any food imported into Afghanistan;
- (22) Improvement notice means a notice served under Article 25 of this Act;
- (23) Ingredient means any substance, including a food additive, used in the manufacture or preparation of a food and present in the final product although possibly in a modified form;
- (24) label means any tag, brand, mark, pictorial or other descriptive matter written, printed, stenciled, marked, embossed or impressed on, or attached to, a container of food or its package;
- (25) Manufacture includes processing and preservation and other food production related activities except primary food production;
- (26) Official analyst means a person authorized and qualified to act under this Act;
- (27) Official laboratory means a laboratory designated or approved as such under Paragraph 17, Article 6 of this Act;
- (28) Owner or person in charge, in relation to anything, includes any person having for the time being the possession, custody or control thereof;
- (29) Packaging includes anything in which food is wholly or partially placed or wrapped (and includes any basket, container, pail, tray or receptacle and other similar means) to help protect foods from damage while transporting and storing;
- (30) Person includes a natural person or a body corporate (legal person);
- (31) Premises includes any building, tent or other structure, permanent or otherwise, together with the land on which the same is situated and any adjoining land employed in connection therewith, used for the production, manufacture, packing, packaging, transport, handling, serving, storage or sale of any food;
- (32) Primary Food Production means the cultivation, rearing or growing of food including harvesting, milking and farmed animal production prior to slaughter;
- (33) Sell includes to offer, advertise, keep, store, display, transmit, consign, convey or deliver for sale;
- (34) Stages of production includes import, storage, transport and sale of foods;
- (35)Street food means ready to eat food prepared or sold in streets and other public places;
- (36) Substance includes any solid, liquid or gaseous materials;
- (37) Traceability means the ability to discern and identify, through all stages of production, manufacture and distribution, the origin and the final destination of a food producing animal, food or substance intended to be or expected to be incorporated into a food;
- (38) Treated means colored, stained, powdered, polished, coated, mixed, preserved, flavored, diluted or thickened with any substance;
- (39) Unsanitary conditions mean such conditions or circumstances as might cause contamination of food or render the same injurious or dangerous to health;
- (40) Vehicle means any vessel, aircraft, train, conveyance, cart, container, animal or other thing that can transport food from one place to another;
- (41) Wholesome, in relation to food, means to be natural, clean, safe and not adulterated.

Article 4: Implementation Provisions of Law

This Act is intended only for the protection of human health, and issues related to animal health and plant health are discussed by their concerning Acts.

Chapter Two Food Control Authority

Article 5: Food Control Authority

The food control authority is established in structure of the respected Ministry of Public Health as a controlling food control authority in Afghanistan, and Nutrition Rules Commission is informed regarding the establishment of the food control authority. The director and deputies of the food control authority shall be proposed by the ministry in accordance with (name of the relevant law) law and would be approved by the president.

Article 6: Functions of Food Control Authority

The principal functions of the Food Control Authority shall be to:

- (1) employ risk management with the goal of ensuring that all:
 - (a) Food produced in Afghanistan whether for domestic consumption or export ; and
 - (b) Food distributed or marketed in Afghanistan, whatever its origin; meets the highest standards of food safety and nutritious values.

(2) take the lead in coordinating and harmonizing food control activities in Afghanistan;

(3) Prevent and protect against fraud in connection with the sale of food;

(4) Provide justification to other countries concerning food safety measures applied either through risk analysis or by reference to applicable international standards and obligations;

(5)Notify trading partners of relevant instances of non compliance with import requirements; (6) Liaise with government, non governmental entities and private sector food safety to keep abreast of the latest developments in the field of food safety;

(7) provide information regarding import and export regulations in force, and technical requirements for food products and other regulated articles, on request of any interested international, regional or other national food safety organization;

(8) formulate strategies and policies on food, nutrition and food security, including procedures for emergency response, natural disaster, and monitor their implementation;

