

A. Food Safety Officer

Food Safety Officers are the field officers and the backbone of entire food safety compliance structure. Food Safety Officers are appointed by the Commissioner of Food Safety, through notification, for such local areas as he may assign to them for the purpose of performing functions under this Act and the rules and regulations made there under. The State Government may authorise any officer of the State Government having the qualifications prescribed to perform the functions of a Food Safety Officer within a specified jurisdiction.

For effective discharge of its functions, the Food Safety Officer is required to have adequate knowledge of the FSS Act, Rule and Regulations and their application in discharge of their duties, proper procedure for inspection and sampling and various other aspects of food safety.

B. Powers & Duties of Food Safety Officer:

A Food Safety Officer has a very important role to play as an enforcement officer and in ensuring food safety and quality. The powers and duties of a Food Safety Officer include the following:

- (i) To issue registration for small and petty food business operators in their capacity as a Registering Authority within the area assigned to him.
- (ii) To inspect the premises of small and petty food business operators and ensure compliance as per Schedule 4 (Part I) of Food Safety and Standards (Licensing and Registration of Food Businesses), Regulations, 2011, within the area assigned to him.
- (iii) To inspect, as frequently as may be prescribed by the Designated Officer, all food establishments licensed for manufacturing, handling, packing or selling of an article of food within the area assigned to him.
- (iv) To satisfy himself that the conditions of licenses are being complied with by each of the Food Business Operators carrying on business within the area assigned to him and report to the Designated Officer.
- (v) To recommend Designated Officer to issue of improvement notices to the Food Business Operator whenever necessary giving the food business operators an opportunity in order to comply with the conditions of license within a prescribed time limit.
- (vi) To make such inquiries and inspections as may be necessary to detect the manufacture, storage or sale of articles of food in contravention of the Act or rules framed there under.
- (vii) To investigate any complaint which may be made to him in writing in respect of any contravention of the provisions of the Act, or rules framed there under.
- (viii) To stop and inspect any vehicle suspected to contain any unsafe food or food which does not comply with the provisions of this Act and rules, intended for sale or delivery for human consumption.
- (ix) To recommend to the Designated Officer giving specific grounds, suitable action in regard to licenses issued to any Food Business Operator, if on inspection the Food Safety Officer finds that the Food Business Operator had violated the conditions for grant of license.
- (x) Take a sample of any food, or any substance, which appears to him to be intended for sale, or to have been sold for human consumption.
- (xi) Take a sample of any article of food or substance which is found by him on or in any such premises; which he has reason to believe that it may be required as evidence in proceedings under any of the provisions of this Act or of the Regulations or orders made there under.

- (xii) Take a sample and keep it in the safe custody of the food business operator such article of food after taking a sample; and in both cases send the same for analysis to a Food Analyst for the local area within which such sample has been taken. Where the Food Safety Officer keeps such article in the safe custody of the food business operator, he may require the food business operator to execute a bond for a sum of money equal to the value of such article with one or more sureties as the Food Safety Officer deems fit and the food business operator shall execute the bond accordingly.
- (xiii) To procure and send for analysis if necessary, samples of any article of food which he has reason to believe or on the basis of information received including from a purchaser are being manufactured, stocked or sold or exhibited for sale in contravention of the provisions of the Act, or rules and regulations framed there under.
- (xiv) To draw samples for purposes of surveillance, survey and research, which shall not be used for prosecution.
- (xv) Where any sample is taken, 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.
- (xvi) To carry out food safety surveillance to identify and address the safety hazards.
- (xvii) To seize any article of food which appears to the Food Safety Officer to be in contravention of this Act or the regulations made there under.
- (xviii) Where any article of food seized is of a perishable nature and the Food Safety Officer is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the Food Safety Officer may, after giving notice in writing to the food business operator, cause the same to be destroyed.
- (xix) 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 Safety Officer 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 or proceeding under this Act, may be seized by the Food Safety Officer and a sample of such adulterant submitted for analysis to a Food Analyst. No such books of account or other documents shall be seized by the Food Safety Officer except with the previous approval of the authority to which he is subordinate.
- (xx) Where any books of account or other documents are seized, the Food Safety Officer 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 there from as certified by that person. 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 and extracts there from as certified by the court have been taken.
- (xxi) Where the Food Safety Officer is of the opinion or he has reason(s) to be recorded in writing that in the given situation it is not possible to comply with the provision of Section 38 (1) (c) or the proviso to section 38(1) for reasons like non availability of the Food Business Operator, the Food Safety Officer may seize the adulterant or food which is unsafe or sub-standard or misbranded or containing extraneous matter, may seal the premises for investigation after taking a sample of such adulterant or food for analysis.
- (xxii) Where the Food Safety Officer is of the opinion or he has reason(s) to believe that any person engaged in selling, handling or manufacturing any article of food is suffering from or harbouring the germs of any infectious disease/ contagious disease, he may cause such person to be examined by a qualified medical professional duly authorized by the Designated Officer. Provided that where such person is a female, she shall be examined by a qualified lady medical professional duly authorized by the Designated Officer. If on such

