



WORLDWIDE

SINGAPORE
**LEGAL
GUIDE**
FOOD DONATION
LAW AND POLICY

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About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws on food donation to help address food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe in order to help practitioners understand national laws relating to food donation, compare laws across countries and regions, analyze legal questions and barriers to donation, and share best practices and recommendations for overcoming these barriers. The project is a collaboration between Harvard Law School Food Law and Policy Clinic and The Global FoodBanking Network. To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

FLPC serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. FLPC focuses on increasing access to healthy foods; supporting sustainable food production and food systems; and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/FLPC.



About The Global FoodBanking Network

GFN is an international non-profit organization that nourishes the world's hungry through uniting and advancing food banks in more than 40 countries. GFN focuses on combating hunger and preventing food waste by providing expertise, directing resources, sharing knowledge and developing connections that increase efficiency, ensure food safety, and help food banks reach more people facing hunger. For more information visit www.foodbanking.org.



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INTRODUCTION

Purpose of this Guide

Food loss and waste is one of the greatest food system challenges that we face today. An estimated one-third of food produced globally is ultimately lost or wasted along the supply chain;¹ this amounts to approximately 1.3 billion tons of food each year that ends up in the landfill.² Food loss or waste occurs at every stage of the food system: during the initial harvest due to low market prices, because of high labor costs and demand for perfect-looking produce; by grocery stores and restaurants overestimating customer demands; and by consumers who engage in inefficient shopping and cooking practices and lack a clear understanding about date labels.³

These behaviors have significant environmental, economic, and social consequences: food that is ultimately lost or wasted has a huge carbon footprint of 3.3 gigatons,⁴ using roughly 28% of agricultural land⁵ and accounting for 8%, or 70 billion tons, of total global greenhouse gas emissions.⁶ Collectively, this damage costs approximately US\$940 billion per year.⁷ Meanwhile, more than 820 million people are undernourished and one in nine is food insecure.⁸ The international community has sought to address this paradox and mobilize the reduction of food waste, especially within the framework of the *2030 Agenda for Sustainable Development* and Sustainable Development Goal 12.3.⁹

In many countries, food donation has emerged as a popular and logical solution to redirect safe, surplus food destined for landfills into the hands of those who need it most. Most food donations are facilitated through food banks or other charitable, nongovernmental organizations that recover surplus, wholesome food and redirect it to local beneficiary agencies (such as soup kitchens, shelters, and community pantries) to feed low-income, food-insecure persons. As food insecurity, food loss, and food waste continue to rise, new, innovative models of food recovery have emerged around the world.

However, uncertainty surrounds the laws and regulations most relevant to food donation. To help address the most pressing questions, the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN) have partnered to create The Global Food Donation Policy Atlas.¹⁰ This innovative partnership maps the laws and policies affecting donations in 14 countries over the course of two years. The project aims to identify and explain national laws relating to food donation, analyze the most common legal barriers to promoting greater food donation, and share best practices and recommendations for overcoming these barriers.

THE PROJECT AIMS TO IDENTIFY AND EXPLAIN NATIONAL LAWS RELATING TO FOOD DONATION, ANALYZE THE MOST COMMON LEGAL BARRIERS TO PROMOTING GREATER FOOD DONATION, AND SHARE BEST PRACTICES AND RECOMMENDATIONS FOR OVERCOMING THESE BARRIERS.

This Legal Guide focuses on Singapore, where the amount of food wasted has increased by 20% over the past 10 years. In 2019, 744,000 tons of food waste was generated.¹¹ FLPC and GFN, in collaboration with partners in Singapore,¹² developed this resource to help food donors, food banks, and other intermediaries (hereinafter collectively referred to as “food recovery organizations”) understand the relevant legal frameworks that impact food waste and donation efforts. This Legal Guide also serves as a resource for those in other countries that are looking to inform their own food donation laws and policies.

After providing initial commentary on food loss and recovery in Singapore, this Legal Guide provides an overview of the legal frameworks most relevant to food donation at the national and local levels. The subsequent sections look closely at the laws generally applicable to food donation: food safety laws and regulations, food date labeling laws, “Good Samaritan” or liability protection laws, tax incentives for food donation and/or tax

policy disincentives, and waste diversion laws that penalize food waste or require recovery. The extent to which Singapore has developed and subsequently implemented these legal frameworks compared to other countries may vary.

