

**ACT XC OF 1995
ON FOODS ***

-----Footnotes-----

* The Act was passed by Parliament on 24 October 1995.

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INTRODUCTION: The objective of this Act is to determine the conditions of the production and marketing of raw, semi-processed and processed foods intended for public consumption in such a way that the protection of consumer health and interests and the fairness of market competition are ensured, and the free flow of these goods between countries is promoted.

General Provisions

Section 1

(1) The effect of this Act shall extend to

a) the production and marketing; and

b) the natural persons and legal entities and unincorporated associations dealing with the production and marketing

of foods, food and tobacco additives (the latter two hereinafter collectively referred to as additives) and tobacco products (all the above hereinafter collectively referred to as foods) intended for public consumption or marketed within the territory of the Republic of Hungary.

(2) The effect of this Act shall not extend to the production of foods in private households for own consumption.

(3) Concerning the production and marketing of wine, beer, alcohol, alcoholic beverages, red pepper, coffee, tobacco products, as well as of bottled drinking water and mineral water, the provisions of this Act shall apply with the differences laid down in separate legal rules.

Interpretative Provisions

Section 2

For the purposes of this Act

1. *food*: any material of vegetable, animal (including micro-organisms) or mineral origin that is suitable for human consumption in its unaltered, prepared or processed form. Pharmaceuticals, materials and preparations with a curative effect not qualifying as pharmaceuticals, medicated baby foods, mother's milk replacements, medicinal waters, unbottled drinking water and mineral water shall not qualify as food;

2. *food additive*: any material of natural or artificial origin, regardless of whether it has a nutritional value or not, that is generally not consumed as food by itself and not used as a raw material, but is added to foods in the course of preparation, treatment, processing, packaging, transportation or storage in order to influence favourably the chemical, physical and microbiological properties of the product and those perceived by the senses. Being added to the product, the additive or its derivative becomes or may become an ingredient of the food;
3. *tobacco product*: a product prepared from or using raw tobacco for the purpose of smoking, chewing or snuffing. Cigarette paper, tobacco film and other materials closely related to tobacco products, with the exception of smoke filters and mouthpieces, shall be considered as tobacco products;
4. *tobacco additive*: any material other than tobacco that is added to tobacco products in the course of preparation, treatment, processing and packaging in order to influence favourably the chemical, physical and microbiological properties of the product and those perceived by the senses;
5. *processing aid*: any material, with the exception of the material of equipment and tools, not consumed as food by itself but used in the course of the production or processing of a raw material or food, or the ingredients thereof, to attain a particular technological objective, unavoidably resulting in the presence of residues or in the formation of derivatives in the finished product;
6. *food production*: the whole or part of the cleaning, grading, preparing, processing, packaging and storing operations of foods for public consumption or for further processing for public consumption;
7. *food producer*: a person or entity carrying out food producing activities;
8. *food producing premises*: the facility where food producing activities are carried out;
9. *food packaging*: activities in the course of which the food is packed in specific quantities, without the presence of the consumer, in such a way that the content cannot be changed without opening or damaging the packaging;
10. *food packaging material*: a material usually not suitable for consumption that is in contact with the food and protects it from contamination and from effects reducing its nutritive value and quality;
11. *food distribution/marketing*: the whole or part of the transporting, storing, prepacking, serving and selling operations aimed at forwarding the foods to retailers or food consumers, regardless of whether they are carried out within the framework of catering, the provision of canteen meals or commercial activities;
12. *food trader*: a person or entity carrying out food distribution or marketing activities;
13. *processed food*: all foods prepared for consumption by food processing operations substantially changing the original state of the raw material of the food;

14. *raw food*: any food suitable for consumption without a substantial change to its original state;

15. *raw material of food*: a product or produce of vegetable, animal (including micro-organisms) or mineral origin suitable for the production of food, as well as drinking water and mineral water;

16. *novel food*: a food not yet available for public consumption in this country, having new properties in composition or nutrition or as perceived by the senses, because it is produced

a) either in part or as a whole, from materials not previously used for food production, or

b) in a substantially modified composition; or

c) by a manufacturing process different from that previously employed;

17. *food for meeting special nutritional requirements*: a food that differs by its special composition or specific manufacturing process from foods used for general consumption, whereby meeting the requirements of persons who need unconventional foods because of their digestion, metabolism, physiological state and age;

18. *novel product*: any food not produced before by the given domestic food producer on the given food producing premises, and/or in the given composition and/or using the given packaging; in addition, any food not imported before from the given foreign producer in the given composition or packaging;

