

The Prevention of Food Adulteration Act, 1954

February 26, 2013

[Act No. 37 of 1954]

[29th September 1954]

An Act to make provision for the prevention of adulteration of food

Be it enacted by Parliament in the Fifth Year of the Republic, of India as follow:

Section 1. Short title, extent and commencement

(1) This Act may be called the Prevention of Food Adulteration Act, 1954.

(2) It extends to the whole of India ¹[* * *]

(3) It shall come into force on such date² as the Central Government may, by notification in the official Gazette, appoint.

1. The words "except the State of Jammu and Kashmir" omitted by the Act 41 of 197 1. Sec. 2 (w.e.f. 26th January, 1972).

2. 1st June, 1955; see notification No. S.R.O. 1085, dated 9th May 1955, Gazette of India, Pt. 11 Sec. 3, P. 874. The Act has been extended to Dadra and Nagar Haveli by Reg. 6 of 1963, Sec. 2 and Sch.1, to Pondicherry by Reg. 7 of 1963, Sec. 3 and Sch. 1, to Goa, Daman and Diu by Reg. 11 of 1963, Sec. 3 and Schedule and to Kohima and Mokokchung district in Nagaland by Act 24 of 1972, Sec. 2 (w.e. f. 1st April. 1973).

Section 2. Definitions

In this Act unless the context otherwise requires, —

¹[(i) "adulterant" means any material which is or could be employed for the purpose of adulteration;]

² [(i-a)] "adulterated"—an article of food shall be deemed to be adulterated-

(a) If the article sold by a vendor is not of the nature, substance or quality, demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality, which it purports or is, represented to be;

(b) If the article contains any other substance which affect, or if the article is so processed as to affect injuriously the nature, substance or quality thereof;

(c) If any inferior or cheaper substance has been substituted wholly or in part for the article so as to affect injuriously the nature substance or quality thereof;

(d) If any constituent of the article has been wholly or in part abstracted so as to affect injuriously the nature, substance or quality thereof.

(e) If the article has been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health;

(f) If the article consists wholly or in part of any filthy, putrid, ³[* * *], rotten, decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption;

(g) If the article is obtained from a diseased animal;

(h) If the article contains any poisonous or other ingredient which renders it injurious to health:

(i) If the container of the article is composed, whether wholly or in part, of any poisonous or deleterious substance which renders its (contents injurious to health;

⁴[(j) If any colouring matter, other than that prescribed in respect thereof is present in the article, or if the amounts of the prescribed colouring matter which is present in the article are not within the prescribed limits of variability;]

(k) If the article contains any prohibited preservative or permitted preservative in excess of' the prescribed limits;

⁵[(l) If' the quality or purity of the article falls below the prescribed standards or its constituents are present in quantities not within the prescribed limits of variability but which renders it injurious to health;]

(m) If the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability but which does not render it injurious to health:

Provided that, where the quality or purity of the article, being a primary food has fallen below the prescribed standards or its constituents are present in quantities not within the prescribed limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then, such article shall not be deemed to be adulterated within the meaning of this sub-clause.

Explanation. – Where two or more articles of primary food are mixed together and the resultant article of food-

(a) Is stored, sold or distributed under a name which denotes the ingredients thereof; and

(b) Is not injurious to health,

Then, such resultant article shall not be deemed to be adulterated within the meaning of this clause;

(ii) "Central Food Laboratory" means any laboratory or institute established or specified under Sec. 4;

(iii) "Committee" means the Central Committee for Food Standards constituted under Sec. 3;

(iv) "Director of the Central Food Laboratory" means the person appointed by the Central Government by notification in the Official Gazette as the Director of the Central Food Laboratory and includes any person appointed by the Central Government in like manner to perform all or any of the functions of the Director under this Act:

⁶[Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Director under this clause;]

⁷[(v) "Food" means any article used as food or drink for human consumption other than drugs and water and includes,

(a) Any article, which ordinarily enters into, or is used in the composition or preparation of, human food,

(b) Any flavouring matter or condiments, and

(c) Any other article which the Central Government may, having regard to its use, nature, substance or quality declare, by notification in the official Gazette, as food for the purposes of this Act;]

⁷[(vi) "Food (Health) Authority" means the Director of Medical and Health Services or the Chief Officer in-charge of health administration in a State, by whatever designation he is known, and includes any officer empowered by the Central Government or the State Government, by notification in the Official Gazette, to exercise the powers and perform the duties of the Food (Health) Authority under this Act with respect to such local area as may be specified in the notification;]

(vii) "Local area" means any area, whether urban or rural, declared by ⁸[the Central Government or the State Government] by notification in the Official Gazette, to be a local area for the purposes of this Act;

(viii) "Local authority" means in the case of:

(1) A local area which is-

(a) A municipality, the municipal board or municipal corporation;

(b) A cantonment, the cantonment authority;

(c) A notified area, the notified committee;

(2) Any other area, such authority as may be prescribed by ⁹[the Central Government or the State Government] under this Act;

¹⁰[(viii-a) "Local (Health) Authority", in relation to a local area, means the officer appointed by the Central Government or the State Government by notification in the Official Gazette, to be in-charge of health administration in such area with such designation as may be specified therein;

(viii-b) "Manufacture" includes any process incidental or ancillary to the manufacture of an article of food;]

(ix) "Misbranded"-an article of food shall be deemed to be, misbranded-

(a) If it is an imitation of, is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character;

(b) If it is falsely stated to be the product of any place or country

- (c) If it is sold by a name which belongs to another article of food;
- (d) If it is so coloured, flavored or coated, powered or polished that the fact that the article damaged is concealed or if the article is made to appear better or of greater value than it really is;
- (e) If false claims are made for it upon the label or otherwise;
- (f) If, when sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer and which bear his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act:
- (g) If the package containing it, or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents;
- (h) If the package containing it or the label on the package bears the name of a fictitious individual or company as the manufacturer or producer of the article;
- (i) If it purports to be, or is represented as being, for special dietary uses, unless its label bears such information as may be prescribed concerning its vitamin, mineral, or other dietary properties in order sufficiently to inform its purchaser as to its value for such uses:
- (j) If it contains any artificial flavouring, artificial colouring or chemical preservative, without a declaratory label stating that fact, or in contravention of the requirements of this Act or rules made thereunder;
- (k) If it is not labelled in accordance with the requirements of this Act or rules made thereunder:
- (x) "Package" means a box, bottle, gasket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which an article of food is placed or packed;
- (xi) "Premises" include any shop, stall or place where any article of food is sold or manufactured or stored for sale:
- (xii) "Prescribed" means prescribed by rules made under this Act;
- ¹¹[xii-a) "Primary food" means any article of food, being a produce of agriculture or horticulture in its natural form;]
- (xiii) "Sale" with its grammatical and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article:
- (xiv) "Sample" means a sample of any article of food taken under the provisions of this Act or any rules made thereunder:
- (xv) The words "unwholesome" and "noxious" when used in relation to an article of food mean respectively that the article is harmful to health or repugnant to human use.