State of Food Insecurity, Food Loss, Waste, and Recovery in Singapore

Singapore residents enjoy a relatively affordable supply of readily available food. In the 2019 edition of the Economist Intelligence Unit's Global Food Security Index, which was published prior to the COVID-19 pandemic, Singapore ranked first as the most food-secure nation in the world.¹³ It excelled in the categories of "affordability," "availability," and "quality and safety of food," ranking 2nd, 2nd, and 25th respectively.¹⁴ Singapore achieved this standard of security despite more than 90% of its food being imported.¹⁵

Only around two square kilometers (200ha) of land was used for land-based food farms in 2019, occupying less than 1% of Singapore's total land area.¹⁶ Due to the import-reliant nature of Singapore's food supply, diversification is a major priority. Singapore sources food from more than 170 countries, which totaled S\$15.57 billion (US\$10.9 billion) of imports in 2014.¹⁷

To ensure and secure the future supply of food in Singapore, the Singapore Food Agency (SFA) uses three main strategies: (1) diversify import sources, (2) grow local, and (3) grow overseas. The second strategy works in conjunction with SFA's ambitious goal of meeting 30% of Singapore's nutritional needs with local produce by year 2030 through giving S\$30 million in grants to local producers.¹⁸ Over the past five years, S\$38 million from the Agriculture Productivity Fund has been committed to support about 100 farms in their efforts to raise productivity and build resilience against climate change.¹⁹ Another S\$144 million from the National Research Foundation has been committed to fund agrifood research.²⁰ Singapore recently released a new packaging seal to help consumers identify local produce to support local farms.²¹

The average Singapore household has a relatively high gross domestic product (GDP) per capita (US\$64,581.94 in 2018). With no tariffs on food, food expenditures are a relatively small part of household budgets—less than 10% by government statistics.²² This compares with neighboring countries in which household expenditures on food are between 30% and 45% of household incomes.²³ Despite the relative affordability of food in Singapore, reports suggest that approximately 1 in 10 Singaporeans experience food insecurity.²⁴ While Singapore's gross domestic output outranks that of developed economies like Germany and the United States in some measures, the wealth gap is among the widest in advanced economies in Asia after Hong Kong.²⁵ Singapore's welfare system is housed under the Ministry of Social and Family Development and covers childhood education, transportation subsidies for disabled individuals, and medical care assistance for elderly citizens. While programs such as ComCare distribute funds for those in need, Singapore does not have a specific governmental food assistance program.²⁶

FOOD WASTE IS ONE OF THE BIGGEST WASTE STREAMS IN SINGAPORE, AND THE AMOUNT OF FOOD WASTE GENERATED HAS GROWN BY AROUND 20% OVER THE LAST 10 YEARS.

At the same time, food loss and waste represent major social challenges in Singapore. According to the National Environment Agency (NEA), food waste is one of the biggest waste streams in Singapore, and the amount of food waste generated has grown by around 20% over the last 10 years.²⁷ In 2019 Singapore generated around 744 million kilograms of food waste. That is equivalent to two bowls of rice per person per day for the entire year or the size of about 51,000 double-decker buses.²⁸ Food waste makes up roughly half of the average 1.5 kilograms of waste generated by each household in Singapore every day.²⁹ A study conducted by Singapore's Environment Council in partnership with Deloitte found that much of this food loss (393,000 tons) is happening

“upstream” (production) and “midstream” (processing and transportation) due to “poor disease and pest management; over importation of food items; cosmetic standards; fragmented cold chain management; and inadequate infrastructure,” among other drivers.³⁰ Importantly, the study specifically notes that the lack of “provision that protects entities from liabilities when they donate food to charity” as one of the key midstream drivers and recommends introducing “policies to safeguard entities from liabilities.”³¹ Further, the study notes drivers of “downstream” waste, which include confusion around expiry date labels among consumers, lack of penalty for improper disposal, and “limited policies to encourage redistribution.”³² The study proposes that adopting clearer definitions or adjusting the labeling scheme, introducing policies to discourage food waste disposal and incineration, and facilitating increased donation of unsold foods (e.g., from hotels, restaurants, and cafeterias) will be effective mitigators of food loss and waste in Singapore.³³

Singapore by the Numbers

Population 5,703,569	Global Hunger Index Not measured	World Bank Classification High income
Median Age 42.2 years	Global Food Security Index 87.4	Human Development Index 0.938
GDP US\$372.1 billion	GINI Index Not measured	FLW Estimates 763,000 tons
Poverty Rate 10%	Food Sustainability Index Not measured	

