THE FOOD SAFETY AND STANDARDS ACT, 2006

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1.Short title, extent and commencement.
2.Declaration as to expediency of control by the Union.
3.Definitions.

CHAPTER II

FOOD SAFETYAND STANDARDS AUTHORITY OF INDIA

4.Establishment of Food Safety and Standards Authority of India.
5.Composition of Food Authority and qualifications for appointment of its Chairperson and other Members.
6.Selection Committee for selection of Chairperson and Members of Food Authority.
7.Term of office, salary, allowances and other conditions of service of Chairperson and Members of Food Authority.
8.Removal of Chairperson and Members of Food Authority.
9.Officers and other employees of Food Authority.
10.Functions of the Chief Executive Officer.
11.Central Advisory Committee.
12.Functions of Central Advisory Committee.
13.Scientific Panels.
14.Scientific Committee.
15.Procedure for Scientific Committee and Scientific Panel.
16.Duties and functions of Food Authority.
17.Proceedings of Food Authority.

CHAPTER III

GENERAL PRINCIPLES OF FOOD SAFETY

18.General principles to be followed in administration of Act.

CHAPTER IV

GENERAL PROVISIONS AS TO ARTICLES OF FOOD

19.Use of food additive or processing aid.
20.Contaminants, naturally occurring toxic substances, heavy metals, etc.
21.Pesticides, veterinary drugs residues, antibiotic residues and microbiological counts.
22.Genetically modified foods, organic foods, functional foods, proprietary foods, etc.
23.Packaging and labelling of foods.
24.Restrictions of advertisement and prohibition as to unfair trade practices.

CHAPTER V

PROVISIONS RELATING TO IMPORT

SECTIONS

25.All imports of articles of food to be subject to this Act.

CHAPTER VI

SPECIAL RESPONSIBILITIES AS TO FOOD SAFETY

26.Responsibilities of the food business operator.
27.Liability of the manufacturers, packers, wholesalers, distributors and sellers.
28.Food recall procedures.

CHAPTER VII

ENFORCEMENT OF THE ACT

29.Authorities responsible for enforcement of Act.
30.Commissioner of Food Safety of the State.
31.Licensing and registration of food business.
32.Improvement notices.
33.Prohibition orders.
34.Emergency prohibition notices and orders.
35.Notification of food poisoning.
36.Designated Officer.
37.Food Safety Officer.
38.Powers of Food Safety Officer.
39.Liability of Food Safety Officer in certain cases.
40.Purchaser may have food analysed.
41.Power of search, seizure, investigation, prosecution and procedure thereof.
42.Procedure for launching prosecution.

CHAPTER VIII

ANALYSIS OF FOOD

43.Recognition and accreditation of laboratories, research institutions and referral food laboratory.
44.Recognition of organisation or agency for food safety audit.
45.Food Analysts.
46.Functions of Food Analyst.
47.Sampling and analysis.

CHAPTER IX

OFFENCES AND PENALTIES

48.General provisions relating to offences.
49.General provisions relating to penalty.
50.Penalty for selling food not of the nature or substance or quality demanded.
51.Penalty for sub-standard food.
52.Penalty for misbranded food.
53.Penalty for misleading advertisement.
54.Penalty for food containing extraneous matter.
55.Penalty for failure to comply with the directions of Food Safety Officer.
56.Penalty for unhygienic or unsanitary processing or manufacturing of food.

SECTIONS

57.Penalty for possessing adulterant.
58.Penalty for contraventions for which no specific penalty is provided.
59.Punishment for unsafe food.
60.Punishment for interfering with seized items.
61.Punishment for false information.
62.Punishment for obstructing or i Officer.

63.Punishment for carrying out a business without licence.
64.Punishment for subsequent offences.
65.Compensation in case of injury or death of consumer.
66.Offences by companies.
67.Penalty for contravention of provisions of this Act in case of import of articles of food to be in addition to penalties provided under any other Act.

CHAPTER X

ADJUDICATION AND FOOD SAFETY APPELLATE TRIBUNAL

68.Adjudication.
69.Power to compound offences.
70.Establishment of Food Safety Appellate Tribunal.
71.Procedure and powers of the Tribunal.
72.Civil court not to have jurisdiction.
73.Power of court to try cases summarily.
74.Special courts and Public Prosecutor.
75.Power to transfer cases to regular courts.
76.Appeal.
77.Time limit for prosecutions.
78.Power of court to implead manufacturer, etc.
79.Magistrate's power to impose enhanced punishment.
80.Defences which may or may not be allowed in prosecution under this Act.

CHAPTER XI

FINANCE, ACCOUNTS, AUDIT AND REPORTS

81.Budget of Food Authority.
82.Finances of the Food Authority.
83.Accounts and audit of Food Authority.
84.Annual report of Food Authority.

CHAPTER XII

MISCELLANEOUS

85.Power of Central Government to issue directions to Food Authority and obtain reports and returns.
86.Power of Central Government to give directions to State Governments.
87.Members, officers of Food Authority and Commissioner of Food Safety to be public servants.
88.Protection of action taken in good faith.
89.Overriding effect of this Act over all other food related laws.
90.Transfer of existing employees of Central Government Agencies governing various foods related Acts or Orders to Food Authority.
91.Power of Central Government to make rules.
92.Power of Food Authority to make regulations.
93.Laying of rules and regulations before Parliament.
94.Power of State Government to make rules.

SECTIONS

95.Reward by State Government.
96.Recovery of penalty.
97.Repeal and savings.
98.Transitory provisions for food standards.

99.Milk and Milk Products Order, 1992 shall be deemed to be regulations made under this Act.
100.Amendments to the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.
101.Power to remove difficulties.

SCHEDULES

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE FOOD SAFETY AND STANDARDS ACT, 2006

ACT NO. 34 OF 2006

[23*rd August*, 2006.] An Act to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh 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, 2006.

(*2*)It extends to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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 the food industry.

3. Definitions.–(*1*) In this Act, unless the context otherwise requires,–

(*a*) "adulterant" means any material which is or could be employed for making the food unsafe or sub-standard or mis-branded or containing extraneous matter;

(*b*) "advertisement" means any audio or visual publicity, representation or pronouncement made by means of any light, sound, smoke, gas, print, electronic media, internet or website and includes through any notice, circular, label, wrapper, invoice or other documents;

(*c*) "Chairperson" means the Chairperson of the Food Authority;

(*d*) "claim" means any representation which states, suggests, or implies that a food has particular qualities relating to its origin, nutritional properties, nature, processing, composition or otherwise;

(*e*) "Commissioner of Food Safety" means the Commissioner of Food Safety appointed under section 30;

(*f*) "consumer" means persons and families purchasing and receiving food in order to meet their personal needs;

(*g*) "contaminant" means any substance, whether or not added to food, but which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry or veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination and does not include insect fragments, rodent hairs and other extraneous matter;

1. 15th October 2007 sections 4 to 10 (both inclusive), Sections 87, 88, 91 and 101 effective from 15th October 2007 *vide* Notification No. S.O.1758(E) *see* Gazette of India, extraordinary Part II, sec 3(*ii*).

28th May, 2008 (ss. 3 and 30), *vide* notification No. S.O. 1246(E), dated 28th May, 2008, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).
28th August, 2008 (s. 90), *vide* notification No. S.O. 2127(E), dated 28th August, 2008, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).
18th November, 2008 (ss. 16, 17, 18, 81, 82, 83, 84, 85, 86, 92 and 93), *vide* notification No. S.O. 2678(E), dated 18th November, 2008, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).
9th March, 2009 (ss. 11, 12, 13, 14 and 15), *vide* notification No. S.O. 650(E), dated 9th March, 2009, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).
31st July, 2009 Section 36 to 47 effective *vide* Notification No. S.O 1868(E) dated 31st July, 2009, *see* Gazette of India Extraordinary, Part II, sec 3(*ii*).
29th June, 2009 Section 99 to be effective *vide* Notification No. S.O. 1575(E) dated 29th June, 2009, *see* Gazette of India Extraordinary, Part II, sec 3(*ii*).

