

THE FOOD SAFETY AND STANDARDS BILL, 2005

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Draft Outlines of the proposed Bill

THE FOOD SAFETY AND STANDARDS BILL, 2005

A

BILL

to bring about a single statute relating to food and to lay down science based standards for articles of food and regulate their manufacture, import, export, storage, distribution and sale, to ensure availability of safe and wholesome food for human consumption (including other matters relating thereto) and to establish in that behalf Food Safety and Standards Authority of India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows :-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement

- (1). This Act may be called the Food Safety and Standards Act, 2005.
- (2). It extends to the whole of India.
- (3). It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Declaration as to expediency of control by the Union

It is hereby declared that it is expedient in the public interest that the Union should take under its control all articles of food.

3. Definitions

In this Act, unless the context otherwise requires, -

- (a). "adulterant" means any material which is or could be employed for the purposes of adulteration;
- (b). "adulterated" – an article of food shall be deemed to be adulterated if the article is injurious to health,-
 - (i) by itself, or its container being composed, wholly or in part, of poisonous or deleterious substance; or
 - (ii) due to any filthy, putrid, rotten, decomposed or diseased animal substance or vegetable substance used in its processing or manufacture; or
 - (iii) due to its unhygienic processing or the presence in that article of any harmful substance;
- (c) 'advertisement" means any visible representation or announcement made by means of any light, sound, smoke, gas, print, electronic media, internet or website".
- (d) "Authorized Officer" means an officer authorized by the Food Authority to enforce and execute rules and regulations , orders and any other provisions of this Act relating to import and export of articles of food;
- (e) "Chairperson" means the Chairperson of the Food Authority;
- (f) " Commissioner of Food Safety" means the Commissioner of Food Safety in the State or the union territory;
- (g) "contaminant" means any substance, not intentionally added to food, 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, but does not include insect fragments, rodent hair and other extraneous matter.
- (gg) " Designated Officer" means the officer appointed by the Food Authority or the State Commissioner of Food Safety, by notification in the Official Gazette , to be in-charge of food safety administration in such area with such designation as may be specified therein.
- (h) " enforcement authority" means an authority prescribed by the Act, rules and regulations for the purpose of enforcement of this Act;
- (i) " enforcement officer" in relation to any provision of this Act, rules or any regulations or orders made there under , means the officer by whom they are to be enforced and executed and includes Food Inspector of the State Commissioner of Food Safety and Authorized Officer of the Food Authority;
- (j) "external matter" – an article of food shall be deemed to contain external matter if it is found to contain

any external matter which may be carried from the raw materials, packaging materials or process systems used for its manufacture or which is intentionally added to it, though such matter may not render such article of food injurious to health;

- (k). "food" (or "foodstuff") means any substance or product, whether processed, partially processed or unprocessed, intended to be, or reasonably expected to be ingested by humans and includes drink, chewing gum and any substance, including water, used into the food during its manufacture, preparation or treatment.

Explanation: "Food" shall not include :

- (i) any animal feed; live animals unless they are prepared for placing on the market for human consumption; plants prior to harvesting; medicinal products cosmetics; tobacco and tobacco products; narcotic or psychotropic substances and residues and contaminants.
- (ii) any article of food, being a produce of agriculture or horticulture or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching.
- (l) "food additive" means any substance the addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation or treatment of such food results (directly or indirectly) in becoming a component thereof or otherwise affects the characteristics of such food, but does not include contaminants;
- (m) " Food Authority " means the Food Safety and Standards Authority of India established under section 4;
- (n) "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 production, processing and distribution of food and includes import, export and sale of food and food service providers;
- (o) "food business operator" means the natural or legal persons responsible for ensuring that the requirements of food law are met within the food business under their control;
- (p) "food hygiene" means all the conditions and measures necessary for the manufacture, processing, sale, storage and distribution of food designed to ensure safe and wholesome food for human consumption;
- (q) " Food Inspector " means an officer authorized by the State Commissioner of Food Safety to enforce and execute rules and regulations , orders and any other provisions of this Act relating to manufacture, distribution, sale of articles of food;
- (r) . "food law" means the laws, Acts , orders , rules, regulations , notifications , orders governing food at any stage of its production, processing and distribution;
- (s). "Food Laboratory" means any laboratory or institute established by the Central or the State Governments or any other agency and accredited by the Food Authority ;
- (t) "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;
- (u) "Food Safety Management System" means the adoption of good manufacturing practices (GMP), good hygienic practices (GHP), hazard analysis and critical control point (HACCP) and such other practices as may be notified by the Food Authority, by the food business engaged in the manufacture, processing, sale, storage and distribution of food;

- (v) "genetically modified food" means the food, which is produced through techniques in which the genetic material has been altered in a way that does not occur naturally by mating or having adequate human intervention or both;

Explanation.- Techniques of Genetic Engineering or modification include, but are not limited to recombinant DNA, cell fusion, micro and macro injection, encapsulation, gene deletion, addition and doubling.

- (w) "hazard" means a biological, chemical or physical agent in food or condition of food with the potential to cause an adverse effect on the health of consumer of such food;
- (x) "ingredient" means any substance, including a food additive used in the manufacture or preparation of food and present in the final product although in a modified form;
- (y) "irradiation" means any physical procedure, involving the intentional exposure of food to ionizing radiations;
- (z) "label" means any tag, brand, mark, pictorial or other descriptive matter or display of written, printed, stenciled, marked, embossed or impressed matter on, or attached to a container, cover, lid or crown of any food package;
- (za) " license" means a license granted under this Act;
- (zb) "Local Area or Specified Area " means any area , whether urban or rural , declared by the Central Government or as the case may be, the State Government by notification in the Official Gazette , to be a local area for the purposes of this Act;
- (zc) "manufacture" includes any process incidental and ancillary to the manufacture of an article of food;
- (zd) "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 sale;
- (ze) "Member" means a whole-time or a part-time member of the Food Authority and includes the Chairperson;
- (zf) "misbranded" – an article of food shall be deemed to be misbranded –
- (1) if it is purported, or is represented to be, or is being -
- (i) offered or promoted for sale with false, misleading or deceptive claims upon the label of the package or through advertisement by print, electronic media, internet, website or through any visible representation or announcement made by means of any light, sound, smoke or gas; or
 - (ii). sold by a name which belongs to another article of food; or
 - (iii). offered or promoted for sale under the name of a fictitious individual or company as the manufacturer or producer of the article as borne on the package containing the article or the label on such package;
- (2) if the article is sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer bearing his name and address but-
- (i) the article is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character; or
 - (ii) the package containing the article or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents; or
 - (iii) the article is offered for sale as the product of any place or country which is false;

(3) if the article contained in the package is not labelled in accordance with the requirements of this Act or the rules made thereunder or is in contravention thereof;

- (zg) "notification" means a notification published in the Official Gazette;
- (zh) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which an article of food is placed or packed;
- (zi) "pesticide residue" means any specified substance in or on food resulting from the use of a pesticide or any derivatives of a pesticide, such as conversion products, metabolites, reaction products and impurities considered to be of toxicological significance;
- (zj) "premises" include any shop, stall, place or vehicle or vessel where any article of food is sold or manufactured or stored for sale ;
- (zk) "prescribed" means prescribed by rules and regulations made there under this Act ;
- (zl) "primary food" means any article of food, being a produce of agriculture or horticulture or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching
- (zm) "processing aid" means any substance or material, not including apparatus or utensils or any food ingredient not consumed by itself intentionally used in the treatment or processing of food or its ingredients or raw materials thereof to fulfill a certain technological purpose during such treatment or processing;
- (zn) "proprietor" in relation to a food business, means the person by whom that business is carried on;
- (zo) "regulations" means the regulations made by the Food Authority;
- (zp) "residues of veterinary drugs" include the parent compounds or their metabolites or both in any edible portion of any animal product and include residues of associated impurities of the veterinary drug concerned;
- (zq) "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;
- (zr) "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;
- (zs) "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.
- (zt) "risk management" means the process, distinct from risk assessment, of weighing policy alternatives, in consultation with all interested parties considering risk assessment and other factors relevant for the health protection of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options.
- (zu) "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.
- (zv) "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;

- (zw) "sample" means a sample of any article of food taken under the provisions of this Act or any rules and regulations made there-under;
- (zx) "standard", in relation to any article of food, means the standard notified by the Food Authority under this Act;
- (zy) "sub-standard" – an article of food shall be deemed to be sub-standard if it deviates in the percentage of any of its ingredients or parameters provided in the standards laid under the rules or regulations made under this Act;
- (zz) " 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;
- (zaa) "traceability" means the ability to trace and follow a food, food producing animal or substance intended to be , or expected to be incorporated into a food through all stages of production, processing and distribution.
- (zab) "Tribunal" means the Food Appellate Tribunal established under section 71 of this Act;
- (zac) " unsafe food" means food which is injurious to health or unfit for human consumption.

CHAPTER II

FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA

4. Establishment of Food Authority

(1) The Central Government shall, within three months from the date of the commencement of this Act, by notification in the Official Gazette, establish a body to be known as the Food Safety and Standards Authority of India to exercise the powers conferred on, and the functions assigned to, it under this Act.

(2) The Food Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Food Authority shall be at **New Delhi**.

(4) The Food Authority may establish its offices at other places in India.

5. Composition of the Food Authority and Qualification for appointment of its Chairperson and other Members

(1) The Food Authority shall be composed of eleven members excluding the Chairperson as follows:

(a) **Chairperson**

(b). six members not below the rank of Joint Secretary to be appointed by the Central Government, to respectively to represent the Ministries of the Central Government dealing with

- (i) Agriculture,
- (ii). Commerce,
- (iii). Consumer Affairs,
- (iv). Food Processing,

- (v). Health,
- (vi). Law and Justice,

who shall be members ex-officio;

- (c). two representative one each from food industry and consumer organizations;
- (d). one Eminent Food Technologist or scientist
- (e) two members to be appointed by rotation in alphabetical order to represent the States and Union territories.

(2) The Chairperson and members of the Food Authority shall be appointed in such a way as to secure the highest standards of competence, a broad range of relevant expertise and, consistent with these, the broadest possible geographic distribution within the Union.

(3) The Chairperson shall be appointed by the Central Government by a notification in the Official Gazette, from amongst the persons of eminence in the field of food science or from amongst the persons from the administration who have been associated with the subject and is either holding or has held the position of not below the rank of Secretary to the Government of India ;

(4) The Chairperson and the other non ex- officio Members of the Food Authority shall be appointed by the Central Government on the recommendation of the Selection Committee.

(5) The Chairperson or any other Member of the Food Authority shall not hold any other office.

