

Amendments to FSSA, 2006

PFNDAI Regulatory Affairs Meeting

10th November 2020

Setting the context

What is under discussion

- Amendments to the Act
- Impacts all stakeholders
 - Increasing regulatory control
 - At the rulemaking stage and in marketplace
 - Amendments passed virtually permanent
- Not about regulations ... but about regulatory processes
- Not company specific
 - Except products under Sec. 22

Which way is the needle moving ?



PRESCRIPTIVE (not risk based)	
Biased towards product standards	<ul style="list-style-type: none"> • Raised concerns or • Consumer interests or • Hazard
Control innovation Stifle growth	<ul style="list-style-type: none"> • Permitted lists (proprietary) • Non specified food

RISK – BASED (standards)	
Few product Standards – related to	<ul style="list-style-type: none"> • Identity • Fraud
Drives innovation and growth	Non standardized foods follow <ul style="list-style-type: none"> • General standards

GENERAL PROVISIONS AS TO FOOD

5. **Prohibition** of Import of certain articles of food.
5. **Application of law** relating to sea customs and powers of Customs Officers.
7. **Prohibition** of manufacture, sale, etc., of certain articles of food.

ANALYSIS OF FOOD

8. Public Analysts.
9. Food Inspectors.
10. **Powers** of Food Inspectors.
11. Procedure to be followed by food Inspectors.
12. Purchaser may have food analysed.
13. Report of Public analyst.

MISCELLANEOUS

16. Penalties.
- 16A. **Power** of court to try cases summarily.
17. **Offences** by companies.
18. **Forfeiture** of property.
19. **Defences** which may or may not be allowed in prosecutions under this Act.
20. **Cognizance** and trial of offences.
- 20A. **Power** of court to implead manufacturer, etc.
21. Magistrate's power to impose enhanced penalties.
22. protection of action taken in good faith.
- 22A. **Power** of Central Government to give directions.
23. **Power** of Central Government to make rules.
24. **Power** of the State Government to make rules.
25. Repeal and Saving.



What we were moving away from

PFA 1954:

Essential character

Legal framework

Adulteration

- Standardization: control on business
 - Inspect: Product marketplace
 - > 95% on quality, identity
 - Prosecute
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CHAPTER II

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FSSA moving towards... more governance less government

FSSA 2006:

Essential character

Legal framework & principles

- Protect human life (risk analysis) with
- Fairness to trade

Proportionate measures

- Balance rights of industry, trade with

Min. effective regulations

- Reducing public health risk

In urgency situations or uncertainty of risk –precautionary measures taken

- No more restrictive of trade
- Review within reasonable period

Prior to arrival of a regulatory measure (" while making a regulation or specifying a standard... take into account)

- (1) International practice
- (2) Relevant factors (of the country)
- Include risk assessment
- **Sec. 18(2)(d): consult all stakeholder, during preparation, examination and review**

Section 18 is on process not power ... to what extent it being followed

16(5)

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

18(2)d

Ensure **open and transparent** public consultationduring **preparation, evaluation and revision of regulations** , except

- **Urgency concerning food safety or public health** ... consultation may be dispensed with And
- **Such regulations shall not be in force more than 6 months.**

Date	What is the issue		
19.08.20	Licensing & registration (e-Commerce) approved FA 21.09.2017	16(5)	18(2)d
28.09.20	Direction FSS (LR) 2020: operationalize draft approved by FA 06.11.2019;		18(2)d
22.09.20	Prohibit blending of mustard oil to facilitate sale of pure oil in public interest	16(5)	18(2)d
24.07.20	BIS mark for animal feed/feed materials extend timeline	16(5)	
01.07.20	Standards for honey – draft being notified	16(5)	18(2)d
08.06.20	Incidental presence of Khesari dal (allow 2% in grams/pulses)	16(5)	18(2)d
10..02.20	Naturally occurring formaldehyde limits in fish superseding direction 10.06.19		

Are the amendments encouraging more government and less governance ?