

Teacher Concerned: Dr Rubina Iqbal.

Subject: local laws - I.

Unit: V

Topic: Food Safety and Standards Act, 2006.

Introduction:

Food Safety and Standards Act, 2006 is an integrated food law that lays down standards and guidelines for consumer safety, protection of consumer health and regulation of the food sector. It seeks to harmonize Indian standards with the international standards and facilitates international trade in food articles. The Act lays down general provisions for food additives and processing of articles as well. The standards set by FSSAI, empowered under the Food Safety and Standards Act are based on scientific research and help regulate the manufacture, storage, distribution, sale as well as import-export of all types of food articles being made available to the general population. The FSS Act endows powers to the FSSAI to certify organizations involved in any type of food-related activities that they are involved with food articles safe for consumption of human beings. This certification is known as a FSSAI license.

The law is significant in ensuring quality food to the consumer. It protects consumer interest by prohibiting misleading advertisement and penalising adulteration. In other words, the Act seeks to enhance quality of food related information to consumers and also by setting standards which, when effectively enforced by Commissioners in the States would result in increased consumer welfare. The law also addresses contemporary challenges facing the sector like provisions related to Genetically Modified (GM) crops, functional food, international trade in food items etc. Besides, it is a single reference point for food related matters.

Genesis:

Food Safety and Standards Act received the assent of the President on 23rd August, 2006 and came into effect on 5th August, 2011. FSS Act, 2006 consolidates various acts & orders that had earlier handled food related issues in various Ministries and Departments, such as–

1. Prevention of Food Adulteration Act, 1954;
2. Fruit Products Order, 1955;
3. Meat Food Products Order, 1973;
4. Vegetable Oil Products (Control) Order, 1947;
5. Edible Oils Packaging (Regulation) Order 1988;
6. Milk and Milk Products Order, 1992;

These were repealed after commencement of FSS Act, 2006. Food Safety and Standards Act of India was consequently established in 2008 but work within the Food Authority effectively began in 2011 after its Rules and key Regulations were notified. This marked a shift from a multi-level to a single line of control with focus on self-compliance rather than a pure regulatory regime.

7 Key Processes of Food Safety and Standards Act, 2006:

1. Set standards of food products
2. Develop safe food practices
3. License food businesses
4. Ensure compliance through inspections
5. Test food for standards
6. Train and build capacity
7. Citizens Outreach

Functions of Food Safety and Standards Act, 2006:

- (a) Framing of regulations to lay down the standards and guidelines of food safety;
- (b) Granting FSSAI food safety license and certification for food businesses;
- (c) Laying down procedure and guidelines for laboratories in food businesses;

- (d) To provide suggestions to the government in framing the policies;
- (e) To collect data regarding contaminants in foods products, identification of emerging risks and introduction of rapid alert system;
- (f) Creating an information network across the country about food safety;
- (g) Promote general awareness about food safety and food standards.

Salient features of Food Safety and Standards Act, 2006: The Highlights of the Food Safety and Standard Act, 2006:

1. The Act aims to establish a single reference point for all matters relating to food safety and standards, by moving from multi- level, multi-departmental control to a single line of command;
2. The Act established FSSAI and the State Food Safety Authorities for each State;
3. The Food Safety Appellate Tribunal and the Registrar of the Appellate Tribunal, for adjudication of food safety cases;
4. It covers Licensing and Registration, Packaging and Labelling of Food Businesses, Food Product Standards and Food Additives Regulation;
5. It prohibits and restricts on sales or approval for Non-Specified Food and Food Ingredients, such ingredients may cause harm to human health;
6. It provides for Food Safety and Standards on Organic Food and regulates Food Advertising.

Food Safety and Standards Authority of India (FSSAI):

Food Safety and Standards Authority of India (FSSAI) has been created under the Act. FSSAI regulates the food sector by laying down guidelines and standards to be followed by food businesses. It also specifies procedures for accreditation of laboratories and provides advice to central and state government in matters relating to food safety.

Ministry of Health and Family Welfare is responsible for implementation of the Act. The Act deals with administrative mechanism at the state level. It also provides for setting up of Food Safety Appellate tribunal for adjudication and trials under food standard offence.

Food Safety and Standards Authority of

FSSAI



Agency overview

Formed	August 2011
Jurisdiction	<u>India</u>
Headquarters	<u>New Delhi</u>
Agency executives	Rita Teotia <u>Chairperson</u> Shri G. S.G. Ayyangar <u>Chief Executive Officer</u>
Parent agency	<u>Ministry of Health & Family Welfare, Government of India</u>
Website	<u>www.fssai.gov.in</u>

History:

FSSAI was established by Former Union Minister Dr Anbumani Ramadoss, Government of India on 5 August 2011 under Food Safety and Standards Act, 2006 which was operationalized in year 2006. The FSSAI comprises of a Chairperson and twenty two members out of which one - third are to be women. The tenure of the chairperson is 3 years to which they can be further re-appointed for another term of 3 years. The

Chairperson of FSSAI is appointed by the Central Government. The Food Authority is assisted by Scientific Committees and Panels in setting standards and the Central Advisory Committee in coordinating with enforcement agencies. The primary responsibility for enforcement is largely with the State Food Safety Commissioners. FSSAI is responsible for setting standards for food and safety in India. The following are the statutory powers that the FSS Act, 2006 gives to the Food Safety and Standards Authority of India (FSSAI).

- I. Framing of regulations to lay down food safety standard;
- II. Laying down guidelines for accreditation of laboratories for food testing;
- III. Providing scientific advice and technical support to the Central Government;
- IV. Contributing to the development of international technical standards in food;
- V. Collecting and collating data regarding food consumption, contamination, emerging risks etc;
- VI. Disseminating information and promoting awareness about food safety and nutrition in India.

Location: FSSAI is located in 5 regions:

1. Northern Region – With head office at New Delhi.
2. Eastern Region.
3. North Eastern Region.
4. Western region.
5. Southern Region.

Regulatory framework:

The Food Safety and Standards Authority of India is a statutory body under Food Safety and Standards Act, 2006. The Food Safety and Standards Act (FSS), 2006 is the primary law for regulation of food products. This act also sets up the formulation and enforcement of food safety standards in India. The FSSAI appoints food safety

authorities on the state level.]The FSSAI functions under the administrative control of the Ministry of Health and Family Welfare. The main aim of FSSAI is to:

- a) Lay down science-based standards for articles of food;
- b) To regulate manufacture, storage, distribution, import and sale of food;
- c) To facilitate safety of food.