STATE AMENDMENT

Maharashtra. – In Sec. 2 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) to Cl. (VI) the following proviso shall be added

“Provided that the Commissioner of Food and Drugs Administration Maharashtra State, appointed as such by the State Government shall on the commencement of the Prevention of Food Adulteration Maharashtra (Amendment) Act, 1969 (.XIII of 1970), be the Food (Health) Authority in the State of Maharashtra.” ¹²

In Cl. (viii). After sub-clause (2), the following proviso shall be added, namely:

“Provided that ‘local authority’ in the case of a local area in the State of Maharashtra, means such authority or officer of the State Government as the State Government may, by notification in the Official Gazette, appoint for the local area specified in the notification.”

- 1. Ins. by Act 34 of 1976, Sec. 2 (w.e.f. Ist. April, 1976).**
- 2. Clause (f) renumbered as Cl. (i-a) by Sec. 2 ibid.**
- 3. The word “disgusting” omitted by Sec. 2 ibid.**
- 4. Subs. by Sec. 2 ibid, for the sub-clause (f) (w.e.f. Ist. April, 1976).**
- 5. Subs. by ibid, for the sub-clause (i) (w.e.f. Ist. April, 1976).**
- 6. Ins. by Act 34 of 1976, Sec.2 (w.e.f. Ist April, 1976)**
- 7. Subs. by ibid.**
- 8. Subs. by Act 49 of 1964. Sec. 2 for “the State Government” (w.e.f. Ist. March, 1965).**
- 9. Ins. by Act 34 of 1976 Sec. 2 (w.e.f. Ist. April, 1976).**
- 10. Subs. by Act 49 of 1964. Sec. 2 for “the State Government” (w.e.f. Ist. March 1965.**
- 11. Ins. by Act 34 of 1976. Sec. 2 (w.e.f. Ist. April, 1976).**
- 12. Vide the Maharashtra Act, 1970 (XIII of 1970), published in the Maharashtra Government Gazette. Extraordinary, Pt. IV. No. 16 dated 12th. March, 1970).**

Section 3. The Central Committee for Food Standards

(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Central Committee for Food Standards to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it under this Act.

(2) The Committee shall consist of the following members, namely:

(a) The Director-General, Health Services, ex officio, who shall be the Chairman:

¹[(b) The Director of' the Central Food Laboratory or, in a case where more than one Central Food Laboratory is established, the Directors of such Laboratories, ex officio;]

(c) Two experts nominated by the Central Government;

²[(d) One representative each of the Departments of Food and Agriculture in the Central Ministry of Food and Agriculture and one representative each of the Central Ministries of Commerce, Defence, Industry and Supply and Railways, nominated by the Central Government;]

(e) One representative each nominated by the Government of each ³[* * *] State;

(f) Two representatives nominated by the Central Government, to represent the, ⁴[Union territories];

⁴[(g) One representative each, nominated by the Central Government, to represent the agricultural, commercial and industrial interests;

(gg) Five representatives nominated by the Central Government to represent the consumer's interests, one of whom shall be from the hotel industry;]

(h) One representative of the medical profession nominated by the Indian Council of Medical Research;

⁵[(i) One representative nominated by the Indian Standards Institution referred to in Cl. (e) of Sec. 2 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952)].

(3) The members of the Committee referred to in Cls. (c), (d), (e), ⁶ ⁷[(q), (gg),] (h), and (i)] of sub- section (2) shall, unless their seats become vacant earlier by resignation, death or otherwise, be entitled to hold office for three years and shall be eligible for re-nomination.

(4) The functions of the Committee may be exercised notwithstanding any vacancy therein.

(5) The Committee may appoint such and so many sub-committees as it deems fit and may appoint to them persons who are not members of the Committee to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Committee may impose, be delegated to them by the Committee.

(6) The Committee, may, subject to the previous approval of the Central Government, make byelaws for the purpose of regulating its own procedure and the transaction of its business.

1. Subs. by Act 34 of- 1976. Sec.3 (w.e.f. Ist. April, 1976).

2. Subs. by Act 49 of- 1964. Sec. 3 (w.e.f. Ist. March. 1965).

3. The words and letters "Part A State and Part B" omitted by the Adaptation of Laws (No.3) Order. 1956.

4. Subs. by ibid, for "Part C States".

5. Ins. by Act 49 of 1964. Sec. 3 (w.e. f. Ist March. 1965).

6. Subs. by Act 34 of 1976, Sec. 3, for Cl. (g) (w.e.f. Ist April, 1976).

7. Subs. by Act 49 of 1964 Sec. 3 for "(g) and (h)" (w.e.f. 1st March. 1965).**Section 3 A. Appointment of Secretary and other staff**

¹[Appointment of Secretary and other staff. (1) The Central Government shall appoint a Secretary to the Committee who shall, under the control and direction of the Committee, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Committee.

(2) The Central Government shall provide the Committee with such clerical and other staff as that Government considers necessary.]

1. Ins. by Act 34 of 1976, Sec. 4 (w.e.f. 1st April, 1976).**Section 4. Central Food Laboratory**

¹[(1) The Central Government shall, by notification in the Official Gazette, establish one or more Central Food Laboratory or Laboratories to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act:

Provided that the Central Government may, by notification in the Official Gazette, also specify any laboratory or institute as a Central Food Laboratory for the purposes of this Act.]

(2) The Central Government may, after consultation with the Committee, make rules prescribing-

²[(a) The functions of Central Food Laboratory and the local area or areas within which such functions may be carried out;]

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

(c) Such other matters as may be necessary or expedient to enable the said Laboratory to carry out its functions.

STATE AMENDMENT

West Bengal. -To sub-section (1) of Sec. 4. The following proviso shall be added, namely:

"Provided that the State Government may with the prior approval of the Central Government, direct that the functions of the Central Food Laboratory and the Director may be carried out in West Bengal by such authority and such officer respectively, as may be specified the State Government by notification in the Official Gazette and any reference in this Act to the Central Food Laboratory or the Director shall then be construed to mean such authority or officer, as the case may be", ³

1. Subs. by Sec. 5. Ibid. For sub-section (1) (w.e.f. 1st April 1976).**2. Subs by Act 34 of 1976. Sec. 5, for, Cl. (a).**

3. Vide West Bengal Act. 42 of 1973. Published in the Calcutta Gazette, Pt. III. No. 264. dated 29th April, 1974 (w.e.f. 29th April, 1974).