(*h*) "Designated Officer" means the officer appointed under section 36;

(*i*) "extraneous matter" means any matter contained in an article of food which may be carried from the raw materials, packaging materials or process systems used for its manufacture or which is added to it, but such matter does not render such article of food unsafe;

(*j*) "Food" means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (*zk*), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances:

Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;

(*k*) "food additive" means any substance not normally consumed as a food by itself or used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food but does not include "contaminants" or substances added to food for maintaining or improving nutritional qualities;

(*l*) "Food Analyst" means an analyst appointed under section45;

(*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 manufacture, processing, packaging, storage, transportation, distribution of food, import and includes food services, catering services, sale of food or food ingredients;

(*o*) "food business operator" in relation to food business means a person by whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made thereunder;

(*p*) "food laboratory" means any food laboratory or institute established by the Central or a State Government or any other agency and accredited by National Accreditation Board for Testing and Calibration Laboratories or an equivalent accreditation agency and recognised by the Food Authority under section 43;

(*q*) "food safety" means assurance that food is acceptable for human consumption according to its intended use;

(*r*) "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;

(*s*) "Food Safety Management System" means the adoption Good Manufacturing Practices, Good Hygienic Practices, Hazard Analysis and Critical Control Point and such other practices as may be specified by regulation, for the food business;

(*t*) "Food Safety Officer" means an officer appointed under section 37;

(*u*) "hazard" means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect;

(*v*) "import" means bringing into India any article of food by land, sea or air;

(*w*) "improvement notice" mea ion 32 of this Act;

(*x*) "infant food" and "infant milk substitute" shall have the meanings assigned to them in clauses (*f*) and (*g*) of sub-section (*1*) of section 2 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992), respectively;

(*y*) "ingredient" means any substance, including a food additive used in the manufacture or preparation of food and present in the final product, possibly in a modified form;

(*z*) "label" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, graphic, perforated, stamped or impressed on or attached to container, cover, lid or crown of any food package and includes a product insert;

(*za*) "licence" means a licence granted under section 31;

(*zb*) "local area" means any area, whether urban or rural, notified by the Commissioner of Food Safety, to be a local area for the purposes of this Act;

(*zc*) "manufacture" means a process or adoption or any treatment for conversion of ingredients into an article of food, which includes any sub-process, incidental or ancillary to the manufacture of an article of food;

(*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 such purposes;

[1][(*ze*) "Member" includes a part-time Member and the Chairperson of the Food Authority;]

(*zf*) "misbranded food" means an article of food–

(*A*) if it is purported, or is represented to be, or is being–

(*i*) offered or promoted for sale with false, misleading or deceptive claims either;

(*a*) upon the label of the package, or

(*b*) through advertisement, 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 or containing the article or the label on such package; or

(*B*) if the article is sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer bearing his name and address but–

(*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; or

(*C*) if the article contained in the package–

(*i*) contains any artificial flavouring, colouring or chemical preservative and the package is without a declaratory label stating that fact or is not labelled in accordance with the requirements of this Act or regulations made thereunder or is in contravention thereof; or

(*ii*) is offered for sale for special dietary uses, unless its label bears such information as may be specified by regulation, concerning its vitamins, minerals or other dietary properties in order sufficiently to inform its purchaser as to its value for such use; or

1. Subs. by Act 13 of 2008, s. 2, for cl. (ze) (w.e.f. 7-2-2008).

(*iii*) is not conspicuously or correctly stated on the outside thereof within the limits of variability laid down under this Act.

(*zh*) "package" means a pre-packed box, bottle, casket, tin, barrel, case, pouch, receptacle, sack, bag, wrapper or such other things in which an article of food is packed;

(*zi*) "premises" include any shop, stall, hotel, restaurant, airline services and food canteens, place or vehicle or vessel where any article of food is sold or manufactured or stored for sale;

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

(*zk*) "primary food" means an article of food, being a produce of agriculture or horticulture or animal husbandry and dairying or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching in the hands of a person other than a farmer or fisherman;

(*zl*) "prohibition order" means an order issued under section 33 of this Act;

(*zm*) "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;

(*zn*) "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;

(*zo*) "risk assessment" means a scientifically based process consisting of the following steps: (*i*) hazard identification, (*ii*) hazard characterisation; (*iii*) exposure assessment, and (*iv*) risk haracterisation;

(*zp*) "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;

(*zq*) "risk management" means the process, distinct from risk assessment, of evaluating policy alternatives, in consultation with all interested parties considering risk assessment and other factors relevant for the protection of health of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options;

(*zr*) "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;

(*zs*) "sample" means a sample of any article of food taken under the provisions of this Act or any rules and regulations made thereunder;

(*zt*) "specified by regulations" means specified by regulations made by the Food Authority;

(*zu*) "standard", in relation to any article of food, means the standards notified by the Food Authority;

(*zv*) "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;

(*zw*) "substance" includes any natural or artificial substance or other matter, whether it is in a solid state or in liquid form or in the form of gas or vapour;

(*zx*) "sub-standard" an article of food shall be deemed to be sub-standard if it does not meet the specified standards but not so as to render the article of food unsafe;

(*zy*) "Tribunal" means the Food Safety Appellate Tribunal established under section 70;

(*zz*) "unsafe food" means an article of food whose nature, substance or quality is so affected as to render it injurious to health:—

(*i*) by the article itself, or its package thereof, which is composed, whether wholly or in part, of poisonous or deleterious substances; or

(*ii*) by the article consisting, wholly or in part, of any filthy, putrid, rotten, decomposed or diseased animal substance or vegetable substance; or

(*iii*) by virtue of its unh esence in that article of any harmful

substance; or

(*iv*) by the substitution of any inferior or cheaper substance whether wholly or in part; or

(*v*) by addition of a substance directly or as an ingredient which is not permitted; or

(*vi*) by the abstraction, wholly or in part, of any of its constituents; or

(*vii*) by the article being so coloured, flavoured or coated, powdered or polished, as to damage or conceal the article or to make it appear better or of greater value than it really is; or

(*viii*) by the presence of any colouring matter or preservatives other than that specified in respect thereof; or

(*ix*) by the article having been infected or infested with worms, weevils, or insects; or

(*x*) by virtue of its being prepared, packed or kept under insanitary conditions; or

(*xi*) by virtue of its being mis-branded or sub-standard or food containing extraneous matter; or

(*xii*) by virtue of containing pesticides and other contaminants in excess of quantities specified by regulations.

(*2*) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir* shall, in relation to that State, be construed as a reference to the corresponding Law, if any, in force in that State.

CHAPTER II

FOOD SAFETYAND STANDARDS AUTHORITY OF INDIA

4. Establishment of Food Safety and Standards Authority of India.–(*1*) The Central Government shall, by notification, establish a body to be known as the Food Safety and Standards Authority of India to exercise the powers conferred on, and to perform 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 Delhi.

(*4*) The Food Authority may establish its offices at any other place in India.

5. Composition of Food Authority and qualifications for appointment of its Chairperson and other Members.–(*1*) The Food Authority shall consist of a Chairperson and the following twenty-two members out of which one-third shall be women, namely:–

(*a*) seven Members, not below the rank of a Joint Secretary to the Government of India, to be appointed by the Central Government, to respectively represent the Ministries or Departments of the Central Government dealing with–

(*i*) Agriculture,

(*ii*) Commerce,

(*iii*) Consumer Affairs,

(*iv*) Food Processing,

*. *Vide* notification No. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

(*v*) Health,

(*vi*) Legislative Affairs,

(*vii*) Small Scale Industries,

(*viii*) who shall be Members *ex officio*;

(*b*) two representatives from food industry of which one shall be from small scale industries;

(*c*) two representatives from consumer organisations;

(*d*) three eminent food technologists or scientists;

(*e*) five members to be appointed by rotation every three years, one each in seriatim from the Zones as specified in the First Schedule to represent the States and the Union territories;

(*f*) two persons to represent farmers' organisations;

(*g*) one person to represent retailers' organisations.

(*2*) The Chairperson and other Members of the Food Authority shall be appointed in such a manner so as to secure the highest standards of competence, broad range of relevant expertise, and shall represent, the broadest possible geographic distribution within the country.

(*3*) The Chairperson shall be appointed by the Central Government 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.

[1][(*4*) The Chairperson and the Members including part-time Members other than the *ex officio* Members of the Food Authority may be appointed by the Central Government on the recommendations of the Selection Committee.

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

6. Selection Committee for selection of Chairperson and Members of Food Authority.–(*1*) The Central Government shall, for the purpose of selection of the Chairperson and the Members other than *ex officio* Members of the Food Authority, constitute a Selection Committee consisting of–

(*a*) Cabinet Secretary–Chairperson,

(*b*) Secretary-in-charge of the Ministry or the Department responsible for administration of this Act as the convener–Member,

(*c*) Secretary-in-charge of the Ministries or the Departments of the Central Government dealing with 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 a person 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 of the Food Authority and three months before the superannuation or completion of the term of office of the Chairperson or any Member of that Authority, make a reference to the Selection Committee for filling up of the vacancy.

(*3*) The Selection Committee shall finalise the selection of the Chairperson and Members of the Food Authority 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.

1. Subs. by Act 13 of 2008, s. 3, for sub-sections (*4*) and (*5*) (w.e.f. 7-2-2008).

(*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 of the Food Authority 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 of Food Authority.–(*1*) The Chairperson and the members other than *ex officio* Members shall hold office for a term of three years from the date on which they enter upon their offices, and shall be eligible for re-appointment for a further period of three years:

[1][Provided that the Chairperson shall not hold office as such after he has attained the age of sixty-five years.]

(*2*) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and Members other than *ex officio* Members shall be such as may be prescribed by the Central Government.

(*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 by the Central Government.

(*4*) Notwithstanding anything contained in sub-section the Chairperson or any Member may–

(*a*) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(*b*) be removed from his office in accordance with the provisions of section 8.

(*5*) The Chairperson or any Member ceasing to hold office as such shall not represent any person before the Food Authority or any State Authority in any manner.

8. Removal of Chairperson and Members of Food Authority.–(*1*) Notwithstanding anything contained in sub-section (*1*) of section 7, the Central Government may, by order, remove from office the Chairperson or any other Member, if the Chairperson or as the case may be, such other Member,—

(*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 interests 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.

(*2*) No Member shall be removed under clauses (*d*) and (*e*) of sub-section (*1*) unless he has been given a reasonable opportunity of being heard in the matter.

9. Officers and other employees of Food Authority.–(*1*) There shall be a Chief Executive Officer of the Food Authority, not below the rank of Additional Secretary to the Government of India, who shall be the Member-Secretary of the Authority, to be appointed by the Central Government.

(*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 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 specified by regulations by the Food Authority with the approval of the Central Government.