Research and quality assurance:

Research

FSSAI has set certain guidelines for food safety research. The Research and Development division is responsible for research with the following objectives:

1. Generate new knowledge that would help in continuously updating and upgrading food safety standards which are compatible with international organizations
2. Carry out evidence based studies for improving or building policies.

Quality Assurance:

FSSAI has been mandated to perform various functions related to quality and standards of food. These functions in addition to others include "Laying down procedure and guidelines for notification of the accredited laboratories as per ISO17025." The FSSAI notified National Accreditation Board for Testing and Calibration Laboratories.

1. Accredited labs- 112.
2. State Labs-72.
3. Referral Labs-14.

Standards:

Standards framed by FSSAI are prescribed under Food Safety and Standards (Food Product Standards and Food Additives) Regulation, 2011, Food Safety and Standards (Packaging and Labelling) Regulation, 2011 and Food Safety and Standards (Contaminants, Toxins, and Residues) Regulations, 2011.

The FSSAI has prescribed standards for the following:

- Dairy products and analogues
- Fats, oils and fat emulsions
- Fruits and vegetable products
- Cereal and cereal products
- Meat and meat products
- Fish and fish products
- Sweets & confectionery
- Sweetening agents including honey
- Salt, spices, condiments and related products
- Beverages, (other than dairy and fruits & vegetables based)
- Other food product and ingredients
- Proprietary food
- Irradiation of food
- Fortification of staple foods i.e. vegetable oil, milk, salt, rice and wheat flour/maida.

The development of standards is a dynamic process based on the latest developments in food science, food consumption pattern, new food products and additives, changes in the processing technology leading to changed specifications, advancements in food analytical methods, and identification of new risks or other regulatory options.

Formulation of standards of any article of food under the Food Safety and Standards Act 2006, involves several stages. After consideration by the Food Authority, the draft standard is published (Draft notified), for inviting stakeholder comments. Since India is a signatory to the WTO-SPS Committee, Draft Standard is also notified in WTO.

Thereafter, taking into account the comments received from the stakeholders, the Standard is finalized and notified in Gazette of India, and implemented.

Consumer outreach:

Consumers can connect to FSSAI through various channels. A GAMA portal for concerns regarding misleading claims and advertisements too is operated.

Applicable FSSAI License:

FSSAI issues three types of license based on nature of food business and turnover:

1. Registration: For Turnover less than ₹12 Lakh
2. State License: For Turnover between ₹12 Lakh to ₹20 Crore
3. Central License: For Turnover above ₹20 Crore

Other criteria like the location of the business, number of retail stores etc. is needed while evaluating the nature of license applicable.

Landmark cases with FSSAI:

- ❖ Nestle India Limited Maggi Case: The maggi noodles were reported with excess lead unfit for human consumption and FSSAI prescribed for ban.
- ❖ Cadbury India: It was reported that worms was found in Cadbury's Dairy Milk. The FSSAI declared packaging was not proper or airtight and made it mandatory to change the packaging.

FSSAI Initiatives:

1. **Heart Attack Rewind** – It is the first mass media campaign of FSSAI. It is aimed to support FSSAI's target of eliminating transfat in India by the year 2022.
2. **FSSAI-CHIFSS** – It is collaboration between FSSAI and CII-HUL Initiative on Food Safety Sciences to promote collaborations between Industry, Scientific Community and Academia for food safety.

3. **Swasth Bharat Yatra** – It is a Pan-India cycle movement called as 'Eat Right India' aimed to create consumer awareness about eating safe and nutritious food.

Way Forward:

- FSSAI should also bring the manufacturers under the responsibility of imposing food safety. The focus should be on covering each person in supply chain for assessment of food manufacturing, storing and distribution.
- FSSAI has recently notified the draft Regulations on Food Recall Procedure to provide guidance to Food Business Organisations (FBO). This will enhance the present regulatory system.
- FSSAI and the state food authorities should conduct surveys of food business activity under their jurisdiction to ensure a comprehensive and reliable database of FBOs and ensure better enforcement and administration of the FSS Act.
- Increasing limits of compensation and fine in cases of injury or death and providing adequate infrastructure such as food testing laboratories.
- CAG has recommended that FSSAI should frame standard operating procedures on the formulation and review of standards, and ensure that these are being followed in the near future.

Overview of the Act:

Chapters of the Food Safety and Standards Act: The Act empowered by the government of India has been divided into 12 Chapters which discuss in detail the impact, regulations, authorities that the Act carries with it to empower the safety of food products. The Chapters of the Food Standards and Safety Act are as follows

Chapter I: Preliminary

Preliminary basically gives the introduction to the Act what it stands for, what are the definitions related to the act and also declared that the Union is taking the food industry under its control for the purpose of public interest. This chapter also declared that the applicability of the FSS Act will be throughout India.

Chapter II: FSSAI

Chapter two basically entails setting up the Food Safety and Standards Authority of India (FSSAI) in order to fully exercise the powers and carry out the responsibilities and functions assigned to it by the FSS Act. One of the main functions of FSSAI include is checking the food standards of all consumable items. Chapter 2 also tells about the composition of the members of the food authority and hierarchical structure of the authority.

Chapter III: General Principles of Food Safety

Chapter 3 of the Food Safety and Standards Act focuses on food safety, the purpose for which the act and the body under its guidance FSSAI have been established. The basic principles of food safety outline in the FSS act are as follows.

- 1.** Endeavor to achieve an appropriate level of protection of human life and health along with protection of the customer's interests including fair practices in any and all kinds of food trade with reference to food safety standards and practices;
- 2.** Perform Risk Management which will take into account the results of risk assessment and other factors which help the regulatory authorities;
- 3.** In specific circumstances where on the basis of assessment of available information, the possibility of ill effects on health have been detected but scientific uncertainty still persists, provisional risk management measures for appropriate safety should be deployed till the time concrete scientific evidence and proper risk assessment hasn't been conducted;
- 4.** In cases where there are reasonable grounds to suspect that a food may present a risk for human health, then, depending on the nature, seriousness and extent of that risk, the Food Authority and the Commissioner of Food Safety shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk;

5. Where any food which fails to comply with food safety requirements is part of a batch, lot or consignment of food of the same class or description, it shall be presumed until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements.