Section 5. Prohibition of import of certain articles of food

No person shall import, into India—

(i) Any adulterated food:

(ii) Any misbranded food:

(iii) Any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence: and

(iv) Any article of food in contravention of any other provision of this Act or of any rule made thereunder.

Section 6. Application of law relating to sea customs and powers of Customs Officers

(1) The law for the time being in force relating to sea customs and to goods, the import of which is prohibited by Sec. 18 of the Sea Customs Act, 1878 (8 of 1878)¹ shall, subject to the provisions of Sec. 16 of this Act, apply, in respect of articles of food, the import of which is prohibited under Sec. 5 of this Act, and officers of Customs and officers empowered under that Act to perform the duties imposed thereby on a ²[Commissioner of Customs] and other officers of Customs shall have the same powers in respect of such articles of food as they have for the time being in respect of such goods as aforesaid.

(2) Without prejudice to the provisions of sub-section (1) the ³[Commissioner of Customs], or any officer of the Government authorised by the Central Government in this behalf, may detain any imported package which he suspects to contain any article of food the import of which is prohibited under Sec. 5 of this Act, and shall forthwith report such detention to the Director of the Central Food Laboratory and, if required by him, forward the package or send samples of any suspected articles of food found therein to the said Laboratory.

1. The said Act has been repealed by the Customs Act, 1962 {52 of 1962}, Sec. 160 and Schedule.

2. Subs. by Act 22 of 1995. Sec. 87.

3. The words "or" omitted by Act 34 of 1976, Sec. 6 {w.e.f. 1st April, 1976}.

Section 7. Prohibitions of manufacture, sale, etc. of certain articles of food

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

(i) Any adulterated food:

(ii) Any misbranded food.

(iii) Any article of food for the sale of which a licence is prescribed, except in accordance with the conditions or the licence;

(iv) Any article of food the sale of which is for the time being prohibited by the Food (Health) Authority ¹[in the interest of public health;] ²[* * *]

(v) Any article of food in contravention of any other provision of this Act or of any rule made thereunder, ³[or]

¹[(vi) Any adulterant.

Explanation—For the purposes of this section, a person shall be deemed to store any adulterated food or misbranded food or any article of food referred to in Cl. (iii) of- Cl. (iu) if he stores such food for the manufacture therefrom of any article of food for sale.]

1. Subs. by Act 49 of 1964. Sec. 4 for certain words {w.e.f. 1st March 1965}.

2. The words "or" omitted by Act 34 of 1976, Sec. 6 {w.e.f. 1st April, 1976}.

3. Subs. by Act 49 of 1964. Sec. 5, for Secs. 8 and 9 (w.e. f. 1st March, 1965).

Section 8. Public Analysts

¹[Public Analysts. The Central Government or the State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications to be public analysts for such local area as may be assigned to them by the Central Government or the State Government as the case may be

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

¹[Provided further that different public Analysts may be appointed for different articles of food].

1. Subs. by Act 49 of 1964. Sec. 5, for Secs. 8 and 9 (w.e. f. 1st March, 1965).

Section 9. Food Inspectors

(1) The Central Government or the State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, leaving the prescribed qualifications to be Food Inspectors for such local areas as may be assigned to them by the Central Government or the State Government, as the case may be:

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

(2) Every Food Inspector shall be deemed to be a public servant within the meaning of Sec. 21 of the Indian Penal Code (45 of 1860), and shall be officially subordinate to such authority as the Government appointing him, may specify in this behalf.

Section 10. Powers of Food Inspectors

(1) A Food Inspector shall have power-

(a) To take samples of any article of food from-

(i) Any person selling such article

(ii) Any person who is in the course of conveying, delivering or preparing to deliver such article to a purchaser or consignee:

(iii) A consignee after delivery of any such article to him and

(b) To send such sample for analysis to the Public Analyst for the local area within which such sample has been taken;

²[(c) With the previous approval of the Local (Health) Authority having jurisdiction in the local area, concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of- any article of food in the interest of public health.]

³[Explanation-For the purposes of sub-clause (iii) of Cl. (a), consignee" does not include a person who purchases or receives any article of food for his own consumption.]

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

Provided that no sample of any article of food, being primary food, shall be taken under this sub-section if 'it is intended for sale as such food].

(3) Where any sample is taken under Cl. (a) of sub-section (1) or sub-section (2), its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(4) If any article intended for food appears to any Food Inspector to be adulterated or misbranded, he may seize and carry away or keep in the safe custody of the vendor such article in order that it may be dealt with as hereinafter provided; ²[and he shall, in either case, take a sample of' such article and submit the same for analysis to a public analyst):

⁴[Provided that where the Food Inspector keeps such article in the safe custody of the vendor he may require the vendor to execute a bond for a sum of money equal to the value of such article with one or more securities as the Food Inspector deems fit and the vendor shall execute the bond accordingly.]

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

(5) The power conferred by this section includes power to break open any package in which any article of food may be contained or to break open the door of any premises where any article of food may be kept for sale

⁵[Provided that the power to break open the package or door shall be exercised only after the owner or any other person in charge of the package or, as the case may be, in Occupation of

premises, if he is present therein, refuse,, to open the package or door on being called upon to do so, and in either case after recording the reasons for doing so :]

Provided further that the Food Inspector 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 ⁶[Code of Criminal Procedure, 1973 (2 of 1974)], relating to the search or inspection of a place by a police officer executing a search-warrant issued under that Code.

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

⁸[Provided that no such books of account or other documents shall be seized by the Food Inspector except with the previous approval of the authority to which he is officially subordinated (7) Where the Food Inspector takes any action under Cl. (a) of subsection (1), sub-section (2), sub-section (4) or sub-section (6), he shall ⁹[call one or more persons to be present at the time when such action is taken and take his or their signatures].

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

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

(7-B) When any adulterant is seized under sub-section (6), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized.]

(8) Any Food Inspector may exercise the powers of a police officer ¹¹[under Sec. 42 of the Code of Criminal Procedure, 1973 (2 of 1974)] for the purpose of ascertaining the true name and residence of the person from whom a sample is taken or an article of food is seized.

(9) Any Food Inspector exercising powers under this Act or under the rules made thereunder who-

(a) Vexatiously and without any reasonable grounds of suspicion seizes any article of food ¹¹[or adulterant]: or

(b) Commits any other act, to the injury of any person without having reason to believe that such act is necessary for the execution of his duty; Shall be guilty of an offence under this Act and shall be punishable for such offence ¹¹[with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees].