6. Selection Committee for selection to recommend Food Authority Members

(1) The Central Government shall, for the purpose of sub-section (3) of section 5, constitute a Selection Committee consisting of --

- (a) Cabinet Secretary – Chairperson
- (b) Secretary-in-charge of the Ministry of Food Processing Industries as the convener Member.
- (c) Secretary-in-charge of the Ministries of the Central Government dealing with the Departments of Health , Legislative and Personnel – Members.
- (d) Chairman of the Public Enterprises Selection Board – Member.
- (e) An eminent food technologist to be nominated by the Central Government – Member.

Explanation: For the purposes of clause (e), the Central Government shall nominate from amongst persons holding the post of Director or the head, by whatever name called, of any national research or technical institution.

(2) The Central Government shall, within **two months** from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and three months before the superannuation or end of tenure of any Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalize the selection of the Chairperson and Members within **two months** from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the Food Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely

to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

7. Term of Office, salary, allowances and other conditions of service of Chairperson and Members

(1) The Chairperson and other Members shall hold office as such for a term of three years from the date on which they enter upon their offices, but shall be eligible for re-appointment for not more than once:

Provided that no Chairperson or other Member shall hold office as such after he has attained;

- (a) in the case of the Chairperson, the age of sixty-five years and
- (b) in the case of any other Member, the age of sixty-two years.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed.

(3) The Chairperson and every Member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may -
(a) relinquish his office by giving in writing to the President notice of not less than three months; or
(b) be removed from his office in accordance with the provisions of section

(5) The Chairperson or any Member ceasing to hold office as such shall -

- (a) be ineligible for further employment under the Central Government or the State Government nor accept any commercial employment for a period of two years from the date he ceases to hold such office.
- (b) not represent any person before the Food Authority or any State Authority in any manner.

8. Removal of Members

(1) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chairperson or any other Member, if the Chairperson or such other Member, as the case may be, -
(a) has been adjudged an insolvent; or
(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
(c) has become physically or mentally incapable of acting as a Member; or
(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or
(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

9. Officers of Food Authority and other staff

(1) There shall be a Chief Executive Officer of the Food authority.

(2) The Food Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to assist the Food Authority in the discharge of its functions.

(3) The Salaries and allowances payable to, and other conditions of service of, the Chief Executive Officer, officers and other employees shall be such as may be determined by regulations by the Food Authority with the approval of the Central Government.

10. Chief Executive Officer

(1). The Chief Executive Officer shall be appointed by the Central Government who shall be in the rank of Joint Secretary in Government of India.

- (2). The Chief Executive Officer shall be the legal representative of the Food Authority and shall be responsible for:
- (a) the day-to-day administration of the Food Authority;
 - (b) drawing up a proposal for the Food Authority's work programmes in consultation with the Central Advisory Committee ;
 - (c) implementing the work programmes and the decisions adopted by the Food Authority;
 - (d) ensuring the provision of appropriate scientific, technical and administrative support for the Scientific Committee and the Scientific Panels;
 - (e) ensuring that the Food Authority carries out its tasks in accordance with the requirements of its users, in particular with regard to the adequacy of the services provided and the time taken;
 - (f) the preparation of the statement of revenue and expenditure and the execution of the budget of the Food Authority;
 - (g) developing and maintaining contact with the Central Government , and for ensuring a regular dialogue with its relevant committees.
- (3). Every year, the Chief Executive Officer shall submit to the Food Authority for approval:
- (a) a general report covering all the activities of the Food Authority in the previous year;
 - (b) programmes of work;
 - (c) the annual accounts for the previous year;
 - (d) the budget for the coming year.
- (4). The Chief Executive Officer shall, following adoption by the Food Authority , forward the general report and the programmes to the Central Government and the States and shall have them published.
- (5). The Chief Executive Officer shall approve all financial expenditure of the Food Authority and report on the Authority's activities to the Central Government .
- (6). The Chief Executive Officer shall exercise the powers of the Commissioner of Food Safety while dealing with matters relating to food safety for import and export of food articles.

11. Central Advisory Committee

- (1) The Food Authority shall , by notification, establish a Committee to be known as the Central Advisory Committee.
- (2) The Central Advisory Committee shall consist of one member each to represent the interests of food industry, agriculture, consumers, relevant research bodies in the food sector and ten Commissioners of Food Safety on a rotation basis and the Chairman of the Scientific Committee shall be ex-officio member.
- (3) The Chief Executive Officer shall be the ex-officio Chairperson of the Central Advisory Committee.

12. Functions of Central Advisory Committee

- (1). It shall ensure close cooperation between the Food Authority and the enforcement agencies, organizations operating in the field of food .
- (2). It shall advise the Food Authority on:
- (a). the performance of its duties under this section, in particular in drawing up a proposal for the Food Authority's work programme.
 - (b). on the prioritization of work,
 - (c). identifying potential risks, and
 - (d). pooling of knowledge.
- (3). It shall meet regularly at the invitation of the Chair or at the request of at least a third of its members, and not less than three times a year and its operational procedures shall be specified in the Authority's internal rules and shall be made public.

(4). The representatives of the concerned Central Government departments may participate in the deliberations of the Central Advisory Committee.

13. Scientific Committee and Scientific Panels

(1). The Scientific Committee and Scientific Panels shall be responsible for providing the scientific opinions of the Food Authority, each within their own spheres of competence, and shall have the possibility, where necessary, of organising public hearings.

(2). The Scientific Committee shall be responsible for the general coordination necessary to ensure the consistency of the scientific opinion procedure, in particular with regard to the adoption of working procedures and harmonisation of working methods.

(3) The Scientific Committee shall provide opinions on multi-sectoral issues falling within the competence of more than one Scientific Panel, and on issues which do not fall within the competence of any of the Scientific Panels.

(4). Wherever necessary, and particularly in the case of subjects which do not fall within the competence of any of the Scientific Panels, the Scientific Committee shall set up working groups and in such cases, it shall draw on the expertise of those working groups when establishing scientific opinions.

(5). The Scientific Committee shall be composed of the Chairs of the Scientific Panels and six independent scientific experts who do not belong to any of the Scientific Panels.

(6). The Scientific Panels shall be composed of independent scientific experts.

(7). When the Food Authority is established, the following Scientific Panels shall be set up:

- (a) the Panel on food additives, flavourings, processing aids and materials in contact with food;
- (b) the Panel on plant health, plant protection products and their residues;
- (c) the Panel on genetically modified organisms;
- (d) the Panel on dietetic products, nutrition and allergies;
- (e) the Panel on biological hazards;
- (f) the Panel on contaminants in the food chain; and
- (g) the Panel on labeling

(8). The number and names of the Scientific Panels may be adapted in the light of technical and scientific development by the Central Government, at the Food Authority's request.

(9). The members of the Scientific Committee who are not members of Scientific Panels and the members of the Scientific Panels shall be appointed by the Food Authority, for a three-year term of office, which shall be renewable, following publication in the Official Gazette, in the relevant leading scientific publications and on the Food Authority's website of a call for expressions of interest.

(10). The Scientific Committee and the Scientific Panels shall each choose a Chair from among their members.

(11). The Scientific Committee and the Scientific Panels shall act by a majority of their members and the minority opinions shall be recorded.

(12). The procedures for the operation and cooperation of the Scientific Committee and the Scientific Panels shall be laid down by the Food Authority.

(13). These procedures shall relate in particular to:

- (a) the number of times that a member can serve consecutively on a Scientific Committee or Scientific Panel;
- (b) the number of members in each Scientific Panel;

- (c) the procedure for reimbursing the expenses of members of the Scientific Committee and the Scientific Panels;
- (d) the manner in which tasks and requests for scientific opinions are assigned to the Scientific Committee and the Scientific Panels;
- (e) the creation and organisation of the working groups of the Scientific Committee and the Scientific Panels, and the possibility of external experts being included in those working groups;
- (f) the possibility of observers being invited to meetings of the Scientific Committee and the Scientific Panels; and
- (g) the possibility of organising public hearings.

14. Functions of Food Authority

- (1). It shall be the duty of the Food Authority to regulate the manufacture, processing, import, export, distribution and sale of safe and wholesome food.
- (2) Without prejudice to the provisions of sub-section (1) the Authority may by regulations specify , -
 - (a) the standards and guidelines in relation to articles of food and specifying an appropriate system for enforcing various standards notified under this Act;
 - (b) the limits for use of food additives, contaminants, pesticide residues , residues of veterinary drugs ;
 - (c) the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food business;
 - (d) the procedure for entry and approval of any article of food imported into India;
 - (e) the procedure and the enforcement of quality control and inspection in relation to commodities intended for export;
 - (f) the procedure and guidelines for accreditation of laboratories and notify the accredited laboratories; the method of sampling and analysis for enforcement authorities;.
- (3) The Food Authority shall also-
 - (a) provide scientific advice and technical support to the Central Government and the State Governments in matters of framing the policy and law in areas which have a direct or indirect bearing on food safety;
 - (b) search, collect, collate, analyse and summarise relevant scientific and technical data particularly relating to;
 - (i) food consumption and the exposure of individuals to risks related to the consumption of food;
 - (ii) incidence and prevalence of biological risk;
 - (iii) contaminants in food ;
 - (iv) residues;
 - (v) identification of emerging risks ; and
 - (vi) introduction of rapid alert system ;
 - (c) promote and coordinate the development of uniform risk assessment methodologies and monitor and forward messages on the health and nutritional risks of food to the Central Government and the State Governments ;
 - (d) provide scientific and technical advice and assistance to the Central Government and State Governments in the implementation of crisis management procedures with regard to food safety and to draw up a general plan for crisis management and work in close cooperation with the crisis unit set up by the Central Government in this regard.
 - (e) establish a system of network of organizations with the aim to facilitate a scientific cooperation framework by the coordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices in the fields within the Food Authority's mission.
 - (f) provide scientific and technical assistance to the Central Government and the State Governments for improving cooperation with international organizations ;
 - (g) take all such steps to ensure that the public and interested parties receive rapid, reliable, objective and comprehensive information;
 - (h) provide, whether within or outside their area, training courses in food hygiene for persons who are or intend to become involved in food businesses, whether as proprietors or employees or otherwise;
 - (i) undertake any other task assigned to it by the Central Government to carry out the objects of this Act;
 - (j) contribute to the development of international technical standards for food , sanitary and phyto-sanitary standards;
 - (k) promote the coordination of work on food standards undertaken by international governmental and non-governmental organisations;
 - (l) contribute, where relevant and appropriate, to the development of agreements on recognition of the

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

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

- (a) the opinions of the Scientific Committee and the Scientific Panels immediately after adoption;
- (b) the annual declarations of interest made by members of the Food Authority, the Chief Executive Officer, members of the Advisory Committee and members of the Scientific Committee and Scientific Panels, as well as the declarations of interest if any, made in relation to items on the agendas of meetings;
- (c) the results of its scientific studies; and
- (d) the annual report of its activities;

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

15. Proceedings of Food Authority

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

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

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

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

(5) The Chief Executive Officer shall take part in the meetings of the Food Authority, without voting rights,

(6) The Food Authority may invite the Chair of the Scientific Committee to attend its meetings without voting rights.

