

DECREE-LAW 28/2011

of 20th July

**Food Industry and Marketing
Regulation**

Whereas the Country requires specific rules applicable to foodstuffs of vegetable and animal origin placed at the disposal of consumers;

Taking into account that the protection of consumers' health is one of the fundamental and indissociable principles to which the preparation and marketing of food shall be subject and that these principles require a high level of health and safety as regards the hygiene of such products;

A number of specific diplomas are in this sense already in force, notably those regarding health, safety, restaurants and bottled water, but other activities are still missing which range from industrial production or preparation, transport or marketing, as well as the supply of meals to the public by companies other than restaurants;

As it is essential to enhance the protection and subsequent degree of consumer trust, general rules shall be adopted which food at every phase shall be subject to: preparation, processing, manufacturing or production, packaging, storage, distribution, handling and sale or placing at disposal of consumer, as well as forms of checking compliance of those rules;

Therefore, the Government, under the terms of articles 115, no. 1, sub-paragraph e) and 116, sub-paragraph d) of the Constitution of the Republic,

hereby decrees that the following be law:

Article 1

Scope

1. The present diploma shall establish the rules to which the commercial, industrial and service activities which involve foodstuffs shall be subject, under the terms of the attached Regulation, which shall be an integral part hereto.

2. The provisions set out in the present diploma shall not preclude the implementation of the rules established in special rules in terms of hygiene of food, notably those regarding food safety, restaurants and drinking water.

3. For the purposes of the provisions of paragraph 2 above, the rules set out in article 8 shall apply, as regards the resolution of conflict of rules.

Article 2

Auto-control

1. Food sector companies and their transport shall identify all the phases of their activities in order to guarantee the safety of such food and to ensure the fulfilment of adequate safety procedures:

2. In these procedures of auto-control the following principles shall be taken into account:

a) The analysis of the potential food risks in food sector operations;

b) Identification of the phases of the operations in which there may be food risks;

c) Definition and application of an efficient control and monitoring procedures of critical points.

Article 3

Official Control

1. The competent authorities for the official control shall verify, in their corresponding area of competence, whether the food sector companies have applied or fulfilled the appropriate technical or food safety procedures.

2. In the controls referred to in paragraph 1 above the rules of good hygiene practice shall be taken into account, by making an overall evaluation of the potential food safety risks linked to the exercise of company activities.

Article 4

Supervision

The direction and supervision of the action to be developed for the implementation of this diploma shall be of the responsibility of the Food and Economic Inspection Department of the Ministry of Tourism, Trade and Industry, hereinafter referred to as MTTI, as the national authority responsible for the official control of hygiene of food, without prejudice to the specific powers of the Health authorities.

Article 5

Penalty system

1. Offences to the rules of hygiene included in the present diploma shall follow the regime established in

Decree-Law no. 23/2009 of 5th August which approved the Regime of Administrative Offences against the Economy and Food Safety and in the specific sectoral diplomas.

2. Negligent behaviour shall be punishable with a fine corresponding to half of the amount applicable under the terms of paragraph 1 above.

Article 6

Measures to Defend Consumers

1. Without prejudice to the application of penalties as set out in the preceding paragraphs, when the violation of the rules of hygiene may compromise the safety or the healthy state of the food, the competent authorities shall take appropriate measures to stop such illegality and may decide to have such food immediately withdrawn and taken to a safe place, appointing a receiver.

2. In the event it has been decided, by despatch of the Inspectorate-General of Food and Economic Inspection or by the competent authority under the Health Ministry, that such food is to be destroyed, the corresponding document shall be drawn up and signed by the officials who shall proceed to and witness such destruction.

3. When determining the risk for the safety and healthy state of such food the nature of the foodstuffs shall be taken into account, the way they were handled and packed and all and any other operation they were submitted to before being delivered to the consumer, as well as under which conditions they are displayed or are stored.

4. The definitions related to food products set out in the Regime of Administrative Offences against the Economy and Food Safety shall be directly applicable.

5. Whenever the behaviour of the agent may be qualified as criminal, the competent authorities shall communicate the facts to the Public Prosecutor's Office.

Article 7

Written Notice

When the limited severity of the offence and guilt of the agent so justify, the competent authorities may serve a written notice for the application of the fine to be settled within a reasonable deadline.

Article 8

Resolution of Conflict of Rules

1. In the event of conflict between rules set out in the present diploma and those in the Regime of Administrative Offences against the Economy and Food Safety, the latter shall prevail.

2. In the event of conflict between rules in the present diploma and those concerning restaurants, similar establishments and drinking water, as set out in Decree-Laws nos. 5/2008, both of 5th January, the latter shall prevail.

