

The Law of Ukraine
On Quality and Safety of Food Products and Food Raw Materials

As amended by the Laws of Ukraine
N 2681-III of September 13, 2001
N 191-IV of October 24, 2002

(In the text of the Law words “Ministry of Health of Ukraine”, “State Committee of Ukraine for standardization, metrology and certification”, “due quality”, “sanitary and hygiene expertise”, “surrounding natural environment”, and “period” in all corresponding cases have been substituted for the words “central body of executive power in the field of health”, “central body of executive power in the field of technical regulations and consumption policy”, “quality”, “sanitary and epidemiological expertise”, “environment” and “term” in corresponding cases, in accordance with the Law of Ukraine № 191-IV of October 24, 2002)

The present Law sets forth legal grounds for ensuring quality and safety of food products and food raw materials for health of people, governs relationships between bodies of executive power, producers, sellers (suppliers) and consumers during development, production, bringing in the customs territory of Ukraine (hereinafter – importation), procurement, supply, storage, transportation, sale, use, consumption and utilization of food products and food raw materials.

CHAPTER I

GENERAL PROVISIONS

Article 1. Terms and Definitions

The terms set out below in the present Law are used in the following meaning:

safety of food products – an absence of any threat of possible harmful effects that can be produced by food products, food raw materials and accompanying materials on humans;

(paragraph two of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

biologically active agents – special food products that may be used or added, within the limits of physiological norms, to dietary intake or food products in order to add them dietary, health, prophylactic properties to ensure normal and to cure abnormal functions of the human body;

(paragraph three of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

state sanitary-epidemiological expertise – professional activity performed by bodies and institutions of state sanitary-epidemiological service in order to study comprehensively new food products, technologies, technological equipment, as well as enterprises, producing them, in order to reveal dangerous factors in this products, evaluate their possible harmful influence and evaluate degree of risks they may create for human health and life; justify application of relevant sanitary norms or technical regulations with regard to its production, introduction in circulation, consumption, in order to prevent, reduce and eliminate such harmful influence; identify whether products are consistent with safety requirements for human health and life;

(paragraph four of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

conclusion of the state sanitary-epidemiological expertise – a document of the established standard that outlines requirements for food products with regard to their safety for human health and life, and that certifies safety of food products under the condition these requirements are met;

(paragraph five of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

paragraph six of Article 1 has been deleted

(according to the Law of Ukraine
N 191-IV of October 24, 2002)

food value – an indicator which characterizes energy output that may be released from food products in the process of biological oxidization and may be used for ensuring physiological functions of the human organism;

identification shall be understood as a procedure for determining whether documents, marking, organoleptic, physical and chemical indices, characteristics and properties that are specific to the given type of a product, comply with those (the data) indicated in declarations of conformity, normative documents or legal and normative acts, as well as the commonly used name of the given type of a product;

(paragraph eight of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

paragraph nine of Article 1 has been deleted;

(according to the Law of Ukraine
N 191-IV of October 24, 2002)

food raw materials – a produce of vegetable, animal, mineral, synthetic or biotechnological origin used in production of food products;

certification – a procedure in the course of which an authorized body certifies in a documentary form that a food product or food raw materials meet the established requirements;

(paragraph eleven of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

certificate of conformity – a document that confirms the fact that food products are duly identified and meet the requirements of normative documents and legal normative acts;

(paragraph twelve of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

special food products – dietary, prophylactic food products and biologically active agents, baby food and food for sportsmen etc.;

(paragraph thirteen of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

accompanying materials – materials used in production, storage, transportation, sale, packaging and marking of food products and have a direct contact with these products while they themselves are not suitable for consumption;

shelf life of a food product – a period of time determined by producer thereof as such, within which the products, if the relevant storage conditions are created, shall preserve their quality indices, and their safety indices shall meet requirements of legal normative acts and normative documents;

