
General Corporate Commercial

New Regulations on Investigation and Recall of Unsafe or Non-compliant Foods

Introduction

On 6 January 2023, the Royal Government of Cambodia adopted the Sub-Decree No. 13 ANKr.BK on Conditions, Formalities, and Procedures of the Investigation and Foods Recall ("**Sub-Decree**"), aiming to protect and prevent negative impact on consumers' health and benefits. To crystallise the implementation process of the Sub-Decree, the Ministry of Commerce ("**MOC**") issued the Prakas No. 080 on Form and Formality to Recall Unsafe Foods or Foods Non-compliant with Technical Foods Regulations ("**Prakas**"), which came into force on 22 February 2023.

In the Sub-Decree and the Prakas, "Unsafe Foods" refer to foods that cause harm to the consumers' health when it is used or consumed in accordance with its directions of use. Additionally, "Foods Non-compliant with Technical Foods Regulations" are defined in the Prakas as foods that are not in compliance with the documents stipulating the characteristics of the foods, applicable administrative regulations regarding the relevant procedures of food production, packaging, or labeling, that are applicable to such foods, operation, or production.

This Update highlights the key features of the Sub-Decree and the Prakas.

Sub-Decree on Conditions, Formalities, and Procedures of the Investigation and Foods Recall

A. Obligations of Food Business Operators

The Sub-Decree sets out the following obligations of food business operators:

- **Obligations to trace:** Food business operators must establish a tracing system to identify the companies or individuals supplying or supplied with the relevant foods, which allows the MOC and other relevant authorities to receive the information on the tracing at any time. Operators must also clearly label and identify the foods which are being circulated in the market for ease of such tracing.
- **Obligations to withdraw:** Food business operators must withdraw the food (i) if they know or have been made aware that the food is unsafe or is non-compliant with Technical Foods Regulations; or (ii) if ordered by the relevant authorities.

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- **Obligations to comply with storage conditions:** Food business operators must ensure that the recalled foods are safely kept and separated from other products. The food business operators shall strictly control the recalled foods until they are destroyed or re-processed for other purposes except for consumption. The procedure to destroy or re-process the foods must be approved by the MOC and/or the relevant authorities.

B. Classifications and Procedures for Food Recall

The Sub-Decree divides Unsafe Foods or Foods Non-compliant with Technical Foods Regulations into three classes, which will be used to assess appropriate measures to be taken in withdrawing the foods as follows:

- **Class One:** Foods that pose a serious health risk or cause loss of life;
- **Class Two:** Foods that pose mild or rarely cause serious health risks; and
- **Class Three:** Foods that pose no health risks but is non-compliant with Technical Foods Regulations.

The formalities and procedures for foods recall are determined under the Prakas as discussed below.

C. Penalties

Any food business operators who violate the provisions of the Sub-Decree are subject to administrative fines and/or other penalties in accordance with the Food Safety Laws and Regulations in force.

D. Competent Authorities

The MOC has the authority to lead, facilitate the investigating management, and withdraw the foods by cooperating with other relevant ministries or institutions. The Consumer Protection Competition and Fraud Repression Directorate-General ("**CCF**") is equipped with the power to investigate and withdraw food within its jurisdiction.

Prakas on Form and Formalities to Recall Unsafe Foods or Foods Non-compliant with Technical Foods Regulations

A. Formalities and Procedures of Foods Recall

The food business operators are required to withdraw the foods once they know or have been made aware that the foods are unsafe or are non-compliant with Technical Foods Regulations or if they have received an order from the MOC to withdraw the foods.

