



THE GLOBAL
FOOD DONATION
POLICY ATLAS

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GHANA

RECOMMENDATIONS

FOOD DONATION LAW AND POLICY

OCTOBER 2022

Authors

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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 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 the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN). To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit www.atlas.foodbanking.org.

About the Harvard Law School Food Law and Policy Clinic

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

The Global FoodBanking Network (GFN) supports community-driven solutions to alleviate hunger in more than 40 countries. While millions struggle to access enough safe and nutritious food, nearly a third of all food produced is lost or wasted. GFN is changing that. GFN believes food banks directed by local leaders are key to achieving Zero Hunger and building resilient food systems. For more information, visit www.foodbanking.org.



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ABOUT THESE RECOMMENDATIONS

This document is a product of The Global Food Donation Policy Atlas project, a partnership between the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN).¹ The Atlas project is an innovative partnership that maps the laws and policies affecting food donation in countries across the globe and provides a comparative legal analysis based on these findings. For each country, the Atlas project produces a Legal Guide to identify the laws relevant to food donation in that country. While the landscape differs across geopolitical borders, the Legal Guides recognize universal issues that impact efforts to reduce food loss and waste (FLW) and increase food recovery. These issues include food safety, date labeling, liability, taxes, donation requirements and food waste penalties, and government grants or funding programs.

In-country interviews with relevant stakeholders, including food banks and other food recovery organizations, food donors, government officials, and legal experts, further informed the content of the Legal Guides and revealed priority actions for law and policy change. Based on these findings, FLPC has developed specific recommendations for each country. These recommendations serve as a companion to the Legal Guide, though both documents may be used independently. The purpose of the recommendations is to highlight select actions for improving laws, policies, and programs relevant to food loss, waste, and donation.

The document sets forth recommendations focused on Ghana, where 50.2% of the population experienced moderate to severe food insecurity between 2019 and 2021² and about 35%, or 3.2 million metric tons, of food is wasted each year.³ The discussion below provides a brief overview of the legal issues most pertinent to food donation, which the Ghana Legal Guide explains in detail. The recommendations included in this report are not exhaustive but offer select best practices and policy solutions to reduce FLW and combat food insecurity through stronger food donation laws and policies in Ghana.



SUMMARY OF RECOMMENDATIONS

The recommendations contained in this document provide a starting point for stakeholders in Ghana to strengthen the legal and policy framework relevant to food donation. Food banks and other organizations whose mission is to reduce food waste and increase food donation (collectively referred to as “food recovery organizations”), donors, and policymakers should consider additional opportunities to advance food donation and reduce food waste. In summary, the recommendations are as follows:

To ensure that donated food is safe and does not pose risks to recipients, the Ghanaian government should:

- Amend the Public Health Act 851, 2012 (PHA) to feature a donation-specific chapter.
- Produce and disseminate clarifying guidance on food safety requirements relevant to donation.

To ensure quality-based date labels do not result in the disposal of food that is otherwise safe for consumption, the Food and Drugs Authority (FDA) should:

- Amend the FDA Guidelines for the Labeling of Prepackaged Foods (FDA Labeling Guidelines) to eliminate the use of date labels other than “best before” and “use by.”
- Amend the FDA Labeling Guidelines to expressly permit the donation and sale of food after the quality-based date.
- Provide consumer and business education and awareness campaigns on the meaning of date labels in partnership with all relevant Ghanaian government departments, agencies, and the private sector.

To ensure liability concerns do not deter potential food donors, the Ghanaian government should:

- Enact national legislation that establishes clear and comprehensive liability protection for food donors and food recovery organizations.
- Provide liability protection that allows food recovery organizations and other intermediaries to charge a nominal fee for donated food.

To ensure that businesses (both donors and distributors) are properly incentivized to donate food, the Ghana Revenue Authority should:

- Categorize food donation as a zero-rated supply under the Value Added Tax Act.
- Develop tax guidance for food donors and food recovery organizations clarifying the existing tax scheme.

To ensure that food donors and food recovery organizations can more effectively and safely recover, handle, transport, and distribute surplus food, the Ghanaian government should:

- Create government grant opportunities for food donation infrastructure.

INTRODUCTION

Food loss and waste (FLW) represents a major environmental, economic, and social challenge in Ghana. Ghana is one of the fastest growing economies in Sub-Saharan Africa,⁴ yet approximately 50.2% of the population is food insecure.⁵ An estimated 25.5% of the Ghanaian people live in poverty, 8.4% of whom live in extreme poverty.⁶ In 2020 Ghana's rapid economic growth (7% from 2017 to 2019) was halted by the COVID-19 pandemic and a sharp decline in commodity exports. This caused the country's gross domestic product (GDP) growth rate to reach an historic low of 0.4% and the population's poverty rate to increase.⁷

AN ESTIMATED 25.5% OF THE GHANAIAN PEOPLE LIVE IN POVERTY, 8.4% OF WHOM LIVE IN EXTREME POVERTY.

The Ghanaian government has consistently demonstrated awareness of the food insecurity challenges facing the country and has pursued initiatives to improve the situation. These initiatives include the *Ghana Shared Growth and Development Agenda*,⁸ the *Coordinated Programme for Economic and Social Development Policies*,⁹ the *Medium Term Agriculture Sector Investment Plan*,¹⁰ the *Food and Agriculture Sector Development Policy*,¹¹ and the *Planting for Food and Jobs Program*.¹² However, none of these initiatives discuss food donation as a priority action area when addressing food insecurity.

Ghana has taken action to minimize FLW through the following initiatives:

To reduce food spoilage and enhance the quality of life of the rural poor, Ghana funded the Village Infrastructure Project (VIP) between 1998 and 2004.¹³ The main objective of this program was to provide financial resources for the development of basic village infrastructure that could be maintained by the local governments.¹⁴ The infrastructure focused on rural water, transportation, distribution, and development of handling and storage facilities to support the food system in Ghana.

To address food waste and food insecurity in Ghana, the National Food Buffer Stock Company (NAFCO), a government initiative,¹⁵ aims to purchase and properly store surplus maize, paddy rice, and soya beans from farms. It then distributes these items to schools and state institutions to increase the country's food security. NAFCO operates under the Ministry of Food and Agriculture (MOFA) and collaborates with farmers to ensure that their farms are producing high yields. Through this work, NAFCO successfully lowered the price of fertilizers used by farmers, increased farm production, and supplied senior high schools in Ghana with local rice.

The Ghanaian government has also demonstrated an interest in addressing issues of food waste as a member state of the African Union,¹⁶ a continental body consisting of all 55 African countries. In 2014 the heads of state and government of the African Union adopted concrete agricultural goals to be attained by 2025 through the *Malabo Declaration on Agriculture and Postharvest Losses*.¹⁷ While food donation is not directly mentioned in this declaration, each member state committed to developing a national investment plan to specifically reduce postharvest food losses. However, Ghana has not taken significant action since it signed the declaration in 2014.

In addition to government-led policy responses to FLW, private-sector actors including food banks actively promote the rescue and donation of surplus food to mitigate hunger and food insecurity. Food For All Africa (FFA), created in Ghana by Chef Elijah Amoo Addo and the largest food bank in Sub-Saharan Africa, has a nationwide network of 245 vetted community-based beneficiaries and organizations.¹⁸ FFA recovers 13 tons of edible food each month and distributes it to more than 5,435 beneficiaries and beneficiary organizations.¹⁹ It served 80,000 individuals during the COVID-19 pandemic.²⁰ An FFA survey identified methods to increase food donation in Ghana. It estimates that 92% of stakeholders across the food supply chain would start donating their surplus food if Ghana developed a national food donation policy.²¹

As Ghana seeks to reduce FLW and mitigate food insecurity, relevant actors must recognize and understand the laws that apply to food donation. The remaining sections of this Policy Recommendations provide an overview of Ghana’s food donation legal framework and address the issues most likely to arise for food donors, food recovery organizations, policymakers, and other interested stakeholders.

