



PARLAMENT DE CATALUNYA

Law 3/2020, of 11 March, on Food Loss and Wastage Prevention

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Adoption

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Preamble

Food wastage is a problem that has gained considerable importance over the last few years in both the political and social spheres. There has been a growth in social awareness regarding the need to fight against food loss and wastage generated along the food chain. The prevailing food production, transformation, distribution and consumption models are incapable of solving the world population's food security and sovereignty problems. Nearly nine hundred million people survive on a poor and insufficient diet, while a third of the first world's population suffers from obesity caused by excessive or inadequate food intake. The Food and Agriculture Organization (FAO) of the United Nations estimates that a third of all the food produced in the world is lost or wasted.

The current food system often treats food not as a basic good but as a commodity in contexts of unequal relations between food stakeholders, which causes overproduction and inefficiency in the allocation of resources and price setting. In this context, unfair commercial practices among the food chain's various stakeholders have been identified as one of the main reasons for the generation of food loss and waste. However, insofar as these practices occur within these stakeholders' commercial relations, they are governed by Spain's Act 12/2013, of 2 August, on Measures for Improving the Functioning of the Food Chain. This Act basically governs the legal system for food contracts, bans certain commercial practices it regards as abusive and establishes its own applicable penalty system for businesses whose practices distort the proper functioning of the food chain.

Food loss and wastage weaken the economy, make businesses less competitive, increase household expenditure and oblige the authorities to allocate resources to manage food waste. In addition, they lead to reduced availability of fertile land, the loss of biological diversity, excessive use of drinking water and energy as well as increased waste generation, and they are also one of the main causes of climate change. Despite that, however, under certain conditions, the edible parts of food left on farms, whether reincorporated into the soil or used for on-site composting, can contribute to the development of productive systems that respect biodiversity conservation and the environment. They also have effects in the social sphere. The economic crisis has provided an impetus for many social entities and other non-profit organisations to work towards food security for the entire population. While food loss and wastage is a separate area from poverty, these organisations have played a key role in food redistribution, with new models for greater involvement on the part of its beneficiaries and proposals for social reintegration through work based on the circular economy and efficient use of resources.

Approximately eighty-eight million tonnes of food are wasted every year in the European Union, a figure that is expected to increase exponentially unless preventive measures are adopted. Food wastage not only has economic and environmental costs but also affects consumers, stakeholders in the food chain and social organisations. In addition, the environmental cost has repercussions on the whole of society, mainly through the growing scarcity of resources and the effects on climate change. The main goal, therefore, is to prevent food loss and wastage in order to avoid overproduction or food surpluses turning into waste.

The Catalan Waste Agency published a study in 2012 where it quantified food wastage in retail distribution, restaurants and households, identified the causes and put forward some action proposals for reducing it. The main conclusions were that over 260,000 tonnes of food are wasted every year in Catalonia, the equivalent of 7% of what families, restaurants and shops purchase, or 35 kilos per person. Most wastage (58%) is produced in households, followed by supermarkets (16%), the hotel trade (12%), the retail trade (9%), food services (4%) and municipal markets (1%). On the domestic level, the main factors behind food wastage are a lack of awareness of what is being thrown away, little planning for shopping, a lack of knowledge on storage techniques, confusion over expiry and best-before dates, and the portion sizes that can be purchased at supermarkets.



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At the European level, there are no standardised regulations on this matter. Despite numerous attempts to legislate on it, only a few common agricultural policy measures have been established, such as the abolition of export subsidies, which has probably helped to prevent overproduction, or the school fruit, vegetables and milk scheme to promote healthy eating habits among children and young people, which can be accompanied by educational measures fostering food wastage prevention. There is, however, a document that can act as a guiding framework on the matter, European Parliament resolution of 19 January 2012 on how to avoid food wastage: strategies for a more efficient food chain in the EU, which states that the fight against food wastage must become a priority at the EU level. In fact, in the Circular Economy Package, the recent Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste, requires member states to establish food-waste prevention programmes and implement measures to reduce food-waste generation, as part of the commitment by the EU and its member states to meet Sustainable Development Goal 12.3, to halve per capita global food waste at the retail and consumer levels and reduce food loss along production and supply chains, including post-harvest losses.