(paragraph fifteen of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

food additive – a natural or synthetic substance which is deliberately infused in food products to impart it the desired properties;

food product – any product which in its natural state or after relevant processing is used by people in food or drinks;

quality of a food product – a range of properties typical to a food product that determines its ability to meet necessities of the human organism in energy, nourishing and flavouring substances, stability of their composition and consuming characteristics during their shelf life;

(paragraph eighteen of Article 1 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

food value of a food product is to be understood as major quality index of a food product that determines its degree of suitability to meet the optimal requirements of a human being in basic food substances and energy (protein, fat, carbohydrates, micro- and microelements etc.);

(paragraph nineteen of Article 1 in wording of the Law of Ukraine N 191-IV of October 24, 2002)

food products are to be understood as foodstuff, food raw materials and accompanying materials;

safety indices of food products are to be understood as scientifically grounded indices of content (marginal limits of influence) in the mentioned products of hazardous for human health and life components or substances of chemical, biological, radioactive and any other nature, whose non- observance may result in production of dangerous effect on human health;

quality indices of food products are to be understood as a range of peculiarities and properties typical to any kind of a food product or food raw materials, and which determines its food value and consuming properties and give the possibility to identify definite food product or food raw material;

new food products (new food raw materials) are to be understood as food products and food raw materials which:

are first developed (obtained) in Ukraine and no quality and safety indices have been established for them yet;

are produced with use of food components that have not been applied earlier in the manufacturing process thereof, or the composition of such components have been modified, including methods of genetic engineering;

produced with use of new technology that substantially changes their physical and chemical, and/or organoleptic indices, and/or food value;

entered Ukrainian customs territory for the first time;

counterfeit food raw materials – food products or food raw materials, whose appearance was somewhat changed or those with additional certain characteristics of a certain food product for mercenary purposes, and cannot be identified as declared in the accompanying documents;

low quality food raw materials – food raw materials, whose quality indices and consumption properties fail to comply with those indicated in the declaration of conformity, normative documents or whose quality fails to meet consumer's needs in the declared volume;

unsafe food raw materials – food raw materials ,whose safety indices fail to meet those established in the Ukrainian legislation for the given products or indicated in the declaration of conformity, normative documents and legal normative acts, as well as food raw materials, whose consumption (use) is associated with a high risk for human health and life;

wrongfully marked products – food products and food raw materials, whose marking fails to comply with the standards outlined in the legislation;

sanitary and epidemiological certificate (hereinafter – hygienic certificate) – the document issued by bodies and institutions of state sanitary and epidemiological service for a single occasion to confirm safety of certain consignments (units) of food products and food raw materials for human health and life;

technical regulations – normative legal act approved by the Cabinet of Ministers of Ukraine, which outlines quality and safety indices of the given product with regard to its safety for human health and life, animals and plants, and environment protection, rules of marking, and introduction of the product into circulation, as well as a procedure to verify conformity and stipulated authorities of the bodies monitoring these products

(Article 1 was amended with paragraphs according to the Law of Ukraine N 191-IV of October 24, 2002)

Article 2. Legislation of Ukraine on Quality and Safety of Food Products and Food Raw Materials

Legislation of Ukraine on quality and safety of food products and food raw materials consists of the present Law and other normative legal acts of Ukraine.

The present Law shall not apply to food products and food raw materials containing genetically modified components, as well as to tobacco and tobacco products.

Article 2 was amended with part two according to the Law of Ukraine N 191-IV of October 24, 2002)

Article 3. Basic Grounds of the State Policy with Regard to Ensuring Quality and Safety of Food Products and Food Raw Materials

The basic grounds of the state policy with regard to ensuring quality and safety of food products and food raw materials shall be as follows:

priority of protection and improvement of human health and recognition of human right to quality and safety of food products and food raw materials;

establishment of guarantees for safety of human health during production, importation, transportation, storage, sale, use, consumption, utilization or destruction of food products and food raw materials;

the state control and supervision over their production, processing, transportation, storage, sale, use, utilization or destruction ensuring proper protection of environment, importation into Ukraine;