Source: The Global FoodBanking Network, Dec. 2020

The Singapore government strongly emphasizes reducing food loss and waste as part of its dedication to national food security and overall sustainability initiative. Guidance from the official “Towards Zero Waste” government campaign outlines Singapore’s goal to reduce the amount of waste (per capita) sent to landfills 30% by 2030 on top of an existing target to achieve a 70% overall recycling rate by 2030.³⁴ The government is focused on reaching this goal by trimming the percentage of food spoiled and by recycling the by-products. For example, the Singapore government enacted the Resource Sustainability Act in 2019 to address food waste by mandating that large commercial and industrial food waste generators develop the infrastructure for on-site waste treatment.³⁵ To date, the focus has been more on food waste treatment and repurposing than on using food donation as a strategy to keep safe, edible food in the food stream to alleviate food insecurity in Singapore.

THE SINGAPORE GOVERNMENT STRONGLY EMPHASIZES REDUCING FOOD LOSS AND WASTE AS PART OF ITS DEDICATION TO NATIONAL FOOD SECURITY AND OVERALL SUSTAINABILITY INITIATIVE. HOWEVER, TO DATE, THE FOCUS HAS BEEN MORE ON FOOD WASTE TREATMENT AND REPURPOSING THAN ON USING FOOD DONATION AS A STRATEGY TO KEEP SAFE, EDIBLE FOOD IN THE FOOD STREAM TO ALLEVIATE FOOD INSECURITY IN SINGAPORE.

Scaling up current agency operations to divert food waste and investing in new solutions to hunger and food waste require recognizing and understanding the laws that apply to food donation. The remaining sections of this Legal Guide provide an overview of Singapore’s food donation legal framework and address the issues most likely to arise for food donors, food recovery organizations, policymakers, and other interested stakeholders.

OVERVIEW OF SINGAPORE'S FOOD DONATION LEGAL FRAMEWORK

A former British colony, Singapore gained independence in 1965, and its legal system is based on English common law.³⁶ The constitution comprises the fundamental principles and basic framework for the three organs of state: (1) the executive, which consists of the president, prime minister, and other ministers responsible for government affairs and accountable to the Singaporean Parliament; (2) the legislature, which consists of the president and Parliament with its legislative authority responsible for enacting legislation; and (3) the judiciary, which comprises the various courts of law that operate independently of the executive and legislature.³⁷ As a small island nation, all power of law is central to the national government.

Major areas of law such as contract and tort law are judge-made common law. However, other areas of law (e.g., property, criminal, company, and family law) are governed primarily by statutes.³⁸ Singapore's law is founded on four pillars: constitution, legislation, subsidiary legislation, and legal decisions made by judges.³⁹ Subsidiary legislation, or subordinate legislation, consists of written laws made by ministers or other administrative agencies such as government departments and statutory boards under the authority of a statute (called the "parent" act or statute), not directly by Parliament.⁴⁰ Otherwise, legislation, or statutory laws, are enacted by the Parliament.⁴¹

The Singaporean Parliament is unicameral. It comprises 93 elected members (MPs) as well as two appointed nonconstituency members (NCMPs) and nine nominated members (NMPs).⁴²

National Food Laws

Sale of Food Act

The Sale of Food Act (SOFA) was first enacted in 1973 and most recently revised in 2005.⁴³ This Act is the primary food legislation in Singapore. It regulates food for sale to ensure it is safe and suitable for human consumption and to promote public health. It also mandates the provision of "information relating to food to enable consumers to make informed choices and [to prevent] misleading conduct in connection with the sale of food."⁴⁴ SOFA governs national food safety, manufacturing, processing, distribution, sale, and import/export. It also mandates the licensing of nonretail food businesses (such as manufacturing or processing plants)⁴⁵ by the Director General under Part IV. SOFA contains provisions prohibiting the adulteration of foods; restricting the use of food additives or processing aids; prohibiting misleading or deceptive advertising, labeling, and unfair trade practices; and prohibiting the import, advertising, or sale of food that is substandard, unsafe, or misbranded. In particular, because Singapore is an import-reliant nation, imported food is also subject to requirements to ensure the food is safe and suitable for human consumption and to support a secure and reliable supply of imported food in Singapore. Requirements include keeping records of the source, traceability, and handling of imported food.⁴⁶ Noncompliance with or violation of the food safety provisions within SOFA may lead to monetary penalties not exceeding S\$10,000, to imprisonment for a term not exceeding 12 months, or both.⁴⁷

THE SALE OF FOOD ACT REGULATES FOOD FOR SALE TO ENSURE IT IS SAFE AND SUITABLE FOR HUMAN CONSUMPTION AND TO PROMOTE PUBLIC HEALTH.