LEGAL CHALLENGES & POLICY RECOMMENDATIONS

Food Safety for Donations

Issue Overview

In many countries, a key barrier to donation of surplus food is the lack of knowledge or readily available guidance regarding safety procedures for food donation. Potential donors are often uncertain as to which food safety regulations apply to donated food, as opposed to food offered for sale, as well as the steps necessary to safely donate food in compliance with applicable regulations. As a result, safe, surplus food that could be redirected to populations in need is instead destined for landfills.

The Ghanaian Public Health Act 851, 2012 (PHA) provides laws pertaining to public health, including the prevention of disease, and the promotion, safeguard, maintenance, and protection of human and animal health in Ghana.²² Outside of food donation as a prize for entertainment purposes, the PHA does not explicitly address food donation.

Part 7 of the PHA establishes the FDA and grants the FDA the authority to provide and enforce standards for the sale of food.²³ This provision specifically states that the FDA is responsible for enforcing standards for the **sale** of food and makes no explicit reference to the FDA’s authority over donated food.²⁴

The PHA mandates food that is sold, manufactured, imported, exported, or distributed to be registered with the FDA.²⁵ Food can only be registered—and therefore sold and presumably donated—if it is fit for human consumption, unadulterated, properly handled, and stored and if it does not contain any deceptive advertising labels or claims.²⁶ Food is considered adulterated if it is damaged, of “poor quality,” or has undergone a change to its weight or list of ingredients.²⁷

The PHA also regulates the buildings and facilities where food is manufactured, handled, transported, and stored. It does not explicitly state that a food bank or food recovery organization is included under its food safety regulations. However, since the PHA references that no food can be offered or sold without FDA registration in section 97, it is likely that food banks and food recovery organizations would have to abide by these rules because donated food is being “offered” to the public.²⁸ Because the PHA expressly prohibits the sale, service, or offering of poor-quality food,²⁹ food banks and food recovery organizations must adhere to its provisions.

Recommended Policy Actions

- 1. AMEND THE PUBLIC HEALTH ACT 851, 2012 (PHA) TO FEATURE A DONATION-SPECIFIC CHAPTER.**

The Ghanaian government should update the PHA to feature a donation-specific chapter to eliminate uncertainty regarding which provisions apply to food safety for donated food. For example, the Ghanaian government could amend section 102 to eliminate the qualifier that the provisions within the PHA apply only to

food donations for entertainment or advertising purposes. Adding a chapter that applies to donated food would significantly ease the burden on food donors and food recovery organizations seeking to comply with relevant food safety provisions, which may ultimately increase food donation.

2. PRODUCE AND DISSEMINATE CLARIFYING GUIDANCE ON FOOD SAFETY REQUIREMENTS RELEVANT TO DONATION.

Differentiating which food safety regulations apply specifically to donated food can be confusing and burdensome for food donors and other stakeholders. Clear guidance from food safety enforcement agencies, such as the FDA, on which PHA provisions or other requirements apply to donated food would ease concerns and likely increase safer food donation. For example, in the United Kingdom, the Waste and Resources Action Programme (WRAP), the Food Standards Agency (FSA), and the Department for Environment, Food and Rural Affairs (Defra) have published donation and redistribution guidance that specifies which food safety provisions apply to food donations.³⁰ Singapore's National Environment Agency also issued Guidelines on Food Donation in 2016, which helps actors comply with food safety regulations and outlines the responsibilities of donor and food recovery organizations.³¹ Guidance can generally be more informal and detailed than legislation, which often makes it more useful to a broader audience. Donors would have the PHA and prevailing guidance to help them understand their food safety obligations with respect to donated food.

Date Labeling

Issue Overview

A major driver of food waste and an obstacle to food donation is the general misconception about date labels such as “sell by,” “use by,” or “best by” affixed to food products. Many donors and consumers interpret these date labels as indicators of food safety. Yet, for the vast majority of foods, date labels indicate freshness or quality rather than food safety, and few foods become more likely to carry foodborne illness-causing bacteria over time. Nevertheless, food donors and food recovery organizations, being cautious about food safety, may discard food once the date passes even if the food is perfectly safe to donate and consume.

In countries that have measured the impact of date labels, research shows 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.³² Similarly, 84% of Americans report that they throw away food after the “expiration date” passes due to safety concerns, even if there is minimal risk of foodborne illness at that time.³³ This confusion occurs in the home but also impacts food businesses' willingness to donate as well as stigma against past-date food among food donation recipients.

Under the PHA,³⁴ the FDA develops standards for food, monitors compliance with said standards, and advises the minister for health on measures to protect consumer health and effective implementation of food regulations, among other responsibilities not associated with food.³⁵ To achieve this objective, the PHA grants the FDA the power to monitor compliance through District Assemblies and other agencies.³⁶ Similarly, the Ghana Standards Authority (GSA) was established under the Standards Authority Act 173, 1973 (NRCD) to develop and disseminate national standards on food.³⁷ 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”)³⁸ and the FDA's Guidelines for the Labeling of Prepackaged Foods (hereinafter the “FDA Labeling Guidelines”).³⁹ Further, Ghana is a member state of the Food and Agriculture Organization of the United Nations' *Codex Alimentarius* International Food Standards.⁴⁰ As such, Ghana contains a provision within its FDA Labeling Guidelines that requires all labels to adhere to the prescribed GSB Labeling Rules, the FDA Labeling Guidelines, and, “any other Codex standards.”⁴¹

The GSB Labeling Rules and the FDA Labeling Guidelines—described in detail below—follow the *Codex Alimentarius's* 2010 General Standard for the Labeling of Prepackaged Foods.⁴² This means that Ghana's date labeling scheme is not current with the *Codex Alimentarius's* 2018 update to the General Standard for the Labeling of Prepackaged Foods, which establishes a dual date labeling scheme with a clear delineation between quality-based and safety-based labels.⁴³

The GSB Labeling Rules mandate that all foods must be marked with an “indication of the minimum durability.”⁴⁴ While these standards do not explicitly state if this definition includes donated food, in-country stakeholders interpret it as such.⁴⁵ Foods that do not require a date label include fresh fruits, vegetables, wines, beverages containing 10% or more alcohol by volume, bakers' or pastry-cooks' wares, vinegar, food grade salt, solid sugars, confectionary products consisting of flavored and/or colored sugars, and chewing gum.⁴⁶

The date of minimum durability must be indicated as both a date of manufacture and the expiration date *or* either a “best-before date” or “use-by date.”⁴⁷ This means that some foods may contain two labels, while others contain only one. The date of minimum durability is the “date which signifies the end of the period under any stated storage conditions during which the product will remain fully marketable and will retain any specific qualities for which tacit or express claims have been made[,] however, beyond the date the food may still be perfectly satisfactory.”⁴⁸ The “best before” date is therefore understood to indicate food quality rather than food safety. The FDA Labeling Guidelines state that a date of minimum durability is considered the “best before” date.⁴⁹ They also define “date of manufacture,” “date of packaging,” “sell-by date,” and “use-by date” as follows:

- Date of manufacture: the date on which the food becomes the product as described.
- Date of packaging: the date on which the food is placed in the immediate container in which it will be ultimately sold.
- Sell-by date: the last date of offer for sale to the consumer after which there remains a reasonable storage period in the home, although the reasonable storage period is not defined.
- Use-by date (or recommended last consumption date or expiration or expiry date): the date which signifies the end of the estimated period under any stated storage conditions, after which the product probably will not have the quality attributes normally expected by consumers and after which the food should not be regarded as marketable.⁵⁰

While the GSB Labeling Rules and the FDA Labeling Guidelines define date labeling terms, they do not specify when to affix these terms. Instead, they allow manufacturers to choose between the aforementioned terms as well as use dates of manufacture and packaging.

