
UNIT 3 FOOD SAFETY AND STANDARD ACT, 2006

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3.0 OBJECTIVES

After studying this unit, we shall be able to:

- 1 understand the existing scenario of food regulations in India;
- 1 state the important provisions of Food Safety and Standards Act, 2006;
- 1 enumerate the procedure for setting up of Food Safety Standards in India; and
- 1 outline the enforcement of Food Safety Standards.

3.1 INTRODUCTION

The Government of India appointed a Task Force in 1955 under the chairmanship of Justice (Retd.) E.S. Venketaramaiah to review the existing Food Laws including Prevention of Food Adulteration Act (PFA Act) and to suggest a simplified and harmonized Food Law. This Task Force suggested that there should be a paradigm shift in the legal framework to promote 'good manufacturing practices' which has been universally found to be a better instrument to protect public health, minimize commercial fraud and to promote the development of industry and trade on scientific lines. The Prime Minister's Council on Trade and Industry appointed a Subject Group on Food and Agro Industries headed by Nusli Wadia. This group recommended an urgent need not only to avoid existing multiplicity of laws and

multifarious agencies administering them but also suggested the harmonization of these laws under a single umbrella so that a single authority can supervise the effective implementation of the law concerning food sector. A large number of legislation pervade this industry. Some of them specific to the sector and others affecting the sector indirectly. A list of various laws is appended to this unit, from which it can be discerned that the food industry is inexorably bound by the different co-ordinates of a wide ranging enactments. These Acts are oblivious of various developments in science, disciplines of food micro-biology, food chemistry, food technology and various trade developments that have taken place in the last few years.

3.2 EXISTING FOOD LAWS IN INDIA

There are a number of food laws being implemented by various Ministries/ Departments in the country. These are primarily meant for two purposes namely (1) Regulation of Specifications of Food and (2) Regulation of Hygiene Condition of Processing/Manufacturing. Some of these food laws are mandatory and some are voluntary. The details of various food laws in operation in India are as under:

1. Prevention of Food Adulteration Act, 1954 and Rules 1955

This Act was enacted in the year 1954 with an objective, inter-alia, to make provisions for prevention of adulteration of the food. The administration of this Act is the responsibility of the Directorate General of Health Services, Ministry of Health & Family Welfare. The provisions of this Act are mandatory and contravention of the Act and Rules made there under can lead to imposition of fine and imprisonment.

2. Agriculture Produce (Grading & Marking) Act, 1937

This Act is commonly known as AGMARK and is voluntary in nature. The Act lays down the specifications for various agricultural commodities including some processed foods. The Director of Marketing & Inspection (DMI) under Ministry of Agriculture is administering this Act.

3. Bureau of Indian Standards (BIS) Act, 1986

This Act is administered by Department of Consumer Affairs, Ministry of Food, Consumer Affairs and Public Distribution. The BIS laid down specific standards for various items including raw and processed food items. These standards are voluntary in nature. Manufacturers complying with these standards can obtain “ISI” mark that can be exhibited on product packages. BIS certification has been made mandatory through provisions of prevention of Food Adulteration Act and Rules for certain food items like food colors, additives, mineral water, packaged drinking water etc.

4. The Standards of Weights and Measures Act, 1976 – (Packaged Commodities Rules, 1977)

This Act is administered by Directorate of Consumer Affairs, Ministry of Food, Consumer Affairs and Public Distribution. This Act establishes standards of weights and measures, to regulate the package commodities that are sold or distributed by weight, measure or number. This Act is mandatory in nature.

5. Environment Protection Act, 1986 and Rules, 1989

This Act is administered by Ministry of Environment and Forests. The provisions of this Act are mandatory in nature. As per the rules 1989, food stuffs, ingredients in food stuffs and additives, including processing aids containing or consisting of genetically modified organisms or cells shall not be produced, sold, imported, exported, stored, transported except with the prior approval of the Genetically Engineering Approval Committee (GEAC).

6. Export (Quality Control and Inspection) Act, 1963

Export Inspection Council under Ministry of Commerce implements this Act. The Act has given power to the Government of India to notify the commodities that shall be brought under compulsory enforcement of quality control and inspection or both, prior to exporting the notified commodity.

7. Essential Commodities Act, 1955

A number of quality control orders have been issued under the Essential Commodities Act, 1955 such as Fruit Products Order 1955, Milk and Milk Products Order 1992, Meat Food Product Order 1973 and Vegetable Oils Control Order etc. These orders are mandatory and primarily meant for regulating the hygiene conditions.

a) Fruit Products Order, 1955

The Fruit Products Order, 1955 promulgated under section 3 of the Essential Commodities Act, 1955 aims at regulating sanitary and hygienic conditions in the manufacturing of fruit and vegetable products. This is administered by the Ministry of Food Processing Industries through the Directorate of Fruit & Vegetable preservation at New Delhi. The Order is mandatory in nature and all Fruit & Vegetable processing units are required to obtain FPO licences under this Order.

b) Meat Food Product Order, 1973

This is administered by the Ministry of Food Processing Industries. This Order controls production, quality and distribution of raw and processed meat products. This order is also mandatory in nature.

c) Solvent Extracted Oil, Deoiled Meal, and Edible Flour (Control) Order, 1967- Directorate of Vanaspati, Ministry of Food, Consumer Affairs & Public Distribution

This Order is also implemented by Department of Food and Public Distribution through Directorate of Vanaspati, Vegetable Oils and fats. This Order was also promulgated to regulate production, sale and stock of solvent extracted oil, de-oiled meal and edible flour manufactured from de-oiled meal.

d) Milk And Milk Products Order (MMPO), 1992

This Order is mandatory in nature and administered & implemented by Directorate of Animal Husbandry and Dairying, Ministry of Agriculture. This Order regulates production, supply, distribution of milk and milk products throughout the country.

e) **The Vegetable Oil Products (Regulation) Order, 1998- Directorate of Vanaspati, Vegetable Oils and fats, Ministry of Food, Consumer Affairs & Public Distribution**

This Order is implemented by the Department of Food and Public Distribution through Directorate of Vanaspati, Vegetable Oils and fats. “Vegetable Oil Products” include refined edible oils, vanaspati, margarine, bakery shortening, fat spread including blended edible oils with refined edible oils as one of the components.

f) **Edible Oils Packaging (Regulation) Order, 1998**

This Order is also implemented by the Department of Food and Public Distribution through Directorate of Vanaspati, Vegetable Oils and fats to ensure availability of safe and quality edible oils in packed form.

8. Other Acts and Orders

Several other Acts and Orders such as Tea Act, 1953, Coffee Act, 1942, Spices Act, 1986 etc. have been enacted to control quality of food items.

3.3 WHY INTEGRATED FOOD LAWS i.e. FOOD SAFETY AND STANDARDS ACT, 2006?

A pressing need for having a modern Integrated Food Law (IFL) had been articulated by various stakeholders *viz.* the State Governments, Industry, R&D Institutions, etc. from time to time, due to following reasons:

- 1 Multiplicity of food laws and standards setting and enforcement agencies create confusion in the minds of consumers, traders, investors and manufacturers.
- 1 Varied quality/safety standards regarding admissibility and levels of food additives and contaminants, food colours, preservatives etc. lead to harassment of manufacturers of food products and other stakeholders and restrict innovation in food products.
- 1 Thin spread of manpower, food laboratories and other resources under various authorities administrating these laws, is not conducive to effective fixation of food standards and their enforcement.
- 1 Such a situation is detrimental to the growth of the nascent food processing industry, which is so vital for generating employment and enhancing income of farmers in our country.

