

# "Provisions for imprisonment are done away with, fines enhanced"

The FSS Act is about to be amended comprehensively but the food businesses rued that enough time was not given for consultation. Do you agree with the charge?

The process of amending the Food Safety and Standards Act, 2006, was initiated four years ago when the FSS (Amendment) Bill, 2014, was introduced in Rajya Sabha on Feb 19, 2014. The Bill was sent to the Parliamentary Standing Committee on Health and Family Welfare for consideration. However, in the light of judicial pronouncements both from the Allahabad High Court and the Supreme Court, the government with the concurrence of the committee decided to withdraw the Bill and work on a more comprehensive review of the Act.

With this intent, the Jain Committee was constituted on Dec 16, 2014, and submitted its report in July, 2015. The inputs of the Parliamentary Standing Committee and the Jain Committee resulted in a set of amendment proposals that were examined by FSSAI and inputs were also sought from States & UTs as well as other stakeholders. The C&AG meanwhile had initiated a Performance Audit of FSSAI and submitted its report in 2018. The Department related Parliamentary Standing Committee (110th Report) on functioning of FSSAI was presented in August, 2018. Both of these reports

FSSAI, the apex food regulator, has changed the Indian food safety landscape ever since its inception about one-and-a-half decades ago. Today both organised as well as unorganised sectors are aware of the need for food safety and compliance with the norms set under FSSR, 2011. The body is working with FBOs, especially, street vendors, relentlessly to ensure that the processed and produced foods meet the scientific standards laid down by updating regulations and introducing concepts such as fines for noncompliance and FoSCoS and FoSTaC. In an insightful email interview with **ASHWANI MAINDOLA, RITA TEAOTIA**, Chairperson, FSSAI, reveals details. *Excerpts:*



provided additional inputs for amendment of the FSS Act. The revised draft amendment proposals developed by FSSAI were reviewed by the Members of the Authority and forwarded to Chief Secretaries of all States/ UTs. They were also uploaded on FSSAI website for public comments. Industry associations were also asked to provide inputs. All inputs were reviewed and revised, amendment proposals were forwarded to the Ministry in May, 2019.

The Ministry after consideration and review, uploaded the revised and comprehensive draft Bill on its website and invited comments through public notice providing 60 days' time for stakeholder comments. A large number of comments have been received and are being processed.

As can be seen, the consultation with stakeholders has

been going on over a period of four years and several opportunities to provide inputs have been provided. The suggestion that time provided was inadequate is factually incorrect.

**There are proposals for enhancing the punishment and fine for charges for various offences under the amendment proposals. Do you think it's the right move?**

A conscious effort is being made to decriminalise offences and to widen the provisions for compounding of offences. It may be seen that in quite a few sections, the provisions for imprisonment are being done away with and instead fines are being enhanced. These measures along with the provision for compounding of all offences where punishment is only a fine will go a long way in furthering the

ease of doing business.

**The FSSAI has recently migrated to FoSCoS from the FLRS system. How has been the migration and what was the response from the food businesses? What is the success of FoSCoS so far?**

The Food Safety Compliance System (FoSCoS) was launched pan-India wef November 1, 2020, replacing an ageing and outdated Food Licensing and Registration System (FLRS). FoSCoS functions on cloud-based server with upgraded software and hardware which has improved the speed and efficiency of licensing. FoSCoS is envisaged to be a one-stop 'Compliance Portal' for Food Safety and in future will incorporate modules for functional needs such as advanced MIS, integration with InFolNet and FICS; Hygiene Rating and Audits

etc. Module for filing of Annual Return, audit module, inspection module and search module have already been incorporated in FoSCoS. Mandatory documents have been rationalised and several paper based declarations have been replaced with an online declaration. A payment gateway has been incorporated. The central theme is to enhance the ease of doing business for the food business operators without compromising the safety of food produced or compliance with regulatory requirements.

The new system has been received very well by Food Industry. The industry recognises the convenience the system provides. The overall migration has been satisfactory and technical issues that emerge are being tackled on day to day basis.