16. Vacancies, etc. not to invalidate proceedings of Food Authority

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

CHAPTER – III

GENERAL PRINCIPLES OF FOOD SAFETY

17. The Food Authority, the Central Government, the State Governments and other agencies, as the case may be, while framing regulations and specifying food safety standards or while enforcing or implementing the provisions of this Act shall be guided by the following principles, namely :-

(a) food safety standards shall aim at achieving the general objectives of a high level of protection of human life and health and the protection of consumers' interests, including fair practices in all kind of food trade.

(b) the Food Authority shall while specifying standards under this Act, take into account international standards, where international standards exist or are in the process of being formulated, unless it is of opinion that following such international standards or any particular part thereof would not be 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.

(c) the Food Authority shall specify 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.

(d) the Food Authority shall undertake risk assessment based on the available scientific evidence and in an independent, objective and transparent manner.

(e) risk management shall take into account the results of risk assessment, and in particular, the opinions of the Food Authority, other factors relevant to the matter under consideration including the precautionary principle where the conditions are relevant, in order to achieve the general objectives of regulations .

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

(g) the measures adopted on the basis of clause (f) shall be proportionate and no more restrictive of trade than is required to achieve the high level of health protection, regard being had to technical and economic feasibility and other factors regarded as legitimate in the matter under consideration.

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

(i). the regulations shall aim at the protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume.

(j) the regulations shall aim at the prevention of:-

- (i) fraudulent or deceptive practices;
- (ii) the adulteration of food; and
- (iii) any other practices which may mislead the consumer.

(k) the Food Authority shall ensure that there is open and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of regulations, except where it is of opinion that there is urgency to make or amend the regulations in which case such consultation may be dispensed with.

(l) in cases where there are reasonable grounds to suspect that a food may present a risk for human health, then, depending on the nature, seriousness and extent of that risk, public authorities shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

CHAPTER- IV

GENERAL PROVISIONS AS TO ARTICLES OF FOOD

18. Use of additives, coloring and flavoring agents etc.

No articles of food shall contain permitted additives such as preservatives, coloring and flavoring agents, antioxidants, stabilizing / emulsifying agents etc. in excess of quantities prescribed under this Act and the rules and regulations made there-under.

19 . Crop contaminants , naturally occurring toxic substances, poisonous metals etc.

No article of food shall contain crop contaminant, naturally occurring toxic substances, poisonous metals etc. in excess of quantities prescribed under this Act and the rules and regulations made there under.

20. Insecticides, pesticides , veterinary drugs residues

No article of food shall contain insecticides, pesticides, veterinary drugs residues in excess of the tolerance limit

prescribed under this Act and the rules and regulations made there under.

21. Labelling of Foods

(1) No person shall manufacture, distribute, sale or expose for sale or dispatch or delivery to any agent or broker for the purpose of sale, any food products which are not packed, marked and labelled in the manner prescribed under this Act and rules and regulations made thereunder.

(2) The labels shall not contain any statement, claim, design or device which is false or misleading in any particular concerning the food products contained in the package or concerning the quantity or the nutritive value or in relation to the place of origin of the said food products.

22. Manufacture, etc. of Genetically Modified Foods, Organic foods, Functional Foods etc.

No person shall manufacture, process, export, import or sell genetically modified articles of food, organic foods, functional foods, nutraceuticals, health supplements etc. except in accordance with the regulations made there for under this Act.

23. Restriction on advertisement-

No advertisement shall be made of any food which is misleading or contravening the provisions of this Act or the rules and regulations made there-under.

CHAPTER – V

Special Responsibilities as to Food Safety

24. prohibition of manufacture, sale etc. of certain articles of food

No person shall himself or by any person on his behalf manufacture for sale or store, sell or distribute-

- (i) any adulterated food;
- (ii) any misbranded food;
- (iii) any article of food for the sale of which a licence is prescribed, except in according with the conditions of the licence.
- (iv) any article of food the sale of which is for the time being prohibited by the Food Authority in the interest of public health.
- (v) any article of food in contravention of any other provision of this Act or of any rule or regulation made thereunder; or
- (vi) any adulterant

Explanation : For the purpose of this section, a person shall be deemed to store any adulterated food or misbranded food or any article of food referred to in clause (iii) or clause (iv) or clause (v) if he stores such food for the manufacture therefrom of any article of food for sale.

25. Prohibition on Placing Unsafe Food in Market

(1) It shall be the duty of every food business operator to ensure that the food shall not be placed on the market if it is unsafe.

(2) The food shall be deemed to be unsafe if it is,

- (i) injurious to health;
- (ii) unfit for human consumption.

(3) In determining whether any food is unsafe, regard shall be had to-

- (i) the normal conditions of use of the food by the consumer and at each stage of production, processing and distribution, and
- (ii) the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods.

(4) In determining whether any food is injurious to health, regard shall be had-

- (i) not only to the probable immediate or short-term or long-term effects of that food on the health of a person consuming it, but also on subsequent generations;
- (ii) to the probable cumulative toxic effects;
- (iii) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers.

(5) In determining whether any food is unfit for human consumption, regard shall be had to whether the food is unacceptable for human consumption according to its intended use, for reasons of contamination, whether by extraneous matter or otherwise, or through putrefaction, deterioration or decay.

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

(7) The food that complies with specific provisions governing food safety shall be deemed to be safe insofar as the aspects covered by the specific provisions are concerned.

(8) Any conformity of a food with specific provisions applicable to that food shall be without prejudice to the competent authorities taking appropriate measures to impose restrictions on that food being placed on the market or to require its withdrawal from the market where there are reasons to suspect that, despite such conformity, the food is unsafe.

(9) Where there are no specific provisions, food shall be deemed to be safe when it conforms to the specific provisions of this Act.

26. Food Safety and Labeling Requirements

(1) The food business operators at all stages of production, processing and distribution within the businesses under their control shall ensure that articles of food satisfy the requirements of this Act which are relevant to their activities and shall verify that such requirements are met.

(2) The food business operators shall ensure that the labeling and presentation of food, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, does not mislead consumers.

(3) The Central and the State food safety authorities shall enforce this Act, and monitor and verify that the relevant requirements of law are fulfilled by food business operators at all stages of production, processing and distribution.

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

27. Traceability

Every Food Business Operator shall ensure traceability of articles of food as follows:

- (a). The food business operators shall be able to identify any person from whom they have been supplied with a food or any substance intended to be, or expected to be, incorporated into a food and to this end, such operators shall have in place systems and procedures which allow for this information to be made available to the competent authorities on demand.
- (b). The food business operators shall have in place systems and procedures to identify the other businesses to which their products have been supplied and this information shall be made available to the competent authorities on demand.
- (c). The food business operator shall ensure that the food which is placed on the market or is likely to be placed on the market in the country shall be adequately labelled or identified to facilitate its traceability, through relevant documentation or information in accordance with the relevant requirements of more specific provisions.

28. Special Responsibilities of food business operators in relation to food safety.

- (1). If a food business operator considers or has reason to believe that a food which it has imported, processed, manufactured or distributed is not in compliance with the food safety requirements or injurious to human health, it shall immediately initiate procedures to withdraw the food in question from the market and consumers indicating the reasons for its withdrawal, where the food has left the immediate control of that initial food business operator and inform the competent authorities thereof.
- (2). A food business operator shall immediately inform the competent authorities and cooperate with them, if it considers or has reasons to believe that a food which it has placed on the market may be injurious to human health.
- (3). The food business operator shall inform the competent authorities of the action taken to prevent risks to the consumer and shall not prevent or discourage any person from cooperating, in accordance with this Act, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a food.
- (4). The food business operator shall not employ in his work any person who is suffering from infectious, contagious or loathsome disease.
- (5). The food business operator shall sell such article of food to any vendor unless he also give a warranty in writing in the prescribed form about the nature and quality of such article to the vendor :

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

CHAPTER VI

ANALYSIS OF ARTICLES OF FOOD AND ENFORCEMENT OF THE ACT

29. Enforcement of the Act:

- (1) In this Act "Enforcement Officer", in relation to any provisions of this Act, rules or any regulations or orders made thereunder, means the Food Inspector appointed by the Commissioner of Food Safety of the State or authorized officer appointed by the Food Authority for the purposes of enforcement of this Act in their respective jurisdictions.
- (2) Every Enforcement Officer shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.
- (3) The regulations or orders under this Act shall specify which of the Enforcement Officer are to enforce and execute them, either generally or in relation to cases of a particular description or a particular area, and any such regulations or orders may provide for the giving of assistance and information, by any authority concerned in the administration of the regulations or orders, or of any provisions of this Act, to any other authority so concerned, for the purposes of their respective duties under them.
- (4). The authorized officer shall exercise the same powers as is conferred on the Food Inspector and follow the same procedure specified in this Act.

30. Commissioner of Food Safety of the State

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

thereunder.

(2). The functions to be performed by the Commissioner of Food Safety shall be as follows , namely:-

- (a) issue or cancel license to the food business operators on the recommendations of designated officer;
 - (b) prohibiting in the interest of public health, the manufacture, storage, distribution or sale of any article of food, either in the whole of the State or any area or part thereof for such period, not exceeding one year, as may be specified in the order notified in this behalf in the Official Gazette;
 - (c) carrying out survey of the industrial units engaged in the manufacture of food in the whole of the State or any local area or part thereof, to find out compliance by such units of the standards notified by the Food Authority for various articles of food;
 - (d) conducting training programmes for the personnel of the Office of the Commissioner of Food Safety and, on a wider scale, for different segments of food chain for generating awareness on food safety;
 - (e) ensuring an efficient and uniform implementation of the standards and other requirements as prescribed , ensuring a high standard of objectivity, accountability, practicality, transparency and credibility;
 - (f) such other functions as the State Government may, in consultation with the Food Authority , prescribe.
- (3) The Commissioner of Food Safety shall exercise the powers and perform the functions and duties as may be prescribed.

31. Licensing and Registration of food business

(1) No person shall manufacture, sell, stock, distribute or exhibit for sale any article of food, including ready –to- serve food, irradiated food except under a licence issued by the State Commissioner of Food Safety or its authorized officer.