3.4 OBJECTIVES OF THE FOOD SAFETY AND STANDARDS ACT, 2006

The main objectives of the Food Safety and Standards Act, 2006 are to:

- 1 **consolidate the laws** relating to food,

- 1 **establish the Food Safety and Standards Authority of India** for laying down science based standards for articles of food,
- 1 **regulate manufacture, storage, distribution and sale and import of articles of food** to ensure availability of safe and wholesome food for human consumption and
- 1 **pool infrastructure, manpower, testing facilities** for better standard fixation and enforcement through their proper re-deployment,

3.5 SALIENT FEATURES OF FOOD SAFETY AND STANDARDS ACT, 2006

The Act provides for:

- 1 establishment of the Food Safety and Standards Authority of India, which will fix food standards and regulate/monitor the manufacturing, import, processing, distribution and sale of food, so as to ensure safe and wholesome food. The Food Authority will be assisted by Scientific Committees and Panels in fixing standards and by a Central Advisory Committee in prioritization of the work.
- 1 adequate representation of government, industry organizations, consumers, farmers, technical experts, retailers etc. This consultation is not only provided at the highest level of the Food Authority, but also at various levels like Central Advisory Committee, Scientific Committee and Scientific Panels.
- 1 financial penalties for misuse of powers by Food Safety Officers.
- 1 graded penalties depending upon the gravity of offence,
- 1 adjudication and compounding of offences,
- 1 an effective, transparent and accountable regulatory framework within which the industry can work efficiently, putting in place an investor friendly rather than an adversarial regulatory mechanism, which emphasizes self regulation and capacity building; decentralization of licencing for manufacture of food products and establishing a single reference point for all matters relating to food safety and standards, and
- 1 the enforcement of the legislation will be by the State Governments/ UTs through the State Commissioner for Food Safety, his officers and Panchayati Raj/Municipal bodies.

The Act, inter-alia, incorporates the salient provisions of the Prevention of Food Adulteration Act, 1954 and is based on international legislations and instrumentalities. In a nutshell, the Act takes care of international practices and envisages a overreaching policy framework and provision of single window to guide and regulate persons engaged in manufacture, marketing, processing, handling, transportation, import and sale of food. The Act is contemporary, comprehensive and intends to ensure better consumer safety through Food Safety Management Systems and setting standards based on science and transparency as also to meet the dynamic requirements of Indian Food Trade and Industry and International trade.

3.6 IMPORTANT PROVISIONS OF FOOD SAFETY AND STANDARDS ACT, 2006

Extent of Application & Commencement

Section 1 provides, inter-alia for its extent of application and commencement. This Act is made applicable to whole of India (including Jammu and Kashmir). This Act was to come into force on the date notified in the official Gazette. The Central Government is empowered to notify different dates for the enforcement of various provisions of the Act.

Declaration as to expediency of control by union (Section 2): makes a declaration as to the expediency of control by the Union declares that it is expedient in the public interest that the Union should take under its control the food industry. This Section enables the Union to legislate on the subject matter in the public interest.

Definitions (Section 3): This section defines fifty two expressions used in the Act. Some of the important definitions include adulterant [S.3(a)], advertisement 3(b), Consumer [S.3(c)] unsafe food, [S.3(zz)] ‘primary food’ (3 zk), extraneous matter’(S.3U), ‘food business’[S.3(n)], food business operator’[S.3(o)], manufacturer’[3.(zd)], ‘risk analysis’[S.3(zn)], ‘sale’[S.3(zr)] and ‘sub-standard’[S.3(zx)], contaminant [S.3(g)], food [S.3(j)], food additive [s.3(k)], food safety [S.3(q)], food safety audit [S.3(r)], infant food and infant milk substitute [S.3(x)], mis branded food [S.3(zf)].

Some of the very important definitions are discussed below.

“Food” [S.3(j)]: Food means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food, 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 further, the Central Government is empowered to declare, by way of notification in the Official Gazette, any other article as food for the purposes of the Act having regards to its use, nature, substance or quality;

“Primary food” [S.3(zk)]: Primary Food means or refers to 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.

“Food safety”[S.3(q)]: Food safety means the assurance that food is acceptable for human consumption according to its intended use;

“Standard” [S.3 (z4)]: The Standard in relation to any article of food, means the standard notified by the Food Authority. The chapter II covering section 4 to 17 deals with the establishment, composition and functions of Food Safety and Standards Authority of India.

Section 4 seeks to provide for the establishment and incorporation of an authority called the Food Safety and Standards Authority of India. The primary responsibility of this Authority is to exercise the powers conferred upon it and to perform the functions assigned to it under this Act. The head office of the Authority shall be situated at Delhi. However, the Authority is empowered to establish its offices at any other places in India.

Section 5 deals with the composition of the Food Safety and Standards Authority of India. As per this Section B, the Food Authority shall consist of a chairperson and 22 members out of which one third shall be women. The chairperson and the members other than ex-officio members shall be appointed by the Central Government on the recommendations of the selection committee. The composition of Food Authority is as follows:

Chairperson : A person of eminence in the field of food science or a person from the administration associated with the subject and is either holding or has held the position not below the rank of Secretary to Government of India.

Members:

- a. 7 ex-officio members not below the rank of Joint Secretary, one each from Ministries of Agriculture, Commerce, Consumer Affairs, Health Legislative Affairs, Food Processing, Small Scale Industries;
- b. Two representatives from food Industry of which one shall be from small scale industries;
- c. Two representatives from consumer organizations,
- d. Three eminent food technologist/scientist,
- e. Five representatives from States/ U.T to be appointed by rotation every three years;
- f. Two representative from farmer's organization; and
- g. One representative from retailers' organization.

The Chairperson or members other than ex-office members of the Food Authority shall not hold any other office.

Section 6 provides for the **Constitution and Composition of Selection Committee** consisting of five members with Cabinet Secretary as its chairperson, for the purpose of selection of chairperson and members of the Food Authority and provides for the procedure to be followed by that committee in making recommendations for such selection.

Section 7 contains provisions in respect of **terms of office, salary, allowances** and other **conditions of services of Chairperson and Members of the Food Authority**. It provides that the chairperson and members other than ex-officio members shall hold office for a period of three years and shall be eligible for re-appointment for a further period of three years. The chairperson and members shall hold office till attaining the age of sixty two years and sixty five years, respectively. It also provides that the chairperson or any member may relinquish

his office by giving not less than 3 months notice in writing to the central government or be removed by the central government in terms of the provisions of Section 8.

Section 8 lays down the various grounds for removal of **chairperson and members of the Food Authority** from office such as on the grounds of insolvency, physical or mental incapacity, conviction of an offence involving moral turpitude or having an interest prejudicial to these functions as a member or abuse of position. A member, however, shall not be removed unless he has been given a reasonable opportunity of being heard.

Section 9 provides for **appointment of a Chief Executive Officer and other officers and employees of the Food Authority**. It provides that salaries and allowances payable to and other conditions of service of Chief Executive Officer and other officers and employees shall be determined by regulations made by the Food Authority with the approval of the Central Government. As per this section the Chief Executive Officer of the Food Authority shall not be below the rank of Additional Secretary to the Government of India, and shall be appointed by the Central Government and he shall be the members-secretary of the Food Authority.

Section 10 enumerates the function of the Chief Executive Officer who shall be the legal representative of the Food Authority and shall be responsible for the day-to-day administration of the Authority, drawing up of proposal for the Authority's work programmes in consultation with Central Advisory Committee, implementing the work programmes and the decisions adopted by the Authority etc. Every year, the Chief Executive Office shall also submit to the Food Authority for approval, a general report covering activities of the Food Authority in the previous year, programmes of work; the annual accounts of the previous year; and the budget for the coming year and he shall have administrative control over the officers and other employees of the Food Authority.

Section 11 provides for **establishment of a Central Advisory Committee by the Food Authority** consisting of representatives specified therein and the Chief Executive officer shall be its ex-officio Chairperson.

