

ORDINANCE ON
FOOD HYGIENE AND SAFETY

To protect human lives and health, maintain and develop race; strengthen the efficiency of State management on food hygiene and safety;

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, as amended and supplemented following Resolution No. 51/2001/QH10 and dated 25 December 2001 of the 10th session of the Xth National Assembly;

Pursuant to the Resolution No. 12/2002/QH11 and dated 16 December 2002 of the 2nd session of the XIth National Assembly on the Programme of law and ordinance development of the XIth National Assembly (2002-2007) and the year 2003;

This Ordinance provides for food hygiene and safety.

Chapter I

GENERAL PROVISIONS

Article 1

This Ordinance provides for assurance of food hygiene and safety in the processes of food production and trade; the prevention of and remedy for food poisoning and food-borne diseases.

Article 2

Any Vietnamese organizations, households and individuals, foreign organizations and individuals engaging in food production and trade on Vietnamese territory shall comply with the provisions of this Ordinance and other provisions of relevant laws and regulations except otherwise provided for by International treaty which Vietnam has signed or acceded. In such case, the International Treaty shall apply.

Article 3

In this Ordinance, the following terms are construed as follows:

1. *Food* means any products whether raw or fresh, processed or preserved which

1. Food trade is a conditional trade.
2. Organizations, households and individuals engaging in food production and/or

2. Producing and/or trading in:
 - a. foods which have got stale/rotten or smell, degenerated or contaminated and may cause harm to human lives and health;
 - b. Natural toxic occurred foods or contaminated foods;
 - c. Foods containing pathogenic parasites/micro-organisms or an amount of micro-organism exceeding the permitted limits;
 - d. Meat or meat product without veterinary inspection or failing in veterinary

Production of and Trade in Fresh/Raw Food

Article 9

Organizations, households and individuals engaging in production of and/or trade in fresh/raw foods must assure that places for breeding, planting and trading in such foods are not polluted by surrounding environments and [such places] must be away from premises likely causing environmental pollution and/or food contamination.

Article 10

Organizations, households and individuals engaging in production of and/or trade in fresh/raw foods must take measures for waste disposal in compliance with the laws and regulations on environmental protection.

Article 11

The use of fertilizers, animal feeds, plant protection drugs, veterinary drugs, food preservatives, growth-promoting substances, weight-promoting substances, reproductive stimulants and other substances relating to food hygiene and safety must strictly comply with the stipulations of law and regulations.

Article 12

Organizations, households and individuals engaging in the production of and/or trade in fresh/raw food shall:

1. Have the responsibility to assure that [fresh/raw] foods produced or traded by them are not contaminated and that [such foods] are stored at clean places, be away from places storing chemicals, especially toxic chemicals and from other pathogenic sources.
2. Be responsible for the origins of the [fresh/raw] foods produced or traded by them.

Item 2

Food Processing

Article 13

1. The place reserved by an organization, household and/or individual for food processing must be located in an area having adequate conditions for food hygiene and safety.
2. The place for food processing must be designed, built, installed and operated in a manner that meets the requirements for food hygiene and safety.

Article 14

1. The use of materials for food processing must comply with the requirements for hygiene and safety prescribed by law.
2. Food premises must take every measure to prevent food from being contaminated or infected with pathogens that may be transmitted to people, animals and plants.
3. Food premises must assure that the procedures for food processing comply with the stipulations of law and regulations on food hygiene and safety.

Article 15

1. Food premises are allowed to use only food additives, processing aids, micronutrients included in the approved List and with the right doses and limits as stipulated.
2. The Ministry of Health shall stipulate the List of food additives, processing aids, micronutrients allowed to be used and the relevant doses and limits of use.

Article 16

During the procedure for food processing, organizations, households and individuals shall have the following responsibilities:

1. Using tools/equipment made of materials meeting the requirements for food hygiene and safety if the surfaces [of such tools/equipment] directly come into contact with food;
2. Using containers, packages, tools, equipment meeting the requirements for food hygiene and safety and without causing food contamination;
3. Using detergents, bactericides and antidotes with safety, without causing an adverse impact on human lives and health or environmental pollution.

