

**Act of, laying down rules for the
Food safety and quality in Suriname
(Food Act 2023)**

DRAFT

THE PRESIDENT OF THE REPUBLIC OF SURINAME

Having considered that it is necessary to adopt rules to further ensure the safety, quality and management of food;

Having heard the State Council, after approval by The National Assembly, has ratified the following Act:

Article 1

Definitions

For the purposes of the provisions of or under this Act, the following definitions shall apply:

- a. Minister: The minister in charge of agricultural affairs;
- b. NIVS: The National Institute for Food Safety Suriname, as referred to in section 2 of the NIVS Act (S.B. 2021 no. 19);
- c. Codex: The Codex Alimentarius, is a collection of standards, guidelines and codes of conduct adopted by the Codex Alimentarius Commission. The Commission, also known as CAC, is the central part of the FAO/WHO joint programme on food standards;
- d. Food: any substance and product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be, consumed by humans as well as any substance intentionally added to food during its manufacture, preparation or treatment;
- e. Food law: the legal regulations relating to food in general and food safety in particular, in the context of the production, processing and distribution of food, as well as of feed produced for, or fed to, food-producing animals;
- f. Food business: A company or part of an company, whether public or private, which operates, whether for profit or not, at any stage of the production, processing and distribution of food or feed;
- g. Operator: natural or legal person responsible for the compliance with the requirements set out in food legislation in the business under his control.

Prohibition articles

Article 2

1. It is prohibited to produce, import and or sell a foodstuff, which is in violation of the rules and regulations established by the NIVS, if it:
 - a. is contaminated with substances, which are harmful to consumers' health;
 - b. deemed unfit for consumption;
 - c. was handled under unhygienic conditions;
 - d. falsified;
 - e. treated with additives, pesticides and veterinary drugs;
 - f. is enriched with nutrients;
 - g. considered new;
 - h. contains ingredients covered by the protection of international regulations.
2. It is prohibited to import and or sell feed, in violation of the rules and regulations adopted by the NIVS and or because they are intended for food-producing animals and under the feeding conditions applied would result in unsafe or contaminated food or food deemed harmful to human health.
3. It is prohibited to manipulate food, its label or its packaging with the intention of rendering the food harmful to health or raising fears that it may become harmful to health.
4. Threatening to make a food product harmful to health is prohibited.
5. It is prohibited to spread false or misleading information about food with the intention of causing well-founded fear in others, including information about food processing.
6. The labelling, advertising, packaging, handling and processing of a foodstuff in a manner that may be considered inaccurate or misleading or that may create a false impression as to its nature, value, quantity, composition, merit or safety or that contravenes regulations to be developed by the NIVS in this regard is prohibited.
7. The NIVS shall lay down further rules and guidelines for the provisions under paragraphs 1 to 6.

Food company registration and approval

Article 3

1. To operate as a food company, registration and recognition by the NIVS is required.
2. The requirements and procedures for the registration and recognition referred to in paragraph 1 shall be established by the NIVS.

Designation of Conformity Assessment Body

Article 4

1. Conformity assessment bodies may be authorised by the NIVS, upon their request, to verify compliance with national and international food safety requirements in order to ascertain compliance with rules to be established by the NIVS.
2. The requirements and procedures for obtaining the authorisation shall be established by the NIVS.

Food and feed exports

Article 5

1. Export of food and feed requires an export certificate issued by the NIVS.
2. The NIVS may exempt certain companies from the provisions of paragraph 1.
3. The NIVS may grant exemptions from paragraph 1 for certain food and feed products.
4. The requirements and procedures for obtaining the export certificate referred to in paragraph 1, as well as the exemption referred to in paragraphs 2 and 3, shall be determined by the NIVS.

Public access to information

Article 6

1. A food business operator may be required by the NIVS to disclose information about the production or handling of food if the NIVS demonstrates that such information is necessary in the public interest or to ensure food safety.
2. Disclosure requirements and procedures are set by the NIVS.

Recall

Article 7

1. NIVS may impose the food business operator to recall a locally produced or imported food if it is found to be unfit to be kept on the market and/or does not comply with the provisions of Article 2.
2. The requirements and procedures for recall are set by the NIVS.

Monitoring and oversight

Article 8

1. The control and oversight on compliance with the regulations and provisions given by or pursuant to this Act shall be entrusted to the NIVS and its divisions.
2. The powers given to the NIVS, under the NIVS Act, shall apply without prejudice to this Act.
3. The NIVS may set further rules with regard to monitoring and compliance.

Contact point of food safety-related bodies and networks

Article 9

NIVS serves as the contact point of CODEX and other food safety-related bodies and networks, including the International Food Safety Authorities Network (INFOSAN).

