

New rules for food safety assurance

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Food poisoning happens nearly every day in Vietnam, and there have been some serious cases with large numbers of poisoned persons. According to official statistics published by the Vietnam Food Safety Authority, for the period of 2010 to mid 2012, there were more than 371 food poisoning cases with 91 people recorded dead.

In response to this matter, the Vietnamese state has been tightening its management of food safety via the passing of new regulations. In 2012, the Vietnamese Government issued Decree No. 38/2012/ND-CP to provide guidelines for implementation of Law on Food Safety No. 55/2010/QH12, and the regulators subsequently issued much implementing and guiding legislation covering various issues in the domain of food safety.

In this month's update, we look at two regulations newly issued in November 2012 that address the issues of conformity to food safety regulations and the sanctioning of administrative violations in the domain of food safety.

Publication of conformity to technical regulations and eligibility of food safety conditions

Under Circular No. 19/1012/TT-BYT issued by the Ministry of Health on November 9th, 2012 (effective from December 23rd, 2012) providing guidelines for publication of conformity with food safety regulations, food establishments must make announcements concerning conformity with the technical regulations required by laws for their relevant food products, and must announce eligibility of food safety conditions for other food products before placing them in the market.

The assessment of conformity with technical regulations for a food product may be conducted internally by the food establishment or producer, however it must be subsequently tested by a registered testing organisation or recognised certification organisation before a food producer can make their announcement of conformity. Food establishments are responsible to control their own food products in order to ensure the conformity as announced, and must conduct periodic inspections and testing on an annual basis for foods produced by an entity having a GMP, HACCP, ISO 22000 or equivalent certificate. Inspections must be made semi-annually for all other food producers.

Stricter penalties for breaches in the domain of food safety

On November 8th, 2012, the Government issued Decree No. 91/2012/ND-CP on the sanctioning of administrative violations in the

domain of food safety (Decree 91), which introduces stricter penalties to deal with such violations. Decree 91 come into force on December 25th, 2012.

Decree 91 relates to administrative violations and their sanctions in respect of (i) food safety assurance; (ii) conditions for food safety assurance during the production, processing and supply of food products; (iii) conditions for food safety assurance for imported and exported food products; (iv) advertising of food products including information, education and communication on food safety and the labeling of food products; and (v) test risks analysis of food products; prevention and control of food safety incidents; tracing the origins, and confiscating and treating unsafe food products; and obstructing the state management activities on food safety.

Under Decree 91, the primary penalties for violations comprise (i) caution, and (ii) monetary fines of up to VND100 million. Supplemental penalties may comprise: (i) deprivation of license or permit and the confiscation of material evidence used for committing the violation. Decree 91 further specifies certain actions which may be enforced to remedy the consequences of a violation (and may be applied at the cost of the violator). Specifically, forced recall, destruction of or re-processing of food products, materials and/or packaging of products which are in violation.

Decree 91 also provides high fines applicable for violations on food advertising. Acts of using the capacity of state agencies, medical establishments or medical staff for the purpose of advertising food products, using specialised materials designed for medical staff or state agencies to communicate to the public shall be subject to a fine of between VND5 million and VND10 million. A fine of up to VND20 million will be applied for an act of advertising food products without a Receipt of Announcement of Regulations Conformity or Confirmation of Announcement of Eligibility of Food Safety Conditions. Acts of advertising with untrue contents or contents that mislead consumers shall be subject to fines from VND20 million to VND30 million. Supplemental penalties of deprivation of the right to use the Approval of advertising contents for three to six months may be imposed.

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