Chapter IV: General Provisions as to Articles of Food:

- a. No article of food shall contain any food additive or processing aid unless it is in accordance with the provisions of this Act and regulations made thereunder;
- b. No article of food shall contain any contaminant, naturally occurring toxic substances or toxins or hormone or heavy metals in excess of such quantities as may be specified by regulations;
- c. No article of food shall contain insecticides or pesticides residues, veterinary drugs residues, antibiotic residues, solvent residues, pharmacologically active substances and microbiological counts in excess of such tolerance limit as may be specified by regulations;
- d. No person shall manufacture, distribute, sell or import any novel food, genetically modified articles of food, irradiated food, organic foods, foods for special dietary uses, functional foods, nutraceuticals, health supplements, proprietary foods and such other articles of food which the Central Government may notify in this behalf;
- e. Every food business operator shall ensure that the labeling and presentation of food, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, does not mislead consumers;
- f. No person shall manufacture, distribute, sell or expose for sale or dispatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labeled in the manner as may be specified by regulations;

- g. No advertisement shall be made of any food which is misleading or deceiving or contravenes the provisions of this Act, the rules and regulations made there under.
- h. No person shall engage himself in any unfair trade practice for purpose of promoting the sale, supply, use, and consumption of articles of food or adopt any unfair or deceptive practice including the practice of making any statement, whether orally or in writing or by visible representation which falsely represents that the foods are of a particular standard, quality, quantity or grade-composition or makes a false or misleading representation concerning the need for, or the usefulness.

Chapter V: Provisions Related to Import

No person shall import into India any unsafe or misbranded or sub-standard food or food containing extraneous matter or any article of food for the import of which a license is required under any Act or rules or regulations, except in accordance with the conditions of the license and any article of food in contravention of any other provision of this Act or of any rule or regulation made thereunder or any other Act.

The Central Government shall, while prohibiting, restricting or otherwise regulating the import of article of food under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), follow the standards laid down by the Food Authority under the provisions of this Act and the Rules and regulations made thereunder.

Chapter VI: Special Responsibility to as to Food Safety

The chapter VI of the Food Safety and Standards Act basically dictates the responsibilities of the people involved in the food business and how this translates into ensuring the delivery of safe food products to the consumers. These are divided into three broad categories in the FSS Act. These are as follows:

Responsibilities of the Food Business Operator

Liability of Manufacturers, packers, wholesalers, distributors, and sellers

Food Recall Procedures

Chapter VII: Enforcement of the Act

Chapter 7 entails in great detail the powers and efficient enforcement and compliance with the safety rules for food items being made available to the general population. It also describes the authorities and the officers responsible for enforcing the same via the provisions of the Food Safety and Standards Act. The enforcement of the act via regulatory bodies and officers allocate towards food safety have been divided up by the central government as follows. Authorities responsible for enforcement of the Act are:

Commissioner of Food Safety of the State

Licensing and Registration of Food Business

Improvement Notices

Emergency Prohibition Notice and Orders

Notification of Food Poisoning

Designated Officers

Food Safety Officer

Powers of the Food Safety Officer

Liability of the Food Safet Officer

Food Analysis from Purchaser

Power of search, seizure, investigation, prosecution and procedure thereof

Procedure for launching Prosecution

Chapter VIII: Analysis of Food

The Analysis of food chapter 8 in the Food Safety and Standards Act, lays down the procedures and the intricacies involved with checking and analyzing the food products which have been shipped for consumption by the masses. The detailed procedure for the analysis of food has the following provisions:

Recognition and accreditation of laboratories, research institutions as well as referral food laboratory

Recognition of Organisation or agency of food safety audit

Food Analysts

Functions of Food Analyst

Sampling and Analysis

Chapter IX: Offences and Penalties

The Chapter 9 of the Food Safety and Standards Act lays down the foundation for and the provisions for the non-compliance of the food businesses to deliver safe food to consumers and hence list down a comprehensive list of offences and penalties imposed thereof on the violators of the regulations. The offences and penalties under the act are classified under the following provisions:

General Provisions relating to offences

General Provisions relating to Penalties

Penalty for selling food not of the nature or substance or quality demanded

Penalty for sub-standard food.

Penalty for misbranded food.

Penalty for misleading advertisement

Penalty for food containing extraneous matter

Penalty for failure to comply with the directions of Food Safety Officer

Penalty for unhygienic or unsanitary processing or manufacturing of food

Penalty for possessing adulterant

Penalty for contraventions for which no specific penalty is provided

Punishment for unsafe food

Punishment for interfering with seized items.

Punishment for false information

Punishment for obstructing or impersonating a Food Safety Officer

Penalty for contravention of provisions of this Act in case of import of articles of food to be in addition to penalties provided under any other Act

Offences by companies

Compensation in case of injury or death of consumer

Punishment for carrying out a business without licence

Punishment for subsequent offences.

Chapter X: Adjudication and Food Safety Appellate Tribunal

The Food Safety Appellate Tribunal handles matters related to the offenses committed under violation of any of the regulations directed and laid down by the Food Safety and Standards Act of 2006. Let's take a look at what entails the functions of the Food Safety Appellate Tribunal and how adjudication is made on the matters related to negligence of Food Safety and its practices.

Adjudication

Power to compound offences

Establishment of Food Safety Appellate Tribunal

Procedure and powers of the Tribunal

Power of court to try cases summarily

Civil court not to have jurisdiction.

Power of court to try cases summarily

Special courts and Public Prosecutor

Power to transfer cases to regular courts

Appeal

Time limit for prosecutions

Power of court to impale manufacturer etc

Magistrate's power to impose enhanced punishment

Defenses which may or may not be allowed in prosecution under this Act

Chapter XI: FINANCE, ACCOUNTS, AUDIT AND REPORTS

This section of the Food Safety and Standards Act basically deals with financing, maintenance of books, audits and audit reports of entities involved in the food business activities as well as the food authority. Provisions listed out in this chapter of the FSS Act have the following stipulations:

Budget of the Food Authority

Finances of the Food Authority

Accounts and Audit of Food Authority

Annual Report of Food Authority

Chapter XII: Miscellaneous

Power of Central Government to issue directions to Food Authority and obtain reports and returns

Power of Central Government to give directions to State Governments

Members, officers of Food Authority and Commissioner of Food Safety to be public servants Protection of action taken in good faith

Overriding effect of this Act over all other food related laws

Transfer of existing employees of Central Government Agencies governing various foods related Acts or Orders to the Food Authority

Power of Central Government to make rules

Power of Food Authority to make regulations

Power of State Government to make rules

Laying of rules and regulations before Parliament

Reward by State Government

Recovery of penalty

Repeal and Savings

Transitory provisions for food standards

Milk and Milk Products Order, 1992 shall be deemed to be regulations made under this Act.

