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**DRAFT FOOD LAW OF  
THE ISLAMIC REPUBLIC of AFGHANISTAN**

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# DRAFT FOOD LAW

## General Provisions

### Article 1: The basis

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

### Article 2: Purpose of legislation:

The propose of this Act are to:

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

### Article 3: Definitions

- (1) **Additive** means any substance not normally consumed as food by itself, such as spices, flavors, (colors, anti fungal), volume conditioners, textures, softeners and thickeners substances those are added to food for the purpose of maintaining or improving nutritional qualities;
- (2) **Adulterate** means to make impure in order to give a false impression or value or to hide defects, by the addition of a foreign, inferior or inert substance to food, or by the exclusion or removal of a valuable or necessary ingredient of food;
- (3) **Advertisement** includes any representation – written, pictorial, visual or otherwise – made for the purpose of promoting directly or indirectly the sale or disposal of any

- food or any substance represented as food;
- (4) **Appliance** means the whole or any part of any implement, machine, instrument, apparatus or other object used or capable of being used in or in connection with the production, manufacture, treatment, packing, packaging, labeling, transport, handling, serving or storage of any food;
  - (5) **Authorized officer** means an authorized and qualified person who carries out his duties in the framework of food control authority;
  - (6) **Authority** means the Food Control Authority established in Article 5 of this Act;
  - (7) **Board** means the Board of the Food Control Authority, established in Article 8 of this Act;
  - (8) **Committee** means the Scientific Committee established in Article 11 of this Act;
  - (9) **Contaminant** means any substance not intentionally added to food, which is present in such food as a result of the production, manufacture, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination, but does not include insect fragments, rodent hairs or other extraneous matter;
  - (10) **Contamination** means the introduction or occurrence of a contaminant in food;
  - (11) **Export** means to export from Afghanistan by any means;
  - (12) **Exporter** includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of or in any way entitled to the custody or control of any food exported from Afghanistan;
  - (13) **Food** means any substance, whether processed, semi-processed or raw, which is intended for human consumption and is used in order to fulfill human tissues needs for generating energy and continuity of life. This does not include cosmetics or tobacco or substances used only as drugs;
  - (14) **Food business** means any business, however small, where production, manufacture, preparation, treatment, packing, packaging, transport, handling, serving, storage or sale in relation to food is carried out, whether for profit or not;
  - (15) **Food Hygiene** applies to all the terms and conditions necessary to ensure safety and suitability of food throughout all the stages of production chain;
  - (16) **Food production chain** means all stages of production from primary production of food to food handling and food sale;
  - (17) **Food safety** - assurance that food will not cause harm to the consumer when it is prepared and/or eaten according to its intended use’
  - (18) **Food Safety Measures** are all legal acts (including all relevant Qanoon, Moqarara, Asosnoma, Laiha and Tarzulamal, requirements and procedures) and national standards for food safety establishing compulsory requirements to protect human life or health from risks arising from food additives, contaminants, toxins or disease-causing organisms in food products and beverages, including, *inter alia*, food safety parameters such as maximum residue limits; end product criteria; processes and production methods; testing, inspection, certification and approval procedures; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labeling requirements directly related to food safety;
  - (19) **Food suitability** - assurance that food is acceptable for human consumption according to its intended use;
  - (20) **Import** means to import into Afghanistan by any means;

