



# THE GLOBAL FOOD DONATION POLICY ATLAS

## Executive Summary: Ghana

***More than enough food is produced to feed every person, yet one-third of all food is wasted. Redirecting safe, surplus food is an effective and compassionate solution, but it can be complicated because food is a heavily regulated product.***

To help address the most pressing and universal legal and policy questions surrounding food recovery and donation, 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. This innovative partnership maps the laws and policies in countries across the globe. 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.

### GHANA FOOD LOSS AND WASTE

Each year, approximately 3.2 million tons of food in Ghana is either lost or wasted along the supply chain, costing an estimated 762.32 billion in Ghanaian cedis (GH¢) to the economy. At the same time, approximately 50.2% of the population is moderately to severely food insecure. Further, an estimated 25.5% of the Ghanaian people live in poverty, 8.4% of whom live in extreme poverty, while estimated household food waste in Ghana is roughly 2.56 million tons per year.

The Ghanaian government has prioritized hunger reduction and food security as part of its national policy agenda. From 1998 to 2004, it funded the Village Infrastructure Project (VIP) to help fund the development of basic village infrastructure that local governments could maintain. The infrastructure focused on rural water, transportation, distribution, and development of handling and storage facilities to support Ghana’s food system. To address food waste and food insecurity in the country, the government established the National Food Buffer Stock Company (NAFCO) to purchase and properly store surplus maize, paddy rice, and soya beans from farms. NAFCO operates under the Ministry of Food and Agriculture and partners with farmers to ensure that their farms produce high yields. Through its work, NAFCO successfully lowered the price of fertilizers used by farmers, increased farm production, and supplied senior high schools with local rice. As part of the African Union, the Ghanaian government also committed to a national investment plan to specifically reduce postharvest food losses by signing the Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and Improved Livelihoods. In addition to government-led responses to food loss and waste, private-sector actors, including food banks such as Food For All Africa (FFA), are actively promoting surplus food rescue and donation to mitigate hunger and food insecurity. FFA recovers 13 tons of edible food each month and redistributes it to more than 5,435 beneficiaries and beneficiary organizations. It also served 80,000 individuals during the COVID-19 pandemic and conducted a study to identify methods to increase food donation in Ghana. The study found that 92% of stakeholders across the food supply chain would start donating their surplus food if Ghana developed a national food donation policy.

#### Ghana: By the Numbers

- Population: 33,100,000
- GDP: \$77.59 billion (USD)
- Poverty Rate: 25.5%
- Prevalence of Food Insecurity: 50.2%
- Global Food Security Index: 52
- FLW Estimates: 3.2 million tons

## GHANA FOOD DONATION POLICY HIGHLIGHTS

**TAX INCENTIVES:** Food donation helps mitigate hunger and stimulate the economy, but it can also be expensive, as food donors must allocate time and money to recover, package, store, and transport surplus food that otherwise would be discarded, usually at no or low cost. Taxes can either help offset these expenses and create an incentive to donate, or they can create an additional barrier to donation that contributes to greater food loss and waste. Ghana's Income Tax Act 896, 2015 (ITA) allows deductions for both monetary and in-kind donations for contributions or donations to a "worthwhile cause." Under the ITA and the Ghana Revenue Authority's (GRA) Practice Note on Contribution or a Donation to a Worthwhile Cause (hereinafter the GRA Practice Note), a donation or contribution made to a charitable organization such as a food recovery organization may qualify for a deduction that is equal to the fair market value of that contribution. Food donors can claim the full value of the donated food as long as they provide a certificate from a nonprofit organization and the food donation goes to vulnerable populations.

**DATE LABELING:** Ghana's date labeling scheme is set out in the Ghana Standards Board (Food, Drugs and Other Goods) General Labelling Rules, 1992 (L.I. 1541) (hereinafter the GSB Labeling Rules) and the Food and Drugs Authority's (FDA) Guidelines for the Labeling of Prepackaged Foods (hereinafter the FDA Labeling Guidelines). Neither the GSB Labeling Rules nor the FDA Labeling Guidelines impose a dual date labeling scheme—one label to indicate food safety and another to indicate food quality. This guideline requires that food be marked with a date of minimum durability either listed as both a date of manufacture and an expiration date or a "best before" date or "use-by date." The "best before" date is defined as a "date of minimum durability," which some understand to indicate food quality rather than safety. The "use-by date" is defined as the "recommended last consumption date" or "expiration" or "expiry date." The FDA Labeling Guidelines state that food marked with a "best before" date may remain "fully satisfactory" even after this date passes, while food is not marketable after the "use-by date."