Amendments to the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992

Power to remove difficulties.

The Food Safety and Standards Act of 2006 have ensured that a comprehensive analysis of every food product that is being made available is carried out with the safety and health of the consumers carrying the paramount importance. Obtaining a FSSAI License or a FSSAI Registration will help your food business ensure consumers that you are deploying the safest and best food production and food handling practices and will also help you to stay on the right side of the law.

FSS (Prohibition and Restriction on Sales) Regulations, 2011:

Sale of certain admixtures prohibited:

- milk containing added water
- ghee containing any added matter not exclusively derived from milk fat
- skimmed milk (fat abstracted) as milk
- a mixture of two or more edible oils as an edible oil
- vanaspati to which ghee or any other substance has been added

- turmeric containing any foreign substance
- mixture of coffee and any other substance except chicory
- dahi or curd not prepared from boiled, pasteurised or sterilized milk

Restriction on use of certain ingredient:

- Kesari gram (Lathyrus sativus) and its products
- Kesari dal (Lathyrus sativus) and Bengal-gram (Cicer arietinum) and their products

Prohibition and Restriction on sale of certain products

- Prohibition on sale of food articles coated with mineral oil
- Restriction on sale of Carbia Callosa & Honey dew
- Food resembling pure honey not be marketed as honey
- Product not to contain any substance injurious to health- Tobacco &

Nicotine

- Prohibition of use of carbide gas in ripening of fruits
- Sale of Fresh Fruits and Vegetables be free from rotting, coating of waxes, mineral oil and colours.
- Sale or use for sale of admixtures of ghee or butter prohibited.
- Restriction on sale of ghee having less Reichert value than that specified for the area where such ghee is sold- It shall not be sold or stored in that area except under the 'AGMARK' seal.
- . Restriction on sale of Til Oil produced in Tripura, Assam and West Bengal- Til Oil (Sesame Oil) obtained from white sesame seeds, grown in such areas having different standards than those specified for til oil shall be sold in sealed containers bearing Agmark label.
- Restriction on sale of Kangra tea- Kangra tea shall be sold or offered for sale only after it is graded and marked in accordance with AGMARK provisions.

- Condition for sale of flavoured tea- Flavoured tea shall be sold or offered for sale only by those manufacturers who are registered with Tea Board.
- Restriction on sale of common salt- No person shall sell or offer or expose for sale or have in his premises for the purpose of sale, the common salt, for direct human consumption unless the same is iodized.
- Use of flesh of naturally dead animals or fowls prohibited.
- Special provisions relating to sale of vegetable oil and fat.

Food Safety and Standards (Alcoholic Beverages) Regulations, 2018

- To ensure safety of alcoholic beverages.
- Specifying the standards for alcoholic beverages namely distilled alcoholic beverage (brandy, country liquor, gin, rum, vodka and whisky, liquor or alcoholic cordial), wines and, beer.
- It also specifies the specific requirement for labelling of alcoholic beverages such as declaration of alcohol content, labeling of standard drink, not to contain any nutritional information, no health claim, restriction on words 'non-intoxicating' or words implying similar meaning on label of beverage containing more than 0.5 per cent alcohol by volume, labelling of wine, allergen warning, statutory warning etc.
- These regulations came into force from the date of their publication in gazette; however the enforcement against these standards will start from 1st April 2019.

Important topics from the Act as per syllabus:

SECTION - 3. Definitions.--(1) In this Act, unless the context otherwise requires,–

- (a) –**adulterant:** means any material which is or could be employed for making the food unsafe or sub-standard or mis-branded or containing extraneous matter;
- (b) –**advertisement:** means any audio or visual publicity, representation or pronouncement made by means of any light, sound, smoke, gas, print, electronic media,

internet or website and includes through any notice, circular, label, wrapper, invoice or other documents;

(d) –**claim:** means any representation which states, suggests, or implies that a food has particular qualities relating to its origin, nutritional properties, nature, processing, composition or otherwise;

(f) –**consumer:**|| means persons and families purchasing and receiving food in order to meet their personal needs;

(g) –**contaminant:** means any substance, whether or not added to food, but which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry or veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination and does not include insect fragments, rodent hairs and other extraneous matter;

(i) –**extraneous matter:**|| means any matter contained in an article of food which may be carried from the raw materials, packaging materials or process systems used for its manufacture or which is added to it, but such matter does not render such article of food unsafe;

(j) –**Food:** means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (zk), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances: Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;

(k) –**food additive:**|| means any substance not normally consumed as a food by itself or used as a typical ingredient of the food, whether or not it has nutritive value, the

intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food but does not include –contaminants|| or substances added to food for maintaining or improving nutritional qualities;

(q) –**food safety**:|| means assurance that food is acceptable for human consumption according to its intended use;

(x) –**infant food**|| and –**infant milk substitute**:|| shall have the meanings assigned to them in clauses (f) and (g) of sub-section (1) of section 2 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), respectively;

(y) –**ingredient**: means any substance, including a food additive used in the manufacture or preparation of food and present in the final product, possibly in a modified form;

(z) –**label**:: means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, graphic, perforated, stamped or impressed on or attached to container, cover, lid or crown of any food package and includes a product insert;

(zf) –**misbranded food**: means an article of food:

(A) if it is purported, or is represented to be, or is being–

(i) offered or promoted for sale with false, misleading or deceptive claims either;

(a) upon the label of the package, or

(b) through advertisement, or

(ii) sold by a name which belongs to another article of food; or

(iii) offered or promoted for sale under the name of a fictitious individual or company as the manufacturer or producer of the article as borne on the package or containing the article or the label on such package; or

(B) if the article is sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer bearing his name and address but–

(i) the article is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character; or

(ii) the package containing the article or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents; or

(iii) the article is offered for sale as the product of any place or country which is false; or

(C) if the article contained in the package–

(i) contains any artificial flavouring, colouring or chemical preservative and the package is without a declaratory label stating that fact or is not labelled in accordance with the requirements of this Act or regulations made thereunder or is in contravention thereof; or

(ii) is offered for sale for special dietary uses, unless its label bears such information as may be specified by regulation, concerning its vitamins, minerals or other dietary properties in order sufficiently to inform its purchaser as to its value for such use; or

(iii) is not conspicuously or correctly stated on the outside thereof within the limits of variability laid down under this Act.