Article 9

Entry into Force

The present decree-law shall enter into force on the day immediately following that of its publication.

Approved at Council of Ministers on 22nd June 2011

Prime Minister

Kay Rala Xanana Gusmão

Minister of Tourism, Trade and Industry

Gil da Costa A. N. Alves

Promulgated on 14/7/2011

To be published

The President of the Republic

José Ramos-Horta

ANNEX I

FOOD INDUSTRY AND MARKETING REGULATION

CHAPTER ONE

GENERAL PROVISIONS

Article 1

Scope

1. The present Regulation shall establish the basic rules to which the phases of preparation, animal slaughter, processing, manufacture, packaging,

storage, transport, distribution, handling, sale and placement of foodstuffs at the disposal of the consumer shall be subject.

2. Food hygiene shall include the necessary measure to guarantee its safety and healthy state in the phases referred to in the preceding paragraph.

3. Companies in the food sector shall comply with these rules, which shall be understood to include companies, profit-making or not, public or private, which perform the following activities:

- a) Food production or preparation;
- b) Industrial processing, including packaging;
- c) Storage, transport and distribution;
- d) Catering company and generally, all activities whose objective is to provide food for parties, celebrations or events of any nature;
- e) Handling and placement of foodstuffs at the disposal of consumers.

Article 2

Definitions and Classifications of Food

1. The definitions related to food set out in Decree-Law no. 23/2009. Of 5th August which establishes the Regime of Administrative Offences against the Economy and Food Safety shall be directly applicable within the scope of the present Regulation, namely:

a) *Foodstuff* – any substance, be it processed or not, used for human consumption, including drinks and chewing products, with all ingredients

used in their manufacture, preparation and processing;

b) *Ingredient* – any substance, including food additives, intentionally added as a foodstuff component during its manufacture or preparation and present, although modified, in the finished product;

c) *Condiment* – any foodstuff, with or without nutritional value, used as an ingredient to give or enhance the flavour of another food;

d) *Constituent* – any substance contained in an ingredient;

e) *Pre-packed food* – food whose preparation has been undertaken before such food has been put on sale to the consumer in packages sold with it, and which either fully or partially cover the food in such a way that the content cannot be modified without the package being broken;

f) *Fresh or more easily perishable food* – raw or processed food, of vegetable or animal origin which, not having undergone any conservation treatment with the exception of refrigeration treatment, conserves its intrinsic and specific properties for a short period of time;

g) *Food additive* – any substance, with or without nutritional value, which in itself is not normally a foodstuff nor an ingredient characteristic of a foodstuff, but whose intentional addition, with a technological or organoleptic objective, in any phase of obtaining, processing, preparation, transporting or storage of food, as well as the consequence, and its incorporation in it or the presence of a

sub-product or the modification of characteristics of this foodstuff.

Article 3

Definitions of False, Spoiled and Damaged Food

1. Food and food additives which are not genuine are not in a condition for human consumption or which present characteristics different from those which are specific to them shall be classified as false, spoiled and damaged.

2. The definitions related to food set out in articles 8 to 14 of the Regime of Administrative Offences against the Economy and Food Safety approved by Decree-Law no. 23/2009 of 5th August shall be valid and be directly applicable.

CHAPTER II

PREMISES FOR THE PROCESSING, STORAGE AND SALE OF FOOD PRODUCTS

Article 4

Permanent Premises

1. The provisions set out in the present article shall cover all industrial or commercial premises where food aimed at human consumption is prepared, processed, manufactured, packaged, stored, distributed, handled or sold.

2. The preceding paragraph shall not cover, as they shall have their own regime, as set out in the following articles:

a) Restaurants and similar regulated in Decree-law no. 7/2008 of 15/2008 of 15 January;

b) Movable or temporary premises, such as kiosks, market stalls and mobile sales vehicles);

c) Automatic vending machines;

3. Given their relative layout and their design, construction and dimensions, permanent food premises shall allow for:

a) Adequate cleaning and disinfecting;

b) Preventing the accumulation of dirt, contact with toxic matter, falling of dust and particles onto food and the formation of undesirable condensation and mould on surfaces;

c) Good hygiene practices, including the prevention of cross-contamination during different handling operations of food, equipment, materials, ingredients and raw materials, water, ventilation systems, personnel and external sources of contamination;

d) Establish, whenever necessary to ensure the safety and healthy state of food, conditions of an appropriate temperature for slaughter, processing and storage.