1. Subs. by Act 13 of 2008, s. 4, for the proviso (w.e.f. 7-2-2008).

10. Functions of the Chief Executive Officer.–(*1*) 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 of 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 Panel;

(*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; and

(*g*) developing and maintaining contact with the Central Government, and for ensuring a regular dialogue with its relevant committees.

(*2*) 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; and

(*d*) the budget for the coming year.

(*3*) The Chief Executive Officer shall, following adoption by the Food Authority, forward, the general report and the programmes to the Central Government and the State Governments and shall have them published.

(*4*) The Chief Executive Officer shall approve all financial expenditure of the Food Authority and report on the Authority's activities to the Central Government.

(*5*) The Chief Executive Officer shall exercise the powers of the Commissioner of Food Safety while dealing with matters relating to food safety of such articles.

(*6*) The Chief Executive Officer shall have administrative control over the officers and other employees of the Food Authority.

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 two members each to represent the interests of food industry, agriculture, consumers, relevant research bodies and food laboratories and all Commissioners of Food Safety, and the Chairperson of the Scientific Committee shall be *ex officio* member.

(*3*) The representatives of the concerned Ministries or Departments of the Central Government in Agriculture, Animal Husbandry and Dairying, Bio-technology, Commerce and Industry, Consumer Affairs, Environment and Forests, Food Processing Industries, Health, Panchayati Raj, Small Scale Industries and Food and Public Distribution or government institutes or organisations and government recognised farmers' shall be invitees to the deliberations of the Central Advisory Committee.

(*4*) The Chief Executive Officer shall be *ex officio* Chairperson of the Central Advisory Committee.

(*5*) The Central Advisory Committee shall follow such rules of procedure including its transaction of business as may be specified by regulations.

12. Functions of Central Advisory Committee.–(*1*) The Central Advisory Committee shall ensure close cooperation between the Food Authority and the enforcement agencies and organisations operating in the field of food.

(*2*) The Central Advisory Committee shall advise the Food Authority on–

(*a*) the performance of its duties under this section and in particular in drawing up of a proposal for the Food Authority's work programme,

(*b*) on the prioritisation of work,

(*c*) identifying potential risks,

(*d*) pooling of knowledge, and

(*e*) such other functions as may be specified by regulations.

(*3*) The Central Advisory Committee shall meet regularly at the invitation of the Chairperson of Central Advisory Committee or at the request of at least one-third of its members, and not less than three times a year.

13. Scientific Panels.–(*1*) The Food Authority shall establish scientific panels, which shall consist of independent scientific experts.

(*2*) The Scientific Panel shall invite the relevant industry and consumer representatives in its deliberations.

(*3*) Without prejudice to the provisions of sub-section (*1*), the Food Authority may establish as many Scientific Panels as it considers necessary in addition to the Panels on:

(*a*) food additives, flavourings, processing aids and materials in contact with food;

(*b*) pesticides and antibiotics residues;

(*c*) genetically modified organisms and foods;

(*d*) functional foods, nutraceuticals, dietetic products and other similar products;

(*e*) biological hazards;

(*f*) contaminants in the food chain;

(*g*) labelling; and

(*h*) method of sampling and analysis.

(*4*) The Food Authority may from time to time re-constitute the Scientific Panels by adding new members or by omitting the existing members or by changing the name of the panel as the case may be.

14. Scientific Committee.–(*1*) The Food Authority shall constitute Scientific Committee which shall consist of the Chairpersons of the Scientific Panels and six independent scientific experts not belonging or affiliated to any of the Scientific Panels.

(*2*) The Scientific Committee shall be responsible for providing the scientific opinions to the Food Authority, and shall have the powers, where necessary, of organising public hearings.

(*3*) The Scientific Committee shall be responsible for the general co-ordination necessary to ensure consistency of the scientific opinion procedure and in particular with regard to the adoption of working procedures and harmonisation of working methods of the Scientific Panels.

(*4*) 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.

(*5*) Wherever necessary, and particularly, in the case of subjects which do not fall within the competence of any of the Scientific Panel, 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.

15. Procedure for Scientific Committee and Scientific Panel.–(*1*) The members of the Scientific Committee, who are not members of the Scientific Panel and the members of the Scientific Panel shall be appointed by the Food Authority, for a period of three years, which shall be renewable for such period, and the vacancy notice shall be published in the relevant leading scientific publications and on theFood Authority's website for a call for expressions of interest.

(*2*) The Scientific Committee and the Scientific Panel shall each choose a Chairperson from amongst their members.

(*3*) The Scientific Committee and the Scientific Panel shall act by a majority of their members and the views of the members shall be recorded.

(*4*) The procedure for the operation and co-operation of the Scientific Committee and the Scientific Panel shall be specified by regulations.

(*5*) 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 re-imbursing the expenses of members of the Scientific Committee and the Scientific Panel;

(*d*) the manner in which tasks and requests for scientific opinions are assigned to the Scientific Committee and the Scientific Panel;

(*e*) The creation and organisation of the working groups of the Scientific Committee and the Scientific Panel, 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 Panel;

(*g*) The possibility of organising public hearings; and

(*h*) Quorum of the meeting, meeting notice, agenda of the meeting and such other matters.

16. Duties and functions of Food Authority.–(*1*) It shall be the duty of the Food Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Food 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, crop contaminants, pesticide residues, residues of veterinary drugs, heavy metals, processing aids, myco-toxins, antibiotics and pharmacological active substances and irradiation of food;

(*c*) the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management systems for food businesses;

(*d*) the procedure and the enforcement of quality control in relation to any article of food imported into India;

(*e*) the procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories;

(*f*) the method of sampling, analysis and exchange of information among enforcement authorities;

(*g*) conduct survey of enforcement and administration of this Act in the country;

(*h*) food labelling standards including claims on health, nutrition, special dietary uses and food category systems for foods; and

(*i*) the manner in which and the procedure subject to which risk analysis, risk assessment, risk communication and risk management shall be undertaken.

(*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 rules in areas which have a direct or indirect bearing on food safety and nutrition;

(*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 of various contaminants;

(*v*) identification of emerging risks; and

(*vi*) introduction of rapid alert system;

(*c*) promote, co-ordinate and issue guidelines for the development of risk assessment methodologies and monitor and conduct and forward messages on the health and nutritional risks of food to the Central Government, State Governments and Commissioners of Food Safety;

(*d*) provide scientific and technical advice and assistance to the Central Government and the State Governments in implementation of crisis management procedures with regard to food safety and to draw up a general plan for crisis management and work in close co-operation with the crisis unit set up by the Central Government in this regard;

(*e*) establish a system of network of organisations with the aim to facilitate a scientific co-operation framework by the co-ordination 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 responsibility;

(*f*) provide scientific and technical assistance to the Central Government and the State Governments for improving co-operation with international organisations;

(*g*) take all such steps to ensure that the public, consumers, interested parties and all levels of panchayats receive rapid, reliable, objective and comprehensive information through appropriate methods and means;

(*h*) provide, whether within or outside their area, training programmes in food safety and standards for persons who are or intend to become involved in food businesses, whether as food business operators 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*) contribute, where relevant and appropriate to the development of agreement on recognition of the equivalence of specific food related measures;

(*l*) promote co-ordination of work on food standards undertaken by international governmental and non-governmental organisations;

(*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; and

(*n*) promote general awareness as to food safety and food standards.

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

(*a*) the opinions of the Scientific Committee and the Scientific Panel 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 Panel, 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 may, from time to time give such directions, on matters relating to food safety and standards, to the Commissioner of Food Safety, who shall be bound by such directions while exercising his powers under this Act.

(*6*) 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.

17. 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 specified by regulations.

(*2*) If the Chairperson 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 present and voting, and in the event of an equality of votes, the Chairperson or the person presiding over the meeting 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 but without a right to vote.

(*6*) The Food Authority may invite the Chairperson of the Scientific Committee to attend its meetings but without a right to vote.

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

CHAPTER III

GENERAL PRINCIPLES OF FOOD SAFETY

18. General principles to be followed in administration of Act.–The Central Government, the State Governments, the Food Authority and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following principles namely:–

(*1*) (*a*) endeavour to achieve an appropriate level of protection of human life and health and the protection of consumer's interests, including fair practices in all kinds of food trade with reference to food safety standards and practices;

(*b*) carry out risk management which shall include taking into account the results of risk assessment and other factors which in the opinion of the Food Authority are relevant to the matter under consideration and where the conditions are relevant, in order to achieve the general objectives of regulations;

(*c*) where in any specific circumstances, 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 appropriate level of health protection may be adopted, pending further scientific information for a more comprehensive risk assessment;

(*d*) the measures adopted on the basis of clause (*c*) shall be proportionate and no more restrictive of trade than is required to achieve appropriate level of health protection, regard being had to technical and economic feasibility and other factors regarded as reasonable and proper in the matter under consideration;

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

(*f*) 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, the Food Authority and the Commissioner of Food Safety 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; and

(*g*) 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 until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements.

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

(*a*) take into account–

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

(*ii*) international standards and practices, where international standards or practices exist or are in the process of being formulated,

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

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

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

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

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

(*e*) ensure protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume;

(*f*) ensure prevention of–

(*i*) fraudulent, deceptive or unfair trade practices which may mislead or harm the consumer; and

(*ii*) unsafe or contaminated or sub-standard food.

