

General Corporate Commercial

Cambodia's New Law on Food Safety

The new Law on Food Safety ("**Law**") came into force on 8 June 2022 by virtue of Royal Kram No. NS/RKM/0622/006. Consisting of 11 Chapters and 43 Articles, the Law sets out the legal framework and mechanism to regulate safety, quality, sanitation relating to food production and food businesses. The term "food businesses" refers to any business activities, regardless of size, except for the sale of street food, that involve the production, manufacture, preparation, treatment, packaging, transportation and storage of food, as well as the provision of service or sales related to food, whether for profit or not.

This Update highlights the key features of Cambodia's new Law.

A. Obligations of food business operators

The Law sets out the following primary obligations of food business operators:

- Obtain a permit from the competent institutions pursuant to existing laws and regulations;
- Ensure that their food complies with the requirements on food safety, quality, and suitability for human consumption;
- Resolve any food safety issues that arise from one's business and immediately report such issues to the relevant ministries and institutions; and
- Cooperate with relevant ministries and institutions in implementing measures to: (i) prevent or reduce the risk resulting from the consumption of food products of the relevant food businesses; (ii) trace, recall, and withdraw from the market any food that is not suitable for consumption.

Apart from the primary obligations, different food business players have additional obligations that are specific to the stages of the relevant food production chain.

1. Producers, processors and packagers

- Ensure that their production, processing, and packaging of food are done safely and in compliance with the Law and other regulations of the relevant ministries and institutions; and
- Label food with the expiration date, the producer's identity, and without any falsified marks.

2. Wholesalers and distributors

- Not to supply, wholesale or distribute food that is: (i) unsafe (or with the knowledge that it is unsafe); (ii) contrary to the safety instructions of producer; (iii) has expired; or (iv) with any falsified marks;
- Not to supply, wholesale or distribute food that is produced by producers which cannot be identified;
- Store or distribute food in accordance with the safety guidelines of the producer; and
- Store or process food in accordance with the Law and other regulations as may be determined by the relevant ministries and institutions.

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3. Retailers

- Not to sell food that is: (i) unsafe (or with the knowledge that it is unsafe); (ii) has expired, (iii) with any falsified marks; or (iv) where the identity of the producer and/or the distributor is not indicated;
- Not to store or process food in an unsanitary manner; and
- Follow labelling requirements.

All pre-packaged food must be labelled in accordance with the following requirements:

- Provide information that can be traced;
- Information on the label relating to food safety and consumer protection must be written in the Khmer language. If the label is not written in Khmer language, a translation of the information in Khmer language must be included in the label;
- Provide detailed information that are regulated including nutritional information;
- Do not contain information or image that is contrary to the labelling requirements, or misleading; and
- Legible and not concealed by any outside packaging.

4. Advertisers

Advertisers shall refrain from all forms of commercial advertising that are deceitful, misleading, false, or likely to cause confusion on the quality and safety of the food, in relation to the following:

- product expectation;
- identity, type, nature, place of origin, physical or nutritional quality;
- quality, content, quantity, manufacturing method, and date of production;
- expiry date, usage guidelines and terms; and
- methods of sales, product availability, and price.

Advertisers are also prohibited from providing exaggerated warranties.

B. Imported and exported food

The importation of food shall meet the requirements set out in the Law and other relevant regulations in force at the material time. If the importation of food fails to comply with the Law and relevant regulations, the imported food will be exported back, reprocessed, relabelled for reinspection, or destroyed, as the case may be.

The exportation of food must meet the requirements of the destination country pursuant to the relevant multilateral, regional or bilateral agreements to which Cambodia is a party.

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C. Power of the relevant authorities

The Ministry of Commerce ("**MOC**") is the regulatory agency that oversees the implementation of the Law. It has the authority to coordinate with other ministries and institutions to ensure the quality and safety of food in Cambodia.

Depending on the location, activities and types of food, the relevant ministries or institutions are authorised to: (i) issue food requirements; (ii) put in place inspection process; (iii) investigate; (iv) seize foods that are harmful to human health; and (v) request the National Standards Council to prepare technical food regulations. The food inspection officer appointed by MOC and the relevant ministries or institutions has the authority to check and observe the market for products that are high-risk, take samples to analyse at the laboratory, as well as investigate offences as a judicial police officer.

D. Penalties

Under this Law, there are two types of penalties that may be imposed: administrative penalties and criminal penalties. Administrative penalties include written warnings, suspension or revocation of a permit, certificate or licence, or business closure. Criminal penalties include provisional fines, fines, or imprisonment.

