



FOOD SERVICE INDUSTRY & THE LAW

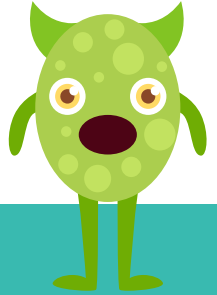
HOSPITALITY LAW

CONTRACTUAL LIABILITY

- Where a customer purchases food from a food provider, there is a contract between them.
- The food provider may be contractually liable if the food falls short of the description/ quality promised, or where the food causes the customer harm.



FOOD PROVIDER'S POTENTIAL LIABILITY



- 1) Breach of Implied Contract Terms
- 2) Tort of Negligence
- 3) Product Liability
- 4) Offences under the Food Act 1983
- 5) Section 272 & section 273 of the Penal Code
- 6) Offences Under the Trade Description Act 2011






SALE OF GOODS ACT 1957 (SOGA)

- ❑ In a Contract for the Sale of Food, the following terms are implied into the contract:
 - ❑ Section 15: goods supplied must match the description.
 - ❑ Section 16 (1)(a): goods supplied must be fit for the buyer's purpose.
 - ❑ Section 19(1)(b): goods supplied must be of merchantable quality

CONSUMER PROTECTION ACT (CPA)

- ❑ Specifically for consumer contracts, goods supplied must be of acceptable quality.
 - ❑ Section 33: goods supplied must be fit for the buyer's purpose.
 - ❑ Section 34: goods supplied must match the description.
 - ❑ Section 53: food provider must provide his services with reasonable care & skill.
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FOOD REGULATIONS 1985

- ❑ There are allergy warning requirements in the Food Regulations 1985, but they pertain to certain foods & ingredients only.
- ❑ In tort of negligence, a food provider owes his customer a **duty of care**. He should exercise **reasonable care** in the preparation & sale of his food products. Where consumption of these products result in harm to the customers, he may be liable in **negligence**.
- ❑ A food provider may also be liable under product liability law. Part X of the CPA says- a food provider is liable if his defective product causes death/personal injury/any damage to the consumer's property- food provider is NOT allowed to exclude liability for such loss.



FOOD ACT 1983

- ❑ **Section 13:** Food injuries to health - It is an offence to prepare/ sell any food that contains any substance that is poisonous, harmful or otherwise injurious to health.
- ❑ **Section 13A:** Food unfit for human consumption - It is an offence to sell diseased, filthy, decomposed, putrid animal or vegetable substance, or any portion of an animal unfit for food; or the product of an animal which has died otherwise than by slaughter.
- ❑ **Section 13B:** Adulterated food - It is an offence to sell a food that has been mixed, diluted, or otherwise tempered with, such that its nutritive value/ quality is affected.
- ❑ **Section 14:** Sale of food not of the nature, substance or quality demanded - The Food Act & the Food Regulations prescribe standards for various foods. When a purchaser buys food, he is presumed to have asked for food that complies with the standard prescribed under these laws. Any person who sells food which is not of the nature, substance or quality demanded by the purchaser, commits an offence.



- ❑ **Section 15:** Food labelling - Where the Food Act/the Food Regulations prescribe a standard for a food, the standard must be complied with.
- ❑ **Section 16:** False labelling - It is an offence to prepare, package, label or sell any food in a manner that is false, misleading, or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety, purity, weight, origin, age or proportion or in contravention of any food regulations.
- ❑ **Section 17:** Advertisement - The food Act/ Food Regulations contain provisions that deal with advertising claims, labelling, compulsory descriptions, etc.
 - ❑ Generally, anyone involved in the sale/ promotion activities of a food product commits an offence if he advertises the product in a manner inconsistent with the food laws.
 - ❑ It is also an offence to make advertising claims that is likely to deceive a purchaser with regard to the character, nature, value, substance, quality, strength, purity, composition, merit or safety, weight, proportion, origin, age or effects of any food or its ingredient.