1. Vinod Kumar v. State of Punjab, 1983 Cr. L.J.177 at p. 178 (P. & H.) I see also Hariram v. State of M.P., 1992 Cr.L.J.2135 at p. 3138 (M.P.) 1993 (1) E.F.R 160 at p. 168 (M.P); State of U.P. v Hanif. 1992 Cr.L.J. 1429 at { . 1431 (S.C.).

2. Subs. by Act 34 of 1976, Sec. 8 (w.e.f. 1 st April, 1976)

3. Ins. by Act 34 of 1976, Sec. 8 (w.e.f. 1 st April, 1976).

4. Ins. by Act 49 of 1964, Sec. 6 (w.e.f. 1st March. 1965).

5. Subs. by Act 34 of 1976. Sec. 8, for the first proviso (w.e.f. 1st April 1976).

6. Subs by ibid. for "the code of Criminal Procedure. 1898" (w.e.f. 1st April 1976).

7. Subs. by 34 of 1976. Sec. 8, for certain words (w.e.f. 1st April, 1976).

8. Subs. by ibid, for the former proviso (w.e.f. 1st April, 1976).

9. Subs. by Act of 1964, Sec. 6. For certain words (w.e.f. 1st March, 1965)

10. Ins. by Act 34 of 1976, Sec. 8 (w.e.f. 1st April, 1976).

11. Sadhram v. State of M.P.1995 (1) E.F.R. 638 at p. 639 (M.P.).

Section 11. Procedure to be followed by Food Inspectors

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

(a) Give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any whose name, address and other particulars have been disclosed Sec. 14-A:

(b) Except in special cases provided by rules under this Act, divide the sample then and there into three part and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as maybe prescribed:

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

(C) (i) Send one of the parts for analysis to the public analyst under Intimation to the Local (Health) Authority: and

(ii) Send the remaining two parts to the Local (Health) Authority for the purposes of sub-section (2) of this section of sub-Sections (2-A) and (2-F,) of Sec.13.

(2) Where the part of the sample sent to the public analyst under sub- clause (i) of Cl. (c) of sub-section (1) is lost or damaged, the Local (Health) Authority shall, on a requisition made to it by the public analyst or the Food Inspector despatch one of the parts of the sample sent to it under sub- clause (ii) of the said C1. (C) To the public analyst for analysis.]

(3) When a sample of any article of food ¹[or adulterant] is taken under sub- section (1) or sub-section (2) of Sec. 10. ²[the Food Inspector shall, by the immediately succeeding working day, send a sample of the article of food or adulterant or both, as the may be,] in accordance with the rules prescribed for shambling to the public analyst for the local area concerned.

³[(4) An article of food seized under- sub-section (4) of See, 10,'Unless destroyed under sub-section (4-A) of that section, and any adulterant seized under sub-sections (6) of' the section,

shall be produced before a Magistrate as soon as possible and in any case not later than seven days after the receipt of the report of the public analyst].

Provided ⁴[* * *] that if an application is made to the Magistrate in this behalf by the person from whom any article of food has been seized, the Magistrate shall, by order in writing direct the Food Inspector to produce such article before him within such time as may be specified in

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

(a) That the article of food produced before him under sub- section (4) is adulterated or misbranded he may order it-

(i) To be forfeited to' the Central Government, the State Government or the local authority, as the case may be, or

(ii) To be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food; or

(iii) To be so disposed of' as to prevent its being again exposed for sale or used for food under its deceptive name; or

(iv) To be returned to the owner, on his executing a bond with or without sureties, for being sold under its appropriate name or, where the Magistrate is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, for being sold after reprocessing under the supervision of such officer as may be specified in the order;

(b) That the adulterant seized under sub-section (6) of Sec. 10 and produced before him is apparently of a kind which may be employed for purposes of adulteration and for the possession of which the manufacturer, distributor or dealer, as the case may be, is unable to account satisfactorily, he may order it to be forfeited to the Central Government, the State Government or the local authority, as the case may be.]

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

(a) Article of food is not adulterated: or

(b) Adulterant which is purported to be an adulterant is not an adulterant,

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

STATE AMENDMENT

Maharashtra. – In Sec.11 of the principal Act in sub-section (5), in Cl. (a) for the words "local authority". the words "State Government" shall be substituted. ⁷

1. Ins. by Act 34 of 1976, Sec.9 (w.e.f. 1st April 1976).

2. Subs. by *ibid.*, (w.e.f.) 1st April, 1976) .

3. Subs. by *ibid.*, Sec. 9 (w.e.f. 1st April. 1976), for sub –section (4) and first proviso.

4. The word “further” omitted by *ibid.*, Act 34 of 1976. Sec 9 (w.e.f. 1st April , 1976).

5. Subs. by *ibid.*, for the sub- section (5).

6. Subs. by Act 34 of 1976. Sec. 9. for certain words.

7. Vide Maharashtra Act, 1975 (L of 1975) ` published in the Maharashtra Government Gazette. Pt. IV, dated 16th’October. 1975 (‘W.e.f. 11th April, 1977).

Section 12. Purchaser may have food analysed

Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a Food Inspector ¹[or a recognised consumer association, whether the purchaser is a member of that association or not,] from having such article analysed by the public analyst on payment of such fees as may be prescribed and from receiving from the public analyst a report of’ his analysis:

Provided that ²[such purchaser or recognised consumer association shall inform the vendor at the time of purchase of his or its intention] to have such article so analysed provided further that the provisions of sub-sections (1), (2) and (3) of Sec. 11 shall, as far as may be, apply to a ³[purchaser of article of food or recognised consumer association who or which intends] to have such articles so analysed, as they apply to a Food Inspector who takes sample of food for analysis:

Provided also that if the report of the public analyst shows that the article of food is adulterated, the ⁴[purchaser or recognised consumer association shall be entitled to get refund of the fees paid by him or it] under this section.

⁵[Explanation. -For the purposes of this section and Sec. 20 recognised consumer association” means a voluntary consumer association registered under the Companies Act, 1956 (1 of 1956), or under any other law for the time being in force].

1. Ins. by Act 70 of 1986, Sec., 2 (w.e.f. 1st May, 11)87).

2. Subs. by Act 70 of 1986. Sec. 2, for words “such purchaser shall inform the vendor at the time of purchase of his intention.”

3. Subs. by Sec. 2, *ibid.* For the words purchaser of article. Of food who intends”.

4. Subs. by Sec. 2, *ibid.* for the words “purchaser shall be entitled to get refund of the fees paid by him”.

5. Ins. by Sec. 2. *Ibid.*

Section 13. Report of public analyst

¹[(1) The public analyst shall deliver, in such form as may be prescribed. a report to the Local (Health) Authority of the result of the analysis of any article of food submitted to him for analysis.