For purposes of donation, Ghana's date labeling legal framework does not convey whether food is safe to donate after the “date of minimum durability” (i.e., “best before” date). As noted above, the regulation states that food is not marketable after the “use-by date,” while the “best before” date says food may remain “fully satisfactory” even after this date passes.⁵¹ At the same time, the law does not make any statement to explicitly allow the donation of these past-date foods. Therefore, to be safe, donors and food recovery organizations often throw away foods past their date, particularly since there is no assurance of whether the date indicates quality or safety.⁵²

On the other hand, these laws do not assert that the foods are unsafe to eat after the expiration date or explicitly prohibit food donation after the affixed date passes. Some food businesses change the date label of food products to extend their marketability.⁵³ However, experts, donors and food recovery organizations in Ghana generally agree that the date labeling framework prohibits donations of any food past the expiration date.

To summarize, food date labels in Ghana are required on most food products with some specific exceptions. This framework allows for the producer or manufacturer to choose from a myriad of terms to use. Even though some labels seem to connote quality, it is not clear whether food can be donated past date. Yet, it seems likely that food may be donated after this date if the date is amended on the label.

Recommended Policy Actions

1. AMEND THE FDA GUIDELINES FOR THE LABELING OF PREPACKAGED FOODS (FDA LABELING GUIDELINES) TO ELIMINATE THE USE OF DATE LABELS OTHER THAN “BEST BEFORE” AND “USE BY.”

Ghana’s FDA can draft bills, guidelines, and codes of practice that apply to food.⁵⁴ As such, it should amend the FDA Labeling Guidelines to prohibit the use of date labeling terms other than “best before” and “use by.” The labeling scheme should be made consistent with the 2018 update to the *Codex Alimentarius*’s General Standard for the Labelling of Prepackaged Foods and require that food have only one date label: *either* a quality-based label *or* a safety-based label.⁵⁵ Permitting the use of other labels, including “date of packaging” and “date of manufacture,” is unnecessary and may lead to greater confusion, which may prevent safe food from being donated.⁵⁶ For example, individuals may equate a “date of manufacture” or “date of packaging” with a safety-related date, which may create premature food waste.⁵⁷ Updating the FDA Labeling Guidelines to prohibit any date labels beyond the dual date labeling scheme is a small step to reduce confusion and encourage donation.

Nigeria provides an example of a dual date labeling system. Under the Nigerian system, all pre-packaged food must include a “use-by date” or “expiration date” or a “best-before-date” or “best-before-quality-date” depending on the type of food product. The safety-based label “use-by date” or “expiration date” is required on all food that “must be consumed before a certain date to ensure its safety and quality.”⁵⁸ All other foods should use the quality-based labels “best-before-date” or “best-before-quality-date.”⁵⁹

2. AMEND THE FDA LABELING GUIDELINES TO EXPRESSLY PERMIT THE DONATION AND SALE OF FOOD AFTER THE QUALITY-BASED DATE.

Ghana’s FDA should amend the FDA Labeling Guidelines to expressly permit the donation and sale of foods after the “best before” or quality-based date label. Currently, the FDA Labeling Guidelines and the GSB Labeling Rules are silent on whether any food can be donated after the affixed date. Consistent with the 2018 update to the *Codex Alimentarius*’s General Standard for the Labeling of Prepackaged Foods,⁶⁰ the FDA Labeling Guidelines state that food with a “best before” date may remain “fully satisfactory” even after this date passes.⁶¹ However, it does not explicitly state whether food after this date can be sold or donated.

Because foods are still safe past their peak quality date, expressly permitting the donation and sale of wholesome food past this date will reduce waste and set a positive example for consumers. Clarifying that donating food past its quality date is permissible could increase the amount of safe food that reaches those in need and reduce the stigma on receipt of such food.

The UK uses a dual-date labeling system that clearly identifies quality-and safety-based dates. UK policies on this matter provide a model for Ghana to implement the recommended best practices. Guidance on donation and redistribution from UK governmental agencies and WRAP⁶² states that food may not be sold after the “use by” or safety-based date, but it may still be sold or donated after the “best before” or quality-based date.⁶³ This guidance clearly states that food with a “best before” or quality-based date label can legally be sold, donated, redistributed, and consumed past this date.⁶⁴ It also states that food cannot be sold, redistributed, or consumed after its “use by” or safety-based date unless the food is frozen or cooked prior to the date.⁶⁵ This clarifies and distinguishes between date labels and helps the public understand these terms, enabling the sale and donation of past-date, safe, and wholesome food.

3.

PROVIDE CONSUMER AND BUSINESS EDUCATION AND AWARENESS CAMPAIGNS ON THE MEANING OF DATE LABELS IN PARTNERSHIP WITH ALL RELEVANT GHANAIAN GOVERNMENT DEPARTMENTS, AGENCIES, AND THE PRIVATE SECTOR.

Given that potential food donors erroneously perceive “best before” dates and any other voluntary dates included on food products as indicators of safety, increasing the sale, consumption, or donation of food after this date will require a change in behavior. The Ghanaian government and its relevant departments and agencies, including the FDA and the GSA, should launch a consumer awareness and business education campaign with the private sector to educate industry actors and the public on the two standard date label phrases. So far, neither public- nor private-sector actors have initiated a large-scale consumer or business education campaign to promote greater industry and consumer awareness of the controlling date labeling scheme in Ghana.

National consumer education is critical to inform donors, food recovery organizations, and consumers that these dates do not indicate safety but instead quality. Education and awareness campaigns will also be necessary to clarify the difference. Joint public- and private-sector initiatives may help ensure stakeholders understand that date labels should not stand as a barrier to donation. Any clarification or standardization, such as express permission of past-date sale and donation of food, will also require education campaigns to increase awareness among donors, food recovery organizations, and consumers.

A strategy that may prove effective is the partnership of governments and private food system actors to issue widespread, unified guidance. Several UK-wide consumer awareness campaigns clearly differentiate between the United Kingdom’s quality-based and safety-based date labels, including the Love Food Hate Waste⁶⁶ and Look, Smell, Taste, Don’t Waste campaigns.⁶⁷ Since implementing guidance and public awareness campaigns, the United Kingdom has reduced food waste and increased food donation in recent years.⁶⁸ According to WRAP’s latest data, public awareness initiatives from the past three years have decreased household food waste by up to 11%.⁶⁹ The data suggest that awareness raising is gaining traction through increased social media connections and viewership, according to a survey reporting that 69% of UK households have seen or heard information about food waste in the preceding year.⁷⁰

Liability Protection for Food Donations

Issue Overview

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. Other countries, including Argentina and the United States, have comprehensive protections for both food donors and food recovery organizations.⁷¹ These protections limit the likelihood that actors will be held legally or financially responsible for resulting harm, provided that they act in good faith and in accordance with relevant laws.

Ghana does not provide explicit legal protections for food donors and food recovery organizations. Under the existing frameworks, food donors and food recovery organizations may face liability in the event a beneficiary alleges harm arising from donated food. The Constitution of Ghana provides for fundamental human rights and freedoms including the protection of Ghanaians’ health and safety, compensation for loss or injury, and the right of the government to seize goods that may be injurious to public health.⁷² The constitution also allows Parliament to enact legislation to advance these rights.⁷³ Generally, claims of harm arising from goods, including food, may be brought under the Food and Drugs Act (FDA 305B)⁷⁴ or the Civil Liability Act of 1963.⁷⁵

The FDA 305B is mainly concerned with protecting consumers from unwholesome foods. A person who offers a food intended for, but unfit for, consumption commits an offense, but they may prove themselves not guilty if they supply proof they didn’t know the food was unfit for human consumption.⁷⁶ This means that if food is

unwholesome under the definitions of the FDA 305B and a manufacturer, producer, or retailer intentionally offers it for sale, they will be found liable. This may apply to food that is offered for donation. Additionally, if someone knowingly gets a beneficiary ill from a food donation, they will be held liable. Although this allows for someone who donated unfit food to be found not guilty if they show they did not know the food was unfit, this language does not protect all donations made in good faith.