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

#### **Article 4: Implementation Provisions of Law**

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

## **Chapter Two**

### **Food Control Authority**

#### **Article 5: Food Control Authority**

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

#### **Article 6: Functions of Food Control Authority**

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

- (1) employ risk management with the goal of ensuring that all:
  - (a) Food produced in Afghanistan whether for domestic consumption or export ; and
  - (b) Food distributed or marketed in Afghanistan, whatever its origin; meets the highest standards of food safety and nutritious values.
- (2) take the lead in coordinating and harmonizing food control activities in Afghanistan;
- (3) Prevent and protect against fraud in connection with the sale of food;
- (4) Provide justification to other countries concerning food safety measures applied either through risk analysis or by reference to applicable international standards and obligations;
- (5) Notify trading partners of relevant instances of non-compliance with import requirements;
- (6) Liaise with government, non governmental entities and private sector food safety to keep abreast of the latest developments in the field of food safety;
- (7) provide information regarding import and export regulations in force, and technical requirements for food products and other regulated articles, on request of any interested international, regional or other national food safety organization;
- (8) formulate strategies and policies on food, nutrition and food security, including procedures for emergency response, natural disaster, and monitor their implementation;
- (9) Encourage and promote research on food matters within Afghanistan;
- (10) Prepare and amend regulations, orders, standards, codes of practice and notices under this Act;
- (11) cooperate equally with all sectors of the food chain and provide proper consultation in carrying out its activities under paragraphs (1)-(10) of this Article;
- (12) Cooperate and provide advice, information or assistance to governmental, nongovernmental, private sector and any public authority in relation to food control, food safety and food trade;
- (13) Obtain, compile and keep under review information concerning food control, food safety, food trade and nutrition in Afghanistan;
- (14) promote consumer education regarding food safety and nutrition;



- (15) Represent Afghanistan in bilateral, multi lateral, regional and international forums related to food safety matters; and
- (16) The Food Control Authority in order to implement the provision of this Act and other relevant regulations determines a specific laboratory as an official laboratory, in near future.
- (17) carry out other relevant duties in accordance with the provisions of this Act;

### **Article 7: Funding**

In addition to an annual budgetary allocation of Parliament, funds of the Food Control Authority shall include:

- (1) such fees as may be charged by the Food Control Authority for services rendered by it; and
- (2) such moneys or other assets as may accrue to or vest in the Authority by way of grants, subsidies, donations, gifts or penalties (in case of violation of law) .
- (3) The amounts provided in Paragraph 1 and 2 of this Article are deposited in the government import account, in the bank.

### **Article 8: Food Control Board**

(1) The Food Control Board is established in the structure of ministry of ( ) and shall carry out the responsibilities:

- 1 - Advise the Minister of ( ) on all food safety matters and issues;
- 2 - Exercise oversight responsibility for the performance of the functions and activities of the Food Control Authority;
- 3 - Provide assistance and advice on the formulation, review and implementation of food policy and procedures;
- 4- Propose and assist in the preparation and amendment of regulations, orders, standards, approvals, codes of practice under this Act;
- 5 - Examine complaints and objections lodged in respect of decisions made or official actions taken by the controlling authority under this Act and relevant in effect regulations;
- 6 - distribute information received from the Codex Alimentarius Commission, ISO international standard organization, the OIE or other international or regional standard-setting bodies and coordinate the circulation of draft standards within Afghanistan and the collection of comments thereon from interested governmental and nongovernmental actors;
- 7 - Advise on Afghanistan's participation in the work of the Codex Alimentarius Commission, ISO and the OIE and their subsidiary bodies, including representation at meetings;
- 8 - Perform all other functions assigned to this board by the Minister in accordance with the provision of this Act;

### **Article 9: Delay in execution of duties**

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

### **Article 10: Board members**

- (1) The Board shall consist of members representing the following organizations:
- (i) Director of Food Control Authority
  - (ii) Authorized representative from the ministry of Agriculture, irrigation and livestock
  - (iii) Authorized representative from the ministry of Public Health
  - (iv) Authorized representative from the ministry of Commerce and Industry
  - (v) Authorized representative from the ministry of Information and Culture
  - (vi) Authorized representative from the ministry of Finance
  - (vii) Authorized representative from the ministry of Higher Educations
  - (viii) Authorized representative from the Independent Directorate of Local Governance.
  - (ix) Authorized representative from the Afghanistan National Standard Authority (ANSA)
  - (x) Authorized representative from National Environmental Protection Agency
  - (xi) Authorized representative from Consumer Association
  - (xii) Authorized representative from Chamber of Commerce
  - (xiii) Authorized representative from Kabul Municipality
  - (xiv) Authorized representative from the Trade Union.
- (2) Chairman of the board is selected in the first meeting by the board members; the board shall, according to the regulations and procedures, hold monthly board meetings and discuss food safety issues and make decisions accordingly.
- (3) Any board member due to disregarding the regulation, physical or mental weakness or conviction of any offense, may be dismissed, by majority votes of board members, from the membership and replaced by another member meeting the board criteria and requirements.
- (4) Selection of Director and members of the board and their performance, duties and responsibilities are determined by different regulations and procedures.