4. Permanent food premises shall possess:

a) A sufficient number of duly situated and designated washbasins for washing hands equipped with running water, materials for cleaning and, whenever necessary to ensure the safety and healthy state of food, duly separate from

those used for washing food and equipped with taps;

b) A sufficient number of toilets with their own efficient drainage system, equipped with adequate, natural or mechanical, ventilation, provided with a flushing system, which may not communicate directly with the rooms where the food is handled;

c) Sufficient and adequate, natural or mechanical ventilation in order to avoid the mechanical flow of air of a contaminated area towards a clean area. The ventilation areas shall be built in such a way as to give easy access to the filters and other parts which need to be cleaned or replaced.

5. The food handling premises shall have adequate natural or artificial light.

6. The sewerage installations shall be appropriate for the purpose for which they were designed and built to ensure the risk of food contamination is avoided.

7. The owners, managers or their representatives shall ensure that the area of between 3 to 5 metres surrounding the establishment be kept clean, regardless of whether it is located in an urban area or not.

Article 5

Industrial Kitchens

1. Without prejudice to the legal regime applicable to restaurants and similar, places where food is prepared, cooked processed, known as industrial kitchens, shall be covered by the provisions set out in the present article.

2. The flooring surfaces of the premises shall be built with waterproof, non-absorbent, nonslip, washable and non-toxic materials in order to allow for the appropriate runoff from the surfaces, whenever it is necessary to ensure the safety and healthy state of the food.

3. The walls of the aforementioned premises shall be built with waterproof, non-absorbent, washable and non-toxic materials, and shall be flat up to a certain height appropriate for cleaning operations.

4. Ceilings, false ceilings and other equipment hanging from them shall be designed, constructed and finished in such a way as to prevent the accumulation of dirt, to reduce condensation and development of mould and to avoid the falling of dust, other substances or harmful objects, notably pieces resulting from the bursting of light bulbs, which shall be duly protected.

5. Windows and other orifices shall be constructed in order to prevent the accumulation of dirt, be equipped with among other items, mosquito nets, which shall be easily removable for cleaning, and shall remain closed during the working process if when they are opened food contamination results from the outside environment.

6. The doors shall have flat non-absorbent surfaces.

7. The surfaces in contact with the food, including those of the equipment, shall be made from flat, washable and non-toxic materials.

8. The flooring surfaces, the walls and doors shall be kept in good condition and to be easily washed, whenever necessary to ensure the safety or healthy state of the food, disinfected.

9. In those places to which paragraph 1 refers there shall also exist, whenever necessary to ensure the safety or healthy state of the food:

a) Appropriate cleaning and disinfecting equipment for tools and working equipment, which are easy to clean and made from non-corrosive materials and a supply of drinking water;

b) Appropriate equipment to wash food, namely tubs, tanks or other equipment of the type, duly clean and a supply of hot and cold drinking water.

10. Electric cables in plain view or suspended shall be forbidden, such cables must always be duly covered.

Article 6

Movable and Temporary Premises and Automatic Vending Machines

1. Movable, temporary premises and automatic vending machines, notably mobile sales vehicles, market stalls, kiosks, premises temporarily used as catering purposes and automatic vending machines shall undertake to:

a) Be located, be designed, constructed and be kept clean and in good condition in order to avoid the risk of food contamination and the presence of harmful animals;

b) Minimum appropriate conditions to maintain adequate personal hygiene, including premises for hand hygiene;

c) Appropriate facilities to wash and disinfect the working tools and equipment;

d) Appropriate facilities to wash the food;

e) Appropriate storage space and elimination of flammable or non-edible substances, either liquid or solid.

2. The surfaces used for contact with the food shall:

a) Be kept in good condition;

b) Be easily cleaned and, whenever necessary to ensure the safety and healthy state of the food, disinfected;

c) Be constructed from flat, washable and non-toxic materials.

3. The owners, managers or their representatives shall ensure that the area of 3 metres surrounding the establishment be kept clean.

CHAPTER III

TRANSPORT VEHICLES AND CONTAINERS

Article 7

General Conditions

1. The receptacles of the transport vehicles and the containers used to transport food shall have such conditions that will protect the food from contamination, and whenever necessary to ensure the safety and healthy state of the food, shall be designed and constructed in order to allow for appropriate cleaning and disinfecting.

2. The receptacles and containers shall not be used to transport any other substance besides food, whenever this may result in food contamination.

3. The placement and protection of food within the receptacles and containers shall reduce the risk of contamination to a minimum.

Article 8

Bulk Food Transport

1. Bulk food in liquid form, as well as in the form of granules or powder, shall be transported in receptacles or tank containers reserved for the transport of food.

2. The containers shall bear a clearly visible and indelible reference in Tetum, Portuguese, Bahasa Indonesia or English, indicating that they are transporting foodstuffs.

