

File No. 3381/REF/Act-Amendment/FSSAI/2016
Food Safety and Standards Authority of India
(A Statutory Authority established under the Food Safety and Standards Act, 2006)
(Regulations Division)
FDA Bhavan, Kotla Road, New Delhi-110002

Dated, The 20th June, 2018

To

Chief Secretary of all States/UTs and as per list attached.

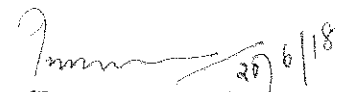
Subject: Amendment in the Food Safety & Standards Act, 2006 – regarding.

Sir,

Food Safety and Standards Act came into being in the year 2006 and the Food Safety & Standards Authority of India (FSSAI) was set up under the Act in 2008 and few principal regulations were notified in 2011. The country now has almost seven years of experience in implementation of the Act. Based on this experience and also various inputs received from different stakeholders, FSSAI is in the process of suggesting amendments in the FSS Act, 2006. A draft of the proposed amendments is enclosed.

2. As the Food Safety and Standards Act is an important piece of legislation and is under joint responsibility of Centre and State in the federal set up, it would be appreciated if the draft amendments are thoroughly examined and the views of the State Government/ UT Administrations on these amendments, and any additional points, if you have ones, are sent to us latest by 02nd July, 2018 for the suggestions for amendment and for forwarding these to the Ministry of Health & Family Welfare for further consideration.

Yours faithfully



(Pawan Agarwal)

Chief Executive Officer

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Encl : As above

AMENDMENT OF FOOD SAFETY & STANDARDS ACT, 2006

Section-wise consolidated proposal

Sr. No.	Existing Provisions	Proposed Amendment	Reasons /Rationale
1	<p>Amendment of Preamble</p> <p>An act to consolidate the laws and to regulate their manufacture, storage, distribution, sale and import..... Or incidental thereto.</p>	<p>Amendment of Preamble</p> <p>In the Preamble to the Act the words 'export' to be added after the word 'sale' and before 'import'.</p>	<p>'export' would be covered in the ambit of FSS Act specifically.</p>
2	<p>New definition being proposed for "Authorized Officer"</p>	<p>Section 3 (1)(a)(I)</p> <p>In section 3 of the Food Safety and Standards Act, 2006 (hereinafter referred to as the principal Act), after sub section (a) following section shall be inserted, namely;-</p> <p>3 (1)(a)(I). "Authorized Officer" means an officer appointed by CEO, FSSAI by an order for the purpose for different ports of entry for import of food and performing such other functions as the Food Authority may specify by the Regulations.</p>	<p>Presently, "Authorized Officer" is not defined in the Act. It is only mentioned in Section 47 (5) of FSS Act and Rule 1.2.1 (5) of FSS Rules, 2011.</p>
3	<p>Section 3 (d)</p> <p>"claim" means any representation which states, suggests, or implies that a food has particular</p>	<p>In section 3 of the principal Act, in sub section (1) (d) for the words '<i>claim</i>' means any representation which states, suggests, or implies that a food has particular qualities relating to its</p>	<p>To harmonize with definition given in Codex.</p>

	qualities relating to its origin, nutritional properties, nature, processing, composition or otherwise:	<i>origin, nutritional properties, nature, processing, composition or otherwise'</i> the words and bracket, following shall be substituted:- 'a claim is any representation in printed, oral, audio, visual forms etc. which states, suggests or implies that a food has particular characteristics relating to its origin, nutritional properties, nature, production, processing, composition or any other quality.'	
4	Section 3 (e) "Commissioner of Food Safety" means the Commissioner of Food Safety appointed under section 30	Section 3 (1)(e) In section 3 of the principal Act, in sub section (1) (e), after the word 'section 30', following words shall be inserted, namely :- 'and section 10(5)'	To harmonise the provision and intent of legislature in Section 10(5) of the principal Act.
5	Section 3 (ee) New addition	Section 3(1) (ee) In section 3 of the principal Act, after sub section (1)(e) following section shall be inserted, namely:- <i>'3(1) (ee). Commissioner of Food Safety for the Union - While exercising the powers of Commissioner of Food Safety under Section 10(5), the Chief Executive Officer, Food Safety and Standards Authority of India, shall work as Commissioner of Food Safety for the Union.'</i>	To harmonise the provision and intent of legislature in Section 10(5) read with section 29, 32(4)(c) of the principal Act.
6	Section 3 (1)(f) "consumer" means persons and families purchasing and receiving food in order to meet	Section 3 (1)(f) In section 3 of the principal Act, in sub section (1)(f) the words 'personal needs' shall be replaced by words 'own needs or for gift or	The word 'personal' is proposed to be omitted. Illustration:

	their personal needs:	donation or persons purchasing and receiving food for business'.	If a person buys food for gift/donation etc. he does not appear to be included in the definition of 'consumer' under this Act. It is therefore proposed to include for protection of consumers and others who purchase and receive food.
7	<p>Section 3 (1) (i) "extraneous matter" means any matter contained in an article of food which may be carried from the raw materials, packaging materials for process systems used for its manufacture or which is added to it, but such matter does not render such article of food unsafe;</p>	<p>Section 3 (1) (i) In section 3 of the principal Act, in sub section (1)(i), following shall be inserted:- (I) after the words '...which is added to it,' the words '<i>including insect fragments, rodent hairs, etc.</i>' shall be inserted. (II) after the words '...such article of food unsafe' words '<i>after being processed.</i>' shall be inserted.</p>	The definition of "extraneous matter" being made elaborate to include insect fragments, rodent hairs etc.
8	<p>Section 3(1)(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 :</p>	<p>Section 3(1)(j) In section 3 of the principal Act, in sub section (1)(j), following shall be inserted:- (i) the words 'any animal feed' to be deleted; (ii) after the words "...preparation or treatment,' the words '<i>packaging material including printing ink for food packaging that comes into contact with food</i>' shall be inserted.</p>	<p>Since animal feed and fodder is an essential part of food chain and food chain cannot be made safe without regulating this subject, it is required in exercise of legislative mandate and public interest to ensure safe and wholesome food for human consumption.</p> <p>As printing ink for food packaging as well as packaging material also come in contact with food, it is advisable to include these items also in the definition of food.</p>

	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;		
9	Section 3 (1)(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:	Section 3 (1)(n) In section 3 of the principal Act, in sub section (1)(n), after the words '...distribution of food,' the word ' <i>export,</i> ' shall be inserted.	At present, export activities are implicitly covered. This amendment, as well as proposed amendment in preamble is a composite amendment to bring all activities related to food under the ambit of the Principal Act.
10	Section 3 (1)(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 recognized by the Food Authority under section 43:	Section 3 (1)(p) In section 3 of the principal Act, in sub section (1)(p), after the words '... any food laboratory or institute' the words ' <i>established by the Central or a State Government or any other agency and</i> ' shall be omitted.	The term food laboratory is independent of any institute or agency. Therefore, this amendment is proposed to obviate functional problems where State and Union/FSSAI may come under unintended and excessive expectations of setting up such laboratories whilst concept of NABL accreditation accepts and promotes role of industry/private sector extensively.
11	Section 3 (1)(q) "food safety" means assurance that food is acceptable for human consumption according to its intended use:	Section 3 (1)(q) In section 3 of the principal Act, in sub section (1)(q), after the words '...that food is' the words ' <i>not unsafe and</i> ' shall be inserted.	To bring more clarity in existing provisions. The Misbranded and Sub-standards foods to the extent of being unsafe are also covered.

