

FOOD LAW IN VIETNAM

RUSSIN & VECCHI

HO CHI MINH CITY

Vietcombank Tower, 14/F

5 Me Linh Square

Tel: (84-28) 3824-3026

E-mail: lawyers@russinvecchi.com.vn

HANOI

Hanoi Central Office Building, 11/F

44B Ly Thuong Kiet St

Tel: (84-24) 3825-1700

E-mail: lawyers@russinvecchi.com.vn

www.russinvecchi.com.vn

TABLE OF CONTENTS

INTRODUCTION	1
WHAT IS FOOD?	3
FOOD SAFETY.....	4
LABELING.....	8
ADVERTISING.....	12
RECALL.....	14
INSPECTIONS	16
IMPORT REQUIREMENTS.....	17
EXPORT REQUIREMENTS	20
AQUATIC PRODUCTS.....	21
ENFORCEMENT	25
CONCLUSION.....	29
SCHEDULE.....	30

GLOSSARY

In this book, we define and abbreviate terms the first time that we use them. To make it easier to follow the text, we have prepared this Glossary.

BRCGS	Global Standard for Food Safety/BRC Global Standard
CFS	Certificate of Free Sale
DOC	Department of Construction
DOH	Department of Health
DOIC	Department of Information and Communications
FBO	Food Business Operator
FHSA	Food Hygiene and Safety Administration
FSSC	Food Safety System Certificate
GDSMQ	General Department of Standards, Measurements and Quality
GMP	Good Manufacturing Practices
GS1	Global Standard 1
HACCP	Hazard Analysis, Critical Control Point
HC	Health Certificate
IFS	International Food Standard
ISMU	International System of Measuring Units
ISO	International Standardization Organization
LoFS	Law on Food Safety
LoQPG	Law on Quality of Products and Goods
LoSTS	Law on Standards and Technical Specifications
MARD	Ministry of Agriculture and Rural Development
MCST	Ministry of Culture, Sports, and Tourism
MOC	Ministry of Construction

MOCI	Ministry of Culture and Information
MOH	Ministry of Health
MOIC	Ministry of Information and Communications
MOIT	Ministry of Industry and Trade
MONRE	Ministry of Natural Resources and Environment
MOST	Ministry of Science and Technology
TCCS	Voluntary Standards
TCVN	National Standards

FOOD LAW IN VIETNAM*

INTRODUCTION

Understanding Vietnamese laws and regulations concerning food can be a challenge. The government relies on general laws to regulate the quality of goods, including food. There are also specific regulations which apply to food products. This means that there are two sets of rules--one covering goods in general and another covering food products--and they often overlap.

The major laws on the subject are the Law on the Quality of Products and Goods¹ (“**LoQPG**”) and the Law on Food Safety² (“**LoFS**”). The former states that “the State shall implement a uniform system to control the quality of goods.”³ However, “in cases where international treaties, to which the Socialist Republic of Vietnam is a party, contain provisions which differ from the Law, the international treaties shall prevail.”⁴

The LoQPG came into effect on 1 July 2008 and replaced the Ordinance on the Quality of Goods. It provides that manufacturers and traders must take responsibility for the quality of the goods or products that they manufacture or trade, in order to ensure safety for humans, animals, plants, property, and the environment, and to enhance the productivity, quality, and competitiveness of Vietnamese goods and products.⁵ It further defines ‘goods’ and ‘products’, which essentially cover food.

The LoFS, with effect from 1 July 2011, replaced the Ordinance on the Hygiene and Safety of Foods. Mainly, it describes the rights and obligations of organizations and individuals with respect to food safety; conditions to ensure the safety of food for manufacturing, doing business in food, and importing or exporting food; advertising and labelling food; testing food; analyzing threats to food safety; and protecting, preventing, and overcoming breakdowns in food safety; education and communication on food safety; and State management responsibility for food safety.⁶

The LoQPG gives the Ministry of Science and Technology (“**MOST**”) overall responsibility for the quality of goods, including foods,⁷ while the LoFS assigns responsibility for the safety of food to the Ministry of Health (“**MOH**”),⁸ the

* This book has been written and updated by lawyers from Russin & Vecchi. It is current though August 2024.

¹ Law No. 05/2007/QH12 adopted by the National Assembly on 21 November 2007 on the quality of products and goods.

² Law No. 55/2010/QH12 adopted by the National Assembly on 17 June 2010 on food safety

³ LoQPG, art 68.1

⁴ *Id.*, art 4.3.

⁵ *Id.*, art 5.2.

⁶ LoFS, art 1.

⁷ LoQPG, art 68.2

⁸ LoFS, art 62.

Ministry of Agriculture and Rural Development (“**MARD**”),⁹ and the Ministry of Industry and Trade (“**MOIT**”).¹⁰

⁹ *Id.*, art 63.

¹⁰ *Id.*, art 64.

WHAT IS FOOD?

The LoFS defines “foods” as follows: “Foods are products which human beings eat and drink in their fresh, raw, processed or preserved forms. Foods do not include cosmetics, tobacco, and medicinal products.”¹¹ There are sub-definitions of different types of food, including fresh and raw food, micronutrient-fortified food, functional food, genetically modified food, irradiated food, street food, and packaged food.

These categories are defined further as follows:

“Fresh and raw food” is unprocessed food including fresh meat, eggs, fish, aquatic products, vegetables, tubers, fruits, and other unprocessed foods.¹²

“Micronutrient-fortified food” is food supplemented with vitamins, mineral substances, and serum antioxidant micro-minerals in order to prevent the community or a particular group in the community from a shortage of vitamins, substances, and microminerals.¹³

“Functional food” is food used to support the operation of body organs, creates comfort for the body, increases resistance, and reduces pathogenic dangers. It consists of food supplements, health protective food, and medically nutritious food.¹⁴ Detailed regulations on functional foods are provided in the MOH’s Circular 43/2014/TT-BYT dated 24 November 2014.

“Genetically modified food” is food which consists of one or more materials which have been genetically modified.¹⁵

“Irradiated food” is food radiated by a form of radioactivity to preserve and prevent food from degenerating.¹⁶ Detailed regulations on irradiated foods are provided in the MOH’s Decision 3616/2004/QD-BYT dated 14 October 2004.

“Street food” is a ready-to-eat food or beverage. It is obtained from a vendor, sold on street sides, in public, or in similar places.¹⁷

“Packaged food” is completely packaged and labeled food, which may be eaten or processed further.¹⁸

¹¹ LoFS, art 2.20.

¹² *Id.*, art 2.21.

¹³ *Id.*, art 2.22.

¹⁴ *Id.*, art 2.23.

¹⁵ *Id.*, art 2.24.

¹⁶ *Id.*, art 2.25.

¹⁷ *Id.*, art 2.26.

¹⁸ *Id.*, art 2.27.

FOOD SAFETY

All individuals and entities that want to produce and to trade foods must assure that their foods are safe. In other words, the foods must conform to the relevant technical specifications and meet limit requirements for pathogenic microorganisms, residues of plant protection drugs or veterinary drugs, heavy metals, contaminants, and other substances in food that may cause harm to human life and health. In addition, subject to the type of food, food must comply with one or more of the regulations on (i) use of food additives and processing aids in food production and trading; (ii) food packaging and labeling; and (iii) food preservation.¹⁹

The quality of goods and products is managed on the basis of applicable announcement standards and technical specifications.²⁰ The system of Vietnamese standards includes national standards (“**TCVN**”) and standards applied voluntarily by businesses and individuals (“**TCCS**”).²¹ Vietnamese standards are based on international, regional, and foreign standards. Also included are the outcomes of scientific and technological research projects, technical progress, factual experience, and the results of evaluations, tests, experiments, inspections, and appraisals.²²

At one time, all goods were subject to quality “registration”. That is, the State required individuals and organizations that produced and traded goods to follow certain quality standards. Foods were no exception. Foods had to be registered with the MOH. The registration included information such as: a list of standards with which the food products must comply; a chart showing the stages of food product processing from storage of raw materials through the processing stage and ultimately to storage and delivery of the finished product; a final or draft version of the label; instructions and warranties; test results for the food product issued by an authorized government test centre; and a list of all raw materials used to process a food product, including additives and packing materials. The MOH had the power to reject an application for registration.