(2) One licence may be issued by the licensing authority for one or more articles of food and also for different establishments or premises in the same area.

(3) The name and address of the Chief Executive or Manager or the person in-charge , as the case may be, nominated by the company shall be mentioned in the licence.

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

Provided that the itinerant vendors who have no specified place of business, shall be licensed to conduct business in a particular area within the jurisdiction of the licensing authority under specified terms and conditions.

(5) Before granting a licence for manufacture, stock, sale or exhibition of any of the articles of food, the licensing authority shall inspect the premises, and plant and machinery and satisfy itself that these meet with the requirements of food safety management systems.

(6). The applicant for the licence shall have to make such alteration in the premises , manufacturing process as may be required by the licensing authority for the grant of licence.

(7) The licensing authority may, for reasons to be recorded in writing, refuse to grant a licence to any applicant, if it is satisfied that it is necessary to do so in the interest of public health and may make available to the applicant a copy of order.

(8) The licensing authority may, after giving the licensee an opportunity to show cause and after giving him three months notice, suspend or cancel any licence granted to him for any breach of the terms of the licence or for any contravention of the provisions of this Act or for any failure to comply with any order, direction or requisition made under this Act and rules and regulations made there-under:

Provided that the licensing authority may suspend any licence forthwith in the interest of public health for reasons to be recorded in writing.

(9) The licensee may appeal to the Commissioner of Food Safety , against the order passed by the Licensing Authority suspending or canceling the licence within a period of thirty days of the receipt of the order by such licensee:

Provided that a revision petition could be filed within a period of thirty days of the appeal order before the State Government against orders passed in an appeal petition.

(10) Every licensee to whom any direction or order is issued in pursuance of any provision of this Act and rules and regulations made thereunder, shall be bound to comply with such direction or order and any failure on the part of the licensee to comply with such direction or order shall be deemed to be a contravention of the provisions of this Act.

(11) Every licensee shall maintain a register showing the quantity manufactured, received or sold and the destination of each consignment of the substances sent out from his manufacturing place or place of business, and shall present such register for inspection whenever required to do so by the licensing authority.

(12) The nature of articles of food for the manufacture, distribution or sale of which a licence is required under these rules shall be mentioned in the application for licence and any objectionable, ambiguous or misleading trade name shall not be approved by the licensing authority.

(13) A licence shall, unless sooner suspended or cancelled shall be in force for such period as may be prescribed:

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

(14) The licence shall subsist for the benefit of the deceased's personal representative, or his widow or any other member of his family, until the end of—

- (a) the period of three months beginning with his death; or
- (b) such longer period as the licensing authority may allow.

32. Accreditation of laboratories, research institutions, food safety auditors etc.

(1) The Food Authority may accredit laboratories and research institutions as referral laboratories or otherwise for the purposes of carrying out analysis of samples under this Act.

(2) The Food Authority may also accredit any organization or agency for the purposes of food safety audit and checking compliance with food safety management systems required under this Act or the rules and regulations made thereunder.

(3) The accredited laboratories and institutions shall be authorized to test sample, under this Act and to carry out food safety audit and to verify compliance with food safety management systems under this Act.

33. Improvement notices

(1) If an Enforcement Officer has reasonable grounds for believing that proprietor of a food business operator is failing to comply with any regulations to which this section applies, he may, by a notice served on that proprietor (in this Act referred to as an "improvement notice")—

- (a) state the officer's grounds for believing that the proprietor is failing to comply with the regulations;
- (b) specify the matters which constitute the proprietor's failure so to comply;
- (c) specify the measures which, in the officer's opinion, the proprietor must take in order to secure compliance; and
- (d) require the proprietor to take those measures, or measures which are at least equivalent to them, within such period (not being less than fourteen days) as may be specified in the notice.

(2) Any person who fails to comply with an improvement notice shall be guilty of an offence and be punishable with a fine which may extend to rupees three lakhs and a further fine on daily basis of upto rupees one lakhs shall be imposed where the non-compliance is continued.

(3) This section shall apply to any regulations which make provision—

- (a) for requiring, prohibiting or regulating the use of any process or treatment in the preparation of food; or
- (b) for securing the observance of hygienic conditions and practices in connection with the carrying out of commercial operations with respect to food or food sources.

(4) Any person who is aggrieved by—

(a) a decision of an Enforcement Officer to serve an improvement notice; or

(b) a decision to refuse to issue a certificate as to improvement; or

(c) subject to sub-section (2), a decision of such an authority to refuse, cancel, suspend or revoke a licence required by regulations under this Act,

may appeal to the State Commissioner of Food Safety .

(5) The period within which such an appeal may be brought shall be—

(a) one month from the date on which notice of the decision was served on the person desiring to appeal; or

(b) in the case of an appeal under sub-section (1)(a) above, that period or the period specified in the improvement notice, whichever ends the earlier;

and, in the case of such an appeal, the making of the complaint shall be deemed for the purposes of this sub-section to be the bringing of the appeal.

(6). Any person who is aggrieved by the decision of the State Commissioner of Food Safety may further appeal to the Food Authority within thirty days of the receipt of the order.

34. Prohibition orders.

(1) If—

(a) the proprietor of a food business is convicted of an offence under any regulation to which this section applies; and
(b) the court by or before which he is so convicted is satisfied that the health risk condition is fulfilled with respect to that business,

the **court** shall by an order impose the appropriate prohibition.

(2) The health risk condition is fulfilled with respect to any food business if any of the following involves risk of injury to health, namely:-

(a) the use for the purposes of the business of any process or treatment;
(b) the construction of any premises used for the purposes of the business, or the use for those purposes of any equipment; and
(c) the state or condition of any premises or equipment used for the purposes of the business.

(3) The appropriate prohibition corresponding to sub-section (2) above shall be: -

(a) a prohibition on the use of the process or treatment for the purposes of the business;
(b) a prohibition on the use of the premises or equipment for the purposes of the business or any other food business of the same class or description;
(c) a prohibition on the use of the premises or equipment for the purposes of any food business.

(4) If—

(a) the proprietor of a food business is convicted of an offence under any regulation to which this section applies by virtue of clause (b) sub-section (3) above; and
(b) the court by or before which he is so convicted thinks it proper to do so in all the circumstances of the case,

the court may, by an order, impose a prohibition on the proprietor participating in the management of any food business, or any food business of a class or description specified in the order.

(5) As soon as practicable after the making of an order under sub-section (1) or (4) above (in this Act referred to as a "prohibition order"), the concerned Enforcement Officer shall—

(a) serve a copy of the order on the proprietor of the business; and
(b) in the case of an order under subsection (1) above, affix a copy of the order at a conspicuous place on such premises used for the purposes of the business as they consider appropriate,

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

(6) A prohibition order shall cease to have effect—

(a) in the case of an order under sub-section (1) above, on the issue by the Enforcement Officer of a certificate to the

effect that he is satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the business;

(b) in the case of an order under sub-section (4) above, on the giving by the court of a direction to that effect.

(7) The concerned Enforcement Officer shall issue a certificate under paragraph (a) of sub-section (6) above within three days of his being satisfied as mentioned in that paragraph; and on an application by the proprietor for such a certificate, the Officer shall—

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

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

(8) The court shall give a direction under clause (b) of sub-section (6) above if, on an application by the proprietor, the court thinks it proper to do so having regard to all the circumstances of the case, including in particular the conduct of the proprietor since the making of the order; but no such application shall be entertained if it is not made—

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

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

(9) Sub-section (4) above shall apply in relation to a manager of a food business as it applies in relation to the proprietor of such a business; and any reference in sub-section (5) or (8) above to the proprietor of the business, or to the proprietor, shall be construed accordingly.

(10) In sub-section (9) above "manager" , in relation to a food business, means any person who is entrusted by the proprietor with the day to day running of the business, or any part of the business.

35. Emergency prohibition notices and orders

(1) If an Enforcement Officer is satisfied, that the health risk condition is fulfilled with respect to any food business, he may, after a notice served on the proprietor of the business (in this Act referred to as an "emergency prohibition notice"), apply to the Commissioner of Food Safety for imposing the appropriate prohibition.

(2). If the Commissioner of Food Safety is satisfied, on the application of such an officer, that the health risk condition is fulfilled with respect to any food business , he shall , by an order, impose the appropriate prohibition.

(3) The Enforcement 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 proprietor of the business of his intention to apply for the order .

(4) As soon as practicable after the service of an emergency prohibition notice, the Enforcement Officer shall affix a copy of the notice at a conspicuous place on such premises used for the purposes of the business as they consider appropriate; and any person who knowingly contravenes such a notice shall be guilty of an offence and shall be punishable with imprisonment of a term which may extend to one year and with fine which may extend to rupees two lakhs ,

(5) As soon as practicable after the making of an emergency prohibition order, the Enforcement Officer shall—

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

(b) affix a copy of the order at a conspicuous place on such premises used for the purposes of that business as they consider appropriate;

and 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 ,

(6) An emergency prohibition notice shall cease to have effect—

(a) if no application for an emergency prohibition order is made within the period of three days beginning with the service of the notice, at the end of that period;

(b) if such an application is so made, on the determination or abandonment of the application.

(7) An emergency prohibition notice or emergency prohibition order shall cease to have effect on the issue by the Enforcement Officer of a certificate to the effect that he is satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the business.

(8) The Enforcement Officer shall issue a certificate under sub-section (7) above within three days of his being satisfied as mentioned in that sub-section; and on an application by the proprietor for such a certificate, the Officer shall—

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

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

(10) Where an emergency prohibition notice is served on the proprietor of a business, the Enforcement Officer shall compensate him in respect of any loss suffered by reason of his complying with the notice unless—

(a) an application for an emergency prohibition order is made within the period of three days beginning with the service of the notice; and

(b) the Director of Food Safety declares itself satisfied, on the hearing of the application, that the health risk condition was fulfilled with respect to the business at the time when the notice was served;

and any disputed question as to the right to or the amount of any compensation payable under this sub-section shall be determined by *arbitration*.

36. Designated Officer

The functions to be performed by the Designated Officer shall be as follows, namely :

- (1). recommend to State Commissioner of Food Safety (a) to issue or cancel license of food business operators ,
(b) to prohibit the sale of any article of food or substance which may be injurious to health ;
- (2). to receive report and samples of article of foods from Food Inspector under its jurisdiction and get them analyzed ;
- (3). make recommendations to State Commissioner of Food Safety to launch prosecutions in case of contravention;
- (4). maintain record of all inspection made by food inspectors and action taken by them in the performance of their duties;
- (5). investigate any complaint which may be made in writing in respect of any contravention of the provisions of this Act, the rules and regulations made thereunder.
- (6). investigate any complaint which may be made in writing against the Food Inspector ;and
- (7). to perform such other duties as may be entrusted by the State Commissioner of Food Safety .

37. Food Inspector

(1) The State Commissioner of Food Safety, shall, by notification, appoint such persons as it thinks fit, having the prescribed qualifications as Food Inspectors for such areas as it may assign to them for the purpose of performing its functions under this Act.

(2) The State Government may authorize any officer of the State Government having the prescribed qualifications to perform the functions of a Food Inspector within the specified jurisdiction.

38. Powers of the Food Inspectors

(1) The Food Inspector may —

(a) (i) take a sample of any food, or any substance, which appears to him to be intended for sale, or to have been sold, for human consumption; or

(ii) take a sample from any food source, or a sample of any contact material, which is found by him on or in any such

premises; or

(iii). take a sample of any article or substance which is found by him on or in any such premises and which he has reason to believe that it may be required as evidence in proceedings under any of the provisions of this Act or of the regulations or orders made there under ; and

(b)(i) send such sample for analysis to the Food Analyst for the local area within which such sample has been taken;
or

(ii) with the previous approval of the Designated Officer having jurisdiction in the area concerned , prohibit the sale of any article of food in the interest of public health.

(2) The Food Inspector may enter and inspect any place where article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food, or exposed or exhibited for sale and where any adulterant is manufactured or kept, and take samples of such articles of food or adulterant for analysis.

(3) Where any sample is taken, its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(4) If any article intended for food appears to Food Inspector to be in contravention of this Act , he may , with the approval of the Designated Officer , seize and carry away or keep in the safe custody of the vendor such article in order that it may be dealt with as hereinafter provided and he shall, in either case, take a sample of such article and submit the same for analysis to a Food Analyst;

Provided that where the Food Inspector keeps such article in the safe custody of the vendor he may require the vendor to execute a bond for a sum of money equal to the value of such article with one or more sureties as the Food Inspector deems fit and the vendor shall execute the bond accordingly.

(5) Where any article of food seized under sub-section (4) is of a perishable nature and the Designated Officer is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the said Designated Officer may, after giving notice in writing to the vendor, cause the same to be destroyed.

(6). The Food Inspectors 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 that Code.

(7) Any adulterant found in the possession of a manufacturer or distributor of, or dealer in, any article of food or in any of the premises occupied by him as such and for the possession of which he is unable to account to the satisfaction of the Food Inspector and any books of account or other documents found in his possession or control and which would be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the Food Inspector and a sample of such adulterant submitted for analysis to a Food analyst:

Provided that no such books of account or other documents shall be seized by the Food Inspector except with the previous approval of the authority to which he is subordinate.

(8) Where the Food Inspector takes any action under clause (a) of sub-section (1), sub-section (2), sub-section (4) or sub-section (7), he shall, call one or more persons to be present at the time when such action is taken and take his or their signatures.

(9) Where any books of account or other documents are seized under sub-section (6), the Food Inspector shall, within a period not exceeding thirty days from the date of seizure, return the same to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in such manner as may be prescribed have been taken:

Provided that where such person refuses to so certify and a prosecution has been instituted against him under this Act, such books of account or other documents shall be returned to him only after copies thereof and extracts therefrom as certified by the court have been taken.

(10) When any adulterant is seized under sub-section (7), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized.

(11) The State Commissioner of Food Safety may from time to time issue guidelines with regard to exercise of powers of the Food Inspectors , which shall be binding.

(12) Any Food Inspector exercising powers under this Act or under the rules and regulations made there-under who
(a) vexatiously and without any reasonable grounds of suspicion 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 this Act and shall be punishable for such offence with fine which may extend to twenty five thousand rupees.

39. Food Analysts

The Food Authority or the Commissioner of Food Safety may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be Food Analysts for such local areas as may be assigned to them by the Food Authority or the Commissioner of Food Safety , as the case may be:

Provided that no person, who has any financial interest in the manufacture, import , export or sale of any article of food shall be appointed to be a Food Analyst under this section:

Provided further that different Food Analyst may be appointed for different articles of food.

40. Functions of Food Analyst

(1) On receipt of a package containing a sample for analysis from a Food Inspector or any other person, the Food Analyst shall compare the seal on the container and the outer cover with specimen impression received separately and shall note the conditions of the seal thereon:

Provided that in case sample container received by the Food Analyst is found to be in broken condition or unfit for analysis, he shall within a period of seven days from the date of receipt of such sample inform the designated officer about the same and send requisition to him for sending second part of the sample.

(2) The Food Analyst shall cause to be analyzed such samples of article of food as may be sent to him by Food Inspector or by any other person authorized under this Act.

(3) The Food Analyst shall, within a period of ten days from the date of receipt of any sample for analysis, send by registered post or by hand to the designated officer a report of the result of such analysis:

Provided that where any such sample does not conform to the provisions of this Act or the rules and regulations made thereunder , the Food Analyst shall send by registered post or by hand four copies of such report to the designated officer:

Provided further that the Food Analyst shall forward a copy of such report also to the person who purchased an article of food and forwarded the same to him for analysis.

Provided also that in case the sample can not be analyzed with ten days of its receipt, the Food Analyst shall inform the designated officer and the State Commissioner of Food Safety giving reasons and specifying the time to be taken for analysis.

41. Sampling and analysis etc

(1) When a Food Inspector takes a sample of food for analysis, he shall –

- (a) give notice in writing of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any, whose name, address and other particulars have been disclosed ;
- (b) except in special cases provided by rules made under this Act, divide the sample into three parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as may be prescribed:

Provided that where such person refuses to sign or put his thumb impression , the Food Inspector shall call upon one or more witnesses and take his signature or thumb impression, in lieu of the signature or thumb impression of such person;

- (c) (i) send one of the parts for analysis to the Food Analyst under intimation to the designated officer ; and
- (ii) send the remaining two parts to the designated officer for keeping these in safe custody ;

(2) Where the part of the sample sent to the Food Analyst is lost or damaged, the designated officer shall, on a requisition made to it by the Food Analyst or the Food Inspector dispatch one of the parts of the sample sent to it to the Food Analyst for analysis.

(3) When a sample of any article of food or adulterant is taken ,the Food Inspector shall, by the immediately succeeding working day, send a sample of the article of food or adulterant or both, as the case may be , in accordance with the rules prescribed for sampling to the Food Analysts for the area concerned.

(4) An article of food or adulterant seized, unless destroyed, shall be produced before a Magistrate as soon as possible and in any case not later than seven days after the receipt of the report of the Food Analyst:

Provided that if an application is made to the Magistrate in this behalf by the person from whom any article of food has been seized, the Magistrate shall by order in writing direct the Food Inspector to produce such article before him within such time as may be specified in the order.

(5) If it appears to the Magistrate on taking such evidence as he may deem necessary –

- (a) that the article of food produced before him is adulterated or misbranded, he may order it-
 - (i) to be forfeited to the Food Authority , the State Commissioner of Food Safety or the Designated Officer , as the case may be; or
 - (ii) to be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food; or
 - (iii) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name; or
- (b) that the adulterant seized and produced before him is apparently of a kind which may be employed for purposes of adulteration and for the possession of which the manufacturer, distributor or dealer, as the case may be, is unable to account satisfactorily, he may order it to be forfeited to the Food Authority , the State Commissioner of Food Safety or the Designated Officer, as the case may be.

(6) If it appears to the Magistrate that any such-

- (a) article of food is not adulterated; or
- (b) adulterant which is purported to be an adulterant is not an adulterant,

the person from whose possession the article of food or adulterant was taken, shall be entitled to have it restored to him and it shall be in the discretion of the Magistrate to award such person from such fund as the State Government may direct in this behalf, such compensation not exceeding the actual loss which he has sustained as the Magistrate may think proper.

(7).In case of imported article of food, the authorized officer of Food Authority shall take sample and send to Food Analyst of notified laboratory who will send the report within a period of ten days to the Authority and the Food Authority shall thereupon take decision about permitting destruction or return of consignment to the exporter.

(8) The Enforcement Officer shall follow the regulations framed by the Food Authority in this regard.

(9) The Food Authority in framing, sampling and analysis procedure shall prescribe :

- (a) the matters to be taken into account in determining whether, and at what times, samples should be procured;
- (b) the manner of procuring samples, including the steps to be taken in order to ensure that any samples procured are fair samples;
- (c) the method of dealing with samples, including (where appropriate) their division into parts;
- (d) the persons to whom parts of samples are to be given and the persons by whom such parts are to be retained;
- (e) the notices which are to be given to, and the information which is to be furnished by, the persons in charge of any food, substance, contact material or food source of or from which samples are procured;
- (f) the methods which are to be used in analyzing samples, or parts of samples, or in classifying the results of analyses or examinations;
- (g) the circumstances in which a Food analyst is to be precluded, by reason of a conflict of interest, from analyzing a particular sample or part of a sample; and
- (h) the circumstances in which samples, or parts of samples, are to be or may be submitted for analysis—
 - (i) to the Food Analyst , or to such other Food Analyst as he may direct; or
 - (ii) to a person determined by or under the regulations.

42. Purchaser may have food analyzed.

(1). Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a Food Inspector from having such article analyzed by the Food Analyst on payment of such fees as may be prescribed and from receiving from the Food Analyst a report of his analysis:

Provided that such purchaser shall inform the vendor at the time of purchase of his intention to have such article so analyzed:

Provided also that if the report of the Food Analyst shows that the article of food is adulterated, the purchaser shall be entitled to get refund of the fees paid by him under this section.

(2) In case the Food Analyst finds the sample in contravention of food safety requirements under this Act, he shall follow the procedure prescribed under section 46 for prosecution.

43. Obstruction etc. of officers.

(1) Any person who—

- (a) intentionally obstructs any person acting in the execution of this Act; or
- (b) without reasonable cause, fails to give to any person acting in the execution of this Act any assistance or information which that person may reasonably require of him for the performance of his functions under this Act,

shall be guilty of an offence.

(2) Any person who, in purported compliance with any such requirement as is mentioned in clause (b) of subsection (1) above—

- (a) furnishes information which he knows to be false or misleading in a material particular; or
 - (b) recklessly furnishes information which is false or misleading in a material particular,
- shall be guilty of an offence.

(3) Nothing in clause (b) sub-section (1) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

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

(1) An Enforcement Officer may search any place, seize any article, if there is a reasonable doubt about them being involved in commission of any offence relating to food.

Provided that no search shall be deemed to be irregular by reason only of the fact that witnesses for the search are not inhabitants of the locality in which the place searched is situated.