(paragraph four of Article 3 was amended according to the Law of Ukraine N 191-IV of October 24, 2002)

stimulation of introducing new safe scientifically grounded technologies for production (processing, re-processing) of food products, food raw materials and accompanying materials, development and production of new kinds of special and ecologically clean food products, food raw materials and accompanying materials;

maintaining control over quality of food products by public organizations;

coordination of efforts of executive power bodies during development and realization of the state policy with regard to ensuring quality and safety of food products and food raw materials;

establishment of liabilities of producers, sellers (suppliers) of food products, food raw materials and accompanying materials for ensuring their quality and safety for human health during production, transportation, storage and sale, and also for sale of these products in case of their failure to meet the standards, sanitary, veterinary and phytosanitary norms.

CHAPTER II

REQUIREMENTS FOR PREVENTION OF HARM TO CONSUMERS' HEALTH CAUSED BY FOOD PRODUCTS AND FOOD RAW MATERIALS

Article 4. Requirements for prevention of importation, production, sale, use of low-quality, unsafe or counterfeit food products, food raw materials and accompanying materials

It shall be prohibited to produce, import, sell, use in wholesale or retail trade, in public catering low-quality, dangerous for human health and life or counterfeit food products, food raw materials and accompanying materials.

Part two of Article 4 has been deleted

(according to the Law of Ukraine N 191-IV of October 24, 2002)

Food products and food raw materials shall not be considered to be low-quality, dangerous for human health and life, if harmful or toxic substances, dangerous for health micro organisms or toxins thereof are not outside additives in food products or food raw materials and their quantity doesn't exceed the established marginal acceptable level.

The list of food additives, which are permitted to be used in food products, shall be approved by the Cabinet of Ministers of Ukraine.

Article 5. Documentary evidence of quality and safety of food products, food raw materials and accompanying materials

Any food product (except those produced for personal consumption), food raw materials and accompanying materials shall not be allowed to be imported, produced, put up for sale, sold or used in any other manner without a documented evidence of their quality and safety.

Documents confirming quality and safety of food products, food raw materials and accompanying materials are the following:

1) declaration of conformity issued by the producer of relevant products for each consignment of food products, food raw materials, accompanying materials, or:

2) certificate of conformity or certificate for recognizing conformity issued for:

a) food products and accompanying materials assigned for sale at the domestic market of Ukraine;

b) food products of domestic production assigned for export (if it is stipulated in contract or international agreement to which Ukraine is a party);

3) conclusion of the state sanitary epidemiological expertise, certificate for state registration, hygienic certificate:

a) conclusion of the state sanitary and epidemiological expertise are issued for

new food products;

food products and food raw materials of industrial production;

accompanying materials;

b) certificate for state registration are issued for special food products;

c) hygienic certificate are issued for:

each consignment of fruit and vegetable produce, fruit, berry and melon produce grown in Ukraine and targeted for sale at the domestic market or further industrial processing;

each consignment of food products, food raw materials and accompanying materials assigned for export (if it is stipulated in a contract or international agreement to which Ukraine is a party);

4) veterinary documents (veterinary certificate, veterinary reference) issued in the following cases:

a) veterinary reference is to be issued for each consignment (carcass) of food raw materials and food products of animal origin (with regard to their veterinary and sanitary quality and safety), for sale within an administrative district;

b) veterinary certificate is to be issued for each consignment (carcass) of food raw materials and food products of animal origin (with regard to their veterinary and sanitary quality and safety), for sale within Ukraine;

c) veterinary certificate (international veterinary certificate) is to be issued for each consignment of food raw materials and food products of animal origin for export purposes;

5) certificate of quality and quarantine permit that are issued for:

a) grain and grain products;

b) potatoes, vegetables, fruit, berries, melons and gourds (except for food products of the above-mentioned industrial production group).