**The FSSAI has been continuously working on strengthening the food import regulations. Please share with us recent development in this regard, particularly in the wake of Covid protocols?**

In the wake of Covid-19 pandemic, Food Imports were notified as essential services and the food import offices were working continuously during the lockdown. FSSAI notified laboratories were also facilitated to function non-stop in the lock down period. To ensure un-interrupted food services/supply and to further facilitate trade during

lockdown due to Covid-19, FSSAI had issued directions for expeditious clearance of crude edible oil, food grains and onions in particular.

FSSAI has allowed issuance of Provisional NOC (P-NOC) for imported pre-packaged retail food articles. This has reduced the clearance time, congestion at ports and demurrage charges on importers.

For ensuring a better food imports ecosystem, FSSAI has also implemented a Risk Management System (RMS) through Custom's ICEGATE to facilitate faster clearance of consignments. Further, mapping of ITC-HS codes with food categories along with risk categorisation has been done to enable seamless transmission of bill of entry to reduce consignment clearance time.

Recognition of food laboratories in Bhutan, Bangladesh (for 21 food

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# "FSSAI has developed an IT Solution platform INFOLNET"

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products) and Nepal (for 21 food products) for acceptance of their test analysis certificate has reduced clearance time and demurrages for food imports from some of our neighbouring countries.

In the Import Regulations of 2017, FSSAI proposed to add a new 'Chapter XIV' on registration and inspection of foreign food manufacturing facilities, wherein based on specific risk categories of food products imported into India, inspection or audit of foreign food manufacturing facilities producing such categories of food shall be made mandatory. This is consistent with the practise followed by many countries for food products.

**FoSTaC is another area of focus for the FSSAI, what is the current status of this scheme and how do you assess its impact on the food safety ecosystem of the country?**

FSSAI had initiated Food Safety Training & Certification (FoSTaC), a large-scale training programme to spread awareness and train Food Business Operators in basic safety and hygiene practices. In the past 3 years since its commencement, FSSAI has trained more than 3.6 Lakh Food Safety Supervisors (FSS). These Food Safety Supervisors further undertake

**the maximum businesses?**

We reach out to stakeholder in multiple ways. All directions, orders and regulations are invariably uploaded on the FSSAI website at the time of issue for information of stakeholders. In case of important decisions and policy interventions, press releases are issued for wider awareness. In addition, industry associations like CII and FICCI constantly liaison between the food authority and food businesses.

Further, for new regulations, the public consultation is an essential process to ensure public participation in decision making. FSSAI also extensively uses social media and IT tools to have a deeper reach to the FBOs and consumers for wider dissemination of information.

FSSAI has launched schemes of inspection for the FBOs, particularly for the high risk category and hygiene rating programme to organise the food safety ecosystem. Share the status of the implementation of these programmes.

We are focussing on more targeted compliance efforts. As part of this we have classified food businesses based on their risk profile. District wise licenses have been classified as High, Medium and Low risk as per their nature of businesses. This classification and the intended frequency of inspection are:

High Risk	: Once in 12 months
Medium Risk	: Once in 18 months
Low Risk	: 10% of licenses selected on random basis every year.

periodic training of all food handlers in their respective organisations. FSSAI has also imparted training on Covid-19 safety precautions to FBOs and since April, a total of 1.2 lakh FBOs have been trained.

In terms of impact, we are seeing a lot of interest among major FBOs as well as petty food handlers to undergo FoSTaC training. Though, a lot has been achieved in terms of food hygiene in the past 3 years, a lot more needs to be done. FSSAI aims to train upto 10 lakh food handlers in the next three years.

**FSSAI has been issuing guidance notes & FAQs, often. But the reach to the larger audience is disputed. Also, with constant updating of regulations and standards how do you ensure that FBOs are aware of the latest developments and such information reach**

The detailed classification has been shared with States to facilitate inspection.

Hygiene rating is a voluntary technology-driven user-friendly scheme where food service establishments are given a rating (five to one) for their hygiene and food safety compliance by accredited third-party agencies. This enables consumers to make informed choices about the hygiene status of the places where they eat out while also boosting the business of the establishment. Moreover, it encourages businesses to improve their hygiene standards and thus reduces the incidence of food-borne illness. The Hygiene Rating Certification is valid for 2 years.