19. *public consumption*: direct consumption by the population of food produced for other than own purpose, or the further use of such food by the food producer for that purpose;

20. *food consumer*: the end user of the food;

21. *food quality*: the whole of the properties of the food that make it meet the requirements laid down in the relevant regulations and the demands of the consumers;

22. *food hygiene*: a set of requirements for the production and marketing of foods related to fitness for human consumption; the prevention and elimination of infection spread and other damage caused by foods;

23. *shelf life*: the period of time in which the physical, chemical, microbiological properties, and those perceived by the senses, of the food produced, stored and transported under the prescribed or average conditions shall meet the regulations or the requirements laid down on the product sheet of the food;

24. *product sheet*: a description containing the method of production, composition, the quality parameters and labelling of the food.

Chapter I

General Conditions of Food Production

Section 3

(1) Food producing premises may only be established where the protection of workers, the product and the environment are provided for, and where the architectural, technical, technological, environmental, public health, veterinary and food hygiene conditions relevant to the operation of the premises and the machinery, tools and equipment are provided for.

(2) The establishment of food producing premises or the reconstruction of such premises, entailing substantial changes to the conditions specified in subsection (1), shall be notified to the veterinary and food control station of the county (or capital) competent for the site (hereinafter referred to as Station) for approval, with the simultaneous submission of the plans and documentation for inspection.

(3) Food may only be produced on food producing premises that hold an operational licence. Operational licences, except for catering, shall be issued, or withdrawn if the conditions are no longer provided for, by the Station, in agreement with the expert authorities concerned.

(4) All food produced on food producing premises holding an operational licence shall be considered as food intended for public consumption.

Section 4

(1) For food production, only such materials of vegetable, animal (including micro-organisms) or mineral origin and drinking and mineral water may be used as raw materials that are not detrimental to human health and are suitable for the production of food meeting the regulations.

(2) In the course of food production, only such additives, processing aids, food packaging materials, detergents and disinfectants may be used that are licensed by the Minister of Public Welfare. Licences authorizing the use thereof shall be issued by the Minister of Public Welfare,

a) in the case of additives and processing aids, in agreement with the Minister of Agriculture,

b) in the case of food packaging materials, detergents and disinfectants, in agreement with the Minister of the Environment and Regional Policy.

(3) In the course of the production and transportation of foods, such technical, technological, public health and food hygiene conditions shall be applied that ensure that the foods meet the public health, food hygiene and quality requirements.

Section 5

Only persons whose health conditions meet the requirements established for their jobs and who have the necessary qualifications or the rudiments of public health, food hygiene, quality management and environmental protection may deal with food production.

Section 6

(1) Food for meeting special nutritional requirements and novel food may only be produced with a licence.

(2) The production of foods for meeting special nutritional requirements shall be licensed by the Minister of Public Welfare.

(3) The production of novel food shall be licensed by the Minister of Agriculture in agreement with the Minister of Public Welfare.

Section 7

The treatment of foods with ionizing radiation shall be subject to licensing. The licence shall be issued by the Minister of Agriculture in agreement with the Minister of Public Welfare.

Section 8

The licences prescribed in Section 4, subsection (2) and in Sections 6 and 7 shall be published in the official gazettes of the Ministry of Agriculture and the Ministry of Public Welfare.

Section 9

A food qualifying as a novel product and intended for public consumption (except catering) may only be produced if its product sheet has been approved by the Station in a decision.

Section 10

The licences issued by the authorities and the analyses related to licensing are subject to fees. The rates thereof are established in a separate legal rule.

Chapter II

Quality Conditions

Section 11

(1) Food producers are obliged to comply with the provisions concerning the chemical, physical and microbiological properties, and those perceived by the senses, of foods.

(2) Food producers (except those in catering) shall indicate the quality parameters of their products on product sheets.

(3) Producers shall carry out the quality control of the foods produced. They may carry out the necessary analyses in their own laboratory or may have them carried out in another laboratory suitable for that purpose.

Section 12

(1) Production and marketing of adulterated food is prohibited.

(2) Food shall be deemed adulterated if the quality specified in the relevant provisions or on the product sheet has been deliberately changed in a way that may be hazardous to consumer health, may jeopardize their interests or could mislead consumers.

The Hungarian Food Code

Section 13

(1) The Hungarian Food Code (Codex Alimentarius Hungaricus) is a collection of obligatory provisions and recommended guidelines concerning raw and processed foods. The Hungarian Food Code is kept by the Ministry of Agriculture.