(*3*) The provisions of this Act shall not apply to any farmer or fisherman or farming operations or crops or livestock or aquaculture, and supplies used or produced in farming or products of crops produced by a farmer at farm level or a fisherman in his operations.

CHAPTER IV

GENERAL POVISIONS AS TO ARTICLES OF FOOD

19. Use of food additive or processing aid.–No article of food shall contain any food additive or processing aid unless it is in accordance with the provisions of this Act and regulations made thereunder.

Explanation.–For the purposes of this section, "processing aid" means any substance or material, not including apparatus or utensils, and not consumed as a food ingredient by itself, used in the processing of raw materials, foods or its ingredients to fulfil a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

20. Contaminants, naturally occurring toxic substances, heavy metals, etc.–No article of food shall contain any contaminant, naturally occurring toxic substances or toxins or hormone or heavy metals in excess of such quantities as may be specified by regulations.

21. Pesticides, veterinary drugs residues, antibiotic residues and microbiological counts.–(*1*) No article of food shall contain insecticides or pesticides residues, veterinary drugs residues, antibiotic residues, solvent residues, pharmacological active substances and micro-biological counts in excess of such tolerance limit as may be specified by regulations.

(*2*) No insecticide shall be used directly on article of food except fumigants registered and approved under the Insecticides Act, 1968 (46 of 1968).

Explanation.–For the purposes of this section,–

(*1*) "pesticide residue" means any specified substance in food resulting from the use of a pesticide and includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products and impurities considered to be of toxicological significance and also includes such residues coming into food from environment;

(*2*) "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 drugs concerned.

22. Genetically modified foods, organic foods, functional foods, proprietary foods, etc.–Save as otherwise provided under this Act and regulations made thereunder, no person shall manufacture, distribute, sell or import any novel food, genetically modified articles of food, irradiated food, organic foods, foods for special dietary uses, functional foods, neutraceuticals, health supplements, proprietary foods and such other articles of food which the Central Government may notify in this behalf.

Explanation.–For the purposes of this section,–

(*1*) "foods for special dietary uses or functional foods or nutraceuticals or health supplements" means:

(*a*) foods which are specially processed or formulated to satisfy particular dietary requirements which exist because of a particular physical or physiological condition or specific diseases and disorders and which are presented as such, wherein the composition of these foodstuffs must differ significantly from the composition of ordinary foods of comparable nature, if such ordinary foods exist, and may contain one or more of the following ingredients, namely:–

(*i*) plants or botanicals or their parts in the form of powder, concentrate or extract in water, ethyl alcohol or hydro alcoholic extract, single or in combination;

(*ii*) minerals or vitamins or proteins or metals or their compounds or amino acids (in amounts not exceeding the Recommended Daily Allowance for Indians) or enzymes (within permissible limits);

(*iii*) substances from animal origin;

(*iv*) a dietary substance for use by human beings to supplement the diet by increasing the total dietary intake;

(*b*) (*i*) a product that is labelled as a "Food for special dietary uses or functional foods or nutraceuticals or health supplements or similar such foods" which is not represented for use as a conventional food and whereby such products may be formulated in the form of powders, granules, tablets, capsules, liquids, jelly and other dosage forms but not parenterals, and are meant for oral administration;

(*ii*) such product does not include a drug as defined in clause (*b*) and ayurvedic, sidha and unani drugs as defined in clauses (*a*) and (*h*) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940) and rules made thereunder;

(*iii*) does not claim to cure or mitigate any specific disease, disorder or condition (except for certain health benefit or such promotion claims) as may be permitted by the regulations made under this Act;

(*iv*) does not include a narcotic drug or a psychotropic substance as defined in the Schedule of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) and rules made thereunder and substances listed in Schedules E and EI of the Drugs and Cosmetics Rules, 1945;

(*2*) "genetically engineered or modified food" means food and food ingredients composed of or containing genetically modified or engineered organisms obtained through modern biotechnology, or food and food ingredients produced from but not containing genetically modified or engineered organisms obtained through modern biotechnology;

(*3*) "organic food" means food products that have been produced in accordance with specified organic production standards;

(*4*) "proprietary and novel food" means an article of food for which standards have not been specified but is not unsafe:

Provided that such food does not contain any of the foods and ingredients prohibited under this Act and the regulations made thereunder.

23. Packaging and labelling of foods.–(*1*) No person shall manufacture, distribute, sell or expose for sale or despatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labelled in th d by regulations:

Provided that 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 implying medicinal or therapeutic claims or in relation to the place of origin of the said food products.

(*2*) Every food business operator shall ensure that the labelling 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.

24. Restrictions of advertisement and prohibition as to unfair trade practices.–No advertisement shall be made of any food which is misleading or deceiving or contravenes the provisions of this Act, the rules and regulations made thereunder.

(*2*) No person shall engage himself in any unfair trade practice for purpose of promoting the sale, supply, use and consumption of articles of food or adopt any unfair or deceptive practice including the practice of making any statement, whether orally or in writing or by visible representation which–

(*a*) falsely represents that the foods are of a particular standard, quality, quantity or grade-composition;

(*b*) makes a false or misleading representation concerning the need for, or the usefulness;

(*c*) gives to the public any guarantee of the efficacy that is not based on an adequate or scientific justification thereof:

Provided that where a defence is raised to the effect that such guarantee is based on adequate or scientific justification, the burden of proof of such defence shall lie on the person raising such defence.

CHAPTER V

PROVISIONS RELATING TO IMPORT

25. All imports of articles of food to be subject to this Act.–No person shall import into India–

(*i*) any unsafe or misbranded or sub-standard food or food containing extraneous matter;

(*ii*) any article of food for the import of which a licence is required under any Act or rules or regulations, except in accordance with the conditions of the licence; and

(*iii*) any article of food in contravention of any other provision of this Act or of any rule or regulation made thereunder or any other Act.

(*2*) The Central Government shall, while prohibiting, restricting or otherwise regulating import of article of food under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), follow the standards laid down by the Food Authority under the provisions of this Act and the Rules and regulations made thereunder.

CHAPTER VI

SPECIAL RESPONSIBILITIES AS TO FOOD SAFETY

26. Responsibilities of the Food business operator.–(*1*) Every food business operator shall ensure that the articles of food satisfy the requirements of this Act and the rules and regulations made thereunder at all stages of production, processing, import, distribution and sale within the businesses under his control.

(*2*) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food–

(*i*) which is unsafe; or

(*ii*) which is misbranded or sub-standard or contains extraneous matter; or

(*iii*) for which a licence is required, except in accordance with the conditions of the licence; or

(*iv*) which is for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health; or

(*v*) in contravention of any other provision of this Act or of any rule or regulation made thereunder.

(*3*) No food business operator shall employ any person who is suffering from infectious, contagious or loathsome disease.

(*4*) No food business operator shall sell or offer for sale any article of food to any vendor unless he also gives a guarantee in writing in the form specified by regulations about the nature and quality of such article to the vendor:

Provided that a bill, cash memo, 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 guarantee under this section, even if a guarantee in the specified

form is not included in the bill, cash memo or invoice.

(*5*) 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 within a specified time, it is found that there is no evidence that the rest of the batch, lot or consignment is unsafe:

Provided that 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 for the reasons to be recorded in writing where such authorities suspect that, despite the conformity, the food is unsafe.

27. Liability of manufacturers, packers, wholesalers, distributors and sellers.–(*1*) The manufacturer or packer of an article of food shall be liable for such article of food if it does not meet the requirements of this Act and the rules and regulations made thereunder.

(*2*) The wholesaler or distributor shall be liable under this Act for any article of food which is–

(*a*) supplied after the date of its expiry; or

(*b*) stored or supplied in violation of the safety instructions of the manufacturer; or

(*c*) unsafe or misbranded; or

(*d*) unidentifiable of manufacturer from whom the article of food have been received; or

(*e*) stored or handled or kept in violation of the provisions of this Act, the rules and regulations made thereunder; or

(*f*) received by him with knowledge of being unsafe.

(*3*) The seller shall be liable under this Act for any article of food which is–

(*a*) sold after the date of its expiry; or

(*b*) handled or kept in unhygienic conditions; or

(*c*) misbranded; or

(*d*) unidentifiable of the manufacturer or the distributors from whom such articles of food were received; or

(*e*) received by him with knowledge of being unsafe.

28. Food recall procedures.–(*1*) If a food business operator considers or has reasons to believe that a food which he has processed, manufactured or distributed is not in compliance with this Act, or the rules or regulations, made thereunder, he shall immediately initiate procedures to withdraw the food in question from the market and consumers indicating reasons for its withdrawal and inform the competent authorities thereof.

(*2*) A food business operator shall immediately inform the competent authorities and co-operate with them, if he considers or has reasons to believe that a food which he has placed on the market may be unsafe for the consumers.

(*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 co-operating, in accordance with this Act, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a food.

(*4*) Every food business operator shall follow such conditions and guidelines relating to food recall procedures as the Food Authority may specify by regulations.

CHAPTER VII

29. Authorities responsible for enforcement of Act.–(*1*) The Food Authority and the State Food Safety Authorities shall be responsible for the enforcement of this Act.

(*2*) The Food Authority and the State Food Safety Authorities shall monitor and verify that the relevant requirements of law are fulfilled by food business operators at all stages of food business.

(*3*) 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 food business.

(*4*) The Food Safety Officers 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.