(zk) –**primary food:** means an article of food, being a produce of agriculture or horticulture or animal husbandry and dairying or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching in the hands of a person other than a farmer or fisherman;

(zu) –**standard:** in relation to any article of food, means the standards notified by the Food Authority;

(zx) –**sub-standard:** an article of food shall be deemed to be sub-standard if it does not meet the specified standards but not so as to render the article of food unsafe;

(zz) —**unsafe food**: means an article of food whose nature, substance or quality is so affected as to render it injurious to health:—

(i) by the article itself, or its package thereof, which is composed, whether wholly or in part, of poisonous or deleterious substances; or

(ii) by the article consisting, wholly or in part, of any filthy, putrid, rotten, decomposed or diseased animal substance or vegetable substance; or

(iii) by virtue of its unhygienic processing or the presence in that article of any harmful substance; or

(iv) by the substitution of any inferior or cheaper substance whether wholly or in part; or

(v) by addition of a substance directly or as an ingredient which is not permitted; or

(vi) by the abstraction, wholly or in part, of any of its constituents; or

(vii) by the article being so coloured, flavoured or coated, powdered or polished, as to damage or conceal the article or to make it appear better or of greater value than it really is; or

(viii) by the presence of any colouring matter or preservatives other than that specified in respect thereof; or

(ix) by the article having been infected or infested with worms, weevils, or insects; or

(x) by virtue of its being prepared, packed or kept under insanitary conditions; or

(xi) by virtue of its being mis-branded or sub-standard or food containing extraneous matter; or

(xii) by virtue of containing pesticides and other contaminants in excess of quantities specified by regulations.

(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding Law, if any, in force in that State.

SECTION - 16. Duties and functions of Food Authority.—(1) It shall be the duty of the Food Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food.

(2) Without prejudice to the provisions of sub-section (1), the Food Authority may by regulations specify—

(a) the standards and guidelines in relation to articles of food and specifying an appropriate system for enforcing various standards notified under this Act;

(b) the limits for use of food additives, crop contaminants, pesticide residues, residues of veterinary drugs, heavy metals, processing aids, myco-toxins, antibiotics and pharmacological active substances and irradiation of food;

(c) the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management systems for food businesses;

(d) the procedure and the enforcement of quality control in relation to any article of food imported into India;

(e) the procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories;

(f) the method of sampling, analysis and exchange of information among enforcement authorities;

(g) conduct survey of enforcement and administration of this Act in the country;

(h) food labelling standards including claims on health, nutrition, special dietary uses and food category systems for foods; and

(i) the manner in which and the procedure subject to which risk analysis, risk assessment, risk communication and risk management shall be undertaken.

(3) The Food Authority shall also—

(a) provide scientific advice and technical support to the Central Government and the State Governments in matters of framing the policy and rules in areas which have a direct or indirect bearing on food safety and nutrition;

(b) search, collect, collate, analyse and summarise relevant scientific and technical data particularly relating to–

(i) food consumption and the exposure of individuals to risks related to the consumption of food;

(ii) incidence and prevalence of biological risk;

(iii) contaminants in food;

(iv) residues of various contaminants;

(v) identification of emerging risks; and

(vi) introduction of rapid alert system;

(c) promote, co-ordinate and issue guidelines for the development of risk assessment methodologies and monitor and conduct and forward messages on the health and nutritional risks of food to the Central Government, State Governments and Commissioners of Food Safety;

(d) provide scientific and technical advice and assistance to the Central Government and the State Governments in implementation of crisis management procedures with regard to food safety and to draw up a general plan for crisis management and work in close co-operation with the crisis unit set up by the Central Government in this regard;

(e) establish a system of network of organisations with the aim to facilitate a scientific co-operation framework by the co-ordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices in the fields within the Food Authority's responsibility;

(f) provide scientific and technical assistance to the Central Government and the State Governments for improving co-operation with international organisations;

(g) take all such steps to ensure that the public, consumers, interested parties and all levels of panchayats receive rapid, reliable, objective and comprehensive information through appropriate methods and means;

(h) provide, whether within or outside their area, training programmes in food safety and standards for persons who are or intend to become involved in food businesses, whether as food business operators or employees or otherwise;

(i) undertake any other task assigned to it by the Central Government to carry out the objects of this Act;

(j) contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards;

(k) contribute, where relevant and appropriate to the development of agreement on recognition of the equivalence of specific food related measures;

(l) promote co-ordination of work on food standards undertaken by international governmental and non-governmental organisations;

(m) promote consistency between international technical standards and domestic food standards while ensuring that the level of protection adopted in the country is not reduced; and

(n) promote general awareness as to food safety and food standards.

(4) The Food Authority shall make it public without undue delay-

(a) the opinions of the Scientific Committee and the Scientific Panel immediately after adoption;

(b) the annual declarations of interest made by members of the Food Authority, the Chief Executive Officer, members of the Advisory Committee and members of the Scientific Committee and Scientific Panel, as well as the declarations of interest if any, made in relation to items on the agendas of meetings;

(c) the results of its scientific studies; and

(d) the annual report of its activities.

(5) The Food Authority may, from time to time give such directions, on matters relating to food safety and standards, to the Commissioner of Food Safety, who shall be bound by such directions while exercising his powers under this Act.

(6) The Food Authority shall not disclose or cause to be disclosed to third parties confidential information that it receives for which confidential treatment has been requested and has been acceded, except for information which must be made public if circumstances so require, in order to protect public health.

SECTION - 17. Proceedings of Food Authority.-(1) The Food Authority shall meet at the head office or any of its offices at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be specified by regulations.

(2) If the Chairperson is unable to attend a meeting of the Food Authority, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from amongst themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Food Authority shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding over the meeting shall have the right to exercise a second or casting vote.

(4) All orders and decisions of the Food Authority shall be authenticated by the Chief Executive Officer.

(5) The Chief Executive Officer shall take part in the meetings of the Food Authority but without a right to vote.

(6) The Food Authority may invite the Chairperson of the Scientific Committee to attend its meetings but without a right to vote.