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The Prakas sets out the formalities and procedures for the food business operators in withdrawing unsafe foods as follows:

- Food business operators shall notify the CCF in writing on the details of the recalled foods, after which the CCF will review and evaluate the information reported and offer immediate responses on the appropriate measures to be taken based on the risk assessment classification mentioned in the Sub-Decree above;
- The CCF and/or the food business operators shall issue a warning notice on the impacts of the recalled foods to the public by all means;
- Food business operators shall prepare a standard operating procedure to ensure effective recall of foods;
- Food business operators shall inform the public of the recalled foods;
- Food business operators shall prepare and submit a report concerning the recall of foods to the CCF; and
- Food business operators shall submit a termination request accompanied with relevant reports and present to the CCF the corrective measures and preventive mechanism to avoid the same issue from re-occurring upon the conclusion of the recall of the foods.

B. Competent Authority

The CCF has the authority to oversee and work closely with the food business operators in the recall of Unsafe Foods or Foods Non-compliant with Technical Foods Regulations by reviewing and evaluating the information provided by the food business operators and offering immediate responses on the appropriate measures to be taken and issuing an official announcement on the conclusion of recall of foods if it has found that the recall has been sufficiently effective.

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

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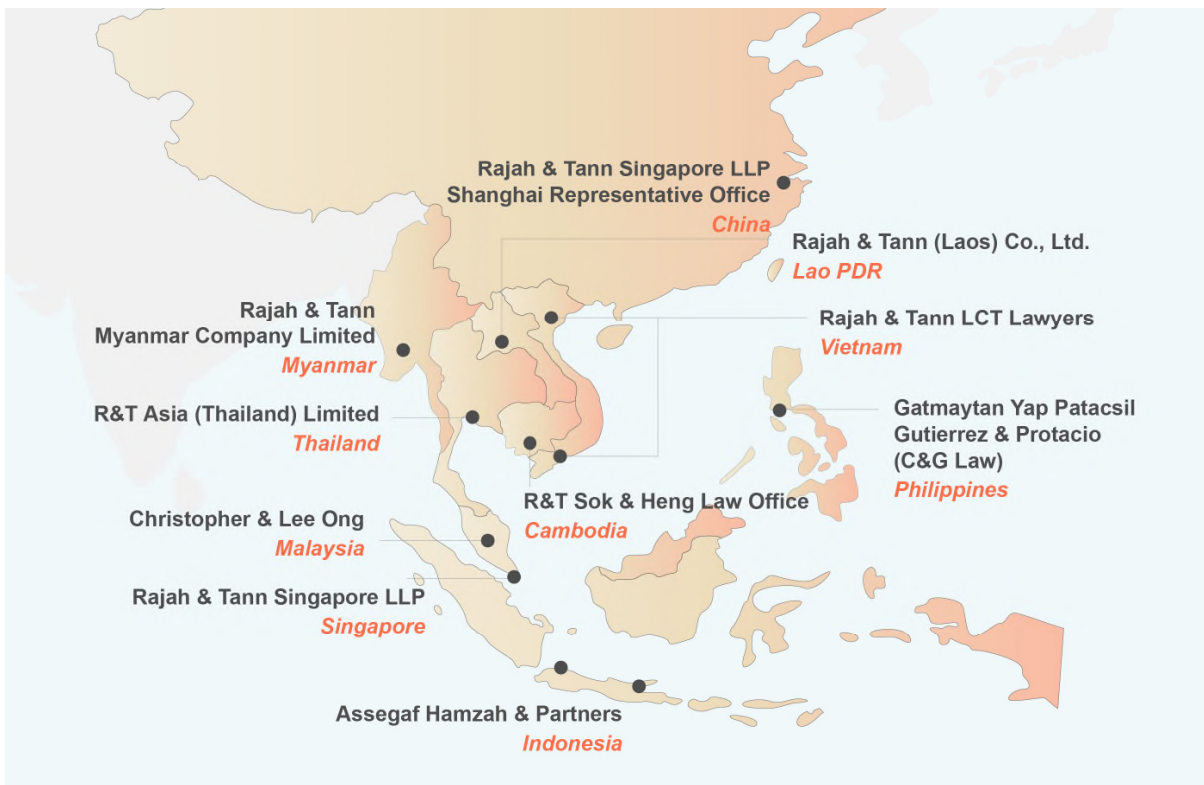
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