

Act of 2024

amending certain acts that are interrelated in making food rescue more effective

...

2. Amending Act XLVI of 2008 on the food chain and its official supervision

Section 2

The following paragraphs (2c)-(2f) are added to Section 15 of Act XLVI of 2008 on the food chain and its official supervision (hereinafter: Act XLVI of 2008):

“(2c) Foodstuffs, as specified in ministerial decree, with a period of minimum durability of more than 48 hours shall not be placed on the market as foodstuff within 48 hours before the date of minimum durability, except as provided for in paragraphs 2d and 2e.

(2d) Foodstuffs, as specified in ministerial decree, with a period of minimum durability of more than 48 hours may be made available on the market for free within 48 hours before the date of minimum durability, subject to compliance with the requirements of point (a) in Chapter V of Annex II of Regulation (EC) No 852/2004 of the European Parliament and of the Council.

(2e) With regard to cases of interest of food safety, food supply security and consumer protection, the Government may lay down rules, by means of a decree, for the marketing of foodstuffs which have a period of minimum durability of more than 48 hours and are specified in ministerial decree. The said rules will govern their marketing as foodstuff within 48 hours before the date of minimum durability.

(2f) In order to make a product available on the market free of charge, as defined in paragraph 2d, the person placing the product on the market shall have a FELIR identifier.”

Section 3

(1) In Act XLVI of 2008, paragraphs (1) and (2) of Section 38/H shall be replaced by the following:

“(1) With a view to preventing food waste and enhancing food distribution to those in need, traders engaged in wholesale activities within the meaning of the Trade Act and food retailers which sell fast-moving consumer goods within the meaning of the Trade Act and which generated a net turnover of more than HUF 100 billion in the previous calendar year from activities mentioned in Section 47/B(2) of the Food Act (with the excise duty and public health product tax not included) (hereinafter collectively: offering entity), will proceed in the following way with regard to the foodstuffs (as specified in ministerial decree) they are in possession of for commercial purposes:

(a) in the case of foodstuffs placed on the market with a date of minimum durability of more than 48 hours, they shall at least 48 hours before the date of minimum durability

(b) in the case of foodstuffs not covered by point (a), they are entitled to

offer the foodstuff to an intermediate body engaged in food rescue according to the agreement with ÉMK, which must be registered in the food rescue database. Such food offerings should be done via the IT system operated by the Food Rescue Centre Nonprofit

Ltd. (“Élelmiszermentő Központ Nonprofit Korlátolt Felelősségű Társaság”) (hereinafter: ÉMK).

(2) The offering entity shall initiate its registration in the food rescue database pursuant to paragraph 4(b) by providing the information referred to in paragraph 5(b), while the intermediate body engaged in food rescue under an agreement with ÉMK shall do so by providing the information specified in paragraph 5(b). ÉMK shall issue an electronic certificate of the registration and provide it to the offering entity and the intermediate body.”

(2) In Act XLVI of 2008, paragraph (2a) of Section 38/H shall be replaced by the following provision, and the following paragraph (2b) is added to Section 38/H:

“(2a) The intermediate body may deliver the received food only to those in need, and shall do so free of charge.

(2b) The offering entity may place on the market any food which it has offered through the Food Rescue Database and has not registered by the deadline set out in the Government Decree, in accordance with Section 15(2a) and (2d).”

(2) In Act XLVI of 2008, points (b)-(d) of Section 38/H(4) shall be replaced by the following:

(As a public authority duty in relation to food rescue, ÉMK will)

“(b) operate an IT system, and an electronic register under the IT system (hereinafter: Food Rescue Database), in which it will record details of the following:

(ba) the entity offering the food;

(bb) the intermediate body;

(bbc) the food offered and recorded; and

(bd) the user,

in accordance with paragraph 5,

(c) supervise compliance with the obligation to provide data to the food rescue database,

(d) monitor the offering entities’ food waste reduction plans, and propose changes to them,”

(3) In Act XLVI of 2008, point (f) of paragraph (4) of Section 38/H shall be replaced by the following:

(As a public authority duty in relation to food rescue, ÉMK will)

“(f) develop detailed rules for food offerings by offering entities,”

(4) In Act XLVI of 2008, the following point (i) is added to paragraph (4) of Section 38/H:

(As a public authority duty in relation to food rescue, ÉMK will)

“(i) cooperate with the food chain inspection bodies, the State tax and customs authority, and will have the power to initiate official proceedings.”