This Act does not include measures covered by the common agricultural policy, fisheries policy or food security policy, as they fall outside the scope of the Catalan government's jurisdiction. Nevertheless, it does aim to raise awareness of the problem of food wastage and provide some tools to enable its prevention, through the application of the hierarchy of priorities inspired by Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste, as well as to promote measures that provide incentives for wastage reduction, such as establishing agreements between distribution companies and social entities.

The Act's definitions respect the applicable concepts in accordance with Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption; the above-mentioned Directive 2008/98/EC on waste, as amended by Directive 2018/851 of 30 May; Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law; Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers; Act 12/2007 of 11 October on Social Services; and, Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market.

Likewise, the Act establishes the obligations of the various stakeholders along the food chain for achieving the goals and targets it sets, with a clearly preventive aim that is intended, on the part of the competent authority, to preferentially promote and disseminate good practices, awareness-raising actions and studies to ascertain the quantity, causes, process, place and time of food loss and wastage. The Catalan authorities also aim to work on designing assessment indicators; drafting and disseminating good practice guides for reducing food loss and wastage by food chain stakeholders; launching information campaigns targeting consumers and the hotel and catering industry; fostering voluntary compliance agreements; developing collaboration with food banks and other social entities; promoting short marketing channels; fostering sectoral or company audits and designing and carrying out new projects that enable more efficient food utilisation.

The Act consists of fifteen articles, divided into four chapters. Chapter I, General provisions, includes the purpose of the Act, its scope of application and its definitions of concepts. Chapter II, Obligations of food chain stakeholders, establishes the obligations of food chain enterprises, social entities and other non-profit organisations, hotel and catering businesses, as well as the public administration itself and the public sector. Chapter III, Food loss and wastage prevention, establishes the government's measures for supporting and promoting food wastage prevention. Chapter IV is the penalty system. Finally, the Act has two additional provisions and seven final provisions.

Chapter I. General provisions

Article 1. Object

The object of this Act is to establish preventive actions for reducing food loss and wastage and promotional actions for increasing food utilisation and reuse throughout the food chain.



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Article 2. Objective scope of application

This Act shall apply to the activities carried out by food chain stakeholders.

Article 3. Subjective scope of application

1. This Act shall apply to the food chain stakeholders that carry out activities in the territory of Catalonia, irrespective of where the organisation's registered office is located.

2. The stakeholders referred to in Paragraph 1 are as follows:

- a) Food businesses and hotel, restaurant and catering businesses.
- b) Social entities and other non-profit organisations that provide food distribution services.
- c) The public authorities.
- d) Consumers.
- e) Gleaners.

Article 4. Definitions

For the purposes of this Act:

a) *Food* or *foodstuff* means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans, including water and other beverages and chewing gum, and excluding animal feed, live animals, unless they are prepared for placing on the market for human consumption, plants prior to harvesting, medicinal products, cosmetics, tobacco and tobacco products, narcotic or psychotropic substances, and waste and pollutants.

b) *Waste* means any substance or item which the possessor either disposes of or has the intention or obligation to dispose of.

c) *Food waste* means food that has become waste.

d) *Food wastage* means food intended for human consumption, whether or not suitable for ingestion, which is removed from the production or supply chain to be discarded at the primary-production, processing, manufacturing, transport, storage, distribution and end-consumer stages, with the exception of primary-production losses.

e) *Bio-waste* means biodegradable garden and park waste, food and kitchen waste from households, restaurants, wholesalers, canteens, caterers and retail premises, and comparable waste from food processing plants.

f) *Food chain* means all the activities carried out by the stakeholders this Act applies to that are involved in food production, processing, distribution and consumption.