- (9) Encourage and promote research on food matters within Afghanistan;
- (10) Prepare and amend regulations, orders, standards, codes of practice and notices under this Act;

(11) cooperate equally with all sectors of the food chain and provide proper consultation in carrying out its activities under paragraphs (1) (10) of this Article;

(12) Cooperate and provide advice, information or assistance to governmental,

nongovernmental, private sector and any public authority in relation to food control, food safety and food trade;

(13) Obtain, compile and keep under review information concerning food control, food safety, food trade and nutrition in Afghanistan;

(14) promote consumer education regarding food safety and nutrition;

(15) Represent

Where the Food Control Board fails to carry out its duties, the minister of (....) may, in order to advise the board to carry out its duties in timely and proper manners, issue a directive; and if the board fails to follow the directive the minister with consultation of director of the Food Control Authority may make an appropriate decision regarding the board.

Article 10: Board members

(1) The Board shall consist of members representing the following organizations:

(i) Director of Food Control Authority

(ii) Authorized representative from the ministry of Agriculture, irrigation and livestock

(iii) Authorized representative from the ministry of Public Health

(iv) Authorized representative from the ministry of Commerce and Industry

(v) Authorized representative from the ministry of Information and Oulture

(vi) Authorized representative from the ministry of Finance

(vii) Authorized representative from the ministry of Higher Educations

(viii) Authorized representative from the Independent Directorate of Local Governance.

(ix) Authorized representative from the Afghanistan National Standard Authority (ANSA)

(x) Authorized representative from National Environmental Protection Agency

- 3. providing inputs into or developing proposed regulations or rules on subject matters within its mandate.
- 4. The Committee shall cooperate fully with the Food

commencing their business activities, obtain their business license from Food Control Authority;

Article 16: Traceability

(1) Food businesses shall establish and implement a particular system in order to identify, from start to end stage in production chain, following persons:

- (a) Their Supplier
- (b) Individuals/companies to whom they supplied products

(2) Upon request of the Food Control Authority, food businesses shall make available all information collected under the system established under sub Article (1).

Article 17: Labeling

Every package of food intended for sale in Afghanistan shall have a label;

Article 18: International Standards

(1) International standards for food safety, where they exist, shall be used as the basis for establishing national standards for food safety and developing national food safety measures.

(2) Where international standards do not exist, or where a national standard for food safety/national food safety measure deviates from international standards, the national standard for food safety/national food safety measure "shall be based on scientific principles" and available scientific evidence.

Article 19: Scientific basis and risk assessment

(1) Food safety measures shall only be applied to the extent necessary to achieve protect human health or life, and without unjustified discrimination between food products produced domestically and imported food products, or between different suppliers of imported food products

(2) Food safety measures shall not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail, including between Afghanistan and exporting countries.

(3) Food safety measures shall be based on an assessment, appropriate to the circumstances, of the risks to human health, taking into account risk assessment techniques developed by international organizations.

Article 20: Equivalence

Food safety measures of other countries shall be accepted as equivalent, even if these measures differ from Afghanistan's measures or those of other countries, if an exporting country objectively demonstrates that its measures achieve Afghanistan's level of protection.

Article 21: Notification and Publication of National Food Safety Measures

(1) All proposed food safety measures, that do not conform to international standards or for which no international standards exist, and it is expected that they may have a significant effect

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owner or person in charge must take in order to remedy the failures referred to in paragraph (a);

(c) Requiring the owner or person in charge to implement those measures, or measures which are at least equivalent to them, within the time period specified in the notice.

No Match with Standards (Failure to meet standards) Article 27

(1) Where it is proved that a food is unfit or a food business is producing food unfit for human consumption or is likely to cause harm or danger to human health, an authorized officer can adopt the (1) No article of food shall be imported or otherwise brought into Afghanistan unless it is accompanied by the prescribed documents and unless it is offered up for inspection by the Food Control Authority at the port of entry.

(2) Imported food shall comply with relevant national food safety measures.

