

F  **OOD SAFETY**

& AGRI-BUSINESS

Sector & Laws in India

INDIA JURIS

International Law Firm

July 2013

New Delhi * Mumbai * Chennai * Bangalore

INTRODUCTION

Food Safety and Agri-business is an emerging dynamic area in India. There has been a lot of activity in this area and the government has also been updating the related laws in order to regulate the field more effectively.

After the Food Safety and Standards Act was passed in 2006, the Ministry of Health and Family Welfare established an Authority called Food Safety and Standards Authority of India (FSSAI) in furtherance of achieving the objectives of the Act.

As a result of the Act coming into force, various other Acts dealing with issues relating to food were repealed.

Therefore, at present, it is the FSSAI that lays down and regulates the standards to be followed during the manufacture, storage, export, import, sale and distribution of food and food items. Plus, with the Food Safety and Agribusiness sector showing a healthy growth, the current trend is takeover of the food testing labs by the companies, facilitated by a much effective regime.

REGULATORY FRAMEWORK

Previously, the Packaging Laws and Regulations for food products were mainly covered under:

- The Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 (SWMA).
- The Prevention of Food Adulteration Act, 1954 and the Prevention of Food Adulteration Rules, 1955 and its first amendment, 2003 (PFA).
- The Fruit Products Order, 1955 (FPO)
- The Meat Food Products Order, 1973 (MFPO)
- The Edible Oil Packaging Order, 1998
- The AGMARK Rules

A few years after passing the Food Safety and Standards Act, the Central Government enacted another Act called Legal Metrology Act, 2009 and its corresponding Rule titled Legal Metrology (Packaged Commodities) Rules, 2011 which also give standard for labelling and declaration of commodities. Both the Acts make a strong appeal and intend to regulate and control the “Quality, Quantity and Standard” of commodities

RELEVANT LAWS

Food Safety and Standard Act, 2006 (FSS Act) and corresponding Rules & Regulation, 2011

- As discussed earlier, the Act primarily deals with the setting up of the Authority which would regulate and set standards for the various processes involved with respect to food.
- The Act lays down the principles to be followed for food and ensuring it is fit for human consumption viz. which substances should not be present, which should be present and in what quantities, and so forth.
- The Act also deals with the packaging and labelling of food, as well as practices to be followed for its advertisement.
- Further, it deals with the procedure for import of foodstuffs and also lists out the duties and responsibilities of the food business operators, the manufacturer, packer, wholesaler, distributor, seller as well as the Food Safety Officers.

Legal Metrology Act, 2009 and Legal Metrology (Packaged Commodities) Rules, 2011

- It has been enacted by the Ministry of Consumer Affairs, food and public distribution and so that the packaging of commodities is properly regulated.
- The Legal Metrology Act, 2009 replace the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985. It also provides for establishing uniform standards of weights and measures regulate trade in weights, and other goods which are sold or distributed by weight, measure or number.
- A person has to get approval of the model of a weight or a measure before manufacturing or importing it by the competent authority. Also, an importer has to register with the concerned Director.
- Every manufacturer, repairer and seller shall have to obtain a licence from the respective Controller. The Act allows Govt. approved test centres to verify weights and measures.

REGISTRATION & LICENSE

All Food Business operators in the country have to be registered or licensed in accordance with the procedures laid down hereunder:

Registration of Petty Food Business (Turnover not exceeding 12 lakhs)

- All petty food business operators shall register themselves with the registering authority by submitting an application for registration as prescribed.
- The petty food manufacturer shall follow the prescribed basic hygiene and safety requirements and provide a self-attested declaration of adherence to these requirements with the application.

- Thereafter, the registering authority will consider the application and may either grant registration or reject it with reasons recorded in writing or issue notice for inspection, within 7 days of receipt of an application for registration.
- If the application is accepted, the registering authority will issue a registration certificate and a photo identity card, after completing the process. Such certificate shall be displayed at a prominent place at all times within the premises or vehicle or cart or any other place where the person carries on sale / manufacture of food in case of petty food business.