12	<p>Section - 3 (1)(r) Definitions "Food safety audit" means a systematic and functionally independent examination of food safety measures adopted by <u>manufacturing</u> units to determine whether such measures and related results meet with objectives of food safety and the claims made in that behalf.</p>	<p>Section - 3(1)(r) In section 3 of the principal Act, in sub section (1)(r), the word 'manufacturing' shall be substituted by the words 'food business'.</p>	<p>Replacing the word <u>manufacturing</u> with <u>Food business</u>, which covers the entire food supply chain. This would allow food safety audits to be conducted for any kind of food business, if required, rather than restricting it to the manufacturing units (only) as given in the definition currently existing in FSS Act, 2006.</p>
13	<p>Section 3(1) (vv) New definition</p>	<p>Section 3(1) (vv) In section 3 of the principal Act, after sub section (1)(v) following section shall be inserted, namely:- <i>'3(1) (vv). "Export" means sending from India any article of food by land, sea or air.'</i></p>	<p>At present, export activities are implicitly covered. This amendment, as well as proposed amendment in preamble is a composite amendment to bring all activities related to food under the ambit of the Principal Act.</p>
14	<p>Section 3 (1)(z) "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:</p>	<p>Section 3 (1)(z) In section 3 of the principal Act, in sub section (1)(z), after the words '...in the final product,' the words '<i>either in the same or</i>' shall be inserted.</p>	<p>Food product is a combination of ingredients and many ingredients gets modified during preparation/processing of food. Such ingredients shall also be covered under this proposed amendment.</p>
15	<p>Section 3 (1) (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:</p>	<p>Section 3 (1) (zd) In section 3 of the principal Act, in sub section (1)(zd), after the words '...manufacturing any article of food' the words '<i>or its ingredients including food additives or processing aids or packaging material including printing ink used for packaging which come into contact with food</i>' shall be inserted.</p>	<p>In the definition of food, food articles and food ingredients are also embedded but at times, during judicial interpretations, these have been interpreted differently, leading to release of such food whose safety cannot be ensured. This amendment shall take care of such pragmatic enforcement issues.</p>
16	<p>Section 3 (1) (zh)</p>	<p>Section 3 (1) (zh)</p>	<p>This proviso is proposed with a view to</p>

	"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.	In section 3 of the principal Act, after sub section (1)(zh) following proviso shall be inserted, namely:- <i>'Provided that Central Government may specify special packaging requirements for an article of food by regulations.'</i>	prescribe specific requirement for 'packaged' so that due to ambiguity it may not lead to differing interpretations by Court of Law.
17	Section 3 (1) (zll) Define 'Reference Laboratory'.	Section 3 (1) (zll) In section 3 of the principal Act, after sub section (1)(zl) following section shall be added, namely:- <i>'3 (1) (zll). 'Reference Laboratory' means laboratory notified by Food Safety and Standards Authority of India under Section 43 (1) or Section 43 (2) which are accredited as per appropriate ISO/IEC standards for method development, method validation, proficiency testing and training by National/International accreditation body signatory to the International Laboratory Accreditation Cooperation (ILAC) or the Asia Pacific laboratory Accreditation Cooperation (APLAC) or an equivalent accreditation body.'</i>	No definition of 'Reference Laboratory' is specified in the FSS Act nor any mention in the Act. As this is being used now in operating sections, there is need to define Reference Laboratory'.
18	New definition being proposed for "Traditional Food"	Section 3 (1) (zxa) In section 3 of the principal Act, after sub section (1)(zx) following section shall be added, namely:- <i>'3 (1) (zxa). "Traditional Food" is food prepared using recipe and methods passed on from generation to generation using local ingredients, representing gastronomic</i>	Traditional food need to be defined in Section 3. There should not be any requirement of product approval for traditional food and it should be subjected to only horizontal standards.

		<i>heritage and authenticity.'</i>	
19	<p>Section 4 (2)</p> <p>The Food Authority shall be a body corporate by the name aforesaid, having perpetual succession and a 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.</p>	<p>Section 4 (2)</p> <p>In section 4 of the principal Act, in sub section (2), after the words '...the said name, sue or be sued' the words '<i>through the Chief Executive Officer.</i>' shall be inserted.</p>	<p>This amendment will bring this section in harmony with section 10 of the FSS Act.</p>
20	<p>Section 5 (1)</p> <p>The Food Authority shall consist of a Chairperson and the following twenty- two members out of which one -third shall be women, namely-</p>	<p>Section 5 (1)</p> <p>In section 5 of the principal Act, in sub section (1),</p> <p>(I) the words '...Chairperson and the following twenty- two members out of which one -third shall be women, namely' shall be substituted by the words '<i>twenty- three members and out of the members referred to in clauses (b), (c), (d), (f), and (g), one third shall be women, namely</i>' :-</p> <p>(II) the word and symbol '(i) Agriculture' shall be substituted by the words '<i>(i) Agriculture, Cooperation and Farmer's Welfare.</i>'</p> <p>(III) after the word and symbol '(vii) Small Scale Industries' shall be substituted by the words '<i>(vii) Department of Animal Husbandry, Dairying & Fisheries.</i>'</p> <p>(IV) after clause (vii) of sub section (a) new sub clause shall be added namely :-</p>	<p>Name of some ministries have been changed and composition of food authority is required to be updated accordingly.</p>

		<i>'(viii) Department of AYUSH, Ministry of Health & Family Welfare.'</i>	
21	Section 5	<p>Section 5 (1) (h) - to be added</p> <p>In section 5 of the principal Act, after sub section (1)(g) following section shall be inserted, namely:-</p> <p><i>'5 (1) (h). The Chief Executive Officer of the Food Safety and Standards Authority of India shall be the Member Secretary of the Food Authority.'</i></p>	CEO to participate in the meetings of the Food Authority as well as vote.
22	<p>Section 6 (1)</p> <p>"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..."</p>	<p>Section 6 (1)</p> <p>In section 6 of the principal Act, in sub section (1), after the words '...Food Authority' the words <i>'and Members to be appointed under clause (e) of sub-section (1) of section 5, constitute a Selection Committee'</i> shall be inserted.</p>	The members appointed under sub section (1)(e) of section 5 are also on the pattern of 'ex-officio Members'.
23	New section being proposed as Section 7A	<p>Section 7A</p> <p>In section 7 of the principal Act, the following section shall be inserted, namely:-</p> <p><i>'7A. The Chairperson shall have the powers of general superintendence and directions in the conduct of the affairs of the Food Authority and shall, in addition to presiding over the meetings of the Food Authority, exercise and discharge such other powers and functions as may be assigned to him by the Food Authority.'</i></p>	Top specifically empower Chairperson to exercise powers of general superintendence and directions in the conduct of affairs in the Food Authority.
24	New section being proposed as Section 10 (1) (h)	<p>Section 10 (1) (h)</p> <p>In section 10 of the principal Act, after sub</p>	