Sampling and Testing Article 29

(1) An authorized officer may inspect any food imported into Afghanistan and, for the purposes of analysis or inspection thereof, and if necessary take samples of any such food. The criteria and procedures for sampling shall be prescribed in Regulations.

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(2) Where samples are taken under first paragraph of this Article, the authorized officer shall, in the presence of the owner or importer or any person in apparent control of the food, seal and mark them as prescribed in Regulations.

(2) Where a sample is taken from food, the consignment from which it was taken shall not be released by an authorized officer except upon producton

Article 31

(1) When determining levels of protection and establishing import inspection procedures, the Food

(e) any requirements for control, inspection and approval of individual specimens of a product shall be limited to what is reasonable and necessary;

(f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any foreign country and shall be no higher than the actual cost of the service;

(g) the same criteria shall be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;

(h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product shall be limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and

(i) a procedure shall exist to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

CHAPTER SIX OFFENCES AND PENALTIES

Health Rules Article 32

Food traders and their employees are obligated to respect all the necessary rules and regulations that have been imposed under this Act, In case of violation and conviction, compensation, fines and/or imprisonment may be imposed by the competent court.

Unwholesome food

Article 33

(1) Food in the following condition is considered to be unwholesome and its selling is considered a crime:

(A) Has in or upon it any poisonous or harmful substance;

(B) is not wholesome or is otherwise unfit for human consumption and is injurious to human health;

(c) Is adulterated; or

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Food not meeting Food Safety Measures Article 34

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(1) Any person who prepares or sells any food for which there is a food safety measure prescribed shall be guilty of an offence unless the food complies with that standard.

(2) Any person who sells any food which bears or has attached to it, or is contained in a package which bears or has attached to it, a name for a food for which there is a prescribed food safety measure, shall be guilty of an offence unless the food complies with the food safety measure prescribed for that food.

False or misleading labeling Article 35

(1) Any person who packs or labels or sells any food in a manner which is false or misleading shall be guilty of an offence and according the provisions of this Act and other enforce laws of the country is required to compensation Irregularities and offences Article 36

The following actions and activities considered as violations from the provisions of this Act:

(a) Prepares, stores, handles or sells food under unsanitary conditions,

(b) Imports, exports, produces, manufactures, prepares, stores or sells food which otherwise violates any provision of this Act;

(c) operates a food business without any license required by this Act or by any other legislation in force in country;

(d) Fails to comply with an order issued under Article 13 or 14 of the Act;

(e) fails to establish and implement a traceability system in accordance with Article 16 of this Act;

(f) Fails to follow the applicable that applic

(I) Fails to provide access, samples or information to an authorized officer upon request;

(m) Gives false information to an authorized officer;

(n) Attempts to improperly influence an authorized officer in the exercise of his or

her official functions under this Act;

- (o) Poses as an authorized officer;
- (p) seizes food for any reason other than those prescribed in this Act;
- (q) Discloses any information

(a) Suspend or cancel any license to operate a food business and import issued to the convicted person;

(b) Declare any food, appliance, product, material, substance or other object in respect of which the offence has been committed or which was used in connection with the commission of the offence forfeited to the state and disposed of as the comaterirb)Declare Presumptions Article 41

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(1) In any proceedings under this Act, a certificate of analysis purporting to be signed by the director or head of an official laboratory or by an official analyst shall be accepted as prima facie evidence of the facts stated therein, provided that:

(a) The party

(m) The forms to be used for the purposes of this Act, including applications, licenses, permits, improvement notices and receipts for articles seized;
(n) Offences and penalties;

(o) Any other matters deemed necessary to achieve the purposes of this Act.

Enforcement Date Article 44

This law is effective following date of approval and should be published in official gazette. With enforcement of this law, other related laws will be null and void. In the event of any conflict or ian approximation 0033/TT101Tf.21590TD.0064Tc(In)Tj/TT91Tf.827812mD0Tc0-0