g) *Gleaning* means collecting food that has remained in the fields after the main harvest or from unharvested planted crops, with prior authorisation from the owner for harvesting it.

h) *Food loss* means edible parts of food that remain during the harvesting itself, whether reincorporated into the soil or used for on-site composting.

i) *Food company* means a public or private company that carries out an activity relating to any of the food production, processing or distribution stages, whether for profit or not for profit.

j) *Best-before date* means the date up to which a food conserves its specific properties if it is properly stored.

k) *Expiry date* means the date on which the ingestion of a food may pose an immediate danger to human health, used in the case of very micro-biologically perishable food, under food safety regulations.

l) *Prevention* means the adopted measures aimed at preventing a food from becoming waste, to reduce the quantity of waste by reusing food and to reduce the impact of waste generation on the environment and human health.

m) *Social entities* means foundations, associations, cooperatives, volunteering organisations and other



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entities and non-profit institutions that carry out social-services activities.

n) *Small enterprises* means enterprises that employ fewer than fifty people and which have an annual business turnover or annual balance sheet of no more than ten million euros.

n) *Micro-enterprises* means enterprises that employ fewer than ten people and which have an annual business turnover or annual balance sheet of no more than two million euros.

p) *Cooperatives* means enterprises that group together natural or legal persons with common economic interests, which are provided with a democratic structure and control under particular terms and conditions of accepting, removing and excluding members and which distribute the financial year's profits on an equitable basis.

q) *Consumer* means the natural person who, within the framework of the food chain, during the provision of services or supply of goods, acts as the end user for purposes other than commercial, company, trade or professional purposes.

Chapter II. Obligations of food chain stakeholders

Article 5. Obligations of food chain companies, social entities and other non-profit organisations that are dedicated to food distribution

1. Food companies, social entities and other non-profit organisations that are dedicated to food distribution have the following obligations:

a) To have a food loss and wastage prevention plan and to implement it, under the terms and conditions established by the regulations.

b) To reduce, measure and annually report the quantity of food loss and wastage under the terms and conditions established by the regulations.

c) To account for the food products that are intended for free distribution or animal feed.

d) To adopt the appropriate measures for applying the Article 11 hierarchy of priorities to food loss and wastage, in accordance with the provisions established by the regulations.

e) To avoid actions geared to leaving food in conditions that are unsuitable for consumption or reuse.

2. Micro-enterprises are excluded from the obligations referred to in letters *a*, *b* and *c* of Paragraph 1.

3. Food chain companies, social entities and other non-profit organisations that are dedicated to food distribution, for the purposes of meeting the obligations referred to in Paragraph 1, may prepare their own plan or use collective food loss and wastage prevention plans drawn up in relation to the various stages of the food chain, under the terms and conditions established by the regulations. The public authorities, under the provisions established in Article 7(h), must provide guides for drawing up these plans.

4. Food companies, social entities and other non-profit organisations that are dedicated to food distribution have additional obligations, besides the ones referred to in Paragraph 1, and are required to:

a) Train workers so they can play an active role in reducing food wastage and to involve them in such action.

b) Implement measures for providing incentives to sell products that are close to their best-before or expiry dates, in accordance with the hierarchy of priorities established under Article 11.

c) Promote prevention through actions for reducing food wastage and to inform consumers of more responsible consumption habits.

d) Promote the sale of products with imperfections or flaws.

e) Promote the consumption of seasonal, local, ecological and environmentally sustainable products.

f) Include or improve information on utilising food and bio-waste.

g) Improve the separation of organic waste.

h) Promote bulk food sales.



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Article 6. Obligations of restaurant, hotel and catering companies

1. Restaurant, hotel and catering companies have additional obligations, besides the ones referred to in Article 5, and are specifically required to:

- a) Promote the consumption of seasonal and local products.
 - b) Make it easy for consumers to take away, at no extra cost, any food they have not consumed, and to clearly and visibly inform them of this possibility within the establishment itself, preferably on the set menu or à la carte menu.
 - c) Use containers, which are suitable for food use and are reusable, compostable or easily recyclable, for taking away unconsumed food, and allow consumers to bring their own containers.
2. Companies or entities managing school meal services or canteens, in collaboration with schools, must establish educational programmes on food wastage reduction.
3. Food wastage reduction programmes must be established at hospitals and geriatric residences offering meal or canteen services, which comply with the hierarchy of priorities set out in Article 11, in accordance with the provisions established by the regulations.