		section (1)(g) following section shall be inserted, namely:- <i>'10 (1) (h) "the financial matters relating to the Food Authority."</i>	To explicitly mention this power of CEO.
25	Section 10(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.	Section 10(5) In section 10 of the principal Act, in sub section (5), after the words ' <i>...such articles</i> ' the words <i>'and while exercising such powers he shall be the Commissioner of Food Safety for the Union'</i> shall be inserted.'	To harmonize Section 3(1)(ee) read with section 29, 32(4)(c) of the principal Act.
26	Section 16 (1) 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.	Section 16 (1) In section 16 of the principal Act, in sub section (1), after the word 'sale' the word ' <i>export</i> ' shall be inserted.	To explicitly mention 'export' also under the domain of FSSAI. At present, export activities are implicitly covered. This amendment, as well as proposed amendment in preamble is a composite amendment to bring all activities related to food under the ambit of the Principal Act.
27	Section 16 (2) (f) the method of sampling, analysis and exchange of information among enforcement authorities;	Section 16 (2) (f) In section 16 of the principal Act, in sub section (2)(f), after the words ' <i>the method of sampling and analysis</i> ' the words ' <i>and exchange of information among enforcement authorities</i> ' shall be omitted.	There cannot be regulations for 'exchange of information among enforcement authorities' - hence proposed to be deleted.
28	Section 16 (2) (g) conduct survey of enforcement and administration of this Act in the country	Section 16 (2) (g) In section 16 of the principal Act, sub section (2)(g) shall be omitted.	Merely survey is not useful. Licensing & Registration are taking place through general or special drive and therefore this is proposed to be deleted.

29	<p>Section 16 (3) (h)</p> <p>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:</p>	<p>Section 16 (3) (h)</p> <p>In section 16 of the principal Act, in sub section (3)(h), after the word and symbol 'otherwise;' the words '<i>by itself or through any agency</i>' shall be inserted.</p>	<p>This will not prevent the Authority from directly delivering the programme to the intended persons and certifying them. The Authority may also prescribe from time to time the requirement of having one such trained and certified person in food premises for a specific food category/ kind of business.</p> <ul style="list-style-type: none"> a) The FOSTAC initiative involves recognition of training partners for imparting trainings to FBOs and issuing certificates. b) Introduction of a food safety supervisor in every food establishment is also being envisaged.
30	<p>Section 16 (5)</p> <p>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;</p>	<p>Section 16 (5)</p> <p>In section 16 of the principal Act, in sub section (5), following shall be inserted:-</p> <p>(I) after the words '...give such directions,' the words '<i>and guidance</i>' shall be inserted.</p> <p>(II) after the word 'standard' words '<i>and other matters connected therewith</i>' shall be inserted.</p>	<p>Presently, there is no provision in the Act to issue guidelines/guidance and advisories.</p> <p>This proposed amendment shall obviate unnecessary complications and shall lead to ease in functional administration and enforcement of the Act.</p>
31	<p>Section 18 (2) (d)</p> <p>ensure that there is.....dispensed with: Provided that such regulations shall be in force for not more than six months;</p>	<p>Section 18 (2) (d)</p> <p>In proviso of section 18, in sub section (2)(d) of the principal Act, after the words 'in force' the words '<i>for a period of one year and extendable further for a period of six months for reasons to be recorded</i>' shall be inserted.</p>	<p>Many a times process of finalisation takes 12 months or even more, hence to give sufficient time for these regulations to be notified after due consultation.</p>
32	<p>Section 19</p>	<p>Section 19</p>	

	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.	In section 19 of the principal Act, after the words 'any' the word and symbol ' <i>ingredient</i> ,' shall be inserted.	At present, ingredient, defined separately in the principal Act, is not part of general compliance of Rules & Regulations of the principal Act. Proposed amendment shall put ingredient in the general compliance of Rules & Regulations.
33	Section 21 (2) No insecticide shall be used directly on article of food except fumigants registered and approved under the Insecticides Act, 1968 (46 of 1968).	Section 21 (2) In section 21 of the principal Act, in sub section (2), after the word 'used' the word ' <i>directly</i> ' shall be omitted.	'Directly' deleted as there seems no requirement.
34	Section 22 (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 regulations made thereunder.	Section 22 (4) In section 22 of the principal Act, in sub section (4), following shall be inserted:- (I) after the word 'proprietary,' the words ' <i>food means a food which has not been standardized and which may contain additives as permitted for the categories or sub-categories in the regulations but does not include any 'novel food', food for special dietary purposes, functional food, nutraceuticals and health supplements.</i> ' shall be inserted. (II) the words ' <i>and novel food</i> ' shall be deleted.	The definition of 'Proprietary Food' and novel food proposed to be segregated and made more elaborate.
35	New section being proposed as Section 22 (5)	Section 22 (5) In section 22 of the principal Act, after sub section (4) following section shall be inserted, namely:- '(5) " <i>novel food</i> " means a food for which	The definition of 'Proprietary Food' and novel food proposed to be segregated and made more elaborate.

		<i>standards have not been laid down and is produced by such method that has not been used previously and such food does not have a significant history of human consumption in the country.'</i>	
36	Section 24 (2) (d) New sub section to be added	Section 24 (2) (d) In section 24 of the principal Act, after sub section (2)(c) following section shall be inserted, namely:- <i>'(d) Which creates an impression that the food article is approved by FSSAI or any authority appointed under the Act.'</i>	To prevent misusing the name and logo of FSSAI.
37	Section 25 (1) (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.	Section 25 (1) (iii) In section 25 of the principal Act, in sub section (1)(iii), after the words 'contravention of any' the word ' <i>other</i> ' shall be omitted.	To bring in more clarity in existing provisions by removing the word 'other'. The word other is creating a misleading impression that compliance of the provisions other than section 25 is required, which requires explicit clarity that compliance of all provisions including of section 25 is mandatory.
38	Section 25 (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 1922), follow the standards laid down by the food Authority under the provisions of this Act and the Rules and regulations made thereunder.	Section 25 (2) In section 25 of the principal Act, in sub section (2), after the words 'standards' the words ' <i>and regulations</i> ' shall be inserted.	The words " and regulations " would enable framing of regulations to regulate imports.
39	Section 25(3)	Section 25(3)	

	New sub section to be added	In section 25 of the principal Act, after sub section (2) following section shall be inserted, namely:- <i>'(3) All imported food would be subject to inspection, sampling and testing based on risk associated with food at points of entry. Provided that the imported food shall be further subject to surveillance, sampling and testing of food items available in the market place.'</i>	The Food Safety and Standards (Imports) Regulations, 2017 have concept of risk based sampling. Therefore, an enabling provision in principal Act will further strengthen the concept. Proviso would include enforcement activities in respect of imported goods at retail end.
40	Section 26 (2) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food-	Section 26 (2) In section 26 of the principal Act, in sub section (2), after the word 'food' the words ' <i>or ingredient</i> ' shall be inserted.	At present, ingredient, defined separately in the principal Act, is not part of general compliance of Rules & Regulations of the principal Act. Proposed amendment shall put ingredient in the general compliance of Food Business Operator.
41	Section 27 Liability of Manufacturers, packers, wholesalers, distributors and sellers.	Section 27 In section 27 of the principal Act, after the word and symbol 'manufacturers,' the word and symbol ' <i>importers,</i> ' shall be inserted.	Importer has to be responsible here as the manufacturer or packer located outside the country cannot be brought under the ambit of the Act.
42	Section 27 (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	Section 27(1) In section 27 of the principal Act, in sub section (1), after the word 'distributor' the words ' <i>or importer</i> ' shall be inserted.	
43	Section 27 (2) "The wholesaler or distributor shall be liable	Section 27 (2) In section 27 of the principal Act, in sub section	