However, under the LoQPG, individuals and organizations that produce and trade in goods, including foods, are required only to “announce”, rather than “register”, their own quality standards. Under the LoFS, producers and traders must decide and announce the standards of their foods. That is, they are able, themselves, to decide the standard of their goods.²³ Of course, such standards must satisfy applicable Vietnamese standards or industry standards. Accordingly, the prior authoritarian role of the State regarding the quality standards of goods, including food, has been changed into voluntary commitments by entities to set and to comply with their own standards.

¹⁹ LoFS, art 10.

²⁰ LoQPG, art 5.1.

²¹ Law on Standards and Technical Specifications 68/2006/QH11 dated 29 June 2006 (“**LoSTS**”), art 10 and art 11.3.

²² *Id.*, art 13.

²³ LoFS, art. 7.1.a

Producers and traders of packaged food, additives, food process supporting substances, packing materials, and food containers (“**Products**” for short) are required to announce that their Products conform to relevant technical specifications. Previously, under Decree 38²⁴, the announcement had to be registered with a competent authority, ie, the MOH or the DOH before production and trade of the Products could be initiated. While this may seem like a reasonable approach in terms of food safety, this regulation usually hindered producers and traders from getting their Products into the market as it could take up to four weeks before their announcement was approved.

With the replacement of Decree 38 by Decree 15²⁵, procedures to announce Products have been greatly streamlined. Producers and traders of Products²⁶ are now only required to self-announce their Products on public media and with the appropriate authority under the local People’s Committee. Self-announcement of Products in Decree 15 is significantly different from the announcement of the Products under Decree 38. Whereas Decree 38 required approval from the authorities, Decree 15 does not. After Products are self-announced, they can be immediately produced and/or circulated into the market. Producers and traders are totally responsible for the safety of self-announced Products²⁷. Some products, however, do require an additional registration step, called Registration of the Self-announcement of Products²⁸. Decree 15 has significantly decreased the gap between announcement and production/trade of a Product while it still holds producers and traders responsible for dealing in Products that conform with technical specifications and food safety regulations. As a result, Decree 15 is a huge improvement over Decree 38.

Self-Announcement of Products

The dossier to self-announce Products includes one self-announcement using Form 01 provided in Annex I of Decree 15 and a valid food safety evaluation report (“**Evaluation Report**”). The Evaluation Report must be no more than 12 months old and have been issued by an ISO 17025 accredited laboratory. The Evaluation Report must test either (i) the criteria provided by the MOH in accordance with internationally compatible risk management principles or (ii) safety criteria in accordance with equivalent standards, specifications provided by an organization or individual, in case there are no regulations from the MOH. This Evaluation Report is also required for Registration of the Self-announcement of Products mentioned below.

²⁴ Government Decree 38/2012/ND-CP dated 25 April 2012, providing detailed regulations implementing some articles of the LoFS (“**Decree 38**”), as replaced by Decree 15 on 2 February 2018.

²⁵ Government Decree 15/2018/ND-CP dated 2 February 2018, providing detailed regulations implementing some articles of the LoFS (“**Decree 15**”), art 4.

²⁶ Except for products, ingredients, which are produced or imported especially for the production, processing for goods export or for internal production by an organization or individuals without entering the market.

²⁷ Decree 15, art 5.2.b.

²⁸ See “**Registration of the Self-announcement of Products**” on page 6.

The dossier must be published on public media or on the website or premises of the producer or trader. Then, the dossier is made public by the competent authorities' food safety data system. If there is no food safety data system at that moment, the dossier must be submitted to the authority designated by the provincial People's Committee.²⁹ The name of the traders, producers and their products must be published on the website of the receiving authority.

Registration of Self-announcement of Products

The registration of self-announcement of products is required for products in one of the following categories:

- (i) health protective foods³⁰;
- (ii) medical nutrition foods³¹, foods for special dietary use³²;
- (iii) nutritious products for children under-36-months; and
- (iv) mixed food additives³³ with new functions, and food additives which are not on a list of allowed food additives³⁴ or are not regulated by the MOH.

Producers and traders of products in categories (i) and (iv) must register their self-announcement with the MOH. Producers and traders of products in categories (ii) and (iii) must register their self-announcement with the authority designated by the provincial People's Committee.³⁵

A complete dossier to self-announce a product includes the following documents:³⁶

- (i) Announcement of products following Form 02 Annex I of Decree 15;
- (ii) Certificate of Free Sale or Certificate of Exportation or Health Certificate issued by a competent authority of the country of origin/exporting country, which assures the safety of users or permits free sale of the products in the country of origin/exporting country (these Certificates must be legalized);

²⁹ Government Decree 155/2018/ND-CP dated 12 November 2018, amending some articles related to business conditions under state management of the Ministry of Health ("**Decree 155**"), art 3.

³⁰ Article 3.1 of Decree 15 defines "health protective food" as a supplement to the daily diet to improve the user's health and immunity.

³¹ Article 3.2 of Decree 15 defines "medical nutrition food" as a food item which can be consumed orally or by tube feeding, prescribed to regulate the patient's diet, the use of which has to be supervised by medical personnel.

³² Article 3.3. of Decree 15 defines "food for special diet" as food for people on a diet, elderly people and other users defined by the Codex Alimentarius, processed or formulated to satisfy particular dietary requirements which exist because of a particular physical or physiological condition and/or specific disease and disorder of the user, as defined.

³³ The LoFS defines a "food additive" as a substance with or without nutritious value, which is intentionally added to food in the process of production in order to retain or improve particular characteristics of food.

³⁴ The list of allowed food additives is provided in the MOH's Circular 28/2021/TT-BYT dated 20 December 2021.

³⁵ Decree 15, art 8.1.

³⁶ Decree 15, art 7.1.

- (iii) An Evaluation Report;
- (iv) Published scientific evidence proving the effects or the ingredients of the products;
- (v) Certificate of satisfaction of food safety conditions as required by Good Manufacturing Practices ("**GMP**"). An equivalent certificate may be substituted if the product is an imported health protective food. This requirement took effect on 1 July 2019 (a copy authenticated by producers and traders); and
- (vi) Certificate of satisfaction of food safety conditions (a copy authenticated by producers and traders), if the product is manufactured domestically.

Within 21 working days of submission of the dossier (for health protective foods) and 7 working days (for certain mixed food additives with new uses, unregistered food additives, medical foods, food for special dietary uses, dietary products for children up to 36 months), the authorities will examine the dossier and issue the appropriate certificate of registration of self-announced of products.³⁷

³⁷ Decree 15, art 8.2.