Article 7. Obligations of the public authorities

The public authorities and other public sector bodies must:

- a) Incorporate clauses into food-related public contracts and service management agreements to prevent food loss and wastage.
- b) Create an information system for collecting and analysing data arising from the obligations referred to in Article 5(1)(b) and (c), under the terms and conditions established by the regulations.
- c) Facilitate the creation of spaces and systems for distributing surplus food.
- d) Provide financial resources for projects that include food wastage reduction and which create jobs for underprivileged groups.
- e) Draw up a reference directory with information on the food loss and wastage of enterprises and entities, broken down by area, which provides food chain stakeholders with the allocation of food for various uses in accordance with the hierarchy of priorities established by Article 11.
- f) Ensure that institutional advertising, especially when it is aimed at minors, promotes responsible food consumption.
- g) Draft the Strategic Food Loss and Wastage Prevention Plan, which has to be rolled out under the regulations.
- h) Provide guidelines for drafting their own or group food loss and wastage prevention plans.
- i) Include educational measures in food programmes in schools to prevent food loss and wastage.
- j) Control and inspect the activities subject to this Act.

Article 8. Rights of food chain companies, social entities and other non-profit organisations that are dedicated to food distribution

Enterprises, social entities and other non-profit organisations that are dedicated to food distribution have the following rights:

- a) To receive food originating from donations and gleaning for the purposes of being able to carry out both their work for attending to underprivileged groups and their inclusive social projects.
- b) To receive advice and information from public authorities, third-sector social organisations or private food-sector companies.
- c) To receive financial support from the public authorities, provided they ensure the right to healthy food and create jobs, for the purposes of purchasing basic foods, preferably in compliance with product quality and social-impact criteria rather than economic criteria.



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Article 9. Obligations of social entities and other non-profit organisations that are dedicated to food distribution

1. Social entities and other non-profit organisations dedicated to food distribution that are subject to this Act are also subject to food health, quality, hygiene and safety regulations.

2. Social entities have additional obligations, besides those established in Article 5, specifically to:

a) Maintain proper hygiene practices in conserving and processing the food they have at their disposal.

b) Keep their premises and facilities properly cleaned and maintained.

c) Have the necessary features and infrastructures for conserving, processing and distributing food, fresh produce in particular, under optimal conditions.

d) Promote projects that create jobs and social integration through work, by adopting a solidarity and social-cohesion perspective.

3. Social entities and other non-profit organisations that are dedicated to food distribution or marketing within the framework of inclusive social projects have no civil, criminal or administrative liability for possible flaws in the nature, aspect, duration or packaging of food, unless those flaws arise from acts of negligence or behaviour intended to cause them.

Article 10. Consumer rights

1. Consumers have the following rights:

a) To receive information from the public authorities and food companies on food loss and wastage prevention programmes.

b) To obtain truthful and sufficient information on the state of the food that they receive as a donation.

c) To access data from the information system referred to in Article 7(b).

d) To take away any food they have not consumed from restaurant and catering establishments.

2. Served food originating from services that are not directly hired by consumers are exempted from the consumer right set out in letter (d) of Paragraph 1.

Article 11. Stakeholders' hierarchy of priorities

Food chain stakeholders must adapt their actions to the following hierarchy of priorities:

a) Food loss and wastage prevention.

b) Use for human consumption.

b) Use for animal consumption.

d) Material reuse by recovering elements and substances contained in food waste for industrial uses.

e) Material reuse by obtaining quality compost.

f) Reuse for energy by obtaining biogas.

g) Other types of reuse for energy.

h) Elimination.