(2) On receipt of the report of the result of the analysis under subsection (1) to the effect that the article of food is adulterated the Local (Health) Authority shall, after the institution of prosecution against persons from whom the sample of the article of food was taken and the person, if any, whose name, address and other particulars have been disclosed under Sec. 14-A forward, in Such manner as may be prescribed, a copy of the report of the result of the analysis to such person or persons, as the case may be, informing such person or persons that if it is so desired, either or both of them may make an application to the Court within a period of ten days from the date of receipt of the copy of the report to get the sample of the article of food kept by the Local (Health) Authority analysed by the Central Food Laboratory.

²(2-A) When an application is made to the Court under sub-section (2), the Court shall require the Local (Health) Authority to forward the parts of the sample kept by the said Authority and upon such requisition being made, the said Authority shall forward the part or parts of the sample to the Court within a period of five days from the date of receipt of such requisition.

(2-B) On receipt of the part or parts of the sample from the Local (Health) Authority under sub-section (2-A), the Court shall first ascertain that the mark and seal or fastening as provided in Cl. (b) of sub-section (1) of Sec. 11 are intact and the signature or thumb impression, as the case may be, is not tampered with, and despatch the part or, as the case may be, one of the parts of the sample under its own seal to the Director of the Central Food Laboratory who shall thereupon send a certificate to the Court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis.

(2-C) Where two parts of the sample have been sent to the Court and only one part of the sample has been sent by the Court to the Director of the Central Food Laboratory under subsection (2-B), the Court shall, as soon as practicable, return the remaining part to the Local (Health) Authority and that Authority shall destroy that part after the certificate from the Director of the Central Food Laboratory has been received by the Court:

Provided that where the part of the sample sent by the Court to Director of the Central Food Laboratory is lost or damaged, the Court shall require the Local (Health) Authority to forward the part of the sample, if any, retained by it to the Court and on receipt thereof the Court shall proceed in the manner provided in sub-section (2-B).

(2-D) Until the receipt of the certificate of the result of the analysis from the Director of the Central Food Laboratory, the Court shall not continue with the proceedings pending before it in relation to the prosecution.

(2-E) It, after considering the report, if any, of the Food Inspector or otherwise, the Local (Health) Authority is of the opinion that the report delivered by the public analyst under subsection (1) is erroneous, the said Authority shall forward one of the parts of the sample kept by it to any other public analyst for analysis and if the report of the result of the analysis of that part of the sample by that other public analyst is to the effect that the article of food is adulterated, the provisions of sub-sections (2) to (2-D)) shall, so far as may be, apply.]

(3) The certificate issued by the Director of the Central Food Laboratory under sub-section (2-B) shall supersede the report given by the public analyst under subsection (1).

(4) Where a certificate obtained from the Director of the Central Food Laboratory ²[under sub-section (2-B)] is produced in any proceeding under this Act or under Sees. 272 to 276 of the Indian Penal Code (45 of 1860), it shall not be necessary in such proceeding to produce any part of the sample of food taken for analysis.

(5) Any document purporting to be a report signed by a public analyst, unless it has been superseded under sub-section (3), or any document purporting to be a certificate signed by the

Director of the Central Food Laboratory, may be used as evidence of the facts stated therein in any proceeding under this Act or under Sees. 272 to 276 of the Indian Penal Code:

³[Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory [not being a certificate with respect to the analysis of the part of the sample of any article of food referred to in the proviso to sub- section (I -A) of Sec. 161 shall be final and conclusive evidence of the facts stated therein.]

⁴[Explanation-In this section, and in Cl. (9 of sub-section (1) of Sec. 16, "Director of the Central Food Laboratory" shall include the officer in charge of any Food Laboratory (by whatever designation he is known) recognised by the Central Government for the purposes of this section.

1. Subs. by Act 34 of 1976. Sec. 10 for sub-section (1) and (2) (w.e.f. 1st April 1976).

2. Subs. by Act 34 of 1976. Sec.10 for under sub-section(2)" (w.e.f. 1st April 1976).

3. Subs. by Act 34 of 1976. Sec. 10 for proviso (w .e . f. 1st April 1976).

4. Ins. Ibid. (W.e.f. 1st April. 1976).

Section 14. Manufacturers, distributors, and dealers to give warranty

¹[Manufacturers, distributors, and dealers to give warranty. No ²[manufacturer or distributor of, or dealer in] any article of food shall sell such article to any vendor unless he also gives a warranty in writing in the prescribed form about the nature and quality of such article to the vendor :

³[Provided that a bill, cash memorandum or invoice in respect of the sale of any article of food given by a manufacturer or distributor of, or dealer in such article to the vendor thereof shall be deemed to be a warranty given by such manufacturer, distributor or dealer under this section]

Explanation-In this section, in sub-section (2) of Sec. 19 and in Sec. 20-A, the expression "distributor" shall include a commission agent.

1. Subs. by Act 49 of 1964. Sec. 14 (w.e.f. 1st March 1965).

2. Subs. by Act 34 of 1976, Sec, 7 for Sec. (w.e.f. 1st April, 1976).

3. Ins, by ibid. For the proviso (w.e.f. . 1st April 1976).

Section 14 A. Vendor to disclose the name, etc. of the person from whom the article of food was purchased

Every vendor of an article of food shall, if so required, disclose to the Food Inspector the name, address and other particular of the persons from whom he purchased the article of food.

Section 15. Notification of food poisoning

¹[The Central Government or the State Government] may, by notification in the Official Gazette, require medical practitioners carrying on their profession in any local area specified in the, notification to report all occurrences of food poisoning coming within their cognizance to such officer as may be specified in the notification.