(*5*) The regulations under this Act shall specify which of the Food Safety Officers 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 11the 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.

(*6*) The Commissioner of Food Safety and Designated Officer shall exercise the same powers as are conferred on the Food Safety Officer 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 and the rules and regulations made thereunder.

(*2*) The Commissioner of Food Safety shall perform all or any of the following functions, namely:–

(*a*) prohibit 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;

(*b*) carry out survey of the industrial units engaged in the manufacture or processing of food in the State to find out compliance by such units of the standards notified by the Food Authority for various articles of food;

(*c*) conduct or organise 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;

(*d*) ensure an efficient and uniform implementation of the standards and other requirements as specified and also ensure a high standard of objectivity, accountability, practicability, transparency and credibility;

(*e*) sanction prosecution for offences punishable with imprisonment under this Act;

(*f*) such other functions as the State Government may, in consultation with the Food Authority, prescribe.

(*3*) The Commissioner of Food Safety may, by Order, delegate, subject to such conditions and restrictions as may be specified in the Order, such of his powers and functions under this Act(except the power to appoint Designated Officer, Food Safety Officer and Food Analyst) as he may deem necessary or expedient to any officer subordinate to him.

31. Licensing and registration of food business.–(*1*) No person shall commence or carry on any food business except under a licence.

(*2*) Nothing contained in sub-section (*1*) shall apply to a petty manufacturer who himself manufactures or sells any article of food or a petty retailer, hawker, itinerant vendor or a temporary stall holder or small scale or cottage or such other industries relating to food business or tiny food business operator; but they shall register themselves with such authority and in such manner as may be specified

by regulations, without prejudice to the availability of safe and wholesome food for human consumption or affecting the interests of the consumers.

(*3*) Any person desirous to commence or carry on any food business shall make an application for grant of a licence to the Designated Officer in such manner containing such particulars and fees as may be specified by regulations.

(*4*) The Designated Officer on receipt of an application under sub-section (*3*), may either grant the licence or after giving the applicant an opportunity of being heard and for reasons to be recorded in writing, refuse to grant a licence to any applicant, if he is satisfied that it is necessary so to do in the interest of public health and shall make available to the applicant a copy of the order:

Provided that if a licence is not issued within two months from the date of making the application or his application is not rejected, the applicant may start his food business after expiry of the said period and in such a case, the Designated Officer shall not refuse to issue a licence but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard.

(*5*) Every licence shall be in such form and subject to such conditions as may be specified by regulations.

(*6*) A single licence may be issued by the Designated Officer for one or more articles of food and also for different establishments or premises in the same area.

(*7*) 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.

(*8*) An appeal against the order of rejection for the grant of licence shall lie to the Commissioner of Food Safety.

(*9*) A licence unless suspended or cancelled earlier shall be in force for such period as may be specified by regulations:

Provided that if an application for a renewal of 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.

(*10*) The licence shall subsist for the benefit of the deceased's personal representative or any other member of his family, until the expiry of–

(*a*) the period of three months beginning with his death; or

(*b*) such longer period as the Designated Officer may allow.

32. Improvement notices.–(*1*) If the Designated Officer has reasonable ground for believing that any food business operator has failed to comply with any regulations to which this section applies, he may, by a notice served on that food business operator (in this Act referred to as an "improvement notice")–

(*a*) state the grounds for believing that the food business operator has failed to comply with the regulations;

(*b*) specify the matters which constitute the food business operator's failure so to comply;

(*c*) specify the measures which, in the opinion of the said Authority, the food business operator must take, in order to secure compliance; and

(*d*) require the food business operator to take those measures, or measures which are at least equivalent to them, within a reasonable period (not being less than fourteen days) as may be specified in the notice.

(*2*) If the food business operator fails to comply with an improvement notice, his licence may be suspended.

(*3*) If the food business operator still fails to comply with the improvement notice, the Designated Officer may, after giving the licensee an opportunity to show cause, cancel the licence granted to him:

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

(*4*) Any person who is aggrieved by–

(*a*) an improvement notice; or

(*b*) refusal to issue a certificate as to improvement; or

(*c*) cancellation or suspension or revocation of licence under this Act,

may appeal to the Commissioner of Food Safety whose decision thereon, shall be final.

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

(*a*) fifteen days 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*), the said period or the period specified in the improvement notice, whichever expires earlier.

Explanation–For the purpose of this sub-section, the making of the complaint shall be deemed to be the bringing of the appeal.

33. Prohibition orders.–(*1*) If –

(*a*) any food business operator is convicted of an offence under this Act; and

(*b*) the court by or before which he is so convicted is satisfied that the health risk exists with respect to that food business,

the court, after giving the food business operator an opportunity of being heard, may by an order, impose the following prohibitions, namely:–

(*i*) a prohibition on the use of the process or treatment for the purposes of the food business;

(*ii*) a prohibition on the use of the premises or equipment for the purposes of the food business or any other food business of the same class or description;

(*iii*) a prohibition on the use of the premises or equipment for the purposes of any food business.

(*2*) The court may, on being satisfied that it is necessary so to do, by an order, impose a prohibition on the food business operator participating in the management of any food business, or any food business of a class or description specified in the order.

(*3*) As soon as practicable after the making of an order under sub-section (*1*) or sub-section (*2*) (in this Act referred to as a "prohibition order"), the concerned Food Safety Officer shall–

(*a*) serve a copy of the order on the food business operator; and

(*b*) in the case of an order under sub-section (*1*), affix a copy of the order at a conspicuous place on such premises used for the purposes of the food business,

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 three lakh rupees.

(*4*) The concerned Food Safety Officer shall with the approval of the Designated Officer issue a certificate to the effect that the food business operator has taken sufficient measures justifying lifting of the prohibition order, within seven days of his being satisfied on an application made by the food business operator for such a certificate or the said 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 food business operator of the reasons for that determination.

(*5*) A prohibition order shall cease to have effect upon the court being satisfied, on an application made by the food business operator not less than six months after the prohibition order has been passed, that the food business operator has taken sufficient measures justifying the lifting of the prohibition order.

(*6*) The court shall give a direction on an application by the food business operator, if the court thinks it proper so to do having regard to all the circumstances of the case, including in particular, the conduct of the food business operator 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 food business operator of a previous application for such a direction.

Explanation.–For the purpose of this section,–

(*i*) any reference above shall apply in relation to a manager of a food business as it applies in relation to the food business operat food business operator of the business,

or to the food business operator, shall be construed accordingly;

(*ii*) "manager", in relation to a food business, means any person who is entrusted by the food business operator with the day-to-day running of the business, or any part of the business.

34. Emergency prohibition notices and orders.–(*1*) If the Designated Officer is satisfied that the health risk condition exists with respect to any food business, he may, after a notice served on the food business operator (in this Act referred to as an "emergency prohibition notice"), apply to the Commissioner of Food Safety for imposing the prohibition.

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

(*3*) The Designated Officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the food business operator of the business of his intention to apply for the order.

(*4*) As soon as practicable after the making of an emergency prohibition order, the Designated Officer shall require the Food Safety Officer to–

(*a*) serve a copy of the order on the food business operator of the business; or

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

and any person who knowingly contravenes such an order shall be guilty of an offence and shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to two lakh rupees.

(*5*) An emergency prohibition order shall cease to have effect on the issue by the Designated Officer of a certificate to the effect that he is satisfied that the food business operator has taken sufficient measures for justifying the lifting of such order.

(*6*) The Designated Officer shall issue a certificate under sub-section (*5*) within seven days of an application by the food business operator for such a certificate and on his being not satisfied, the said officer shall give notice to the food business operator within a period of ten days indicating the reasons for such decision.

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

36. Designated Officer.–The Commissioner of Food Safety shall, by order, appoint the Designated Officer, who shall not be below the rank of a Sub-Divisional Officer, to be in-charge of food safety administration in such area as may be specified by regulations.

(*2*) There shall be a Designated Officer for each district.

(*3*) The functions to be performed by the Designated Officer shall be as follows, namely:—

(*a*) to issue or cancel licence of food business operators;

(*b*) to prohibit the sale of any article of food which is in contravention of the provisions of this Act and rules and regulations made thereunder;

(*c*) to receive report and samples of article of foods from Food Safety Officer under his jurisdiction and get them analysed;

(*d*) to make recommendations to the Commissioner of Food Safety for sanction to launch prosecutions in case of contraventions punishable with imprisonment;

(*e*) to sanction or launch prosecutions in cases of contraventions punishable with fine;

(*f*) to maintain record of all inspections made by Food Safety Officers and action taken by them in the performance of their duties;

(*g*) to get investigated any complaint which may be made in writing in respect of any contravention of the provisions of this Act and the rules and regulations made thereunder;

(*h*) to investigate any complaint which may be made in writing against the Food Safety Officer; and

(*i*) to perform such other duties as may be entrusted by the Commissioner of Food Safety.

37. Food Safety Officer.–(*1*) The Commissioner of Food Safety shall, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, as Food Safety Officers for such local areas as he may assign to them for the purpose of performing functions under this Act and the rules and regulations made thereunder.

(*2*) The State Government may authorise any officer of the State Government having the qualifications prescribed under sub-section (*1*) to perform the functions of a Food Safety Officer within a specified jurisdiction.