SOFA applies to those holding a food business license, proprietors of food businesses or food premises, manufacturers, importers, exporters, or persons in the business of selling or supplying (wholesale or retail) any food or food contact article.⁴⁸ Under Section 2B(1), SOFA defines "food business" to include food production,

sale, or handling “regardless of whether the business, undertaking or activity concerned is of a commercial, charitable or community nature.”⁴⁹ Under Section 2E(3)(b), SOFA states when defining the meaning of “sell” that “food that is donated for a charitable or benevolent purpose is *not to be taken* to be food that was given away for the purpose of advertisement or in furtherance of trade or business.”⁵⁰ As such, charitable food donation is considered “food business” but donated food is not considered under the definition of “sell.” SOFA does not include any further specific provisions for donated foods.

The Food Regulations, promulgated under SOFA, regulate food labeling requirements, nutrition panels, acceptable claims and marketing, date marking, and registration of imported foods.⁵¹ In addition, the Food Regulations govern food additives and permissible levels of contamination in food.⁵² The Singapore Food Agency (SFA) is responsible for enforcing the Food Regulations under SOFA.

Singapore Food Agency Act

The Singapore Food Agency Act of 2019 formed SFA to consolidate all food-related functions, then carried out by the Agri-Food and Veterinary Authority of Singapore (AVA), National Environment Agency (NEA), and the Health Sciences Authority (HSA).⁵³ Prior to the creation of SFA, NEA produced much of the government guidance on food waste and donation. SFA supports the regulation and production of all food in Singapore, from produce to animal feed, to ensure a safe food supply that promotes public health and keeps consumers adequately informed. This mandate to minimize food safety risks includes monitoring the processing and handling of food across the supply chain and regulating hygiene and operating procedures of premises, vehicles, and equipment used for handling and supplying food.⁵⁴ SFA also regulates street hawking, trade fairs, fisheries, agribiotechnology, agrotechnology, and food biotechnology.⁵⁵ Education initiatives, personnel training, and public information campaigns are also in SFA’s purview, with the aim to increase public and industry awareness of food supply resilience, food safety, food standards, and food labels across all food verticals. SFA also covers food import, requiring that all foods imported into Singapore comply with Singapore’s food standards.⁵⁶

In addition, SFA advises the government on matters relating to the food industry;⁵⁷ represents the government internationally on matters relating to fisheries, food businesses, food safety, or food supply;⁵⁸ collects, compiles, and analyzes data about food and publishes those results;⁵⁹ and promotes and undertakes new research.⁶⁰

Other Relevant National Law

Other important legislation includes (1) the Singapore Penal Code, which houses Singapore’s substantive criminal law;⁶¹ (2) the Consumer Protection (Fair Trading) Act under the Competition and Consumer Commission Singapore (CCS),⁶² which protects consumers against unfair practices and gives them additional rights in respect to goods that do not conform to contract; and (3) the Income Tax Act,⁶³ which sets out the structure for income taxes in Singapore.

LEGAL ISSUES RELEVANT TO FOOD DONATION

Food Safety for Donations

In many countries, a key barrier to the donation of surplus food is the lack of knowledge or readily available guidance regarding safety procedures for food donation. All donated food should be safe for consumption

and comply with applicable food safety laws and regulations. Potential donors, however, are often uncertain about which food safety regulations apply to donated food as opposed to purchased food and about the steps necessary to safely donate food in compliance with applicable regulations. As a result, safe, surplus food that could have been redirected to populations in need is instead sent to landfills.