License for food business (turnover exceeding 12 lakhs)

- No person shall commence any food business unless he possess valid license.
- Provided that any person or food business operator carrying on food business on the date of notification of latest relevant regulations, under a license, registration or permission, as the case may be, shall get their existing license converted into the license / registration under the latest relevant law by making an application to the licensing / registering authority after complying with the prescribed safety requirements, within one year of notification of these regulations.
- Non-compliance with the above requirement by a food business operator will attract penalty.
- License for commencing or carrying on food business is granted by the Central Licensing Authority, provided that Food Authority may through notification make such changes or modify the list given in the Schedule I of Food Safety and Standards (Licensing and Registration of Food

Business) Rules, 2011 as considered necessary.

- License for commencing or carrying on food business, which are not covered under Schedule 1 of Food Safety and Standards (Licensing and Registration of Food Business) Rules, 2011, shall be granted by the concerned state / UTs licensing authority.

License for food subjected to treatment of irradiation

No person shall manufacture, import, sell, stock and exhibit for distribution or sale any article of food which has been subjected to the treatment of irradiation, except under a license obtained from Department of Atomic Energy under the Atomic Energy (Control of Irradiation of Food) Regulations, 1996.

Prohibition on manufacture, repair or sale of weight or measure without licence

No person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller under the Legal Metrology Act, 2009, however, provided that no licence to repair shall be required by a manufacturer for repair of his own weight or measure in a State other than the State of manufacture of the same.

Registration of manufacturers, packers and importers

Every business entity who or which pre-packs or imports any commodity for sale, distribution or delivery shall obtain a registration certificate from the Director or the Controller under the Legal Metrology Act, 2009.

PACKAGING AND LABELLING OF FOOD COMMODITIES

Food Safety and Standards (Packaging & Labelling) Regulations, 2011 and Legal Metrology Packaged Commodities Rules, 2011 have laid the requirements for packaging and labelling pre-packaged food commodities which must be mandatorily followed while packaging and labelling such commodities.

FDI IN THE FOOD SAFETY AND AGRIBUSINESS

100% FDI through automatic route is permitted in the following Agricultural activities:

- a) Floriculture, Horticulture, Apiculture and Cultivation of Vegetables & Mushrooms under controlled conditions;
- b) Development and production of Seeds and planting material;
- c) Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, under controlled conditions; and
- d) Services related to agro and allied sectors.

WHO CAN AVAIL OUR SERVICES

Business entities and companies involved in the following sectors and activities can avail our services:

- Food business operators
- Agro Food Parks
- Commodities
- Plantations & Farming
- Food Processing
- Farm Equipments
- Agri Technology
- Horticulture
- BioTech
- Dairy Farms
- Irrigation
- Warehousing & Cold Storage
- Agri Supply Chain
- Warehousing & Cold Chain
- Organic Food & Farming
- Rural retailing
- Hotel Industry
- Dairy Products
- Food Service Industry
- Large Scale Farming

HOW INDIA JURIS CAN ASSIST

India Juris can provide legal, regulatory and business advisory assistance to Indian and foreign private sector companies and independent businessmen. Our Services in Food safety and Agri-business Sector include following:

- Developing structure and roadmap for entry into the Food and Agri-business in India.
- Assistance and advisory on Food Safety and Agribusiness / FBO registration, product approval and other assistance.
- Setting up of the Companies, Subsidiary, Liaison/ Branch Office in India for foreign companies.
- Joint Ventures, M&A, Collaboration, MoUs, Strategic acquisitions in Food and Agri-business such as assistance in acquisitions of certification and testing labs, etc.
- Legal assistance and services with respect to Agro-Parks, Mega Food Parks & Supply Chains.
- Assistance in food testing & shelf life studies.
- Legal assistance and services with respect to establishment of integrated Dairy Farms.
- Advise on Tax rebates & tax advantage under various laws, central & state government policies and taxation study.
- Legal advisory on Public Private Partnership
- Repatriation and remittance of money and other legal services not included here.
- Legal advisory on foreign exchange laws and corporate compliances.
- Dispute resolution legal services including litigation & arbitration in Food and Agribusiness.
- Conducting Due Diligence
- Legal assistance in Technology transfer studies
- Project Feasibility Study



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