Section 12 enumerates functions of Central Advisory Committee (CAC) such as ensuring close cooperation between the Food Authority and the enforcement agencies and organisations operating in the field of food and to advise the Food Authority on drawing up of a proposal for the Authority's work programmes, prioritization of work, identifying potential risks, pooling of knowledge and such other functions as may be specified. It shall meet regularly at least three times in a year. The composition of CAC will be as under:

- i) two members each to represent food industry, agriculture, consumers, relevant research bodies and food laboratories.
- ii) all Commissioners of Food Safety.
- iii) Chairman of the Scientific Committee.
- iv) representatives of the Ministries of the Central Government in Agriculture, Animal Husbandry and dairying, Bio-Technology, Commerce and Industry, Consumer Affairs, Environment and Forests, Food Processing Industries,

Health, Panchayati Raj, small scale industries, Food & Public Distribution, other government institutions or organizations, government recognized farmers' organization.

Section 13 seeks to provide for **establishment of Scientific Panels** consisting of independent scientific experts, with representation of industry and consumer organizations for deliberations. The Food Authority is empowered to establish as many Scientific Panels as it considers necessary in addition to the panels. These Scientific Panels may be reconstituted from time to time by the Food Authority depending on the requirements. The Act provides for setting up of 8 scientific panels each on :

- a) food additives, flavourings, processing aids and materials in contact with food;
- b) pesticides and antibiotics residues;
- c) genetically modified organisms and foods;
- d) functional foods, nutraceuticals, dietetic products and other similar products;
- e) biological hazards;
- f) contaminants in the food chain;
- g) labelling; and
- h) method of sampling and analysis.

Section 14 seeks to provide for **constitution of Scientific Committee** consisting of the chairpersons of the Scientific Panels and six independent scientific experts not belonging to any of the Scientific Panels. This committee shall be responsible for providing scientific opinion to the Food Authority and shall have the powers for organizing public hearings. The Scientific Committee shall provide opinion or multi-sectoral issues falling within the competence of more than one Scientific Panels and setting up working groups on issues which does not fall under Scientific Panels.

Section 15 prescribes the general **procedure for the appointment of the members of the Scientific Committee and Scientific Panels** and empowers the Food Authority to lay down procedure for the operation and cooperation of the Scientific Committee and Scientific Panels. These procedure relate in particular to number of members in each Scientific Panel and number of times that a member can serve on a Scientific Committee or Panels, creation and organization of working group, organizing the public hearings, etc.

Section 16 enumerates in detail the **duties and functions of the Food Authority**. The duty of the Food Authority is to regulate and monitor the manufacture, processing, distribution, sale and import of food and to specify by regulations, the standards and guidelines in relation to articles of food; the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food business and laboratories and notify the accredited laboratories, etc. The Food Authority is also required to provide scientific advice and technical support to the Central and State Governments in matters of framing the policy and rules in areas which have a direct or indirect bearing on food safety; contribute to the

development of international technical standards for food, sanitary and phyto-sanitary standards and to undertake any other task assigned by the Central Government to carry out the objects of the Act. The Food Authority is duty bound to make it public without undue delay, the opinions of the Scientific Committee and Scientific Panels public immediately after adoption. Also the results of its scientific studies etc. The Main Functions of Food Authority will be:

- 1 Prescribe standards and guidelines for articles of food, regulate/monitor manufacturing, processing, distribution, sale and import of food so as to ensure safe and wholesome food for the people.
- 1 Take all such steps to ensure that the public, consumers, interested parties and all levels of Panchayats receive rapid, reliable, objective and comprehensive information.
- 1 Promote consistency between international technical standards and domestic food standards.
- 1 Promote general awareness on food safety and food standards.
- 1 Prescribe the mechanism and guidelines for accreditation of certification bodies for food safety managements systems.
- 1 Prescribe the limits or use of food additives, crop contaminants, pesticides residues, heavy metals, anti-biotic etc.

Section 17 provides for the **procedures in regards to meetings of the Food Authority**, the transaction of business at its meetings and procedure of voting by the members, etc. As per this section the Chief Executive Officer and Chairperson of the Scientific Committee may take part in its meetings but without a right to vote.

The General Principles of Food Safety (Chapter III)

Sections 18 seeks to provide for the **general principles to be followed in administration** of the Act by the Central Government, the Food Authority, the State Governments and other agencies, while framing regulations and specifying food safety standards or while enforcing or implementing the provisions of the Act. The general principles are:

- 1 Protection of Human Life and Health;
- 1 Protection of consumer interests including fair practices in all kinds of Food Trade;
- 1 To carryout provisional risk management measures necessary to ensure appropriate level of health;
- 1 Protection of farmers interests;
- 1 Risk Analysis;
- 1 Transparent Public consultation & information;

- 1 Fair practices in food trade; and
- 1 Due consideration of international standards.

The Food Authority should, while discharging its functions, take into account the prevailing practices and conditions in the country including agricultural practices, handling, storage and transport conditions including international standards and practices, etc. The said authorities shall be guided by the general principles of Food Safety such as risk analysis, risk assessment, risk management, risk communication, transparent public consultation, protection of consumer interests, etc. It empowers the Food Authority to notify other general principles from time to time as per the requirements.

General Provisions as to Articles of Food (Chapter IV section 19 to 25)

Section 19 prohibits the use of any food additives or processing aid unless it is in accordance with the provisions of the Act and regulations made there under.

Section 20 provides that no article of food shall contain contaminants, natural/ occurring toxic substances or toxins or hormone or heavy metals in excess of such quantities as may be specified by the regulations.

Section 21 provides that no article of food shall contain insecticides or, pesticides, residues, veterinary drugs residues, antibiotic residues, solvent residues, pharmacological active substances and micro-biological counts in excess of such tolerance limits as may be specified by the regulations. It provides that no insecticide shall be used directly on articles of food except fumigants registered and approved under the Insecticide Act, 1968 (46 of 1968).

Section 22 provides that no person shall manufacture, distribute, sell or import any novel food, genetically modified articles of food, irradiated food, organic foods, functional foods, nutraceuticals, health supplements, proprietary foods and similar foods except in accordance with the provisions contained in the Act and rules and regulations made there under.

Section 23 deals with Packaging and Labelling of foods. As per this section, 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 labelled in the manner as may be specified. Every food business operator should ensure that the labelling and presentation of food does not mislead consumers.

Section 24 provides for restrictions on advertisement and prohibition as to unfair practices of any food which misleads or deceives contravenes the provisions of the Act or the rules and regulations made thereunder. It also provides for prohibition as to any unfair trade practice for the purpose of promoting sale, supply, use and consumption of articles of food or adoption of any unfair or deceptive practice to mislead the public regarding the standards, quality, quantity, or making false or misleading representatives concerning the need for or usefulness or giving of any guarantee of the efficacy to the public that is not based on an adequate or scientific justification thereof.

Provisions Relating to Import (Chapter V)

Section 25 make all imports of articles of food to be subjected to the provisions of the Act. It provides that no person shall import into India any article of food or any unsafe or misbranded or sub-standard food or food containing extraneous matter in contravention of the Act or any rules and regulations made there under. It also provides that the Central Government shall, while prohibiting, restricting or otherwise regulating import of articles 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 there under.

Special Responsibilities as to Food Safety (Chapter VI)

Section 26 seeks to provide for the responsibilities of the food business operator to ensure that the articles of food satisfy the requirements of the Act and the rules and regulations made there under at all stages of production, processing, import, distribution and sale within the businesses under his control. This section provides that no food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food which is unsafe or misbranded or sub-standard or contains extraneous matter or for which a licence is required 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. The food business operator shall not employ any person who is suffering from infectious, contagious or loathsome disease. Under sub-section (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.

