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## **Intake Robust : Research Paper on Food Safety Standards**

### *Abstract*

A food should be clean, cooked properly, and served in a proper manner. If these features are followed by anyone, he can save himself from food poisoning. Food cannot be abandoned by anyone. It is the most essential one. According to the WHO report, many people are suffering from malnutrition. The Food Safety Standards Act was enacted in 2006 to regulate the collective statutory laws passed under different legislatures. There is a statutory body under this act for safeguarding the interest of consumers. The FSS Act is mainly concerned with setting up various criteria to meet manufacturers in dealing with their products.

There are a great many legislations operating under the aforementioned provisions of acts such as AGMARK, ISO, and so on. In order to function collectively, the Central Government established the Food Safety Standards Authority of India in 2008 as a result of the Food Safety Standards Act 2006. This authority has been controlling and regulating those statutes in a sufficient manner. If failing to comply with these standards as per the respective legislation, such manufacturers, sellers, or in the respective case, will be penalized under the FSS Act 2006.

This paper is about addressing the various food safety standards and punishments for violations of the same. The author conducted interviews with a few manufacturers, vendors, and food technicians conducting this research, and also read numerous articles and books about this research paper.

Key words : Food safety Standards, Food Safety Standards Authority of India, Adulteration, Penalty for the Offence, Suggestions

### ***Introduction***

Food is the basic need of every living creature. The term food can be defined as “a material consisting essentially of protein, carbohydrate, and fat used in the body of an organism to sustain growth, repair, and vital processes and to furnish energy.” In simple words, food means something which people eat through the mouth to stay alive. Hence, health and safety are the most important determinants for the term food.

Based on the data of WHO <sup>(1)</sup>, in the South-East Asia Region, nearly 150 million people fell ill with foodborne diseases in 2010, which led to 175,000 deaths. Of these, 40% of the foodborne disease burden was among children under 5 years. Approximately 50% of malnutrition is caused not by a lack of food or a poor diet, but due to poor water and sanitation facilities, and unhygienic practices leading to life-threatening diseases and infections such as diarrhea.

In 1976, Kerala was shocked by the Endosulfan tragedy that occurred in some areas of Kasaragod District. Endosulfan is an insecticide used for a variety of food crops. Endosulfan has massive side effects, and people are still suffering from the tragedy that happened in 1976. Nowadays, people are busy with fasting and dieting. Despite these reasons, people choose fast food and unhealthy food. The marketers of these foods induce people to believe that they are healthy and convenient, but in fact, they are consuming unhealthy food rather than healthy options. These foods contain numerous types of chemicals for smell, taste, preservation, and so on. Hence, ensuring food safety is the most challenging and critical aspect in this modern era.

The government has passed numerous standards to prevent food adulteration and malpractice. These standards ensure the safety of consumables for any human. The government has passed several norms to prevent adulteration and misuse of food items. These standards ensure the safety of consumables.

These standards must be followed by manufacturers, to ensure safety in their products. Failure to do so will attract penalties under different norms.

Food standard.

Food standards are a set of rules and criteria, they must meet every food consumable. Food standards ensure the safety, and health of such consumables. It enables the human to compare the freshness, durability, qualities ..., of the food product . E.g. ; AGMARK, FPO

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1. WorldHealthOrganization <https://www.who.int/news-room/fact-sheets/detail/food-safety>,  
(last visited 30/3/2024).

Objective of food standards

- It helps to evaluate effectiveness the food safety
- It plays a guide to the food manufacturers for the food regulatory planning
- It enable the manufacturers to make product design
- It enables the consumers to compare various food standards
- Creates shared data standards to enable exchange of enforcement data among public health and regulatory partners
- It is an interconnectivity channel among Federal, state, local, tribal, and territorial public health and regulatory partners.

There are numerous standards in India and outside India. Some of them are following;

1. Agricultural Produce Grading and Marking Act (AGMARK) 1937
2. Prevention of Food Adulteration Act, 1954
3. Standards of Weights and Measures Act, 1976
4. Bureau of Indian Standards (BIS), 1986
5. Consumer Protection Act, 1986
6. The Environment (Protection) Act 1986
7. The Insecticide Act, 1968
8. Export (Quality Control and Inspection) Act, 1963
9. Essential Commodities Act, 1955

## 10.ISO

11.Food and Agricultural Organization (FAO)

12.Food and Drugs Administration (FDA),USA

13.Food, Drug and Cosmetic Act, (FD&C)

### ***Indian standards***

1)*Agricultural Produce Grading and Marking Act (AGMARK) 1937* <sup>(2)</sup>

AGMARK is the quality standard which is concerned with agricultural products. AGMARK ensures that those agricultural products meet the required standards approved by the Directorate of Marketing and Inspections and certified by the Government of India. The present AGMARK standards cover quality guidelines for 205 different commodities spanning a variety of pulses, cereals, essential oils, vegetable oils, fruits & vegetables, and semi-processed products such as vermicelli.