(7) No act or proceedings of the Food Authority shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the constitution of Food Authority.

SECTION 18. General principles to be followed in administration of Act.—The Central Government, the State Governments, the Food Authority and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following principles namely:—

(1) (a) endeavour to achieve an appropriate level of protection of human life and health and the protection of consumer's interests, including fair practices in all kinds of food trade with reference to food safety standards and practices;

(b) carry out risk management which shall include taking into account the results of risk assessment and other factors which in the opinion of the Food Authority are relevant to the matter under consideration and where the conditions are relevant, in order to achieve the general objectives of regulations;

(c) where in any specific circumstances, on the basis of assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure appropriate level of health protection may be adopted, pending further scientific information for a more comprehensive risk assessment;

(d) the measures adopted on the basis of clause (c) shall be proportionate and no more restrictive of trade than is required to achieve appropriate level of health protection, regard being had to technical and economic feasibility and other factors regarded as reasonable and proper in the matter under consideration;

(e) the measures adopted shall be reviewed within a reasonable period of time, depending on the nature of the risk to life or health being identified and the type of scientific information needed to clarify the scientific uncertainty and to conduct a more comprehensive risk assessment;

(f) in cases where there are reasonable grounds to suspect that a food may present a risk for human health, then, depending on the nature, seriousness and extent of that risk, the Food Authority and the Commissioner of Food Safety shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the

measures which are taken or about to be taken to prevent, reduce or eliminate that risk;
and

(g) where any food which fails to comply with food safety requirements is part of a batch, lot or consignment of food of the same class or description, it shall be presumed until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements.

(2) The Food Authority shall, while framing regulations or specifying standards under this Act–

(a) take into account–

(i) prevalent practices and conditions in the country including agricultural practices and handling, storage and transport conditions; and

(ii) international standards and practices, where international standards or practices exist or are in the process of being formulated,

unless it is of opinion that taking into account of such prevalent practices and conditions or international standards or practices or any particular part thereof would not be an effective or appropriate means for securing the objectives of such regulations or where there is a scientific justification or where they would result in a different level of protection from the one determined as appropriate in the country;

(b) determine food standards on the basis of risk analysis except where it is of opinion that such analysis is not appropriate to the circumstances or the nature of the case;

(c) undertake risk assessment based on the available scientific evidence and in an independent, objective and transparent manner;

(d) ensure that there is open and transparent public consultation, directly or through representative bodies including all levels of panchayats, during the preparation, evaluation and revision of regulations, except where it is of opinion that there is an urgency concerning food safety or public health to make or amend the regulations in which case such consultation may be dispensed with:

Provided that such regulations shall be in force for not more than six months;

(e) ensure protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume;

(f) ensure prevention of-

(i) fraudulent, deceptive or unfair trade practices which may mislead or harm the consumer; and

(ii) unsafe or contaminated or sub-standard food.

(3) The provisions of this Act shall not apply to any farmer or fisherman or farming operations or crops or livestock or aquaculture, and supplies used or produced in farming or products of crops produced by a farmer at farm level or a fisherman in his operations.

SECTION 26. Responsibilities of the Food business operator.-(1) Every food business operator shall ensure that the articles of food satisfy the requirements of this Act and the rules and regulations made thereunder at all stages of production, processing, import, distribution and sale within the businesses under his control.

(2) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food-

(i) which is unsafe; or

(ii) which is misbranded or sub-standard or contains extraneous matter; or

(iii) for which a licence is required, except in accordance with the conditions of the licence; or

(iv) which is for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health; or

(v) in contravention of any other provision of this Act or of any rule or regulation made thereunder.

(3) No food business operator shall employ any person who is suffering from infectious, contagious or loathsome disease.

(4) No food business operator shall sell or offer for sale any article of food to any vendor unless he also gives a guarantee in writing in the form specified by regulations about the nature and quality of such article to the vendor:

Provided that a bill, cash memo, or invoice in respect of the sale of any article of food given by a food business operator to the vendor shall be deemed to be a guarantee under this section, even if a guarantee in the specified form is not included in the bill, cash memo or invoice.

(5) Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment within a specified time, it is found that there is no evidence that the rest of the batch, lot or consignment is unsafe:

Provided that any conformity of a food with specific provisions applicable to that food shall be without prejudice to the competent authorities taking appropriate measures to impose restrictions on that food being placed on the market or to require its withdrawal from the market for the reasons to be recorded in writing where such authorities suspect that, despite the conformity, the food is unsafe.

SECTION 27. Liability of manufacturers, packers, wholesalers, distributors and sellers.-(1) The manufacturer or packer of an article of food shall be liable for such article of food if it does not meet the requirements of this Act and the rules and regulations made thereunder.

(2) The wholesaler or distributor shall be liable under this Act for any article of food which is-

(a) supplied after the date of its expiry; or

(b) stored or supplied in violation of the safety instructions of the manufacturer; or

(c) unsafe or misbranded; or

(d) unidentifiable of manufacturer from whom the article of food have been received; or

(e) stored or handled or kept in violation of the provisions of this Act, the rules and regulations made thereunder; or

(f) received by him with knowledge of being unsafe.

(3) The seller shall be liable under this Act for any article of food which is–

(a) sold after the date of its expiry; or

(b) handled or kept in unhygienic conditions; or

(c) misbranded; or

(d) unidentifiable of the manufacturer or the distributors from whom such articles of food were received; or

(e) received by him with knowledge of being unsafe.

SECTION 28. Food recall procedures.–(1) If a food business operator considers or has reasons to believe that a food which he has processed, manufactured or distributed is not in compliance with this Act, or the rules or regulations, made thereunder, he shall immediately initiate procedures to withdraw the food in question from the market and consumers indicating reasons for its withdrawal and inform the competent authorities thereof.

(2) A food business operator shall immediately inform the competent authorities and co-operate with them, if he considers or has reasons to believe that a food which he has placed on the market may be unsafe for the consumers.

(3) The food business operator shall inform the competent authorities of the action taken to prevent risks to the consumer and shall not prevent or discourage any person from co-operating, in accordance with this Act, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a food.

(4) Every food business operator shall follow such conditions and guidelines relating to food recall procedures as the Food Authority may specify by regulations.

SECTION 29. Authorities responsible for enforcement of Act.—(1) The Food Authority and the State Food Safety Authorities shall be responsible for the enforcement of this Act.