	under this Act for any article of food..."	(2), after the words 'or packer' the words ' <i>or importer</i> ' shall be inserted.	
44	<p>Section 28 (1)</p> <p>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.</p>	<p>Section 28 (1)</p> <p>In section 28 of the principal Act, in sub section (1), following shall be inserted:-</p> <p>(I) the word 'withdraw' shall be substituted by the word '<i>recall</i>'.</p> <p>(II) the words 'its withdrawal and inform the competent authorities thereof' shall be substituted by the words '<i>its recall and also ensure wide publicity of the fact of such recall and inform the Commissioners of Food Safety of States/ UTs and of the Union</i>'.</p>	<p>It is proposed to replace the word 'withdraw' by 'recall' to harmonise the terminology used in this section.</p> <p>FBO to be responsible to ensure wide publicity of action of circumstances of 'recall'.</p>
45	<p>Section 29</p> <p>(1) The Food Authority and the State Food Safety <u>Authorities</u> shall be responsible for the enforcement of this Act.</p> <p>(2) The Food Authority and the State Food Safety <u>Authorities</u> shall monitor and verify that the relevant requirements of law are fulfilled by food business operators at all stages of food business.</p>	<p>Section 29</p> <p>In section 29 of the principal Act, wherever they occur, the words 'Food Safety Authorities' shall be substituted by the words '<i>food safety authorities</i>'.</p>	<p>Only capital letter is being replaced by small letter.</p>
46	<p>Section 29 A</p> <p>New Section to be added</p>	<p>29A. State Food Authorities</p> <p>After section 29 of the principal Act, following section shall be inserted, namely:-</p> <p><i>'29 A. (1) Each State and Union Territory shall have a State Food Authority for</i></p>	<p>While, there are multiple references to State Food Authorities in the Act, its composition, duties and functions, meetings etc. have not been defined in the Act. Hence the need for this new section.</p>

		<p><i>coordination and supervision for enforcement of this Act with a view to ensure availability of safe and wholesome food in their respective jurisdictions.</i></p> <p><i>(2) The Authority shall be chaired by the Chief Secretary of the State / UT with the Commissioner of Food safety as its member-secretary and the Secretaries of the departments of Health and Family Welfare, Agriculture, Animal Husbandry and Fisheries, Food and Public Distribution, Food Processing, Consumer Affairs as its members. The Authority shall invite secretaries of other departments, such as finance, school education, women and child development as and when required for its meetings. The Authority shall also have representatives of food businesses, consumer organizations and food technologists and experts as its members.</i></p> <p><i>Provided that in States that have created separate departments of Food safety, the Secretary of such department shall be member secretary of the food authority.</i></p> <p><i>(3) The State Food Authorities shall meet at least once in every quarter by following rules of procedure in regard to transaction of its meetings (including quorum at its meetings) as may be specified by regulations and forward proceedings of its meetings to</i></p>	<p>Further, as pointed out in the CAG performance audit report, many States/UTs are not providing adequate staff, infrastructure and facilities for enforcement of the Act, hence a specific provision has been proposed for that.</p> <p>Finally, as per Section 2 of the Act, "it is expedient in public interest that the Union should take under its control the food industry", therefore in event of the failure of the State / UT to take effective measures for enforcement, Food Authority can direct the Central Food Safety Commissioner to fully or partially take over the responsibility for enforcement of the Act in that State or UT.</p>
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		<p><i>the Food Authority within 14 days of the meeting.</i></p> <p><i>(4) Notwithstanding the general powers of coordination and supervision of enforcement, the State Food Authority would ensure food safety and nutritious food in State government and its organizations, capacity building and training of food businesses to build a culture of self-compliance and take up activities for social and behavioral change in people around food safety and nutrition.</i></p> <p><i>(5) Based on the size and expanse of the food businesses in a State or Union Territory, the Food Authority may determine the number, nature and categories of officers and employees, infrastructure, facilities and resources for the State Food Authorities in each State or Union Territory for effective enforcement of the Act.</i></p> <p><i>(6) It would be binding on the State Governments or UT Administrations to provide staff, infrastructure, facilities and resources as determined in sub section (5) above within a specified period, failing which the Food Authority may direct the Central Food Safety Commissioner to fully or partially take over the responsibility for enforcement of the Act in that State or UT.'</i></p>	
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47	<p>Insert new Section 29B</p> <p>The Commissioner of Food Safety for the Union</p>	<p>29B. Commissioner of Food Safety for the Union</p> <p>After section 29 of the principal Act, following section shall be inserted, namely:-</p> <p><i>'29 B. (1) The Chief Executive Officer shall exercise the powers of the Commissioner of Food Safety for the union of India for efficient implementation of food safety and standards and other requirements laid down under this Act and the rules and regulations made thereunder.</i></p> <p><i>(2) The Chief Executive Officer in his capacity as Commissioner of Food Safety of the Union shall perform all or any of the following functions, namely -</i></p> <p><i>(a) prohibit in the interest of public health, the manufacture, storage, distribution or sale of any article of food, either in the whole of India 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.</i></p> <p><i>(b) Conduct and organize training programs by itself or through an agency for the personnel of the offices of the Food Authority, Commissioner of Food Safety for the Union and, on a wider scale, for different segments of people and food chain for social and behavioural change and for capacity</i></p>	<p>While, in Section 10(5), it is clearly stated that the Chief Executive Officer shall exercise the powers of the Commissioner of Food Safety, but his functions have not been defined. Hence this new section.</p>
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		<p><i>building on food safety and nutrition;</i></p> <p><i>(c) shall be responsible for the enforcement of the provisions of this Act and specifically monitor and verify that the relevant requirements are fulfilled by the food business operators that function under the Central licensing;</i></p> <p><i>(d) maintain a system of control, public communication on food safety and risk, food safety surveillance for various articles of food and with respect to various kinds of risks and other monitoring activities covering all stages of food business, in particular on issues covering two or more States or UTs and food business operators that function under the Central licensing;</i></p> <p><i>(e) sanction prosecution for offences committed by food businesses that function under the Central licensing and are punishable with imprisonment under this Act;</i></p> <p><i>(f) such other functions as the Food Authority may prescribe.</i></p> <p><i>(3) The Chief Executive Officer in his capacity as 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</i></p>	
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		<i>Designated Officer, Food Safety Officer and Food Analyst and sanction prosecution as he may deem necessary or expedient to any officer subordinate to him.'</i>	
48	<p>Section 30 (2) (a)</p> <p>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</p>	<p>Section 30 (2) (a)</p> <p>In section 30 of the principal Act, in sub section (2)(a), following shall be inserted:-</p> <p>(I) the word 'prohibit' shall be substituted by the word '<i>ban</i>';</p> <p>(II) after the word and symbol 'storage,' the word and symbol '<i>import</i>,' shall be inserted;</p> <p>(III) the words 'not exceeding one year,' shall be substituted by the words '<i>not exceeding three years</i>,'.</p>	<p>To bring clarity and harmony in this provisions viz-z-viz provisions of Section 3 (z) (I) and Section 33; the term 'prohibit' is being replaced by the term 'ban'.</p>
49	<p>Section 30 (2) (b)</p> <p>carry out survey of 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;</p>	<p>Section 30 (2) (b)</p> <p>In section 30 of the principal Act, in sub section (2)(b), the words 'survey of industrial units engaged in the manufacture or processing of food' shall be substituted by the words '<i>special drives covering all types of food businesses</i>'.</p>	<p>The use of word surveillance is more appropriate for the activity conducted by Commissioner of Food Safety.</p>
50	<p>Section 31 (1)</p> <p>No person shall commence or carry on any food business except under a license</p>	<p>Section 31 (1)</p> <p>In section 30 of the principal Act, in sub section (1), the word 'license' shall be substituted by the words '<i>Central or State License of appropriate category as specified in regulations</i>.'</p>	<p>It covers both Central & State Licenses.</p>
51	<p>Section 31 (4)</p>	<p>Section 31 (4)</p>	