### **Article 11 : Scientific Committee**

The scientific committee is established in structure of Food Control Authority in order to carry out food safety risk assessments and research in relation to food safety. The committee shall, according to the latest scientific research, information regarding procedures, production tools, sampling results and analysis and other available information, carry out the following duties and responsibilities:

1. Evaluating and assessing physical, chemical or biological risks to human health arising throughout the food production chain;
2. advising the Minister or the Food Control Authority on the appropriate measures to be taken to protect consumer health;

3. providing inputs into or developing proposed regulations or rules on subject matters within its mandate.
4. The Committee shall cooperate fully with the Food Control Authority, exchanging advice and information regarding risks, risk factors and risk perception, and in particular shall explain its risk assessments and the basis of its decisions.
5. The terms of office and the conditions of service, number, selection procedure, performance, duties and responsibilities of Committee members shall be determined in accordance with Article 10, Paragraph 4.

## **Chapter Three**

### **Food and International Trade**

#### **Article 12 : Power to limit or ban substances in food**

To protect human health, the Food Control Authority may ban or set limits on the presence of additives, contaminants and residues in food or animal feed.

#### **Article 13: Power to prohibit importation or cultivation**

Where the Food Control Authority determines that food of any specified class or description if imported or cultivated, taken or harvested from a specific area of Afghanistan may be dangerous or injurious to persons consuming that food, it may by order prohibit the importation, cultivation, taking, harvesting or obtaining of that food.

#### **Article 14: Emergency situation**

In the case of a food safety emergency or sudden necessity, the Food Control Authority may by order:

- (1) totally prohibit the production, manufacture, preparation or sale of any food;
- (2) impose conditions on the production, manufacture, preparation or sale of any food ;
- (3) cause any food to be tested or examined as prescribed and required;
- (4) Cause any suspicious and contaminated food to be tested and examined and destroyed upon receipt of laboratory result.

#### **Article 15: Food Business**

- (1) All premises including warehouses used for the preparation, sale, exposure or storage of food shall be constructed in a way to ensure physical, chemical and biological safety of food therein;
- (2) All legal and natural persons intending to start food businesses shall, before

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

#### **Article 16: Traceability**

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

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

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

#### **Article 17: Labeling**

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

#### **Article 18: International Standards**

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

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

#### **Article 19: Scientific basis and risk assessment**

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

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

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

#### **Article 20: Equivalence**

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

#### **Article 21: Notification and Publication of National Food Safety Measures**

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

significant effect on export opportunities of interested trading partners, shall be notified through the National Sanitary and Phytosanitary Enquiry and Notification Point – SPS ENP (established under other legislation of Afghanistan) ( no less than 60 days before preparing a final draft food safety measure in accordance with the provisions of relevant international agreements. In addition, an announcement of the availability of proposed food safety measures and means of obtaining the proposed food safety measures shall be published.

- (2) Comments received as a result of the notification and publication of proposed new or changed food safety measures shall be taken into consideration in a non-discriminatory manner before such measures are adopted. When requested in writing by a person or interested trading partner, SPS ENP shall provide the text of the proposed food safety measure, and, whenever possible, identify the provisions, which in substance deviate from international standards, guidelines and recommendations.
- (3) In urgent circumstances however, food safety measures may be adopted before notification, provided that such notification is done promptly and without delay.
- (4) All new and revised food safety measures after their adoption shall be published promptly in the relevant official gazette and shall come into force no earlier than 6 months from the date of relevant publication.
- (5) In the case of urgent circumstances, and also in case of application of measures that reduce import restrictions, a food safety measure may come into force as of the date of adoption, provided it is subsequently published in the relevant official publication.

## **Article 22 - Provision of Information on Relevant Food Safety Measures**

Upon the request of any person in accordance with obligation of the international agreements, the SPS ENP shall provide the latter with any information concerning food safety measures for objects subject to food safety measures.