Even if food donors and food recovery organizations do face the threat of liability, the FDA 305B sets forth several defenses that may shield these entities from liability. Under the FDA 305B, liability for damages does not arise in the following instances: (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's preparation process.⁷⁷ These defenses may be helpful for food donation, as they may defend food manufacturers if food becomes unsafe after it leaves the manufacturer's hands. However, they might not protect a food retailer that donated food or a food recovery organization that distributed donations.

Ghana also has the Civil Liability Act of 1963, which outlines the situations under which an individual would be held civilly liable.⁷⁸ The act does not specifically discuss liability issues related to food, but it does state that damage done to a person who was wronged by another may hold the wrongdoer liable depending on the extent to which they are at fault.⁷⁹ There is little guidance under Ghanaian law regarding the mens rea required and applicable defenses in the context of the interaction between food donors and donees. However, under the general rules of tort, a food donor may be held liable for failing to exercise reasonable care and diligence in the supply of food to a donee where the food has been found to cause harm to the donee.⁸⁰

While beneficiaries are generally not bringing lawsuits against food donors and food recovery organizations under these frameworks,⁸¹ the lack of protections may deter food donors and other actors that perceive food donation as a potentially risky endeavor. The National Food Donor Encouragement Bill was introduced in 2017 to protect individuals, farmers, and nonprofit organizations that donate food in good faith to charitable organizations as long as the food is wholesome and the donor has not acted with intentional misconduct or gross negligence.⁸² At the time of this writing, this bill has not been enacted.⁸³

Recommended Policy Actions

1. ENACT NATIONAL LEGISLATION THAT ESTABLISHES CLEAR AND COMPREHENSIVE LIABILITY PROTECTION FOR FOOD DONORS AND FOOD RECOVERY ORGANIZATIONS.

Ghana should enact legislation that offers robust liability protection for food donors and food recovery organizations. A strong liability protection law should include a presumption of good faith on the part of the donor. Acting in good faith means "behaving honestly and frankly, without any intent to defraud or to seek an unconscionable advantage."⁸⁴ In the food donation context, a presumption of good faith means a donor or food recovery organization donated or distributed food honestly without the intention to cause harm to a beneficiary.⁸⁵ Under these circumstances, courts will presume that donors and food recovery organizations complied with all provisions of existing law. The burden to prove that a donor or food recovery organization did not act in good faith would fall on the individual who alleges any wrongdoing. A food donor or food recovery organization would only be held liable if the court determines that it did not act in good faith. National liability protection in Ghana must also ensure that food donors are not shielded from protection if they act with gross negligence or intentional misconduct.

In Argentina, for example, comprehensive liability protections apply so long as donations are made in accordance with conditions set forth in the country's Food Donation Law (i.e., donations are made free of charge to a qualified intermediary and benefit populations in need).⁸⁶ Argentina affords donors and food recovery organizations a presumption of good faith (*buena fe*) absent any willful misconduct or negligence resulting in harm to a beneficiary.⁸⁷

2.

PROVIDE LIABILITY PROTECTION THAT ALLOWS FOOD RECOVERY ORGANIZATIONS AND OTHER INTERMEDIARIES TO CHARGE A NOMINAL FEE FOR DONATED FOOD.

Ghana's national liability protection for food donations should explicitly allow food donors and food recovery organizations to charge a nominal fee to final recipients. Allowing these low-price sales would support other offerings by food recovery organizations, such as social supermarkets (nonprofit grocery stores that sell donated food at a low cost and are popular throughout Europe) or other low-cost, market-based opportunities to serve those in need. To better support innovative food recovery models, food recovery organizations and other intermediaries should be permitted to charge a reduced or nominal fee for donated food. This scheme would benefit both food-insecure populations and the intermediary, which would be able to rely on a more sustainable funding source. Charging a significantly reduced price for donated food would not compromise the integrity of food donation, but it would provide a little revenue for food recovery organizations so they can better meet the needs of the community. Limiting this nominal fee permission to nonprofit food recovery organizations and intermediaries will ensure that any funds generated from food sales will be used to further the organization's charitable purpose to serve more individuals in need.

Taxes

Issue Overview

Food donation helps mitigate the costs of 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. Tax laws can either help offset these expenses and incentivize donation, or they can create an additional barrier to donation, contributing to greater FLW. Food businesses may be more likely to donate surplus food to food banks if they receive a charitable deduction or credit to offset the cost of transportation and logistics.

Income and gains generated by most corporate taxpayers in Ghana are taxed at a rate of 25%, contingent upon the nature of the business carried out by an entity, the location of the business, and the specific industry in which it operates.⁸⁸ For example, manufacturing companies located in regional capitals other than Accra and Tema pay a corporate income tax (CIT) of 18.5%, while manufacturing companies located outside of Accra, Tema, and the regional capitals pay a CIT of 12.5%.⁸⁹

Ghana offers tax deductions for both monetary and in-kind donations. Food donations are eligible for these tax deductions.⁹⁰ These deductions are defined under Ghana's Income Tax Act 896, 2015 (Income Tax Act) and the Ghana Revenue Authority (GRA) Practice Note on Contribution or a Donation to a Worthwhile Cause under the Income Tax Act 896, 2015.⁹¹

Under the Income Tax Act, taxpayers in Ghana may make a claim for deduction for contributions or donations to a worthwhile cause.⁹² 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 contribution's fair market value.⁹³

Reports from food recovery organizations indicate that with the existing tax incentive scheme, food donors can claim the full value of the donated food, as long as a certificate from a nonprofit organization is provided and the food is intended for vulnerable populations.⁹⁴ However, these food recovery organizations report few food donors claim tax benefits from the donations, due to donors and recovery organizations alike being unaware of the benefit as well as the claim process being burdensome and unclear.⁹⁵

Further, the Value Added Tax Act 870, 2013 requires a standard value-added tax (VAT) rate of 12.5% with an adjusted “flat-rate” charge of 3% for the wholesale suppliers or retail sellers.⁹⁶ The VAT is payable by the supplier or importer of the good or service.⁹⁷ However, certain domestically produced agricultural and aquatic foods in their raw state are exempt from VAT.⁹⁸ Therefore, food staples such as unprepared rice, vegetables, fruits, and meats are exempt from VAT and as such may be donated without imposing VAT duties on the food business or food recovery organization.⁹⁹ Conversely, for all other donations of foodstuffs such as prepackaged or prepared foods, VAT is applied at each stage of the production and distribution chain.¹⁰⁰ This means that the food recovery organization must pay the VAT due on food to acquire it from the donor unless the donor decides to cover this expense.¹⁰¹ Further, Ghana permits businesses to reclaim VAT credits for unmarketable food that is thrown away.¹⁰² This means that if a business throws away unmarketable food, it is entitled to reimbursement from the government for the input VAT it incurred acquiring the product.¹⁰³ Consequently, businesses may choose to throw away rather than donate prepackaged and prepared foods as the more financially viable option.