The term AGMARK is a combination of two words, “Ag” meaning agriculture and “mark” for a certification mark. An AGMARK license is valid for a period of 5 years from the date of certification. The application has to be made three months prior to the expiry date of certification.

2) *Prevention of Food Adulteration Act, 1954* <sup>(3)</sup>

Food adulteration is the addition of adulterants into the food and beverage except water. These adulterants are the chemical substances and are not necessary for such goods, those causes a serious health issues to the consumers. When the addition of toxic adulterants into food or other products for human consumption is called poisoning.

Prevention of Food Adulteration Act,1954, extended to the whole territory of India. It was also replaced with the Food Safety and Standards Act, 2006. Broadly, the PFA Act covers food standards, general procedures for sampling, analysis of food, Powers of authorized officers, nature of penalties and other parameters related to food. It deals with parameters relating to food additives,preservative, colouring matters, packing & Labelling of foods, prohibition & regulations of sales etc.

The act defines adulteration or deems an item to be adulterated when –

- If the item sold by the vendor does not meet the standards of the customer or the standards the article purports to be.
- If the item contains any element that lowers the quality of the article.

- If the article has been manufactured or stored in unhygienic conditions.
- If the item contains any element that is unfit for human consumption such as putrid, decomposed or rotten plant or animal substances.
- If the article contains an element taken from a diseased animal.
- If the article contains any poisonous or injurious substances.
- If the container of the article is made up from any injurious substance.
- If any colouring agent other than the prescribed ones are added in the article.

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2.Agriculture Produce Grading and Marketing Act,1937, No.01, Act of Parliament, 1937, (India).

3.Prevention of Food Adulteration Act, 1954, No.37, Act of Parliament,1954( India).

- If the article consists of any prohibited preservative or preservative quantity above the prescribed limit.
- If the quality and purity of the article does not meet the standards set by the committee whether it is injurious or non-injurious to health.

In this case *Manik Hiru Jhangiani v. The State of Madhya Pradesh*.<sup>(4)</sup>

Justice Abhay S. Oka and Sanjay Karol have observed that where an offense would attract the penal provisions under both the Prevention of Food Adulteration Act, 1954 (PFA), as well as the Food Safety and Food Safety and Standards Act, 2006, the provisions of the FSSA, will prevail over the PFA.

3)*Standards of Weights and Measures Act, 1976*<sup>(5)</sup>

Standards for weights and measures are administered by the Ministry of Consumer Affairs, Food, and Public Distribution under the Standards of Weights and Measures Act, 1976, and related rules and notifications. All weights or measures must be recorded in metric units, and certain commodities can only be packed in specified quantities (weight, measure, or number). These include baby and weaning food, biscuits, bread, butter, coffee, tea, vegetable oils, milk powder, and wheat and rice flour. The Act is a result of governmental efforts to introduce standards for weighing and measuring commodities to protect consumer interest. The Standards of Weights and Measures are administered by the Ministry of Consumer Affairs, Food, and Public Distribution.

4)*Bureau of Indian Standards (BIS), 1986*<sup>(6)</sup>

Bureau of Indian Standards (BIS) is the National Standard Body of India. It is working under Government of India. BIS is responsible for the harmonious development of the activities of standardization, marking and quality certification of goods and for matters connected therewith or incidental thereto.

BIS is mainly concerned with the standardization and assessment of goods, through which it enables the national economy by providing safe, reliable, and quality goods. It helps in minimizing health hazards to consumers, protecting the environment, promoting exports, substituting imports, and controlling the proliferation of varieties, etc.

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4. Manik Hiru Jhangiani v. The State of Madhya Pradesh, (2023) 23 SC CK 002.

5. Standards of Weights and Measures Act, 1976, No. 14, Act of Parliament, 1976, (India).

6. Bureau of Indian Standards (BIS), 1986, No. 63, Act of Parliament, 1986 (India).

5) *Consumer Protection Act, 1986* <sup>(7)</sup>

Consumer markets have undergone huge transformation since the enactment of the Consumer Protection Act in 1986. The act is a much required change in favour of consumers in the current age of digitalization. The presence of increasingly complex products and services in the marketplace is evident. The emergence of global supply chains, rise in international trade and the rapid development of e-commerce.