LABELING

Decree 43/2017/ND-CP of the Government dated 14 April 2017 on the Labeling of Goods (“**Decree 43**”) and Decree No.111/2021/ND-CP of the Government amending certain articles of Decree 43 on goods labels (“**Decree 111**”) made some significant changes to the previous legislation on goods labels. Decree 43 and Decree 111 apply to goods circulated in Vietnam, including imported, exported and domestically manufactured products.³⁸

Labels are defined as “inscriptions, prints, drawings, images, or signs that are imprinted or embossed directly on or affixed, stuck, or pinned firmly to goods or their packaging to display necessary and principal information about such goods.”³⁹ In addition, goods labeling is defined as the “inscription of necessary and principal information about the goods in order for consumers to identify goods, and have a basis to select, consume and use goods. Producers and traders may use the labels to provide information about and to advertise their goods. Labels also permit functional bodies to conduct inspections and supervision.”⁴⁰

Decree 43 requires domestically circulated foods, including imported foods, to bear labels, except for unpacked fresh and raw foodstuffs and processed foodstuffs that are sold directly to consumers.⁴¹ Labels may include both compulsory and non-compulsory information. The compulsory contents are mandatory and contain the most important information. Regulations on compulsory contents for all domestically circulated goods labels, whether manufactured in Vietnam or imported into Vietnam, are provided in Decree 43. In addition, the MOST issued Circular 05/2019/TT-BKHHCN dated 26 June 2019 which guided implementation of Decree 43 (“**Circular 05**”) and which specified requirements how to indicate compulsory contents of some particular goods labels. See the attached Schedule.

The general compulsory contents of a label for all goods include:

- Name of the goods: manufacturers or traders of goods may choose a name provided that the name does not mislead consumers as to the nature and use of the goods. Manufacturers or traders are liable for the name they choose. The name of the products or goods must be legibly and prominently placed on the label and must be larger than the other compulsory contents on the label.⁴²
- Names and addresses of the entities which produced, imported, assembled, or finished goods;⁴³
- Country of origin (applicable to both imported and domestically produced goods);⁴⁴

³⁸ Decree 111, art 1.1.

³⁹ Decree 43, art 3.1.

⁴⁰ Decree 43, art 3.2.

⁴¹ Decree 111, art 1.1 (dd).

⁴² Decree 43, art 11.

⁴³ Decree 43, art 12.3 and Decree 111, art 1.6.

⁴⁴ Decree 43, art 15 and Decree 111, art 1.7

Labels of foods are required to have additional contents provided in Appendix I of Decree 111,⁴⁵ as follows:

- Quantity⁴⁶ measured in units recognized by Vietnamese law. These units are described in Schedule II of Decree 43;
- List of ingredients in descending order of weight.⁴⁷ If an ingredient contains preservatives, which must be used in a prescribed dosage, which may cause allergens, or which may be harmful to humans, animals, or the environment, the names of the preservatives must be included together with the names of the ingredients.⁴⁸
- Specifications and warnings: If foodstuffs are labeled with nutritional value, the labels must indicate the range of nutritional value according to relevant regulations and applied standards. In presenting a specific nutritional value, the mean value of such nutritional value shall be indicated.⁴⁹
- Production date, expiration date, and shelf-life of goods (such as NSX dd/mm, EXP ddmmyy or HSD dd/mm/yy);⁵⁰ and
- Storage and usage instructions.⁵¹

Decree 43 requires that all letters, numerals, drawings, images, signs, and/or marks that appear on the label must be clear and must accurately reflect the properties of the goods. They must not be ambiguous or cause confusion with other products. Labels that are not clearly visible may be seen as an administrative violation. Circular 05 provides detailed guidelines regarding compulsory contents of a label. Particularly, compulsory contents of a label need not be fully presented on a label and can appear at other places on the products, provided that compulsory contents can be recognized easily without having to disassemble any parts of the products. Compulsory contents create an integral part of the label.

The color of the text of compulsory contents must contrast with the background color of the label.⁵² Goods distributed in Vietnam must be labeled in the Vietnamese language, except for export goods that are not sold in Vietnam and except for contents that are presented in their Latin origin.⁵³ However, depending on the requirements of each type of goods, a foreign language may be added in equal or smaller print.⁵⁴ The Vietnamese language must appear on imported

⁴⁵ Decree 111, Schedule I.

⁴⁶ Decree 43, Schedule II.

⁴⁷ Decree 111, art 1.8.

⁴⁸ Decree 43, art 17.6.

⁴⁹ Decree 43, art 17.5 and Circular 05, art 9.

⁵⁰ Decree 43, art 14 and Schedule III.

⁵¹ Decree 113, Schedule I, item 2.e, 3.dd, 6.e, 7.d, 9.dd, 10.d, 11.dd.

⁵² Decree 43, art 6.

⁵³ Decree 43, art 7.1, 7.4 and Decree 111, art 1.3.

⁵⁴ Decree 43, art 7.2.

goods either on the original label or on a secondary label. A Vietnamese language label must be attached to the goods before they are put on sale or distributed.⁵⁵

The individual or organization responsible for labeling the goods determines the size of the label and the size of the font. They must be large enough for all compulsory contents to be clearly visible.

According to Decree 43, Decree 15 and Decree 111, in addition to the compulsory contents listed above, specific foods must have particular information on their labels:

- Health protective food: Labels must indicate any risk warnings; the phrase “health protective food” and the disclaimer “This foodstuff is not medicine and cannot replace medicine.”⁵⁶
- Irradiated food: Warnings and the phrase “Irradiated food” must appear.⁵⁷
- Genetically modified food: Labeling “Genetically modified food” or “genetically modified” beside the name of the genetically modified ingredients, enclosed with their contents.⁵⁸
- Liquor: Labels must indicate alcohol content (ethanol) and any lot number.⁵⁹
- Food additives, processing aids: Labels must specify their categories, names and International Numbering System (INS) Code (if there is one); additives which are flavorings, sweeteners or colorings must be additionally clarified to indicate whether they are “natural”, “nature-identical”, “synthetic”, or “artificial”.⁶⁰ The phrase “Food additive” and appropriate warnings must also appear for food additives. Further, the phrase “Food processing aids” and appropriate warnings must appear for food processing aids.⁶¹
- Micronutrients: labels must indicate “Used for food”.⁶²
- Medical nutrition foods: labels must indicate “Medical nutrition food” and “Used for patients with supervision by medical personnel”.⁶³
- Food for special diet: labels must indicate “Nutritious product (for specific subjects, such as for people on a diet, elderly people and other users defined by Codex Alimentarius)”.⁶⁴

⁵⁵ Decree 43, art 7.3.

⁵⁶ Decree 111, Schedule I, item 3.

⁵⁷ Decree 111, Schedule I, item 4.

⁵⁸ Decree 111, Schedule I, item 5.

⁵⁹ Decree 111, Schedule I, item 7.

⁶⁰ Decree 43, art 16.3 (a) and Decree 111, art 1.8

⁶¹ Decree 111, Schedule I, item 9.

⁶² Decree 111, Schedule I, item 10.

⁶³ Decree 15, art. 3.3 and art. 24

⁶⁴ *Id*

Non-compulsory contents may appear on food labels, but they must not be contrary to the compulsory labeling requirements referred to above. Non-compulsory contents may be: number and barcodes granted by national number and barcode organizations; protected trademarks; medals; certificates of the product's international quality standards; serial number of the production batch; international markings used for transport, use, and storage; foreign language information; and information that promotes the product.

Changes made to a registered food label or to the expiration date without the approval of the competent authority are strictly prohibited.

