

Rep. by Act..... 58 of 1974, S. 28 & S. 29

THE PREVENTION OF FOOD ADULTERATION  
(AMENDMENT) ACT, 1964

No. 49 OF 1964

[25th December, 1964.]

An Act further to amend the Prevention of Food Adulteration Act, 1954.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Food Adulteration (Amendment) Act, 1964.

Short title and commencement.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

37 of 1954.

2. In section 2 of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the principal Act), in clause (vii) and in sub-clause (2) of clause (viii), for the words "the State Government", the words "the Central Government or the State Government" shall be substituted.

Amendment of section 2.

3. In section 3 of the principal Act,—

Amendment of section 3.

(i) in sub-section (2),—

(a) for clause (d), the following clause shall be substituted, namely:—

"(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;"

<sup>1</sup>1-3-1965 : vide Notification No. G.S.R. 243, dt. 8-2-1965, Gazette of India, Part II, Sec. 3, p. 291.

(b) for clause (g), the following clause shall be substituted, namely:—

“(g) two representatives nominated by the Central Government to represent the agricultural, commercial and industrial interests;”;

(c) after clause (h), the following clause shall be inserted, namely:—

“(i) one representative nominated by the Indian Standards Institution referred to in clause (e) of section 2 of the Indian Standards Institution (Certification Marks) Act, 1952.”;

36 of 1952.

(ii) in sub-section (3), for the brackets, letters and word “(g) and (h)”, the brackets, letters and word “(g), (h) and (i)” shall be substituted.

Amendment of section 7.

4. In section 7 of the principal Act, in clause (iv), for the words “with a view to preventing the outbreak or spread of infectious diseases”, the words “in the interest of public health” shall be substituted.

Substitution of new sections for sections 8 and 9. Public analysts.

5. For sections 8 and 9 of the principal Act, the following sections shall be substituted, namely:—

“8. 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 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 public analyst under this section.

Food Inspectors

9. (1) 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 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.

45 of 1860.

(2) Every food inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and shall be officially subordinate to such authority as the Government appointing him, may specify in this behalf."

6. In section 10 of the principal Act,—

Amendment of section 10.

(i) in clause (c) of sub-section (1), for the words "with a view to preventing the outbreak or spread of any infectious disease", the words "in the interest of public health" shall be substituted;

(ii) in sub-section (4), the following proviso shall be inserted, namely:—

"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 sureties as the food inspector deems fit and the vendor shall execute the bond accordingly.";

(iii) in sub-section (7), for the words "as far as possible, call not less than two persons to be present at the time when such action is taken and take their signatures", the words "call one or more persons to be present at the time when such action is taken and take his or their signatures" shall be substituted.

7. For section 14 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 14.

"14. No manufacturer, distributor or dealer of 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.

Manufacturers, distributors and dealers to give warranty.

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

14A. Every vendor of an article of food shall, if so required, disclose to the food inspector the name, address and other particulars of the person from whom he purchased the article of food."

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

8. In section 15 of the principal Act, for the words "The State Government", the words "The Central Government or the State Government" shall be substituted,

Amendment of section 15.

Amend-  
ment of  
section 16.

9. For sub-section (1) of section 16 of the principal Act, the following sub-sections shall be substituted, namely:—

“(1) 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 or misbranded or the sale of which is prohibited by the Food (Health) authority in the interest of public health;

(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) prevents a food inspector from taking a sample as authorised by this Act; or

(c) prevents a food inspector from exercising any other power conferred on him by or under this Act; or

(d) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any material which may be employed for the purpose of adulteration; or

(e) 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 extract thereof for the purpose of advertising any article of food; or

(f) 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 section 6, be punishable with imprisonment for a term which shall not be less than six months but which may extend to six 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 clause (a) and is with respect to an article of food which is adulterated under sub-clause (l) of clause (i) of section 2 or misbranded under sub-clause (k) of clause (ix) of that section; or

(ii) if the offence is under sub-clause (ii) of clause (a), 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 or of fine of less than one thousand rupees or of both imprisonment for a term of less than six months and fine of less than one thousand rupees.

(1A) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, tampers or in any other 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 be less than one thousand rupees.

(1B) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, sells or distributes such article and such article is found by the magistrate before whom it is produced, to be adulterated with any poisonous or other ingredient under sub-clause (h) of clause (i) of section 2, then, notwithstanding anything contained in sub-section (1A), he shall be punishable with imprisonment for a term of six years and with fine which shall not be less than one thousand rupees.

(1C) If any person contravenes the provisions of section 14 or section 14A, 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.

(1D) 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.”.

10. In section 19 of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

Amend-  
ment of  
section 19.

“(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 duly 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.”;

(ii) in sub-section (3), for the words, brackets and figure “in sub-section (2)”, the words and figures “in section 14” shall be substituted.

Amend-  
ment of  
section 20.

11. In section 20 of the principal Act, in sub-section (1), for the words “the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority”, the words “the Central Government or the State Government or a local authority or a person authorised in this behalf, by general or special order, by the Central Government or the State Government or a local authority” shall be substituted.

Insertion of  
new section  
20A.

12. After section 20 of the principal Act, the following section shall be inserted, namely:—

Power of  
court to  
implead  
manufac-  
turer, etc.

“20A. 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 sub-section (1) of section 351 of the Code of Criminal Procedure, 1898, or in section 20 proceed against him as though a prosecution had been instituted against him under section 20.”

Amend-  
ment of  
section 23.

13. In section 23 of the principal Act,—

(i) in clause (a) of sub-section (1), for the words “and the fees payable therefor”, the words “, 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” shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(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 which may be comprised in one session or in two successive sessions, and if, before the

expiry of the session in which it is so laid or the session immediately following, 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.”.

14. In sub-section (2) of section 24 of the principal Act,—

Amend-  
ment  
of sec-  
tion 24.

(i) in clause (a), the words “and jurisdiction of food inspectors and public analysts” shall be omitted;

(ii) in clause (b), for the words “and the fees payable therefor”, the words “, 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 may be cancelled or forfeited” shall be substituted.