Article 6. Requirements for preventing use of dangerous food raw materials, accompanying materials and technologies for production (processing, re-processing) thereof

It is prohibited to use for industrial production the following items:

1) accompanying materials and technologies for their production (processing, re-processing):

which are not allowed in the established order;

which are not mentioned in the recipe;

without documents certifying their proper quality and safety;

with level of artificial or natural radioactive pollution exceeding the established maximum acceptable point;

2) food raw materials:

of animal and vegetable origin that have not passed veterinary-sanitary expertise;

not supplied with documents certifying their conformity to normative documents;

of vegetable origin which have not passed quarantine control;

processed with prohibited pesticides and agrochemicals or with permitted pesticides and agrochemicals if their share in raw materials exceed the established marginal acceptable level;

which contain prohibited substances with pharmacological effect or permitted substances with pharmacological effect exceeding the established marginal acceptable level.

Article 7. Requirements for Food Products Marking

It is prohibited to sell or use domestic food products or those imported into Ukraine without marking in the state language of Ukraine, containing information in the form understandable for the consumer indicating:

1) general name of food product;

2) nominal quantity of food product in the established measurement units (weight, volume, etc.);

3) composition of food product if it includes several components, indicating the list of other food products names, food additives used in the process of making thereof;

(clause three of part one of Article 7 was amended according to the
Law of Ukraine N 191-IV of October 24, 2002)

4) food value, as well as energy value if applicable;

(clause four of part one of Article 7 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

5) expiry date or date of manufacture and shelf life;

(clause five of part one of Article 7 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

6) clause 6 of part one of Article 7 has been deleted;

(according to the Law of Ukraine
N 191-IV of October 24, 2002)

7) storage conditions;

8) indication of a normative document for domestic food products;

9) producer's name, address and place of production;

10) terms of use (if any);

11) presence components of genetically modified raw materials (in cases when use of such components is permitted by normative documents or normative legal acts for the given product);

(clauses eleven of part one of Article 7 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

12) warning for consumption of food products by certain categories (groups) of population (children, pregnant women, old people, sportsmen etc.);

(clauses twelve of part one of Article 7 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

13) other information stipulated by the present normative documents of Ukraine, applicable for certain food products.

Marking of unpacked food products shall be performed in the official language of Ukraine according to the procedure established by the normative documents for certain food products.

(part two of Article 7 was amended according to the
Law of Ukraine N 191-IV of October 24, 2002)

When marking domestic and imported food products it shall be prohibited to place the information on their medical effects without receiving a permit from the central body of executive power in the field of health.

Text for marking special food products shall be subject to compulsory approval by the central body of executive power in the field of health.

Marking of food products shall include only specific symbols approved in line with the established procedure to denote dietary, prophylactic, medical food products, biologically active agents, baby food, foodstuff for sportsmen etc.

(part five in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

Description of specific symbols, use thereof and marking of food products with bar codes is to be performed in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

(part six in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

Article 8. Requirements for Advertising of Food Products

Advertising of special food products without prior approval of the text by the central body of executive power in the field of health as well as advertising of food products, which do not have documentary evidence of quality and safety, shall be prohibited.

The following shall be prohibited for use in advertising food products:

phrases about possible curative effects, pain relief (except for special food products);

letters of thankfulness, recognition, advice, if they relate to treatment or ease of diseases, and also reference to such information;

phrases that cause or assist in causing a feeling of negative psychological condition.

Article 9. Requirements for Production of Special Food Products and Food Raw Materials and State Stimulation of Production Thereof

The procedure for including food products to the category of special food products and the regulations of their use shall be established by the Cabinet of Ministers of Ukraine.

Food raw materials used for production of special food products shall be subject to raised requirements for quality and safety for human health set forth by the legislation.

The state shall stimulate domestic production of special and ecologically clean food products and food raw materials including stimulation by means of loan programs, pricing, customs and tariff regulation, tax legislation.

Control over quality and safety of special food products, observance of conditions for their production, importation, storage, transportation and sale shall be carried out in compliance with the laws of Ukraine and other normative legal acts of Ukraine.