Such information shall include the following:

- (1) Scientific justification for food safety measures that are applied on both imported and domestic food products;
- (2) Procedures and means of risk assessment of food-borne hazards for human health, as well as the data of the reports related to such risk assessment;
- (3) Procedures and means of controlling food products in Afghanistan;
- (4) Current instructions, requirements, and procedures of food product inspection and control;
- (5) Information about membership and participation of Afghanistan in the relevant international organizations or international agreements regarding food safety measures and the texts of such agreements;
- (6) Any other relevant information.

## **CHAPTER FOUR INSPECTIONS and REVIEWS**

### **INSPECTION**

#### **Article 23**

Inspections carried out under this Act may have as their object:

- (a) Food businesses, surroundings and their installations, means of transportation, equipment and related tools and other materials;
- (b) Food ingredients, additives, disinfectants and any substances or processes used in the production or manufacturing of food;
- (c) Entities and persons employed in food industry;
- (d) Packaging material and tools;
- (e) Cleaning, disinfecting and maintenance at the food business;
- (f) Labeling.

#### **Inspections and Reviews limits of Authority Office**

#### **Article 24**

- (1) Except for dwelling places , authorized officers of inspection and review office can enter premises of food businesses to determine violations against this law without previous authorization of the competent court.
- (2) The authorized officers can enter the premises stated within the first paragraph of this article and identify, analyze, and make decisions on the following:
  - (a) Inspection of any type of food, appliance, product process, Materials that are used in the production process, manufacturing, processing, grading, packing, packaging, labeling, storage, reviews, arrange or sell any type of food , or available in order to be used.
  - (b) Request information from the property owner or the responsible person in charge of the first paragraph of this article contained in food, tools, manufacturing facilities, materials or other items;
  - (c) Weigh, count, measure, mark, open and take samples in the prescribed manner of any food, product, material, object or substance or its package or container, as well as lock, secure, seal or close the respective premises.
  - (d) examine, make copies of or take extracts from any book, statement or other document found at such premises which refers to or is suspected of referring to such food, and demand from the owner or any person in charge of the premises an explanation of any entry in it
  - (e) read any values recorded by measuring instruments installed on the premises or by instruments in the possession of the authorized officer;

- (f) Take photographs.
- (g) Record or confiscate any food, machinery, products, materials, objects and goods, books, or documents as proof of the Declaration against violation of the provisions of this Act is considered.

(3) stop and search any vehicle in which food is being or is suspected of being transported, produced, manufactured, treated, graded, packed, packaged, Stored, handled, prepared, served or sold or in which any other operation or activity in connection with food is being or is suspected of being carried out;

(4) Identify and report entities committing violations (offence) of the provisions of this Act have been located or are suspected, to the competent authorities of justice and legal.

(5) An authorized officer of inspection office in implementation of tasks set forth in paragraph 4 of this Article may request the presence and assistance of law enforcement personnel if necessary. The mentioned employees shall be recognized by their official identification card.

### **Conduct and Responsibility of owner**

#### **Article 25**

During an inspection carried out under Article 18, the owner or other person in charge of the food business or any other person present at the food business:

- (a) May accompany the authorized officer;
- (b) shall supply any information or documents requested by the authorized officer relating to installations, appliances, materials, procedures or other matters relevant to any inspection; and
- (c) Shall permit the taking of samples and the gathering of evidence including photographs.

### **Failure (Deficit) and the appropriate measures**

#### **Article 26**

If an authorized officer has reasonable grounds for believing that an owner or person in charge of a food business is failing to comply with this Act, the authorized officer may serve an improvement notice on that owner or person in charge with regarding the following issues:

- (a) stating the authorized officer's grounds for believing that the Act is not being complied with;
- (b) Specifying the measures which the authorized officer deems that the

owner or person in charge must take in order to remedy the failures referred to in paragraph (a);  
(c) Requiring the owner or person in charge to implement those measures, or measures which are at least equivalent to them, within the time period specified in the notice.