**ACTION OPPORTUNITY:** To ensure that quality-based date labels do not result in the disposal of food that is otherwise safe for consumption, sale, or donation, the Ghanaian government should **standardize and clarify date labels**, requiring manufacturers or retailers that affix date labels on foods to use only one of two prescribed labels to indicate a decline in quality or a safety risk. The Ghanaian government should **amend the date labeling rules and guidelines to expressly permit the sale and/or donation of food past its quality-based date**. Finally, it should **promote consumer and business education and awareness on the meaning of date labels** once the labels are standardized.

## GHANA FOOD DONATION POLICY OPPORTUNITIES

**TAX BARRIERS:** Also, Ghana's Value Added Tax Act 870, 2013 (VAT Act) requires a standard value-added tax (VAT) rate of 12.5% with an adjusted "flat-rate" charge of 3% for wholesale suppliers or retail sellers. The VAT is payable by the supplier or importer of the good or service. However, certain agricultural and aquatic food products in their raw state, produced domestically, are exempt from the VAT and, as such, may be donated without imposing VAT duties on the food business or food recovery organization. Conversely, for all other food donations, such as prepackaged or prepared foods, VAT is applied at each stage of the production and distribution chain. This means VAT is also due at the time of donation, which would typically be on the food recovery organization to pay. Furthermore, Ghana permits businesses to reclaim VAT credits for unmarketable food that is thrown away. Thus, businesses may choose to throw prepackaged and prepared foods away as the more financially viable option rather than donating them.

**ACTION OPPORTUNITY:** To offset costs businesses may incur when donating food, the Ghanaian government should **amend the VAT Act to clearly categorize donation for all food items as "zero-rated" goods**. It should also **develop tax guidance for food donors and food recovery organizations clarifying the existing or newly adopted scheme**.

**FOOD SAFETY FOR DONATIONS:** Food safety laws in Ghana are mostly contained within Part 7 of the Public Health Act 851, 2012 (PHA). Existing food safety rules are broad in scope and presumably apply to food donations. The PHA does not explicitly contain food safety requirements for food donations beyond circumstances under which food is donated for entertainment purposes. However, outside the context of donated food for

entertainment purposes, food donations are not explicitly mentioned in law or guidance at the national or regional level.

**ACTION OPPORTUNITY:** To encourage food donation and to ensure that food is donated safely and does not pose risks to recipients, the Ghanaian government should **amend the PHA to feature a donation-specific section** to eliminate the uncertainty around which PHA provisions apply to food safety. In addition, or alternatively, the national government should **produce and disseminate clarifying guidance** on food safety requirements relevant to donation.

**LIABILITY PROTECTION FOR FOOD DONATIONS:** Ghana does not provide explicit legal protections for food donors and food recovery organizations. Generally, claims of harm arising from goods including food may be brought under the Civil Liability Act of 1963 (CLA) or the Food and Drugs Act (FDA 305B). The CLA also allows consumers who were damaged or wronged to hold the wrongdoer liable, depending on the extent to which they are at fault. The FDA 305B gives consumers authority to file claims against a supplier of goods or services. The FDA 305B lists several defenses that may help shield food donors from liability. For instance, liability for damages do not arise if: (1) the person notified the recipient that the food in question was not intended for human or animal consumption; (2) at the time of delivery or dispatch to that person, the food was fit for human or animal consumption or that person could not have ascertained that the food was not fit for human or animal consumption; or (3) if an alleged defect was a result of compliance with a required standard but was unavoidable because of the food preparation process. Nonetheless, food donors and food recovery organizations may be wary of donating food due to a fear of being held liable if a beneficiary alleges harm.