Recommended Policy Actions

1. CATEGORIZE FOOD DONATION AS A ZERO-RATED SUPPLY UNDER THE VALUE ADDED TAX ACT.

Ghana should amend the Value Added Tax Act to clearly categorize donation of all food items as zero-rated goods. Items or transactions that are zero-rated are essentially exempt from the taxation scheme. In addition, a business or individual is entitled to claim a refund on any input tax paid throughout the supply chain for food donations that are considered zero-rated.¹⁰⁴

As an example, the Czech Republic set a zero rate for all donated food, which removes the VAT burden from both the food donors and food recovery organizations.¹⁰⁵

2. DEVELOP TAX GUIDANCE FOR FOOD DONORS AND FOOD RECOVERY ORGANIZATIONS CLARIFYING THE EXISTING TAX SCHEME.

Uncertainty surrounding the tax system in Ghana disincentivizes donors from donating food. Food recovery organizations express challenges and a lack of transparency around steps they need to take to acquire an exemption certificate for purposes of the Income Tax Act. They have also expressed frustration with the lack of clarifying guidance on claiming a tax deduction when donating food. This prevents food donors from donating to food recovery organizations and food recovery organizations from using the tax deduction provided in the Income Tax Act. Ghana should issue comprehensive, but easily understandable guidance on the Ghanaian tax system as it applies to food donors and food recovery organizations.

Governments Grants and Incentives

Issue Overview

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 the 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. Ghana does not have any clear government incentive programs to promote food recovery at this time.

Recommended Policy Actions

1. CREATE GOVERNMENT GRANT OPPORTUNITIES FOR FOOD DONATION INFRASTRUCTURE.

Grants and incentive programs funded at the national or regional level offer an important resource for food donation initiatives, as cost is a main barrier preventing food businesses from donating food. For example, in the United States, transportation and storage costs are often cited as the main expenses that manufacturers, retailers, and restaurants need to overcome to donate food.¹⁰⁶ Ghana should establish government grant opportunities for food donation infrastructure to help food donors and food recovery organizations acquire space and resources for harvesting, storing, processing, and transporting food. Grants should be broad enough to allow food recovery organizations to purchase or lease transportation vehicles (i.e., refrigerated trucks) and storage facilities (i.e., warehouses and processing facilities), to pay staff and volunteers, and to fund other such activities that reasonably assist the organization in providing wholesome food to food-insecure individuals.

CONCLUSION

While these Policy Recommendations are intended to help strengthen food donation in Ghana, they are not exhaustive. Those committed to reducing FLW and promoting food recovery should seek the advice of legal experts, policymakers, and other stakeholders to identify the most effective and feasible policy interventions.

ENDNOTES

- ¹ The Global Food Donation Policy Atlas was made possible through the funding of the Walmart Foundation. The Walmart Foundation is not responsible for the content of this document or the views contained herein. The findings, conclusions, and recommendations presented in this project and these recommendations are those of the Harvard Law School Food Law and Policy Clinic (FLPC). The content of this document should not be interpreted as legal advice. Those seeking legal advice should speak to an attorney licensed to practice in the applicable jurisdiction and area of law.
- ² FAO, IFAD, UNICEF, WFP and WHO. 2022. *The State of Food Security and Nutrition in the World 2022. Repurposing food and agricultural policies to make healthy diets more affordable*. Rome, FAO. <https://doi.org/10.4060/cc0639en> [required citation]; FAO, INT'L FUND FOR AGRIC. DEV. (IFAD), U.N. CHILDREN'S FUND (UNICEF), WORLD FOOD PROGRAMME (WFP), & WORLD HEALTH ORG. (WHO), *THE STATE OF FOOD SECURITY AND NUTRITION IN THE WORLD 2022: REPURPOSING FOOD AND AGRICULTURAL POLICIES TO MAKE HEALTHY DIETS MORE AFFORDABLE* 139 (2022), <https://www.fao.org/3/cc0639en/cc0639en.pdf> [<https://perma.cc/U5VZ-5BVA>].
- ³ It is important to note that FLW in Ghana has not been regularly tracked. Thus, data on the current total FLW is only an estimate. See, e.g., *2013 Ghana Food Wastage Report*, CHEFS FOR CHANGE GHANA FOUNDATION (2013), <https://www.modernghana.com/news/566607/2013-ghana-food-wastage-report.html> [<https://perma.cc/UUR2-ENFJ>]; U.N. ENVIRON. PROGRAMME (UNEP), *FOOD WASTE INDEX REPORT 2021* 61 (2021), <https://wedocs.unep.org/bitstream/handle/20.500.11822/35280/FoodWaste.pdf> [<https://perma.cc/D464-YBFD>] (showing that an estimated 2,555,332 tons of food waste each year is attributable to households in Ghana); Hippolyte Affognon et al., *Unpacking Postharvest Losses in Sub-Saharan Africa: A Meta-Analysis*, 66 *WORLD DEV.* 49 (Feb. 2015), <https://www.sciencedirect.com/science/article/pii/S0305750X14002307> (last visited July 27, 2022); Robert Akparibo et al., *Food Security in Ghanaian Urban Cities: A Scoping Review of the Literature*, 13(10) *NUTRIENTS*. 3615 (Oct. 2021), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8540338/> [<https://perma.cc/ZG3C-Q4VQ>]; MARTINE RUTTEN & MONIKA VERMA, *THE IMPACTS OF REDUCING FOOD LOSS IN GHANA: A SCENARIO STUDY USING THE GLOBAL ECONOMIC SIMULATION MODEL MAGNET*, LEI WAGENINGEN UR (2014), <https://edepot.wur.nl/328240#:~:text=Each%20year%2C%20Ghana%20is%20estimated,topic%20for%20the%20Dutch%20government> [<https://perma.cc/H9KL-WHW5>]; GHANA: *VOLUNTARY NATIONAL REVIEW REPORT ON THE IMPLEMENTATION OF THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT*, GOV. GHANA (2019), https://sustainabledevelopment.un.org/content/documents/23420Ghanas_VNR_report_Final.pdf [<https://perma.cc/SR7M-RL6J>]; MABEL ADDAI, *ASSESSING THE CAUSES AND EFFECTS OF FOOD LOSS AND FOOD WASTE: A COMPARATIVE ANALYSIS OF GHANA AND SWEDEN*, LUND U. CENTRE FOR SUSTAINABILITY STUDIES (LUCSUS) (2021), https://ucanr.edu/sites/Postharvest_Technology_Center_/files/346244.pdf [<https://perma.cc/55V6-YRXA>]; *Waste food could be worth \$1.5 trillion by 2030*, GHANA BUS. NEWS (GBN) (Oct. 2, 2018), <https://www.ghanabusinessnews.com/2018/10/02/waste-food-could-be-worth-1-5-trillion-by-2030/> [<https://perma.cc/55V6-YRXA>]; Cooper Inveen & Francis Kokoroko, *Ghana chef serves free stew as more struggle to afford food*, REUTERS (June 15, 2022), <https://www.reuters.com/world/africa/ghana-chef-serves-free-stew-more-struggle-afford-food-2022-06-15/#:~:text=Food%20For%20All's%20predecessor%20organization,according%20to%202016%20government%20data.> [<https://perma.cc/2JWD-YJG9>]; Masahudu Ankiilu Kunateh, *Ghana: \$8.9 Billion Worth of Food Goes Waste* (Sept. 5, 2014), <https://allafrica.com/stories/201409051029.html>. [<https://perma.cc/HR4D-BQLK>]; David Foli Ayivor, *Reducing Food Waste and Empowering Smallholders in Ghana*, AFR100, <https://afr100.org/content/reducing-food-waste-and-empowering-smallholders-ghana> [<https://perma.cc/NHH9-QAZ4>]; Kodwo Miezah et al., *Municipal solid waste characterization and quantification as a measure towards effective management in Ghana*, 46 *WASTE MGMT.* 15-27 (Sept. 28, 2015), <https://pubmed.ncbi.nlm.nih.gov/26421480/> [<https://perma.cc/7AZK-MJ7H>].
- ⁴ *The World Bank in Ghana*, WORLD BANK, <https://www.worldbank.org/en/country/ghana/overview> (last updated Apr. 7, 2022) [<https://perma.cc/C9X5-2YA7>].
- ⁵ FAO, IFAD, UNICEF, WFP and WHO. 2022. *The State of Food Security and Nutrition in the World 2022. Repurposing food and agricultural policies to make healthy diets more affordable*. Rome, FAO. <https://doi.org/10.4060/cc0639en> [required citation]; FAO, INT'L FUND FOR AGRIC. DEV. (IFAD), U.N. CHILDREN'S FUND (UNICEF), WORLD FOOD PROGRAMME (WFP), & WORLD HEALTH ORG. (WHO), *THE STATE OF FOOD SECURITY AND NUTRITION IN THE WORLD 2022: REPURPOSING FOOD AND AGRICULTURAL POLICIES TO MAKE HEALTHY DIETS MORE AFFORDABLE* 139 (2022), <https://www.fao.org/3/cc0639en/cc0639en.pdf> [<https://perma.cc/U5VZ-5BVA>].
- ⁶ *The World Bank in Ghana*, WORLD BANK (Ap. 07, 2022), <https://www.worldbank.org/en/country/ghana/overview> [<https://perma.cc/CF25-WRZV>].
- ⁷ *Id.*
- ⁸ GHANA SHARED GROWTH AND DEVELOPMENT AGENDA (GSDA) II: COSTING FRAMEWORK VOLUME II (2014 – 2017), GOV'T GHANA: NAT'L DEV. PLANNING COMM'N (NDPC) (2015), <https://www.un-page.org/files/public/gsgda.pdf> [<https://perma.cc/F7JT-DDX6>]; See also *Ghana Shared Growth and Development Agenda (GSDA) II, 2014-2017*, FAO: FAOLEX Database (Jan. 1, 2014), <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC152510/> [<https://perma.cc/9E3H-ZP2K>]. This is a series of national development policy frameworks prepared over the past two decades. Its vision, in part, is to increase incomes, especially for those in poor households; improve service delivery in water, sanitation, education, health, and housing across the country; and increase agricultural productivity to ensure both food and nutrition security. *Id.*
- ⁹ Nana Addo Dankwa Akufo-Addo, *The Coordinated Programme of Economic and Social Development Policies 2017-2024—An*