Confidentiality obligation

Article 10

A person performing any duty pursuant to the application of this Act or regulations issued or decrees made pursuant to this Act shall be prohibited to use, disclose further or otherwise, any data or information provided or received pursuant to this Act than for the performance of its duty or required by this Act, unless it is information that must be disclosed for the protection of public health if circumstances so require.

Penalties

Article 11

1. Violation of the provisions of Articles 3, 4, 5, 6 and 7 shall be punishable by imprisonment for up to one year and a fine of the third category.
2. Violation of the provisions of Article 2 paragraphs 1 and 2 and Article 10 shall be punishable by imprisonment for a term not exceeding four years and a fine of the second category.
3. Violation of the other prohibitions, regulations and obligations imposed by or pursuant to this Act shall be punishable by imprisonment for a term not exceeding one year and a fine of the third category, or by either penalty.
4. The offences punishable under paragraphs 1 and 2 are crimes and the offences punishable under paragraph 3 are infringements.

Investigation

Article 12

1. Besides the persons designated in or pursuant to Article 134 of the Code of Criminal Procedure, the inspectors as referred to in Article 27 of the NIVS Act shall also be entrusted with the investigation of the offences punishable under this Act.
2. The inspectors referred to in paragraph 1 must become Special Police Officers (BAvP).
3. The inspectors must, when performing their duties, carry an identity document issued by the Director of NIVS, stating their name, rank and, if necessary, area of jurisdiction. This proof of identity must be shown on request. Further rules for the identification of inspectors may be set by ministerial decree.
4. The officers referred to in paragraph 1 are authorised, in accordance with Articles 113 to 116 and Articles 82 to 90 of the Code of Criminal Procedure, to enter a residential property and some special locations and authorised to seize,
5. Objects with which offences have been committed may be forfeited in accordance with Article 50 of the Penal Code and TITLE VII Complaint Code of Criminal Procedure, in conjunction with Article 5 of the Economic Offences Act.
6. The sale of seized goods shall take place under the supervision of the NIVS in accordance with Article 82 et seq. of the Code of Criminal Procedure.
7. If items seized include perishable goods or items, the General Prosecutor may authorise the immediate sale of those goods or items.
8. The proceeds of the goods or items referred to in paragraph 6 of this article shall be credited to the account of NIVS.

Transitional provisions

Article 13

1. At the time of entry into force of this Act, the Foodstuffs Act 1911 (G.B. 1911 no. 25, text in force G.B. 1953 no. 134) shall be repealed.
2. The rules to be set by the NIVS shall be ratified by or pursuant to a state decree.

Final provision

Article 14

1. This Act may be cited as "The Food Act 2023".
2. It will be promulgated in the Official Gazette of the Republic of Suriname.
3. It takes effect from the day following its promulgation.
4. The Minister of Agriculture, Livestock and Fisheries is in charge of implementing this Act.

At Paramaribo, the

CHANDRIKAPERSAD SANTOKHI

**Act of, regulating the safety
of food in Suriname
(Food Act 2023)**

EXPLANATORY MEMORANDUM

General:

On 18 December 2020, a law was unanimously adopted by the National Assembly of Suriname announcing the establishment of the National Institute for Food Safety Suriname (NIVS) as the primary regulator of food safety in Suriname.

The law was signed by the President of the Republic of Suriname on 28 January 2021 and published in the Official Gazette of 2021 No 9 on 9 February 2021.

The NIVS was established with the aim of bringing together key food safety responsibilities and addressing some of the limitations that have been identified over time with regard to the functioning of the food control system, particularly with regard to the functioning of and coordination between Suriname's food competent authorities.

As the main food safety regulator in Suriname, the NIVS strives to modernise the food safety legislative and regulatory framework to support the development of an enabling environment for the food and agri-food sector and to embed food safety regulatory decisions in science.

The Food acts, including food regulation provisions, will be developed and promulgated in accordance with the following well-defined principles and values:

1. All decisions are evidence-based and, in particular, anchored in the principles of risk analysis
2. Consultation and participation of national and international stakeholders, to meet national and international/World Trade Organisation (WTO) obligations, prior to and during the development of food control decisions.
3. Transparency of food regulatory decisions by making public the scientific assessments, studies and other data underlying the food regulatory decisions to be developed and adopted by the NIVS.

That said, the primary responsibility for food safety rests with the food business operator.

The policy options considered recent improvements in food safety and food control legislation in the United States (Food Safety Modernisation Act, 2011), Canada (Safe Food for Canadians Act, 2012), Guyana (Food Safety Act 2019) and other Caribbean countries that have revised their food safety and food control legislation in the last 10 years (2010-2020).