(2) The Food Authority and the State Food Safety Authorities shall monitor and verify that the relevant requirements of law are fulfilled by food business operators at all stages of food business.

(3) The authorities shall maintain a system of control and other activities as appropriate to the circumstances, including public communication on food safety and risk, food safety surveillance and other monitoring activities covering all stages of food business.

(4) The Food Safety Officers shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.

(5) The regulations under this Act shall specify which of the Food Safety Officers are to enforce and execute them, either generally or in relation to cases of a particular description or a particular area, and any such regulations or orders may provide for the giving of assistance and information by any authority concerned in the administration of the regulations or orders, or of any provisions of this Act, to any other authority so concerned, for the purposes of their respective duties under them.

(6) The Commissioner of Food Safety and Designated Officer shall exercise the same powers as are conferred on the Food Safety Officer and follow the same procedure specified in this Act.

SECTION 30. Commissioner of Food Safety of the State.—(1) The State Government shall appoint the Commissioner of Food Safety for the State for efficient implementation of food safety and standards and other requirements laid down under this Act and the rules and regulations made thereunder.

(2) The Commissioner of Food Safety shall perform all or any of the following functions, namely:—

(a) prohibit in the interest of public health, the manufacture, storage, distribution or sale of any article of food, either in the whole of the State or any area or part thereof for such period, not exceeding one year, as may be specified in the order notified in this behalf in the Official Gazette;

(b) carry out survey of the industrial units engaged in the manufacture or processing of food in the State to find out compliance by such units of the standards notified by the Food Authority for various articles of food;

(c) conduct or organise training programmes for the personnel of the office of the Commissioner of Food Safety and, on a wider scale, for different segments of food chain for generating awareness on food safety;

(d) ensure an efficient and uniform implementation of the standards and other requirements as specified and also ensure a high standard of objectivity, accountability, practicability, transparency and credibility;

(e) sanction prosecution for offences punishable with imprisonment under this Act;

(f) such other functions as the State Government may, in consultation with the Food Authority, prescribe.

(3) The Commissioner of Food Safety may, by Order, delegate, subject to such conditions and restrictions as may be specified in the Order, such of his powers and functions under this Act (except the power to appoint Designated Officer, Food Safety Officer and Food Analyst) as he may deem necessary or expedient to any officer subordinate to him.

SECTION 31. Licensing and registration of food business.-(1) No person shall commence or carry on any food business except under a licence.

(2) Nothing contained in sub-section (1) shall apply to a petty manufacturer who himself manufactures or sells any article of food or a petty retailer, hawker, itinerant vendor or a temporary stall holder or small scale or cottage or such other industries relating to food business or tiny food business operator; but they shall register themselves with such authority and in such manner as may be specified by regulations,

without prejudice to the availability of safe and wholesome food for human consumption or affecting the interests of the consumers.

(3) Any person desirous to commence or carry on any food business shall make an application for grant of a licence to the Designated Officer in such manner containing such particulars and fees as may be specified by regulations.

(4) The Designated Officer on receipt of an application under sub-section (3), may either grant the licence or after giving the applicant an opportunity of being heard and for reasons to be recorded in writing, refuse to grant a licence to any applicant, if he is satisfied that it is necessary so to do in the interest of public health and shall make available to the applicant a copy of the order:

Provided that if a licence is not issued within two months from the date of making the application or his application is not rejected, the applicant may start his food business after expiry of the said period and in such a case, the Designated Officer shall not refuse to issue a licence but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard.

(5) Every licence shall be in such form and subject to such conditions as may be specified by regulations.

(6) A single licence may be issued by the Designated Officer for one or more articles of food and also for different establishments or premises in the same area.

(7) If the articles of food are manufactured, stored, sold or exhibited for sale at different premises situated in more than one area, separate applications shall be made and separate licence shall be issued in respect of such premises not falling within the same area.

(8) An appeal against the order of rejection for the grant of licence shall lie to the Commissioner of Food Safety.

(9) A licence unless suspended or cancelled earlier shall be in force for such period as may be specified by regulations:

Provided that if an application for a renewal of licence is made before the expiry of the period of validity of the licence, the licence shall continue to be in force until orders are passed on the application.

(10) The licence shall subsist for the benefit of the deceased's personal representative or any other member of his family, until the expiry of-

(a) the period of three months beginning with his death; or

(b) such longer period as the Designated Officer may allow.

SECTION 33. Prohibition orders.-(1) If -

(a) any food business operator is convicted of an offence under this Act; and

(b) the court by or before which he is so convicted is satisfied that the health risk exists with respect to that food business,

the court, after giving the food business operator an opportunity of being heard, may by an order, impose the following prohibitions, namely:-

(i) a prohibition on the use of the process or treatment for the purposes of the food business;

(ii) a prohibition on the use of the premises or equipment for the purposes of the food business or any other food business of the same class or description;

(iii) a prohibition on the use of the premises or equipment for the purposes of any food business.

(2) The court may, on being satisfied that it is necessary so to do, by an order, impose a prohibition on the food business operator participating in the management of any food business, or any food business of a class or description specified in the order.

(3) As soon as practicable after the making of an order under sub-section (1) or sub-section (2) (in this Act referred to as a —prohibition order||), the concerned Food Safety Officer shall-

(a) serve a copy of the order on the food business operator; and

(b) in the case of an order under sub-section (1), affix a copy of the order at a conspicuous place on such premises used for the purposes of the food business,

and any person who knowingly contravenes such an order shall be guilty of an offence and be punishable with a fine which may extend to three lakh rupees.

(4) The concerned Food Safety Officer shall with the approval of the Designated Officer issue a certificate to the effect that the food business operator has taken sufficient measures justifying lifting of the prohibition order, within seven days of his being satisfied on an application made by the food business operator for such a certificate or the said officer shall-

(a) determine, as soon as is reasonably practicable and in any event within fourteen days, whether or not he is so satisfied; and

(b) if he determines that he is not so satisfied, give notice to the food business operator of the reasons for that determination.

(5) A prohibition order shall cease to have effect upon the court being satisfied, on an application made by the food business operator not less than six months after the prohibition order has been passed, that the food business operator has taken sufficient measures justifying the lifting of the prohibition order.

(6) The court shall give a direction on an application by the food business operator, if the court thinks it proper so to do having regard to all the circumstances of the case, including in particular, the conduct of the food business operator since the making of the order; but no such application shall be entertained if it is not made-

(a) within six months after the making of the prohibition order; or

(b) within three months after the making by the food business operator of a previous application for such a direction.