As previously discussed, in Singapore the Sale of Food Act is the statute that lays out all national food safety standards and is applicable to any entity that is a licensee of a food business, proprietor of a food business or food premises, manufacturer, importer, exporter, or person in the business of selling or supplying (wholesale or retail) any food or food contact article. SFA is responsible for setting additional rules and standards under SOFA and enforcing the act. Under SOFA, SFA issued the Food Regulations, which seek to ensure that food imported and sold is safe and suitable for human consumption; to promote public health; and to prevent the sale of food that is unsafe, adulterated, or has misleading information.⁶⁴

Charitable organizations supplying food without profiting are also regulated under SOFA because the act explicitly applies to the supply of food without monetary consideration. Under SOFA, the definition of “sell” includes: (a) the supplying of food, whether or not for consideration, in the course of providing services to patients, children, or individuals in the care and custody of the supplier and prisoners or inmates;⁶⁵ (b) the supplying of anything of which food forms a part;⁶⁶ and (c) bartering.⁶⁷ SOFA further clarifies that “food business” can include businesses, undertakings, or activities of a charitable or community nature.⁶⁸ Conversations with stakeholders also suggest that SOFA should be interpreted as applying to donated food.

However, no written law sets out any specific or differentiated requirements or regulations that apply to food donation. Nevertheless, the Singapore government issued guidance on food safety for food donations in 2016 titled “Guidelines on Food Donation” under NEA to clarify food safety standards for the procurement, processing, and distribution of donated food.⁶⁹ The Guidelines state that provisions must be adhered to by nongovernmental organizations, food and beverage retail establishments, and food manufactures that are: (a) donating/collecting and redistributing prepackaged and perishable food items, (b) preparing and cooking food, and/or (c) transporting donated food to recipients. The Guidelines also state that food banks or food recovery organizations should not accept donated food after the expiration date and should have specific food safety instructions on when to discard food.⁷⁰ SFA has overseen food safety since its advent in 2019. Accordingly, SFA may reissue updated Guidelines or further guidance in the near future.

The Guidelines on Food Donation outline the responsibilities of donors and food recovery organizations. Donors must ensure that donated food is in good condition and properly labeled. They must inform recipients of the measures they should take to ensure the food is safe for consumption.⁷¹ Additionally, donors must ensure the donated food is held at safe food temperatures and transported within the shortest amount of time possible. Food recovery organizations that receive the donated food are responsible for checking the condition of the food upon receipt and should request information on the safety measures required to ensure safe consumption if that information is not available.⁷² The Guidelines do not specifically address penalties if the donor or recipient is noncompliant. However, they do state that the Guidelines are intended to assist actors in complying with the law set forth by the Food Regulations.⁷³ Individual food recovery organizations may implement the Guidelines from NEA as they see fit in their internal operations. Yet there does not appear to be any data on which organizations are following the Guidelines and to what extent.

Date Labeling

Date labels affixed to food products are a major driver of food waste and an obstacle to food donation. As explained in the previous section, most food donors and food recovery organizations are appropriately cautious about donating food that meets safety standards, but it is not always clear which standards relate to food safety. And, while fresh products like fruits and vegetables will appear visibly spoiled when they are no longer safe to consume, it can be more difficult to gauge when this is the case for packaged foods. Many donors interpret date labels affixed to such food products as indicators of safety and will therefore throw away food once the

“expiration date” has passed; intermediaries may refuse to accept donated food after this date, deeming the food product unfit for human consumption.

Despite this interpretation, for the vast majority of foods, date labels indicate freshness or quality rather than food safety. Manufacturers use a variety of quality-based methods to determine the time frame for label dates, all of which are intended to reflect when the food will be at its “peak quality.”⁷⁴ Nevertheless, global trends indicate that consumers generally confuse date labels as indicators of safety rather than quality. In the United Kingdom, for example, researchers found that consumers discarded about 22% of food that they could have eaten due to confusion over date labeling.⁷⁵ Similarly, 84% of Americans report that they throw away food after the expiration date passes due to safety concerns, even if there is a minimal risk of foodborne illness at that time.⁷⁶

This cycle of confusion and waste occurs in Singapore under the current date labeling regime. A study conducted by Singapore Environment Council and Deloitte found that a major cause of food waste in Singaporean homes is a misunderstanding of expiration labels. The study found that more than 80% of consumers do not fully understand the difference between the three different labels (i.e., “use by,” “best before,” and “date of expiry”) used on product packaging. These consumers cite this incomplete understanding as a contributing factor to food waste from unconsumed food.⁷⁷

In Singapore date labeling regulations are standardized under the Food Regulations, which state that all specified prepackaged foods must contain a label consisting of one of four acceptable terms as well as a day, month, and year signifying the expiry date.⁷⁸ The “expiry date” is the “date after which the food . . . may not retain its normal wholesomeness, nature, substance, and quality.”⁷⁹ Acceptable expiry dates for prepackaged foods include: “use by,” “sell by,” “expiry date,” and “best before.”⁸⁰ If the prepackaged food is raw produce, the Food Regulations require that the date of packaging be stated as one of the following: “packing date,” “packed on,” or “PKD.”⁸¹ The Food Regulations also state that “best before” has the same meaning as “use by,” and no distinction is drawn between date labels that indicate quality and date labels that indicate safety concerns.⁸² While the specific requirements for labels are contained within the Food Regulations, the authorizing Sale of Food Act includes the direction to recall food items that are mislabeled or incorrectly identified.⁸³ Thus, all prepacked foods identified in the regulation must include a date label, but there is no distinction between the meaning of the various date labels.