(2) The volumes of the Hungarian Food Code contain the following:

a) Volume I contains the mandatory provisions applicable to foods produced or marketed in Hungary. These provisions are based on the legal rules of the European Communities;

b) Volume II contains the recommended product specifications drawn up by taking into account the recommendations of international organizations and the local circumstances in this country;

c) Volume III (Collection of Official Methods for Food Analyses) contains the mandatory provisions based on the legal rules of the European Communities, recommended MSZ EN standards (Hungarian standards) and other Hungarian or international standards or, failing these, guidelines developed for such purposes.

(3) On the basis of proposals from the Hungarian Food Code Committee, the Minister of Agriculture shall

a) issue the mandatory provisions of the Hungarian Food Code in a decree, in agreement with the Minister of Industry and Trade, the Minister of the Environment and Regional Policy, and the Minister of Public Welfare;

b) publish the recommended guidelines of the Hungarian Food Code.

(4) The Hungarian Food Code shall be elaborated by the Hungarian Food Code Committee. The Hungarian Food Code Committee shall consist of 15 members appointed by the Minister of Agriculture, in agreement with the Minister of Industry and Trade, the Minister of the Environment and Regional Policy and the Minister of Public Welfare, from the representatives of scientific, economic, food control organizations, and organizations representing consumer interests, as well as the Ministry of Agriculture, the Ministry of Industry and Trade, the Ministry of the Environment and Regional Policy and the Ministry of Public Welfare.

(5) The Hungarian Food Code Committee shall establish separate expert panels to develop provisions and guidelines for the individual fields, in accordance with the contents of subsection (4).

(6) The members of the Hungarian Food Code Committee shall elect from among themselves a chairman, a vice chairman and a secretary. The Committee shall itself develop its

operational regulations to be approved by the Minister of Agriculture, in agreement with the Minister of Industry and Trade, the Minister of the Environment and Regional Policy and the Minister of Public Welfare.

(7) The secretarial duties related to the operation of the Hungarian Food Code Committee shall be performed by the Ministry of Agriculture.

Chapter III

Conditions of Placing Food on the Market

Section 14

(1) Only such a food may be placed on the market

a) that has been produced in compliance with the public health, food hygiene and quality protection provisions,

b) that contains physical, chemical, microbiological and radiological contamination not exceeding the levels allowed in separate legal rules,

c) whose quality parameters meet the relevant regulations or the requirements specified on the product sheet, and correspond to the labelling of the food,

d) whose packaging meets the relevant regulations, and whose labelling is not misleading,

e) in the case of a novel product, the obligatory preliminary quality analyses have been carried out by the designated institution.

(2) Microbiologically highly perishable food shall not be marketed after the expiry date of its shelf life.

(3) Foods not meeting the requirements of subsection (1), paragraph c) but not being hazardous to consumer health may be marketed only if they are clearly labelled with the words "reduced quality".

(4) In the course of food distribution and marketing, such technical, technological and personal conditions shall be provided that allow for the preservation of the parameters of the food related to public health, food hygiene and quality.

(5) In the course of food distribution and marketing, only the packaging materials, detergents and disinfectants licensed in accordance with Section 4, subsection (2) may be used.

Section 15

Processed food may only be marketed within the framework of commercial activities, catering and the provision of canteen meals.

Section 16

(1) Only such foods and raw materials of food may be imported for domestic processing and distribution and marketing that comply with the provisions of this Act and other requirements relevant to the given food or raw material of food.

(2) For domestically produced foods to be exported, the provisions of the importing or target country shall be applicable. Foods of protected provenance and with protected geographical marking and special Hungarian foods shall also comply with the prevailing Hungarian provisions.

Chapter IV

Packaging

Section 17

(1) The packaging shall protect the food from contamination and from effects reducing its nutritional value and quality. Packaging materials shall not be hazardous to the health of consumers.

(2) The maximum weight and volume of the packaging material shall not exceed the extent necessary to protect the quality of the packed food. The packaging material shall be suitable for refilling or recycling, or, in the case of its safe disposal, the environmental impact of the packaging material and its residues shall be as low as possible.

(3) The foods shall be packed in units as prescribed by the Hungarian Food Code. If the food is only partially visible in the package, the whole food shall be identical to its visible part.

(4) The packaging of the food shall be such that the food cannot be modified without opening or damaging the packaging.

Consumer Information

Section 18

(1) The labelling necessary for the consumer information and for food inspection shall be indicated legibly, in Hungarian, using non-technical terms on the packaging of foods to be placed on the domestic market.

