

**Law No. 28-07 on the safety of food products, promulgated by the Dahir No. 1-10-08
of 26 Safar 1431 (11 February 2010)**

(OG No 5822 of 18/03/2010, page 214)

In view of the Constitution, especially Articles 26 and 58,

Decided the following:

Is promulgated and shall be published in the Official Gazette, hereafter this Dahir, the Law No 28-07 on food products safety, as adopted by the House of Councillors and the House of Representatives.

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Law No. 28-07 on the Safety of Food Products

TITLE I: PURPOSE, SCOPE AND DEFINITION OF CONCEPTS

Chapter I: Purpose and Scope

First article

Without prejudice to any other specific legislation relating to substandard, wayward, or dangerous establishments, public hygiene, the repression of fraud on goods, hygiene and the sanitary and qualitative inspection of live animals, animal products or products of animal origin, the marketing of fishery and aquaculture products and animal feed, this Law:

- establishes the general principles for the safety of food and feed products;
- determines the conditions under which primary products, food products and animal feed must be handled, treated, transformed, packaged, conditioned, transported, stored, distributed, displayed for sale or exported as a safe product, whether fresh or processed, regardless of the processes and systems used for preservation, processing and manufacturing;
- provides for general requirements to allow only safe products to be placed on the market, in particular by laying down general rules on hygiene, sanitation, use of cleaning and disinfecting products, permissible contamination thresholds in primary products, food products for human consumption and animal feed to which they must respond, including the standards made mandatory;
- indicates the mandatory rules for consumer information, in particular by labelling primary products, food products and animal feed and determining accompanying documents.

Article 2

The provisions of this Law cover all stages of production, handling, treatment, transformation, packaging, conditioning, transportation, storage, distribution, display for sale and export of primary products, food products for human consumption and animal feed.

The following are excluded from the scope of this law:

- primary products intended for private household use and for the preparation, handling and domestic storage of food for private domestic consumption;
- medicines and all other similar products for preventive or therapeutic use in the fields of human or veterinary medicine, as well as cosmetic products;
- tobacco and derivatives, as well as psychotropic substances and other similar substances which are the subject of specific legislation.

Chapter II: Definition of concepts

Article 3

For the purposes of this Law and the texts adopted for its application, the following definitions shall apply:

1. Primary product: means any agricultural product intended for human consumption, grown, picked or harvested, and any animal products such as milk, honey or eggs and hunting products, fishing or collecting wild species and placing them on the market, as they are, without the use of special systems of preparation for their preservation other than refrigeration;

2. Food product: any crop or animal product, raw or partially or fully processed, intended for human consumption, including beverages, gum and all products that were used for the production and preparation or processing of food. This term does not cover plants before harvest and live animals, with the exception of those prepared for human consumption, as they are, such as shellfish, and does not cover drugs, cosmetics and tobacco;

3. Animal feed: any substance including additives, partially or wholly processed or unprocessed and intended for oral consumption by animals;

4. Safe product or safe substance: any primary product, food product or feed that does not pose any risk to human or animal health;

5. Placing on the market: the holding of primary products and/or food products and/or animal feed for the purpose of sale, distribution or assignment for free or for a fee;

6. Sales: the handling, processing and storage of primary products, food products and animal feed at the point of sale or delivery to the final consumer, including distribution terminals, supermarkets, caterers, restaurants as a whole, businesses, wholesalers and distribution points;

7. Danger: any biological, chemical or physical agent present in a primary product, a food product or feed, or a particular state of the primary product, food product or feed, such as oxidation, putrefaction, contamination or any other similar condition that may have an adverse effect on health;

8. Traceability: the ability to trace through the food chain, the path of a primary product, a food product, an animal feed, the path of an animal producing primary products or food products, or that of a substance intended to be incorporated or likely to be incorporated into a primary product, a food product or an animal feed;

9. Final consumer: the ultimate consumer of a primary product or a food product that does not use it as part of a productive operation within the activities of an establishment or a food business;