The Food Regulations prohibit selling food past the expiry date no matter which label is used.⁸⁴ In addition, under the Food Regulations it is forbidden to “import, sell, consign or deliver any prepacked food with an expired date mark.”⁸⁵ Part III of the Food Regulations clarifies that the law applies to any food intended for human consumption, even if such food is offered as free gifts for charity.⁸⁶ Therefore, donation after the required label expiry date is not permitted.

Liability Protection for Food Donations

A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming donated food. Unlike other countries, Singapore does not have any type of Good Samaritan law protecting food donors or food recovery organizations from civil or criminal liability resulting from food donation. As a result, donors could face civil or criminal consequences should donated food cause harm to the beneficiary. Civil liability could result from food-related injuries either under tort or contract law. However, this is incredibly unlikely, as Singapore has not had any such cases of civil liability.⁸⁷ Criminal liability would only result in rare cases of obvious harm where the donor did not act in good faith. Nonetheless, the lack of explicit liability protection is a perceived barrier to potential food donors.⁸⁸ Because of this, many individual food recovery organizations require donors to sign liability waivers in an attempt to compensate for the lack of protection.⁸⁹ Currently, a commission is looking into the possibility of providing liability protection for food donation in Singapore, led by Member of Parliament Louis Ng.⁹⁰

Civil Liability: Tort

At the time of this writing, there were no reported cases in which a plaintiff brought a civil claim against a donor or distributor for food received free of charge. The lack of civil cases is likely a result of delay and cost, among other potential barriers that may discourage potential litigants from bringing suits. Other factors that may dissuade litigation for food-related injuries resulting from food donation could include lack of access to the courthouse faced by recipients of food donations as well as community pressures not to jeopardize a source of donated food through legal action.

However, given that there is no formal immunity for food donation, it is still important to understand the requirements a plaintiff would have to meet in order for a court to find a donor or distributor liable so that donors can ensure they are limiting their potential liability.

The tort of negligence in Singapore is derived from English common law. It concerns the legal liability and consequences arising generally from negligent conduct.⁹¹ Negligence as a tort requires more than mere lack of care. A claimant that wishes to sue in negligence must show (1) that the defendant owed a duty of care to the claimant; (2) that there was a breach of this duty of care by the defendant, and (3) that the breach caused damage to the claimant, which should not be too remote.⁹² Singapore applies a two-stage framework to determine whether a duty of care exists between parties. This framework is based on proximity and policy considerations, with a threshold requirement of factual foreseeability.⁹³

It is likely that food donors or food recovery organizations owe a duty of care to their recipients. It is reasonably foreseeable that mishandling food could cause harm to the consumer of the food. Food donors or food recovery organizations would be expected to operate with a reasonable standard of care.⁹⁴ If they are found to fall short of this standard of care, a court may find that they breached their duty. However, the plaintiff would still have to prove causation or show a sufficient nexus between the donor or distributor's action and the plaintiff's injury.

Civil Liability: Contract

Contract law could also form a potential, though unlikely, basis for liability. Contract law would be relevant in cases where a consumer or intermediary pays for donated food. In Singapore, in order to establish product liability for a producer or distributor under a claim in contract law, the claimant must show that (1) a contract exists between the claimant and the defendant; (2) a term of the contract, express or implied, has been breached; and (3) the breach of the term caused damage to the claimant.⁹⁵ Contract formation requires that there be an offer, acceptance, and "consideration," or the exchange of something of value. Thus, payment for the food is likely necessary for contract law to apply, otherwise there would be no consideration involved in the transaction. In the case of *sale* of surplus food, consumer protection laws may be applicable, as Singaporean consumers have additional legal protection against unfair business practices when purchasing goods with a dollar exchange.⁹⁶ There will also be implied terms as to the quality and safety of the food sold.⁹⁷

Criminal Liability Under the Singapore Penal Code

Criminal law in Singapore is contained primarily within the Singapore Penal Code (Cap. 224).⁹⁸ If someone is harmed by consuming unsafe, donated food from a donor that knew the food would likely hurt the consumer or that intended to hurt the consumer, the donor may face criminal liability under the Singapore Penal Code for causing hurt or grievous hurt.⁹⁹ The extent of criminal liability largely depends on the nature and degree of hurt that results from the consumption of the unsafe, donated food.

