

[DSWD RESOLUTION, May 17, 2010]

APPROVING AND ADOPTING THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9803, OTHERWISE KNOWN AS THE "FOOD DONATION ACT OF 2009"

WHEREAS, the President signed into law on November 25, 2009 Republic Act No. 9803, known as An Act to Encourage the Donation of Food for Charitable Purposes;

WHEREAS, Section 6 of the Act stipulates that the Department of Social Welfare and Development, in coordination with the Department of Health (DOH) and its attached agencies, the Food and Drug Administration (FDA) and the National Nutrition Council (NNC); the National Disaster Coordinating Council (NDCC); the Union of Local Authorities in the Philippines (ULAP); other relevant government agencies, nongovernment organizations including the Philippine Red Cross (PRC) and private entities shall formulate and issue the necessary rules and regulations within ninety (90) days after the effectivity of this Act.

WHEREAS, this IRR is the product of several consultations and active participation of the different government agencies, business sector and non-government organizations (NGOs).

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to approve and adopt the Rules and Regulations Implementing RA 9803, otherwise known as the "Food Donation Act of 2009";

RESOLVED FURTHER, that these Implementing Rules and Regulations shall be published in two (2) newspapers of general circulation and copy furnished the UP Law Center as required under the Administrative Code of 1987.

Adopted: 17 May 2010

(SGD.) CELIA CAPADOCIA-YANGCO

Acting Secretary, Department of Social Welfare and Development

(SGD.) ATTY. MALCOLM I. SARMIENTO, JR.

Director, Bureau of Fisheries and Aquatic Resources

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Secretary, Department of Health

(SGD.) M/GEN. GLENN J. RABONZA

Administrator, Office of Civil Defense

(SGD.) MARIA BERNARDITA T. FLORES
Executive Director , National Nutrition Council

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(SGD.) ATTY. JANE C. BACAYO
OIC-Executive Director National Meat Inspection Service

(SGD.) HUMPREY O'LEARY
President, Hotel and Restaurant Association of the Philippines

Attachment:

**Rules and Regulations Implementing Republic Act No. 9803,
An Act to Encourage the Donation of Food for Charitable Purposes**

Pursuant to Section 6 of Republic Act No. 9803 otherwise known as "Food Donation Act of 2009", the following Rules and Regulations are hereby promulgated to implement the provisions of said Act.

**RULE I
TITLE, PURPOSE AND CONSTRUCTION**

Article 1. Title. – These Rules shall be known and cited as the Rules and Regulations Implementing Republic Act No. 9803, An Act to Encourage the Donation of Food for Charitable Purposes, also known as "Food Donation Act of 2009".

Article 2. Purpose. – These Rules are promulgated to describe the procedures and guidelines for the implementation of RA No. 9803 in order to facilitate compliance therewith and to achieve the objectives thereof.

Article 3. Construction. – These Rules shall be construed and applied in accordance with and in furtherance with the policies and objectives of the law. In case of conflict or ambiguity, which may arise in the implementation of these Rules, the Department of Social Welfare and Development (DSWD) shall issue the necessary clarification. In case of doubt, the same shall be construed liberally and in favor of the beneficiaries of the donated food.

**RULE II
DECLARATION OF POLICY**

Article 4. Declaration of Policy. – It is the policy of the State to alleviate national poverty and reduce food wastage. As such, the State shall implement measures to encourage the donation of apparently wholesome food for charitable purposes.

**RULE III
SCOPE**

Article 5. Scope. – Unless otherwise provided for by any special laws, these Rules shall apply to all food donations from local donors for charitable purposes.

RULE IV DEFINITION OF TERMS

Article 6. Definition of Terms. – For purposes of these Rules and Regulations, these terms are defined as follows:

6.1 APPARENTLY WHOLESOME FOOD – refers to food that meets all quality and safety, and labeling standards imposed by pertinent laws and administrative regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions, It does not include milk products as defined and covered under Executive Order No. 51, the “National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplements and Other Related Products.” It should not refer to tomato-based and milk-based cooked food and cooked food that have been served directly to diners.

6.2 DONATE – refers to the gratuitous disposal or sharing of an apparently wholesome food in favor of another. It includes giving by one person to another person of an apparently wholesome food for distribution, notwithstanding that the former has charged a nominal fee from the latter, if the ultimate beneficiary is not required to give anything of monetary value.

6.3 NOMINAL FEE – a fee of extremely small value that does not reflect the real cost of the donated food.

6.4 DONOR – refers to individuals, corporations, organizations, and groups who gratuitously donate apparently wholesome food for charitable purposes.