Section 27 relates to the liabilities of the manufacturer, distributors and sellers of articles of food if they do not conform to the food safety requirements of the Act and the rules and regulations made there under. This Section also provides that the seller shall be liable for any article of food which is supplied after the date of its expiry, or (b) stored or supplied in violation of the safety instructions or handled or kept in unhygienic conditions.

Section 28 This Section contains the provisions relating to food recall procedures. If a food business operator considers or has reason to believe that a food which he has processed, manufactured or distributed is not in compliance with the provisions of the Act and the rules and regulations made there under, he shall immediately initiate procedures to withdraw the food in question from the market and the consumers and 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 injurious to human health and shall inform the competent authorities about the action taken to prevent risks to the consumer.

Enforcement of the Act (Chapter VII)

Section 29 provides that the Food Authority and the State Food Safety Authorities shall be responsible for the enforcement of the provisions of the Act. It empowers the said authorities to monitor and verify that the relevant requirements are fulfilled by food business operators, maintain a system of control, public communication on food safety and risk, food safety surveillance and other monitoring activities covering all stages of food business. This section also empowers the Food Safety

officer to enforce and execute within their area the provisions of this Act. It also empowers the Commissioner of Food Safety and Designated Officer to exercise the same powers as is conferred on the Food Safety Officer and follow the same procedure specified in the Act.

Section 30 empowers the State Government to appoint Commissioner of Food Safety for the State for efficient implementation of food safety and standards and other requirements laid down under the Act or the rules and regulations made there under. It enumerates the functions of the commissioner of Food Safety, such as, (a) to prohibit manufacture, storage, distribution or sale of any article of food in the interest of public health, (b) to carry out survey of the industrial units engaged in the manufacture or processing of food, (c) to conduct or organize training programmes for the personnel, generating awareness on food safety, (d) to ensure an efficient and uniform implementation of the standards, sanction prosecution for offences and (f) such other functions as the State Government may prescribe in consultation with the Food Authority.

Section 31 provides for licencing and registration of food business. This section provides that no person shall commence or carry on any food business except under a licence issued by a Designated Officer authorised by the Commissioner of Food Safety. An appeal against the order of the Designated Officer shall lie with the Commissioner of Food Safety. This section also provides that small scale industries, cottage industries, petty manufacturer who himself manufacture and sell any article of food, retailer, hawker, itinerant vendor, temporary stall holder, tiny food business operator, shall only register their business with the concerned Authority as specified by regulations.

Section 32 contains provisions for issuing improvement notices to the food business, operator who fails to comply with the requirements of the Act. The Designated Officer may serve an improvement notice if he has reasonable grounds for believing that the proprietor or a food business operator has failed to comply with any regulations and in the event of failure to comply with such improvement notice, the licence may be suspended or cancelled. Any person who is aggrieved by an improvement notice may prefer an appeal to the Commissioner of Food Safety whose decision thereon shall be final.

Section 33 empowers the court to issue prohibition orders in cases where the food business operator is convicted of an offence under the Act; and the court by or before which he is so convicted is satisfied that the health risk exists with respect to that business. Any person who knowingly contravenes such an order shall be guilty of an offence and be punishable with a fine, which may extend to rupees three lakhs. 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.

Section 34 empowers the Commissioner of Food Safety to serve emergency prohibition notices and orders to the food business operators if the designated officer is satisfied that the health risk condition exist with respect to any food business, and on an application made by him to the Commissioner of Food Safety for imposing the appropriate prohibition. The Designated Officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the food business operator of the business

of his intention to apply for the order. Any person who knowingly contravenes such an order shall be guilty of an offence and shall be punishable with imprisonment of a term which may extend to two years and with fine which may extend to rupees two lakhs. An emergency prohibition order shall cease to have effect on the issue by the Designated Officer of a certificate to the effect that he is satisfied that the food business operator has taken sufficient measures to secure the health risk condition exists no longer, fulfilled with respect to the business justifying the lifting such order.

Section 35 requires the Food Authority to notify registered medical practitioners carrying on their profession in any local area specified in the notification, to report all occurrences of food poisoning coming to their notice to such officer as may be specified.

Section 36 empowers the Commissioner of Food Safety of the State to appoint, by an order, the Designated Officer who shall not be below to the rank of a sub-Divisional Officer, to be in-charge of food safety administration in such areas as may be specified. This section stipulates that there shall be a Designated Officer for each district. It enumerates the functions to be performed by the Designated Officer which includes (a) issuing or cancellation of licence of food business operators as the Licencing Authority, (b) to prohibit the sale of any article of food which are not as per prescribed standards, (c) to receive report and samples of article of foods from Food Safety Officer, (d) to make recommendations to commissioner of Food Safety, (e) to sanction to launch prosecutions, (f) in case of contraventions punishable with imprisonment or with fine, to maintain record of all inspections made by Food Safety Officer, (g) to get investigated any complaint made in writing, (h) to investigate any complaint which may be made in writing against the Food Safety Officer, and (i) to perform such other duties as may be entrusted to him by the Commissioner of Food Safety.

Section 37 empowers the Commissioner of food safety to appoint Food Safety Officers in consultation with the State Government, by notification, for such local areas as it may assign to them for the purpose of performing its functions under the Act. This section also provides that the State Government may authorize any officer of the State Government having the prescribed qualifications to perform the functions of a Food Safety Officer within a specified jurisdiction.

Section 38 enumerates in detail, the powers of the Food Safety Officer, which include (a) taking of a sample of any article of food, and (b) seizure of any article intended for food which appears to the Food Safety Officer to be in contravention of the Act or the regulations or orders made thereunder, etc. power to enter and inspect any place where article of food is manufactured, or stored for sale, etc. It provides that the Food Safety Officer shall, in exercising the powers of entry upon, and inspection of any place under this Section, follow, as far as may be, the provisions of the Code of Criminal Procedure, 1973 relating to the search or inspection of a place by a police officer executing a search warrant issued under code 1973. In case the seized article is of perishable in nature and if the food safety officer is satisfied that it is unfit for human consumption, the authority may destroy the same offer giving notice to the vendor.

Section 39 provides that any Food Safety Officer exercising powers under the Act or under the rules and regulations made there under who (a) vexaciously and without any reasonable ground seizes any article of food or adulterant or (b)

commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty, shall be guilty of an offence under the Act and shall be punishable for such offence with penalty which may extend to one lakh rupees.

Section 40 enables the purchaser of any article of food to get analyzed such food from the Food Analyst after informing the food business operator at the time of purchase of his intention to have such article so analyzed. In case the Food analyst finds the sample in contravention of the provisions of the Act, he shall follow the procedure prescribed under the Act (Section 42) for prosecution. If the report of the Food Analyst shows that the article of food is not compliance with the Act, the purchases is entitled to get refund of the fees paid by him.

Section 41 empowers the Food Safety Officer to search any place, seize any article of food or adulterant, if there is a reasonable doubt about them being involved in commission of any offence relating to food. However, no search shall be deemed to be irregular by reason only of the fact that witness for the search are not inhabitants of the locality in which the place searched is situated. Further, the provisions of code of criminal procedure code 1973 relating to Search, Seizure, Summon, Investigation and Prosecution shall be made applicable to all actions taken by the Food Safety.

Section 42 lays down procedure for launching prosecutions, This section provides that the Designated Officer, after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to Commissioner of Food Safety for sanctioning prosecution. The Food Safety Officer is responsible for inspection of food business drawing samples and sending them to Food Analyst for analysis. It is the duty of the Food analysts to test the sample and send the analysis report within fourteen days to the designated officer with a copy to commissioner of Food Safety. This section also provides that the Commissioner of Food Safety shall, if he so deems fit, decide within the prescribed period as per the gravity of offence, whether the matter be referred to (a) a court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years; or (b) a Special Court in case of offences punishable with imprisonment for a term exceeding three years where such Special Court is established and in case no Special Court is established, such cases shall be tried by a court of ordinary jurisdiction.