(2) Save as in this Act otherwise expressly provided, provisions of the Code of Criminal Procedure, 1973 relating to search, seizure, summon, investigation and prosecution, shall apply, as far as may be, to all action taken by the Enforcement Officer in these respects under this Act.

45. Procedure for launching prosecution:

(1). The Enforcement Officer shall be responsible for inspection of food business, drawing samples and sending them to Food Analyst for analysis.

(2) The Food Analyst after receiving the sample from Enforcement Officer shall analyze the sample and send the analysis report within ten days to Designated Officer with a copy to Commissioner of Food Safety.

(3). The Designated Officer after examination of the report of Food Analyst shall send its recommendations within fifteen days on the action to be taken in the case of contravention of this Act and rules and regulations made thereunder, to Commissioner of Food Safety for adjudication or prosecution as the case may be.

(4). The Commissioner of Food Safety shall decide as per the gravity of offence whether matter be referred to:

(a) an Adjudicating Officer in case of offences punishable with fine only, or

(b) a Special Court in case of offences punishable with imprisonment or both imprisonment and fine

(5) The Commissioner of Food Safety shall communicate his decision to the Designated Officer and the concerned Food Inspector who shall launch prosecution before Adjudicating Officer or Special Court, as the case may be.

CHAPTER VII

GENERAL PROVISIONS RELATING TO IMPORT, EXPORT ETC.

46. Import or Export of articles of food:

No person shall import or export any article of food except under a license issued by the Food Authority or its authorized officer.

47. Prohibition of import of certain articles of food – No person shall import into India –

- (i) any adulterated food;
- (ii) any misbranded food;
- (iii) any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence; and
- (iv) any article of food in contravention of any other provision of this Act or of any rule made

thereunder,

48. Import of articles of food

(1) The Central Government may, in consultation with the Food Authority, by notification, regulate the import of any article of food, including genetically modified food into India.

(2) Any food imported into India shall comply with the requirements of this Act and rules and regulations made thereunder and conform to the standards laid down in this Act or the rules and regulations made thereunder or, where a specific agreement exists between India and the exporting country, with requirements contained therein.

(3) The Food Authority may authorize any of the approved laboratories to examine and test the standard of any article of food imported into India and if it is satisfied on receipt of a report from the laboratory that such article does not conform with the standards laid down in this Act or the rules and regulations made thereunder, it may ban the concerned consignment of such article of food from sale in India or export to a third country or destroy the consignment or return the same to the exporter.

(4) The country of origin of imported food shall be declared on the label of the articles of food.

49. Application of law relating to Customs and powers of Customs Officers

(1). The law for the time being in force relating to customs and to goods, the import of which is prohibited by Customs Act, 1962 shall, subject to the provisions of this Act, apply in respect of articles of food, the import of which is prohibited under the Customs Act, and officers of Customs and the officers empowered under that Act to perform the duties imposed thereby on a Customs Collector and other officers of Customs, shall have the same powers in respect of such articles of food as they have for the time being in respect of goods as aforesaid.

(2) Without prejudice to the provisions of sub-section (1) the Custom Collector, or any other officer authorized by the Food Authority in this behalf, may detain any imported package which he suspects to contain any article of food, the import of which is in contravention of this Act and shall forthwith report such detention to the Officer authorized by the Food Authority, forward the package or send samples of any suspected article of food found therein to the Laboratory notified by the Food Authority.

50. Export of articles of food

(1) If the Central Government, after consulting the Food Authority, is of the opinion that it is necessary or expedient so to do for the development of the export trade of India, it may, by order published in the Official Gazette-

- (a) notify commodities which shall be subject to quality control or inspection or both prior to export;
- (b) specify the type of quality control or inspection which will be applied to a notified commodity;
- (c) establish, adopt or recognize one or more standard specifications for a notified commodity;
- (d) prohibit the export in the course of international trade of a notified commodity unless it is accompanied by a certificate that the commodity meets with the conditions relating to quality control or inspection, or it has affixed or applied to it a mark or seal recognized by the Food Authority as indicating that it conforms to the standard specifications applicable to it under clause(c).

(2) The food exported from India for placing on the market of any other country shall comply with the requirements of this Act and the rules made there under, unless otherwise requested by the authorities of the importing country or established by the laws, regulations, standards, codes of practice and other legal and administrative procedures as may be in force in the importing country.

51. Special Provisions relating to applications for Registrations of food business from Citizens of Convention Countries

(1) With a view to the fulfillment of a treaty, convention or arrangement with any country or country which is a member of a group of countries or union of countries or Inter-Governmental Organization outside India which affords to

citizens of India similar privileges as granted to its own citizens, the Central Government may, by notification in the Official Gazette, declare such country or group of countries or union of countries or Inter-Governmental Organization to be a convention country or group of countries or union countries or Inter-Governmental Organizations, as the case maybe, for the purposes of this Act.

(2) Where a person has made an application for the registration in a convention country or country which is a member of a group of countries or union of countries or Inter-Governmental Organization and that person, or his legal representative or assignee, makes an application for the registration of food business in India within six months after the date on which the application was made in the convention country of country which is a member of a group of countries or union of countries or Inter-Governmental organizations, the food business shall, if registered under this Act, be registered as of the date on which the application was made in the convention country or country which a member of a group of countries or union of countries or Inter-Governmental Organisation and that date shall be deemed for the purposes of this Act to be the date of registration.

(3) Where applications have been made for the registration of a food business in two or more convention countries or country which are members of group of countries or union of countries or Inter- Governmental Organisation, the period of six months referred to in the last preceding sub-section shall be reckoned from the date on which the earlier or earliest of those applications was made.

(4) Nothing in this Act shall entitle the proprietor of a food business to recover damages for infringement which took place prior to the date of application for registration under this Act.

52. Provision as to reciprocity

Where any country or country which is a member of a group of countries or union of countries or Inter-Governmental Organisation specified by the Central Government in this behalf by notification in the Official Gazette does not accord to citizens of India the same rights in respect of the registration and protection of food business as it accord to its own nationals, no national of such country or country which is a member of a group of countries or union of countries or Inter-Governmental Organisation, as the case may be, shall be entitled, either solely or jointly with any other person:-

- (a) to apply for the registration of, or be registered as the proprietor of, a food business;
- (b) to be registered as the assignee of the proprietor of a registered food business; or
- (c) to apply for registration or be registered as a registered user of a food business under section 31.

CHAPTER VIII

OFFENCES AND PENALTIES

53. In this Chapter-

- (a) for determining whether any food is injurious to health, regard shall be had –
 - (i) not only to the probable effect of that food on the health of a person consuming it; but
 - (ii) also to the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities;
- (b) “injury”, includes any impairment, whether permanent or temporary, and “injurious to health” shall be construed accordingly;

© food fails to comply with food safety requirements if –

(i) it has been rendered injurious to health by means of any of the operations mentioned in sub-section (1) of section –

(ii) it is unfit for human consumption; or

(iii) it is so contaminated (whether by extraneous matter or otherwise) that it would not be reasonable to expect it to be used for human consumption in that state and references to such requirements or to food complying with such requirements shall be construed accordingly;

(d) in any proceeding the fact that a label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food shall not preclude the court from finding that the offence was committed.

54. Rendering food injurious to health.

(1) Any person who renders any article of food injurious to health by means of any of the following operations, namely—

- (a) adding any article or substance to the food;
- (b) using any article or substance as an ingredient in the preparation of the food;
- (c) abstracting any constituents from the food; or
- (d) subjecting the food to any other process or treatment,

with the knowledge that it may be sold for human consumption, shall be liable to a penalty not exceeding fifty lakhs.

55. Selling food not complying with the food safety requirements.

(1) Any person who—

- (a) sells for human consumption or offers, exposes or advertises for sale for such consumption, or has in his possession for the purpose of such sale or of preparation for such sale; or
- (b) deposits with, or consigns to, any other person for the purpose of such sale or of preparation for such sale,

any food which fails to comply with food safety requirements specified under this Act or in contravention of Chapter III shall be liable to a penalty not exceeding rupees twenty five lakhs.

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

56. Any person who manufactures, sells, or offers or exposes for sale, or has in his possession for the purpose of sale, any food the presentation of which is likely to mislead as to the nature or substance or quality of the food and which is injurious to health of consumer shall be liable to penalty not exceeding rupees ten lakhs.

57. Selling food not of the nature or substance or quality demanded.

(1) Any person who sells to the purchaser's prejudice any food which is not of the nature or substance or quality

demanded by the purchaser , shall be liable , -

- (a) where such article of food is not injurious to health, to a penalty not exceeding two lakh rupees; and
- (b) where such article of food is injurious to health , to a penalty not exceeding ten lakh rupees

(2) In a proceeding under sub-section(1) , it shall not be a defence that the purchaser was not prejudiced because he bought for analysis or examination.

58. Falsely describing or presenting food.

(1) Any person who gives with any food manufactured or sold by him, or displays with any food offered or exposed by him for sale or in his possession for the purpose of sale, a label, whether or not attached to or printed on the wrapper or container, which—

(i) is misbranded within the meaning of clause (x) of section 3, he shall, in addition to any penalty to which he may be liable under the relevant provisions of the Customs Act, 1962, be punishable with fine which may extend to three lakh rupees and the Adjudicating Officer may issue a direction to him for corrective action to rectify the mistake;

(2) Any person who publishes, or is a party to the publication of an advertisement, not being such a label given or displayed by him as mentioned in sub-section (1) above which—

- (a) falsely describes any food; or
- (b) is likely to mislead as to the nature or substance or quality of any food,

shall be liable to a penalty not exceeding rupees ten lakhs.

59. Failure to comply with requirements of Enforcement Officer

If a food business operator without reasonable ground, fails to comply with the requirements of this Act directed by the Enforcement Officer , he shall be liable to penalty not exceeding rupees two lakhs.

60. Import and export of articles of food

(1) Any person who imports food which is injurious to health or not complying with food safety requirements, in addition to any penalty to which he may be liable under the relevant provisions of the Customs Act, 1962, shall be liable under this Act also and shall be proceeded according.

(2). Such article of food shall be destroyed or returned to the exporter if he wishes so.

(3) Any person who exports food which is injurious to health or not complying with food safety requirements of importing country shall be guilty of an offence under this Act.

61. Punishment for contraventions in certain cases

Any person who is liable to a penalty under section 50 and 51 of this Act shall where such contraventions or failures result in any injury or death to any person, be punished as

- (i) where such failure or contravention results in a non-serious injury, with imprisonment for a term which may extend to three years and with fine;
- (ii) where such failure or contravention results in a grievous injury, with a imprisonment for a term which may extend to six years and with fine.
- (iii) where such failure or contravention results in death, with imprisonment for life and with fine.