- Agenda for Jobs: Creating Prosperity and Equal Opportunity for All, Rep. Ghana (2017), [https://s3-us-west-2.amazonaws.com/new-ndpc-static1/CACHES/PUBLICATIONS/2018/04/11/Coordinate+Programme-Final+\(November+11,+2017\)+cover.pdf](https://s3-us-west-2.amazonaws.com/new-ndpc-static1/CACHES/PUBLICATIONS/2018/04/11/Coordinate+Programme-Final+(November+11,+2017)+cover.pdf) [<https://perma.cc/Y2CJ-KGES>]; see also *Coordinated Programme of Economic and Social Development Policies (2017-2024)*, FAO: FAOLEX Database (Oct. 20, 2017), <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC174137/#:~:text=The%20overall%20objectives%20of%20the,a%20stable%2C%20united%20and%20safe> [<https://perma.cc/ZZRP-VGFS>]. This program outlines several policy initiatives that address food insecurity and poor nutrition. *Id.* The policies are also geared toward promoting, researching, and developing food and nutrition security through improved agricultural development. *Id.*
- ¹⁰ MINISTRY FOOD & AGRIC., MEDIUM TERM AGRICULTURAL SECTOR INVESTMENT PLAN (METASIP) 2011 – 2015, REP. GHANA (2010), [https://new-ndpc-static1.s3.amazonaws.com/CACHES/PUBLICATIONS/2016/04/16/Medium+Term+Agriculture+Sector+Investment+Plan+\(METASIP\)+2011-2015.pdf](https://new-ndpc-static1.s3.amazonaws.com/CACHES/PUBLICATIONS/2016/04/16/Medium+Term+Agriculture+Sector+Investment+Plan+(METASIP)+2011-2015.pdf) [<https://perma.cc/P93H-HJQN>] [hereinafter METASIP]; see also *Medium Term Agricultural Sector Investment Plan (METASIP) 2011-2015*, FAO: FAOLEX DATABASE (Jan. 1, 2011), <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC144958/#:~:text=The%20present%20Medium%20Term%20Agriculture,employment%20opportunities%20and%20reduced%20poverty%E2%80%9D> [<https://perma.cc/5FNT-BHHM>]. This plan aims to modernize agriculture to transform the economy, increase food security and employment opportunities, and reduce poverty. It provides a detailed summary of the performance of Ghana’s agriculture sector and identifies multiple programs that could undergo improvements to better address these goals. *Id.*
- ¹¹ MINISTRY FOOD & AGRIC., FOOD AND AGRICULTURE SECTOR DEVELOPMENT POLICY (FASDEP II), REP. GHANA (2007), <http://rhody.crc.uri.edu/wp-content/uploads/sites/10/2018/04/Ghana-Food-and-Agriculture-Sector-Development-Policy-2007.pdf> [<https://perma.cc/7MK6-LP9P>] [hereinafter FASDEP II]. This policy focuses on identifying strategies and policies to improve the agriculture sector’s processes, reduce food insecurity, and increase private-sector engagement and collaboration to better facilitate the goals of the program.
- ¹² *Planting for Food & Jobs*, REP. GHANA: MINISTRY FOOD & AGRIC., <https://mofa.gov.gh/site/programmes/pfj> (last visited July 22, 2022). This program aims to modernize the agriculture sector and transform the economy through increasing food security and employment opportunities leading to reduced poverty. *Id.* The program focuses on ensuring immediate and adequate availability of selected crops through improved productivity, providing support to private-sector agricultural service providers, increasing employment opportunities in agriculture and related sectors, and raising awareness among the public to farm available land and establish backyard gardens. *Id.*
- ¹³ Charles Annor-Frempong, *Ghana: the Village Infrastructure Project*, WORLD BANK: FINDINGS AFRICA REGION 128 (Sept. 2006), <https://openknowledge.worldbank.org/handle/10986/9596> [<https://perma.cc/N6A4-GWPU>].
- ¹⁴ *Id.*
- ¹⁵ *National Food Buffer Stock Company: Who We Are*, NAT’L FOOD BUFFER STOCK CO. LTD. (NAFCO), <https://nafco.gov.gh/who-we-are/> (last visited Aug. 11, 2012).
- ¹⁶ African Union’s main objectives are to promote the unity and solidarity of the African States, coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa, defend their sovereignty as well as their territorial integrity and independence, eradicate all forms of colonialism from Africa, and promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights. *About the African Union*, AFRICAN UNION, <https://au.int/en/overview> (last visited July 22, 2022) [<https://perma.cc/Q3TC-NGYY>]; see also *Member States*, AFRICAN UNION, https://au.int/en/member_states/countryprofiles2 (last visited July 22, 2022) [<https://perma.cc/2EQL-63MD>].
- ¹⁷ MALABO DECLARATION ON ACCELERATED AGRICULTURAL GROWTH AND TRANSFORMATION FOR SHARED PROSPERITY AND IMPROVED LIVELIHOODS, AFRICAN UNION (2014), https://www.resakss.org/sites/default/files/Malabo%20Declaration%20on%20Agriculture_2014_11%2026-.pdf [<https://perma.cc/ZF4G-FUJT>].
- ¹⁸ *Welcome! Food for All Africa*, FOOD 4 ALL AFRICA PROGRAMME, <http://www.foodforallafrika.com/> (last visited July 22, 2022) [<https://perma.cc/VN29-AUYE>]; see also *Food for All Africa: Creating efficient and sustainable means of nutrition for all*, FOOD 4 ALL AFRICA PROGRAMME (2020), <https://www.foodforallafrika.com/wp-content/uploads/2020/08/FFA-Main-Marketing-Presentation.pdf> [<https://perma.cc/YL7R-L5BC>].
- ¹⁹ *Food for All Africa: Creating efficient and sustainable means of nutrition for all*, *supra* note 39.
- ²⁰ *Id.*
- ²¹ *National Food Donor Encouragement Bill: Ghana’s Shared Responsibility to End Hunger*, FUTURE OF GHANA (Apr. 17, 2017), <https://www.futureofghana.com/national-food-donors-encouragement-bill-ghanas-shared-responsibility-to-end-hunger/> [<https://perma.cc/QB5D-JXKE>].
- ²² Public Health Act 851, 2012 (Ghana) (2012), <https://www.medbox.org/pdf/5e148832db60a2044c2d3f90> [<https://perma.cc/S3TX-AJY7>] [hereinafter PHA].
- ²³ *Id.* at pt. 7, s. 81-82.
- ²⁴ *Id.* at pt. 7, s. 81.
- ²⁵ *Id.* at pt. 7, s. 97.
- ²⁶ *Id.* at pt.7, s. 97(3), 100(3)-(7).
- ²⁷ *Id.* at pt. 7, s. 100(4). According to the PHA, “food” includes water, a food product, a live animal, or a live plant, and (a) a substance