Production, storage, importation, sale and use of special food products shall be carried out in compliance with relevant normative documents which have been approved by the central body of executive power in the field of health in accordance with the procedure set forth by the legislation.

CHAPTER III

STATE REGULATION OF QUALITY AND SAFETY OF FOOD PRODUCTS AND FOOD RAW MATERIALS

Article 10. Objective of the State Regulation of Quality and Safety of Food Products and Food Raw Materials

State regulation of quality and safety of food products and food raw materials shall be carried out for the purpose of guaranteeing:

safety for human life and health in case of consumption or use thereof;

their production in conditions which meet requirements of technology, sanitary standards and rules, safety and environmental protection;

their production with use of permitted food raw materials and accompanying materials;

complete and true information on their properties;

their compliance with requirements of normative documents on quality and safety;

their sale in compliance with trade regulations.

Article 11. State Regulation of Quality and Safety of Food Products and Food Raw Materials

State regulation of quality and safety of foods products and food raw materials shall be carried out by the Cabinet of Ministers of Ukraine, authorized central bodies of executive power, their bodies in the Autonomous Republic of Crimea, oblasts and districts, cities of Kyiv and Sevastopol by means of:

state regulation of quality and safety indicators for food products, food raw materials and accompanying materials;

state registration of special food products;

(paragraph three of part one of Article 11 in wording of the Law of Ukraine N 191-IV of October 24, 2002)

state registration of normative documents on food products, food raw materials and accompanying materials;

declaration of conformity of food products, food raw materials and accompanying materials;

(part one of Article 11 was amended with new paragraph five according to the Law of Ukraine N 191-IV of October 24, 2002,

therefore, paragraphs five – seven shall be considered paragraphs six – eight, respectively)

certification of food products, food raw materials, accompanying materials, introduction of production quality and safety control system for these products, raw materials, other materials;

(paragraph six of part one of Article 11 in wording of the Law of Ukraine N 191-IV of October 24, 2002)

establishing a procedure for importing food products, food raw materials and accompanying materials into Ukraine and adherence thereto;

control over performance of procedures for importing food products, food raw materials and accompanying materials.

State supervision and control performed by specially authorized central bodies of executive power and their local divisions within their competence determined by the law are a part of state regulation of quality and safety of food products and food raw materials in the course of development, production, importation thereof in Ukraine, storage, transportation, sale, use, utilization or destruction.

(part two of Article 11 in wording of the Law of Ukraine N 191-IV of October 24, 2002)

Article 12. State Regulation of Quality and Safety Indicators for Food Products, Food Raw Materials and Accompanying Materials

State regulation of quality indicators for food products, food raw materials and accompanying materials shall be carried out through establishing such indicators in standards, normative legal acts and other normative documents on produce.

State regulation of safety indicators for food products, food raw materials and accompanying materials shall be performed by the central body of executive power in the sphere of health protection by way of approving sanitary norms or developing technical regulations for food products.

Methodologies for measuring safety indicators for foods products, food raw materials and accompanying materials, as well as testing devices and measuring equipment shall be attested according to a procedure established by the legislation.

(Article 12 in wording of the Law of Ukraine N 191-IV of October 24, 2002)

Article 13. State Registration of Food Products, Food Raw Materials and Accompanying Materials.

State registration of food products, food raw materials and accompanying materials shall be carried on by way of inclusion into the State Register of Special Food Products and Register of Conclusions of the State Sanitary-Epidemic Expertise for Food Products.

All special and new food products are subject to state registration.

A producer or a supplier shall receive conclusion of the sanitary-epidemiological expertise prior to launching production (supply) of food products, food raw materials and accompanying materials

The Cabinet of Ministers of Ukraine shall establish procedure for state registration of special food products, procedure for keeping the Register of Conclusions of the State Sanitary-Epidemiological Expertise and providing information available in the State Register of Special Food Products and Register of State Sanitary-Epidemiological Expertise, and procedure for compensation of costs related to performing the above-mentioned works and rendering services.

