



Research Paper

Legal complexities surrounding food safety and standards act 2006

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Abstract

The Food Safety and Standards Act, 2006 (FSSA) is a landmark legislation in India, designed to consolidate all laws relating to food and establish the Food Safety and Standards Authority of India (FSSAI). Its primary objective is to lay down science-based standards for articles of food and regulate their manufacture, storage, distribution, sale, and import to ensure the availability of safe and wholesome food for human consumption. While the Act is a significant step towards a unified and robust food safety regime, its implementation and interpretation are fraught with several legal and practical complexities. The FSSA, 2006, was enacted to repeal and replace a multitude of older, fragmented food laws (such as the Prevention of Food Adulteration Act, 1954, and the Fruit Products Order, 1955). This unification was intended to create a single-window regulatory system. The Act contains a powerful overriding clause, asserting that its provisions shall have effect notwithstanding anything inconsistent contained in any other law. The Supreme Court has affirmed the wide-ranging application of this clause, even holding that it overrides certain sections of the Indian Penal Code (IPC) related to food adulteration when the offence is specifically covered by the FSSA. Despite the consolidation, new regulations and orders continue to be issued, sometimes leading to initial confusion regarding the specific standards and compliance requirements for different food categories. Food Business Operators (FBOs), especially those operating across states, often face the complexity of complying with a constantly evolving regulatory landscape.

Keywords: Legal, food, safety, act

I. Introduction

The FSSA, 2006, is a revolutionary step in India's efforts to ensure the fundamental right to safe food (enshrined under Article 21 of the Constitution). However, the legal landscape surrounding it is complex, characterized by the friction between the ideal of a single, unified law and the reality of decentralized, resource-constrained enforcement. The Act's success hinges on overcoming these legal and administrative complexities—strengthening the testing infrastructure, clarifying judicial interpretations of key terms like unsafe vs. substandard food, and ensuring better coordination between central and state authorities. Only through sustained political will and judicial clarity can the FSSA truly fulfill its objective of protecting public health nationwide. (Gupta, 2022)

The Food Safety and Standards Act 2006 (FSS Act) consolidates multiple prior food laws into a single framework administered by the Food Safety and Standards Authority of India (FSSAI), aiming to establish science-based standards for food articles and ensure consumer safety.

The structure of food safety enforcement under the FSSA is a mix of central policy and state-level implementation, leading to coordination and resource-related difficulties. Effective enforcement is hindered by a significant shortage of trained manpower (Food Safety Officers, Adjudicating Officers) and inadequate food testing laboratory infrastructure. Many existing laboratories lack the advanced equipment and accreditation needed for complex testing, causing delays in sample analysis and subsequent legal proceedings.

India's food sector includes a vast, unorganized component, such as street vendors and small-scale manufacturers. Bringing these entities into the formal licensing and compliance structure presents a major challenge, as they often lack the awareness, capital, or infrastructure to meet the prescribed standards, creating enforcement gaps.

The Act establishes a two-tiered system for dealing with violations, introducing jurisdictional nuances in the justice dispensation system. The FSSA distinguishes between penalties and punishments based on the nature of the violation. Cases of sub-standard, misbranded, or extraneous matter in food, where the food is not necessarily

unsafe, are dealt with by an Adjudicating Officer (an executive authority) who can impose monetary penalties (fines). (Kearney, 2020)

Cases involving unsafe food or food that causes grievous injury or death, which require the imposition of stringent penalties including imprisonment and hefty fines, are tried by a Designated Court (a judicial authority). A significant legal complexity lies in establishing the liability of FBOs, especially for multi-national or large corporate entities. Determining the individual who was “in charge of and responsible to the company” for the conduct of its business at the time of the offence is often contested. The nature of the violation (e.g., whether a food is merely ‘substandard’ or ‘unsafe’) dictates the severity of the penalty and the forum of trial, often leading to protracted legal arguments on the classification of the food.

The Act places a strong emphasis on consumer rights, particularly through strict regulations on product information. Section 53 of the Act imposes a hefty penalty of up to ten lakh rupees for misleading advertisements. The legal complexity here involves defining what constitutes a “false or misleading” claim, especially concerning functional foods, health benefits, and nutritional values that are often based on varying scientific interpretations.

The regulatory framework for proprietary foods (non-standardized foods) has historically been an area of ambiguity, necessitating specific regulations and guidelines from the FSSAI to streamline their approval process. The tension between fostering innovation in the food industry and ensuring consumer safety remains a delicate legal balancing act.

Enacted to address confusion from fragmented regulations like the Prevention of Food Adulteration Act 1954, it covers manufacturing, storage, distribution, import, and sale of food, with broad definitions of “unsafe food” that exceed mere adulteration.

Section 89 grants the FSS Act overriding effect over inconsistent laws, including non-food-specific statutes like Sections 272 and 273 of the Indian Penal Code (IPC), which require intent or knowledge for adulteration offenses. (Fuster, 2021)

II. Literature Review

Saha et al. (2022): Although the FSSA seeks uniformity, it operates within India’s quasi-federal structure where states retain significant authority over local enforcement. FSSAI frames national standards, but enforcement is primarily carried out by state food safety officers. Variations in interpretation and capacity lead to inconsistent implementation. Local health laws and municipal licensing norms sometimes contradict or duplicate FSSA provisions, causing confusion for food businesses.

Yang et al. (2021): The Act uses broad, sometimes vague terminology such as “unsafe food,” “sub-standard,” “misbranded,” and “contaminant.” These definitions often leave room for subjective interpretation by enforcement authorities. For instance, determining whether food is “unsafe” involves assessing scientific parameters that may not be uniformly applied across jurisdictions.

Mensah et al. (2021): The FSSA attempts to shift from a punitive regime to a more preventive and corrective one, yet several enforcement challenges persist. Many offences require establishing negligence or intention, which is often difficult due to complex supply chains. Legal action depends heavily on accredited testing labs. The shortage of labs, insufficient manpower, and procedural delays undermine timely prosecution.

Singh et al. (2022): Street vendors and small manufacturers often lack awareness or financial capacity to meet stringent licensing and hygiene requirements, creating friction between enforcement and livelihoods.

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The Supreme Court in *Ram Nath v. State of Uttar Pradesh* (2024) ruled that Section 59's strict liability for unsafe food—punishable by 3 months to life imprisonment and fines up to ₹10 lakh—prevails, barring simultaneous IPC prosecutions and emphasizing exhaustive FSS procedures. This creates complexity in dual-charge scenarios, as FSSAI authorities handle investigations, limiting police jurisdiction post-2010 enforcement.

Penalties under Sections 49-67 vary widely: ₹5 lakh for substandard or non-compliant food (Sections 50-51), up to ₹10 lakh for misleading ads (Section 53) or injurious adulterants (Section 57), and imprisonment for unsafe food (Section 59) or unlicensed operations (Section 63).

Corporate liability under Section 66 holds company heads responsible unless due diligence is proven, complicating accountability in multi-unit firms. Subsequent offenses escalate to double penalties or business closure (Section 64), yet enforcement gaps persist due to manpower shortages and weak oversight.

FSSAI faces criticism for inadequate staffing, limited labs, and poor compliance among small vendors exempt under Section 31(2), hindering adulteration control despite CAG reports highlighting governance failures.

Courts have upheld amendments like larger warning labels on pan masala (2023 Regulations), rejecting ultra vires claims, but federal fragmentation between states and center delays prosecutions (77-day limit under Section 77).

Judicial powers include summary trials (Section 73), special courts (Section 74), and victim compensation (Section 65), yet low awareness and outsourcing reliance exacerbate uneven application.

Stricter enforcement, more mobile labs, and alignment with Codex Alimentarius standards could address gaps, alongside harsher penalties and capacity building for FBOs. Civil courts lack jurisdiction (Section 72), channeling disputes to adjudicators, which streamlines but risks appeals overload. Overall, while comprehensive, the Act's complexities demand better resources to balance industry growth with public health.

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The Food Safety and Standards Act (FSSA), 2006 was enacted to consolidate India's fragmented food laws and create an integrated framework governing food quality, safety, manufacture, distribution, storage, and sale. By establishing the Food Safety and Standards Authority of India (FSSAI), the Act aimed to ensure a modern, science-based regulatory system. Despite its strengths, the implementation of the Act has encountered numerous legal complexities, arising from overlapping jurisdictions, practical enforcement issues, administrative challenges, and ambiguities in interpretation. These complexities continue to shape India's food regulatory landscape.

Although FSSA repealed several earlier laws (like the Prevention of Food Adulteration Act, 1954), it still overlaps with: The Drugs and Cosmetics Act, 1940 (nutraceuticals, supplements) The Agricultural Produce Marketing Committee (APMC) Acts This overlap leads to jurisdictional disputes, especially in areas like dietary supplements, alcoholic beverages, and genetically modified foods.

Food standards in India are continuously evolving, but rapid updates create compliance and legal issues: Frequent amendments can confuse businesses, especially those lacking legal expertise. Industry resistance often arises where standards require substantial investment (e.g., fortification rules, trans-fat limits). Judicial litigations filed by food companies complicate implementation, as courts may stay certain regulations or seek clarifications from FSSAI.

The FSSA introduces a graded penalty system, but complexities emerge: Penalties for similar infractions may differ depending on interpretation by officers. Small businesses may find penalties disproportionately high, while large corporations may treat them as operational costs. Criminal liability for some offences raises questions about proportionality and intent.

The growth of e-commerce, cloud kitchens, genetically modified foods, organic labeling, and novel foods has created new legal challenges: E-commerce platforms: Ambiguity exists regarding liability of platforms versus sellers. Frequent confusion arises over whether they fall under food or drug regulations. India lacks a comprehensive regulatory framework, leading to temporary bans and contested guidelines.

III. Conclusion

The Food Safety and Standards Act, 2006 represents a major step toward creating a unified, science-based regulatory framework for India's food industry. However, the complexities arising from overlapping jurisdictions, interpretational ambiguities, enforcement limitations, and emerging food technologies have created substantial legal challenges. Addressing these requires stronger coordination between central and state authorities, capacity building for enforcement agencies, clearer and more stable standards, and continuous dialogue with industry stakeholders. Only through such efforts can the objectives of the FSSA—to ensure safe, wholesome, and reliable food for all citizens—be fully realized.

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