Analysis of Food (Chapter VIII)

Section 43 contains the provisions relating to recognition and accreditation of laboratories, research institutions and referral food laboratory. It empowers the Food Authority to, (i) recognized by notification any food laboratory and research institution as accredited by National Accreditation Board for Testing and Calibration Laboratories (NABL) or similar accreditation agency for the purposes of carrying out analysis of samples by the Food Analysts; (ii) establish or recognize by notification one or more referral food laboratory or laboratories to carry out the functions entrusted to the referral food laboratory, (iii) frame regulations specifying (a) the functions of food laboratory and referral food laboratory, (b) the procedure for submission of samples of articles of food to the laboratory for analysis or tests etc.

Section 44 provides for recognition of organization or agency for food safety audit by the food authority for the purposes of food safety audit and checking compliance with food safety management systems required under the Act or the rules or regulations made there under.

Section 45 empowers the Commissioner of Food Safety of the State to appoint **Food Analysts** for specified local areas assigned to them. However, no person who has any financial interest in the manufacture or sale of any article of food shall be appointed as a Food Analyst. Further, different Food Analysts may be appointed for different articles of food.

Section 46 enumerates the functions of the Food Analysts. This section provides that the Food Analyst shall analyze the samples of article of food sent to him by Food Safety Officer or by any other person authorized under the Act. The Food Analyst shall send a copy of the report of the result of such analysis to the Designated Officer within a period of fourteen days from the date of receipt of such sample. An appeal against the report of Food Analyst shall lie before the designated Officer who shall, if he so decides, refer the matter to the referral food laboratory as notified by the Food authority for opinion.

Section 47 provides for the procedures for sampling and analysis of articles of foods. This section provides that when a sample of any article of food or adulterant is taken by the Food Safety Officer he in turn shall, by immediately succeeding working day, send the sample in accordance with the rules prescribed for sampling to the Food Analysts for the area concerned for analysis and report. An article of food or adulterant seized, unless destroyed, shall be produced before the Designated Officer as soon as possible and in any case not later than seven days after the receipt of the report of the Food Analyst.

Section 48 provides for general provisions relating to offences.

As per this section a person may render any article of food injurious to health by way of (a) adding any article or substance to the food, (b) using any article or substance as an ingredients in the preparation of the food, (c) abstracting any constituents from the food or (d) subjecting the food to any other process or treatment. In determining whether any food is injurious to health, regard shall be had to the particular health sensitivities of a specific category of consumer where the food is intended for that category of consumers but also to the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities. For the purposes of the Chapter on Offences and penalties, “injury” includes any impairment, whether permanent or temporary, and “injurious to health” shall be construed accordingly.

Section 49 provides for general provisions relating to penalties. This section provides that while adjudging the quantum of penalty, the adjudicating officer or the Tribunal, shall have the regard to:

- a) the amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention;
- b) the amount of loss caused 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 50 provides penalty for selling food not of the nature or substance or quality demanded. As per this section any person, who sells to the purchaser's prejudice any food which is not in compliance with the provision of this Act or the regulation made there under or not of the nature or substance or quality demanded by the purchaser, shall be liable to a penalty not exceeding five lakh rupees. Further, the small scale industries, cottage industries, petty manufacturer who himself manufactures and sell any article of food, retailer, hawker, itinerant vendor, temporary stall holder shall be liable for such non-compliance to a penalty not exceeding twenty five thousand rupees.

Section 51 provides penalty for manufacturing selling, storing or import, etc., of sub-standard food for human consumption and makes it liable to a fine which may extend to five lakh rupees.

Section 52 provides penalty for misbranded 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 misbranded, shall be liable to a penalty which may extend to three lakh rupees.

Section 53 provides penalty for misleading advertisement and makes it liable to a fine which may extend to ten lakh rupees.

Section 54 provides penalty for food containing extraneous matter or import of such foods and makes it liable to a fine which may extend to one lakh rupees.

Section 55 provides for failure to comply with the directions of Food Safety Officer. As per this section, if a food business operator or importer without reasonable ground, fails to comply with the requirements of the Act or the rules, regulations or orders issued thereunder, as directed by the Food Safety Officer, he shall be liable to a penalty which may extend to two lakh rupees.

Section 56 provides penalty for unhygienic or unsanitary processing or manufacturing of food and makes it liable to a fine which may extend to one lakh rupees.

Section 57 provides penalty for processing adulterant and makes it liable to a penalty not exceeding ten lakh rupees.

Section 58 provides penalty for contravention of any provisions of the Act or the rules or regulations made thereunder for which no specific penalty is provided and makes such contravention liable to a fine which may extend to two lakh rupees.

Section 59 seeks to provide punishment for unsafe food and makes the offence punishable, where such failure or contravention:-

- i) 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) 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) 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; and
- iv) 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 60 seeks to provide punishment for interfering with seized items and makes the offence punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

Section 61 seeks to provide punishment for false information and producing any document by a person in connection with a requirement or direction under the Act, knowing it to be false or misleading, and makes the offender punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

Section 62 seeks to provide punishment to any person who without reasonable excuse, resists, obstructs or attempts to obstruct, impersonate, threaten, intimidate or assault a Food Safety Officer in exercising his functions under the Act, makes the offender punishable with imprisonment for a term which may extend to three months and also with a fine which may extend to one lakh rupees.

Section 63 seeks to provide punishment for carrying out a business of manufacturing, selling, storing or distributing or importing any article of food without a licence by any person or a food business operator either himself or by any person on his behalf, who is required to obtain a licence under the Act, and makes the offender punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees.

Section 64 seeks to provide punishment for subsequent offences and makes the offender liable to (i) twice the punishment which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence; (ii) a further fine on daily basis which may extend upto one lakh rupees, where the offence is a continuing one, and (i) cancellation of the licence of the offender. The court may also cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct.

Section 65 provides for compensation in case of injury or death of consumer and makes the offender (who himself or by any other person on his behalf manufacturers or distributes or sells or import any article of food causing injury to consumer) liable to pay compensation to the victim or the legal representative of the victim a sum not less than rupees five lakhs in case of death; and sum not exceeding rupees three lakhs in case of grievous injury; and a sum not exceeding rupees one lakh, in all other cases of injury. 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 newspapers or in other manner the Adjudicating Officer or the court may direct in case of grievous injury or death of consumer and may also order for cancellation of licence, recall of food from market, forfeiture of establishment and property, or issue prohibition orders in other cases.

Section 66 provides for liabilities relating to offences by companies. In the case of offences committed by company, every person who at the time offence was committed was in charge of the company shall be deemed to be guilty of the offence and shall be liable to the proceeded against and punished accordingly.

Section 67 provides penalty for contravention of provision of the Act in case of import of articles of food to be in addition to penalties provided under any other Act. (Foreign Trade Development and Regulation) Act 1992 and the customs Act 1962).

Section 68 authorizes the State Government to notify an officer not below the rank of Additional District Magistrate of the district where the alleged offence is committed, as the Adjudicating Officer for adjudication in the manner as may be prescribed. Such Adjudicating Officer shall have the powers of a civil court and 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) and shall be deemed to a court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974). Any person who is aggrieved by a decision of an Adjudicating Officer may appeal to the Commissioner of Food Safety or such other officer, within thirty days from the date on which order was served on the person desiring to make appeal, if a Food Appellate Tribunal has not been established.