Explanation.-For the purpose of this section,-

(i) any reference above shall apply in relation to a manager of a food business as it applies in relation to the food business operator; and any reference to the food business

operator of the business, or to the food business operator, shall be construed accordingly;

(ii) –manager||, in relation to a food business, means any person who is entrusted by the food business operator with the day-to-day running of the business, or any part of the business.

SECTION 48. General provisions relating to offences.–(1) A person may render any article of food injurious to health by means of one or more of the following operations, namely:–

(a) adding any article or substance to the food;

(b) using any article or substance as an ingredient in the preparation of the food;

(c) abstracting any constituents from the food; or

(d) subjecting the food to any other process or treatment,

with the knowledge that it may be sold or offered for sale or distributed for human consumption.

(2) In determining whether any food is unsafe or injurious to health, regard shall be had to–

(a) (i) the normal conditions of use of the food by the consumer and its handling at each stage of production, processing and distribution;

(ii) the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods not only to the probable, immediate or short-term or long-term effects of that food on the health of a person consuming it, but also on subsequent generations;

(iii) to the probable cumulative toxic effects;

(iv) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers; and

(v) also to the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities;

(b) the fact where the quality or purity of the article, being primary food, has fallen below the specified standard or its constituents are present in quantities not within the specified limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then such article shall not be deemed to be unsafe or sub-standard or food containing extraneous matter.

Explanation.—For the purposes of this section, —injury||, includes any impairment, whether permanent or temporary, and —Injurious to health|| shall be construed accordingly.

SECTION 49. General provisions relating to penalty.—While adjudging the quantum of penalty under this Chapter, the Adjudicating Officer or the Tribunal, as the case may be, shall have due regard to the following:—

(a) the amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention,

(b) the Amount of loss caused or likely to cause to any person as a result of the contravention,

(c) the repetitive nature of the contravention,

(d) whether the contravention is without his knowledge, and

(e) any other relevant factor.

SECTION 51. Penalty for sub-standard food.—Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is sub-standard, shall be liable to a penalty which may extend to five lakh rupees.

SECTION 52. Penalty for misbranded food.-(1) Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakh rupees.

(2) The Adjudicating Officer may issue a direction to the person found guilty of an offence under this section, for taking corrective action to rectify the mistake or such article of food shall be destroyed.

SECTION 59. Punishment for unsafe food.-Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,-

(i) where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;

(ii) where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;

(iii) where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;

(iv) where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.

SECTION 65. Compensation in case injury of death of consumer.-(1) Without prejudice to the other provisions of this Chapter, if any person whether by himself or by any other person on his behalf, manufactures or distributes or sells or imports any article of food causing injury to the consumer or his death, it shall be lawful for the

Adjudicating Officer or as the case may be, the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum—

- (a) not less than five lakh rupees in case of death;
- (b) not exceeding three lakh rupees in case of grievous injury; and
- (c) not exceeding one lakh rupees, in all other cases of injury:

Provided that the compensation shall be paid at the earliest and in no case later than six months from the date of occurrence of the incident:

Provided further that in case of death, an interim relief shall be paid to the next of the kin within thirty days of the incident.

(2) Where any person is held guilty of an offence leading to grievous injury or death, the Adjudicating Officer or the court may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Adjudicating Officer or the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

(3) The Adjudicating Officer or the court may also,—

- (a) order for cancellation of licence, re-call of food from market, forfeiture of establishment and property in case of grievous injury or death of consumer;
- (b) issue prohibition orders in other cases.

SECTION 68. Adjudication.—For the purposes of adjudication under this Chapter, an officer not below the rank of Additional District Magistrate of the district where the alleged offence is committed, shall be notified by the State Government as the Adjudicating Officer for adjudication in the manner as may be prescribed by the Central Government.

(2) The Adjudicating Officer shall, after giving the person a reasonable opportunity for making representation in the matter, and if, on such inquiry, he is satisfied that the

person has committed the contravention of provisions of this Act or the rules or the regulations made thereunder, impose such penalty as he thinks fit in accordance with the provisions relating to that offence.

(3) The Adjudicating Officer shall have the powers of a civil court and—

(a) all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) While adjudicating the quantum of penalty under this Chapter, the Adjudicating Officer shall have due regard to the guidelines specified in section 49.

SECTION 71. Procedure and powers of Tribunal.—(1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other electronic records;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it ex parte;

(g) any other matter which may be prescribed by the Central Government.

(3) Every proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), it shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to represent his case before the Tribunal.

(5) The provisions of the Limitation Act, 1963 (36 of 1963), shall, except as otherwise provided in this Act, apply to an appeal made to the Tribunal.

(6) Any person aggrieved by any decision or order of the Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

SECTION 72. Civil court not to have jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Adjudicating Officer or the Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

SECTION 74. Special courts and Public Prosecutor.—(1) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government or the State Government in their respective jurisdictions may, if consider expedient and necessary in the public interest, for the purposes of the trial of offences relating to grievous injury or death of the consumer for which punishment of imprisonment for more than three years has been prescribed under this Act, constitute, by notification in the Official Gazette, as many Special Courts with the concurrence of the Chief Justice of the High Court as may be necessary for such area or areas and for exercising such jurisdiction, as may be specified in the notification.

(2) A Special Court may, on its own motion, or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place other than its ordinary place of sitting.

(3) The trial under this Act of any offence by a Special Court shall have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

(4) For every Special Court, the Central Government or the State Government, as the case may be, shall appoint a person to be the Public Prosecutor and may appoint more than one person to be the Additional Public Prosecutors:

Provided that the Central Government or the State Government, as the case may be, may also appoint for any case or class or group of cases, a Special Public Prosecutor.

(5) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

SECTION 76. Appeal.-(1) Any person aggrieved by a decision or order of a Special Court may, on payment of such fee as may be prescribed by the Central Government and after depositing the amount, if any, imposed by way of penalty, compensation or damage under this Act, within forty-five days from the date on which the order was served, prefer an appeal to the High Court:

Provided that the High Court may entertain any appeal after the expiry of the said period of forty-five days, if it is satisfied that the appellant was prevented by sufficient cause for filing the appeal within the said period.

(2) An appeal preferred under this section shall be disposed of by the High Court by a bench of not less than two judges.