or a thing of a kind used, capable of being used, or represented as being for use, for human or animal consumption whether it is live, raw, prepared, or partly prepared; (b) an ingredient or additive in a substance or a thing referred in (a); (c) chewing gum; or (d) a substance or a thing declared by the minister for health to be a food. *Id.*

²⁸ *Id.* at pt. 7, s. 104-09.

²⁹ *Id.* at pt. 7, s. 105.

³⁰ See, e.g., WRAP, SURPLUS FOOD REDISTRIBUTION IN THE UK 2015 – 2021: PROGRESS REPORT 2022 (July 2022), https://wrap.org.uk/sites/default/files/2022-07/WRAP-Surplus-food-redistribution-in-the-UK-2015-to-2021_0.pdf; WRAP, DEFRA, & FSA, REDISTRIBUTION LABELLING GUIDE (May 2020), <https://wrap.org.uk/sites/default/files/2020-07/WRAP-surplus-foodredistribution-labelling-guide-May-2020.pdf>; see also WRAP, REDISTRIBUTION CHECKLIST: DATE LABELS, STORAGE ADVICE AND FREEZING FOR FOOD SAFETY (Apr. 2020), https://wrap.org.uk/sites/default/files/2020-08/WRAP-Surplus_food_redistribution_labelling_checklist_0.pdf; see also WRAP, SURPLUS FOOD REDISTRIBUTION LABELLING GUIDANCE (Apr. 2020), <https://wrap.org.uk/resources/guide/surplus-food-redistributionlabelling-guidance>.

³¹ NAT'L ENVT. AGENCY, GUIDELINES ON FOOD DONATION (Oct. 24, 2016), <https://www.nea.gov.sg/docs/default-source/our-services/guidelines-on-food-donation-.pdf> [<https://perma.cc/D7WW-JHSM>].

³² Steve Morris, U.S. Gov't Accountability Off. (GAO), Date Labels on Packaged Foods: USDA and FDA Could Take Additional Steps to Reduce Consumer Confusion, GAO-19-407 (2019), <https://www.gao.gov/assets/710/701238.pdf> [<https://perma.cc/43AJ-RM85>].

³³ Roni A. Neff et al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 WASTE MGMT. 123 (Feb. 12, 2019), <https://doi.org/10.1016/j.wasman.2019.01.023> (last visited July 28, 2022); see also HARVARD L. SCH. FOOD LAW & POL'Y CLINIC (FLPC) & NRDC (NAT. RES. DEF. COUNCIL), DON'T WASTE, DONATE: ENHANCING FOOD DONATIONS THROUGH FEDERAL POLICY 19 (2017), https://chlp.org/wp-content/uploads/2013/12/Dont-Waste-Donate_-March-2017.pdf [<https://perma.cc/9ET5-NVU8>] [hereinafter FLPC & NRDC, DON'T WASTE, DONATE].

³⁴ PHA, *supra* note 23.

³⁵ *Id.* at s. 82(a)-(f).

³⁶ *Id.* at s. 82(b).

³⁷ Standards Authority Act 173, 1973 (N.R.C.D.) (1973) (Ghana), <https://bcp.gov.gh/acc/registry/docs/STANDARDS%20AUTHORITY%20ACT,%201973%20N.R.C.D.%20173.pdf> (last visited Aug. 29, 2022).

³⁸ GSB (Food, Drugs, and Other Goods) General Labeling Rules, 1992 (L.I. 1541) (1992) (Ghana), <http://extwprlegs1.fao.org/docs/pdf/gha17279.pdf> [<https://perma.cc/LWM2-3Q9E>] [hereinafter GSB Labelling Rules].

³⁹ FDA, *Guidelines for the Labeling of Prepackaged Foods*, REP. GHANA (Mar. 1, 2013), <https://fdaghana.gov.gh/images/stories/pdfs/downloads/food%20guidelines/GUIDELINES%20FOR%20THE%20LABELING%20OF%20PREPACKAGED%20FOODS.pdf> (last visited July 27, 2023) [hereinafter FDA Food Labeling Guidelines].

⁴⁰ *Codex Alimentarius International Food Standards*, FAO (2022), <https://www.fao.org/fao-who-codexalimentarius/about-codex/members/en/> [<https://perma.cc/9ST6-HJ84>].

⁴¹ GSB General Labelling Rules, *supra* note 41 at pt. 8

⁴² FAO & WHO, GENERAL STANDARD FOR THE LABELING OF PREPACKAGED FOODS, CODEX ALIMENTARIUS (2010), https://www.fao.org/input/download/standards/32/CXS_001e.pdf [<https://perma.cc/36S7-TE2P>].

⁴³ *Id.*

⁴⁴ *Id.* at pt. 1, s. 1(1), (c) (stating that “[n]o person shall offer for sale, sell distribute[], import or otherwise dispose of prepackaged food or drug, unless the food or drug is marked or labelled with . . . an indication of the minimum durability in the form of date of manufacture and expiry date or best before date or use-by-date in respect to food . . .”).

⁴⁵ Stakeholder interviews with Ghanaian food banks, food recovery organizations, and government agencies, July 2022, Cambridge, Mass. (virtual). Notes on File with Authors.

⁴⁶ FDA Labeling Guidelines, *supra* note 42 at s. 4.8.1(vi).

⁴⁷ Stakeholder interviews with Ghanaian food banks, food recovery organizations, and government agencies, July 2022, Cambridge, Mass. (virtual). Notes on File with Authors.

⁴⁸ FDA Labeling Guidelines, *supra* note 42 at s. 2.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ FDA Labeling Guidelines, *supra* note 42 at s. 2.

⁵² Stakeholder interviews with Ghanaian food banks, food recovery organizations, and government agencies, July 2022, Cambridge, Mass. (virtual). Notes on File with Authors.

⁵³ *Id.*

⁵⁴ *The Food Division*, FOOD & DRUGS AUTH., <http://www.fdaghana.gov.gh/food.php> (last visited Aug. 5, 2022) [<https://perma.cc/NDR8-VFGC>].