Section 69 enables the commission or food safety to empower the Designated Officer to accept from petty manufacturer who himself manufacture and sell any article of food, retailers, hawkers, internal vendors, temporary stall holders against whom a reasonable belief exists that he has committed an offence against this Act, payment of sum of money which shall not be more than one lakh rupees by way of composition of the offence which such person is suspected to have committed. On payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged and no further proceedings in respect of the offence shall be taken against such person. Further, no offence, for which punishment of imprisonment has been prescribed, shall be compounded.

Section 70 makes enabling provisions for establishment of tribunals to be known as the Food Safety Appellate Tribunal consisting of one person only as the presiding officer of the Food Safety Appellate Tribunal to be appointed by the central government or the state government as the case may be. The qualifications, appointment, term of office, or allowances, resignation and removal of the presiding officer, the procedure of appeal and powers of the tribunal shall be such as may be prescribed. The central government or state government is empowered to prescribe the matters and areas in relation to which the tribunal may exercise jurisdiction.

Section 71 provides the procedure and powers of the Food Safety Appellate Tribunal. The Food Safety Appellate Tribunal shall have, for the purposes of discharging its functions under the Act, the same powers as are vested in civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of certain matters. An appeal against the decision or order of the Food Safety Appellate Tribunal may be filled before the High Court within sixty days from the date of communication of the decision or order of the Tribunal.

Section 72 bars a civil court from entertaining any suit or proceeding in respect

of any matter which an Adjudicating Officer appointed under the Act or the Food Safety Appellate Tribunal constituted under the Act is empowered 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 the Act.

Section 73 empowers the court to try cases summarily and provides that all offences not triable either by an Adjudicating Officer or by a Special Court shall be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 shall, as far as may be, apply to such a trial. Further, in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year.

Section 74 empowers the central government or the state government in their respective jurisdictions to constitute Special Courts for 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. 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.

Section 75 provides that where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it shall transfer the case for the trial of such offence to any court having jurisdiction under the Code of Criminal Procedure, 1973 and the court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

Section 76 makes provision for appeal against the decision or order of a Special Court to the High Court within forty-five days from the date on which the order was served. An appeal preferred under this Section shall be disposed of by the High Court by a bench of not less than two judges.

Section 77 provides time limit for prosecutions. As per this section, no court shall take cognizance of an offence under the Act after the expiry of the period of one year from the date of commission of an offence unless the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of upto three years.

Section 78 empowers the court to implead importer, manufacturer, distributor, etc. This section provides that where at any time during the trial of any offence under the Act alleged to have been committed by any person, not being the importer, manufacturer, distributor or dealer of any article of food, the court, if satisfied, on the evidence adduced before it, that such importer, manufacturer, distributor or dealer is also concerned with that offence, then the court may, proceed against him as though a prosecution has been instituted against him under the Act.

Section 79 empowers the Magistrate to impose enhanced punishment. As per this section, it is lawful for the court of ordinary jurisdiction to pass any sentence authorised under the Act, except a sentence of imprisonment for a term exceeding six years in excess of the powers of Magistrate under the said section.

Section 80 makes provision for Defences which may or may not be allowed in prosecution under the Act. Those defences have been categorized as—

- (a) defence relating to publication of advertisements,
- (b) defence of due diligence,
- (c) defence of mistaken and reasonable belief not available,
- (d) defence in respect of handling food, and
- (e) defences of significance of the nature, substance or quality of food.

Finance, Accounts, Audit and Report (Chapter XI)

Section 81 provides that the Food Authority shall prepare its budget for the next financial year, showing estimated receipts and expenditure of the Food Authority and forward the same to the central government. The Food Authority with the prior approval of the central government, shall adopt financial regulation which specifies, in particular, the procedure for drawing up and implementing the Authority's budget.

Section 82 provides for finance of the Food Authority. As per this section, the central government may after due appropriation, make grants to the Food Authority to be utilized for the purposes of the Act. The Food Authority on the recommendation of the Central Advisory Committee shall specify a graded fee from licenced food business operator, accredited laboratories or food safety auditors to be charged by the Commissioner of Food Safety.

Section 83 provides for Accounts and Audit of Food Authority. As per this section, the Food Authority shall maintain proper accounts and relevant records and prepare an annual statement of accounts in such form as may be prescribed by the central government in consultation with the Comptroller and Auditor General of India. The central government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Section 84 requires the Food Authority to prepare once every year, an annual report of its activities during the previous year and to forward copies of the same to the central government and state governments. Such report shall be laid before each House of Parliament.

Miscellaneous: (Chapter XII)

Section 85 empowers the central government to issue directions to the Food Authority on matter of policy and in obtaining reports and returns. As per this section, If any dispute arises between the Central Government and the Food Authority as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

Section 86 empowers the central government to give such directions to the State Government, as it may deem necessary, for carrying out all or any of the provisions of the Act and the state government is required to comply with such directions.

Section 87 provides for the members, officers of the Food Authority and the Commissioners of Food Safety and their officers shall be deemed, when acting

or purporting to act in pursuance of any of the provisions of the Act, to be public servants within the meaning of Section 21 of the Indian Penal Code.

Section 88 seeks to provide protection to the central government, the state government, the Food Authority and other bodies constituted under the Act or any officer of the central government, the state government or any member, officer or other employee of such authority and bodies or any other officer acting under the act for anything which is done in good faith or intended to be done.

Section 89 provides for **overriding effect of the Act over all other food related laws.**

Section 90 provides for **transfer of existing employee of the central government agencies administering food laws to the Food Safety and Standards Authority** of India on and from the date of establishment of that Authority by the same tenure and upon the same terms and conditions of service or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Food Authority.

Section 91 empowers the central government by notification in the official gazette, to make rules for carrying out the provisions of the Act. It enumerates the various matters in respect of which the central government may make rules, such as, the salary and allowances payable to, and other terms and conditions of service of the members and officers and staff of the Food Authority; qualifications of Food Safety Officer and Food Analysts, the manner of holding inquiry by the Food Appellate Tribunal; and other related matters.

Section 92 empowers the Food Authority to make regulations with the previous approval of the central government, by the notification, for carrying out the provisions of Act. It enumerates the various matters in respect of which the Authority can make regulations, such as notifying standards and guidelines in relation to articles of food meant for human consumption; notifying procedure for the licencing and registration of food business for the manufacture, processing or sale of safe food, notifying guidelines for the manufacture, and sale of food including genetically modified articles of food, health and functional foods or any other foods; issue codes of recommended practices in consultation with the concerned organizations as regards the execution and enforcement of the Act and of regulations and orders made under it.

Section 93 provides for laying of rules and regulations made under the Act before both Houses of Parliament.

Section 94 empowers the state governments to make rules by the notification in the official gazette, for carrying out the provisions of the Act. It enumerates matters in respect of which the state government, can make rules, such as making rules to provide for other functions of the Commissioner of Food Safety, rules necessary to enforce provisions of the Act.

Section 95 makes enabling provision under which the state government may empower the Commissioner of Food Safety to order payment of reward to a person who renders assistance in the detection of the offence or the apprehension of the offender, from such fund and in such manner as may be prescribed by the state government.

Section 96 provides for recovery of penalty imposed under the Act. As per this section. A penalty imposed under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the defaulters licence shall be suspended till the penalty is paid.

Section 97 seeks to **repeal the enactment** and orders specified in the second schedule immediately with effect from the date on which the Act is enacted and comes into force, provided that such repeal shall not affect (i) the previous operations of the enactments under repeal or anything duly done or suffered thereunder; or (ii) any right, privilege, obligation or liability acquired, accrued or incurred under any of the enactments under repeal; or (iii) any penalty, forfeiture or punishment incurred in respect of any offences committed against the enactments and orders under repeal; or (iv) any investigation, legal proceedings or remedy in respect of any such penalty, forfeiture or punishment, and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if the Act had not been passed. If there is any other law for the time being in force in any State, corresponding to the Act, the same shall, upon the commencement of the Act, stand repealed and in such case, the provisions of Section 6 of the General Sections Act, 1897 (10 of 1897) shall apply as if such provisions of the state law had been repealed. It also provides that the standards, safety requirements and other provisions of the Acts, rules, regulations and orders listed in the second schedule shall continue to operate and be in force till new provisions are prescribed under the Act and the rules and regulations made thereunder.

