

THE LEXICON OF INDIAN FOOD LEGISLATION

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The Three Organs of government in any country :

- The Legislature ... Parliament or similar body
- The Executive ...the Government
- The Judiciary... the courts

THE THREE ORGANS OF GOVERNMENT



- ▶ The Food Safety And Standards **Act**, 2006
- ▶ The Food Safety And Standards **Rules**, 2011
- ▶ The Food Safety And Standards **Regulations** (various years)

INDIAN FOOD LAW

Act ... made by Parliament

Rules ... made by Government

Regulations ... made by FSSAI

WHO MAKES WHAT ?

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- ▶ Power comes to Parliament by virtue of Entry 18 of List III of the Seventh Schedule of the Constitution of India, which reads :
- ▶ *18. Adulteration of foodstuffs and other goods.*


MAKING OF THE FOOD ACT

- ▶ Section 91 of the Act :
- ▶ **91. Power of Central Government to make rules.**
- ▶ (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

MAKING OF RULES

- ▶ Section 92 of the Act :
- ▶ **92. Power of Food Authority to make regulations.**
- ▶ (1) The Food Authority may, with the previous approval of the Central Government
- ▶ and after previous publication, by notification,
- ▶ make regulations
- ▶ consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

MAKING OF REGULATIONS

- ▶ (2) In particular, and without prejudice to the generality of the foregoing power, **such regulations may provide for all or any of the following matters,** namely:-
 - ▶ (e) **notifying standards and guidelines in relation to articles of food meant for human consumption under sub-section (2) of section 16**
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- ▶ **“GUIDELINES “ – a word not defined in the Act**

A MYSTERIOUS CREATURE :
“GUIDELINES”

16. Duties and functions of Food Authority.

(1) It shall be the duty of the Food Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food.

(2) Without prejudice to the provisions of sub-section (1), the Food Authority may by regulations specify –

(a) the standards and guidelines in relation to articles of food and specifying an appropriate system for enforcing various standards notified under this Act;

REGULATION-MAKING IS A DUTY OF
FSSAI (NOT A POWER)

93. Laying of rules and regulations before Parliament.

Every rule and every regulation made 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 or more successive sessions, and

if, 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 regulation or

both Houses agree that the rule or regulation should not be made,

the rule or regulation 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 or regulation.

LAYING BEFORE PARLIAMENT OF RULES AND REGULATIONS

▶ 16. Duties and functions of Food Authority.

... ..

(5) The Food Authority may from time to time give such directions, on matters relating to food safety and standards, to the Commissioner of Food Safety, who shall be bound by such directions while exercising his powers under this Act;

... ..

“DIRECTIONS” BY FSSAI : WHAT EXACTLY ?

**There is no such concept as
“Operationalization” under the Act or the
Rules**

**“OPERATIONALIZATION”
– A MYTHICAL CREATURE**

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- ▶ **No such periods specified in the Act !**

THIRTY DAYS AND SIXTY DAYS

18. General principles to be followed in Administration of Act.

(2) The Food Authority shall, while framing regulations or specifying standards under this Act–

(d) ensure that there is open and transparent public consultation,

- ▶ directly or through representative bodies
- ▶ including all levels of panchayats,
- ▶ during the preparation, evaluation and revision of regulations, ...

SEC 18(2)(D) OF THE ACT ON REGULATION-MAKING

OPEN AND TRANSPARENT PUBLIC CONSULTATION

- ▶ During the Preparation of the Regulations
- ▶ During their Evaluation
- ▶ During their Revision

DOES SUCH CONSULTATION EVER
HAPPEN ?

- ▶ Act
- ▶ Rules
- ▶ Regulations
- ▶ Directions
- ▶ Guidelines
- ▶ Standards

TO SUMMARIZE :
THE OFFICIAL LEXICON

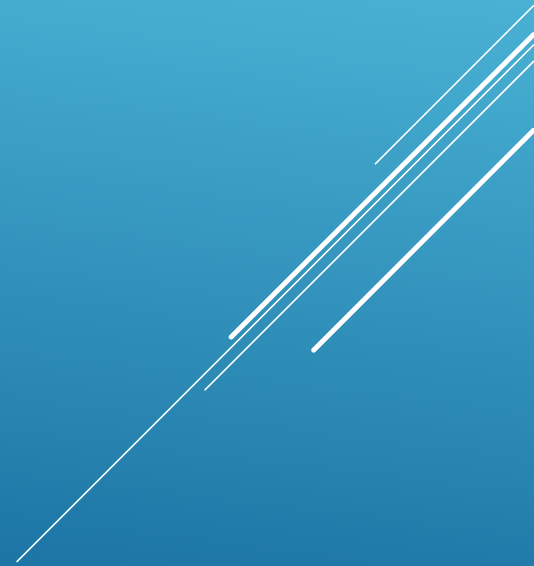


- ▶ Operationalization
- ▶ FAQs
- ▶ Advisories

UNICORNS (MYTHICAL CREATURES)

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QUESTIONS AND QUESTIONS



THANK YOU !