Depending on the nature of the offence, an errant food business operator is subject to the following provisional fines:

Penalty (Range)	Offences
KHR500,000 (approx. US\$125) - KHR8 million (approx. US\$2,000)	Commission of any act listed under Article 34 of the Law such as operating food business without a permit, and storing or processing food in an unsanitary manner
KHR2 million (approx. US\$500) - KHR20 million (approx. US\$5,000)	Non-compliance with food requirements under Article 6 of the Law such as those relating to the safety, quality and suitability of the food for human consumption, and nutritional information of the food
KHR5 million (approx. US\$1,250) - KHR10 million (approx. US\$2,500)	Non-compliance with the advertising requirements under Article 18 of the Law such as employing deceitful, misleading or false advertisement
KHR10 million (approx. US\$2,500) - KHR 20 million (approx. US\$5,000)	Non-compliance with labelling requirements

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A food business operator who continues to commit the abovementioned offences is subject to a provisional fine twice the amount of the first provisional fine, as well as other administrative penalties such as written warning, suspension, or revocation of a permission letter, certificate, or license.

In addition to the above administrative penalties, the errant food business operation may also be subject to the following criminal penalties:

Criminal Penalty	Offence
Imprisonment from six months to two years and a fine from KHR 1 million (approx. US\$250) to KHR 4 million (approx. US\$1,000)	Supply, wholesale, distribution or sale of expired food (applicable to food business operator of a factory or a small or medium enterprise)
Imprisonment from two years to five years and a fine from KHR 200 million (approx. US\$50,000) to KHR 400 million (approx. US\$100,000)	Production, processing, packaging, or sale of food with the knowledge that it contains toxins or harmful substances that exceed the permitted levels
Imprisonment from five years to 10 years and a fine from KHR 200 million (approx. US\$50,000) to KHR 400 million (approx. US\$100,000)	If the production, processing, packaging, or sale of food with the knowledge that it contains toxins or harmful substances that exceed the permitted levels, causes serious harm to the consumers' health and safety
Imprisonment from seven years to 15 years and a fine from KHR 200 million (approx. US\$50,000) to KHR 400 million (approx. US\$100,000)	if the abovementioned act causes permanent disability or death of the consumer

A legal entity can be declared criminally responsible for the commission of the above offences pursuant to Article 42 of the Cambodian Criminal Code. The entity will be subject to penalties determined under the Cambodian Criminal Code as listed under Article 40 of the Law.

If you have any queries on the above, please feel free to contact our team members below who will be happy to assist.

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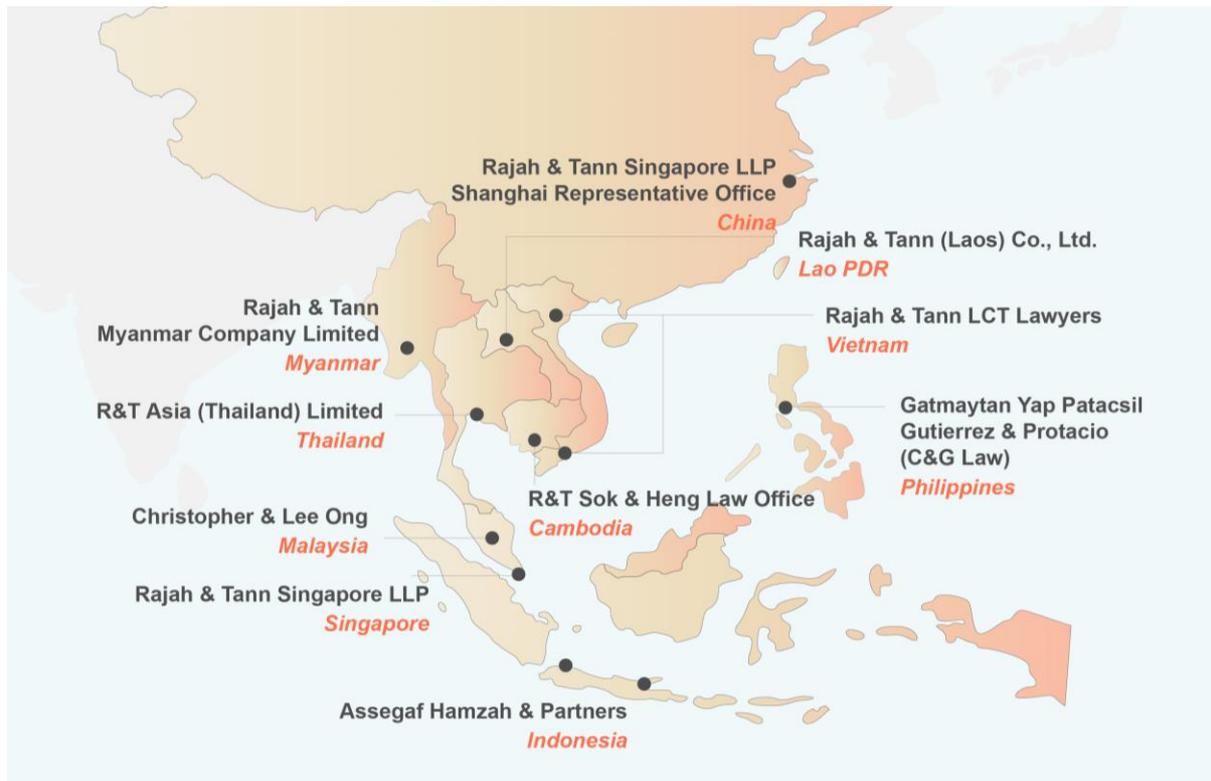
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