(2) Words, figures, trademarks, pictures, drawings and symbols relevant to the given food and placed on its packaging, label, ring, metal parts or collective package shall qualify as labelling.

Section 19

(1) The labelling of the food shall include

a) the exact description of the food. The description shall indicate the special treatments and the origin, if failure to provide such information may interfere with consumer interests or is suitable for misleading them. No trademark or fancy name may be substituted for the description;

- b) the name of the producer or trader of the food in a manner enabling identification;
- c) the net weight or volume of the food; for tobacco products, the number of items or their weight;
- d) the raw materials and additives used for the production of the food, with the exception of tobacco products, in descending order of quantity;
- e) the date of expiry of the food and, in the case of microbiologically highly perishable products, the date until which the food is fit for consumption;
- f) any special storage conditions necessary for maintaining the quality of the food, suggestions for use and consumption, if they significantly influence the shelf life of the food or the date until which it is fit for consumption;
- g) the energy content in the case of foods for meeting special nutritional requirements and foods provided with nutritional recommendations;
- h) the licence number in the case of foods subject to licensing in accordance with Section 6.

(2) The labelling shall be designed so as not to mislead the consumer. Therefore, it

- a) shall include the important properties, composition, destination, origin, and the methods of production and/or cultivation of the food;
- b) shall not state or imply that the food prevents, treats or cures a disease if the food does not possess such properties according to scientific knowledge;
- c) shall not state or imply that the food has special properties if it does not possess such properties according to scientific knowledge, or if another similar food also has such properties, but no such properties are indicated thereon in accordance with the relevant provisions or according to current practices.

Section 20

Information given or implied in food advertisements shall be in harmony with the provisions laid down in Section 19.

Chapter V

Control by the Authorities

Section 21

(1) The aim of control by the authorities is to establish that the foods as well as the persons, objects and materials coming into contact therewith in the course of food production and food distribution and marketing are in compliance with the legal rules concerning consumer health and interests and the protection of fair market competition.

(2) The control by the authorities shall cover all foods produced and marketed in this country irrespective of the place of production.

(3) The control by the authorities shall cover all stages of food production, import, and distribution and marketing.

Section 22

(1) The following bodies shall be responsible for the tasks of official food control specified in this Act:

a) the organization responsible for public health, epidemiological services and sanitary regulations;

b) the organization responsible for consumer protection;

c) the veterinary and food control station of the county (or capital)

[the authorities listed in paragraphs a) to c) are hereinafter collectively referred to as food control authority].

(2) The organizations listed in subsection (1), paragraphs a) to c) shall act according to their responsibilities specified in separate legal rules.

(3) The provisions of Act IV of 1957 on the General Rules of State Administration Procedures shall apply to proceedings of the food control authorities.

Section 23

In order to ensure compliance with the legal rules applicable to the production and marketing of foods, the food control authorities shall inspect the following:

a) raw materials, additives, processing aids and packaging materials used for food production;

b) semi-processed or processed foods, irrespective of the place of production or intended place of marketing;

c) the objects which, if properly used, come into contact with foods;

d) detergents and disinfectants, implements and processes, as well as pesticides and the methods of application thereof;

e) processes used for food production and equipment used for the purposes of such production;

f) the adequacy of packaging and labelling;

g) the quality control system of the producer or trader.

Section 24

(1) Official food control shall be carried out by persons provided with service identity cards and authorized by the food control authority.

(2) Authorized persons are obliged to keep manufacturing (plant) secrets or data they come to know in the course of inspection, and to handle them in accordance with the relevant rules.

(3) In the course of inspection, the authorized persons shall have the right to carry out sampling and to take samples away free of charge to the extent required for the analyses. At the request of the subject of the inspection, control samples shall be taken, with the exception of samples taken for the purposes of microbiological analysis. A report on sampling shall be drawn up on the spot.

(4) The analyses carried out in the course of food control by the authorities shall be free of charge, provided that the food meets the parameter requirements prescribed, specified on the product sheet or shown on the label. If the analyzed food fails to meet the quality requirements prescribed or indicated on the label, the food producer or, in the case of a commercial inspection, the party at fault, shall defray the expenses of sampling and analysis.