(Article 13 in wording of the Law of Ukraine N 191-IV of October 24, 2002)

Article 14. State Registration of Normative Documents on Food Products, Food Raw Materials and Accompanying Materials

Production of food products, food raw materials and accompanying materials in Ukraine shall be carried out according to requirements of normative documents on food products, food raw materials and accompanying materials, which are to be agreed, approved and registered by the central body of executive power in the field of technical regulations and consumption policy in accordance with the respective procedure.

The procedure of state registration of normative documents on production of food products, food raw materials and accompanying materials shall be set forth by the central body of executive power in the field of technical regulations and consumption policy, which shall provide regular publication of lists of normative documents registered in Ukraine in mass media.

The use and state registration of normative documents on food products, food raw materials and accompanying materials wherein safety indicators are not specified shall be prohibited.

For state registration of normative documents, a producer of food products must have description of technology or another document describing technological process, as well as a list of raw materials, substances and accompanying materials used in the production process, specifying their share in ready food products. Recipe shall be property of the manufacturer.

Article 15. Confirmation of Conformity (Declaration and Certification) of Food Products, Food Raw Materials, Accompanying Materials and Certification of Quality Systems

Food products, food raw materials, accompanying materials, technological equipment for production thereof shall be subject to compulsory certification through declaration of conformity or certification, while certification of quality systems for their production should be certified in accordance with the procedure set forth by the legislation.

In case of certification, food products, food raw materials and accompanying materials shall be tested for conformity to the obligatory requirements of normative acts and normative legal acts in testing laboratories accredited according to the legislation.

Confirmation of conformity (declaration and certification) of food products, food raw materials, accompanying materials and certification of quality systems shall be performed in accordance with the obligatory safety and quality indicators set forth by normative documents and normative legal acts.

(Article 15 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

Article 16. Procedure for Importation of Foreign Food Products, Food Raw Materials and Accompanying Materials into Ukraine

Imported food products, food raw materials and accompanying materials shall be admitted to the customs territory of Ukraine provided the supplier thereof has fulfilled the rules of their registration and certification.

The procedure for importation of food products, food raw materials and accompanying materials into Ukraine shall be outlined by the Cabinet of Ministers of Ukraine.

Food products, food raw materials and accompanying materials, which are imported into Ukraine shall comply with requirements for safety of human health and life, animals and environments, set forth by Ukrainian legislation.

Food products imported to Ukraine shall be subject to control, expertise, permissions, establishment of sanitary-epidemiological norms, regulations analogous to requirements applied to corresponding products produced in Ukraine.

Food products, food raw materials and accompanying materials, which are imported into Ukraine and stay under customs control, must be removed from Ukraine if the state refused issuing documents to confirm their quality and safety.

(Article 15 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

Article 17. Control over Adherence to Procedure for Importation of Food products, Food Raw Materials and Accompanying Materials into Ukraine

Control over adherence to procedure for importation of food products, food raw materials and accompanying materials into the customs territory of Ukraine shall be performed by the customs service.

Customs clearance of imported food products, food raw materials and accompanying materials mentioned in Article 5 of the present Law for free use in Ukraine is allowed if there is:

certificate of conformity or certificate for recognizing conformity;

conclusion of the state sanitary and epidemiological expertise, or certificate on state registration of special food products;

veterinary certificate for raw materials and food products of animal origin;

quarantine permit for food products and raw materials of vegetable origin;

marking of food products and food raw materials according to the Ukrainian legislation.

(part two of Article 17 in wording of the Law of Ukraine N 191-IV of October 24, 2002)

Part three of Article 17 has become null and void

(according to the Law of Ukraine N 2681-III of September 13, 2001)

Article 18. Bodies Authorized to Perform Control and Supervision over Quality and Safety of Food Products and Food Raw Materials

State control and supervision over quality and safety of food products and food raw materials at the time of their production, storage, transportation, sale, use, utilization or destruction shall be performed by specially authorized central bodies of executive power in the sphere of health protection, protection of consumer rights, standardization, metrology and certification, veterinary medicine, plant quarantine, and their institutions in the Autonomous Republic of Crimea, oblasts, circuits, cities of Kyiv and Sevastopol within their competence.