ADVERTISING

The Law on Advertisement No. 16/2012/QH13 of the National Assembly dated 21 June 2012 (“**Law on Advertisement**”), Decree 181/2013/ND-CP of the Government dated 14 November 2013 (“**Decree 181**”)⁶⁵ ; and Circular 10/2013/TT-BVHTTDL of the Ministry of Culture, Sports, and Tourism (“**MCST**”) dated 6 December 2013 (“**Circular 10**”)⁶⁶ cover advertising in general. The contents of an advertisement of any goods, including food products, must be accurate and truthful, and must correctly reflect the form, quality, usage, label, design, classification, packing, origin, use date, preservation period, and warranty period of the goods. The advertisement must be in accordance with food labels and quality standards that the producer has announced to or registered with the relevant state agencies.⁶⁷

Advertisements of tobacco, alcohol (concentration of alcohol being 15 percent or more); milk products replacing breast milk for under-24-month old children, supplemental nutrition products for under-6-month old children, and feeding bottles and artificial teats; prescribed or non-prescribed medicine of which the usage must be restricted or be under supervision of a doctor; sexually stimulating products, shotguns and cartridges, sport rifles and violently stimulating products are prohibited.⁶⁸ In this regard, advertisements of some products, such as sanitary pads and condoms, which may constitute an inappropriate subject matter for public advertisement, will not be approved. Furthermore, advertisements which incorrectly state or mislead the business capacity or ability to provide products of another organization/individual conducting business, or about the quantity, quality, price, usage, design, packaging, trademark, origin, type, method of serving or warranty period of products, goods or services which have been registered or declared, are prohibited.⁶⁹

An offshore producer with no establishment in Vietnam can advertise only through a Vietnamese advertising agency.⁷⁰

Furthermore, under Articles 5 and 12 of Decree 181, the advertising content of all foods and all food additives must be certified by competent authorities, ie, the Ministry of Health, the Ministry of Agriculture and Rural Development, and the Ministry of Industry and Trade depending on each type of product. Within 10 working days from the day on which a complete and valid application for certification of advertisement contents is received, the competent authorities must issue a written certification of advertisement contents. Conditions and procedures for the certification of advertisement content must comply with Circular 09/2015/TT-BYT of the MOH dated 25 May 2015. Decree 15 requires that

⁶⁵ Decree 181 provides detailed regulations implementing some articles of the Law on Advertising, as amended by Decree 70/2021/ND-CP dated 20 July 2021.

⁶⁶ Circular 10 provides detailed regulations implementing the Law on Advertisement and Decree 181 on legitimate documents, the organization and operation of the Appraisal Council of Advertised Products and the assignment of state management on advertisement.

⁶⁷ Law on Advertisement, art 8.9.

⁶⁸ *Id.*, art 7.

⁶⁹ *Id.*, art 8.9.

⁷⁰ *Id.*, art 39.

producers and traders must register with the appropriate authority, the advertisement contents for health protective foods, medical nutrition foods, foods for special diet and nutritional products for under-36-month-old children (provided that nutritional products for under-36-month-old children are not prohibited for advertisement).⁷¹

In addition, Circular 10 and in Article 8.11 of the Law on Advertisement, an advertising piece which contains a word/phrase such as “the only”, “the best”, “best”, “number one” or the like must be verified by a legitimate document.⁷² It can be a market research report prepared by a qualified market research organization or a certificate or the like, granted by a regional or national competition/exhibition organization which recognizes that the product in the advertising piece is “the only”, “the best”, “best”, “number one” or the like. The document is valid for only one year from its date of issue.⁷³

On March 29, 2021, the Government issued Decree 38/2021/ND-CP prescribing penalties for administrative violations involving culture and advertisement (“**Decree 38**”). Decree 38 stipulates administrative penalties from VND 5 million to VND 30 million for violations against regulations regarding advertising foods and food additives. Additional to the monetary penalties, certain supplementary remedies may be applied.⁷⁴

⁷¹ Decree 15, Chapter VIII.

⁷² Circular 10, art 2.1.b.

⁷³ *Id.*, art 2.2.

⁷⁴ Decree 38, art. 52.

RECALL

Under Decree 119/2017/ND-CP of the Government dated 1 November 2017 (“**Decree 119**”) on Administrative Sanctions against Violations in Standards, Measurements, and Quality of Products and Goods, as amended by Decree 126/2021/ND-CP of the Government dated 30 December 2021 (“**Decree 126**”), the following goods are subject to recall:

- Imported or manufactured goods whose quality does not conform with a standard conformity certification, or circulating goods that are unsafe for consumers;⁷⁵
- Goods that violate applicable technical regulations;⁷⁶
- Goods in circulation that violate any quality standard;⁷⁷
- Goods that violate labeling laws.⁷⁸
- Goods whose codes and barcodes contain Vietnam’s code (893), but the use of such code is not permitted; goods using recalled codes; and goods using codes purchased from another entity.⁷⁹
- Goods with foreign codes which are produced, processed, packaged, extracted in Vietnam only for export if the use of such codes has not yet been allowed by competent foreign agencies or their foreign owners; goods with markings that may be confused with codes or barcodes of competent authorities of Vietnam and GS1 (International code and barcode organization).⁸⁰

Article 55 of the LoFS requires recall of the following foods:

- Expired foods that are in circulation;
- Foods that do not conform to applicable technical regulations;
- Foods created from new technology, the circulation of which is not allowed;
- Spoiled foods;
- Foods made of a prohibited substance or foods that contain polluting agents which exceed applicable limits;

⁷⁵ Decree 119, art 18.5 (as amended by Decree 126, art. 2.32.c).

⁷⁶ Decree 119, art 19.6 (as amended by Decree 126, art. 2.33.a and art. 2.33.d).

⁷⁷ Decree 119, art 20.9 (as amended by Decree 126, art. 2.37).

⁷⁸ Decree 119, art. 30.3 (as amended by Decree 126, art. 2.47).

⁷⁹ Decree 119, art 32.6 (as amended by Decree 126, art. 2.59).

⁸⁰ Decree 119, art 32.6 (as amended by Decree 126, art. 2.59).

- Imported foods that contain polluting agents which can cause personal injury and which have been identified publicly as harmful by the exporting country, by another country, or by any international organization.

Article 55 also provides forms of recall, the handling of recalled foods, and the responsibilities of certain individuals, organizations, and competent State bodies in connection with the recall.

Under Article 33 of the Law on Consumer Protection,⁸¹ in case of a defective product, the business organization or individual with responsibility must publicly announce the recall of the defective product in five successive issues of a central daily newspapers or have the news of the recall broadcast on a central radio station or a central television station on five successive days. The announcement must include the following:

- Description of the product to be recalled;
- Reason for the recall and warnings of injury which may be caused by the defective product;
- Time, location, and form of the recall;
- Time and method to repair the defect; and
- Measures which should be taken to ensure that consumer interests are protected.

The result of the recall must be reported to the appropriate provincial or central authorities.

⁸¹ Law No. 19/2023/QH15 dated 20 June 2023 of the National Assembly on Consumer Protection. This Law came into effect on July 1, 2024.

INSPECTIONS

Under Decree 15, inspection of food is conducted by the MOH, the MARD, and the MOIT. The Government assigns certain governmental authorities the obligation to conduct safety inspections. The State has issued Decree 03⁸²; it provides that the MOH is responsible for inspection of food products.⁸³

In general, food safety inspection is conducted by an inspection team or an individual inspector. The team or individual is tasked with: (1) investigating compliance with legislation on technical standards, food safety, advertisements and labeling, and certification of conformity, (2) imposing sanctions, and (3) applying or proposing, in accordance with its authority, measures to prevent or end a violation. Furthermore, the MOH may conduct an extraordinary inspection on the entire process of food production, import and export, and trading of food in certain cases as requested by competent authorities.⁸⁴

The contents and conclusions of the inspection and all recommendations are made in an inspection report. The inspection report is central to resolving problems. The LoQPG states that organizations and individuals may lodge complaints with state agencies against an administrative decision or an act of an agency or officer which act they consider to be illegal and/or which infringes on their rights and interests.⁸⁵

⁸² Government Decree 03/2024/ND-CP dated 11 January 2024 identifying inspection authorities and their inspection activities (“**Decree 03**”). Decree 03 has replaced Government Decree 122/2014/ND-CP dated 25 December 2014 on health inspection (“**Decree 122**”).

⁸³ Decree 03, art 17, 18, 20 and 23.

⁸⁴ *Id.*, art 29.

⁸⁵ LoQPG, art 64.1.