62. Compensation in case of injury or death of consumer

(1) Without prejudice to the other provisions of this Chapter , if any person whether by himself or by any other person on his behalf, manufactures or sells any article of food causing injury to the consumer or his death, it shall be lawful for the adjudicating officer or the court as the case may be to direct him to pay compensation to the victim or the legal representative of the victim,-

- (a) a sum not less than rupees five lakhs in case of death;
- (b) a sum not exceeding rupees three lakhs in case of grievous injury; and
- (c) in all other cases of injury compensation of a sum of not less than rupees fifty thousand.

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

(3) The adjudicating officer or the court may also:

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

63. Interfering with seized items

If a person without the permission of an Enforcement Officer, detain, remove or tamper with any food, vehicle, equipment, package or labelling or advertising material or other thing that has been seized under this Act, shall be punishable with a fine which may extend to rupees two lakhs and imprisonment for a term which shall not be less than six months..

64. False information

If a person in connection with a requirement or direction under this Act, provide any information or produce any document that the person knows is false or misleading shall be punishable with a fine which may extend to rupees two lakhs and imprisonment for a term which shall not be less than three months.

65. Obstructing , impersonating Enforcement Officer

If a person without reasonable excuse, resist, obstruct, or attempt to obstruct, impersonate , threaten, intimidate or assault an Enforcement Officer in the exercise of functions under this Act, shall be punishable with imprisonment for a term which shall not be less than one month and with a fine which may extend to rupees one lakh.

66. Penalty for offences where no specific penalty is provided

Whoever contravenes any provisions of this Act or the rules or regulations made thereunder, for the contravention of which no punishment has been separately provided in this Chapter, shall be punishable with fine which may extend to rupees two lakhs depending upon the gravity of the offence.

67. Penalty for carrying out a business without license

If any person or food business operator himself or by any person on his behalf manufacture, sale, store, distribute , import or export any article of food without license , shall be punishable with imprisonment for a term which shall not be less than six months and with a fine which may extend to rupees one lakh.

68. Penalty for subsequent offences

If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of an offence, he shall be liable to twice the punishment, which might have been imposed on a first conviction subject to the punishment being maximum provided for the same offence, and (a) a further fine on daily basis of upto rupees one lakh shall be imposed where the offence is continued ;

(b) 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 and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine;

(c) his license may be cancelled.

69. Offences by bodies corporate

(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In sub-section (1) above "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

(3). Where a company has different establishments or branches or different units in any establishment or branch, the concerned chief executive and the person nominated by the company as responsible for food safety of such an establishment or branch or unit shall be responsible for contravention in respect of such establishment, branch or unit.

CHAPTER IX

ADJUDICATION AND FOOD APPELLATE TRIBUNAL

70. Adjudication

(1) For the purposes of adjudication under this Chapter, an officer not below the rank of District Magistrate of the district where the offence is committed, shall be notified by the State Government as the Adjudicating Officer for holding an inquiry in such manner as may be prescribed .

(2) The Adjudicating Officer shall, after giving the person a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention under any section of this Chapter, impose such penalty as he thinks fit in accordance with the provisions of that section.

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

- (a) all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);
- (b) shall be deemed to be a court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) While adjudging the quantum of penalty under this Chapter, the Adjudicating Officer shall have due regard to the following:-

- (a) the amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention;
- (b) the amount of loss caused to any person as a result of the contravention;
- (c) the repetitive nature of the contravention, and
- (d) any other relevant factor.

(5). Any person who is aggrieved by a decision of an Adjudicating Officer may appeal to the Divisional Commissioner or the Commissioner of Food Safety of the State;

Provided that the period within which such an appeal may be brought shall be thirty days from the date on which order was served on the person desiring to make appeal.

Provided further that any person aggrieved by the orders of the Commissioner or the Commissioner of Food Safety of the State may further appeal to the Food Appellate Tribunal within thirty days of the receipt of the order.

70A. Power to compound offences

(1) The Central Government or the case may be the State Government may, by notification, empower the Additional District Magistrate, to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this act, payment of sum of money by way of composition of the offence which such person is suspected to have committed.

(2) 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.

(3) The officer compounding any offence may, approach the officer so empowered, for the cancellation of the license or permit of the offender granted under this Act.

(4) The sum of money accepted or agreed to be accepted as composition under sub section (1) shall, in no case, exceed the sum of two lakh rupees:

Provided that no offence, for which a minimum period of imprisonment has been prescribed in this chapter, shall be compounded.

71. Establishment of Appellate Tribunal.

(a) The Central Government or as the case may be, the State Government may, by notification, establish one or more tribunals to be known as the Food Appellate Tribunal.

(b) The Central Government or the State Government as the case may be, shall also specify, in the notification referred to in sub-section (1), the matters and places in relation to which the Food Appellate Tribunal may exercise jurisdiction.

72. Composition, procedure etc. of the Tribunal.

(1).A Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Food Appellate Tribunal) to be appointed, by notification, by the Central Government or the State Government as the case may be .

(2) The qualifications, appointment, term of office, salary or allowances, resignation and removal of the Presiding Officer shall be such as may be prescribed by the State Government.

(3) The procedure of appeal and powers of the Tribunal shall be such as may be prescribed by the Central Government.

73. Orders constituting the Appellate Tribunal to be final and not to invalidate its proceeding etc.

No order appointing any person as the Presiding Officer of a Food Appellate Tribunal shall be called in question in any manner and no act or proceeding before a Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Tribunal.

74. Procedure and powers of the Food Appellate Tribunal.

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

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

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other electronic records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it ex -parte;
- (g) any other matter which may be prescribed.

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

75. Right to legal representation.

The appellant may either appear in person or authorize one or more legal practitioners or any of its officers to present his or its case before the Food Appellate Tribunal.

76. Limitation.

The provisions of the Limitation Act, 1963, shall, as far as may be, apply to an appeal made to the Food Appellate Tribunal.

77. Civil court not to have jurisdiction.

No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Food Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

78. Appeal to High Court.

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

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

79. Recovery of penalty

A penalty imposed under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the licence, shall be suspended till the penalty is paid.

80. Power of court to try cases summarily.

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under sections 56,57 and 58 shall be tried in a summary way by a Judicial Magistrate of the first class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such a trial:

Provided that 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:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the practices, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

81. Special courts

(A) Constitution of Special Court

(1) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973, the Central Government or the State Government in their respective jurisdictions may, for the purposes of the trial of offences leading to grievous injury or death of the consumer by notification in the Official Gazette, constitute as many Special Courts with the concurrence of the Chief Justice of High Court as may be necessary for such area or areas and for exercising such jurisdiction, as may be specified in the notification.

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

82. Appointment of Public Prosecutor

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

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

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

83. Trial by Special Courts to have precedence.

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

84. Power to transfer cases to regular courts.

Where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code 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.

85. Appeal

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

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

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

86. Cognizance and trial of offences

(1). No prosecution for an offence under this Act shall be instituted except by, or with the written sanction of, the Food Authority or the State Commissioner of Food Safety or a person authorized in this behalf, by general or special order, by the Central Government or the State Government as in accordance with provisions of section of this Act:

Provided that a prosecution for an offence under this Act may be instituted by a purchaser or recognized consumer association, if he or it produces in court a copy of the report of the Food Analyst of the laboratory concerned alongwith the complaint.

Explanation. – For the purpose of this section “recognized consumer association” means a voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force.

87. Time limit for Prosecutions

Notwithstanding anything contained in this Act, no court shall take cognizance of an offence under this Act after the expiry of the period of three years from the date of commission of an offence.

88. Power of court to implead manufacturer, etc

Where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any article of food, the court, is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer is also concerned with that offence, then the court may, notwithstanding anything contained in sub-section (3) of section 319 of the Code of Criminal Procedure (1973), or in section 69 proceed against him as though a prosecution has been instituted against him under section 69.

89. Magistrate’s power to impose enhanced penalties.

Notwithstanding anything contained in section 29 of the Code of Criminal Procedure (1973), it shall be lawful for the trial court to pass any sentence authorized by this Act, except a sentence of imprisonment for life or for a term exceeding six years, in excess of his powers under the said section.

90. Defences which may or may not be allowed in prosecution under this Act:

(a) Defence relating to publication of advertisements

(1) In any proceeding for an offence under this Act in relation to the publication of an advertisement, it is a defence for a person to prove that the person carried on the business of publishing or arranging for the publication of advertisements and that the person published or arranged for the publication of the advertisement in question in the ordinary course of that business.

(2) Subsection (1) does not apply if the person:

- (a) should reasonably have known that the publication of the advertisement was an offence, or
- (b) had previously been informed in writing by the relevant authority that publication of such an advertisement would constitute an offence, or
- (c) is the proprietor of a food business or is otherwise engaged in the conduct of a food business for which the advertisements concerned were published.

(b) Defence in respect of food for export

(1) In any proceeding for an offence involving a contravention of or failure to comply with a provision of the this Act and the rules and regulations made there under in relation to food, it is a defence for a person to prove that:

- (a) the food in question is to be exported to another country, and
- (b) the food complies with the laws in force at the time of the alleged offence in the place to which the food is to be exported,

(2) This section does not apply to food that was originally intended for export but was sold in this jurisdiction.

(c) Defence of due diligence

(1) In any proceedings for an offence, it is a defence if it is proved that the person took all reasonable precautions and exercised all due diligence to prevent the commission of the offence by the person or by another person under the person's control.

(2) Without limiting the ways in which a person may satisfy the requirements of sub-section (1), a person satisfies those requirements if it is proved:

(a) that the commission of the offence was due to:

(i) an act or default of another person, or

(ii) reliance on information supplied by another person, and

(b) that:

(i) the person carried out all such checks of the food concerned as were reasonable in all the circumstances, or

(ii) it was reasonable in all the circumstances to rely on checks carried out by the person who supplied the food concerned to the person, and

(c) that the person did not import the food into the jurisdiction from another country, and

(d) in the case of an offence involving the sale of food, that:

(i) the person sold the food in the same condition as when the person purchased it, or

(ii) the person sold the food in a different condition to that in

which the person purchased it, but that the difference did not result in any contravention of this Act or the regulations, and

(e) that the person did not know and had no reason to suspect at the time of commission of the alleged offence that the person's act or omission would constitute an offence under the relevant section.

(3) In clause (a) of subsection (2), another person does not include a person who was:

(a) an employee or agent of the defendant, or

(b) in the case of a defendant that is a body corporate, a director, employee or agent of the defendant.