(5) In Act XLVI of 2008, paragraph (5) of Section 38/H shall be replaced by the following provision, and the following paragraphs (6)-(8) shall be added to Section 38/H:

“(5) The Food Rescue Database shall contain the following:

(a) the following data concerning the offering entity:

(aa) name;

(ab) place of business;

(ac) company registration number;

(ad) tax number;

(ae) the address of each site/premise;

(af) FELIR identifier;

(b) the following data concerning the intermediate body:

(ba) name;

(bb) place of business;

(bbc) organisation registration number;

(bd) tax number;

(c) the following data concerning the offered and recorded food:

(ca) bar code;

(cb) name or designation;

(cc) unit packet;

(cd) unit weight;

(ce) unit size;

(cf) special transport and storage conditions;

(cg) product category;

(ch) number of pieces/items;

(ci) date of minimum durability;

(cj) ‘use by’ date;

(ck) LOT code;

(cl) overall size range;

(cm) book value;

(d) the following information relating to the implementation of logistical tasks:

(da) information on the accessibility of the geographical location of the site referred to in subpoint (ae) of point (a);

(db) the place of delivery of the offered food;

(dc) the date of delivery of the offered food;

(dd) telephone contact details of the person responsible for dispensing the offered food;

(e) the following data concerning the user:

(ea) name;

(eb) age;

(ec) address;

(ed) e-mail address;

(ee) phone number.

(6) The intermediate body may register, in the food rescue database, the agreement which was concluded with the offering entity in connection with the food offering.

(7) The entity offering the food and the intermediate body shall notify the food rescue database of any change in the data which was provided during the registration process, within 8 days of the change.

(8) In relation to the implementation of its tasks laid down in legislation, and with a view to monitoring food safety and food distribution for the user and to provide information on the distribution of the food, ÉMK shall be entitled to process the data referred to in paragraph 5(e) from the time of its registration in the food rescue database until the withdrawal of the

user's consent, but for no longer than three years, after which the data shall be deleted from the register."

Section 4

(1) In Act XLVI of 2008, paragraph (1) of Section 38/I shall be replaced by the following:

"(1) The offering entity shall

(a) draw up a food waste reduction plan and send it to ÉMK,

(b) perform its food rescue activities in accordance with the food waste reduction plan, and

(c) appoint a food rescue officer to coordinate the food rescue activities."

(2) In Act XLVI of 2008, point (a) of Section 38/I(2) shall be replaced by the following:

(The Food Waste Reduction Plan contains)

"(a) the quantity of food waste which was generated by the trader engaged in wholesale activities, and by the food retailer,"

Section 5

In Act XLVI of 2008, the following Section 38/J shall be inserted:

"Section 38/J (1) Any delivery of food through ÉMK's food rescue database to an organisation registered in ÉMK's food rescue database, which must take place free of charge, shall be regarded as donation for the purposes of value added tax, provided that the donor holds a certificate issued by ÉMK, or – in the case of an agreement which was entered into by ÉMK and the donee to that effect – the donor holds a certificate issued by the donee on the basis of the information provided by ÉMK; and this certificate shall contain the name of ÉMK, the donor and the donee, their place of business, tax number, and the fact and date of delivery of the food in the context of food rescue.

(2) If the conditions pursuant to Section 38/H(1)(a) are met, the delivery of food products shall be regarded as donation for the purposes of value added tax, exclusively within the meaning of paragraph (1)."