Item 3

Preservation and Transportation of Food

Article 17

1. Food packages must meet the requirements for food hygiene and safety, [and must] protect foods from contamination and guarantee food quality during the shelf-life period and convenient for labeling.
2. Packages, which come into direct contact with food, must be experimented/tested for food hygiene and safety.

Article 18

1. Organizations, households and individuals engaging in the production of and/or trade in food must apply appropriate food preservative measures to assure that foods are not spoiled or degenerated and shall retain their quality, tastes and prevent further infiltration of contaminants in food.
2. The agency for State management on food hygiene and safety shall provide guidance and methods for food preservation, preservative dosages and preservation period for each type of foods.

Article 19

1. Irradiation food in circulation in Vietnamese territory must be inscribed in its label with the Vietnamese phrase "Thức phẩm đã được chiếu xạ" or with international code and the circulation of such food must be approved by competent authority on State management of food hygiene and safety.
2. Organizations, households and individuals are allowed to trade only in irradiation food included in the List of food protected by irradiation within the limits of irradiation dosages prescribed by law.

The Ministry of Health shall provide for the List of irradiation food.

Article 20

2. The government shall stipulate in detail the management and use of genetically modified food.

Article 21

Organizations, households and individuals must, during the transport of food, protect food and its ingredients so that [such foods] are not contaminated by biological, chemical, physical factors not allowed to be present in food; [and] to retain the quality, hygiene and safety of food for the benefit of consumers.

Article 22

The means to transport food must meet the following requirements:

1. made of materials so as not to contaminate food or food packages.
2. can be cleaned and/or washed easily;
3. be easy to clarify different foods;
4. can prevent food from pollution, even smoke, dust and protect from cross infection among foods;
5. can maintain and control the conditions for assuring food hygiene and safety during transport.

Item 4

Food Import and Export

Article 23

Organizations, households and individuals engaging in import/export of food, food additives, processing aids, micronutrients, functional food, potentially hazardous food, irradiation food, genetically-modified food must be responsible for the safety and hygiene of food imported or exported. When importing food [they] must comply with the stipulations of Vietnamese laws and regulations; and when exporting food, [they] must comply with the provisions of this Ordinance and the stipulations of law of the importing country.

Article 24

1. Organizations, household and individuals engaging in import/export of food shall have an inspection certificate of meeting food hygiene and safety requirements of competent State authority.
2. Competent State authority conducting hygiene and safety inspection of imported/exported food shall be held responsible to the law for the results of its inspection.

The government shall stipulate the procedures for inspection of imported/exported food hygiene and safety.

Article 25

1. Imported/exported food which is granted certificate of conformity in food hygiene and safety by an authorized organization of a country under mutual recognition agreement with Vietnam on quality certification activities and accreditation of quality management systems may be subjected to inspection if any sign of breaches of Vietnamese laws and regulations on food hygiene and safety is found.
2. Imported/exported food which has been certified to be in conformity with food standards, food produced or traded by organization/individual which are certified to have a quality management system of food hygiene and safety in conformity with Vietnam Standards, foreign standards or international standards applicable in Vietnam can be eligible for a reduced number of inspection times.

Article 26

1. Imported food failing to meet the requirements for hygiene and safety can be drawn from circulation, reproduced, used for another purpose, destroyed or re-exported following the decision of competent State authority; organizations, households and individuals must cover all the costs incurred in the settlement of sub-standard food imported by them.
2. Food for export failing to meet the requirements for food hygiene and safety can be reprocessed, used for another purpose or destroyed in accordance with the decision of competent State authority; organizations, households and individuals must bear all the costs incurred by the settlement of sub-standard food intended for export.

Article 27

Food which is carried by immigrants entering, exiting or in transit for personal use; food used for staff and passengers on means of transport entering, exiting or in transit to Vietnam; [and] food which is goods in transit to Vietnam shall meet the

requirements of food hygiene and safety stipulated by this Ordinance and other relevant laws and regulations.

Item 5

Article 31

Organizations, households and individuals shall only produce or trade in food meeting the standards for food hygiene and safety.

Article 32

Competent State authority shall promulgate the standards for food hygiene and safety, testing methods, regulations on hygiene and safety management in respect of foods, food additives, processing aids, micro-nutrients, functional food, potentially hazardous food, irradiation food, genetically-modified food, containers, materials for making food packages, tools and equipment used in food production and trade.