	<p>Provided that if a license 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 license but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard.</p>	<p>In proviso of section 31 (4) of the principal Act, the words and symbols '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 license but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard' shall be substituted by the words <i>'the license would be deemed to have been issued and the applicant may start his food business after expiry of the said period under intimation in writing to the Designated Officer.'</i></p>	<p>It is necessary to give effect to the concept of deemed approval as contained in provision of Section 31(4) of the Act.</p>
52	<p>Section 31(6)</p> <p>A single license 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.</p>	<p>Section 31(6)</p> <p>In section 31 of the principal Act, in sub section (6), the words 'in the same area' shall be omitted.</p>	<p>In the 'same area' to be deleted.</p> <p>To simplify licensing procedure for ease of doing business.</p>
53	<p>Section 31(7)</p> <p>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 license shall be issued in respect of such premises not falling within the same area.</p>	<p>Section 31(7)</p> <p>In section 31 of the principal Act, sub section (7), shall be omitted.</p>	<p>In view of amendment of section 31 (6)</p>
54	<p>Section 33 (5)</p> <p>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</p>	<p>Section 33 (5)</p> <p>In section 33 of the principal Act, in sub section (5), the word 'six' shall be substituted by the word <i>'three'</i>.</p>	<p>The time limit prescribed for prohibition order is too long and is required to be rationalized in continuation of procedure</p>

	passed, that the food business operator has taken sufficient measures justifying the lifting of the prohibition order.		mentioned in sub-section 4 of section 33.
55	Section 34 Emergency prohibition notices and orders	Section 34 In section 34 of the principal Act, the words 'Emergency prohibition notices and orders' shall be substituted by the word ' <i>Ban notices and orders under special circumstances</i> '.	To bring more clarity and harmony in this provisions viz-z-viz provisions of Section 3 (z) (I) and Section 33.
56	Section 34 Sub-section (1) , (2), (3),(4) (5) and (6) to be substituted	Section 34 In section 34 of the principal Act, the sub section (1), (2), (3),(4) (5) and (6) to be substituted by the words ' <i>If the designated officer is satisfied that the health risk condition exists arising out of emergent circumstances or due to habitual default by the food business, he may, after following the procedure as laid down, recommend to the Commissioner of Food Safety, for imposing the prohibition or closure of the food business.</i> '	The procedure could be prescribed in the regulations rather than it be part of the Act.
57	Section 35 The Food Authority may, by notification, <u>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.</u>	Section 35 In section 35 of the principal Act, the words and symbols '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' shall be substituted by the words and symbols ' <i>may, by an order, prescribe mechanism to report all occurrences of food</i>	Existing provision regarding such notification is not practically feasible given that the number of such RMPs across the country runs into lakhs. Also, a comprehensive mechanism in the form of Integrated Health Information System is being put into place by M/o HFW. This mechanism would cover such reporting mechanism.

		<i>poisoning coming to their notice to such officer as may be specified.'</i>	FSSAI's response to CAG report, point 2.12
58	New section is being proposed.	<p>Section 37A</p> <p>After section 37 of the principal Act, following section shall be inserted, namely:-</p> <p><i>'37A. Commissioner of Food Safety may also authorize public spirited persons for specific areas and specific period to act and aid the food safety administration in implementation of FSS Act, Rules and Regulations made thereunder as Food Safety Volunteers and to perform the duties and responsibilities as specified by regulations made in this behalf.'</i></p>	Considering shortage of manpower in food safety administration, this concept is being introduced on the pattern of SPO (Special Police Officers) who are assisting police officers in law and order.
59	<p>Section 37 (2)</p> <p>The States Government may authorize an 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.</p>	<p>Section 37 (2)</p> <p>In section 37 of the principal Act, in sub section (2) the words and symbols 'an 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.' shall be substituted by the words and symbols <i>'officers of the State Government to perform the functions of Food Safety Officers, Designated Officers, Joint Commissioners of Food Safety and Additional Commissioners of Food Safety within a specified jurisdiction and for specific category of food products.</i></p> <p><i>Provided that such officers would undergo requisite training as specified; and for the</i></p>	<p>The qualification prescribed for FSO may not be necessary for such an officer, since their qualification and experience is determined by the respective department.</p> <p>This provision is proposed on the pattern of such powers exercised by the Election Commission in respect of officer or staff employed in connection with the preparation, revision etc. of electoral roll and the conduct of elections.</p>

		<i>purpose of implementation of this Act, such officers and staff associated shall be subject to the control, superintendence and discipline of the Commissioner of Food Safety.'</i>	
60	Section 38 (1) (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	Section 38 (1) (a) (i) In section 38 of the principal Act, in sub section (1)(a)(i) the words ' <i>to have been sold</i> ' shall be deleted.	The proposed amendment i.e. removal of " to have been sold " would cover the food / offering at a religious place or bhandara etc. where food is offered free of cost.
61	Section 38 (1) (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 of food in the safe custody of the food business operator, he may require the food business operator to execute a bond for a	Section 38 (1) (c) In section 38 of the principal Act, in sub section (1)(c) following shall be inserted :- (i) the words 'keep it in the safe custody of the food business operator' shall be replaced by the words 'keep it in the safe custody of the food business operator or carry away' shall be substituted. (ii) after the words 'has been taken' the words ' for determining whether article of food or processing aid or substance is in accordance with the Act and the Regulations made therein within three days. ' shall be inserted. (iii) In the proviso, after the word 'provided' the word ' further ' shall be inserted.	Adding of words "carry away" would enable FSO to carry the goods with him to be kept safe custody of the office. The same provision existed in PFA 1954 under section 10(4).

	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.	(iv) In the proviso, the words 'such' shall be replaced by the words ' <i>food, article of food or processing aid or substance</i> '.	
62	Section 38(1) (d) New sub section to be added.	Section 38(1) (d) After sub section (1)(c) of section 38, of the principal Act, following section shall be inserted, namely:- <i>'(d) Seize any vehicle, equipment, packaging, labelling or advertising material linked with food article which may be required as evidence in proceedings under the Act or rules & regulations made thereunder and may carry away or keep it in the safe custody of the food business operator.'</i>	Section 60 of the principal Act provides for punishment of such activities. Therefore, the activities in itself is required to be made part of the principal Act.
63	Section 38(1) (e) To be added	Section 38(1) (e) After section 38, sub section (1)(c) of the principal Act, following sub section shall be inserted, namely:- <i>'(e) Notwithstanding anything contained in sub-section (2) of section 31, the Food Safety Officer may search any place, seize any article of food or processing aid or substance or adulterant, if there is a reasonable doubt about them being used in commission of any offence relating to article of food or processing aid or substance, and shall thereafter inform the Designated Officer of the actions taken by</i>	Section 41 (1) shifted here with small modifications as it appears more appropriate place for it.

