

Regulation-making procedures under the FSS Act, 2006

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Act, Rules, Regulations : what's the difference ?

What it is :	Act	Rule	Regulation
Who makes this	Parliament OR State Legislature	Central Govt., through a Ministry, e.g. MoHFW or State Govt.	Regulatory body, e.g. FSSAI
Who can amend this	-do-	-do-	-do-
Which is superior	The Act is supreme	Rules are subordinate to the Act	Regulations are subordinate to the Act and to the Rules
Generic or specific	Generic	Specific	Specific, likely to be most specific of all three
Is this law ?	Yes	Yes	Yes
Nomenclature	Parent legislation	Subordinate legislation	Most subordinate legislation
Basis of making	The Constitution of India	Act	Act

Sec 92 under FSS Act provides for regulation-making

92. Power of Food Authority to make regulations.

(1) The Food Authority may, ***with the previous approval of the Central Government and after previous publication, by notification,*** make regulations ***consistent with this Act and the rules made thereunder*** to ***carry out the provisions of this Act.***

Regulations can be modified by Parliament

93. Laying of rules and regulations before Parliament.

Every rule and every regulation made under this Act shall be laid, **as soon as may be after it is made**, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and ***if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect***, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Sec 18(2)

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

(a) take into account –

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

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

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

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

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

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

What about *Directions* ? (Sec. 16)

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

WHO is bound ?????

Thank You !

- Questions are welcome