IMPORT REQUIREMENTS

All imported goods are subject to the regulations described above. Food imported into Vietnam must meet the following additional safety assurance conditions:⁸⁶

- a technical regulation conformity announcement must be registered at a competent state agency before the food is imported;
- the food importer must obtain a notice of satisfaction of import requirements issued by a designated inspection agency for each goods lot as prescribed by the relevant ministry;

In addition to these conditions, imported functional food, micronutrient-fortified food, genetically modified food, and irradiated food must be accompanied by a certificate of free sale or a health certificate.

Imported foods are exempt from State inspection for safety purposes in the following cases:⁸⁷

- Products that have received a Receipt of Registration of Announcement of Product;
- Gifts within the import duty exemption threshold;
- Foods for private consumption by a person who has diplomatic privileges;
- Foods in transit and trans-shipment; foods for temporary import, re-export; foods stored in a bonded warehouse;
- Foods to be used for experiments and research in a reasonable amount for the purpose of the experiment and research, with appropriate confirmation from the organization and individual;
- Foods to be used as samples displayed at fairs or exhibitions;
- Products, ingredients, which are produced or imported especially for the production, processing of export goods or for the internal production of the organization or individuals without entering the domestic market;
- Temporarily imported food to be sold in duty-free stores;
- Imported goods to satisfy an emergency request of the Government, Prime Minister.

⁸⁶ LoFS, art 38.

⁸⁷ Decree 15, art 13, as amended by Decree 85/2019/ND-CP of the Government dated 14 November 2019.

A reduced level of inspection (“**Simplified Inspection**”) is applied to the following products⁸⁸:

- Foods imported from countries which have concluded treaties on mutual recognition of food safety certification with Vietnam are eligible to receive a reduced level of inspection;
- Foods that satisfy importation requirements in accordance with the regular level of inspection on three consecutive occasions within 12 months; or
- Foods that are manufactured in facilities, which apply one of the quality control systems: GMP, HACCP, ISO 22000, IFS, BRCGS, FSSC 22000 or equivalent.

An increased level of inspection (“**Tightened Inspection**”) is applied in the following circumstances⁸⁹:

- Foods that have failed a previous inspection;
- Foods that have failed any State inspection; or
- There is a warning from the MOH, MARD, MOIT, provincial People’s Committee or an offshore competent authority or from the manufacturer.

Inspection

Decree 15 revises existing inspection methods for imported food. An imported shipment, as defined in Article 3 of Decree 15, may consist of one or several different food products. If the shipment contains different food products, the inspections will be carried out for each food product separately and not for the shipment as a whole.⁹⁰

Simplified Inspection

During the customs process, the owner of a shipment must submit a dossier, which includes the following documents⁹¹:

- (i) Self-announcement of the product;
- (ii) Three consecutive notices that the product being imported has satisfied importation requirements under regular inspection, or a legalized copy of a valid GMP, HACCP, ISO 22000, IFS, BRCGS, FSSC 22000 Certificate or equivalent; and

⁸⁸ Decree 15, art 17.1.

⁸⁹ Decree 15, art 17.3.

⁹⁰ Official Letter No. 114/ATTP-PCTTR of the FHSA dated 10 January 2019, answering inquiries in relation to Decree 15.

⁹¹ Decree 15, art 18.1.

(iii) Certificate of satisfaction of food safety regulations, issued by a competent authority of the exporting country.

Customs may randomly inspect 5% of a shipment within one year.

Regular Inspection

After a shipment arrives at customs, the owner of the shipment must submit a dossier either to the state inspector or online. The dossier must include the following documents⁹²:

- (i) Self-announcement of the product;
- (ii) Inspection application using the form provided in Decree 15;
- (iii) Packing list;
- (iv) Three consecutive notices that the product being imported has satisfied importation requirements under tightened inspection, for those products that are switching from tightened inspection to regular inspection.

Within three business days, the state inspector will examine the dossier and issue a notice that the foods satisfy or do not satisfy the importation requirements. The owner of the qualifying shipments will submit a notice to customs that the foods satisfy importation requirements.

Tightened Inspection

Tightened inspection requires the same dossier as regular inspection but the inspection period is seven days instead of three days⁹³. During the inspection period, the state inspector will sample and inspect the samples in accordance with the food safety criteria.

Foods that fail to meet importation requirements must be handled using the methods provided in Decree 15, namely re-export, disposal or repurposing with the buyer. The result of handling such shipments must be submitted to the state inspector.

The competent authority in Vietnam may plan and co-operate with the competent authority of the exporting country in order to inspect the food safety control system in the exporting country and local facilities which manufacture and export foods to Vietnam.

⁹² Decree 15, art 18.2 and art 19.2.

⁹³ Decree 15, art 18.2, art 19.2 and art 19.3.

EXPORT REQUIREMENTS

In general, there are no specific export requirements for food products. In principle, it is the overseas buyer of a food product that sets the quality, safety, or hygienic standards with which the food products must comply.

In practice, an overseas buyer usually asks whether the food exporter is in compliance with International Standardization Organization (“ISO”) provisions. Further, the food products must follow HACCP which embodies international standards on hygiene and safety. The principle of HACCP is to define and isolate critical points in the process that may pose a food safety hazard. Processors are responsible for producing safe, marketable food, and food exporters are responsible for providing safe food in accordance with HACCP.

In addition, an overseas buyer may require a Certificate of Free Sale (“CFS”), Health Certificate (“HC”)⁹⁴ for food products intended for export, based on the requirements of the country of import. If so, the food exporter must apply for the CFS from the MOH or MARD or MOIT; and an HC from the MOH, depending on the exported products.

The conditions to obtain a CFS are provided in Decree 69/2018/ND-CP guiding the Law on Foreign Trade Management (“Decree 69”)⁹⁵. A CFS is issued to an exporter three business days following receipt of the completed dossier. If a CFS is denied, a written response with the reason for denial must be issued. If an importing country requires the exporter to submit a CFS using a form regulated by its regulations and laws, the CFS issuing authority will issue the CFS according to such required form. A CFS is effective for two years from the date of issuance.

The conditions to obtain an HC are provided in Circular 52.⁹⁶ An exporter must apply to the MOH. The application dossier includes an application using the forms provided in Annex 8 and Annex 10 of Circular 52 and the Receipt of Product Announcement.⁹⁷ The HC is issued to the exporter after five business days following receipt of the completed dossier. If the HC is denied, a written response with the reason for denial must be issued. An HC is effective for two years from the date of issuance. It cannot exceed the expiration date of the receipt of the announcement of products. Export requirements that relate to foods are generally the same as those discussed in the section entitled “**IMPORT REQUIREMENTS.**”

⁹⁴ LoFS, art. 42.

⁹⁵ Decree 69, art. 11.

⁹⁶ The MOH’s Circular 52/2015/TT-BYT dated 21 December 2015 (“Circular 52”).

⁹⁷ See “Food Safety” section, pg. 6

AQUATIC PRODUCTS

Under the Law on Fisheries No. 18/2017/QH14 dated 21 November 2017 (“**Law on Fisheries**”), Government Decree 26/2019/ND-CP detailing the implementation of the Law on Fisheries dated 8 March 2019 (“**Decree 26**”) and Decree 37/2024/ND-CP dated 4 April 2024 amending certain articles of Decree 26 (“**Decree 37**”), the term, “Aquatic products” includes aquatic animals and plants, aquatic animal and plant products, feed for aquatic and marine life, aquatic plant protection products (e.g. chemicals), veterinary medicines for aquatic life, fishing nets, and other gear.