Taxes

Reducing food loss and waste results in sizable economic benefits to society, as it minimizes the costs associated with producing and discarding food that is never consumed. Food donation also helps mitigate the costs of

hunger and stimulates the economy: food banks and intermediaries provide jobs or sponsor community development, while recipients of donated food are able to spend limited financial resources on other basic goods and services.

But food donation can also be expensive, as food donors must allocate time and money to glean, package, store, and transport surplus food that otherwise would be discarded at no cost. As a result, it is often easier and less expensive for farmers, businesses, and private individuals to throw away food rather than donate it. Some countries are addressing this issue by offering tax incentives and removing financial barriers to food donation.

Incentives

Tax incentives can significantly support food donation and help reduce food loss and waste. For example, corporate donors may be more likely to donate surplus food if they receive a charitable deduction or credit to offset the cost of transportation and logistics. These tax incentives could help reduce the costs of donation.

Singapore does not provide a tax incentive specific to food donation. However, Singapore does offer an income tax deduction for making a *monetary* donation to registered nonprofit organizations known as institutions of a public character (IPCs). Under Singapore's Income Tax Act, cash donations and specific in-kind donations (such as computers, land or buildings, and National Heritage Board certified art or artifacts)¹⁰⁰ are generously incentivized with a 250% tax deduction for qualifying donations to IPCs.¹⁰¹ For example, if a donor made a S\$100 donation to a food bank, they could reduce their taxable income by S\$250. The maximum amount of cash donation that can be deducted by a qualifying donor each year is S\$250,000.¹⁰² According to the Inland Revenue Authority of Singapore (IRAS), when tax deductions for charitable donations exceed the donor's income for the year, the qualifying donor (i.e., an individual, a company, a trust, a body of persons) can carry forward the unused deductions for a maximum of five years.¹⁰³ The 250% tax deduction for qualifying donations is set to expire December 31, 2023.¹⁰⁴

However, this tax deduction does not apply to in-kind food donations.¹⁰⁵ Thus, while the tax incentive landscape may encourage entities to donate cash to charities like food banks, it does not monetarily incentivize in-kind food donations.

Additionally, registered charities or IPCs receive automatic tax exemptions under section 13(1)(zm) of the Income Tax Act and therefore do not need to file income tax returns.¹⁰⁶

Barriers

While certain tax schemes may encourage food donations, they may also be potential deterrents. In many countries a value-added tax (VAT), in particular, presents a financial barrier to donating food. In Singapore this tax is called the Goods and Services Tax (GST).

The Singaporean GST is a national tax on both goods and services. It is levied on goods at every stage of the supply chain, from the production to the point of sale, whenever goods are transferred to another individual or entity.¹⁰⁷ Singapore's GST system features an output tax and an input tax. The output tax is the GST charged on a business's supplies; this tax must be paid to IRAS. The input tax is the GST that businesses incur on business purchases and expenses (including import of goods). Businesses can claim input tax credits against the output tax for the amount of the GST incurred on their purchases and expenses, thereby offsetting the output GSTs that the taxpayer is charged for its taxable activities.¹⁰⁸

Many countries adjust VAT tax rates to accomplish policy objectives; for example, countries may apply reduced VAT rates to basic essentials, such as pharmaceuticals, healthcare services, and education. In Singapore, this can take the form of either exempting certain supplies from its GST or classifying certain supplies as "zero-rated" such that a 0% rate is applied to these supplies.¹⁰⁹ For all other goods and services, the GST rate

in Singapore is 7%, including for basic essentials such as food and health care.¹¹⁰ All companies in Singapore, including charities, are required to register for the GST if their annual taxable supplies exceed S\$1 million.¹¹¹

In-kind food donations incur input GST upon initial purchase by the donor. Businesses are, however, able to claim the input credit regardless of whether the food is sold, donated, or discarded.¹¹² Thus, Singapore's GST scheme does not appear to act as a barrier to donation, because donors are not responsible for paying the full cost of the input GST for the donated food.