So far, 1709 FBOs have enrolled for Hygiene Rating.

**Update on INFOLNET as well as the status of this scheme.**

The details are provided below:

Section	Existing	Proposed
59 (i), (ii) & (iii). Punishment for unsafe food.	59 (i) where no injury is caused, imprisonment upto six months and fine upto Rs one lakh. 59 (ii) if non grievous injury: imprisonment upto one year and fine upto three lakhs. 59 (iii) in case of grievous injury imprisonment upto six years and fine upto five lakhs.	59 (i) imprisonment to be done away with and fine to increase to upto three lakhs. 59 (ii) punishment of imprisonment is being continued and fine being increased to Rs. five lakhs. 59 (iii) imprisonment being continued upto six years and fine being increased upto seven lakhs.
59 A. New Section to punish adulteration.		59 A. Willful adulterations to make food injurious with potential to cause death or grievous hurt to be punishable upto life imprisonment and fine not less than Rs 10 lakhs. This was recommended by the Jain Committee as well as the Parliamentary Standing Committee.
61. Punishment for false information.	61. Imprisonment upto three months and fine upto two lakhs.	61. Imprisonment to be done away with and fine to be increased to Rs 10 lakhs.
62. Punishment for obstructing or impersonating a Food Safety Officer.	62. Imprisonment upto three months and fine upto one lakhs.	62. Imprisonment being modified to be not less than six months and upto two years and fine upto five lakhs.
63. Punishment for carrying out business without licence.	63. Imprisonment upto six months and fine upto Rs five lakhs.	63. Imprisonment is being done away with. Fine to be increased to Rs upto 25 lakhs.
69. Compounding of offences.	69. At present only offences by petty manufacturers can be compounded.	69. All offences, except where the offences are punishable with imprisonment, can now be compounded.

FSSAI has developed an IT Solution platform for India Food Laboratory Network (INFOLNET). This Laboratory Management System (LMS) is a centralised sys-

tem that connects and collates the network of laboratories. LMS will also be a one-stop portal for gathering information pertaining to a food testing laboratory,

ranging from ownership details, infrastructure availability, technical capacity, scope of testing through to test results of different samples.

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## Varnacol Food Colorings

Research indicates that 51% of the total population considers colourings of Natural origin "very important" when it comes to "kid-centric" products such as Cereals and certain sweet treats like Cookies & cakes. Consumer demand for natural colour is having a big impact on product formulations particularly replacement of the artificial Reds in Baking & Dry Grocery. This conversion has been challenging for developers in the past due to heat, pH & oil stability of some natural sources of Red Colourings.



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# Provision regarding Agmark for blended oil could be revisited

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The centralised information will also have profound applications in deciphering risk analysis, enriching standards, capacity building and training.

As on date, a total of 389 laboratories have registered themselves in this system of which 173 laboratories have been approved and 27 laboratories are under approval by FSSAI. INFOLNET has been made mandatory for all laboratories recognised by the FSSAI u/s 43(1) of FSS Act, 2006. The samples are being sent for analysis only to those of the private laboratories which are on INFOLNET. However, based on the inputs received from stakeholders for efficient implementation of InFoLNet, the system is being improved so as to make it more user friendly.

**Manpower has been a key concern ever since the Regulations 2011 were implemented in 2011. What is the current status of adding more manpower within FSSAI? How do you plan to tackle this in the long run?**

To meet the challenge of manpower for performing various functions of FSSAI, the sanctioned strength of FSSAI has been significantly

raised from 356 to 824 in Oct 2018. Recruitment for these posts has been planned in two phases and I am glad to share that the selection of nearly 280 candidates in the first phase will be completed by mid-December, despite the challenges created by the pandemic. Selected candidates are likely to join by mid-January.

The second phase of recruitment for the balance positions is planned during the first half of FY 2021-22. Once the staff is in place, the reach as well as services delivery of FSSAI will improve tremendously as it will facilitate opening up of branch offices/ import offices in the country and also by ensuring availability of optimal manpower for functions like standards setting, licensing and surveillance/ enforcement.

In addition to regular staff, FSSAI has provisions for engaging manpower from the open market for special skills in various fields of food safety and standards, nutrition etc. This provision is currently also being utilised to meet the specific manpower requirements of FSSAI.