Article 9

Transport of Oil and Fat on Vessels

Bulk transport of liquid oils and fat, used for processing for human consumption or susceptible to be used for that purpose, on sea vessels, in tanks not specifically designed for the transport of food, shall only be permitted when the following conditions are respected:

- a) in the event such oils or fats are transported in stainless steel or resin coated, plastic tanks or in tanks in a material of an equivalent technique;
- b) The cargo transported in the tank immediately prior to this one was a compatible type or food substance.

Article 10

Transport of Other Substances

1. Whenever the receptacles or containers are also used to transport any other substances besides food or to simultaneously transport different foodstuffs, the products shall always be duly separated to ensure protection against the risk of contamination.

2. Whenever the receptacles or containers are also used to transport any other substances besides food or to simultaneously transport different foodstuffs, an appropriate cleaning shall be undertaken between loadings to avoid risk of contamination.

CHAPTER IV

WASTE AND WATER SUPPLY

Article 11

Food Waste

1. Food or other waste shall not be accumulated in places where food is handled, except to the extent that such handling is unavoidable for the appropriate performance of the work.

2. Food or other waste shall be deposited in containers which may be closed, except if the food sector companies demonstrate to the competent authority that other types of containers are suitable.

3. The waste deposit sites shall be designed and used in such a way as to ensure good cleaning conditions and prevent access to animals and

contamination to food, drinking water, equipment and premises.

Article 12

Water Supply

1. The water used in the supply shall correspond to the characteristics of the water quality for human consumption as indicated in its own diploma, be of sufficient quantity and allow for a utilisation which shall guarantee the non-contamination of the food.
2. Whenever necessary to guarantee the safety and healthy state of the food, ice shall be produced from drinking water and in conditions which shall prevent any type of contamination.
3. The ice shall be produced, handled and stored in conditions which shall protect it from any type of contamination.
4. The steam used in direct contact with the food shall not contain substances which represent a health risk or which may contaminate the product.
5. Unsafe water which is used for the production of steam, refrigeration, fire fighting and other purposes, not directly related to food shall be channelled in separate systems, easily identifiable and without any connection nor possible reflux into drinking water systems.

CHAPTER V

PERSONNEL

Article 13

Personal Hygiene

1. Any person working in a place where food is handled shall maintain a high level of personal hygiene and shall notably observe the applicable rules of hygiene.
2. The personnel to which the preceding paragraph refers shall receive appropriate clothing for the tasks to be performed, which must be kept clean and protected by such personnel, and shall abstain from using outside the workplace.
3. Any person who has caught or has suspected of having caught a potentially transmissible disease or who, for example, has infected wounds, skin infections, inflammations or diarrhoea may not work in places where food is handled or at tasks where there is the possibility of directly or indirectly contaminating food with pathogenic microorganisms.
4. The personnel referred to in the preceding paragraph shall inform their hierarchical superiors or those responsible for the company of the situation, and they should take the appropriate, immediate measures to ensure such personnel are removed from those places where food is handled.

Article 14

Training

Food sector companies shall certify that persons who handle food are duly oriented and informed and have received training in the area of hygiene for their particular professional activity.

CHAPTER VI

ACCEPTANCE AND CONSERVATION OF RAW MATERIALS AND FOOD INGREDIENTS

Article 15

Acquisition and Conservation

1. Food sector companies shall not accept raw materials or ingredients whose degree of contamination by parasites, pathogenic microorganisms or toxic substances, decomposing substances or foreign bodies are known or can reasonably be suspected to be such that, after normal processing, sorting or preparation processes they are still unsafe for human consumption.
2. The raw materials and ingredients stored in the establishments shall be conserved in appropriate conditions which shall prevent their deterioration and protect them from contamination.

Article 16

Conservation

1. Raw materials, ingredients and intermediate and finished products which may allow for the growth of pathogenic microorganisms or the

formation of toxins shall be conserved at temperatures which cannot result in health risks.

2. As long as this does not affect the health of the food, limited periods without temperature control shall be permitted whenever it is necessary to allow for operations of preparation, transport, storage, conservation and placing on sale or at the disposal of the consumer.

Article 17

Storage of Hazardous Substances

Hazardous or non-edible substances, including animal fodder, shall be accompanied by a suitable indication and stored in separate recipients or containers and safely sealed.

CHAPTER VII

FINAL PROVISIONS

Article 18

Planning of Supervisory Actions

The inspection services of the MTTI and of the Health Ministry shall together coordinate the planning of supervisory and inspection actions in order to pursue the public interest in a rational and economically efficient manner, by avoiding successive and individual actions to the same establishments.

Article 19

Entry into Force

The present decree-law shall enter into force on the thirtieth day following its publication.