PENAL CODE

- ❑ **S 272 - It is an offence to adulterate any article of food/drink intended for sale, with the result that the article becomes noxious as food/ drink.**
- ❑ **S 273 - Prohibits the sale of food/ drink that is noxious/ otherwise unfit for human consumption.**




TRADE DESCRIPTION ACT 2011

- ❑ **A food provider who applies false description to goods commits an offence under s 5.**
- ❑ **The Act also prohibits the making of false statements on matters in Part III, ss 13-21.**






















































































TRADE DESCRIPTIONS (DEFINITION OF HALAL) ORDER 2011

- ❑ **There is now a new halal logo & new Halal certification regime.**
 - ❑ **Only JAKIM & Jabatan Agama Islam Negeri are competent to issue Halal certification to food & goods manufactured/ sold locally.**
 - ❑ **In the case of imported products, foreign Halal certificates/ marks are recognised if the foreign halal certification bodies are recognised by JAKIM.**
 - ❑ **Any person/ body that purports to issue halal certification for goods/ services sold in Malaysia commits an offence.**
 - ❑ **It is an offence to represents one's goods/ services as halal when they are not so certified by JAKIM or JAIN.**
 - ❑ **It's also an offence to make any representation/ act that could mislead/ confuse people into thinking that the goods/ services are certified as halal.**
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CIRI-CIRI LOGO HALAL JAKIM