Article 33

1. Organizations and/or individuals that produce or trade in food under business license shall announce their application of the Vietnam Standards or sector standards as prescribed by law; Where the application of local standards is announced, such standards shall not be lower than the sector standards and/or the Vietnam Standards.
2. Organizations and/or individuals that produce or trade in food under business license shall comply with the announced standards and the provisions on food hygiene and safety promulgated by competent State authority; regularly check and be responsible for hygiene and safety of food produced and traded by them.
3. Organizations and/or individuals that produce or trade in food without a business license shall comply with stipulations of laws and regulations on food hygiene and safety and be responsible for hygiene and safety of food produced or traded by them.

Item 7

Food Advertisement and Labeling

Article 34

1. The advertisements of food, food additives, processing aids, functional food, potentially hazardous food, irradiation food, genetically-modified food and other

Article 36

Measures for prevention of food poisoning and foodborne diseases shall include:

1. Assure hygiene and safety in the processes of food production, business and consumption;
2. Educate, propagandize and disseminate knowledge and practices about food hygiene and safety for food producer, trader and consumer;
3. Check/inspect [compliance with] hygiene and safety in food production and trade;
4. Make risk analysis of food contamination;
5. Carry out survey, study and store data on food hygiene and safety;
6. Collect and store food specimen as prescribed by law.

Article 37

1. Remedies for food poisoning and foodborne diseases shall include:
 - a. Timely discover and treat people who are poisoned by food and/or infected by foodborne diseases.
 - b. Suspend the production, trade or use of contaminated food;
 - c. Draw from circulation all contaminated foods that have been produced or available in the markets;
 - d. Timely inform customers about the status of food poisoning or foodborne diseases, and/or contaminated foods in market circulation;
 - ®. Timely investigate to identify the cause of food poisoning and foodborne diseases;
 - e. Take measures to prevent the spread of epidemics of food poisoning or foodborne diseases.
2. The government shall delegate ministries, ministry-level agencies and government agencies with specific responsibilities in the prevention and remedies of food poisoning and foodborne diseases.

Article 38

1. Organizations, households and/or individuals producing, trading in and/or using food shall have the responsibility to be active in timely preventing and remedying food poisoning and foodborne diseases.
2. Organizations, households and/or individuals producing, trading in and/or using food and causing food poisoning and foodborne diseases shall have the responsibility to promptly take remedial measures as well as reporting immediately to the local People's Committee or the nearest State agency for food hygiene and safety management and bear all the costs for remedies of food poisoning and foodborne diseases in compliance with the provisions of law and regulations.

Article 39

Organizations and/or individuals discovering any signs of food poisoning or food borne disease shall immediately inform the nearest health facility or People's Committee for timely taking preventive and remedial measures.

Article 40

The People's Committees at all levels shall have responsibility to take preventive measures against food poisoning or foodborne diseases in their localities; Where food poisoning and foodborne diseases occur, [they] must immediately take measures to remedy the consequences and prevent their spread; at the same time, [they] shall report to the immediate superior State agency, the competent State agency for food hygiene and safety management and inform the People's Committees of localities likely to be affected.

The People's Committees of localities likely to be affected by food poisoning and/or foodborne diseases shall have the responsibility to inform the local people about the situation for prevention and reciprocally take remedial measures to prevent the spread.

Article 41

1. Where the People's Committee in the locality affected by food poisoning or foodborne diseases lacks the capacity to remedy the consequences and prevent the spread, then [the People's Committee] shall request the immediate superior State agency or the competent State agency for food hygiene and safety management for settlement or assistance in settlement.
2. Where a foodborne disease lead to a dangerous epidemic spreading on a large scale, seriously threatening human lives and health, the stipulation on the state of emergency prescribed by law shall be applied.