This has rendered the consumers vulnerable to new forms of unfair trade and unethical business practices such as misleading advertisement, telemarketing, multi level marketing etc. The Consumer Protection Act, 2019 came into effect on July 20, 2020. The Consumer Protection Act 2019 not only recognizes buyer-seller relationship, but also has acknowledged services pertaining to e-commerce platforms.

This new act replaced the Consumer Protection Act, 1986. The aim of both Protection Act is to protect and safeguard the interest of consumers. The basic objective of the Consumer Protection Act, 2019 is to save the rights of the consumers by establishing authorities for timely and effective administration and settlement of consumers' disputes and help in disposal of large numbers of pending cases in consumer courts across the nation.

In *Donoghue v Stevenson* <sup>(8)</sup>

Mrs Donoghue consumed ginger beer purchased by a friend. The ginger beer had a decomposed snail in, this was only noticed once Mrs Donoghue had begun consuming The drink. She suffered from physical illness as a result of drinking the contaminated drink.

6) *The Environment (Protection) Act 1986* <sup>(9)</sup>

The Environment (Protection) Act, 1986 is regulated by the Central Government and functioning under the ministry of Environment and Forest . The main aim of this Act is to protect the environment from the disposition of toxic effluent from various manufacturing industries.

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7 Consumer Protection Act,1986, No.68,Act of Parliament,1986 (India).

8.Donoghue v Stevenson [1932] AC 562, 578-599 (Lord Atkin).

9.The Environment (Protection) Act 1986, No. 29, Act of Parliament, 1986(India).

Under this act it is mandatory for every food Manufacturer to discharge plant waste into the mainstream to obtain a No Objection Certificate (NOC) from the respective state pollution control boards.

In *S Jagannath v. Union of India* <sup>(10)</sup> the petitioner has filed a PIL that has sought the enforcement of CRZ Notification, 1991 for prohibiting the intensive and semi-intensive type of prawn farming in the Ecologically fragile coastal areas and constitution of a National Coastal Management Authority for safeguarding marine life and coastal areas.

Due to the commercial aquaculture farming there is a considerable degradation of the mangrove ecosystems, pollution of potable waters, and reduction in fish catch. The groundwater has become Contaminated due to seepage of impounded water from the aquaculture farms. Further. The court observed that most of the coastal land recently converted into shrimp farms was previously used for food crops and traditional fishing.

7) *The Insecticide Act, 1968* <sup>(11)</sup>

An Act to regulate the import, manufacture, sale, transport, distribution and use of insecticides with a view to prevent risk to human beings or animals, and for matters connected therewith.

Background of this enactment;

In April and May 1958, many people died and many of them fell ill seriously due to food poisoning arising from contamination of food with a poisonous organo-phosphorus Insecticide "Parathion" in the states of Kerala and Madras. Subsequently, cases of food-poisoning were also reported in 1962 in Malda and Dinajpur Districts of West Bengal and Assam, resulting in 450 people being crippled by paralysis due to Contamination of wheat flour with "tri-ortho-cresyl phosphate". Cases of food-poisoning were reported in Bombay in January and February, 1963, as a result of ingestion of rice stored in bags which were reportedly sprayed with 5 per cent. Benzene Hex chloride. Reports have also been received about cases of poisoning due to indiscriminate use of organo-phosphorous compounds like Parathion, Malathion, Diazinon, Baytex, etc., which are said to be marketed in concentrated form for extermination of bed bugs. Cases of poisoning resulting from the use of copper sulphate among the shoe-workers of Agra have also been brought to notice.

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10. Jagannath v. Union of India, (1997) 2 SCC 87: AIR 1997 SC 811.

11. The Insecticide Act, 1968, No. 46, Act of Parliament 1968, (India).

- Object of The Insecticide Act, 1968

- (i) Establishment of a Central Insecticides Board and the setting up of a Committee called the "Registration Committee" for the purpose of granting certificates of registration to persons desiring to import or manufacture insecticides;

- ii) licensing of persons desiring to manufacture, sell or exhibit for sale or distribute any insecticide;

- (ii) Establishment of a Central Insecticide Laboratory for, carrying out certain functions under the Act;

- (iii) Prohibition of import, manufacture, sleet., of insecticides in contravention of the provisions of the Act.

Example:

The petitioner who was a licensee under the Insecticide Act, 1968 claimed that he was a retailer and the product seized from the petitioner was sealed. He makes an issue of the order that the product taken from his shop was misbranded, ought not to have been taken against the petitioner since it was a sealed product, if at all, the appropriate action must have been taken only against the manufacturer or distributor.



8) Export (Quality Control and Inspection) Act, 1963<sup>(12)</sup>

The Export (Quality Control and Inspection) Act, 1963 is enacted and regulated by the Government of India. This is focused on ensuring and protecting the quality of goods that are to be exported from India. The primary objective of this act is to safeguard the reputation of Indian exports in international markets by establishing mechanisms for quality control and inspection of products before they are exported.

9) *Essential Commodities Act, 1955* <sup>(13)</sup>

Essential commodities Act, 1955 was enacted by the Parliament on 1<sup>st</sup> April 1955, governing the production, delivery, supply of various commodities. These commodities are collectively known as Essentials. The act was modified through the Essential Commodities (Amendment) Act, 2020 as part of the 2020 Indian Agricultural Acts (Also known as Farm Bills).

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12. Export (Quality Control and Inspection) Act, 1963, No. 22, Act of Parliament, 1963 (India).

13. Essential Commodities Act, 1955, No. 10, Act of Parliament, 1955 (India).

The list of commodities are subjected to the this act are following;

- Fertilizers
- Pulses
- Edible Oil
- Cereals
- Oilseeds
- Petroleum and allied products
- Seeds of fruits and vegetables

It also governs fixing the minimum price of various products under this act.

10) *The International Organization for Standardization (ISO)* <sup>(14)</sup>

The International Organization for Standardization (ISO) was founded in 1947 and is headquartered in Geneva, Switzerland. The International Organization for Standardization (ISO) is an international nongovernmental organization made up of national standards bodies that develops and publishes a wide range of proprietary, industrial, and commercial standards.

ISO standards cover all fields, from healthcare to technology to manufacturing to security to the environment. ISO develops and publishes standards for a vast range of products, materials, and processes. The two most popular ISO standards are ISO 9001 and 14001. 9001 provides criteria for quality management systems, while 14001 provides criteria for environmental management system.

11) *Food and Agricultural Organization (FAO)* <sup>(16)</sup>

The Food and Agriculture Organization is an international organization operating under the United Nations. It is dedicated to the prevention of hunger and providing nutritious food to those who are suffering from hunger. It was established on 16 October 1945. “*Let there be bread*” is the motto of this organization. It aims to improve nutrition, increase agricultural productivity, raise the standard of living in rural populations and contribute to global economic growth.

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14. The International Organization for Standardization (ISO), 1947, Act of Parliament 1946 (London).

15. FAO, <https://www.fao.org/home/en>, (lasted visited on 31/03/2024).

12. *Food and Drugs Administration (FDA), US* <sup>(16)</sup>

The FDA is considered a medical device. As defined by the Food and Drug Administration (FDA), “an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part, or accessory which is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes.”

13. *Food, Drug and Cosmetic Act, (FD&C)* <sup>(17)</sup>

The United States Federal Food, Drug, and Cosmetic Act (abbreviated as FFDC, FDCA, or FD&C) is a set of laws passed by the United States Congress in 1938 giving authority to the

U.S. Food and Drug Administration (FDA) to oversee the safety of food, drugs, medical devices, and cosmetics.

### ***The Food Safety and Standards Authority of India (FSSAI)***

FSSAI is the regulating body, which enables a safe food environment for the customer. The Food Safety and Standards Act of 2006 (19) was established to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India (FSSAI) for proper regulations of the same.

By virtue of this act, it provides 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. FSSAI is the regulating body established under the Government of India.

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16. Food and Drug Administration, 1906, Act of Govt 1906 ( USA).

17. Food, Drug and Cosmetic Act, 1938, No. 21, Act of Congress ( USA).

This authority has the power to make rules for smooth functioning of those enactments which are laid down herein. Under various enactments passed by the Central Government regarding food laws. If any violation occurred, authority can award penalties subject to the case.

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- *Food safety officer*

A food safety officer is the authorized person to inspect the safety and security of food that is being served in restaurants or street food stalls. In case the food inspected by an officer is not fresh or has spoiled, the FSSAI officer has all the rights to stop production of such food and issue a warning in writing to the organizer. Further, Food Safety Officers can also search or inspect any place with the help of the police force. Usually, the search is controlled or managed by a search warrant issued under the penal code.

• *Offence and punishment under FSS Act 2006* <sup>(18)</sup>

<b>Section</b>	<b>Offence</b>	<b>Penalty</b>
Section 50	Selling food, not of the nature or substances or quality demanded	5 Lakh
Section 51	Sub-standard food	5 Lakhs
Section 52	Misbranded food	3 Lakhs
Section 53	Misleading advertisement: False description	10 Lakhs
Section 54	Food contains extraneous matter	1 Lakhs
Section 55	Failure to comply with the direction	2 Lakhs
Section 56	Unhygienic And unsanitary: Processing; or Manufacture	1 Lakhs
Section 57	Possessing adulterant	Adulterant is not injurious to health – 2 lakh  Adulterant is injurious to health – 10 lakh
Section 58	Contraventions for which no specific penalty is provided	2 Lakhs
Section 59	Punishment for unsafe food	No injury – 1 Lakh  Non-Grievous injury – 3 Lakh  Grievous injury – 5 Lakh
Section 60	Punishment for interfering with seized items	2 Lakhs
Section 61	Punishment for false information	2 Lakh
Section 62	Punishment for obstructing or impersonating an FSO	2 Lakhs
Section 63	Punishment for carrying out a business without a license	5 Lakhs
Section 64	Punishment for subsequent offenses	Fine on a daily basis – 1Lakh

Section 65	Compensation in case of injury or death of a consume	<p>5 Lakh in case of death</p> <p>3 lakh in case of Grievous injury</p> <p>1 lakh in case of all other cases of injury</p>
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*Swami Achyutanand Tirth and Ors. v. Union of India (20) (UOI) and Ors. ( AIR 2016 SC 3626)*<sup>(19)</sup>

This landmark case, decided by the Supreme Court of India in 2016, addressed the crucial issue of food safety and the use of additives and artificial flavours in food products. The petitioners, led by Swami Achyutanand, challenged the Prevention of Food Adulteration (PFA) Rules, 2011, specifically questioning the permissibility of certain additives and flavours deemed detrimental to health. They argued that these substances violated their fundamental right to life under Article 21 of the Constitution.

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18.The Food Safety and Standards Act, 2006, No. 34, Act of Parliament , 2006. ( India).

19.Swami Achyutanand Tirth and Ors. V. Union of India (UOI) and Ors. ( AIR 2016 SC 3626).

***Offence under Indian Penal code 1860***<sup>(20)</sup>

Indian Penal Code also recognizes a few offenses regarding consumables by human beings.

*Adulteration of food or drink intended for sale*

*Section 272 of IPC 1860* deals with the offense of adulteration of food or drink intended for sale. By virtue of this act, if any person adulterates food or drink with the purpose of conducting a sale to make it noxious, such adulteration may cause harm to the consumer. Thus, under this section, the person who committed the aforementioned offense will be liable for 6 months of imprisonment or a fine or both.

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20. Indian Penal Code, 1860, §272, No.45, Act of Parliament,1860( India).

### ***Conclusion and Suggestions***

*“Good food is the foundation of genuine happiness.” – Auguste Escoffier.*

Food is the most wanted thing for any human. Everyone has their particular job to satisfy their basic needs, such as food, shelter, etc. Food should be tasty as well as healthy. Safety is the trademark of any food. In case any food has not carried out those characteristics of safety, it may be considered as unhealthy food. It is the duty of every manufacturer to ensure their products meet safety standards. Food should be nutrient-rich. The Food Safety Standards Authority Board prescribes rules and regulates various food safety-related legislation. FSSAI is the body to synchronize various food standards collectively, e.g., AGMARK, ISO, etc.

Various punishments are recognized under the Food Safety Standards Act of India, 2006, for various offenses regarding food safety.

In short, food cannot be an indispensable and neglected thing for everyone. It should be safe, and mostly fit for consumption. Food cannot be wasted because many people are still suffering from hunger and poverty. In this article, we discuss food safety standards and the punishments for violating these standards.

### *Suggestions*

1. Strengthen the rules against unhygienic food.
2. Provide legal education to consumers related to food safety standards.
3. Formulate rules against food wastage.
4. Strengthen the penalties for the violation of rules under the Food Safety Standards Act 2006.
5. Implement stringent penalties against food adulteration.
6. Make the penalties more rigorous as stipulated under section 65 of the Food Safety Standards Act 2006.