(Article 18 was amended according to the Law of Ukraine N 191-IV of October 24, 2002)

CHAPTER IV

RIGHTS, OBLIGATIONS AND LIABILITIES OF MANUFACTURERS, SELLERS (SUPPLIERS) AS TO ENSURING QUALITY AND SAFETY OF FOOD PRODUCTS AND FOOD RAW MATERIALS

Article 19. Rights of Manufacturers, Sellers (Suppliers) as to Ensuring Proper Quality and Safety of Food Products and Food Raw Materials

Subjects of entrepreneurial activity – natural persons and legal entities of all types of ownership, dealing with development, production, storage, transportation, importation into Ukraine, use, as well as sale of food products and food raw materials, shall have the following rights:

to receive, within a set term necessary, available and true information from relevant bodies of executive power on the possibility of sale, use and consumption of food products, food raw materials and accompanying materials in Ukraine;

to appeal to a court for protection of their rights.

Article 20. Obligations of Manufacturers, Sellers (Suppliers)

Subjects of entrepreneurial activity – natural persons and legal entities of all types of ownership, dealing with development, production, transportation, storage, importation, as well as sale, use, utilization and destruction of food products and food raw materials, shall have the following obligations:

to take measures related to step-by-step introduction of international system Hazard Analysis and Critical Control Point at food industry enterprises in line with procedure and within terms determined by Ukrainian legislation for separate types of food products;

(Article 20 was amended with new paragraph according to the Law of Ukraine N 191-IV of October 24, 2002)

to observe procedures of conformity verification and draw up declarations of conformity for those food products which are subject to technical regulations;

Article 20 was amended with new paragraph according to the Law of Ukraine N 191-IV of October 24, 2002,

therefore, paragraphs two through six are to be considered paragraphs four through eight, respectively)

to have special education (training);

to produce, import in Ukraine, sell and use food products, food raw materials and accompanying materials, which comply with requirements of the present Law and effective in Ukraine normative documents on these food products, food raw materials and accompanying materials;

to sell and use food products, food raw materials and accompanying materials only if their quality and safety is confirmed by relevant documentation. A manufacturer (seller) of food products and food raw materials must regularly check their quality and take proper measures to prevent sale of unfit food products, expired food products and food products with no or illegible marking;

to provide free access to respective objects for officials, who perform state control and supervision, so they could check whether production, storage, transportation, sale, use of food products and food raw materials comply with requirements, norms and rules as to quality and safety of these food products and raw materials set forth by relevant normative documents, and to present, free of charge, to the officials normative documents and other information, as well as samples (in quantities set forth by normative documentation) of food raw materials, accompanying materials and ready food products;

to reimburse to consumers damages caused by violation of Ukrainian legislation on quality and safety of food products and food raw materials.

Sale of food products and food raw materials by natural persons and legal entities shall be carried out in compliance with regulations on sale of food products in Ukraine approved by the Cabinet of Ministers of Ukraine or the body authorized thereby.

Article 21. Responsibility for Violating Requirements of the Present Law

Violation of requirements of the present Law shall impose civil, administrative, criminal liability in compliance with Ukrainian legislation.

CHAPTER V

WITHDRAWAL FROM CIRCULATION OR DESTRUCTION OF FOOD PRODUCTS, FOOD RAW MATERIALS AND ACCOMPANYING MATERIALS NOT COMPLYING WITH THE SET REQUIREMENTS

Article 22. Withdrawal From Circulation, Use, Utilization or Destruction of Food Products, Food Raw Materials and Accompanying Materials not Complying with the Set Requirements.

Low-quality and unsafe food products, food raw materials and accompanying materials shall be subject to withdrawal in accordance with procedure established by the legislation.