Entities involved in trading or producing aquatic products under the MARD’s⁹⁸ management are subject to regulations on inspection and certification to assure compliance with standards of food safety and hygiene, except the following entities/businesses:⁹⁹

- Small-scale initial production businesses;
- Food production and trading businesses that do not have a fixed location or fishing vessels with a maximum length of 15 meters;
- Small-scale food processing businesses; small-scale food trading businesses;
- Ready-to-eat food trading businesses;
- Agro-forestry-fishery production and trading businesses that have already been awarded one of the following certificates: Good Manufacturing Practices (**GMP**), Hazard Analysis, Critical Control Point (**HACCP**) System, Food Safety Management System ISO 22000, International Food Standard (**IFS**), Global Standard for Food Safety (**BRCGS**), Food Safety System Certificate (**FSSC 22000**) or equivalent, all of which must remain valid;
- Agro-forestry-fishery production and trading businesses that export their products to countries and territories imposing requirements for health certification (food safety certification) granted by competent authorities under the management of the MARD in accordance with its regulations.

Inspection and Certification of Fishery Aquatic Establishments

Local inspection and certification bodies, along with the National Agro-Forestry-Aquatic Quality Assurance Department are responsible for inspecting and

⁹⁸ The MARD is responsible to coordinate state management of aquatic products and certain other products listed in Annex III of Decree 15. See Decree 15, Chapter XII, art. 38.

⁹⁹ Circular 38/2018/TT-BNNPTNT dated 25 December 2018 prescribing assessment and certification of compliance with food safety regulations of Agro-forestry-fishery food manufacturing and trading business under the management of the MARD (“**Circular 38**”), art 2. Circular 38 replaces MARD’s Circular 45/2014/TT-BNNPTNT dated 3 December 2014 on Inspection of Manufacturing and Trading Establishments of Agricultural Commodities, and Inspection and Certification of Satisfaction on Food Safety Conditions of Manufacturing and Trading Establishments of Agriculture, Forestry and Aquatic Products.

certifying establishments.¹⁰⁰ There are two types of inspection for Fishery Aquatic Establishments: inspection for classification and periodic inspection.¹⁰¹ Every separate fishery aquatic establishment that is approved for food hygiene and safety standards under inspection for classification is entitled to a certificate of food safety with a 3-year-term.¹⁰²

A Fishery Aquatic Establishment which satisfies all food hygiene and safety standards, but which has several minor failures not seriously affecting food safety and quality will be given a “pass”.¹⁰³ An establishment that does not satisfy food hygiene and safety standards will be given a “fail” grade.¹⁰⁴ A failed Fishery Aquatic Establishment will be re-inspected. A certificate on satisfaction of food hygiene and safety standards and a business registration certificate may be withdrawn, and the establishment may receive an administrative penalty if it fails to satisfy conditions upon re-inspection.

Grades of A, B, or C are given to establishments under Article 8 of Circular 38. Grade A means that the establishment satisfies all food hygiene and safety standards. Grade B establishments satisfy food hygiene and safety standards, but have some minor failures. Grade C establishments do not satisfy food hygiene and safety standards. Only grade A or grade B establishments meet food hygiene and safety standards.¹⁰⁵

State Inspection and Certification of Aquatic Products Quality

Aquatic products, whether produced for domestic consumption, export, or import, are subject to regulations which apply to inspection and certification of food hygiene and safety.¹⁰⁶

Each export shipment is granted a certificate using the corresponding form of the importing country and a certificate using the form of the country where the shipment is transits, temporarily imported and re-exported.¹⁰⁷ There are no regulations on the quantity and size of containers for aquatic products.

Grounds for inspection and certification of aquatic products are as follows:

- The inspection and certification of aquatic products produced for domestic consumption are based on technical regulations on food hygiene and safety issued by the MARD and other ministries and offices; and are also based on the quality announcement of food business operators (“**FBOs**”).

¹⁰⁰ Circular 38, art 5.

¹⁰¹ Circular 38, art 6.

¹⁰² Circular 38, art 17.2.

¹⁰³ Circular 38, art 8.1(b).

¹⁰⁴ Circular 38, art 8.1(c).

¹⁰⁵ Circular 38, arts 8.1(a) and 8.1(b).

¹⁰⁶ The MARD’s Circular No. 08/2016/TT-BNNPTNT dated 1 June 2016, on the Control of Hygiene and Safety of Agricultural Products, Forest Products and Aquatic Products (“**Circular 08**”), art.1, Circular 48, art. 2.1 (b).

¹⁰⁷ Circular 48, art 25.1, as amended by Circular 32/2022/TT-BNNPTNT dated 15 February 2023 (“**Circular 32**”), art 2.20

- The inspection and certification of aquatic products for export to certain markets that MARD monitors and so require periodic inspection for management purposes; the inspection and certification of aquatic products imported for processing, and of aquatic products recalled or returned from foreign countries are based on technical regulations on food hygiene and safety issued by MARD and other ministries and offices.
- The inspection and certification of aquatic products for export to markets which require food hygiene and safety inspection and certification conducted by competent authorities are based on food hygiene and safety regulations issued or approved by importing countries.

Under Circular 48, the authorities are responsible for the hygiene, safety inspection, and certification of aquatic products: Division on Agro-Forestry-Fisheries Quality Assurance or authorities which are assigned by the Division on Agro-Forestry-Fisheries Quality Assurance to control the quality, hygiene, and safety of aquatic products before the products are put into circulation for domestic consumption. In addition, the Agro-Forestry-Fisheries Quality Assurance Department may conduct unannounced inspections as requested by the MARD.¹⁰⁸

With respect to aquatic products for export, the FBOs must register for inspection by sending a dossier for food hygiene and safety inspection registration to inspecting bodies, via postal mail, email, or online via the national one-door management system.¹⁰⁹ After on-site inspection, the inspectors will grant a health certificate for each lot of the FBOs that fulfills requirements.

Announcement of Quality Standards of Aquatic Products

The Law on Fisheries and Circular 26/2018/TT-BNNPTNT dated 15 November 2018 (“**Circular 26**”) prescribing management of aquatic breeds, aquatic feed and aqua environmental remediation products requires producers to announce quality standards of locally-produced aquatic breeds¹¹⁰. Importers or distributors must register for inspection of the quality of imported aquatic breeds¹¹¹.

Safety and Quality Requirements for Aquatic Products for Export

The value of aquatic products exported by Vietnam has risen steadily. Vietnam is a prominent supplier. The Government believes it is important that proper standards be maintained to ensure continuing confidence in aquatic products that come from Vietnam.

In fact, establishments that export aquatic products must strictly comply with Vietnamese regulations on food hygiene safety and specific standards applicable

¹⁰⁸ Circular 48, art 5, as amended by Circular 32, art 2.4.

¹⁰⁹ Circular 48, art. 28.1 (b), as amended by Circular 32, art. 2.23.

¹¹⁰ Law on Fisheries, art 26.2

¹¹¹ *Id.*, art 27

to aquatic products. They must also comply with the requirements of the importing countries.¹¹²

Like any food products, aquatic products should conform to HACCP. Of course, exported aquatic products must be sanitary. This requires an exporter to follow GMP, which is the basic regime for food manufacturers. The principles are straightforward and aim to prevent contamination of food through unsanitary practices. There is a close relationship between HACCP and GMP, inasmuch as GMP is considered to be a prerequisite to HACCP. Without GMP, the risks are greater.

Vietnamese exporters must also establish their own quality control system to conform to international criteria and the requirements of the importing countries. Aquatic products for export are subject to Circular 48.¹¹³ The Government has taken that step to encourage aquatic products exporters voluntarily to adopt HACCP, GMP, and other international criteria.

¹¹² Circular 48, arts 2.1 (b) and 2.2, amended by Circular 32, art 2.37(a).

¹¹³ *Id.*, art 2.

