

THE NEW FOOD ACT

On June 9, 2020, almost 3 years after the start of the public discussions procedure, the new Food Act (the "Act") was promulgated in the State Gazette, issue no. № 52. It repeals the old law, in force since 1999, and aims to harmonize Bulgarian legislation with European legislation, introducing new concepts, new registration obligations and higher sanctions. In the text below you will find some of the more important legislative changes.

I. NEW CONCEPTS

What is a "business operator"?

This is the **person who produces, processes and / or distributes food**, and under distribution the Law refers to every stage of food distribution, such as storage, transportation, trade, import and export of food. Namely, the business operator is the person responsible for compliance with legal requirements in the food sector, including:

- have information on food, animals and materials used in the production, processing and / or distribution of food under its control;
- to provide the necessary assistance to the administrative bodies for limitation and liquidation of a food disease which has emerged.

What is a "site"?

This is any unit **in which an entrepreneurial activity is carried out for profit or without profit, related to any stage of the production, processing and / or distribution of food**, and includes: land (including land under water) with or without buildings, an undertaking, a vehicle (including a boat, a ship, an airplane, a railway wagon or other); mobile, temporary, movable or open site.

The law sets special requirements for persons working in such a facility:

- They are subject to preliminary and periodic medical examinations;
- At least one person employed on an employment contract who has:
 - higher or secondary special education in the food industry, or
 - a professional qualification with specialized in the food industry, or
 - higher education with a specialism of "Veterinary Medicine", or
 - higher education in the professional field "medicine" or "pharmacy", when the subject is for the production of nutritional supplements, foods intended for use in intense muscular load, and

foods intended for infants and young children, as well as foods for special medical purposes and foods that contain vitamins, minerals and some other substances

** Hiring a person on an employment contract is not required when the site is managed by a business operator, who meets at least one of the above mentioned requirements for education.*

II. WHAT IS SUBJECT TO REGISTRATION?

• Carrying out production, processing and / or distribution of food

Production, processing and / or distribution of food is registered or approved at the location of the site, and the competent authority is the director of the Regional Directorate for Food Safety ("RDFS"). **Public registries of business operators and food outlets will be maintained on the websites of the Bulgarian Food Safety Agency (BFSA) and the Ministry of Health-Care.**

** The competent authority for registration in the production of bottled natural mineral, spring and dining water is the director of the regional health inspection.*

• Production and wholesale trade of materials and objects intended to come into contact with food is carried out after registration

Competent authorities for registration are the directors of RDFS at the location of the site.

• Food transport vehicles

Vehicles used to transport certain types of food, namely: food of animal origin, flour, bread, bakery and confectionery, **must be registered** and have the appropriate **registration sticker**. The vehicles for transportation of all other types of food are announced by the business operator in the site registration procedure. The competent director of the RDFS is the one at the registered office of the business operator.

** Vehicles of a business operator registered by a competent authority of another Member State of the European Union are not registered.*

• Distance food trade

Distance food trade can only be done after registration. The competent authority is the director of the RDFS at the location of the site or of the headquarters of the means of distance communication.

Distance trade for food for infants and young children, and for food for special medical purposes is prohibited.

An ordinance of the Minister of Agriculture, Food and Forestry is forthcoming, which will establish specific requirements for distance food trade.

- **Foods intended for infants and young children, foods for special medical purposes and foods containing vitamins and minerals**

When such foods are placed on the market for the first time on the territory of the Republic of Bulgaria, **business operators are obliged to submit a notification to the Minister of Health-care.** The Minister issues an opinion on compliance or non-compliance of the food with the normative requirements, which is sent to the respective business operator and to the BFSA. If there is compliance with the regulatory requirements, the competent authority **shall enter** the information listed in the provisions of the law regarding the specific food (type and name, composition, purpose, etc.) **in the national registry on the website of the BFSA.**

With amendments to the Law, adopted only a month and a half after its promulgation, namely on 21.07.2020, no. 65 of the State Gazette, the adoption of a special **ordinance on the requirements for safety and quality of food offered in kinder gardens, school canteens** and retail outlets on the territory of schools and kinder gardens, as well as food offered at **organized events for children and students**, is provided for. This will be the next step in strengthening the food control and quality for the smallest children.

- **Nutritional supplements and foods for use in intense muscle load**

The competent authority for **registration of nutritional supplements and foods intended for use in intensive muscle load** is the BFSA Executive Director, to whom an application is submitted in a form before placing the respective nutritional supplement or food on the Bulgarian market for the first time. The registration is done by registration in the **national registry on the website of the BFSA.**

Sanctions:

- A fine or a property sanction in the amount of **BGN 4,000 to 6,000** is imposed on a business operator that carries out activity **without the necessary registration** or approval.
- The same sanction is imposed in the case of **non-fulfilment of the obligation to notify, failure to provide access**, etc.
- A business operator, who **transports food with unregistered vehicles**, when registration is required, shall be punished by a fine or a property sanction in the amount of BGN 2,000 to 3,000.
- For **systematic violations of the law**, the fine or the property sanction is **five times** the highest fine or property sanctions imposed.

III. "PRODUCED IN BULGARIA" AND "PRODUCT FROM BULGARIA"

The new Food Act introduces two specific new concepts, namely labels on the products "*Produced in Bulgaria*" and "*Product from Bulgaria*".

What products can be labeled "*Produced in Bulgaria*"?

The label is placed on primary products that are harvested on the territory of the Republic of Bulgaria.

What products can be labeled "*Product from Bulgaria*"?

"Primary products" that meet the following additional requirements may be labeled as "***Product from Bulgaria***":

- the main ingredient used for their production is extracted on the territory of the Republic of Bulgaria, and
- all stages of the production process are carried out on the territory of the Republic of Bulgaria.

The law allows the label "*Product from Bulgaria*" to be accompanied by a map or other symbol that contains information that the food is produced in the territory of the country.

IV. PARTICIPATION OF CHILDREN IN ADVERTISEMENTS

The new Food Act **prohibits the participation of children as performers in advertisements** or other forms of commercial communication of the following products:

- genetically modified foods and foods for which there are regulatory applied restrictions on their use by children;
- foods that contain nutrients and substances with a nutritional or physiological effect that do not meet the requirements for healthy eating according to the current regulations.

Sanction: In case of a violation of the prohibition, a fine or a property sanction of BGN 2,000 to 3,000 is envisaged.

V. PRE-EXISTING CONDITIONS

It is important to note that the adoption of the new Food Act does not necessarily mean that traders and food producers should take immediate action. The legislator has limited this only to certain entities, such as distance food traders and others.

I have issued a certificate for registration of sites for production and trade in food. Is re-registration required?

Pursuant to the Transitional and Final Provisions of the new Act, the certificates for registration of sites for production and trade with food issued before the entry into force of this Act should retain their validity for the term for which they have been issued.

I perform distance trading. Should I apply the new requirements immediately?

Persons who perform distance trading of food have three months from the entry into force of the new Act (until 09.09.2020) to bring their activities in line with legal requirements.

I trade with mineral and spring waters. How should I proceed?

All natural mineral and spring waters offered on the market as of the date of promulgation of the Act should be officially entered in the respective list by the Minister of Health, i.e. it is not necessary to submit an application for registration.

**This text does not constitute a legal advice and should not be taken into account in resolving legal disputes, but only to inform readers.*

The team of Georgiev, Todorov & Co. Law Offices remains available for assistance and additional information related to the regime for placing nutritional supplements on the market and the implementation of the new Food Act.