1. Municipal Corporation of Delhi v. Ram Chand. (1985) I-F A.C 79 at P. 84 (Delhi).

Section 16. Penalties

¹[(1) Subject to the provisions of subsection (I -A) if any person, -

(a) Whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any article of food—

(i) Which is adulterated within the meaning of sub-clause (m) Of Cl. (i-a) of Sec. 2 or misbranded within the meaning of Cl. (ix) Of that section or the sale of' which is prohibited under any provision of this Act or any rule made thereunder or by an order of the Food (Health) Authority;

(ii) Other than an article of food referred to in sub-clause (i), in contravention of any of the provisions of this Act or of any rule made thereunder ; or

(b) Whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any adulterant which is not injurious to health; or

(c) Prevents a Food Inspector from taking a sample as authorised by this Act : or

(d) Prevents a Food Inspector from exercising any other power conferred on him by or under this Act : or

(e) Being a manufacturer of an article of food, has in his possession, or in any of- the premises occupied by him, any adulterant which is not injurious to health; or

(f) Uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory or by a public analyst or any extent thereof for the purpose of 'advertising any article of food; or

(g) Whether by himself or by any other person on his behalf, gives to the vendor, a false warranty in writing in respect of any article of food sold by him, he shall, in addition to the penalty to which he may be liable under the provisions of Sec. 6, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine which shall not be less than one thousand rupees':

Provided that-

(i) If the offence is under sub-clause (i) of Cl. (a) and is with respect to an article of food, being primary food which is adulterated due to human agency or is with respect to an article of food which is misbranded within the meaning of sub-clause (k) of Cl. (ix) of Sec. 2or

(ii) If the offence is under sub-section (ii) of Cl. (a), but not being an offence with respect to the contravention of any rule made under Cl. (a) or Cl. (g) of sub-section (I-A) of Sec. 23 or under Cl. (b) of sub-section (2) of Sec 24,

The Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years, and with fine which shall not be less than five hundred rupees:

Provided further that if offence is under sub-clause (ii) of Cl. (a) and is with respect to the contravention of any rule made under Cl. (a) or Cl. (g) of sub-section (I -A) of Sec. 23 or under Cl. (b) of sub-section (2) of Sec. 24, the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees.]

²[(I-A) If 'any person whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes, -

(i) Any article of food which is adulterated within the meaning of any of sub- clauses (e) to (1) (I-) both inclusive) of Cl. (i-a) of Sec. 2, or

(ii) Any adulterant which is injurious in addition to the penalty to which he may be liable under the provisions of' Sec.6, be punishable with imprisonment for a term which shall not be less than one year but which may extend to six years and with fine which shall not be less than two thousand rupees :

Provided that if such article of food or adulterant when consumed by any person is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of Sec. 320 of the Indian Penal Code (45 of 1860), he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with line which shall not be less than five thousand rupees.]

³[(i-AA) If any person in whose safe, custody any article of food has been kept under sub-section (4) of Sec. 10, tampers or in any manner interferes with such article, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not less than one thousand rupees.]

⁴[(I -B) If any Person in whose safe, custody any article of food has been kept under sub-section (4) of 'Sec. IO sells or distributes such article, which is found by the Magistrate before whom it is produced to be adulterated within the meaning of sub-clause (h) of Cl. (i-a) of Sec. 2 and which, when consumed by any person, is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of Sec. 320 of the Indian Penal Code (45 of 1860), then, notwithstanding anything contained in sub-section (I - AA), he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees.]

(I-C) If any person contravenes the provisions of Sec. 14 or Sec. 14-A, he shall be punishable with imprisonment for a term, which may extend to six months and with fine, which shall not be less than five hundred rupees.

(I -D) If any person convicted of an offence under this Act commits a like offence afterwards, then, without prejudice to the provisions of' sub-section (2), the Court, before which the second or subsequent conviction takes place, may order the cancellation of the licence, if any, granted to him under this Act and thereupon such licence shall, notwithstanding anything contained in this Act or in the rules made thereunder, stand cancelled.

(2) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the Court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Court may direct. The expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner- as a fine.

STATE AMENDMENT

West Bengal. -In Se. 16. -

(a) In sub-section (1),,for the words "a term which shall riot be less their? Six months but which may extend to six year. And with fine which shall not be less than one thousand rupees." The world " life and shall also be liable to fine" shall be substituted:

(b) In the proviso to sub-section (1) for the worlds " the Court may for any adequate and special reasons to be mentioned in the judgment. Impose a sentence of imprisonment for a term of less than six months and fine of less than one thousand rupees". The following words shall be substituted. namely:

"If the Court thinks that for any adequate and special reasons to be mentioned in the judgment a lesser sentence would serve the end of justice. The judgment the Court may impose a sentence which is less than a sentence of imprisonment for life."

In subsection (I -B), _for the words "a term of six year and with fine which shall not be less than one thousand rupee." the words "life and shall also be liable to fine" shall be substituted. ⁵

1. Subs. Act 34 of 1976, Sec. 12 (w.e.f. Ist April 1976),

2. Ins. by Act 34 of 1976. Sec. 12 (w.e.f.Ist April 1976).

3. Sub-section (1-A) renumbered (as sub- section I-AA) by Sec. 12 of the Act 34 of 1976 (w.e.f. 1st April. 1976).

4. Subs. by ibid. For sub-section (1-B) (w.e.f.1 st April. 1976).

5. Vide the West Bengal Act (XLIIof-1973) published in the Calcutta Gazette. Pt.11I No. 267. dated 29th April 1974.

Section 16 A. Power of Court to try cases summarily

¹[Power of Court to try cases summarily. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under subsection (1) of Sec. 16 shall be tried in a summary way by a Judicial Magistrate of the first class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of Secs. 262 to 265 (both inclusive) of the said Code shall, as far is may be, apply to such trial:

Provided that in the ease of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence Of imprisonment for a term exceeding one year may have to be passed or that it is, for any other

reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.]

1. Ins. by Act 34 of 1976, Sec. 13 (w.e.f. 1st April, 1976).

Section 17. Offences by companies

¹[Offences by companies. (1) Where an offence under this Act has been committed by a company-

(a) (i) The person, if any, has been nominated under sub-section (2) to be in charge of, and responsible to the company for the conduct of the business of the company (hereafter in this section referred to as the person responsible), or

(ii) Where no person has been so nominated, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company; and

(b) The company

Shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Any company may, by order in writing, authorise any of its directors or managers (such manager being employed mainly in a managerial or supervisory capacity) to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Local (Health) Authority, in such form and in such manner as may be prescribed, that it has nominated such director or manager as the person responsible, along with the written consent of such director or manager for being so nominated.

Explanation-Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(3) The person nominated under sub-section (2) shall, until-

(i) Further notice cancelling such nomination is received from the company by the Local (Health) Authority; or

(ii) He ceases to be a director or, as the case may be, manager of the company: or

(iii) He makes a request in writing to the Local (Health) Authority, under intimation to the company, to cancel the nomination which request shall be complied with by the Local (Health) Authority, whichever is the earliest, continue to be the person responsible:

Provided that where such person ceases to be a director or, as the case may be, manager of the company, he shall intimate the fact of such cesser to the Local (Health) Authority:

Provided further that where such person makes a request under Cl. (iii) the Local (Health) Authority shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company not being a person nominated under subsection (2), such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation-For the purposes of this section, –

(a) "Company" means any body corporate and includes a firm or other association of individuals:

(b) "Director", in relation to a firm, means a partner in the firm; and

(c) "Manager" in relation to a company engaged in hotel industry, includes the person in charge of the catering department of any hotel managed or run by it.