ENFORCEMENT

All organizations and individuals have the right to file a complaint regarding any violation that relates to the quality of food products.¹¹⁴ They may make a complaint regarding food safety, such as wrong-doing by a government official responsible for implementing or enforcing the laws and regulations on the quality of food products.¹¹⁵ The authorities must respond to such complaints.¹¹⁶

All individuals and organizations, including foreign individuals and organizations, that commit an administrative violation that relates to the quality of goods will be sanctioned.¹¹⁷ The Civil Code states that: “individuals, legal persons, etc. that are producers or that do business without ensuring the quality standards of goods and that injure any consumer must compensate” the consumer.¹¹⁸ Inspectors who specialize in technology and science, such as inspectors (persons who are assigned the inspection task and are on duty), Chief Inspectors and Heads of delegations of inspection of the Department of Science and Technology, Heads of delegations of inspection of the General Department of Standards, Metrology and Quality, Chief Inspectors and Heads of delegations of inspection of the MOST, Managers of the General Department of Standards, Metrology and Quality, presidents of People’s Committees, the police, the Customs Department, market management agencies, the border guards, coast guards and certain specific inspection agencies, all have the right to deal with administrative violations.¹¹⁹ Once a violation has been discovered, the law gives the government much flexibility in the form and scale of punishment.¹²⁰

Depending on the nature and severity of violations which involve standards, measurements, and quality, an organization or individual may be subject to one or more specific types of sanctions. One such sanction is cancellation of the right to use certificates of conforming technical specifications; certificates on satisfaction of business conditions; inspection certificates; and so on.¹²¹

Administrative violators may be subject to the following remedies: recovery of sums of money illegally gained from the commission of administrative violations, recall of products or goods or recall of measuring devices that violate standards, and so on.¹²² Also, products or goods must be destroyed if they are not safe for humans, animals, plants, and the environment.¹²³

¹¹⁴ LoQPG, art 64.

¹¹⁵ LoFS, arts 7.1 (dd), 8.1 (d) and 9.1 (d).

¹¹⁶ LoQPG, art 46.4.

¹¹⁷ Decree 119, art 2, amended by Decree 126/2021/ND-CP dated 30 December 2021 (“**Decree 126**”), art 2.1.

¹¹⁸ Civil Code, art 608.

¹¹⁹ Decree 119, arts 34 to 41, amended by Decree 126, arts 2.61, 2.64, 2.68, 2.69, 2.71, 2.75, 2.78, 2.81, 2.83, 2.84, 2.85, 2.88, 2.90, 2.92, and 2.95.

¹²⁰ Decree 119, arts 2 and 3, amended by Decree 126, arts. 2.2 and 2.3.

¹²¹ Decree 126, art 2.2.

¹²² *Id.*, art 2.3.

¹²³ *Id.*, art 20.

Enforcement agencies are given guidance on which sanctions to impose and on how large a fine should be.¹²⁴ Generally, the maximum fine for violation of measurements is VND100 million for an individual and VND200 million for an organization. The maximum fine for violation of standards or quality of products and goods is VND150 million for an individual, and VND300 million for an organization¹²⁵. There are some exceptions.

The regulations do list extenuating and aggravating circumstances, as well as situations where sanctions are not to be applied. Such regulations are general and refer to violations of many laws, not just to violations related to food.

Extenuating circumstances include:¹²⁶

- The offender attempts to mitigate the damage caused by the breach or to deal voluntarily with the consequences and to compensate the injured;
- The offender voluntarily declares his violation or repents of the violation;
- The violation is committed in a state of nervous excitement caused by the illegal acts of other persons;
- The violation is committed beyond the legitimate defense limit or beyond requirements of an urgent circumstance;
- The violation is caused by coercion or force;
- The violating party is a pregnant woman, an old or sick person, a diseased person or a disabled person which limits his awareness or control over his actions;
- The violation is committed in especially difficult circumstances not brought about by the offender; or
- The breach was committed as a result of backwardness.

Aggravating circumstances include:¹²⁷

- Organized violations;
- Repeated and/or extensive violations;
- Enticement by the offender of underage persons to commit a violation, or forcing dependent persons to commit a violation;

¹²⁴ *Id*, Chapter II.

¹²⁵ Decree 119, art 3.

¹²⁶ Law No. 15/2012/QH13 dated 20 June 2012 on Dealing with Administrative Violations (“**Law on Dealing with Administrative Violations**”), art 9.

¹²⁷ *Id*, art 10.

- Utilizing someone who is mentally ill or who has impaired cognitive abilities, or impaired ability to control his or her behavior;
- Abusive conduct and defamatory actions toward a person who is on duty;
- Undertakes administrative violations with hooligans;
- The offender abuses a position of power in committing the violation;
- The offender takes advantage of wartime conditions, natural disasters, or other social difficulties in order to commit the violation;
- An offender persists in the violation despite the request of an authorized person to cease;
- The violation is committed while the offender is serving a criminal sentence or is subject to an administrative penalty;
- The offender attempts to evade responsibility or conceals the violation;
- Violations are large in scale or in value; and
- Violations affect a large number of people, children, the elderly, the disabled, or pregnant women.

Situations where no sanction should be applied include:¹²⁸

- Where the offender committed a violation due to urgent circumstances, legitimate defense purposes, unexpected events, unforeseen contingencies;
- The offender suffers from a mental or other disease that is confirmed by a medical agency and which causes him or her to lose awareness or behavioral control; or he is under 14 years old so that he has not attained the age for being administratively sanctioned.¹²⁹

Within seven days (or 30 days for complicated cases) the relevant government agency will issue a decision on how to handle the violation.¹³⁰

An injured party may demand compensation by filing suit with the Civil Division of the People's Court under the Civil Procedure Code.

Moreover, individuals who violate regulations on food safety and hygiene may have penal liability. Crimes related to food safety and hygiene, under the Penal

¹²⁸ Law on Dealing with Administrative Violations, art 11.

¹²⁹ *Id.*, art 11. A person who is between 14 and under 16 years old may be administratively sanctioned for an intentional administrative violation. A person who is 16 years old or older may be administratively sanctioned for administrative violations.

¹³⁰ *Id.*, art 66.1, amended by Law No. 67/2020/QH14 on amendments and supplements to certain articles of Law on Handling of Administrative Violations, art. 1.34.

Code, are diverse and include the use of banned substances to manufacture or preserve food products; sale of food products with the knowledge that they contain banned substances; manufacturing and trading chemicals, anti-bodies, veterinary medicines, plant protection preparations that are banned from use in producing salt and in the preliminary processing of agricultural, forestall, aquatic products; manufacturing and trading fake goods that are food products or food additives, etc. The penalty for each crime may be five years' imprisonment, 10 years' imprisonment or a life sentence. Fines may range from VND20 million to VND100 million, depending largely on the level of seriousness of the offence.

There are crimes involving manufacturing and banned trading of chemicals, anti-bodies, veterinary medicines, plant protection preparations or which involve manufacturing and trading fake goods that are food products or food additives. In such cases, traders that are entities (not only individuals) may have penal liability. Those companies can have criminal liability for breaches of regulations on food safety and hygiene.

CONCLUSION

Regulations on foods have been improved and simplified. A good example is the replacement of the complex rules regarding registration of food quality, hygiene, and safety. A regime of announced food quality, hygiene, and safety now applies. This change provides a shortened and simplified system.

The rules on food continue to develop in a way that recognizes the greater sophistication of the Vietnamese food industry, consumer needs, and import, export, and processing standards. The reality is that the laws must continue to evolve. Rules that were intended to regulate the quality of goods in general have correctly been determined not to be adequate to regulate the quality of food products. There is a clear recognition of this, but the process of change and implementation is measured, deliberate, and time-consuming.

