

Regulatory Terms and their Legal implications

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Legislation

- Act
- Rules
- Regulations

Article 246 of the Constitution

246. (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”).

Seventh Schedule – List I :

18. Adulteration of foodstuffs and other goods.

Rules

Sec 3(1) (zj) of the Act :

(zj) “prescribed” means prescribed by rules made by the Central Government or the State Government, as the case may be under this Act

91. Power of Central Government to make rules.

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Regulations

Sec 3(1) (zt) of the Act :

(zt) “specified by regulations” means specified by regulations made by the Food Authority;

Parliamentary involvement

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.

Quick Summary

S.No	Law	Source of Law	Made by
1	Act	The Constitution, (Article 246 and List I of the Seventh Schedule)	Parliament made the Act
2	Rules	The Act, Sec 3(1)(zj) and Sec 91	The Central Government and/or the State Governments makes the Rules
3	Regulations	The Act, Sec 3(1)(zt) and Sec 92	FSSAI makes the Regulations

Legislation – contd.

- Notification
- “Gazette”
- GSR
- What “E” means
- Direction
- Advisory
- Letter
- Order
- Operationalization
- Implementation

GSR

What GSR means :

General Statutory Rules

SRO and SO and FN

- SRO = Statutory Rules and Orders
- SO = Statutory Order
- FN = File Number

What “E” means

“E” means “Extraordinary” , as opposed to “Weekly”

Example : GSR (E)

And

[ADVT. III/4/Exty./458/18]

Notification

F. No. 1-1275/FSSAI/Import/2015.—The following draft of certain regulations further to amend the Food Safety and Standards (Food Import) Regulations, 2018, which the Food Safety and Standards Authority of India, with the previous approval of the Central Government, proposes to make, in exercise of powers conferred by clause (e) of sub-section (2) of section 92 of the Food Safety and Standards Act, 2006, (34 of 2006) **is hereby published** as required by sub-section (1) of section 92 of the said Act, for the information of persons likely to be affected thereby and **notice is hereby given that the said draft regulations will be taken into consideration after the expiry of a period of thirty days from the date on which copies of the Official Gazette in which this notification is published are made available to the public;** Objections and suggestions, if any, may be addressed to the Chief Executive Officer, Food Safety and Standards Authority of India, Food and Drug Administration Bhawan, Kotla Road, New Delhi – 110002, or may be sent through e-mail at regulation@fssai.gov.in; The objections or suggestions which may be received from any person with respect to said draft regulations, before the expiry of the period so specified above, **will be considered by the Food Authority.**



Notification ... comes from the Act (in various places)

The usual sequence :

- Notification of draft Regulations
- Notification of final Regulations

DIRECTION

- Sec 16(5) of the Act provides for Directions :

“(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;”

DIRECTION ... contd.

Is the public bound by a “Direction” ?

What about Sec 92 ? (Regulations) Sec 93 ? (Parliamentary scrutiny)

Advisory

No specific provision in the Act

Is it even lawful at all ?

Letter

No specific provision in the Act

Is it even lawful at all ?

Order

No specific provision in the Act (however, see Sec 30(2)(a) and 30(3) and 33)

Is it even lawful at all ?

Operationalization

No specific provision in the Act

Is it even lawful at all ?

Implementation

No specific provision in the Act

Is it even lawful at all ?

Another Quick Summary

S.No.	Law	Source of Law	Made by whom and binds whom
4	Direction	Section 16(5) of the Act	Made by FSSAI, binds Commissioners of Food Safety
5	Advisory	No provision in law	FSSAI, binds unknown
6	Letter	No provision in law	FSSAI, binds unknown
7	Order	No provision in law	FSSAI, binds unknown
8	Operationalization	No provision in law	FSSAI, binds unknown
9	Implementation	No provision in law	FSSAI, binds unknown

Various periods of time (numbers of days or months)

- Thirty days
- Sixty days
- Six months
- Twelve months

... all entirely arbitrary

“Consideration” of comments by FSSAI

- No procedure for consideration of comments or objections by the public
- No transparency or disclosure of comments or objections received
- No discussion or debate, at least, not in public
- No record of comments and objections “being considered”.

Questions and Answers

Questions are welcome

The background is a solid, deep blue color. Overlaid on this background are several faint, stylized leaf patterns. These leaves are elongated and pointed at the tips, arranged in a fan-like or radial pattern around the center. The leaves have a slightly lighter blue or teal tint, making them subtle against the darker background. The overall aesthetic is clean and modern.

THANK YOU