38. Powers of Food Safety Officer.–(*1*) The Food Safety Officer may–

(*a*) take a sample–

(*i*) 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*) of any article of food or substance which is found by him on or in any such premises;

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 thereunder; or

(*b*) seize any article of food which appears to the Food Safety Officer to be in contravention of this Act or the regulations made thereunder; and

(*c*) keep it in the safe custody of the food business operator such article of food after taking a sample;

and in both cases send the same for analysis to a Food Analyst for the local area within which such sample has been taken:

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

(*2*) The Food Safety Officer may enter and inspect any place where the 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*) Where any article of food seized under clause (*b*) of sub-ection (*1*) is of a perishable nature and the Food Safety Officer is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the Food Safety Officer may, after giving notice in writing to the food business operator, cause the same to be destroyed.

(*5*) The Food Safety Officer shall, in exercising the powers of entry upon, and inspection of any place under this section, follow, as far as may be, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to the search or inspection of a place by a police officer executing a search warrant issued under that Code.

(*6*) 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 Safety Officer 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 Safety Officer 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 Safety Officer except with the previous approval of the authority to which he is subordinate.

(*7*) Where the Food Safety Officer takes any action under clause (*a*) of sub-section (*1*), or sub-section (*2*), or sub-section (*4*) or sub-section (*6*), he shall, call one or more persons to be present at the time when such action is taken and take his or their signatures.

(*8*) Where any books of account or other documents are seized under sub-section (*6*), the Food Safety Officer 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 there from as certified by that person in such manner as may be prescribed by the Central Government 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 there from as certified by the court have been taken.

(*9*) When any adulterant is seized under sub-section (*6*), 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.

(*10*) The Commissioner of Food Safety may from time to time issue guidelines with regard to exercise of powers of the Food Safety Officer, which shall be binding:

Provided that the powers of such Food Safety Officer may also be revoked for a specified period by the Commissioner of Food Safety.

39. Liability of Food Safety Officer in certain cases.–Any Food Safety Officer exercising powers under this Act or the rules and regulations made thereunder who–

(*a)*vexatiously and without any reasonable ground seizes any article of food or adulterant; or

(*b*) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty,

shall be guilty of an offence under this Act and shall be liable to a penalty which may extend to one lakh rupees:

Provided that in case any false complaint is made against a Food Safety Officer and it is proved so, the complainant shall be guilty of an offence under this Act and shall be punishable with fine which shall not be less than fifty thousand rupees but may extend to one lakh rupees.

40. Purchaser may have food analysed.–(*1*) Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a Food Safety Officer from having such article analysed by the Food Analyst on payment of such fees and receiving from the Food Analyst a report of his analysis within such period as may be specified by regulations:

Provided that such purchaser shall inform the food business operator at the time of purchase of his intention to have such article so analysed:

Provided further that if the report of the Food Analyst shows that the article of food is not in compliance with the Act or the rules or regulations made thereunder, 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 the provisions of this Act and rules and regulations made thereunder, the Food Analysts shall forward the report to the Designated Officer to follow the procedure laid down in section 42 for prosecution.

41. Power of search, seizure, investigation, prosecution and procedure thereof.–(*1*) Notwithstanding anything contained in sub-section (*2*) of section 31, the Food Safety Officer may search any place, seize any article of food or adulterant, if there is a reasonable doubt about them being involved in commission of any offence relating to food, and shall thereafter inform the Designated Officer of the actions taken by him in writing:

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 (2 of 1974) relating to search, seizure, summon, investigation and prosecution, shall apply, as far as may be, to all action taken by the Food Safety Officer under this Act.

42. Procedure for launching prosecution.–(*1*) The Food Safety 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 the Food Safety Officer shall analyse the sample and send the analysis report mentioning method of sampling and analysis within fourteen days to Designated Officer with a copy to Commissioner of Food Safety.

(*3*) The Designated Officer after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to the Commissioner of Food Safety for sanctioning prosecution.

(*4*) The Commissioner of Food Safety shall, if he so deems fit decide, within the period prescribed by the Central Government, as per the gravity of offence, whether the matter be referred to,–

(*a*) a court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years; or

(*b*) a Special Court in case of offences punishable with imprisonment for a term exceeding three years where such Special Court is established and in case no Special Court is established, such cases shall be tried by a Court of ordinary jurisdiction.

(*5*) The Commissioner of Food Safety shall communicate his decision to the Designated Officer and the concerned Food Safety Officer who shall launch prosecution before courts of ordinary jurisdiction or Special Court, as the case may be; and such communication shall also be sent to the purchaser if the sample was taken under section 40.

CHAPTER VIII

ANALYSIS OF FOOD

43. Recognition and accreditation of laboratories, research institutions and referral food laboratory.–(*1*) The Food Authority may notify food laboratories and research institutions accredited by National Accreditation Board for Testing and Calibration Laboratories or any other accreditation agency for the purposes of carrying out analysis of samples by the Food Analysts under this Act.

(*2*) The Food Authority shall, establish or recognise by notification, one or more referral food laboratory or laboratories to carry out the functions entrusted to the referral food laboratory by this Act or any rules and regulations made thereunder.

(*3*) The Food Authority may frame regulations specifying–

(*a*) the functions of food laboratory and referral food laboratory and the local area or areas within which such functions may be carried out;

(*b*) the procedure for submission to the said laboratory of samples of articles of food for analysis or tests, the forms of the laboratory's reports thereon and the fees payable in respect of such reports; and

(*c*) such other matters as may be necessary or expedient to enable the said laboratory to carry out its functions effectively.

44. Recognition of organisation or agency for food safety audit.–The Food Authority may recognise any organisation 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.

45. Food Analysts.–The Commissioner of Food Safety may, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, to be Food Analysts for such local areas as may be assigned to them by the Commissioner of Food Safety:

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

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

46. Functions of Food Analyst.–(*1*) On receipt of a package containing a sample for analysis from a Food Safety Officer 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 a 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 analysed such samples of article of food as may be sent to him by Food Safety Officer or by any other person authorised under this Act.

(*3*) The Food Analyst shall, within a period of fourteen days from the date of receipt of any sample for analysis, send—

(*i*) where such sample is received under section 38 or section 47, to the Designated Officer, four copies of the report indicating the method of sampling and analysis; and

(*ii*) where such sample is received under section 40, a copy of the report indicating the method of sampling and analysis to the person who had purchased such article of food with a copy to the Designated Officer:

Provided that in case the sample cannot be analysed within fourteen days of its receipt, the Food Analyst shall inform the Designated Officer and the Commissioner of Food Safety giving reasons and specifying the time to be taken for analysis.

(*4*) An appeal against the report of Food Analyst shall lie before the Designated Officer who shall, if he so decides, refer the matter to the referral food laboratory as notified by the Food Authority for opinion.

47. Sampling and analysis.–(*1*) When a Food Safety Officer 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 as may be provided by rules made under this Act, divide the sample into four 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 by the Central Government:

Provided that where such person refuses to sign or put his thumb impression, the Food Safety Officer 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;

(*ii*) send two parts to the Designated Officer for keeping these in safe custody; and

(*iii*) send the remaining part for analysis to an accredited laboratory, if so requested by the food business operator, under intimation to the Designated Officer:

Provided that if the test reports received under sub-clauses (*i*) and (*iii*) are found to be at variance, then the Designated Officer shall send one part of the sample kept in his custody, to referral laboratory for analysis, whose decision thereon shall be final.

(*2*) When a sample of any article of food or adulterant is taken, the Food Safety Officer shall, by the immediate succeeding working day, send the sample to the Food Analyst for the area concerned for analysis and report.

(*3*) Where the part of the sample sent to the Food Analyst is lost or damaged, the Designated Officer shall, on a requisition made to him, by the Food Analyst or the Food Safety Officer, despatch one of the parts of the sample sent to him, to the Food Analyst for analysis.

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

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

(*5*) In case of imported articles of food, the authorised officer of the Food Authority shall take its sample and send to the Food Analyst of notified laboratory for analysis who shall send the report within a period of five days to the authorised officer.

(*6*) The Designated Officer, the Food Safety Officer, the authorised officer and the Food Analyst shall follow such procedure as may be specified by regulations.

CHAPTER IX

OFFENCES AND PENALTIES

48. General provisions relating to offences.–(*1*) A person may render any article of food injurious to health by means of one or more 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 or offered for sale or distributed for human consumption.

(*2*) In determining whether any food is unsafe or injurious to health, regard shall be had to–

(*a*) (*i*) the normal conditions of use of the food by the consumer and its handling at each stage of production, processing and distribution;

(*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 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;

(*iii*) to the probable cumulative toxic effects;

(*iv*) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers; and

(*v*) 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*) the fact where the quality or purity of the article, being primary food, has fallen below the specified standard or its constituents are present in quantities not within the specified limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then such article shall not be deemed to be unsafe or sub-standard or food containing extraneous matter.

Explanation.–For the purposes of this section, "injury", includes any impairment, whether permanent or temporary, and "Injurious to health" shall be construed accordingly.

49. General provisions relating to penalty.–While adjudging the quantum of penalty under this Chapter, the Adjudicating Officer or the Tribunal, as the case may be, 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 or likely to cause to any person as a result of the contravention,

(*c*) the repetitive nature of the contravention,

(*d*) whether the contravention is without his knowledge, and

(*e*) any other relevant factor.

50. Penalty for selling food not of the nature or substance or quality demanded.–Any person who sells to the purchaser's prejudice any food which is not in compliance with the provisions of this Act or the regulations made thereunder, or of the nature or substance or quality demanded by the purchaser, shall be liable to a penalty not exceeding five lakh rupees:

Provided that the persons covered under sub-section (*2*) of section 31, shall for such non-compliance be liable to a penalty not exceeding twenty-five thousand rupees.