		<p><i>him in writing:</i></p> <p><i>Provided that no search 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.'</i></p>	
64	<p>Section 38 (2)</p> <p>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 article of food or adulterant for analysis.</p>	<p>Section 38 (2)</p> <p>In section 38 of the principal Act, in sub section (2) following shall be inserted :-</p> <p>(I) after the words 'where the article of food' the words 'or processing aid or substance' shall be inserted.</p> <p>(II) after the words 'manufacture of any other article of food' the words 'or processing aid or substance' shall be inserted.</p> <p>(III) after the words 'take samples of such article of food' the words 'or processing aid or substance' shall be inserted.</p>	<p>In the definition of food, food articles and processing aid or substance are also embedded but at times, during judicial interpretations, these have been interpreted differently, leading to pragmatic functional problems. This amendment shall obviate such pragmatic enforcement issues.</p>
65	<p>Section 38 (3)</p> <p>Where any sample is taken, its cost calculated at the rate at which the article of food is usually sold to the public shall be paid to the person from whom it is taken.</p>	<p>Section 38 (3)</p> <p>In sub section (3) of section 38 of the principal Act, after the words 'the article of food' the words 'or processing aid or substance' shall be inserted.</p>	<p>In the definition of food, food articles and processing aid or substance are also embedded but at times, during judicial interpretations, these have been interpreted differently, leading to pragmatic functional problems. This amendment shall obviate such pragmatic enforcement issues.</p>

66	<p>Section 38 (4)</p> <p>Where any article of food seized under clause (b) of subsection (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.</p>	<p>Section 38 (4)</p> <p>In section 38 of the principal Act, in sub section (4) after the words 'the article of food', wherever they occur, the words 'or processing aid or substance' shall be inserted.</p>	<p>In the definition of food, food articles and processing aid or substance are also embedded but at times, during judicial interpretations, these have been interpreted differently, leading to pragmatic functional problems. This amendment shall obviate such pragmatic enforcement issues.</p>
67	<p>Section 38 (4 A)</p> <p>To be added.</p>	<p>Section 38 (4 A)</p> <p>After section 38, sub section (4) of the principal Act, following section shall be inserted, namely:-</p> <p><i>'38 (4 A). 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:</i></p> <p><i>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.'</i></p>	<p>Section 47 (4) is being moved here to mention procedure at single place in the principal Act.</p>
68	<p>Section 38 (5)</p> <p>The Food Safety Officer shall, in exercising the powers of entry upon, and inspection of any</p>	<p>Section 38 (5)</p> <p>In section 38, sub section (5) of the principal Act, the words and symbols "The Food Safety Officer</p>	<p>Section 38 (5) and 41 (2) merged.</p>

	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.	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' shall be substituted by the words and symbols ' <i>Save as in this Act otherwise expressly provided, the Food Safety Officer shall, in exercising the powers relating to search, seizure, summon, investigation and prosecution under this Section shall follow as far as may be, the provisions of the Code of Criminal Procedure 1973(2 of 1974).</i> '	
69	Section 38 (5) (A)	<p>Section 38 (5) (A)</p> <p>After section 38, sub section (5) of the principal Act, following section shall be inserted, namely:-</p> <p><i>'38 (5) (A). The power conferred on food safety officer in section 38 (5) includes power to break open any package in which an article of food may contain or to break open the door of any premises where any article of food may be kept for sale; provided that the power to break open the package or door shall be exercised only after the owner or any other person incharge of the package or, as the case may be, in occupation of the premises, if he is present therein, refuses to open the package or door on being called upon to do so, and in either case after recording the reasons for doing so.'</i></p>	While implementation of the Act, the enforcement authorities faces non co-operation from erring Food Business Operators. This proposed amendment would facilitate enforcement authorities to take action while providing ample safeguard to the Food Business Operators.

70	<p>Section 38 (6)</p> <p>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:</p>	<p>Section 38 (6)</p> <p>In section 38 of the principal Act, in sub section (6) after the words 'in any article of food', the words 'or processing aid or substance' shall be inserted.</p>	<p>To bring more clarity in existing provisions.</p>
71	<p>Section 40 (1)</p> <p>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:</p> <p>Provided that such purchaser <u>shall inform</u> the food business operator at the time of purchase of his intention to have such article so analyzed:</p>	<p>Section 40 (1)</p> <p>In proviso of section 40, sub section (1) of the principal Act, the words 'shall inform' shall be substituted by words '<i>shall obtain receipt</i>'.</p>	<p>To bring more clarity in existing provisions. If a person informs FBO then FBO often refuses to sell the product. A receipt will be sufficient to establish purchase and balances the interests of both FBO & consumer.</p>
72	<p>Section 41</p>	<p>Section 41</p> <p>Section 41 of the principal Act shall be omitted.</p>	<p>Deleted as the same has been merged to Section 38.</p>
73	<p>New section being proposed as Section 41 (3)</p>	<p>Section 41 (3)</p>	<p>An enabling provision to release those</p>

		<p>After section 41, sub section (2) of the principal Act, following section shall be inserted, namely:-</p> <p><i>'(3) where the Food Safety Officer is satisfied that any article seized under sub-section (1) has no relation with the commission of any offence relating to food, such article shall be released immediately.'</i></p>	<p>food products which comply with the Regulations.</p>
74	<p>Section 42(2)</p> <p>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.</p>	<p>Section 42(2)</p> <p>In section 42 of the principal Act, in sub section (2) after the word 'fourteen', the word '<i>working</i>' shall be inserted.</p>	<p>The time limit of fourteen days is being proposed to be replaced by fourteen working days as time taken based on practical problems.</p>
75	<p>Section 42 (3)</p> <p>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.</p>	<p>Section 42 (3)</p> <p>In section 42 of the principal Act, in sub section (3) after the words 'sanctioning prosecution' the words and symbols '<i>within fourteen days from the date on which the period for filing appeal expires or the receipt of the report from the referral lab, as the case may be.</i></p> <p><i>Or alternatively, after the words within fourteen days 'after compliance of the requirements of section 46(4).</i></p> <p><i>In case the designated officer comes to the conclusion that there is no contravention of any of the provisions of Act, rules & regulations, he shall direct the food safety</i></p>	<p>Presently, the compliance of section 46(4) is implicit for sending the recommendations for sanctioning of prosecution; however, there is no time limit prescribed. This leads to the dichotomy of FBO averring non-compliance of 46(4) or delayed action. Proposed amendment streamlines procedure for sending the recommendations for sanctioning of prosecution by way of harmonizing provisions of the Act.</p>

		<i>officer to release the articles of food seized within three days.' shall be inserted.</i>	
76	<p>Section 43(1)</p> <p>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.</p>	<p>Section 43(1)</p> <p>In section 43 of the principal Act, in sub section (1) following shall be inserted:-</p> <p>(I) after the words 'or any other' the word '<i>equivalent</i>' shall be inserted;</p> <p>(II) the words 'analysis of samples by the Food Analysts under this Act' shall be substituted by the words '<i>functions entrusted to the food testing laboratory by this Act and rules & regulations made thereunder</i>'.</p>	<p>The concept of accreditation is to be benchmarked with NABL equivalent body having sufficient expertise and credibility. Further, the role of laboratories in devising methods of analysis is also required to be enabled in the principal Act, details can be prescribed by regulations.</p>
77	<p>Section 43(2)</p> <p>The Food Authority shall, establish or recognize 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.</p>	<p>Section 43(2)</p> <p>In section 43 of the principal Act, in sub section (2) following shall be substituted:-</p> <p>(I) the word 'shall' shall be substituted by the word '<i>may</i>';</p> <p>(II) the words 'to carry out the functions entrusted to the referral food laboratory by this Act or any rules and regulations made thereunder' shall be substituted by the words '<i>accredited by National Accreditation Board for Testing and Calibration Laboratories or any other equivalent accreditation agency, as referral food laboratory or laboratories to carry out the functions entrusted to the referral food laboratories by this Act or any rules and regulations made thereunder</i>'.</p>	<p>At present, referral food laboratory establishment is binding, which poses functional difficulties. This is being made voluntary which will be subject to availability of resources. The concept of accreditation is to be benchmarked with NABL equivalent body having sufficient expertise and credibility. Further, the role of laboratories in devising methods of analysis is also required to be enabled in the principal Act and the details are to be prescribed in the regulations.</p>

78	<p>Section 43 (2 A)</p> <p>New sub- section to be added</p>	<p>Section 43 (2 A)</p> <p>After section 43, sub section (2) of the principal Act, following section shall be inserted, namely:-</p> <p><i>'43 (2 A)The time to be taken by a referral laboratory for sending the report on a sample should not exceed fourteen working days'</i></p>	<p>Time limit is required to be prescribed for referral laboratories as presently no time limit is given.</p>
79	<p>Section 43(3)</p> <p>The Food Authority may frame regulations specifying:</p> <p>(a) The functions of food laboratory and referral food laboratory and the local area or areas within which such functions may be carried out.</p> <p>(b) The procedure for submission to the said laboratory of samples of articles of food for analysis or testes, the forms of the laboratory's reports thereon and the fees payable in respect of such reports: and</p> <p>(c) Such other matters as may be necessary or expedient to enable the said laboratory to carry out its functions effectively.</p>	<p>Section 43(3)</p> <p>In section 43 of the principal Act, in sub section (3)(b) the words 'to the said laboratory of samples of articles of food for analysis or testes, the forms of the laboratory's reports thereon and the fees payable in respect of such reports' shall be substituted by words <i>'of samples of articles of food for analysis or tests, the form(s) of reporting thereon, fee payable in respect of such reports and any other related issues as specified in this Act, or any other rules and regulations made thereunder'</i>.</p>	<p>The procedure part of sampling and analysis is to be part of regulations and therefore, an enabling provision is required in the principal Act.</p>
80	<p>Section 43(4)</p> <p>New Sub section to be added</p>	<p>Section 43 (4)</p> <p>After section 43, sub section (4) of the principal Act, following section shall be inserted, namely:-</p> <p>'43 (4). The Food Authority may establish or recognize by notification, one or more food</p>	<p>The concept of reference laboratories are required to be enabled in the principal Act.</p>

		testing laboratories notified under section 43 (1) and / or section 43 (2), as National Reference Laboratory to carry out functions entrusted to the National Reference Laboratory by this Act or any rules & regulations made thereunder.'	
81	<p>Section 44</p> <p>The Food Authority may recognize any organization or agency for the purposes of food safety audit and checking compliance with food safety management systems required under this Act or the rules and regulations made thereunder.</p>	<p>Section 44</p> <p>In section 44 of the principal Act, the word 'any' shall be substituted by the words '<i>an individual</i>'.</p>	<p>Allowing Food Authority to recognise independent food safety auditors will enlarge the pool of auditors available to conduct food safety audits to check compliance to food safety management systems under the Act & the Regulations.</p>
82	<p>Section 46 (2)</p> <p>The Food Analyst shall cause to be analysed such samples of articles of food as may be sent to him by Food Safety Officer or by any other person authorised under this Act.</p>	<p>Section 46 (2)</p> <p>In section 46, sub section (2) of the principal Act, the words 'samples of article of food' shall be substituted by the word '<i>sample</i>'.</p>	<p>Removing the word 'of article of food' from section 46(2) will solve the purpose and the probable legal complication will be avoided.</p>
83	<p>Section 46 (3)</p> <p>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.</p>	<p>Section 46 (3)</p> <p>In proviso of section 46 of the principal Act, after the word 'fourteen', the word '<i>working</i>' shall be inserted.</p>	<p>The time limit of fourteen days is being proposed to be replaced by fourteen working days considering practical difficulties in completion of testing of sample in fourteen days.</p>
84	<p>Section 46 (4)</p> <p>An appeal against the report of Food Analyst</p>	<p>Section 46 (4)</p> <p>In section 46, sub section (4) of the principal Act,</p>	<p>The time limit is being prescribed for the</p>

	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.	after the word 'opinion', the words 'within fifteen days' shall be inserted.	Designated Officer to refer the matter to a referral laboratory.
85	Section 47 (1) (c) (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:	Section 47 (1) (c) (iii) In section 47, sub section (1)(c)(iii) of the principal Act, after the words 'Designated Officer', the words 'within fifteen days' shall be inserted.	A time limit to a FSO to refer a sample to an accredited laboratory.
86	Section 47 (4)	Section 47 (4) In section 44 of the principal Act, sub section (4) shall be omitted.	Deleted. Made as Section 38 (4 A).
87	Section 47 (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.	Section 47 (5) In section 47, sub section (5) of the principal Act, after the words 'food, the authorised officer', the words 'of the food authority' shall be omitted	The words "of the food authority" proposed to be deleted. The authorised officer as per definition proposed in Section 3 is to be appointed by the CEO.
88	Section 49 A proviso to be added after sub-section (e)	Section 49 In section 49 of the principal Act, after sub section (e) following proviso shall be inserted, namely:- <i>'Provided that in case of packaged food procured and distributed and sold by a distributor or a retailer and is not tampered with , the primary pecuniary and criminal</i>	The distributor/retailer who is not an expert and often a small FBO is required to be treated differently than a giant FBO who has wherewithal of compliance in terms of general provisions relating to penalty. Also distributor or retailer has no r in ensuring the quality of packaged food

		<i>liability would lie with the manufacturer.'</i>	item, provided he has not tempered with it.
89	<p>Section 59</p> <p>Punishment for unsafe food.</p> <p>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,-</p> <p>(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.</p> <p>(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.</p>	<p>Section 59</p> <p>In section 59 of the principal Act, wherever they occur, the words 'result' shall be substituted by the words '<i>may result</i>'.</p>	<p>Section 48(2) of the FSS Act 2006 provides that regard shall be had to various factors delineating in sub clauses (a)(i) to (iv) in determining whether any food is unsafe and injurious to health. The sub section (a) (iii) and (v) state that the probable cumulative toxic effects and the probable cumulative effect of food of substantially the same composition on the health of a person consuming in ordinary quantities shall be taken in account in determining the food injurious to health. The word results in section 59 (ii) and (iii) sounds as if a particular grievous injury must occur due to the food in question. Practically grievous or non grievous injury due to adulteration in food doesn't occur instantly rather it occurs as a cumulative effect.</p>
90	<p>New section being proposed as Section 59A</p>	<p>Section 59A</p> <p>After section 59 of the principal Act, following section shall be inserted, namely:-</p> <p><i>'59A. "Any person who whether by himself or by any other person on his behalf, adds an adulterant to food so as to render it injurious for human consumption with an inherent</i></p>	<p>To provide stringent/ deterrent punishment in cases where an adulterant is added to food with an intent to render it unsafe for human consumption irrespective of the fact whether it causes actual injury or not. It is also in the light of the directions of the Hon'ble Supreme Court.</p>

		<i>potential to cause his death or is likely to cause grievous hurt, irrespective of the fact whether it causes actual injury or not, shall be punishable for a term which shall not be less than seven years but which may extend to imprisonment for life and also fine which shall not be less than ten lakh rupees."</i>	
91.	Section 62 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.	Section 62 In section 62 of the principal Act, the words 'which may extend to three months and also with fine which may extend to one lakh rupees' shall be substituted by the words ' <i>which shall not be less than six months but which may extend to two years and also with fine which may extend to five lakh rupees</i> '.	
92	Section 65 (A) to be inserted	Section 65A After section 65 of the principal Act, following section shall be inserted, namely:- 65A. Recovery of fees and other expenses incidental to prosecution - When any person is convicted of an offence under this Act, the court may order that all fees and other expenses incidental to the analysis of any food or food contact article in respect of which the conviction is obtained and any other reasonable expenses incurred by the prosecution, shall be paid by the person convicted.	On the pattern of provision of Sale of Food Act, Singapore.

93	<p>Section 66 (1)</p> <p>.....</p> <p>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.</p>	<p>Section 66 (1)</p> <p>In proviso of section 66, sub section (1) of the principal Act, the words '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', shall be substituted by the words the word 'any company or proprietor may nominate person or persons in managerial or supervisory capacity, who shall be responsible and liable for any violations of the Act, Rules and Regulations made thereunder.'</p>	<p>Present provision gives the impression that only that company(ies) who have more than one branch/establishment may nominate a person. This amendment clears this ambiguity.</p>
94	<p>Section 70 (1)</p> <p>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</p>	<p>Section 70 (1)</p> <p>In section 70, after sub section (1) of the principal Act, following proviso shall be inserted, namely:-</p> <p><i>'Provided that where the number of cases are not very large, the State Consumer Tribunals could also be empowered by the state/UT Governments to hear cases under the Food Safety and Standards Act.'</i></p>	<p>To fast-track appellate procedure of adjudication.</p>
95	<p>Section 76 (1)</p> <p>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</p>	<p>Section 76 (1)</p> <p>In section 76, of the principal Act, in sub section (1) following shall be inserted:-</p> <p>(1) after the words 'Special Court' the words 'or</p>	<p>There are situations where no Special Court is available for offences in the principal Act. Therefore, to ensure</p>

	<p>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:</p> <p>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.</p>	<p>the Judicial Magistrate of First Class or Metropolitan Magistrate' shall be inserted;</p> <p>(II) A further proviso shall be inserted namely :-</p> <p>'Provided further that no fees shall be required if the person aggrieved is an official under the Act.'</p>	<p>administration of justice under the principal Act, the Judicial Magistrate of First Class or Metropolitan Magistrate, as the case may be can try such offences.</p>
96	<p>Section 76 (2)</p> <p>An appeal preferred under this section shall be disposed of by the High Court by a bench of not less than two judges.</p>	<p>Section 76 (2)</p> <p>In section 76, of the principal Act, in sub section (2) after the word 'section' the words 'if the order appealed against is of a Special Court' shall be inserted.</p>	<p>The Division Bench of High Court has more appropriate expertise to hear appeal of Special Court.</p>
97	<p>Section 82 (1)</p> <p>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.</p>	<p>Section 82 (1)</p> <p>In section 82, of the principal Act, in sub section (1) before the words 'The Central Government', the words 'Save as provided in Section 82 A,' shall be inserted.</p>	
98	<p>Section 82 A</p>	<p>Section 82 A</p> <p>After section 82 of the principal Act, following section shall be inserted, namely:-</p> <p><i>'82A. (1) The Authority shall establish a fund to be called, the 'Food Safety and Nutrition Fund' for the purpose of promoting food safety and healthy nutrition amongst food businesses and consumer's through capacity building and</i></p>	<p>It is proposed to create a fund for undertaking special programs on food safety and nutrition amongst food businesses and consumers through capacity building and outreach activity. This fund would mainly comprise of funds accumulated through fee, penalty etc. and donations/grants for the specific</p>

		<p><i>outreach activities.</i></p> <p><i>(2) There shall be credited to Food Safety and Nutrition Fund the following amounts, namely: -</i></p> <p><i>a. Grants and donations given to the Food Safety and Nutrition Fund by the Central Government, State Government, companies or other institutions for the purposes of the Food Safety and Nutrition Fund;</i></p> <p><i>b. The interest or other income received out of the investments made from the Food Safety and Nutrition Education and Outreach Fund;</i></p> <p><i>c. The sums realized by the way of fees and penalties by the authority.</i></p> <p><i>(3) The Food Safety and Nutrition Fund shall be administered and utilized by the Authority for purposes detailed in section 1 above.'</i></p>	purpose as indicated.
99	<p>Section 91 (2)(a)</p> <p>Salary, terms and conditions of service of Chairperson and Members other than Ex-Officio Members under sub-section (2) of section 91 and the manner of subscribing to an oath of office and secrecy under sub-section (3) of section 7;</p>	<p>Section 91 (2) (a)</p> <p>In section 91 of the principal Act, sub section (2)(a) shall be omitted.</p>	91(2)(a) inserted as 92(2)(aa)
100	<p>Section 92 (1)</p> <p>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.</p>	<p>Section 92 (1)</p> <p>In section 92, after sub section (1) of the principal Act, following proviso shall be inserted, namely:-</p> <p><i>'Provided that the prior approval of the Central Government would not be needed in respect of regulations to be issued under emergency under section 18 (2) (d) and technical</i></p>	

		<i>standards under Section 92(2) (e)(h)(i)(j) &(k).'</i>	
101	Section 92 (2) (aa) New Sub section to be added	Section 92 (2) (aa) After section 92, sub section (2)(a) of the principal Act, following section shall be inserted, namely:- <i>'92(2)(aa). Salary, terms and conditions of service of Chairperson and Members other than Ex-Officio Members under sub-section (2) of section 91 and the manner of subscribing to an oath of office and secrecy under sub-section (3) of section 7;'</i>	91(2)(a) inserted as 92(2)(aa)
102	Section 96 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.	Section 96 In section 96 of the principal Act, following explanation shall be inserted, namely:- <i>'Explanation: Penalty includes amount compounded.'</i>	By adding the word "compounded" in the explanation would cover these cases also as the intention of legislature appears to include such cases also.
103	The First Schedule {Section 5(1) (e)} Name of State of Telangana and any State to be created in future is required to be incorporated in the Act.	In the First Schedule to the Principal Act, under the heading- 'Zone I', after serial number 7 and entries relating thereto, the following serial number and the entries relating thereto shall be inserted, namely: - "8. Telangana or any State to be created in future".	An enabling provision to include any new state created in future.
104	Second Schedule (see Section 97)	SL. No. 8 of second schedule to be amended as: 8. Any other order issued under the Essential Commodities Act, 1955 (10 of 1955) relating to Food Safety .	Restricting to orders repealed under the Essential Commodities Act, 1955 to 'food safety'.