<div></div> <div>Australian Halal Authority & Advisors (AHAA)</div>	<div></div> <div>Perth Mosque Incorporated</div>	<div></div> <div>Islamic Association of Katanning</div>	<div></div> <div>Supreme Islamic Council of Halal Meat to Australia Inc. (SICHTMA)</div>	<div></div> <div>Halal Certification Authority Australia (HCAA)</div>	<div></div> <div>Islamic Co-ordinating Council of Victoria (ICCV)</div>	<div></div> <div>Australian National Islamic Council (ANIC)</div>	<div></div> <div>Islamic Information & Documentation Center</div>	<div></div> <div>Islamic Centre of The Argentine Republic (Centro Islamico de la Republica Argentina)</div>	<div></div> <div>Islamic Foundation Bangladesh (Baitul Maqam National Mosque)</div>	<div></div> <div>Halal Food Council of Europe (HFCE)</div>	
<div></div> <div>Agency for Halal Quality Certification</div>	<div></div> <div>Fambras Halal Certifications LTDA (FAMBRAS HALAL)</div>	<div></div> <div>Centro de Desenvolvimento Islam Para America Latina (CDIAL) / Islam Dissemination Center for Latin America</div>	<div></div> <div>Lembaga Mengukuhkan Permitt Import Halal Babun Kewalan Makanan Halal Jabatan Hal Ehwal Syariah</div>	<div></div> <div>Halal Montreal Certification Authority (HMCA)</div>	<div></div> <div>Halal Monitoring Authority (HMA)</div>	<div></div> <div>Shandong Halal Certification Service (SHCS)</div>	<div></div> <div>China Islamic Association</div>	<div></div> <div>ARA Halal Certification Services Centre Inc.</div>	<div></div> <div>Linxia Halal Certification Centre (Gansu)</div>	<div></div> <div>Shaanxi Shang Pin Food & Restaurant Management Limited Company</div>	
<div></div> <div>Centro Islamico De Chile</div>	<div></div> <div>Centre for Halal Quality Certification (CHQC)</div>	<div></div> <div>Egyptian Organisation for Standardisation & Quality (EOS)</div>	<div></div> <div>Ritual Association of Lyon's Great Mosque (Association Rituelle de la Grande Mosquee de Lyon)</div>	<div></div> <div>HALAL CONTROL GmbH Inspection and Certification Body</div>	<div></div> <div>Halal India Pvt Ltd</div>	<div></div> <div>Jamiat Ulama Halal Foundation</div>	<div></div> <div>Jamiat Ulama Chamber of Ulema (MUI) Trust</div>	<div></div> <div>The Indonesian Council of Ulema (MUI) Lembaga Pengkajian Pangan Obat-obatan & Kosmetika</div>	<div></div> <div>Islamic Chamber Research & Information Center (ICRIC)</div>	<div></div> <div>Islamic Foundation of Ireland</div>	
<div></div> <div>Cu.Re.Ia - Halal Italia</div>	<div></div> <div>World Halal Authority (WHA)</div>	<div></div> <div>Japan Muslim Association</div>	<div></div> <div>Japan Halal Unit Association (JHUA)</div>	<div></div> <div>Japan Halal Association (JHA)</div>	<div></div> <div>Japan Muslim Federation (JMF)</div>	<div></div> <div>Nippon Asia Halal Association (NAHA)</div>	<div></div> <div>Japan Halal Foundation (JHF)</div>	<div></div> <div>Association of Halal Industry of Kazakhstan (AKHI)</div>	<div></div> <div>Halal Damu (Halal of Kazakhstan Development) LLP</div>	<div></div> <div>Kenya Bureau of Halal Certification</div>	<div></div> <div>UAB Halal Central Lithuania</div>
<div></div> <div>Ministry of Islamic Affairs</div>	<div></div> <div>Institut Marocain De Normalisation (IMANOR)</div>	<div></div> <div>Control Office of Halal Slaughtering R.V. & Halal Quality Control</div>	<div></div> <div>Foundation Halal Correct Certification (TQHC - Halal Correct)</div>	<div></div> <div>Halal Food and Food Inspection Authority (HFFIA)</div>	<div></div> <div>Federation of Islamic Agencies of New Zealand (FIANZ)</div>	<div></div> <div>New Zealand Islamic Agency Trust (NZIAT)</div>	<div></div> <div>Jamia Markaz Uloom Islamia Manajana (JMUIM)</div>	<div></div> <div>Punjab Halal Development Agency (PHDA)</div>	<div></div> <div>Islamic Da'wah Council of The Philippines, INC. (IDCIP)</div>	<div></div> <div>National Council on Muslim Finances (NCMF)</div>	<div></div> <div>Halal International Chamber of Commerce and Industries of The Philippines, INC. (HICCIIP)</div>
<div></div> <div>Muslim Religious Union in Poland (MRU)</div>	<div></div> <div>Polish Institute of Halal (PIH)</div>	<div></div> <div>Instituto Halal De Portugal (IHP)</div>	<div></div> <div>Islamic Independent Council of Singapore (IICS)</div>	<div></div> <div>National Halal Trust</div>	<div></div> <div>South African National Halal Authority (SANHA)</div>	<div></div> <div>Muslim Institute of Korea (MIK)</div>	<div></div> <div>Korean Muslim Federation (KMF)</div>	<div></div> <div>Korean Halal Authority Corporation (KHA)</div>	<div></div> <div>The Halal Institute of Spain (Janta Islamica)</div>	<div></div> <div>Halal Food and Quality (HFQ)</div>	<div></div> <div>Halal Accreditation Council (Guarantee) Limited</div>
<div></div> <div>Taiwan Halal Integrity Development Association (THIDA)</div>	<div></div> <div>The Central Islamic Council of Thailand (CICOT)</div>	<div></div> <div>Institut National De La Normalisation Et De La Propriete Industrielle (INNORPI)</div>	<div></div> <div>Kas Uluslararası Gıda Tük. Kontrol ve Kalibrasyon Şti. (Kascont International)</div>	<div></div> <div>Association For The Inspection And Certification of Food And Supplies (GIMDES)</div>	<div></div> <div>LLC Certification Center 'Halal'</div>	<div></div> <div>Halal Certification Europe (HCE) (Formerly known as The Muslim Food Board (UFI))</div>	<div></div> <div>Halal Food Authority</div>	<div></div> <div>Islamic Food and Nutrition Council of America (IFANCA)</div>	<div></div> <div>Islamic Services of America (ISA)</div>	<div></div> <div>American Halal Foundation (AHF)</div>	<div></div> <div>Halal Certification Agency Vietnam (HCA)</div>

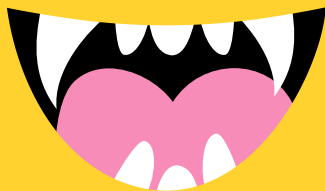




MINISTRY OF HEALTH (MOH)



- ❑ The food Act grants the MOH extensive power to regulate the food industry.
- ❑ Authorised officers appointed under the Food Act have wide investigative powers such as;-
 - ❑ They can enter any place where food is manufactured, prepared or sold, take food sample, demand any record/ documents, question persons present on the food premises, etc.
- ❑ Investigations may result in prosecutions. But more often, the food providers are given opportunities to put their premises in hygienic & sanitary condition.
- ❑ Where this is not done, in the last resort, the DG of Health may order that the premises be closed down.
- ❑ Persons working in a food premises are required to undergo food handlers training. This is a requirement under the Food Hygiene Regulations 2009.



THANK YOU!