51. Penalty for sub-standard food.–Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is sub-standard, shall be liable to a penalty which may extend to five lakh rupees.

52. Penalty for misbranded food.–(*1*)Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakh rupees.

(*2*) The Adjudicating Officer may issue a direction to the person found guilty of an offence under this section, for taking corrective action to rectify the mistake or such article of food shall be destroyed.

53. Penalty for misleading advertisement.–Any person who publishes, or is a party to the publication of an advertisement, which–

(*a*) falsely describes any food; or

(*b*) is likely to mislead as to the nature or substance or quality of any food or gives false guarantee,

shall be liable to a penalty which may extend to ten lakh rupees.

(*2*) In any proceeding the fact that a label or advertisement relating to any article of food in respect of which the contravention 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 contravention was committed.

54. Penalty for food containing extraneous matter.–Any person whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption containing extraneous matter, shall be liable to a penalty which may extend to one lakh rupees.

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

56. Penalty for unhygienic or unsanitary processing or manufacturing of food.–Any person who, whether by himself or by any other person on his behalf, manufactures or processes any article of food for human consumption under unhygienic or unsanitary conditions, shall be liable to a penalty which may extend to one lakh rupees.

57. Penalty for possessing adulterant.–(*1*) Subject to the provisions of this chapter, if any person who whether by himself or by any other person on his behalf, imports or manufactures for sale, or stores, sells or distribute any adulterant shall be liable–

(*i*) where such adulterant is not injurious to health, to a penalty not exceeding two lakh rupees;

(*ii*) where such adulterant 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 accused was holding such adulterant on behalf of any other person.

58. Penalty for contraventions for which 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 penalty has been separately provided in this Chapter, shall be liable to a penalty which may extend to two lakh rupees.

59. Punishment for unsafe food.–Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,–

(*i*) where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;

(*ii*) where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;

(*iii*) where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;

(*iv*) where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.

60. Punishment for interfering with seized items.–If a person without the permission of the Food Safety Officer, retains, removes or tampers with any food, vehicle, equipment, package or labelling or advertising material or other thing that has been seized under this Act, he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

61. Punishment for false information.–If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

62. Punishment for obstructing or impersonating a Food Safety Officer.–If a person without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault a Food Safety Officer in exercising his functions under this Act, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to one lakh rupees.

63. Punishment for carrying out a business without licence.–If any person or food business operator (except the persons exempted from licensing under sub-section (*2*) of section 31 of this Act), himself or by any person on his behalf who is required to obtain licence, manufacturers, sells, stores or distributes or imports any article of food without licence, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees.

64. Punishment for subsequent offences.–If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(*i*) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence;

(*ii*) a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one; and

(*iii*) his licence shall be cancelled.

(*2*) The Court may also cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offend apers 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.

65. Compensation in case injury of 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 distributes or sells or imports any article of food causing injury to the consumer or his death, it shall be lawful for the Adjudicating Officer or as the case may be, the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum—

(*a*) not less than five lakh rupees in case of death;

(*b*) not exceeding three lakh rupees in case of grievous injury; and

(*c*) not exceeding one lakh rupees, in all other cases of injury:

Provided that the compensation shall be paid at the earliest and in no case later than six months from the date of occurrence of the incident:

Provided further that in case of death, an interim relief shall be paid to the next of the kin within thirty days of the incident.

(*2*) Where any person is held guilty of an offence leading to grievous injury or death, the Adjudicating Officer or the court may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in 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 licence, 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.

66. Offences by companies.–(*1*) Where an offence under this Act which has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that where a company has different establishments or branches or different units in any establishment or branch, the concerned Head or the person in-charge of such establishment, branch, unit nominated by the company as responsible for food safety shall be liable for contravention in respect of such establishment, branch or unit:

Provided further that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(*a*) "company" means anybody corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

67. Penalty for contravention of provisions of this Act in case of import of articles of food to be in addition to penalties provided un erson who imports any article of food

which is in contravention of the provisions of this Act, rules and regulations made thereunder, shall, in addition to any penalty to which he may be liable under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) and the Customs Act, 1962 (52 of 1962) be also liable under this Act and shall be proceeded against accordingly.

(*2*) Any such article of food shall be destroyed or returned to the importer, if permitted by the competent authority under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or the Customs Act, 1962 (52 of 1962), or any other Act, as the case may be.

CHAPTER X

ADJUDICATION AND FOOD SAFETY APPELLATE TRIBUNAL

68. Adjudication.–For the purposes of adjudication under this Chapter, an officer not below the rank of Additional District Magistrate of the district where the alleged offence is committed, shall be notified by the State Government as the Adjudicating Officer for adjudication in the manner as may be prescribed by the Central Government.

(*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 of provisions of this Act or the rules or the regulations made thereunder, impose such penalty as he thinks fit in accordance with the provisions relating to that offence.

(*3*) The 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 adjudicating the quantum of penalty under this Chapter, the Adjudicating Officer shall have due regard to the guidelines specified in section 49.

69. Power to compound offences.–The Commissioner of Food Safety may, by order, empower the Designated Officer, to accept from petty manufacturers who himself manufacture and sell any article of food, retailers, hawkers, itinerant vendors, temporary stall holders against whom a reasonable belief exists that he has committed an offence or contravention against this Act, payment of a sum of money by way of composition of the offence which such person is suspected to have committed.

(*2*) On the 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 sum of money accepted or agreed to be accepted as composition under sub section (*1*), shall not be more than one lakh rupees and due regard shall be made to the guidelines specified in section 49:

Provided that no offence, for which punishment of imprisonment has been prescribed under this Act, shall be compounded.

70. Establishment of Food Safety Appellate Tribunal.–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 Safety Appellate Tribunal to hear appeals from the decisions of the Adjudicating Officer under section 68.

(*2*) The Central Government or the State Government, as the case may be, shall prescribe, the matters and areas in relation to which the Tribunal may exercise jurisdiction.

(*3*) The Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Tribunal) to be appointed, by notification, by the Central Government or the State Government, as the case may be:

Provided that no person shall be qualified for appointment as a Presiding Officer to the Tribunal unless he is or has been a District Judge

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

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

71. Procedure and powers of Tribunal.–(*1*) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(*2*) The 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 (5 of 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 by the Central Government.

(*3*) Every proceeding before the 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 (45 of 1860), it shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

(*4*) The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to represent his case before the Tribunal.

(*5*) The provisions of the Limitation Act, 1963 (36 of 1963), shall, except as otherwise provided in this Act, apply to an appeal made to the Tribunal.

(*6*) Any person aggrieved by any decision or order of the 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.

72. Civil court not to have jurisdiction.–No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Adjudicating Officer or the Tribunal 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.

73. Power of court to try cases summarily.–Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences not triable by a Special Court, shall be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the 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 tha ch 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 parties, 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.

74. Special courts and Public Prosecutor.–(*1*) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government or the State Government in their respective jurisdictions may, if consider expedient and necessary in the public interest, for the purposes of the trial of offences relating to grievous injury or death of the consumer for which punishment of imprisonment for more than three years has been prescribed under this Act, constitute, by notification in the Official Gazette, as many Special Courts with the concurrence of the Chief Justice of the 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.

(*3*) 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.

(*4*) 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.

(*5*) 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.

75. 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 of Criminal Procedure, 1973 (2 of 1974) 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.

76. Appeal.–(*1*)Any person aggrieved by a decision or order of a Special Court may, on payment of such fee as may be prescribed by the Central Government 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.

77. 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 one year from the date of commission of an offence:

Provided that the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of up to three years.

78. 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 importer, manufacturer, distributor or dealer of any article of food, the court, is satisfied, on the evidence adduced before it, that such importer, 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 (2 of 1974), or in section 71 of this Act, proceed against him as though a prosecution has been instituted under this Act.

79. Magistrate's power to impose enhanced punishment.–Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for the court of ordinary jurisdiction to pass any sentence authorised by this Act, except a sentence of imprisonment for a term exceeding six years in excess of his powers under the said section.

80. 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*) Clause (*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 food business operator or is otherwise engaged in the conduct of a food business for which the advertisements concerned were published.

(*B*) 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 such person or by another person under the person's control.

(*2*) Without limiting the ways in which a person may satisfy the requirements of clause (*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*) (*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 such food 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 and 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 rules and regulations m

(*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 sub-clause (*a*) of clause (*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 which is a company, a director, employee or agent of that company.

(*4*) Without limiting the ways in which a person may satisfy the requirements of clause (*1*) and item (*i*) of sub-clause (*b*) of clause (*2*), 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 programme 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.

(*C*) Defence of mistaken and reasonable belief not available—

In any proceedings for an offence under the provisions of this Act, it is no defence that the defendant had a mistaken but reasonable belief as to the facts that constituted the offence.

(*D*) Defence in respect of handling food—

In proceedings for an offence under section 56, 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.

(*E*) Defences of significance of the nature, substance or quality of food—

It shall be no defence in a prosecution for an offence pertaining to the sale of any unsafe or misbranded article of food to allege merely that the food business operator was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

CHAPTER XI

FINANCE, ACCOUNTS, AUDIT AND REPORTS

81. 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 by the Central Government, 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.