- examination the qualified medical professional certifies that such person is suffering from any such disease, the Food Safety Officer may by order in writing under intimation to the Designated Officer direct such person not to take part in selling or manufacturing any article of food.
- (xxiii) To respond to incidents of food poisoning in his area and to send report to and assist the Designated Officer to enable him to initiate corrective action.
- (xxiv) To maintain a data base of all Food Business within the area assigned to him.
- (xvi) To maintain a record of all inspections made and action taken by him in the performance of his duties, including the taking of samples and seizure of stocks, and to submit copies of such records to the Designated Officer as directed in this regard.
- (xvii) When any adulterant is seized under, 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.
- (xviii) To facilitate preparation of Food safety plans for Panchayat and Municipalities in accordance with the parameters and guidelines given in schedule IV of Chapter 3 of Regulations.
- (xxix) To detain imported packages which are suspected to contain articles of food, the import or sale of which is prohibited.
- (xxx) To coordinate with the Food Business Operators within his area of operation and facilitate the introduction of food safety systems by the Food Business Operator.
- (xxxi) To perform such other duties, as may be entrusted to him by the Designated Officer or Food Safety Commissioner having jurisdiction in the local area concerned.
- (xxxii) Food Safety Officer shall launch prosecution before courts of ordinary jurisdiction or Special Court, as the case may be; and such communication shall also be sent to the purchaser if the sample was taken under section 40, i.e. legal sample.

C. Liability of Food Safety Officer in certain cases

Any Food Safety Officer while exercising powers under this Act or the rules and regulations made there under, seizes any article of food or adulterant without any reasonable ground or with intention to harass or 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, will be guilty of an offence under this Act and is liable to a penalty which may extend to one Lac rupees.

However, in case any false complaint is made against a Food Safety Officer and it is proved so, the complainant will be guilty of an offence under this Act and will be punishable with fine which should not be less than fifty thousand rupees but may extend to one Lac rupees.

Note: The Commissioner of Food Safety and Designated Officer can exercise the same powers as are conferred on the Food Safety Officer and follow the same procedure specified in this Act.

D. Various Important Regulations under the Act.

The Food Safety Officer should be well acquainted with following Regulations notified by the Food Safety and Standards Authority of India under the FSS Act.

- (i) Food Safety and Standards (Licensing and Registration of Food Businesses), Regulations 2011
- (ii) Food Safety and Standards (Food Product Standards and Food Additives), Regulations 2011

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- (iii) Food Safety and Standards (Prohibition and Restriction on Sales), Regulations 2011
- (iv) Food Safety and Standards (Packaging and Labelling), Regulations 2011
- (v) Food Safety and Standards (Contaminants, Toxins and Residues), Regulations 2011
- (vi) Food Safety and Standards (Laboratory and Sampling Analysis), Regulations 2011
- (vii) Food Safety and Standards (Food or Health Supplements, Nutraceuticals, Food for Special Dietary Uses, Foods for Special Medical Purpose, Functional Foods and Novel Foods), Regulations 2016
- (viii) Food Safety and Standards (Food Recall Procedure), Regulations 2017
- (ix) Food Safety and Standards (Import), Regulations 2017