**No Match with Standards (Failure to meet standards)**

**Article 27**

(1) Where it is proved that a food is unfit or a food business is producing food unfit for human consumption or is likely to cause harm or danger to human health, an authorized officer can adopt the following necessary measures:

- (a) Seize the mentioned food or stop distributing of food, and issue a notice to the owner or the person in charge of the food business that it is not to be sold, removed, manipulated, tampered, altered in whole or part, without the authorization of the authorized officer; or
- (b) Issue a written notice temporarily ordering the food removed to a specified place; or
- (c) Issue a written notice ordering the immediate destruction of the harmful food.

(2) Where food under sub-Article (1) threat the human health, the authorized officer shall timely notify the food control Authority in order to adopt necessary reaction to preserve and protect public health.

(3) As soon as practicable, an authorized officer acting under sub-Article (1)(a) or (b) shall review and identify the situation at the affected food business and adopt the following measures:

- (a) If the food is determined to be appropriate, then withdraw the notice and allow the release of any food from the place where it is stored;
- (b) If the food is determined to be inappropriate, then such food shall be destroyed or disposed of so as to prevent its being used for human consumption, and shall supervise the destruction of such food.

**CHAPTER FIVE  
IMPORT AND EXPORT**

**Import required Condition**

**Article 28**



- (1) No article of food shall be imported or otherwise brought into Afghanistan unless it is accompanied by the prescribed documents and unless it is offered up for inspection by the Food Control Authority at the port of entry.
- (2) Imported food shall comply with relevant national food safety measures..

### **Sampling and Testing**

#### **Article 29**

- (1) An authorized officer may inspect any food imported into Afghanistan and, for the purposes of analysis or inspection thereof, and if necessary take samples of any such food. The criteria and procedures for sampling shall be prescribed in Regulations.
- (2) Where samples are taken under first paragraph of this Article, the authorized officer shall, in the presence of the owner or importer or any person in apparent control of the food, seal and mark them as prescribed in Regulations.
- (2) Where a sample is taken from food, the consignment from which it was taken shall not be released by an authorized officer except upon production of an official analyst's certificate to the effect that the food complies with national food safety measures.
- (3) The costs of any inspection, analysis and storage while analysis is being performed shall be borne by the importer.

### **Labeling and reconditioning**

#### **Article 30**

- (1) According to the provisions of paragraph (2) of this article, the importation of any food which does not comply with the provisions of this Act is prohibited.
- (2) In the event that any relabeling or reconditioning authorized under law is not carried out within the prescribed time period, the importer shall export or destroy such food at his or her expense.
- (3) Where an importer fails to export or destroy imported food as mentioned paragraph (2) of this Article, the Food Control Authority may order the destruction of or destroy the imported food.
- (4) The Food control Authority's decision to order the destruction of or to destroy food under sub-Article (3) shall not prevent from later recovering the costs of such destruction as a debt from importer.

### **Minimizing negative effects on trade**

### **Article 31**

(1) When determining levels of protection and establishing import inspection procedures, the Food Control Authority shall minimize negative effects on trade.

(2) For any procedure to check and ensure the fulfillment of food safety measures, the Food Control Authority shall ensure that:

(a) It is undertaken and completed without undue delay and in no less favorable manner for imported products than for like domestic products;

(b) The Food Control Authority in order to facilitate the import process for countries interested in Afghanistan adopts the following measures:

- i. At the request of the applicant, the estimated process time for the application shall be provided.
- ii. Without delay completion of document shall be reviewed
- iii. inform the applicant in a precise and complete manner of all deficiencies
- iv. transmit as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary;
- v. If the application has shortcomings, the Food Control authority, based on the applicant's request, where it is applicable offer explanation of information required for completion of application.
- vi. Based on the request, the applicant's condition and stage of investigation and shall notify them of any delays in processing.