82. Finances of the Food Authority.–(*1*) The Central Government may, after due appropriation, make to the Food Authority grants of such sums of money as the Central Government may think fit.

(*2*) The Food Authority on the recommendation of the Central Advisory Committee shall specify a graded fee from licensed food business operators, accredited laboratories or food safety auditors to be charged by the commissioner of Food Safety.

83. Accounts and audit of Food Authority.–(*1*) The Food Authority shall maintain proper accounts and relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*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.

84. 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 by the Central Government, 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 and State Governments.

(*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 XII

MISCELLANEOUS

85. Power of Central Government to issue directions to Food Authority and obtain reports and returns.–(*1*) Without prejudice to the foregoing provisions of this Act, the Food Authority shall, in exercise of its powers and in 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*) If any dispute arises between the Central Government and the Food Authority as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

(*3*) The Food Authority shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

86. 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.

87. Members, officers of Food Authority and Commissioner of Food Safety to be public servants.–The Members, officers of the Food Authority and the Commissioners of Food Safety and their officers shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning section 21 of the Indian Penal Code (45 of 1860).

88. 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.

89. Overriding effect of this Act over all other food related laws.–The provisions of this Act shall have effect notwithstanding anything inconsistent therewith 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.

90. Transfer of existing employees of Central Government Agencies governing various foods related Acts or Orders to Food Authority.–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 including 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.

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

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

(*a*) salary, terms and conditions of service of Chairperson and Members other than *ex officio* Members under sub-section (*2*) and the manner of subscribing to an oath of office and secrecy under sub-section (*3*) of section 7;

(*b*) qualifications of Food Safety Officer under sub-section (*1*) of section 37;

(*c*) the manner of taking the extract of documents seized under sub-clause (*8*) of section 38;

(*d*) determination of cases for referring to appropriate courts and time-frame for such determination under sub-section (*4*) of section 42;

(*e*) qualifications of Food Analysts under section 45;

(*f*) the manner of sending sample for analysis and details of the procedure to be followed in this regard under sub-section (*1*) of section 47;

(*g*) the procedure to be followed in adjudication of cases under sub-section (*1*) of section 68;

(*h*) qualifications, terms of office, resignation and removal of Presiding Officer under sub-section (*4*), the procedure of appeal and powers of Tribunal under sub-section (*5*) of section 70;

(*i*) any other matter relating to procedure and powers of Tribunal under clause of sub-section (*2*) of section 71;

(*j*) the fee to be paid for preferring an appeal to the High Court under sub-section (*1*) of section 76;

(*k*) form and time of preparing budget under sub-section (*1*) of section 81;

(*l*) form and statement of accounts under sub-section (*1*) of section 83;

(*m*) the form and time for preparing annual report by Food Authority under sub-section (*1*) of section 84; and

(*n*) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules by the Central Government.

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

(*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*) salaries and other conditions of service of officers and other employees of the Food Authority under sub-section (*3*) of section 9;

(*b*) rules of procedure for transaction of business under sub-section (*5*) of section 11;

(*c*) other functions of the Central Advisory Committee under sub-section (*2*) of section 12;

(*d*) procedure of Scientific Committee and Panels under sub-section (*4*) of section 15;

(*e*) notifying standards and guidelines in relation to articles of food meant for human consumption under sub-section (*2*) of section 16;

(*f*) procedure to be followed by Food Authority for transaction of business at its meetings under sub-section (*1*) of section 17;

(*g*)making or amending regulations in view of urgency concerning food safety or public health under clause (*d*) of sub-section (*2*) of section 18;

(*h*) limits of additives under section 19;

(*i*) limits of quantities of contaminants, toxic substance and heavy metals, etc., under section 20;

(*j*) tolerance limit of pesticides, veterinary drugs residues, etc, under section 21;

(*k*) the manner of marking and labelling of foods under section 23;

(*l*) form in which guarantee shall be given under sub-section (*4*) of section 26;

(*m*) conditions and guidelines relating to food recall procedures under sub-section (*4*) of section 28;

(*n*) regulations relating to functioning of Food Safety Officer under sub-section (*5*) of section 29;

(*o*) notifying the registering authority and the manner of registration; the manner of making application for obtaining licence, the fees payable therefore and the circumstances under which such licence may be cancelled or forfeited under section 31;

(*p*) the respective areas of which the Designated Officer shall be in-charge for food safety administration under sub-section (*1*) of section 36;

(*q*) procedure in getting food analysed, details of fees, etc., under sub-sectionof section 40;

(*r*) functions, procedure to be followed by food laboratories under sub-section(*3*) of section 43;

(*s*) procedure to be followed by officials under sub-section (*6*) of section 47;

(*t*) financial regulations to be adopted by the Food Authority in drawing up its budget under sub-section (*2*) of section 81;

(*u*) issue guidelines or directions for participation in Codex Meetings and preparation of response to Codex matters; and

(*v*) 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.

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

94. 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 power, such rules may provide for all or any of the following matters, namely:—

(*a*) other functions of the Commissioner of Food Safety under clause (*f*) of sub-section (*2*) of section 30;

(*b*) earmarking a fund and the manner in which reward shall be paid to a person rendering assistance in detection of offence or apprehension of offender under section 95; and

(*c*) any other matter which is required to be, or may be prescribed or in respect of which provision is to be made by rules by the State Government.

(*3*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.

95. Reward by State Government.–The State Government may empower the Commissioner of Food Safety to order payment of reward 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 by the State Government.

96. 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 defaulters licence shall be suspended till the penalty is paid.

97. Repeal and savings.–(*1*) With effect from such date as the Central Government may appoint in this behalf, the enactment and Orders specified in the Second Schedule shall stand repealed:

Provided that such repeal shall not affect:—

(*i*) the previous operations of the enactment and Orders under repeal or anything duly done or suffered there under; or

(*ii*) any right, privilege, obligation or liability acquired, accrued or incurred underany of the enactment or Orders under repeal; or

(*iii*) any penalty, forfeiture or punishment incurred in respect of any offencescommitted against the enactment and Orders under repeal; or

(*iv*) 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.

(*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(10 of 1897) shall apply as if such provisions of the State law had been repealed.

(*3*) Notwithstanding the repeal of the aforesaid enactment and Orders, the licences issued under any such enactment or Order, 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.

(*4*)Notwithstanding anything contained in any other law forthe time being in force, no court shall take cognizance of an offence under the repealed Act or Orders after the expiry of a period of three years from the date of the commencement of this Act.

98. Transitory provisions for food standards.–Notwithstanding the repeal of the enactment and Orders specified in the Second Schedule, the standards, safety requirements and other provisions of the Act and the rules and regulations made thereunder and Orders listed in that Schedule shall continue to be

in force and operate till new standards are specified under this Act or rules and regulations made thereunder:

Provided that anything done or any action taken under the enactment and Orders 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 superseded by anything done or by any action taken under this Act.

99. Milk and Milk Products Order, 1992 shall be deemed to be regulations made under this Act.–On and from the date of commencement of this Act, the Milk and Milk Products Order, 1992 issued under the Essential commodities Act, 1955 (10 of 1955) shall be deemed to be the Milk and Milk Products Regulations, 1992 issued by the Food Authority under this Act.

(*2*) The Food Authority may, with the previous approval of the Central Government and after previous publication, by notification, amend the regulations specified in sub-sectionto carry out the purposes of this Act.

100. Amendments to the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.–As from the notified day, the provisions of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992) (herein referred to as the principal Act) shall apply subject to the following amendments, namely:–

(*a*) throughout the principal Act, any reference to "the Prevention of the Food Adulteration Act, 1954 (37 of 1954)" shall be substituted by reference to "the Food Safety and Standards Act, 2006";

(*b*) in section 12 of the principal Act, the reference to "any Food Inspector appointed under section 9 of the Prevention of the Food Adulteration Act, 1954 (37 of 1954)" shall be substituted by reference to "any Food Safety Officer appointed under the Food Safety and Standards Act, 2006";

(*c*) throughout the principal Act, any reference to "Food Inspector" shall be substituted by the expression "the Food Safety Officer"; and

(*d*) in section 21 of the principal Act, in sub-section (*1*), the reference to clause (*a*) shall be substituted by the following, namely:–

"(*a*) the Designated Officer or the Food Safety Officer directed under sub-section (*5*) of section 42 of the Food Safety and Standards Act, 2006; or".

101. Power to remove difficulties.–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 not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

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

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

THE FIRST SCHEDULE

[*See* section 5(*1*)(*e*)]

Zone I

1.Andhra Pradesh
2.Goa
3.Karnataka
4.Kerala
5.Maharashtra
6.Orissa
7.Tamil Nadu

Zone II

1.Haryana
2.Himachal Pradesh
3.Jammu and Kashmir
4.Punjab
5.Uttaranchal
6.Uttar Pradesh

Zone III

1.Bihar
2.Chhattisgarh
3.Gujarat
4.Jharkhand
5.Madhya Pradesh
6.Rajasthan
7.West Bengal

Zone IV

1.Arunachal Pradesh
2.Assam
3.Manipur
4.Meghalaya
5.Mizoram
6.Nagaland
7.Sikkim
8.Tripura

Zone V

1.Andaman and Nicobar Islands
2.Chandigarh
3.Dadra and Nagar Haveli
4.Daman and Diu
5.Delhi
6.Lakshadweep
7.Pondicherry.

THE SECOND SCHEDULE

(*See* section 97)

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