Section 98 provides that notwithstanding the repeal of the enactment and orders specified in the second schedule, the standards, safety requirements and other provisions of the Acts, rules, regulations and orders listed in that schedule shall continue to be in force and operate till new standards are specified under the Act or rules and regulations made thereunder.

Section 99 provides that on and from the date of commencement of the Act, the Milk and Milk Products Order, 1992 issued under the Essential Commodities Act, 1955 shall be deemed to be the Milk and Milk Products Regulations, 1992 issued by the Food Authority under the Act.

Section 100 it makes certain amendments in the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992).

Section 101 seeks to empower the central government to remove difficulties that may arise in giving effect to the provisions of the Act within a period of three years from the date of its commencement. Every order made under this Section shall be laid, as soon as may be after it is made, before each House of Parliament.

Schedules Annexed With the Act

The **First Schedule** outlines the zones from which the states and the union territories will get representation' in the Food Authority.

The **Second Schedule** gives the details of food Act/Orders, which will stand repealed on commencement of the provisions of the Act.

3.7 IMPLEMENTATION AND ENFORCEMENT OF THE ACT

The enforcement of the law would be through the state commissioner of Food Safety (CFS) and his officers (*viz.* Designated Officer, Food Safety Officer) and Panchayati Raj/Municipal bodies.

- 1 **Commissioner of Food Safety of the State:** The state government shall appoint the CFS for the State for efficient implementation of food safety and standards and other requirements. He shall perform all or any of the following functions, namely:
 - a) prohibit the manufacture, storage, distribution or sale of any article of food in the interest of public health,
 - b) carry out survey of the industrial units engaged in the manufacture of food,
 - c) conduct or organise training programmes for the personnel, generating awareness on food safety,
 - d) ensure an efficient and uniform implementation of the standards, and
 - e) sanction and prosecution for offences and such other functions as the state government may, in consultation with the Food Authority entrust.

- 1 **Designated Officer:** The CFS shall, by order appoint the Designated Officer to be in-charge of food safety administration in such area as may be specified. The functions of the Designated Officer, includes:
 - a) to issue or cancel licence of food business operators as the Licencing Authority,
 - b) to prohibit the sale of any article of food which are not as per prescribed standards,
 - c) to receive report and samples of article of foods from Food Safety Officer,
 - d) to make recommendations to Commissioner of Food Safety for sanction and launch prosecutions in case of contraventions punishable with imprisonment,
 - e) to sanction and launch prosecutions in case of contraventions punishable with fine,
 - f) to maintain record of all inspection made by Food Safety Officer ,
 - g) to get investigated any complaint which may be made in writing in respect of any contravention of the provisions of this Act,
 - h) to investigate any complaint which may be made in writing against the Food Safety Officer, and
 - i) to perform such other duties as may be entrusted by the Commissioner of Food Safety.

- 1 **Food Safety Officer** : The CFS may appoint Food Safety Officers for such local areas as it may assign to them for the purpose of performing its functions under this Act . He would take sample for analysis, inspect/search business premises, seize foods, launch prosecution as sanctioned by CFS.



Check Your Progress Exercise 1

Note: a) Use the space given below for your answers.

b) Check your answers with those given at the end of the unit.

- 1) What are the objectives and reasons in passing the Food Safety and Standards Act, 2006 by the Parliament?

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- 2) Write about the composition, selection term of office of Food Safety and Standards Authority of India.

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- 3) What are the major duties and functions of Food Authority?

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- 4) What are the general principles of food safety as enumerated in Food Safety & Standards Act, 2006?

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- 5) How Food Business Operator, manufacturer, packer wholesaler, distributor and seller should conduct business?

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- 6) Write down various authorities responsible for enforcement of the Act their duties and functions.

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- 7) What are the functions of Food Analysts? What are the provisions for sampling and analysis by the Food Analyst.

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- 8) Write about different offences & penalties under Food Safety & Standards Act, 2006.

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3.8 LET US SUM UP



To minimize commercial fraud and to promote the development of industry and trade on scientific lines the task force appointed in 1955 by the Government of India suggested a simplified and harmonized food law. Later on a subject group on food and Agro Industries recommended that there is an urgent need to avoid existing multiplicity of laws and multifarious agencies administering them and suggested the harmonization of these laws under a single umbrella so that a single authority can supervise the implementation of the food law. As a result the Food Safety and Standard Act 2006 was enacted. The Act provide for establishment of the Food Safety and Standard Authority of India which will be responsible for formulating food standard and regulate, monitor, manufacturing import, processing distribution and sale of food, so as to ensured safe and wholesome food. The food authority will be assisted by scientific committees and panels in fixing standard and by central advisory committee improvising of the work. Adequate representation of Government, Industrial organisation consumers, farmers, technical experts, retailers etc. will be there. The Act inter-alia, incorporate the salient provision of PFA Act 1954 and is based on international legislations and instrumentalities.

There are 12 chapter in the act having 101 sections in which different provisions of the act will be enforced through the state commissioner of Food Safety (CFS) and his officers (designated officers and food safety officers) and Panchayat Raj/ Municipal Bodies. There are two schedules annexed with the act.

The first schedule outline the zones from which the states and Union Territories will get representation in food authority. While the second schedule gives the details of food act/ orders which will stand repealed on commencement of the provision of the act.

3.9 KEY WORDS

- Adulterant** : Adulterant means any material which is or could be employed for making the food unsafe or sub-standard, mis-branded or containing extraneous matter.
- Advertisement** : 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; {section 3(1) (b)}
- Chairperson** : Means the Chairperson of the Food Authority.
- 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.
- Consumer** : Means persons and families purchasing and receiving food in order to meet their personal needs.
- Contaminant** : 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.
- 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.
- 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, 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.

- 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.
- Food Analyst** : Means an analyst appointed under Section 45.
- Food Authority** : Food Authority means the Food Safety and Standards Authority of India, established under Section 4.
- Food Business** : Food Business means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution of food import and includes food services, catering services, sale of food or food ingredients.
- Food Business Operator** : Food Business Operator in relation to food business means a person by whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made thereunder.
- Food Laboratory** : Food Laboratory means any food laboratory or institute established by the Central or a State Government or any other agency and accredited by National Accreditation Board for Testing and Calibration Laboratories or an equivalent accreditation agency and recognized by the Food Authority under Section 43.

- Food Safety** : Food Safety means assurance that food is acceptable for human consumption according to its intended use.
- Food Safety Audit** : Food Safety Audit means a systematic and functionally independent examination of food safety measures adopted by manufacturing units to determine whether such measures and related results meet with objectives of food safety and the claims made in that behalf.
- Food Safety Management System** : Food Safety Management System means the adoption of Good Manufacturing Practices, Good Hygienic Practices, Hazard Analysis and Critical Control Point and such other practices as may be specified by regulation, for the food business.
- Food Safety Officer** : Means and officer appointed under Section 37.
- Hazard** : Hazard means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect.
- Import** : Import means bringing into India any article of food by land, sea or air;
- Improvement Notice** : Means a notice issued under Section 32 of this Act.
- Infant Food and Infant Milk Substitute** : Meaning assigned to them in clauses (f) and (g) of sub-Section (l) of section 2 of the Infant Milk Substitutes Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act,1992, respectively.
- Ingredient** : 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.
- Label** : 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.
- Licence** : Means a licence granted under Section 31.
- Local Area** : Local Area means any area, whether urban or rural, notified by the Commissioner of Food Safety, to be a local area for the purposes of this Act.