Chapter III. Food loss and wastage prevention

Article 12. Strategic Food Loss and Wastage Prevention Plan

1. The Catalan Government, in collaboration with the Catalan Food Council, must draw up the Strategic Food Loss and Wastage Prevention Plan, which has to be updated at least every five years.

2. The Government must implement the Strategic Prevention Plan in collaboration and cooperation with the stakeholders subject to this Act.

3. The Strategic Prevention Plan must incorporate the following data, which the Government has to publish



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every year:

- a) The general plan for actions to be carried out to prevent food loss and wastage.
 - b) The quantity of food loss and wastage at the various stages of the food chain.
 - c) An analysis of the reasons for food loss and wastage.
 - d) The specification of the aims.
 - e) The support and promotion actions.
 - f) The assessment indicators.
 - g) Those responsible for implementing the aims.
4. The Strategic Prevention Plan must be provided with sufficient financial resources for its implementation.
5. The Government must assess the Strategic Prevention Plan every two years, evaluate the implementation of its strategic policies and guidelines and inform the Catalan Food Council and Catalan Parliament of all this.
6. Once it has received government approval, the Strategic Prevention Plan must be laid before the Catalan Parliament to be decided on.

Article 13. Measures to support and promote the prevention of food loss and wastage

1. For the purposes of food loss and wastage prevention, the public authorities and food companies are required to carry out the following actions:

- a) Promote knowledge of food loss and wastage.
 - b) Promote information and awareness-raising campaigns for the purposes of preventing not just food loss and wastage but also the impact they have on financial, social and environmental sustainability, and of raising awareness of the need for encouraging responsible consumption.
 - c) Advocate best-before dates be set responsibly.
 - d) Provide incentives for utilising food past its best-before dates.
 - e) Foster good commercial practices throughout the food chain in order to prevent food loss and wastage.
 - f) Provide incentives for adopting collaboration agreements between food chain stakeholders and social entities.
 - g) Encourage civic, community and volunteering projects, and projects involving the public, whose purpose is to raise awareness of and promote practices to prevent food loss and wastage, preferably projects for social integration through work or for assisting vulnerable groups.
2. Besides the actions included in Paragraph 1, the public authorities are required to carry out the following:
- a) Educate, train and raise the awareness of all food chain stakeholders on the need to prevent food loss and wastage, recover the value of food and promote its utilisation, and, in particular, the difference between best-before and expiry dates.
 - b) Include aspects of awareness-raising, information and education on food loss and wastage in educational plans.
 - c) Promote research and innovation to explore new channels for preventing food loss and wastage and utilising food, by providing incentives for work carried out by universities and food technology research institutes.
 - d) Promote measures for supporting artisans and agricultural and livestock producers that are self-employed or micro-enterprises.
 - e) Promote economic and financial tools, as well as including food loss and wastage prevention and food utilisation as criteria for assessing actions to foster business activity, within the framework of developing the circular and bio economies and mitigating climate change.



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f) Include food loss and wastage prevention among the requirements for environmental quality labels, environmental management systems and other equivalent tools.

Chapter IV. Penalty system

Article 14. Offences

1. Acts or omissions that contravene the obligations established under this Act are administrative offences.

2. Offences are classed as either serious or minor.

3. Serious offences are:

a) Carrying out an activity within the scope of application of this Act without having a food loss and wastage prevention plan, having a plan that is defective or not implementing the plan.

b) Not quantifying food loss and wastage or not reporting this every year.

c) Not applying the Article 11 hierarchy of priorities to food loss and wastage.

d) Not avoiding actions geared to leaving food in conditions that are unsuitable for consumption or reuse.