⁵⁵ FAO & WHO, GENERAL STANDARD FOR THE LABELLING OF PREPACKAGED FOODS, CODEX ALIMENTARIUS (2018), https://www.fao.org/fao-who-codexalimentarius/sh-proxy/es/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252Fstandards%252FCXS%2B1-1985%252FCXS_001e.pdf [<https://perma.cc/WD6P-XG55>] [hereinafter Codex 2018 Date Labeling

Standard].

⁵⁶ See, e.g., *FOODBANK AUSTRALIA & MACQUARIE L. SCH. PACE PROGRAM, REFORMING FOOD DATE CODES 20* (2019), <https://www.foodbank.org.au/wpcontent/uploads/2019/12/Macquarie-Law-PACE-Reforming-Date-Labeling-in-Australia.pdf> [<https://perma.cc/N9JW-YWN4>]; see also *FLPC & NRDC, DON'T WASTE, DONATE*, *supra* note 36. .

⁵⁷ *FLPC & NRDC, DON'T WASTE, DONATE*, *supra* note 36..

⁵⁸ *ESTHER AKWII, ET. AL., FLPC, THE GLOBAL FOOD DONATION POLICY ATLAS NIGERIA LEGAL GUIDE* (Sep. 2022), https://www.foodbanking.org/wp-content/uploads/2022/09/The-Global-Food-Donation-Policy-Atlas_Nigeria_Legal-Guide.pdf [<https://perma.cc/CE2Y-3USZ>].

⁵⁹ *Id.*

⁶⁰ Codex 2018 Date Labeling Standard, *supra* note 58.

⁶¹ FDA Labeling Guidelines, *supra* note 42 at s. 2.

⁶² WRAP is a governmentally funded organization in the United Kingdom that directly addresses and provides guidance on the safe redistribution of surplus food, among other food waste initiatives. *About us*, WRAP, <https://wrap.org.uk/about-us> (last visited Aug. 5, 2022).

⁶³ ATLAS UK LEGAL GUIDE, *supra* note 63 at 9.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Love Food Hate Waste*, WRAP, <https://www.lovefoodhatewaste.com/why-save-food> (last visited Aug. 5, 2022) [<https://perma.cc/3ZE8-X2VD>].

⁶⁷ *Past May Date? Look, Smell, Taste, Don't Waste: Best Before Labels Are Causing Food Waste, TOO GOOD TO GO INT'L* (2020), <https://toogoodtogo.co.uk/en-gb/campaign/commitment> (last visited Aug. 5, 2022); Rebecca Smithers, *Cut food waste at home by sniffing and tasting, urges new campaign*, *GUARDIAN* (Jan. 23, 2021), <https://www.theguardian.com/environment/2021/jan/23/cut-food-waste-at-home-by-sniffing-and-tasting-urges-new-campaign> [<https://perma.cc/W7PR-9WFH>].

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⁷⁰ WRAP, COURTAULD COMMITMENT 2025 MILESTONE PROGRESS REPORT, *supra* note 72.

⁷¹ See *The Bill Emerson Good Samaritan Food Donation Act*, 42 U.S.C.A. § 1791(c)(1) [United States]; Law 25989, Dec. 16, 2004 [30564] B.O. 1 [Argentina].

⁷² GHANA CONST. OF 1992, s. 21 (1992) (Ghana), https://www.constituteproject.org/constitution/Ghana_1996.pdf (last visited July 22, 2022) [<https://perma.cc/KEG8-RZTF>]

⁷³ *Id.* at ch. 10.

⁷⁴ Food and Drugs Act, 1992 P.N.D.C.L. 305B (1992) (Ghana), <http://elibrary.jsg.gov.gh/fg/laws%20of%20ghana/2%20REP/FOOD%20AND%20DRUGS%20ACT,%201992%20P.N.D.C.L.%20305B.htm> [<https://perma.cc/4C82-6UUW>] [hereinafter FDA 305B].

⁷⁵ Ghana Civil Liability Act 176, 1963 (1963) (Ghana), https://lawsghana.com/pre_1992_legislation/1/First%20Republic/CIVIL%20LIABILITY%20ACT,%201963%20%28ACT%20176%29/plain_view/243 [<https://perma.cc/9DS3-36K7>].

⁷⁶ FDA 305B, *supra* note 78.

⁷⁷ *Id.* at s. 8, 9.

⁷⁸ Ghana Civil Liability Act, *supra* note 79.

⁷⁹ *Id.*

⁸⁰ *Id.*; see also stakeholder interviews with in-country legal experts in August 2022, Cambridge, Mass. [virtual]. Notes on file with authors.

⁸¹ Stakeholder interviews of Ghanaian food banks conducted in July 2022, Cambridge, Mass. [virtual]. Notes on file with authors.

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⁸³ Stakeholder interviews of Ghanaian food banks conducted in July 2022, Cambridge, Mass. [virtual]. Notes on file with authors.

⁸⁴ *Acting in Good Faith*, *BLACK'S LAW DICTIONARY* (11th ed. 2019)

⁸⁵ See *ESTHER AKWII ET AL., FLPC, THE GLOBAL FOOD DONATION POLICY ATLAS ISSUE BRIEF PROMOTING FOOD DONATION: LIABILITY PROTECTION LAW AND POLICY 7* (2021), <https://www.foodbanking.org/wp-content/uploads/2021/12/Liability-Protections.pdf> [<https://perma.cc/9T8W-EKJN>] (detailing the best practices of liability protection for food donation).

⁸⁶ Law 25989, Dec. 16, 2004 [30564] B.O. 1 [Argentina] <http://servicios.infoleg.gob.ar/infolegInternet/anexos/100000-104999/102664/texact.htm> [<https://perma.cc/ED5J-EE4H>] amended via the National Plan for Food Loss and

Waste (Law No. 27454).

⁸⁷ *Id.*

⁸⁸ *Corporate Income Tax (CIT)*, GHANA REVENUE AUTH. (GRA), <https://gra.gov.gh/domestic-tax/tax-types/corporate-income-tax/> (last visited July 28, 2022).

⁸⁹ *Id.*

⁹⁰ See Income Tax Act 896, 2015 (2015) (Ghana), [https://www.bcp.gov.gh/acc/registry/docs/TAX%20896-INCOME%20TAX%20ACT,%202015%20\(ACT%20896\)%20AS%20AMENDED%20BY%20ACTS%20902,%20907,%20915,%20924,%20941,%20956,%20967%20AND%20973.pdf](https://www.bcp.gov.gh/acc/registry/docs/TAX%20896-INCOME%20TAX%20ACT,%202015%20(ACT%20896)%20AS%20AMENDED%20BY%20ACTS%20902,%20907,%20915,%20924,%20941,%20956,%20967%20AND%20973.pdf) [<https://perma.cc/7V28-937J>] [hereinafter ITA]; see GRA, Practice Note on Contribution or a Donation to a Worthwhile cause under the Income Tax Act, 2015 (ACT 896) (Oct. 6, 2016), <https://gra.gov.gh/wp-content/uploads/2020/09/Practice-Note-on-Contribution-or-a-Donation-to-a-Worthwhile-Cause.pdf> (last visited July 28, 2022) [hereinafter GRA Practice Note on ITA].

⁹¹ See ITA, *supra* note 94; see GRA Practice Note on ITA, *supra* note 94.

⁹² See *id.*

⁹³ See *id.*

⁹⁴ Stakeholder interviews with Ghanaian food banks, food recovery organizations, and government agencies, July 2022, Cambridge, Mass. (virtual). Notes on File with Authors.

⁹⁵ *Id.*

⁹⁶ See *Ghana: Corporate – Other Taxes*, PWC (Jan. 26, 2022), <https://taxsummaries.pwc.com/ghana/corporate/other-taxes> [<https://perma.cc/H2RA-P267>].

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¹⁰⁰ See *id.*

¹⁰¹ See *id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ See *id.*

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