Manufacture	: Manufacture means a process or adoption or any treatment for conversion of ingredients into an article of food, which includes any sub-process, incidental or ancillary to the manufacture of an article of food.
Manufacturer	: Manufacturer means a person engaged in the business of manufacturing any article of food for sale and includes any person who obtains such article from another person and packs and labels it for sale or only labels it for such purposes.
Member	: Means member of the Food Authority and includes the chairperson.
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. ii) 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.
Notification	: Notification means a notification published in the Official Gazette.
Package	: Package means a pre-packed box, bottle, casket, tin, barrel, case, pouch, receptacle, sack, bag, wrapper or other thing in pre-packed condition, in which an article of food is packed.
Premises	: Premises include any shop, stall, hotel, restaurant, airline services and food canteens, place or vehicle or vessel where any article of food is sold or manufactured or stored for sale.
Prescribed	: Prescribed means prescribed by rules made by the Central Government or the State Government, as the case be under this Act.

- Primary Food** : 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 fisher man.
- Prohibition Order** : Means an order issued under Section 33 of this Act.
- Risk** : Risk in relation to any article of food, means the probability of an adverse effect on the health of consumers of such food and the severity of that effect, consequential to a food hazard.
- Risk Analysis** : Risk Analysis in relation to any article of food, means a process consisting of three components, i.e. risk assessment, risk management and risk communication.
- Risk Assessment** : Risk Assessment means a scientifically based process consisting of the following steps: (i) hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization.
- Risk Communication** : Risk Communication means the interactive exchange of information and opinions throughout the risk analysis process concerning risks, risk-related factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions.
- Risk Management** : Risk Management means the process, distinct from risk assessment, of evaluating policy alternatives, in consultation with all interested parties considering risk assessment and other factors relevant for the protection of health of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options.
- Sale** : Sale with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article.

- Sample** : Sample means a sample of any article of food taken under the provisions of this Act or any rules and regulations made thereunder.
- Specified by Regulations** : Specified by Regulations means specified by regulations made by the Food Authority.
- Standard** : Standard in relation to any article of food, means the standards notified by the Food Authority.
- Substance** : Substance includes any natural or artificial substance or other matter, whether it is in a solid state or in liquid form or in the form of gas or vapour.
- 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.
- State Government** : State Government in relation to a Union territory means the Administrator of that Union territory appointed by the President under article 239 of the Constitution; [section 3(1)(zu)].
- Tribunal** : Tribunal means the Food Safety Appellate Tribunal, established under Section 70.
- Unsafe Food** : 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 in sanitary 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 regulations.

3.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISE

Your answer should include following points:

Check Your Progress Exercise 1

- 1) To avoid multiplicity of food laws and multifarious agencies administering them let to have a simplified and harmonized and food laws and a single authority for effective supervision and implementation of these laws in the form of Food Safety and Standard Act 2006. the objective of the act are:
 - 1 To consolidated the laws related to food,
 - 1 Establish the food safety and standard authority of India, and
 - 1 Regulate manufacture, storage, distribution and sale and import of the article of the food.
- 2) The Food Safety and standard authority consist a chairperson and 22 members out of which one third shall be women. The chairperson and the members other than ex-officio members shall be appointed by the Central Government on the recommendations of the selection committee. The composition of Food Authority is as follows:

Chairperson : A person of eminence in the field of food science or a person from the administration associated with the subject and is either holding or has held the position not below the rank of Secretary to Government of India.

Members:

- a) 7 ex-officio members not below the rank of Joint Secretary, one each from Ministries of Agriculture, Commerce, Consumer Affairs, Health Legislative Affairs, Food Processing, Small Scale Industries;
- b) two representatives from food Industry of which one shall be from small scale industries;
- c) two representatives from consumer organizations;
- d) three eminent food technologist/scientist;
- e) five representatives from States/ U.T to be appointed by rotation every three years;
- f) two representative from farmer's organization; and
- g) one representative from retailers' organization.

The chairperson of food authority and its members will be selected by a committee consisting of five members with Cabinet Secretary as its chairperson, for the purpose of selection of chairperson and members of the Food Authority and provides for the procedure to be followed by that committee in making recommendations for such selection.

- 3) Duties of the FSSA are to regulate and monitor the manufacture, processing, distribution, sale and import of food and to specify by regulation, the standards and guidelines in relation to article of food. The mechanism and guidelines for accreditation of certification bodies engaged in certification of food business and laboratory and notify the accredited the laboratories etc. The food authority also required to provide the food Authority is also required to provide scientific advice and technical support to the Central and State Governments in matters of framing the policy and rules in areas which have a direct or indirect bearing on food safety; contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards and to undertake any other task assigned by the Central Government to carry out the objects of the Act.
- 4) The General Principles of Food Safety are:
 - 1 Protection of Human Life and Health.
 - 1 Protection of consumer interests including fair practices in all kinds of Food Trade.
 - 1 To carryout provisional risk management measures necessary to ensure appropriate level health.
 - 1 Protection of farmers interests.
 - 1 Risk Analysis.
 - 1 Transparent Public consultation and information.

- 1 Fair practices in food trade.
- 1 Due consideration of international standards.
- 5) It is responsibility of the food business operator (manufacturer, packer wholesaler, distribute & seller) to ensure that the articles of food satisfy the requirements of the Act and the rules and regulations made there under at all stages of production, processing, import, distribution and sale within the businesses under his control. This section provides that no food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food which is unsafe or misbranded or sub-standard or contains extraneous matter or for which a licence is required 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. The food business operator shall not employ any person who is suffering from infectious, contagious or loathsome disease. Under Sub-Section (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.
- 6) The enforcement of the law would be through the state commissioner of Food Safety (CFS) and his officers (*viz.* Designated Officer, Food Safety Officer) and Panchayati Raj / Municipal bodies.
 - 1 Commissioner of Food Safety of the State: The state government shall appoint the CFS for the State for efficient implementation of food safety and standards and other requirements. He shall perform all or any of the following functions, namely:
 - a) prohibit the manufacture, storage, distribution or sale of any article of food in the interest of public health,
 - b) carry out survey of the industrial units engaged in the manufacture of food,
 - c) conduct or organise training programmes for the personnel, generating awareness on food safety,
 - d) ensure an efficient and uniform implementation of the standards,
 - e) sanction and prosecution for offences, and
 - f) such other functions as the state government may, in consultation with the Food Authority entrust.
- 7) The function of food analysts are to analyzes the samples of article of food sent to him by food safety officer or by any other person authorized under the Act. The Food Analyst shall send a copy of the report of the result of such analysis to the Designated Officer within a period of fourteen days from the date of receipt of such sample. An appeal against the report of Food Analyst shall lie before the designated Officer who shall, if he so decides, refer the matter to the referral food laboratory as notified by the Food authority for opinion.
- 8) Offences (a) adding any article or substance to the food, (b) using any article or substance as an ingredients in the preparation of the food, (c) abstracting

any constituents from the food or (d) subjecting the food to any other process or treatment. There are penalties for selling food are:

- 1 Not of the nature of substance or quality demanded.
- 1 Manufacturing selling or import of sub-standard food
- 1 Misbranded food.
- 1 Misleading advertisement.
- 1 Food containing extraneous matter or import of such food.
- 1 Penalty for unhygienic or unsanitary processing.
- 1 Punishment for unsafe food.
- 1 Punishment for false information.

3.11 SUGGESTED READING

The Food Safety & Standards Act, 2006

www.mofpi.nic.in/EOI