(4) Without limiting the ways in which a person may satisfy the requirements of sub-section (1) or (2) (b) (i), a person may satisfy those requirements by proving that:

(a) in the case of an offence relating to a food business for which a food safety programme is required to be prepared in accordance with the regulations, the person complied with a food safety

program for the food business that complies with the requirements of the regulations, or

(b) in any other case, the person complied with a scheme (for example, a quality assurance programme or an industry code of practice) that was:

(i) designed to manage food safety hazards and based on national or international standards, codes or guidelines designed for that purpose, and

(ii) documented in some manner.

(d) Defence of mistaken and reasonable belief not available

In any proceedings for an offence under sections 49,50 and 51 it is no defence that the defendant had a mistaken but reasonable belief as to the facts that constituted the offence.

(e) Defence in respect of handling food

In any proceedings for an offence under concerned section, it is a defence if it is proved that the person caused the food to which the offence relates to be destroyed or otherwise disposed of immediately after the food was handled in the manner that was likely to render it unsafe or unsuitable.

CHAPTER X

FINANCE, ACCOUNTS, AUDIT AND REPORTS

91. Budget of Food Authority

(1). The Food Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Food Authority and forward the same to the Central Government.

(2). 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.

92. Grants by Central Government

The Central Government may, after due appropriation, make to the Food Authority grants of such sums of money as that Government may think fit.

93. Accounts and Audit of Food Authority

(1) The Food Authority shall maintain proper accounts and other 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.

(2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Food Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Food Authority.

(3) The accounts of the Food Authority, as certified by the Comptroller and Auditor General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Food Authority and 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.

94. Fee received by Food Authority

The Food Authority in consultation with Central Government shall by regulation charge a graded fee from licensed food units, accredited laboratories or auditors, for carrying out its day to day activities.

95. Deleted

96. Annual report of Food Authority

(1) The Food Authority shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER XI

MISCELLANEOUS

97. Power of Central Government to issue directions and obtain reports and returns

(1). Without prejudice to the foregoing provisions of this Act, the Food Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time :

Provided that the Food Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2). The decision of the Central Government, whether a question is one of policy or not, shall be final.

(3). (a). The Food Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct, such returns, statements and other particulars as the Central Government may require.

(b). Without prejudice to the provisions of clause (a), the Food Authority shall, within two months after the close of each financial year, submit to the Central Government a report giving a true and full account of its activities

(c). The copies of the reports received under clause (b) shall be laid, as soon as may be after they are received, before each House of Parliament.

98. Power of Central Government to give directions to State Governments

The Central Government may give such directions, as it may deem necessary, to a State Government for carrying out all or any of the

provisions of this Act and the State Government shall comply with such directions.

99. Power of Central Government to supersede Food Authority

(1). If at any time the Central Government is of the opinion,-

- (a) that on account of circumstances beyond the control of the Food Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or
- (b) that the Food Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Food Authority or the administration of the Food Authority has suffered; or
- (c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification and for reasons to be specified therein, supersede the Food Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person, not below the rank of a Joint Secretary to the Government of India, to look after the affairs of the Food Authority:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Food Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Food Authority.

(2). Upon the publication of a notification under sub-section (1) superseding the Food Authority,-

- (a) the Chairperson and other members of the Food Authority shall, as from the date of supersession, vacate their offices as such;
- (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Food Authority shall, until the Food Authority is reconstituted under sub-section (3), be exercised and discharged by the person appointed under sub-section (1).

(3). On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Food Authority by a fresh appointment of its members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4). The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament.

100. Protection of action taken in good faith.

No suit, prosecution or other legal proceedings shall lie against the Central Government, the State Government, the Food Authority and other bodies constituted under this 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 this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

101 . Public Servant

The Chairperson, Members, Officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code(45 of 1860).

102. Overriding effect of this Act over all other food related laws

The provisions of this Act shall have effect notwithstanding anything inconsistent there with contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

103. Transfer of Existing Employees of Central Agencies governing various food related Acts/Orders to the Food Safety.

On and from the date of establishment of the Food Authority, every employee holding office under the Central Government Agencies administering food laws immediately before that date shall hold his office in the Food Authority by the same tenure and upon the same terms and conditions of service as respective remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Food Authority had not been established and shall continue to do so as an employee of the Food Authority 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 within such period.

104. Power of Central Government to make rules

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

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely: -

- (a) such other powers which may be exercised by the Food Authority
- (b) the salary and allowances payable to, and other terms and conditions of service of, the members and officers and staff of the Food Authority;
- (c) the form and manner in which and the time within which returns and statements and particulars are to be furnished by the Food Authority to the Central Government;
- (d) the manner of setting up the State Commissionerate of Food Safety and the powers, functions and duties which may be performed by the said Commissioner;
- (e) the guidelines for appointment of the Commissioner of Food Safety by the State Government or the union territory;
- (f) the manner of holding inquiry by the Adjudicating Officer or the Food Appellate Tribunal ;
- (g) Issue directions or guidelines in regard to international issues relating to food standards and safety,
- (h) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules.

105. Power of Authority to make regulations

(1) The 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 purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

- (a) notifying standards and guidelines in relation to articles of food meant for human consumption ;
- (b) notifying procedure for the licensing and registration of industrial units for the manufacture, processing or sale of safe food, the fees payable therefor, the deposit of any sum as security for the performance of the conditions of licensing and the circumstances under which such licensing or security may be cancelled or forfeited;
- (c) notifying guidelines for the manufacture, export, import and sale of food including genetically modified articles of food, health and functional foods, any other foods;
- (d) make regulations requiring or authorising charges to be imposed by enforcement authorities in respect of things done by them which they are required or authorised to do by or under this Act;
- (e) issue codes of recommended practices in consultation with the concerned organizations as regards the execution and enforcement of this Act and of regulations and orders made under it; and any such code shall be laid before Parliament after being issued;
- (f) issue guidelines or directions for participation in Codex Meetings and preparation of response to Codex matters; etc.
- (g) regulating the procedure for the transaction of business at its meetings;
- (h) constitution of Sub-Committees for specific subject matters , their powers and duties and the conditions subject to which such powers and duties are to be exercised or performed;
- (i) delegation of powers and duties to its officers,
- (j) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

frame such guidelines and regulations as directed by the Central Government , with a view to carry out the provisions of this Act;

106. 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.

107. Power of State Government to make rules

(1). Subject to the powers of the Central Government and the Food Authority to make rules and regulations respectively , the State Government may, after previous publication and with the previous approval of the Food Authority, by notification in the Official Gazette, make rules to carry out the functions and duties assigned to the State Government and the State Commissioner of Food Safety under this Act and the rules and regulations made thereunder.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-

- (a) the delegation of powers, functions and duties conferred by this Act on the State Government to the State Commissioner of Food Safety and such other authorities as the State Government may deem fit;
- (b) the infrastructure, appointment, administration, financing, accounting and auditing of the State Commissioner of Food Safety;
- (c) the powers, functions, duties and the code of conduct of the Commissioner of Food Safety, Food Inspectors and other officers of the State Commissionerate of Food Safety;
- (d) to enforce provisions of this Act and the rules made thereunder.
- (e) the term of office, salary and allowances and other conditions shall be such as may be prescribed by the State Government under sub-section(3) of section 72.

(3). Every rule made by the State Government under this Act shall, as soon as possible after it is made, be laid before the respective State Legislatures.

107A. Reward by State Government

The State Government may empower the Commissioner of Food Safety to order payment of reward not exceeding twenty five thousand rupees to be paid 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.

108. Repeal and savings

(1). Immediately with effect from the date on which this Act comes into force, the enactments specified in Schedule-I- Part A shall stand repealed provided that such repeal shall not affect :

- (i) the previous operations of the enactments under repeal; or
- (ii) any penalty, forfeiture or punishment incurred in respect of any offences committed against the enactments under repeal ; or
- (iii) any investigation 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 this Act had not been passed:

Provided that subject to the preceding provision, anything done or any action taken under the enactments under repeal shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superceded by anything done or by any action taken under this Act:

Provided further that no court shall take cognizance of an offence committed under enactments so repealed or amended after the of the period of three years from the date of commission of an offence.

(2) If there is any other law for the time being in force in any State, corresponding to this Act, the same shall upon the commencement of this Act, stand repealed and in such case, the provisions of section 6 of the General Clauses Act, 1897 shall apply as if such provisions of the State law had been repealed.

(3) The enactments mentioned in Schedule 1-Part B to this Act shall have no effect so far as food is concerned.

(4) The Central Government may by order make such modifications of Acts and Orders enacted or issued by State Governments , and of subordinate legislation, as appear to them to be necessary or expedient in consequence of the provisions of this Act.

(5) Notwithstanding the repeal or modification of the aforesaid enactments, the licenses issued under any such enactment, which are in force on the date of commencement of this Act, shall continue to be in force till the date of their expiry for all purposes, as if they had been issued under the provisions of this Act or the rules or regulations made thereunder.

(6) The standards, safety requirements and other provisions of the Acts, rules and orders listed in Schedule -I shall continue to operate and be in force till new provisions are prescribed under this Act and the rules and regulations made thereunder.

109. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules and regulations made under this Act.

(3) Every order made under this section shall be laid, as soon as may be, after it is made before each House of Parliament.

Schedule – I

(See section 108)

(A). Food Acts / orders which stand repealed on commencement of this Act

1. The Prevention of Food Adulteration Act, 1954 (37 of 1954).
2. The Fruit Products Order, 1955.
3. The Milk and Milk Products Order, 1992.
4. The Meat Food Products Order, 1973 .
5. The Vegetable Oil Products (Control) Order, 1947.
6. The Edible Oils Packaging (Regulation) Order, 1998.
7. The Solvent Extracted Oil, De oiled Meal, and Edible Flour (Control) Order, 1967.
8. The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992).
9. Any other order issued under the Essential Commodities Act, 1955 (10 of 1955) relating to Food.

(B). Food Laws from which sections relating to food are required to be deleted / modified on commencement of this Act

1. The Standards of Weights and Measure Act, 1976 (60 of 1976) (The Packaged Commodity Rules, 1977) .
2. The Export (Quality Control and Inspection) Act, 1963 (22 of 1963) .
3. The Environment Protection Act, 1986 and the Environment Protection Rules, 1989 (29 of 1986).
4. The Bureau of Indian Standards Act, 1986 (63 of 1986) .
5. The Agricultural Produce (Grading and Marketing) Act, 1937 (1 of 1937) .
6. The Customs Act, 1962 (52 of 1962) .
7. The Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992).
8. Other Acts / Orders enacted or issued by the State Governments and Union territories.