Chapter IV

STATE MANAGEMENT ON FOOD HYGIENE AND SAFETY

Article 42

The content of State management on food hygiene and safety shall include:

1. Developing and organizing the implementation of strategies, policies, planning and plans on food hygiene and safety;
2. Promulgating and organizing the execution of legal and regulatory documents on food hygiene and safety, regulations and standards on food hygiene and safety;
3. Mapping out and organizing the implementation of preventive and remedial plan against food poisoning and foodborne diseases;
4. Managing the systems of tests and experiments for food safety;
5. Managing the publication of standards for food hygiene and safety, certifying eligibility for food hygiene and safety;
6. Carrying out research into scientific advances and technologies in the field of food hygiene and safety;
7. Providing professional and/or refresher training in the field of food hygiene and safety;
8. Organizing information, communication and dissemination of knowledge and laws and regulations on food hygiene and safety;
9. Promoting international cooperation in the field of food hygiene and safety;
10. Conducting inspection, checks, handling of complaints, denouncements and dealing with breaches of law and regulations on food hygiene and safety.

Article 43

1. The government shall stipulate uniform State management on food hygiene and safety.
2. The Ministry of Health shall be responsible to the Government for exercising State management on food hygiene and safety.
3. Ministries and sectors shall, within the ambit of their functions and authority, have the responsibility to co-ordinate with the Ministry of Health in exercising State

management on food hygiene and safety in areas they are in charge in line with the following principles:

a.

2. Inspecting compliance with standards on food hygiene and safety; verifying, concluding and proposing to competent agencies to handle breaches of laws and regulations on food hygiene and safety.
3. Proposing and taking part in the development of regulatory/legal documents on food hygiene and safety.

Article 47

During the inspection process, the inspection mission or inspectors shall be entitled to the following rights and responsibilities:

1. Request relevant organizations and/or individuals to provide information, materials and answer question necessary for inspection activities; request the objects of inspection to provide documents and/or reports on issues relating to inspection activity. Where necessary, [inspector] can collect samples for testing, seal up documents, material evidence relating to inspection activity, establish minutes on breaches of food hygiene and safety as prescribed by law;
2. Request for professional verification of and conclusion on issues necessary for inspection activity;
3. Suspend acts which are in breach of food hygiene and safety regulations and/or causing harm or potential threat of harm to human lives and health and/or other acts detrimental to State interests, legitimate rights and benefits of organizations and individuals;
4. Impose sanctions within his/her authority or request competent State authority to impose sanctions against breaches of food hygiene and safety regulations as prescribed by law;
5. Be held responsible to the law regarding his/her conclusions, form of sanction or decision on inspection;
6. Other rights and responsibilities as prescribed by law.

Article 48

1. Organizations, households and/or individuals producing or trading in food shall have the responsibility to facilitate the inspection mission and inspectors to fulfill their tasks for food hygiene and safety inspection;
2. Organizations, households and/or individuals who are subjected to inspection shall comply with the decision made by the inspection mission or inspector on food hygiene and safety.

Article 49

1. Organizations, households and individuals shall be entitled to complain or start legal proceedings against any administrative decision and/or act taken by competent authority, organizations and individuals in the enforcement of laws and regulations on food hygiene and safety.
2. An individual shall be entitled to denounce to competent authority, organizations and individuals any act in breach of food hygiene and safety laws and regulations.

The authority and procedures for handing of complaints, denouncements and start of legal proceedings are provided for under paragraphs 1 and 2. This complies with the stipulations of laws.

Chapter VI

Rewards and Handling of Breaches

Article 50

Any organizations, households and/or individuals with good achievements in activities to assure food hygiene and safety or having the merits of detecting breaches of food hygiene and safety laws and regulations shall be rewarded in accordance with the provisions of laws and regulations.

Article 51

Organizations and/or individuals who produce and/or trade in food committing an act in breach of this Ordinance or other provisions of laws and regulations on food hygiene and safety shall be subjected to, depending on the nature and severity of the breach, administrative sanctions or penal liability; liability for damages, as prescribed by law.

Article 52

Any person who abuses his/her power and/or authority in violation of this Ordinance or other provisions of laws and regulations on food hygiene and safety shall be subjected to, depending on the nature and severity of the breach, discipline or penal liability, liability for damages, as prescribed by law.

Chapter VII

Execution Provision

Article 53

This Ordinance takes effect as from 1st November 2003.
All previous stipulations contrary to this Ordinance are hereby rescinded.

Article 54

The Government shall stipulate in detail and guide the implementation of this Ordinance.

Hanoi 26th July 2003

for the National Assembly Standing Committee
Chairman
(Signed and sealed)

Nguyen Van An
(Signed and sealed)