Chapter VI

Measures Taken by the Authorities

Section 25

(1) In all cases when the food control authority detects, in the course of its proceedings, an infringement of the provisions of this Act or other legal rules:

a) it may prohibit the operation of the food producing premises, restaurant, canteen, food marketing unit, machinery and equipment, and the use of the raw material, processing aid, packaging material, detergent and disinfectant, furthermore, it may make any further operation, commencement of use or continued use subject to further conditions;

b) it may declare the food as unfit for public consumption or of reduced quality, may restrict or prohibit its use or marketing, or may make its use or marketing subject to conditions, or may order its destruction in compliance with environmental regulations;

c) it may make a proposal for the withdrawal of the operational licence or may withdraw it.

(2) The food control authority may impose fines for contravention on the basis of separate legal rules on contraventions, and on-the-spot fines.

Quality Protection Fine

Section 26

(1) If, in the course of the inspection, the food control authority finds that the food produced or marketed does not meet the quality requirements prescribed or indicated on the label, or if it contains a substance detrimental to health in an amount over the permitted level, it shall impose a quality protection fine.

(2) The amount of the fine, depending also on the number of lots, the value of the food and the nature of the defect, shall be the product of the retail unit price of the food that has been contested and its quantity, but not less than HUF 20,000 and not more than HUF 1,000,000. The quality protection fine may also be imposed together with the sanctions contained in Section 25, subsections (1) and (2).

(3) Food producers or traders who are responsible for the quality of the food that has been contested as mentioned in subsection (1), or, if this cannot be unambiguously established, the inspected undertaking, shall pay the quality protection fine.

(4) The quality protection fine shall be paid to the bank account of the food control authority that has imposed the fine. The supervising ministry shall decide on the utilization of the collected sum, taking into account the continuous updating of analytical and inspection methods of the food control authority.

Chapter VII

Miscellaneous and Closing Provisions

Section 27

(1) This Act shall come into force on 1 January 1996.

(2) Simultaneously with the coming into force of this Act, the following shall cease to be in force:

a) Act IV of 1976 on Foods and Act IV of 1988 amending it;

b) the text part "mineral, or" in Section 136 of Act XX of 1991 on the Spheres of Responsibilities and Competence of Local Governments and their Organs, of the Republic's Commissioners and of Certain Organs with Central Subordination;

c) Government Decree No. 66/1994 (IV.30.) Korm. on the Hungarian Food Code.

(3) The Government is hereby authorized to regulate in a decree the protection of geographical markings and indications of provenance.

(4) The Minister of Agriculture is hereby authorized to issue, in agreement with the Minister of Industry and Trade, the Minister of the Environment and Regional Policy and the Minister of Public Welfare, the obligatory provisions of the Hungarian Food Code by decree.

(5) The Minister of Agriculture is hereby authorized to regulate, by joint decree with the Minister of Industry and Trade and the Minister of Public Welfare,

-- the conditions of food production and distribution and marketing;

-- the conditions of the production, distribution, marketing and control of tobacco products that are outside the regulatory scope of the Excise Act;

-- the rules of the bottling and distribution and marketing of drinking and mineral water;

-- the conditions and procedures of the destruction of foods, in agreement with the Minister of the Environment and Regional Policy.

(6) The Minister of Industry and Trade, the Minister of Public Welfare and the Minister of Agriculture are hereby authorized to regulate by joint decree the conditions of food production and distribution and marketing within the framework of catering and the provision of canteen meals.

(7) The Minister of Agriculture is hereby authorized to regulate by joint decree with the Minister of Public Welfare the food hygiene conditions of food production and distribution and marketing.

(8) The Minister of Agriculture is hereby authorized to regulate by joint decree with the Minister of the Interior, the Minister of Defence, the Minister of Industry and Trade and the Minister of Public Welfare the procedures of food control.

(9) The Minister of Agriculture is hereby authorized to regulate by joint decree with the Minister of Industry and Trade, the Minister of Public Welfare and the Minister of Finance the fees to be charged for the required licences and laboratory analyses and the procedures of the payment and use of the fees and the quality protection fine.

(10) The Minister of Agriculture is hereby authorized to regulate by joint decree, in agreement with the Minister of Industry and Trade, the certification of special properties of agricultural and food products and the sphere of special Hungarian food items, as well as the control of fruits and vegetables to be consumed fresh.

(11) The Minister of Public Welfare is hereby authorized to regulate by decree, in agreement with the Minister of Agriculture, the admissible level of chemical, microbiological and radioactive contamination of foods and of veterinary drug residues therein.

(12) The Minister of Industry and Trade is hereby authorized to regulate by decree, in agreement with the Minister of Agriculture, the procedures of food distribution and marketing.

(13) Packaging materials that have been ordered or manufactured before the coming into force of this Act, and are not in conformity with the provisions thereof concerning labelling, may be used until 31 December 1997.