6.5 BENEFICIARIES – refers to humanitarian institutions and groups of individuals who are sick, imprisoned, orphaned and those considered needy, poor, and vulnerable.

6.6 FOOD – refers to any raw, cooked, processed or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

6.6.1 RAW – any uncooked, unprocessed, and often organic food like fruits and vegetables.

6.6.2 COOKED – food that has been prepared by applying heat, using a wide range of tools and methods and a combination of various ingredients.

6.6.3 PROCESSED – food that has been subjected to some degree of processing like milling, drying, concentrating, canning or addition of some ingredients which changes partially or completely the physico-chemical and/ or sensory characteristics of the product’s raw material.

6.6.4 FRESH MEAT – meat such as chicken, beef, pork and

other meat from food animals, that has not yet been treated in any way other than by modified atmosphere packaging or vacuum packaging to ensure its preservation.

6.6.5 FISH AND FISHERY/AQUATIC PRODUCTS – includes not only finfish but also mollusk, crustaceans, echinoderms, marine mammals, and all other species of aquatic flora and fauna and all other products of aquatic living resources in any form.

6.6.6 INGREDIENTS – a substance that forms part of a mixture in cooking, used in these Rules specifically to mean seasonings or condiments like salt, sugar, vinegar, ketchup, mustard, pepper, olive oil and soy sauce.

6.6.7 PERISHABLE – may include food and beverages that will not quickly spoil or deteriorate; examples include canned and/or processed fruits, vegetables, meat, fish and fishery/aquatic products that do not require special storage such as refrigeration and/or freezing. All types of pasta, sugar, flour and spices are also considered perishable.

6.6.8 HIGHLY PERISHABLE – may include food items that will spoil or deteriorate easily such as raw fruits and vegetables, fresh meat, fresh, frozen and chilled fish and fishery/aquatic products, cooked food and other processed products that require special storage such as refrigeration and/or freezing.

6.7 GROSS NEGLIGENCE – refers to voluntary and conscious conduct, including a failure to act, by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.

6.8 INTENTIONAL MISCONDUCT – refers to conduct by a person with knowledge at the time of the conduct that the conduct is harmful to the health or well-being of another person.

6.9 CHARITABLE PURPOSES – refers to philanthropic, humanitarian and non-profit objectives, including the benefit of the needy, poor, sick, prisoners, orphans, etcetera.

6.10 INJURY – damage or harm caused to the structure or function of the body due to a physical, chemical or microbial outside agent or force.

6.11 ORGANOLEPTIC TESTING – involves inspection through visual, feeling, smelling or tasting of products.

6.12 LABORATORY TESTING – analytical methods used to determine product acceptability in accordance with established standards.

6.13 ALLOCATION PLAN – plan of distribution of food donations that includes the areas, beneficiaries, volume and types of food appropriated thereof.

RULE V

COORDINATING MECHANISM

Article 7. Coordinating Mechanism. – To ensure effective and sustained inter-agency and multi-sectoral coordination, the Department of Social Welfare and Development (DSWD) shall serve as the main coordinating agency together with the Philippine Red Cross (PRC) as auxiliary for the implementation of these Rules.

Section 1. Roles and Responsibilities. – A core inter-agency mechanism composed of DSWD and PRC together with the Department of Health (DOH) as represented by the Food and Drug Administration (FDA) and National Nutrition Council (NNC), the Department of Agriculture (DA) as represented by the National Meat Inspection Service (NMIS) and Bureau of Fisheries and Aquatic Resources (BFAR), Office of Civil Defense (OCD), Food and Nutrition Research Institute (FNRI), Hotel and Restaurant Association of the Philippines (HRAP), Department of Interior and Local Government (DILG), the Local Government Units (LGUs) and Union of Local Authorities of the Philippines (ULAP) shall be established.

a) **Department of Social Welfare and Development (DSWD).** – DSWD shall:

1. Act as Chairperson of the Inter-Agency Committee and the main coordinating agency for the implementation of these Rules;
2. Lead in the preparation of an allocation plan both at the national/regional level and in the provincial/city/municipal level through its Regional Offices;
3. Facilitate the collection, storage and issuance of a *Certificate of Acceptance* to food donors of perishable food donations at the national/regional level;
4. Facilitate the distribution of perishable food donations at the national/regional level to DSWD Centers/Institutions, charitable organizations or to other intended beneficiaries through the Local Social Welfare and Development Offices (LSWDOs);
5. Monitor the activities of LSWDOs directly participating in the collection, distribution and storage of food donations under these Rules; and
6. Deputize licensed and/or accredited NGOs to assist PRC in the collection and distribution of highly perishable food donations both at the national/regional and provincial/city/municipal level.