10. Food business: any public, semi-public or private enterprise that provides, for profit or not, activities related or related to the food chain;

11. Business in the animal feed sector: any public, semi-public or private enterprise that provides, for profit or not, activities connected with or in relation to animal feed;

12. Food chain: all stages of production, handling, treatment, processing, packing, packaging, transportation, storage, distribution, display for sale or export of food products from the production of primary products to their sale or delivery to the final consumer. It also includes the importation of such primary or food products;

13. Product unfit for consumption: any primary product or food product which, without being spoiled or toxic, does not have all the necessary hygienic guarantees, taking into account certain undesirable elements that it contains, either by contamination or by degradation of its microbiological and / or chemical quality;

14. Commodity detrimental to health: Any primary product or food product with immediate or probable short-, medium- or long-term toxic effects on the health of an individual or his descendants, or resulting in increased health sensitivities or any other form of identifiable sensitivity of an individual or a particular category of individuals to which the concerned primary product or food product is intended;

15. Precautionary principle: a set of prudential measures to avoid risks that may be caused by the consumption of a primary product, a food product or an animal feed, in the absence of absolute scientific certainty likely to guarantee an acceptable level of security of said product or food;

16. Establishment: any unit for the production, treatment, processing, packing, packaging, distribution, storage or preservation of food products, including slaughterhouses and their annexes, meat cutting, packing and packaging plants, fish halls, floating fishing vessels and barges, collective catering establishments and animal by-products processing and feed processing units;

17. Operator: the natural or legal person or persons required to comply with the provisions of this Law and the texts adopted for its application, inside the establishment or enterprise of the food sector or the animal feed sector;

18. Mandated veterinarians: veterinarians not under the responsibility of the agricultural department to which the competent authorities have entrusted missions of animal health, veterinary pharmacy and sanitary controls of animal products, products of animal origin, and animal feed.

TITLE II: CONDITIONS FOR THE MARKETING OF FOOD PRODUCTS AND ANIMAL FEED

Chapter I: General conditions for placing on the market

Article 4

No primary product or food product shall be placed on the domestic market, be it imported or exported, if it constitutes a danger to human life or health. Similarly, no animal feed shall be imported, placed on the domestic market or exported or given to animals if it is dangerous.

Article 5

In order to prevent that any primary product, food product or animal feed poses a threat to human or animal life or health, it shall be produced, handled, treated, processed, packed, packaged, transported, stored, distributed and offered for sale or exported under hygienic and sanitary conditions that preserve their quality and to ensure their safety. For this purpose, establishments and enterprises must be authorized or approved by the competent authorities, in terms of health, before they launch their operations, in the form and manner laid down by regulation.

However, establishments and enterprises whose entire production is directly intended for a final consumer shall not be subject to the above-mentioned authorization or approval.

However, the operators of such establishments and enterprises shall remain responsible for food products and products intended for consumption and shall guarantee that they do not present any danger to the life or health of consumers.

Article 6

Primary products, food products and feeds placed on the domestic market or exported that meet the requirements set forth by the provisions of Article 5 above shall be considered as safe products,

However, the compliance of a primary product, a food product or an animal feed with the applicable requirements under the provisions of this Law or any other legislation specific to the safety of such products or food, shall not prohibit the competent authorities from taking all appropriate measures to impose restrictions on its importation, placing on the domestic market or to require its withdrawal or to prohibit their export, if the said authorities, by virtue of the precautionary principle, have reasonable grounds to suspect that, despite such compliance, the product concerned constitutes or may constitute a danger to the life or health of consumers or animals.

Article 7

The sanitary authorization or certificate provided for in Article 5 above shall be issued when the conditions laid down in Articles 8 and 9 of this Law are met by the establishment, the enterprise or the concerned means of transport.

Whenever one or several of the conditions set forth for the issuance of the sanitary authorization or certificate referred to above are no longer fulfilled, the said authorization or certificate shall be suspended for a specified period during which the beneficiary must take the necessary measures to ensure that these conditions are abided by.