The policy directions are also in line with the initial directions given when the NIVS Act was discussed and passed:

- ❖ Strive for a single food regulator in charge of the various food regulatory tasks (standard setting, inspection, compliance monitoring, enforcement) and supporting activities, such as risk assessment and education and communication.
- ❖ Strive to follow international best practices and, more specifically, guidelines from the Codex Alimentarius Commission.

The new food law will focus on the mandate of the NIVS as the primary and only food authority in Suriname, mirroring its mandate to that of the Codex Alimentarius Commission.

The development of Suriname's new food legislation aims to address a number of challenges including:

- ❖ The outdated nature of the current food safety legislation, which dates back to 1911,
- ❖ The fragmented and limited supervision of food companies in Suriname,

In addition, there are a series of drivers that have led to the complete overhaul and renewal of Suriname's food legislation, including:

- ❖ The need to embed food safety decision-making in the science and analysis of food risks, with the primary objective of protecting consumer health, to enable a fair environment for trade in food and agri-food products, with the potential to address emerging food safety and food quality issues, including growing concerns about the development of food fraud and other food adulteration practices,
- ❖ The need to revamp food safety monitoring, requiring food business operators to take the lead in developing and implementing food safety measures and taking preventive measures to manage food safety risks,
- ❖ The need for the NIVS to adopt food safety regulatory measures commensurate with the level of risk, and establish a culture that promotes compliance and supports the food and agri-food sector, and promotes best practices in food safety.
- ❖ The need to ensure food control in Suriname is consistent and aligned with international food safety measures, as established by the Codex Alimentarius Commission,
- ❖ Suriname's food legislation should provide an enabling environment for the development of the food and agri-food sector, with the potential to promote innovation in food products and processes, support the development of Suriname's food exports and position Suriname as a leading agri-food producer in the Caribbean and globally,
- ❖ The need to ensure that competent food authority interventions, i.e. NIVS interventions, follow the following values:
 - Transparency,
 - Engagement of all stakeholders on food,
 - Predictability of interventions
 - Evidence-based decision-making
 - Emphasis on compliance promotion in establishing food regulations.

Article by article:

Article 1

It has proved necessary to define a number of terms, in particular food business operator. This is used as a generic term for someone involved in the food chain from start to finish.

Article 2

This article is an article of prohibition, designed to order and regulate the entire food chain, also described as 'from soil to mouth' or 'from farm to fork'.

Paragraph 1(g) includes foods that are to be considered novel. They are generally referred to as "novel product", which means that the product did not exist before and therefore no information about it was known before. Therefore, the product must first be examined and found suitable before it may be imported and/or traded. This includes products manufactured using a novel process. The same rules apply to these products as to novel products.

Not only the product is the main focus of the prohibitions, but also the related elements such as packaging, handling, et cetera.

A special situation arises in cases where foodstuffs have components or residues in them, originating, for example, from plants and animals, for which the NIVS has not yet made regulations. This would imply that they are not prohibited. However, it could be that the aforementioned plants and animals do fall under the protection of international regulations, treaties to which Suriname is a party. In that case, that food will therefore fall under the category of prohibited food.

Paragraph 7 states that the NIVS may adopt further rules and guidelines in relation to the prohibitions contained in paragraphs 1 to 6.

All decisions should be evidence-based and in particular and particularly following the principles of risk analysis. This applies to the development of regulatory decisions on food safety and nutrition, both for general food regulations, such as standards, and for reactive decisions, such as in the management of food safety incidents. This approach should be assessed against the guidance and guidelines provided by the Codex Alimentarius Commission, the international body that sets food standards.

The NIVS will develop and implement food regulations with the intention of promoting compliance and application of these regulations by food business operators before proceeding with enforcement. The NIVS must demonstrate its efforts to promote compliance before proceeding with enforcement. However, it remains the right of the NIVS to take immediate action to protect consumers and the Surinamese food supply, as well as the reputation of the Surinamese food production sector, from immediate and major threats to local or imported food sources.

Food regulations will focus on preventing the introduction of food safety hazards into the food supply chain, and not on the control of finished products through finished product testing, although the latter measure may be applied as part of the food control activities of the NIVS.

Article 3

Food business operators are required to register with the NIVS before being approved by the NIVS. With the aforementioned registration, the NIVS also tries to obtain an overview of the aforementioned companies in order to monitor compliance with legal requirements..

During the aforementioned registration procedure, the administrative and technical assessment of the requirements and procedures for registration takes place.