(c) Information requirements shall be limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerances for contaminants in food, beverages or feedstuffs;

(d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favorable than for domestic products and in such a manner that legitimate commercial interests are protected;

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

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

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

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

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

## **CHAPTER SIX OFFENCES AND PENALTIES**

### **Health Rules**

#### **Article 32**

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

### **Unwholesome food**

#### **Article 33**

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

- (A) Has in or upon it any poisonous or harmful substance;
- (B) is not wholesome or is otherwise unfit for human consumption and is injurious to human health;
- (c) Is adulterated; or

(2) The seller according the first paragraph of this Article shall be in violation when that food is determined to be harmful to human health.

### **Food not meeting Food Safety Measures**

#### **Article 34**

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

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

### **False or misleading labeling**

#### **Article 35**

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

### **Irregularities and offences**

#### **Article 36**

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

- (a) Prepares, stores, handles or sells food under unsanitary conditions;
- (b) Imports, exports, produces, manufactures, prepares, stores or sells food which otherwise violates any provision of this Act;
- (c) operates a food business without any license required by this Act or by any other legislation in force in country;
- (d) Fails to comply with an order issued under Article 13 or 14 of the Act;
- (e) fails to establish and implement a traceability system in accordance with Article 16 of this Act;
- (f) Fails to follow the applicable hygiene rules established under this Act;
- (g) Fails to ensure that all personnel of a food business follow prescribed procedures;
- (h) Fails to label food as prescribed under Article 29;
- (i) Fails to comply with an improvement notice issued under Article 26;
- (j) Tamper with any food samples taken under this Act;
- (k) Breaks any seal or alters any markings made by an authorized officer without permission;

- (l) Fails to provide access, samples or information to an authorized officer upon request;
- (m) Gives false information to an authorized officer;
- (n) Attempts to improperly influence an authorized officer in the exercise of his or her official functions under this Act;
- (o) Poses as an authorized officer;
- (p) seizes food for any reason other than those prescribed in this Act;
- (q) Discloses any information acquired in the course of exercising his or her official functions under this Act except where required doing so by his or her supervisor or by a court;
- (r) accepts any monetary or other benefit from a person affected by the exercise of official powers under this Act;

(2) Whenever a corporation, responsible person or any of its representatives intentionally commits a violation of the provisions of this Act, they shall be punishable according to this Act or be obligated to pay compensation.

### **Publishing false or misleading advertisement**

#### **Article 37**

Publishing false and misleading advertising to influence or increase any kind of food sales is prohibited.

### **Penalties**

#### **Article 38**

- (1) Any person who commits an offence under this Act shall be liable to summary prosecution, and upon conviction:
  - (a) In the case of a first offence, the competent court can convict to a fine not less than 50000 AFN and not exceeding than 500000 AFN or to imprisonment for a term not less than 3months and not exceeding than 1year or to both;
  - (b) In the case of a subsequent offence, the competent court can convict to a fine not less than 250000AFN and exceeding than 1000000 AFN or to imprisonment for a term not less than 6months and not exceeding than 3years or to both;
  - (c) Where the offence is a continuing offence, the competent court can convict to an additional fine not less than 500000 AFN and not exceeding than 5000000 AFN or imprisonment for a term not less than 3years and not exceeding than 5years;
- (2) Upon the conviction of any person for any offence under this Act, the court may, in addition to any other sentence imposed:

- (a) Suspend or cancel any license to operate a food business and import issued to the convicted person;
  - (b) Declare any food, appliance, product, material, substance or other object in respect of which the offence has been committed or which was used in connection with the commission of the offence forfeited to the state and disposed of as the court may direct.
- (3) If the owner of a food business (person) is convicted of an offence under this Act, the court before which he or she is convicted may by order impose a temporary or permanent prohibition:
- (a) Use of a particular process or particular equipment at the food business; or
  - (b) Use of the premises for the purposes of running a food business; or
  - (c) The participation by the owner in the management of the food business with respect to which the offence was committed,
- (2) A court shall cancel a temporary order issued under sub-Article (3) where an authorized officer certifies that the conditions which led to the issuance of the order are no longer in effect.

## **CHAPTER SEVEN MISCELLANEOUS**

### **Right of appeal Article 39**

- (1) Any person aggrieved by an action or decision of an authorized officer or an official analyst under this Act may appeal to the Board within the prescribed time period.
- (2) If the aggrieved person is not satisfied with the decision of the Board, he or she may, in accordance with the provision of this Act, appeal to commercial court whose decision shall be final.