Section 6

In Act XLVI of 2008, the following point (h) is added to Section 62(1):

(A food inspection fine shall be imposed)

"(h) – except as provided for in Section 15(2d) – where foodstuffs with a period of minimum durability of more than 48 hours are placed on the market within 48 hours before the date of minimum durability"

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Section 7

In Act XLVI of 2008, the following paragraph (1a) is added to Section 63/B:

“(1a) ÉMK shall, for the first time, warn the offering entity if information is provided to the food rescue database in a delayed manner, incorrectly or it is not provided at all. If the offering entity repeatedly fails to provide information, ÉMK shall initiate the imposition of a food rescue fine with the food chain supervisory body.”

Section 8

(1) In Act XLVI of 2008, point (o) of Section 76(1) shall be replaced by the following:

(The Government is authorised to)

“(o) lay down, by decree, detailed rules on food rescue, with the exception of the definition of the foods which should be offered and may be offered through the Food Rescue Database,”

(2) In Act XLVI of 2008, the following point (p) shall be added to Section 76(1):

(The Government is authorised to)

“(p) lay down, by decree, the rules as to how foodstuffs, as specified in ministerial decree, with a period of minimum durability of more than 48 hours may be marketed as foodstuff within 48 hours before the date of minimum durability.”

(3) In Act XLVI of 2008, the following paragraph (3) is added to Section 76:

“(3) The Minister shall be authorised to regulate the following in a decree issued in agreement with the minister responsible for trade:

(a) the product categories and further selection criteria from the given product categories, with regard to foodstuffs – which correspond to these categories and

(aa) may not be placed on the market as food during the 48 hours preceding the date of minimum durability,

(ab) should be offered and may be offered through the Food Rescue Database, and

(b) the method of publishing the up-to-date guideline (prepared by ÉMK) on foodstuffs which are to be offered through a food rescue database.”

Section 9

In Act XLVI of 2008, under the heading “*Transitional provisions*”, the following Sections 76/D and 76/F shall be inserted:

“Section 76/D (1) The offering entity and the intermediate body shall, within 15 days of the entry into force of Act... of 2024 on the amendment of certain acts that are interrelated in making food rescue more effective, apply for registration in the food rescue database.

(2) The intermediate body may register, in the food rescue database, its agreement related to food offerings, which must have been concluded before the entry into force of Act... of 2024 amending certain acts that are interrelated in making food rescue more effective.

Section 76/E The offering entity shall fulfil its obligation under Section 38/H(1)(a) for the first time on 1 November 2024.

Section 76/F Traders who are engaged in wholesale activities and are required to draw up a food waste reduction plan shall prepare and submit this document for the first time by 31 May 2025.”

Section 10

The following Section 84 shall be added to Act XLVI of 2008:

“Section 84 The draft of Section 15(2c)-(2e) has been subject to prior notification, as stipulated in Articles 5-7 of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.”

Section 11

The Annex to Act XLVI of 2008 is amended in accordance with Annex 1 herein.

Section 12

In Act XLVI of 2008, in Section 62(2), the words “in the case referred to in paragraph (1)(a)-(d)” shall be replaced by the words “in the case referred to in paragraph (1)(a)-(d) and (h)”.

Section 13

In Act XLVI of 2008 the following shall be repealed:

(a) point (c) of Section 38/I/(2) and

(b) in Section 38/I(2)(d), the words ‘for ÉMK or’.

3. Closing provision

Section 14

This Act shall enter into force on the thirty-first day following its publication.

Section 15

The requirement for the prior notification of the draft of heading 2 of this act, as stipulated in Articles 5-7 of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, has been met.

Annex 1 to Act of 2024

1. The following point 15b is added to the Annex of Act XLVI of 2008:

(For the purposes of this Act)

“15b. *recording as food*: marking in the food rescue database of the foodstuffs that the intermediate body undertakes to distribute;”