Following registration, the recognition procedure takes effect. For the purpose of the recognition procedure, the administrative and technical assessment of the requirements and procedures for recognition takes place.

The NIVS will develop requirements for food business operators to operate as approved food businesses, including the development of food safety assurance programmes such as Good

Agricultural Practices (GAP), Good Hygiene Practices (GHP) or Good Manufacturing Practices (GMP), HACCP principles-based control procedures or the establishment of criteria for the development of such programmes, and traceability requirements.

The requirements developed will cover the entire food chain, from agricultural activities (with specific food safety requirements) to processors, retailers, importers and exporters.

Article 4

The NIVS may recognize or authorise an institution conducting conformity assessments in Suriname or abroad, whose activities relate to food products produced in Suriname or to be imported into Suriname, to act as conformity assessment body. The conformity assessment activities covered by this regulatory authority include, but are not limited to:

- third-party voluntary conformity assessment programmes, their development and implementation
- analytical work by food laboratories to support conformity assessment
- all third-party certification companies

Article 5

When food and agri-food products are exported, export certificates are often requested by the receiving party and/or country of destination. To prevent cargoes from being rejected due to the absence of such a certificate, it is stipulated that every export should be accompanied by an export certificate to be issued by the NIVS.

This power would allow the NIVS to issue export certificates subject to the fulfilment of conditions set by the party receiving the exports or requesting the issue of a certificate and/or by the NIVS.

Export certificates are **mandatory** unless they have been granted exemption by the NIVS.

Article 6

One of the pillars of the NIVS is transparency and public interest may also require disclosure of information. Therefore, the NIVS may order a company or institution to disclose information to the public and/or to another government organisation or international competent authority, including international organisations, if such information is deemed to be in the public interest to protect the health and safety of consumers domestically and/or internationally.

This provision would therefore remove the obligations that the NIVS may have to respect confidential business information (CBI) when it is shown that action needs to be taken on the basis of such information to protect the health and safety of consumers at home or abroad.

Article 7

It may happen that a food product produced and or imported here in the country can no longer be kept on the market at any given time due to being in violation of the prohibitions of Article 2. In such cases, the NIVS is authorised to order the food business operator to recall the product, regardless of the stage within the food chain, including the stage at which the product reaches the consumer.

Article 8

The control and supervision of compliance with this Act is entrusted to NIVS. NIVS is authorised to use specific instruments in exercising the **regulatory oversight**, including the manner in which regulations are issued. The instruments to which such powers would apply include:

- ❖ The possibility of recognising food control systems developed by a third party, including bodies developing food safety and quality schemes (e.g. Voluntary Third Party Conformity Assessment Schemes), or by other countries or competent authorities, insofar as they relate to an area monitored by the NIVS.
- ❖ The possibility of including, by reference to a rule or provision adopted by the NIVS, text developed by a trusted third party designated by the NIVS, including:
 - The Codex Alimentarius Commission.
 - A regional food standardisation or regulatory organisation, e.g. Caribbean Agriculture Health and Food Safety Agency (CAHFSA).
 - Another government or competent authority.
 - An authoritative scientific or technical organisation recognised by the NIVS.

Article 9

This provision mandates NIVS to act as official host and exercise the coordination function for:

- ❖ The Codex Alimentarius Commission.
- ❖ The international network of food safety agencies: INFOSAN.

Article 10

It is important to ensure the confidentiality of confidential matters.

Article 11

These penal provisions have been drafted in line with those found particularly in the Penal Code and Code of Criminal Procedure. A distinction has been made between offences and crimes.

Article 12

The investigative powers granted to inspectors require these officers to be appointed and sworn in as extraordinary police officers.

Paragraph 7 includes the possibility of offering for sale products that have been seized and are subject to spoilage with the permission of the Attorney General. The rationale behind this is to minimise losses. It would also be a waste to see a considerable quantity of foodstuffs suitable for consumption perish. If the products referred to in paragraph 6 are sold, the intention is that the proceeds will benefit the NIVS.

Before selling, the NIVS must inspect the condition and quality of relevant items and goods. If the quality requirements set for the sale are not met, the NIVS must proceed to destroy such goods or items.

Article 13

Paragraph 1 explicitly states that when this Act comes into force, the old Food Act of 1911 will be repealed. As a result, other regulations relating to food safety will remain in force. Considered here are, among others, the standards set by the Standards Bureau.

Paragraph 2 states that rules adopted by the NIVS shall be ratified by or pursuant to a state decree. This ensures that these rules are given general effect.

Paramaribo, the

CHANDRIKAPERSAD SANTOKHI

DRAFT 4 May 2023