SCHEDULE

List of cited Laws, Ordinances, Decrees, Circulars and Regulations classified by subject and by chronological order

Subject	Pages ¹³¹	Name of legal documents	Issued by	Issued on
<i>Food Safety</i>	4	<ul style="list-style-type: none"> ● Law on Standards and Technical Specifications 68/2006/QH11 	National Assembly	29 June 2006
	1	<ul style="list-style-type: none"> ● Law on the Quality of Products and Goods 05/2007/QH12 	National Assembly	21 November 2007
	1, 2, 3, 13	<ul style="list-style-type: none"> ● Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	3	<ul style="list-style-type: none"> ● Circular 43/2014/TT-BYT on management of functional foods 	MOH	24 November 2014
	5, 6, 10	<ul style="list-style-type: none"> ● Decree 15/2018/ND-CP provides detailed regulations implementing some articles of the Law on Food Safety 	Government	2 February 2018

¹³¹ Reference is to pages in this book

	6	<ul style="list-style-type: none"> • Circular 28/2021/TT-BYT on the introduction of nomenclature of foods, food additives, food processing aids and food packaging materials and containers according to HS codes specified in the import-export tariff schedule under administration by the MOH 	MOH	20 December 2021
<i>Labeling</i>	8, 9, 10	<ul style="list-style-type: none"> • Decree 43/2017/ND-CP on the Labeling of Goods 	Government	14 April 2017
	8, 9	<ul style="list-style-type: none"> • Circular 05/2019/TT-BKHCHN detailing the implementation of Decree 43/2017/ND-CP on the Labeling of Goods 	MOST	26 June 2019
	8, 9, 10	<ul style="list-style-type: none"> • Decree 111/2021/ND-CP amending Decree 43/2017/ND-CP on the Labeling of Goods 	Government	9 December 2021
<i>Advertising</i>	12, 13	<ul style="list-style-type: none"> • Law on Advertisement No. 16/2012/QH13 	National Assembly	21 June 2012
	12	<ul style="list-style-type: none"> • Decree 181/2013/ND-CP provides detailed regulations implementing some articles of the Law on Advertising (as amended by Decree 54/2017/ND-CP dated 8 May 2017 and Decree 70/2021/ND-CP dated 20 July 2021) 	Government	14 November 2013
	12	<ul style="list-style-type: none"> • Circular 10/2013/TT-BVHTTDL provides detailed regulations implementing the Law on Advertising and Decree 181 on legitimate 	MCST	6 December 2013

		documents, the organization and operation of Appraisal Council of Advertised Products and the assignment of state management on advertisement		
	12	<ul style="list-style-type: none"> • Circular 09/2015/TT-BYT on certification of advertising contents for special products, goods, and services managed by the MOH 	MOH	25 May 2015
	13	<ul style="list-style-type: none"> • Decree 38/2021/ND-CP prescribing penalties for administrative violations involving culture and advertisement activities 	Government	29 March 2021
<i>Recall</i>	14	<ul style="list-style-type: none"> • Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	14	<ul style="list-style-type: none"> • Decree 119/2017/ND-CP on Administrative Sanctions against Violations of Standards, Measurements and Quality of Products and Goods 	Government	1 November 2017
	14	<ul style="list-style-type: none"> • Decree 126/2021/ND-CP amending Administrative Sanctions against Violations of Standards, Measurements and Quality of Products and Goods 	Government	30 December 2021
	15	<ul style="list-style-type: none"> • Law on Consumer Protection 19/2023/QH15 	National Assembly	20 June 2023
<i>Inspections</i>	16	<ul style="list-style-type: none"> • Law on the Quality of Products and Goods 05/2007/QH12 	National Assembly	21 November 2007

	17	<ul style="list-style-type: none"> Decree 15/2018/ND-CP providing detailed regulations implementing some articles of the Law on Food Safety 	Government	2 February 2018
	16	<ul style="list-style-type: none"> Decree 03/2024/ND-CP identifying inspection authorities and their inspection activities 	Government	11 January 2024
<i>Import Requirements</i>	20	<ul style="list-style-type: none"> Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	17, 18, 19	<ul style="list-style-type: none"> Decree 15/2018/ND-CP providing detailed regulations implementing some articles of the Law on Food Safety 	Government	2 February 2018
	18	<ul style="list-style-type: none"> Official Letter No. 114/ATTP-PCTTR of the FHSA answering inquires in relation to Decree 15 	MOH	10 January 2019
	17	<ul style="list-style-type: none"> Decree 85/2019/ND-CP prescribing handling of administrative procedures via national single window and Asean single window and specialized inspection for exports and imports 	Government	14 November 2019
<i>Export Requirements</i>	20	<ul style="list-style-type: none"> Circular 52/2015/TT-BYT regulating State safety inspection on imported foods, and application, procedure to grant a certificate of export for exported foods under administration of the Ministry of Health 	MOH	21 December 2015

	20	<ul style="list-style-type: none"> Decree 69/2018/ND-CP guiding the Law on Foreign Trade Management 	Government	15 May 2018
<i>Aquatic Products</i>	22, 23, 24	<ul style="list-style-type: none"> Circular 48/2013/TT-BNNPTNT on Inspection and Certification of Food Safety of Exported Aquatic Products (as amended by Circular 02/2017/TT-BNNPTNT dated 13 February 2017) 	MARD	12 November 2013
	22	<ul style="list-style-type: none"> Circular 08/2016/TT-BNNPTNT on the Control of Hygiene and Safety of Agricultural Products, Forest Products, Aquatic Products 	MARD	1 June 2016
	21	<ul style="list-style-type: none"> Law on Fisheries No. 18/2017/QH14 	National Assembly	21 November 2017
	24	<ul style="list-style-type: none"> Circular 26/2018/TT-BNNPTNT dated 15 November 2018 prescribing management of aquatic breeds, aquatic feeds and aqua environmental remediation products 	MARD	15 November 2018
	21, 22	<ul style="list-style-type: none"> Circular 38/2018/TT-BNNPTNT dated 25 December 2018 prescribing Assessment and Certification of compliance with food safety regulation of Agro-forestry-fishery food manufacturing and trading business under the management of the MARD 	MARD	25 December 2018

	21	<ul style="list-style-type: none"> Decree 26/2019/ND-CP detailing for the implementation of the Law on Fisheries 	Government	8 March 2019
	23	<ul style="list-style-type: none"> Circular 32/2022/TT-BNNPTNT on the Amending Circulars on Assessment and Certification of Compliance with Food Safety Regulations of Agro-Forestry-Fishery Food Manufacturing and Trading Businesses under the Management of Ministry of Agriculture and Rural Development 	MARD	30 December 2022
	21	<ul style="list-style-type: none"> Decree 37/2024/ND-CP amending certain articles of Decree 26/2019/ND-CP detailing for the implementation of the Law on Fisheries 	Government	4 April 2024
<i>Enforcement</i>	25	<ul style="list-style-type: none"> Law on the Quality of Products and Goods 05/2007/QH12 	National Assembly	21 November 2007
	25	<ul style="list-style-type: none"> Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	26, 27	<ul style="list-style-type: none"> Law on Dealing with Administrative Violations 15/2012/QH13 	National Assembly	20 June 2012
	25	<ul style="list-style-type: none"> Civil Code 91/2015/QH13 	National Assembly	24 November 2015

	25, 26	<ul style="list-style-type: none"> ● Decree 119/2017/ND-CP on Administrative Sanctions against Violations on Standards, Measurements and Quality of Products and Goods 	Government	1 November 2017
	27	<ul style="list-style-type: none"> ● Law No. 67/2020/QH14 on Amendments and Supplements to certain Articles of Law on Handling of Administrative Violations 	National Assembly	13 November 2020
	25	<ul style="list-style-type: none"> ● Decree 126/2021/ND-CP amending Administrative Sanctions against Violations of Standards, Measurements and Quality of Products and Goods 	Government	30 December 2021