1. Subs. by Act 34 of 1976. Sec. 14, for Sec. 17 (w.e.f. 1st April 1976).

Section 18. Forfeiture of property

Where any person has been convicted under this Act for the contravention of any of the provisions of this Act or of any rule there under, the article of food in respect of which the contravention has been committed may be forfeited to the Government.

¹[Provided that where the Court is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, the Court may order the article of food to be returned to the owner, on his executing a bond with or without sureties, or being sold, subject to the other provisions of this Act, after reprocessing under the supervision of such officer as may be specified therein.

1. Ins by Act 34 of 1976, Sec. 15 (w.e.f. 1st April 1976)

Section 19. Defences, which may or may not be allowed in prosecutions under this Act

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

¹(2) A vendor shall not be deemed to have committed an offence pertaining to the sale of any adulterated or misbranded article of food if he proves-

(a) That he purchased the article of- food-

(i) In a case where a licence is prescribed for the sale thereof, from a daily licensed manufacturer, distributor or dealer;

(ii) In any other case, from any manufacturer, distributor or dealer, with a written warranty in the prescribed form; and

(b) That the article of food while in his possession was properly stored and That he sold it in the same State as he purchased it.]

(3) Any person by whom a warranty as is referred to, ²[in Sec. 14] is alleged to have been given shall be entitled to appear at the hearing and give evidence.

STATE AMENDMENTS

Uttar Pradesh. -After Sec. 19, the Following section shall be inserted. namely:

"19A. Burden of proof. -. When any article intended for food is seized from any person under sub-section (4) of 'Sec I 0 by a Food inspector in the reasonable belief that the same is adulterated or misbranded, the burden of proving that Such article intended for food is not adulterated or. Misbranded shall be on the person from whose possess such article intended for food was seized. "³

West Bengal. -After Sec. 19. The, following section shall be inserted, namely: Burden-of-proof. -When any article intended for food is seized from any person in the reasonable belief that the same is adulterated or misbranded the burden of proving that such article intended for _food is not adulterated or misbranded shall be on the person from whose possession such article intended for food was seized.⁴

1. Subs. by Act 49 of 1964 sec 10 (w.e.f. 1st March. 1965).

2. Subs. by ibid for the words "in sub-section (2)" (w.e.f. 1st march, 1965).

3. Vide the Prevention of Adulterated of Food, Drugs and Cosmetics (Uttar Pradesh Amendment) Act. 1974 (U.P. Act No- 47 of 1975) (w.e f. 15th December, 1975).

4. Vide the West Bengal Act XLII of 19'73. published in the Calcutta Gazette, Pt. 111, No. 267, dated 29th April, 19,14 (w.e.f. 29tti April, 1974).

Section 20. Cognizance and trial of offences

¹[(1) No prosecution for an offence under this Act, not being an offence under this Sec. 14 or Sec. 14-A] shall be instituted except by, or with the written consent of, ²[the Central Government or the State Government ³[***] or a person authorised in this behalf by general or special order, by the Central Government or the State Government ²[***]:

Provided that a prosecution for an offence under this Act may be instituted by a purchaser ⁴[or recognised consumer association] referred instituted to in Sec. 12 ⁵[if he or it produces] in Court a copy of the report of the public analyst along with the complaint.

⁶[(2) No Court interior to that of Metropolitan Magistrate or a, Judicial Magistrate of the first class shall try any offence under this Act.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence, punishable under sub-section (I -AA) of Sec. 16 shall be cognizable and non-bailable.]

STATE AMENDMENT

West Bengal. -For Sec. 20, the following section shall be inserted, namely: "20. Cognizance offences and arrest without warrant. -(1) All offences punishable under this Act shall be cognizable and non-bailable.

(2) Any police officer not below the rank of a Sub- Inspector of police may arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received Of his having been concerned in any of the offences punishable under this Act." ⁷

1. Subs. by Act 34 of 1976, Sec. 16 (w.e.f. Ist, April 1976).

2. Subs by Act 49 to 1964, Sec. II for certain words (w.e.f. Ist March 1965).

3. The words "or a local Authority" emitted by Act 34 oi'1976, Sec. 16 I-or certain words (w.e.f. Ist April 1976).

4. Ins. by Act 70 of 1986, Sec. 3 (a) (w.e.f.Ist May, 1987).

5. Subs. by sec. 3 (b), ibid. (w.e.f. Ist May, for the words "if he produces".

6. Subs. by Act 34 of 1976, sec. 16.

7. Vide the west Bangal Act (XLII of 1973), published in the Calcutta Gazette, pt. III. No.267, dated 29th April, 1974 (w.e.f.29th April, 1974).

Section 20 A. Power of Court to implead manufacturers, etc

¹[Power of Court to implead manufacturers, etc. Where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the manufacturer, distributor or dealer of any article of food, the Court is satisfied, on the evidence adduced before it, that such manufacturer, distributor or dealer is also concerned with that offence, then the Court may, notwithstanding anything contained in ²[sub-section (3) of Sec. 319 of the Code of Criminal Procedure, 1973 (2 of 1974)], or in Sec. 20 proceed against him as though a prosecution had been instituted against him under Sec. 20.]

1. Ins. by Act 49 of 1964, Sec. 12 (w.e.f. 1 st March, 1965).

2. Subs. by Act 34 of 1976, Sec. 17, for certain words (w.e.f. I st April. 1976).

Section 20 AA. Application of the Probation of Offenders Act, 1958 and Sec. 360 of the Code of Criminal Procedure, 1973

¹[Application of the Probation of Offenders Act, 1958 and Sec. 360 of the Code of Criminal Procedure, 1973. Nothing contained in the Probation of Offenders Act, 1958 (20 of 1958), or

Sec. 360 of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.

1. Ins. by Act 34 of 1976 . Sec. 18 (w.e.f. 1st April, 1976).

Section 21. Magistrate's power to impose enhanced penalties

¹[Magistrate's power to impose enhanced penalties. Notwithstanding anything contained in Sec. 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class to pass any sentence authorised by this Act, except a sentence of imprisonment for life or for a term exceeding six years, in excess of his powers under the said section.]

1. Subs. by Act 34 of 1976, sec 19 (w.e.f. 1st April, 1976)

Section 22. Protection of action taken in good faith

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Section 22 A. Power of Central Government to give directions

¹[Power of Central Government to give directions. The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of all or any of the provisions of this Act and the State Government shall comply with such directions.]