If, at the end of the period referred to above, the necessary measures have not been taken, the authorization or certificate shall be withdrawn. Otherwise, the suspension of the authorization or certificate shall be lifted.

Shall be fixed by regulation:

- the procedures for checking the conformity of primary products, food products, and animal feed with the provisions of this Law;
- the form and manner in which the sanitary authorization or certificate is granted, as well as the measures relating to its suspension or withdrawal.

Article 8

The conditions to ensure the quality and safety of primary products, food products, and animal feed shall be set forth by regulation, and apply in particular to:

- the establishment, design, layout, installation of equipment and operation of establishments and enterprises in which primary products, food products and animal feed are produced, prepared, stored, handled, processed, packaged and displayed for sale on the national market or for export;
- primary products;
- food products intended to be marketed locally or exported, at all stages of their handling;

- means of transport intended for the transport of primary products and perishable food products;
- the personnel of the establishments and enterprises responsible for the handling, storage, processing, packaging, distribution, marketing and transport operations, as the case may be.

The conditions for the use of cleaning and disinfecting products and the physical, chemical and biological contamination thresholds shall also be laid down by regulation.

The regulatory texts provided for in this article take into consideration the nature of the primary products, food products, and animal feeds considered.

Article 9

Operators of establishments and enterprises in the food sector and operators of establishments and enterprises in the animal feed sector shall ensure that the primary products, food products, and animal feed they place on the market or intended for export comply with the requirements of this Law and do not present any threat to human or animal life or health.

To this end, they shall set up, apply and maintain in their establishments or enterprises a self-monitoring program or follow a guide to good health practices approved by the competent authorities. The application procedures for the said program or guide shall be set forth by a regulation.

All the actions decided as part of the execution of the measures set forth above shall be recorded on paper by the establishment or the company, kept for a minimum period of 5 years, as from the date of their establishment and shall be presented whenever requested by agents, as provided for in Article 21 of this Law.

Article 10

If the operator of an establishment or a food business or an establishment or enterprise in the animal feed sector considers or has reason to believe that a primary product, a food product, or an animal feed does not comply with the requirements of a safe product, in accordance with the provisions of this Law, it shall inform without delay the competent authorities, to allow them to take all appropriate measures to impose restrictions on its placing on the domestic market or require their withdrawal or prohibit their export. If the withdrawal does not occur, the competent authorities shall withdraw the product or food at the expense of the producer or the person responsible for placing it on the market.

In any case, it shall provide all information on the measures it has taken or continues to take to prevent, reduce or eliminate the risks to the final consumer and shall take all measures allowing close cooperation of its establishment or enterprise with the authorities in accordance with the procedures set out by this Law and the texts adopted for its application.

Article 11

If, after its first placing on the market, it is established that:

- an animal producing primary products or food products;
- a primary product;
- a food product;
- an animal feed;
- an element and /or additive that can be incorporated into a primary product, a food product, or an animal feed,

presents or may present a danger to human or animal health, the competent authorities, under the provisions of Articles 23 and 24 of this Law, shall seize or consign it in order to subject it to the investigations necessary to ensure its safety.

If the animal, the product, the feed, the element or the additive is part of a lot, the recall, seizure and consignment shall be carried out at one or several places for the purpose of checking all the constitutive elements of the said lot.

Without prejudice to actions for liability, the costs incurred by the recall, seizure, consignment, checks carried out, including transportation, storage and analysis, as well as any costs of destruction, shall be borne by the operator concerned.

Chapter II: Animal Marking and Traceability of Substances, Primary Products, Food Products and Animal Feed

Article 12

Traceability of materials, primary products, food products, animal feeds, food producing animals and any substance intended to be incorporated or likely to be incorporated into a primary product, food product or animal feed, shall be established at all stages of the food chain.

To this end, operators must be able to identify any establishment or enterprise to which they have supplied or assigned, as well as any person who has supplied or assigned to them a primary product, a food product, an animal feed or a production animal of primary products or food products or any substance intended to be incorporated or likely to be incorporated into primary products, food products or animal feed.

Article 13

Any operator or professional engaged in animal husbandry and whose production is exclusively intended for human consumption shall make a declaration to the competent authorities in order to register the holding in the forms and methods set out by a regulatory text.

Article 14

Holders of animals whose production is intended for human consumption shall have to mark their farm-born animals as well as the animals acquired unmarked from their keeper of origin.

The holders shall keep and properly update a livestock register at the place where the animals are kept. The register is intended for the chronological identification of health and zoo technical information likely to facilitate the identification of live animals, their veterinary health inspection as well as that of animal or animal products and animal by-products derived from these same animals.

The following shall be set out by a regulatory text:

- animal marking procedures and the identification marks and the affixing of those marks;
- the particulars to be included in the abovementioned livestock register and the procedures for establishing the register and the conditions of its keeping.

The provisions of articles 13 and 14 of this Law shall not apply to poultry farms which remain governed by the Law No 49-99 relative to the sanitary protection of poultry farms, the production control and marketing of poultry products, promulgated by the Dahir No. 1-02-119 of 13 Rabia II 1423 (June 13, 2002).

Article 15

Producers of primary products of plant origin shall keep a register at the place of production of the said products wherein shall be recorded the factors of production, such as the chemical and organic materials used to maintain and manage the growth of these products.

The regulations to be entered in the register relating to the maintenance and management of the cultivation of the abovementioned products, as well as the terms and conditions of its establishment and the conditions of its keeping, shall be laid down by regulation.

Chapter III: Consumer Information

Article 16

All food products and animal feeds placed or to be placed on the domestic market or intended for export or import shall be labelled in accordance with the applicable requirements as per the provisions of this Law and the texts adopted for its application or under any other applicable specific legislation or regulation for the purpose of facilitating traceability.

Article 17

The labelling of a primary product, a food product or an animal feed placed on the domestic or export market shall be carried out in such a way as to enable its user, including its final consumer, to take cognizance of his characteristics.

Article 18

The constitutive elements, characteristics and forms of the particulars and indications to be included in the labelling media, including the nutrition labelling and documents accompanying the primary products, food products or animal feeds and the conditions and details of their affixing shall be set out by a regulatory text.

Article 19

Where the advertisement of a primary product or a food product refers to a conformity certification, an agricultural quality mark, a protected geographical indication or a protected designation of origin, the presentation and labelling thereof must shall comply with the legislation in force.

Article 20

The placing on the domestic market or the importation of any primary product, any food product and any feed, bearing a labelling not compliant with the requirements of this Chapter and the texts adopted for the application shall be prohibited.

Should the labelling of primary products, food products and animal feed be found non-compliant, the producers or the persons who placed them on the market shall be summoned to withdraw them within a time limit set out by the competent authorities.

If the withdrawal is not made within the aforementioned period, the authorized agents referred to in Article 21 below shall seize the product concerned, at the expense of the producer or the person who placed it on the market, and shall proceed with the case in accordance with the relevant provisions provided for by the Law No. 13-83 relating to the prevention of frauds on goods, promulgated by the Dahir No. 1-83-108 of 9 Moharram 1405 (5 October 1984).

TITLE III: JURISDICTION, INVESTIGATION AND REPORTING OF OFFENSES

Article 21

Authorized agents of the National Office for Food Safety shall be responsible for the investigation and reporting of infringements of the provisions of this Law and the texts adopted for its application, subject to the powers granted by law to the officers of the legal police and

other public authorities. The mandated veterinarians may, under the control of the said office, be entrusted with the same mission.

Article 22

In order to research and report infringements of this Law and the texts adopted for its application, the agents referred to in article 21 above may access by day the establishments and enterprises defined in article 3 above. They may also access by night such establishments and enterprises while open to the public or in the exercise of their activities, subject to the provisions of the Code of Criminal Procedure.

The authorized agents may require the communication or proceed with the seizure of documents of any kind, in whatever hand they may be, likely to facilitate the accomplishment of their mission and the provision of all necessary means for carrying out their inspections. They can collect all the information that can help assess whether or not the products are hazardous from the professionals who are required to provide them.

Article 23

The authorized agents referred to in Article 21 above may proceed with the seizure, in the case of:

- primary commodities, food products or animal feed presenting a threat to human or animal health;
- falsified, corrupt, toxic or expired primary commodities, food or feed products;
- primary commodities, food products or animal feed unfit for consumption;
- objects or apparatus used in falsifications.

Article 24

The authorized agents referred to in Article 21 above may proceed with the consignment, pending the results of the investigations:

- primary commodities, food products or animal feed that may be dangerous to human or animal health;
- primary commodities, food products or animal feed that may be falsified, corrupt, toxic or expired;
- primary commodities, food products or animal feed that may be unfit for human or animal consumption;
- objects or apparatus used to make falsifications.

The consignment measure shall not exceed 20 days. In case of any difficulties relating to the examination of the incriminated product, the competent public prosecutor may renew this measure twice for the same period.

TITLE IV: OFFENSES AND SANCTIONS

Article 25

Without prejudice to the provisions of the Code of Criminal Procedure or the special legislation applicable to products, shall be liable to a prison sentence of 2 to 6 months and a fine of 50,000 to 100,000 dirhams or one of these two sentences only, whoever:

- has placed on the domestic market, imported or exported any primary commodity, food product or feed for animals proven to be dangerous for human or animal life or health;
- has handled, treated, transformed, packaged, distributed, placed on the market or exported primary commodities, food products or feed from an establishment or enterprise without the authorization or the health authorization provided for in section 5 of this Law or to which the authorization or approval has been suspended or withdrawn;
- failed to comply with the provisions of Article 10 above while aware that the primary commodity, the food product or the feed do not meet the requirements to qualify as a safe product as per this Law.

Article 26

Shall be punished to a fine of 5,000 to 20,000 dirhams, whoever:

- places on the domestic market, exports or import a product or a food product not labelled in accordance with the applicable requirements as per the provisions of this Law and the texts taken for its application or by virtue of any other specific legislation or regulations;
- do not withdraw any primary commodity, food product or animal feed from the domestic market within the time limit set by the competent authorities in accordance with the provisions of Article 20 of this Law.

Article 27

Shall be sentenced to a fine of 500 to 2,000 dirhams:

- any farmer or professional engaged in livestock breeding without registering his holding in accordance with the provisions of Article 13 of this Law;
- any animal keeper whose production is intended for human consumption who does not perform the marking of his animals in accordance with the provisions of Article 14 of this Law.

Article 28

Any person who, by any means whatsoever, opposes the control provided for in Article 7 above or obstructs the investigation or reporting of infringements of this Law, in violation of the provisions of Article 22 above, shall be liable to a prison sentence of 15 days to 6 months and a fine of 5,000 to 100,000 dirhams or one of these two sentences only.

TITLE V: TRANSITIONAL PROVISIONS

Article 29

Establishments and enterprises of the food or feed sector operating at the date of entry into force of this Law shall have one year from the date of entry into force of this Law to obtain the authorization or approval provided for in article 5 above.

The persons mentioned in articles 13, 14 and 15 of this Law shall have a period of two (2) years from the date of publication of the regulatory texts relating to these articles in order to comply with them.

Article 30

All the contrary provisions are repealed from the date of entry into force of this Law. Regulatory texts that are not inconsistent with the provisions of this Law shall remain in force until they are repealed within a maximum period of eighteen (18) months from the date of publication of this Law in the Official Gazette.

Done at Tangier on 26 Safar 1431 (11 February 2010).
For countersignature: The Prime Minister, Abbas El Fassi.