**ACTION OPPORTUNITY:** To ensure that liability concerns related to donating food do not deter potential donors, the Ghanaian government should adopt national legislation that **establishes clear liability protection for food donors and food recovery organizations** when the donated food complies with all applicable laws and regulations. The protection should presume good faith on behalf of the food donor and food recovery organization. To balance the interest of donors and food recovery organizations with those of the ultimate recipients, any liability protection should require donated food to meet all relevant food safety laws, and liability protection should not be available if harm is the result of gross negligence or intentional misconduct.

## **GHANA FOOD DONATION POLICY: HOW DOES IT COMPARE?**

Ghana’s myriad food security policies demonstrate the attention the country places on issues surrounding food loss and waste. While Ghana works toward a comprehensive framework for redirecting safe, surplus, or otherwise unmarketable food to those who need it most, policymakers should improve existing law and regulations that impact food donation. In particular, such targeted policies should include clarifying food safety rules for food donations, amending the existing date labeling scheme to expand its effectiveness, enacting national liability protections for food donors and food recovery organizations, and expanding tax incentives and removing tax barriers to promote food recovery.

<b>Food Safety for Donations</b>	<b>Date Labeling</b>	<b>Liability Protection for Food Donation</b>	<b>Tax Incentives</b>	<b>Tax Barriers</b>	<b>Donation Requirements or Food Waste Penalties</b>	<b>Government Grants and Incentives</b>	<b>National FLW/ Donation Law or Policy</b>
Limited Policy	Limited Policy	No Policy	Limited Policy	Yes	No	No	No

For more detail on how Ghana measures up against the other countries evaluated in The Global Food Donation Policy Atlas project, check out [www.atlas.foodbanking.org](http://www.atlas.foodbanking.org). For more information about the food donation legal framework in Ghana and policy recommendations for strengthening this framework, check out the Ghana Food Donation Legal Guide and the Ghana Food Donation Policy Recommendations.

# BACKGROUND INFORMATION: MAJOR LEGAL ISSUES IMPACTING FOOD DONATION

**Food Safety for Donations:** A key barrier to food donation can be the lack of knowledge or readily available guidance regarding safety procedures for donated food. All donated food should be safe for consumption and comply with applicable food safety laws and regulations. Potential donors, however, are often uncertain as to which food safety regulations apply to donated food and the steps necessary to comply.

**Date Labeling:** Date labels affixed to food products are a major driver of food waste and an obstacle to food donation. Most food donors and food recovery organizations are appropriately cautious about donating food that may no longer be safe, but it is not always clear whether the date label accompanied by language such as “sell by,” “expires on,” or “best by” relates to food safety. In fact, date labels are generally intended to reflect freshness or quality rather than safety for the vast majority of foods.

**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. Some countries have adopted liability protections to mitigate this concern. However, many food donors and food recovery organizations are uncertain as to whether they are eligible for this protection, whether there are actions required to maintain the protection, and what limits, if any, apply.

**Tax Incentives and Barriers:** Transportation and storage costs are often cited as the main expenses that manufacturers, retailers, and restaurants need to overcome to donate food. Tax incentives, including deductions and credits, can help to offset these financial inputs and help make donation a more attractive, affordable option. The application of certain taxes to donated foods, such as the value-added tax, however, can also create a barrier to donation.

**Donation Requirements or Food Waste Penalties:** Some countries have employed food donation requirements or impose monetary penalties for food that is sent to landfills (often known as organic waste bans or waste taxes) in order to influence business behavior and promote more sustainable food systems.

**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 to be insufficient to offset the costs of donation or where a lack of infrastructure limits food recovery efforts.

**National law or policy on food waste:** Adopting a national food loss and waste or food donation framework can help governments ensure policy coherence and advance food recovery efforts along the supply chain. Offering a unified and comprehensive framework may better enable governments to clarify food safety rules, standardize date labels, define liability protections for food donors and food recovery organizations, and set forth additional tax benefits to which donors may be entitled under relevant law. A national law or policy can also serve as a foundation for government grant programs and awareness campaigns focused on food system sustainability and food security.

## THE GLOBAL FOOD DONATION POLICY ATLAS PROJECT SUPPORT

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