Donation Requirements or Food Waste Penalties

Some countries have created food donation requirements or impose monetary penalties for food that is sent to the landfill (often known as organic waste bans or waste taxes) to influence business behavior and promote sustainable food systems. While Singapore does not have an explicit ban on organic waste, the Singapore government recently passed legislation that requires certain organizations to build infrastructure to treat waste on-site to minimize the downstream effects of improper organic waste disposal.¹¹³

The Resource Sustainability Act (RSA), enacted in 2019 and administered and enforced by NEA, imposes obligations relating to the collection and treatment of electronic waste and food waste, requires reporting of packaging imported into or used in Singapore, regulates persons operating producer responsibility schemes, and promotes resource sustainability.¹¹⁴ The purpose of the RSA is (1) to implement a framework where persons who profit from the supply of products bear the cost of collecting and treating those products when they become waste; (2) to encourage producers of packaging to reduce, reuse, or recycle packaging; and (3) to enable proper segregation and treatment of food waste.¹¹⁵ According to the RSA, the building manager of "any prescribed building other than a new building" must either (1) ensure that food waste is treated in the building or within the premises or (2) engage a licensed waste collector to send the food waste for treatment at a licensed waste disposal facility.¹¹⁶ A building manager that fails to do so will be guilty of an offence and face serious penalties of a fine not exceeding S\$10,000, imprisonment for a term not exceeding three months, or both. In the case of a continuing offence, a further fine of S\$1,000 for every day or part of a day during which the offence continues after conviction is applied.¹¹⁷ The Ministry of Environment and Water Resources (MEWR) and NEA will be jointly working with large public-sector building owners with food and beverage outlets to implement food waste segregation for treatment under the Public Sector Taking the Lead in Environmental Sustainability initiative in 2021.¹¹⁸ The RSA aims to significantly reduce the amount of food and organic waste that is destined for landfills by mandating proper separation and treatment. Notably, however, the RSA does not mention food donation as a potential avenue for proper handling of food surpluses.

Government Grants and Incentives

Grants and incentive programs funded at the national or local level offer another important resource for food donation initiatives. This is particularly true in countries where donors consider tax incentives insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts. For example, government grants can help food donors and food recovery organizations acquire equipment and resources necessary for recovering, storing, processing, and transporting food for donation. Government funding can also support new innovations and emerging technologies that will make food donation more efficient and sustainable.

To date, Singapore does not offer any national grants for food donation, specifically. However, the government does offer grants around mitigating food loss and waste, as discussed in previous sections. NEA offers the 3R Fund40 to facilitate proper food waste processing and decomposition and the Food Waste Fund to fund food waste treatment solutions for Singaporean companies. Currently, grants promoted by SFA's "Food Story R&D Grant Call" include research and development around food security, sustainable urban farming and food production, and alternative proteins.¹¹⁹ Thus, it is certainly in the purview of SFA or NEA to monetarily

incentivize food donation as a means of mitigating food waste and simultaneously reducing hunger and food insecurity. As such, a food donation national grant or incentive may be implemented in the future.

CONCLUSION

This Legal Guide is intended to identify Singapore's current laws, policies, and programs that relate to food waste or food donation. While the government is primarily responsible for guaranteeing food security and sustainable food systems, food recovery organizations acting in a private capacity can provide an additional social safety net that reaches the most remote and food-insecure communities. The Singapore government has enacted a robust campaign around mitigating food waste including the recent RSA. However, there are opportunities to bolster this campaign with legislation that minimizes food donation deterrents and provides adequate donation incentives, such as the upcoming Good Samaritan Law and enhanced tax deductions.

This Legal Guide provides a starting point from which policymakers, private-sector actors, and civil society may better understand the current laws and policies relevant to food donation. It also offers a foundation for dialogue about food loss and waste prevention and the value of food recovery to Singapore's food security, economic stability, and environmental sustainability. A separate document produced under The Global Food Donation Policy Atlas sets forth policy recommendations specific to Singapore to contribute to this discussion. In the meantime, food donors and food recovery organizations should take into account the laws, policies, and legal issues discussed in this Legal Guide when donating food or facilitating the distribution of donated food to those in need. To better understand the regulation of food donation in Singapore, donors, intermediaries, and policymakers should investigate the laws identified in this Legal Guide and seek additional legal counsel, if necessary.

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