Low-quality food products shall be understood as food products, food raw materials, whose quality indices and consumption qualities are not complying with those indicated in declaration of conformity (normative document or normative legal act), as well as those whose quality has become lower because of:

damaged (incorrect) marking;

damaged or deformed packing or separate units thereof (except for blown cans);

presence of unusual smell, wetness; provided these signs are not dangerous for consumers;

presence of alien admixtures or items, which can be removed.

Withdrawn from circulation low quality products, food raw materials and accompanying materials (except for food products and raw materials, whose shelf life is less than 30 days) may be returned into circulation if they are made consistent with the established requirements by way of sorting, refining, re-marking, change of ultimate use of the mentioned products, industrial processing etc.

Food products, food raw materials and accompanying materials shall be treated as unsafe if their safety indices fail to comply with those established in Ukraine for products of the given type or those indicated in the conformity declaration, as well as food products, whose consumption (use) is associated with risks for human life and health, in particular, such food products and food raw materials:

that cannot be duly identified (in usual way);

falsified;

smuggled;

derelicts;

whose accompanying documents issued by a producer (owner) to confirm their origin, or documents confirming their quality and safety, are missing;

whose shelf life or term of use has expired;

manufactured with use of prohibited components, food additives, materials, technologies etc.;

those with explicit signs of spoilage and those damaged by rodents and insects.

Unsafe food products and food products of low quality that cannot be returned into circulation, shall be subject to utilization or destruction in accordance with procedure established by the legislation.

Utilization or destruction of unsafe food products withdrawn from circulation shall be performed by the producer (owner) at their expense. Order and conditions for use of products of low quality, methods of utilization and destruction of unsafe food products shall be approved by the authorized bodies, which perform state control and supervision of quality and safety of food products in accordance with their competence.

(Article 22 in wording of the
Law of Ukraine N 191-IV of October 24, 2002)

CHAPTER VI

INTERNATIONAL COOPERATION

Article 23. International Cooperation of Ukraine in the Sphere of Ensuring Quality and Safety of Food products, Food Raw Materials and Accompanying materials

International cooperation of Ukraine in the sphere of ensuring quality and safety of food products, food raw materials and accompanying materials shall be conducted through:

participation in the work of international organizations;

conclusion of international agreements, including agreements on mutual recognition of assessment on conformity of food products with quality and safety requirements (certification);

harmonization of state standards, norms and rules with international standards, norms and rules establishing requirements for quality and safety of food products, food raw materials and accompanying materials, as well as testing methods;

information exchange with trade partners on measures taken in Ukraine for ensuring quality and safety of food products, food raw materials and accompanying materials.

Article 24. International Agreements of Ukraine

If international agreements of Ukraine, recognized as binding by the Verkhovna Rada of Ukraine, establish rules other than those provided in the present Law, rules of international agreements shall be applied.

CHAPTER VII

FINAL PROVISIONS

1. The present Law shall come into force from the day of publication thereof.
2. Until laws of Ukraine and other normative legal acts are brought into compliance with the provisions of the present Law, they shall apply as far as they are consistent with the present Law.
3. Before March 1, 1998 the Cabinet of Ministers of Ukraine shall:
 - submit to the Verkhovna Rada of Ukraine proposals on amending the laws of Ukraine resulting from the present Law;
 - bring its normative legal acts in compliance with the present Law;
 - ensure adoption of normative legal acts set forth by the present Law, within competence of the Cabinet of Ministers of Ukraine;
 - ensure revision and annulment of normative legal acts inconsistent with the present Law by ministries and other central bodies of executive power of Ukraine.
4. The Cabinet of Ministers of Ukraine shall prepare and submit to the Verkhovna Rada of Ukraine the following draft laws of Ukraine:
 - on liabilities of suppliers for manufacturing and sale of low-quality and unsafe products;
 - on withdrawal and utilization of low-quality and unsafe products;
 - on state regulation of manufacturing and sale of ecologically clean products.

President of Ukraine

L.Kuchma

**Kyiv
December 23, 1997
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