4. Minor offences are:

a) Not allowing consumers to take away any food they have not consumed, without any extra cost.

b) Not clearly and visibly informing consumers in the establishment itself, preferably on the set menu or à la carte menu, of the possibility of taking away food they have not consumed.

c) Not providing consumers with containers for transporting food they have not consumed or not allowing consumers to take away such food in the containers they have brought themselves.

d) Not allocating food past its best-before date to the uses referred to in Article 11, in the order of preference established in that Article, in accordance with the provisions set out by the regulations.

e) Buying food products through commercial practices which are defined by this Act's implementation regulations as unfair or which are contrary to competition rules and cause or encourage food wastage among providers.

Article 15. Sanctions

1. For failure to comply with the obligations set out in Article 9, the sanctions established under Act 14/2003 of 13 June on Agri-Food Quality, and under Act 18/2009 of 22 October on Public Health, will apply.

2. For committing any of the offences set out in Article 14(3), the sanctions established under the consolidated text of the Regulatory Act on Waste, as approved by Legislative Decree 1/2009 of 21 July, will apply.

3. For committing any of the offences set out in Article 14(4)(a), (b) and (c), the sanctions established by Act 22/2010 of 20 July on the Catalan Consumer Code will apply.

4. For committing any of the offences set out in Article 14(4)(d) and (e), the sanctions established under Act 18/2017 of 1 August on Commerce, Services and Trade Fairs will apply.

Additional provisions

One. Functions of the Catalan Ministry of Agriculture, Livestock, Fisheries and Food

The Catalan Ministry of Agriculture, Livestock, Fisheries and Food, as the ministry with jurisdiction over food and the food chain regulator, has the function of promoting the prevention of food loss and wastage and the utilisation of food throughout the food chain, and of controlling and inspecting this within the scope of its powers.

Two. Content of the Strategic Food Loss and Wastage Prevention Plan

The content of the Strategic Food Loss and Wastage Prevention Plan referred to under Article 12(3), must be established by means of a regulation.



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Final provisions

One. Amendment to Act 9/2004

A letter has been added, (q), to Paragraph 1 of Article 3 of Act 9/2004 of 24 December on the Creation of the Catalan Consumer Agency, with the following text:

“q) To ensure the implementation of the information mechanisms for food utilisation and preventing food loss and wastage.”

Two. Promoting economic tools

As soon as this Act comes into force, the Government shall be required to promote economic tools for promoting food loss and wastage prevention, by prioritising the lines of financial aid that foster the circular economy, waste prevention, cooperation and innovation, improved agri-food industry competitiveness, investment in climate-change mitigation, local trade and food processing for social ends.

Three. Approval of the Strategic Food Loss and Wastage Prevention Plan

The Government is required to approve the Strategic Food Loss and Wastage Prevention Plan referred to in Article 12, within one year of this Act's entry into force.

Four. Gleaning regulations

1. The Government must regulate gleaning, within one year as of this Act's entry into force, as a complementary, non-profit activity for preventing food losses.

2. The regulations referred to in Paragraph 1 must include the following aspects at the very least:

- a) The principles and purpose of the gleaning activity regulations.
- b) The terms and conditions that social and solidarity economy entities and enterprises and non-profit organisations must comply with for the purposes of carrying out gleaning activities.
- c) The requirements of the document under which producers, farmers and enterprises give gleaners their consent to carry out gleaning activities at the agricultural holding.
- d) The terms and conditions under which the gleaned product's harvesting, conditioning or processing has to be carried out, so that the end product intended for people in a situation of social exclusion complies with all the provisions of food health, hygiene, safety and quality regulations.
- e) The promotion of job placements for underprivileged groups by means of employment plans which complement gleaning work.
- f) The specification of sectoral regulations for food health, hygiene and safety that are applicable to gleaning activities.

Five. Implementation of the Act

The Government is required to approve, within one year of this Act's entry into force, the regulations that implement it.

Six. Provisions with increased credits or reduced income

The provisions that may involve expenses borne by the Catalan Government's budgets will take effect once the Budget Act comes into force for the budgetary year immediately following this Act's entry into force.

Seven. Entry into force

This Act comes into force on the day following its publication in the *Diari Oficial de la Generalitat de Catalunya* [Official Journal of the Catalan Government].