### **Irresponsibility Article 40**

No member of the Board, authorized officer, official analyst or other representative of the Authority shall be liable to suit or to prosecution in respect of anything done in good faith in the performance of his or her functions under this Act.

**Presumptions**  
**Article 41**

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

- (a) The party against whom it is produced may require the attendance of the official analyst who performed the analysis, for purpose of cross examination;
- (b) No such certificate shall be admissible in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate.

(2) Evidence that a package containing any food to which this Act applies bore a name, address or registered trademark of the food business or person by whom it was produced, manufactured or packed, shall be prima facie evidence that such food was produced, manufactured or packed, as the case may be, by that food business or person.

(3) Any substance commonly used for human consumption, if sold or offered, exposed or kept for sale, shall be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for human consumption.

(4) Any substance commonly used for human consumption which is found on premises used for the preparation, storage or sale of that substance, and any substance commonly used in the production or manufacture of articles for human consumption which is found on premises used for the preparation, storage or sale of those articles, shall be presumed, until the contrary is proved, to be intended for human consumption.

(5) Any substance capable of being used in the composition or preparation of any article commonly used for human consumption which is found on premises in which that substance is prepared shall, until the contrary is proved, be presumed to be intended for such use.

(6) Where any person demands any food by a name prescribed for a food for which there is a standard prescribed, he or she shall be deemed to have demanded food which complies with that standard.

**Defenses Right**  
**Article 42**

(1) In any proceedings for an offence under this Act it shall be a defense for the accused to establish that he or she could not with reasonable diligence have ascertained that the sale of the food would contravene this Act.

(2) It shall be a defense under Article 30 to prove that someone could not reasonably have ascertained that the packaging or labelling was false or misleading.

(3) It shall be up to the defendant to prove that he or she did not publish the advertisement or did not cause it to be published;

(a) It shall be a defense for the defendant to prove either that he or she did not know or could not with reasonable diligence have ascertained that the advertisement was false or misleading; or

(b) That, being a person whose business it is to publish or arrange for the publication of advertisements, he or she received it in the ordinary course of business and did not make any material alterations to it.

## **Impose Rules and Regulations**

### **Article 43**

For better implementation of the provisions of this Act, the respective Ministry (-----) can process the regulation, and the bills and procedures designed and implemented to the following:

(a) The control of the cultivation, production, manufacture, storage, transport, packing, packaging, labeling and sale of all types of food, including food that is organically produced, genetically modified, dietetic or intended for infants or other population groups;

(b) The preparing, handling and serving of food;

(c) The construction, inspection and maintenance of food businesses, including hotels, boarding houses, markets, grocery stores and businesses selling street food;

(d) The places at which, and the conditions under which, animals are slaughtered for human consumption;

(e) the places at which, and the conditions under which, poultry, fish products, dairy products and other foods of animal origin are produced, processed or packaged for sale;

(f) The places at which, and the conditions under which, crops are produced for food;

(g) The importation and exportation of foods, including any documentation and inspections required;

(h) The procedures applicable for the issuance, suspension and cancellation of licenses to operate a food business;

(i) The acceptable levels of food additives, environmental contaminants, veterinary drugs, pesticides and other residues or other chemical and microbiological contaminants in foods;

(j) The procedures to be followed by authorized officers, official analysts and official laboratories in the exercise of their functions under this Act;

(k) The disposal or destruction of unsafe food;

(l) The fees payable in respect of the inspection and analysis of food;



- (m) The forms to be used for the purposes of this Act, including applications, licenses, permits, improvement notices and receipts for articles seized;
- (n) Offences and penalties;
- (o) Any other matters deemed necessary to achieve the purposes of this Act.

#### **Enforcement Date**

#### **Article 44**

This law is effective following date of approval and should be published in official gazette. With enforcement of this law, other related laws will be null and void. In the event of any conflict or inconsistency between the provisions of this Act and any other enactment in force Afghanistan, the provisions of this Act shall prevail.