You may also be aware that a large number of scientists and other experts are providing their services to FSSAI on part time basis as members of

the various scientific panels and committees. In addition, FSSAI is fully utilising national expertise in the crucial areas of food safety and nutrition through its network of professionals like the Network for Scientific Cooperation for Food Safety and Applied Nutrition (NetSCo-

naturally occurring toxins, food pathogens, etc.

FSSAI has recognised food labs as per ISO 17025/2017 only through NABL under integrated assessment system. These labs are being monitored by NABL through audits, verification and other

vantageous particularly with respect to the food additives, contaminants and heavy metals as the risk assessment to establish the limits has already been done by the scientific expert bodies of Codex like JECFA, JMPR etc.

Further, while establishing

Harmonisation is more advantageous particularly with respect to the food additives, contaminants and heavy metals as the risk assessment to establish the limits has already been done by the scientific expert bodies of Codex like JECFA, JMPR etc.

FAN) and Network of Professionals of Food and Nutrition (NetProFan).

**Speedy testing at par with other countries still needs to be worked upon. How do you intend to do this?**

Testing is very critical for ensuring the food safety ecosystem in the country. As per FSS Rules, 2011, a food analyst has to submit a test report within 14 days of the receipt of samples by him/her. For conventional testing, it is not possible to reduce this timeline as a number of quality and safety parameters are required to be checked in food samples. This includes heavy metals, pesticides, veterinary drug residues,

periodical desktop surveillance audit, re-assessment and renewal of accreditation. This system ensures quality and consistency of results from participating laboratories.

Further, FSSAI has introduced a scheme for approving rapid analytical food testing devices/kits/methods. FSSAI has thus far approved a total of 53 (earlier approved 20) such rapid kits, the details of which will be made available on our website in due course. This would definitely reduce the time for testing of food samples.

Moreover, a grant of more than Rs10 crore each has been provided to most of the States/UTs for strengthening their food labs in terms of infrastructure, equipment, manpower, consumables etc. This would also reduce testing time taken by the State food labs. For on the spot testing of adulteration in common food items, FSSAI has provided 90 mobiles labs called Food Safety on Wheels (FSWs) to 33 States/UTs. Most of these FSWs are being utilised by States effectively and efficiently.

**How far has been the harmonisation of standards with Codex? How is the food safety scenario in the country when compared to international standards?**

One of the responsibilities of FSSAI is to promote consistency with the relevant international standards as envisaged under Section 16(3) (m) of the FSS Act, 2006. The standards and other guidance texts developed by the Codex Alimentarius Commission are the relevant international standards and are also the reference point within the framework of WTO.

FSSAI initiated the work of harmonising domestic food standards with those of the Codex Alimentarius Commission in 2012 and has made significant progress in the same. Harmonisation is more ad-

such limits in the Codex, the data submitted by India has also been considered. FSSAI, while framing standards, also reviews standards of the other international regulatory bodies such as EFSA, USDA etc. India also generates significant data domestically, which serves as the starting point for standards development.

The globally benchmarked standards in our domestic regulations have largely contributed to the strengthening of the food safety system in the country, and in particular enhanced the capacities of the food business operators in producing safe and good quality food products.

**There are certain areas in regard to overlapping of regulations and standards in case of BIS, legal metrology, organic foods, nutraceuticals. How do you intend to deal with this aspect?**

AGMARK and BIS certifications are optional and voluntary. FSSAI has made these certifications mandatory for some products of sensitive nature. These mandatory requirements were brought over from PFA Act, 1954. During the Performance Audit of the FSSAI by CAG, it was observed that food business has to deal with more than one authority, which is not in consonance with the spirit of the FSS Act, 2006.

Taking note of the observations of the Audit and the view of the stakeholders, an amendment regulation to delete the mandatory certification of AGMARK for Carbia Callosa, Honey dew, Kangra tea, Til oil and light black pepper has been proposed and the same was notified in the gazette of India on 20th October, 2020. The provision regarding AGMARK certification for blended edible oil could also be revisited once the fatty acid composition of various vegetable oils is notified.



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