1. Ins. by Act 34 of- 1976. Sec. 20 (w.e.f. 1 st April, 1976).

Section 23. Power of the Central Government to make rules

¹(1) The Central Government may, after consultation with the Committee and after previous publication by notification in the Official Gazette, make rules to carry out the provisions of 'this Act:

Provided that consultation with the Committee may be dispensed with if the Central Government is of the opinion that circumstances have arisen which render it necessary to make rules without such consultation, but in such a case, the Committee shall be consulted within six months of the making of the rules and the Central Government shall take into consideration any suggestions which the Committee may make in relation to the amendment, of the said rules.]

²[(1-A) ³[in particular and without prejudice to the generality of the foregoing power, such rules may provide for- all or any of the following matters, namely:]

(a) Specifying the article of food or classes of food for the import of which a licence is required] and prescribing the form and Conditions of such licence, the authority empowered to issue the same, ⁴[the fees payable therefor, the deposit of any sum as security for the performance of the

conditions of the licence and the circumstances under which such licence or security may be cancelled or forfeited]:

(b) Defining the standards of quality for, and fixing the limits of variability permissible in respect of, any article of food:

(c) Laying down special provisions for imposing rigorous control over the production, distribution and sale of any article or class of articles of food which the Central Government may, by notification in the Official Gazette, specify in this behalf including registration of the premises where they are manufactured, maintenance of the premises in a sanitary condition and maintenance of the healthy state of human beings associated with the production, distribution and sale of such article or class or articles;

(d) Restricting the packing and labelling of any article of food and the design of any such package or label with a view to preventing the public or the purchaser being deceived or misled as to the character, quality or quantity of the article or to preventing adulteration;

(e) Defining the qualifications, powers and duties of Food Inspectors and public analyst;

(ee) Defining the laboratories where samples of articles of food or adulterants may be analysed by public analyst under this Act;

(f) Prohibiting the sale or defining the conditions of sale of any substance which may be injurious to health when used as food or restricting in any manner its use as an ingredient in the manufacture or sale of any article of food

(g) Defining the conditions of sale or conditions for licence of sale of any article of food in the interest of public health

(h) Specifying the manner in which containers for samples of food purchased for analysis shall be sealed up or fastened up

(hh) Defining the methods of analysis:]

(i) Specifying a list of permissible preservatives, other than common salt and sugar, which alone shall be used in preserved fruits, vegetables, or their products or any other article of food as well as the maximum amount of each preservative:

(j) Specifying the colouring matter and the maximum quantities thereof which may be used in any article of food;

(k) Providing for exemption from this Act or of any requirements contained therein and subject to such condition, if any as may be specified of any article or class of articles of food;

(l) Prohibiting or regulating the manufacture, transport or sale of any article known to be used as an adulterant of food;

(m) Prohibiting or regulating-

(i) The addition of any water, or other diluent or adulterant to any article of food;

(ii) The abstraction of any ingredient from any article of food

(iii) The sale of any article of food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated;

(iv) The mixing of two or more articles of food which are similar in nature or appearance, ,

(n) Providing for the destruction of such articles of food as are not in accordance with the provisions of this Act or of the rules made thereunder

⁵[(2) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days ⁶[which may be comprised in one session or in two or more successive sessions, and it before the expiry of 'the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Ins. by Act 34 of 1976, Sec. 21 (w.e.f. 1 st April 1976).

2. Remunerated by Act 34 of 1976, Sec. 21 (w.e.f. 1st April 1976).

3. Subs. by ibid, for certain words (w.e.f. 1st April, 1976).

4. Subs. by Act 49 of 1964, Sec.13. for the words and fees payable therefor" (w.e.f- 1st March, 1965).

5. Subs. by Act 49 of 1964. NCC. 13 (w.e.f. 1st March, 1965).

6. Subs. by Act 34 of 1976, Sec. 21, for certain words (w.e.f. 1st April, 1976).

Section 24. Power of the State Government to make rules

(1) The State Government may, after consultation with Committee and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act in i-matters not falling within the purview of Sec. 23.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may-

(a) Define the powers and duties of the Food (Health) Authority, ¹[local authority and Local (Health) Authority under this Act ²[* * *]:

(b) Prescribe the forms of licences for the manufacture for sale, for the storage, for the sale and for the distribution of articles of food or any specified article of food or class of articles of food, the form of' application for such licences the conditions subject to which such licences may be issued, the authority empowered to issue the same, ³[the fees payable therefor], the deposit of any sum as security for the performance of the conditions of the licences and the circumstances under which such licences or security ⁴[may be suspended, cancelled or forfeited]:

(c) Direct a fee to be paid for analysing any article of food or for any matter, for which a fee may be prescribed under this Act,

(d) Direct that the whole or any part of the fines imposed under this Act shall be paid to a local authority on realization

(e) Provide for the delegation of the powers and functions conferred by this Act on the State Government or the Food (Health) Authority to subordinate authorities or to local authorities.

(3) All rules made by the State Government under this Act, shall, as soon as possible after they are made, be laid before the respective State legislatures.

STATE AMENDMENT

Maharashtra. -In Sec. 24 o the principal Act, in sub -section (2), in Cl. (d) for the words "shall be paid to a local authority on realization", the words "shall, on realization, be paid either to ct local authority. Or officer of the State Government is appointed, as the local authority, be credited to the Consolidated fund of the State" shall be substituted⁵.

1. Subs. by Act 34 of 1976, Sec. 22, for "and local authority".

2. Certain words omitted by Act 49 of 1964, Sec. 14 (w.e.f. 1 st March 1965).

3. Subs. by ibid. for the words "and the fees payable therefor".

4. Subs. by Act 34 of 1976, Sec. 22, for the words "may be cancelled for forfeited" (w.e.f. 1st April 1976),

5. Vide Maharashtra Act (I of 1975) published in the Maharashtra Government Gazette, Pt. IV, dated the 16th October 1975 (w.e.f. 11 Th April 1977).

Section 25. Repeal and saving

(1) It immediately before the commencement of this Act, there is in force in any State to which this Act extends any law Corresponding to this Act, that corresponding law shall upon such commencement stand repealed.

(2) Notwithstanding the repeal by this Act of any corresponding law, all rules, regulations and bye-laws relating to the prevention of adulteration of food made under such corresponding law and in force immediately before the commencement of this Act shall, except where and so far as they are inconsistent with or repugnant to the provisions of this Act, continue in force until altered, amended or repealed by rules made under this Act¹.

1. In its application to the State of Jammu and Kashmir in Sec. 25 after sub-section (2), the following sub-section shall be inserted, namely:
