UNIT 1 PFA ACT AND RULES

Structure

1.0 Objectives
1.1 Introduction
1.2 Enforcement of the Prevention of Food Adulteration (PFA) Act 1954
  1.2.1 Role of Central Government / PFA Cell
  1.2.2 Role of State/UT Governments
  1.2.3 Role of Local Bodies
1.3 PFA Act Definitions
  1.3.1 The Preamble of the Act viz.
  1.3.2 Definition
  1.3.3 Primary Food (Definition)
1.4 Functions / Responsibilities of Various Authorities
1.5 Central Food Laboratories
1.6 Role of Food Inspectors
  1.6.1 Section 9/ 10 (Appointment and powers)
  1.6.2 Section 11 (Procedure to be followed by Food Inspectors)
  1.6.3 Section 12 (Power of Purchaser)
  1.6.4 Section 13 Report of Analyst
  1.6.5 Section 14 (Issue of Warranty)
  1.6.6 Section 15 Report of Food Poisoning
1.7 Penalties
1.8 Powers of State Governments
1.9 Discussion on Amendments to the PFA act and Rules
  1.9.1 PFA Rules
1.10 Short Comings
1.11 Harmonization of PFA ACT with Codex
1.12 Let Us Sum Up
1.13 Suggested Further Readings
1.14 Key Words
1.15 Answers to Check Your Progress Exercises

1.0 OBJECTIVES

After going through the Unit, you will be able to:

- understand the background behind the enactment of food legislation in India;
- the Provisions of the Prevention of Food Adulteration (PFA) Act and Rules made there under;
- effectively deal with the issues of food safety, hygiene and fair trade practices; and
- ensure adherence to the hygiene and safety norms prescribed.

1.1 INTRODUCTION

Food-borne illnesses are common in all parts of the world, and extract an enormous toll in terms of human suffering. Therefore, legislation providing for food safety assumes greater importance,

nationally and internationally. In India, the laws regulating quality of food have been in force since 1899. Until 1954, several provinces (before independence) and States (after independence) have formulated their own food laws but there was considerable variance in the rules and specifications of the food which interfered with inter-provincial trade.

To quote, a few of them as detailed below:

1) Assam Pure Food Act, 1932.
2) Bengal Food Adulteration Act 1919 and amendments made there under.
3) The Orissa Prevention of Food Adulteration Act 1919 and amendments made there under.
4) The Bihar Prevention of Food Adulteration Act 1948.
5) The Bombay Prevention of Adulteration Act 1925 and amendments made there under.
6) The Calcutta Municipal Act 1923.
7) The Central Provinces Prevention of Adulteration Act 1919.
8) The Madras Prevention of Adulteration Act 1919.
9) The Orissa Prevention of Adulteration and Control of Sale of Food Act 1938.
10) The Punjab Pure Food Act 1929 - extended to Delhi 1950.
11) The United Provinces Prevention of Adulteration Act 1912.
12) The UP Pure Food Act 1950.

Under the above Acts, different territories were subjected to different laws on the same subject i.e. different standards of the same food in different states and also liable to different penalties for similar offences and no uniformity in implementation. With the variations of standards/ specifications of same food in different states, it was a barrier in the promotion of food trade between different states. As different laws existed in a number of states for the prevention of adulteration of foodstuffs having been passed by concerned states without mutual consultation, they lacked uniformity in standards, punishment, implementation, methods of analysis etc. The need for the enactment of central legislation for the whole country, therefore was very much felt. Further, The Central Advisory Board appointed by the Government of India in 1937 and the Food Adulteration Committee appointed in 1943, reviewed the subject of Food Adulteration and recommended for the enactment of Central legislation. The prevalence of adulteration at large scale and the need to do away with the diversity and loopholes in the state laws aided the emergence of central legislation and paved way for the Prevention of Food Adulteration (PFA) Act, 1954.

The Constitution of India conferred powers upon the Central, Government for making such legislation as the subject of Food and Drugs Adulteration are included in the concurrent list in the seventh schedule of the constitution. The Government of India thus enacted the Central Legislation called the Prevention of Food Adulteration Act (PFA) in 1954, and it came into force with effect from 15th June 1955. This Act superseded all the state level laws then in force concerning food adulteration.

This legislation was intended to ensure pure and wholesome food to the consumers and also to prevent fraud or deception. The Act has been amended thrice in 1964, 1976 and in 1986 with the objective of plugging the loopholes and making the punishments more stringent and empowering consumers and voluntary organisations to play more effective role in its implementation.

There has not been any amendment in the Act since 1986 though Rules and specifications of various foods have been amended from time to time in respect of use of additives and their maximum levels of use, maximum levels of Prevention of Residues etc to harmonize with the international law – Codex.

1.2 ENFORCEMENT OF THE FOOD ADULTERATION (PFA) ACT 1954

Though the subject Prevention of Food Adulteration is in the concurrent list of the constitution, in practice, the enforcement of the Act is done by the State/U.T Governments. In India, a three-tier system is in force for ensuring food quality and food safety. **They are:**

- Government of India
- State/UT Governments
- Local Bodies

The Central Government primarily plays an advisory role in its implementation besides carrying out various statutory functions/duties assigned to it under the various provisions of the Act. The Ministry of Health and Family Welfare is responsible for ensuring safe food to the consumers.

1.2.1 Role of Central Government / PFA Cell

The Prevention of Food and Adulteration Act is a Central legislation. The Rules and Standards framed under the Act are uniformly applicable throughout the country. Besides, framing of rules and standards, the following activities are also undertaken by the Ministry of Health and Family Welfare.

- To keep close liaison with states/local bodies for uniform implementation of food laws.
- To monitor the activities of states by collecting periodical reports on working of food laws, getting the reports of food poisoning cases and visiting the states from time to time.
- To arrange periodical training programme for Senior Officers/Inspectors/Analysts.
- To create consumers awareness about the programme by holding workshop/ exhibitions/seminars/training programmes and publishing pamphlets.
- To approve labels of proprietary food in the category of infant milk substitute and Infant food, so as to safeguard the health of infants.
- To coordinate with international bodies like ISO/FAO/WHO and Codex Alimentarius commission
- To carry out survey-cum-monitoring activities on food additives, (physical, chemical and microbiological) contaminants etc. .
- To give administrative/financial/technical support to four Central Food Laboratories situated in Kolkata, Ghaziabad, Mysore and Pune and providing technical guidance to the food laboratories set up by states/local Bodies.
- To hold activities connected with National Monitoring Agency vested with powers to decide policy issues on food fortification, preservations, irradiation etc.
- To formulate manual of sampling and method of analysis of food.
- To formulate training materials for Food Safety Systems (GHP, GMP, HACCP) etc.

1.2.2 Role of State/UT Governments

The enforcement of the food laws are primarily with the States /UTs. As on date, there are 28 states and 7 Union Territories in the country. The implementation of the PFA Act in most of the

states is under the administrative control of the Directorate of Health Services, whereas, in few States, the implementation is being combined with the Directorate of Drugs Administration under Joint Food and Drug Administration. The implementation has been left to the administrative set up of the states, but it has been stressed on the States that whatever the structure be, there should be a whole-time senior officer duly qualified and experienced in Food Science, Food Technology, Food Analysis with other supporting officers and inspectors. State Governments are also empowered to make rules laying down details of licensing conditions of food, the establishments of food industries and prescribing licence fees/analysis fees etc.

1.2.3 Role of Local Bodies

By and large, in most of the states, the implementation of various provisions of the PFA Act in corporation/ municipal areas rests with the local bodies who employ their own food inspectors and some had established analysis labs. Licensing of food industries/ establishments is also left with the states/UTs.

1.3 PFA ACT

PFA Act envisages the elimination/ prevention of adulteration of food, which is a menace to public health, and thus eradicate the social evil and ensures providing pure and wholesome food to the public.

1.3.1 The Preamble of the Act viz.

The term **"**Prevention of Adulteration of the Food" denotes the policy and object behind the Act. It discloses the primary intention of the legislature, and the provisions of the Act are the key to the mind of the legislature.

There are 25 sections in the Act. The Act passed by the Parliament was assented by the President on 29th September, 1954 and published as Act no. 37 of 1954 on 30th September, 1954 and came into force from 1st June, 1955 vide S.No. 1085 dated 9th May, 1955.

The Act was first extended to the whole of India except Jammu & Kashmir. It was, however, later extended to the state of Jammu & Kashmir with effect from 26th January, 1972 vide amendment no. 41 of 1971 and thus is applicable to the whole of India.

1.3.2 Definition

Section 2 : This section provides definitions of various terms used in various provisions of the Act. The important definition are 'Adulterated' 'Central Food Laboratory', 'Committee', 'Food', 'Food (Health) Authority', 'Local (Health)Authority', 'Misbranded', 'Primary food', 'sale' etc.

Implications of Certain definitions/ provisions

The definition of the term "Food" is given in Section [2(v)] and it excludes Drugs and water but "Packaged Drinking Water" is declared as food vide notification GSR 202 (E) dated 21st March, 2001.

As per this definition: "Food" means any article used as food or drink for human consumption other than drugs and water and includes:

(A) Any article which ordinarily enters into, or is used in the composition or preparation of human food.
(B) Any flavouring matter or condiments, and
(C) Any other article declared by government by notification in official gazattee as food.
The following clauses need consideration:

(a) Sub Clause (m) of Section 2 (ia) states that a food is deemed to be adulterated if its quality or purity is not within the prescribed standards but is not injurious to health.
However the provision to the sub-clause clearly states that a primary food (produce of agriculture or horticulture in natural form) following below the prescribed standards due to natural causes and beyond the control of human agency (farmer) will not be deemed to be adulterated. **In other words, primary food following below the prescribed standards due to natural causes will not be considered adulterated.**

Does it mean that wheat (Item A 18.06.01) containing excessive damaged grains / excessive Pesticide Residues will not be considered adulterated?

(a) Chewing tobacco is a food. It is held in the case of (Manohar Lal v/s State of UP decided by Allahabad High Court FAC 1991(1) 60 & Khedal Lal & Sons v/s State of UP, Allahabad High Court, FAC 1981 (1) 262.
(b) Certificate of Analysis by Director, Central Food Laboratory (CFL) supersedes the report issued by a Public Analyst [(Section 13 (3).]. However, Delhi High Court held that " Where the reports of CFL and Public Analyst appear to be absolutely divergent and different from each other, then the report of Public Analyst can be looked into (MCD V/s. Lala Ram (Delhi High Court FAC 1980 (11) 47).
(c) Section 22 A empowers the central government to give directions to a state government which shall have to be complied with by the state government.

1.3.3 Primary Food (Definition)

Primary food is an article of food being a produce of agriculture or horticulture in its natural form, if not coming up to the prescribed standards solely due to natural causes and beyond the control of human agency shall not be deemed to be adultered, provided they are not injurious. For example cereals, whole spices etc.

1.3.4 Kinds of Adulteration included in the Act

1. Substandard quality
2. Substitution by cheaper substance
3. Abstraction of any constituent of article
4. Preparation or storage in unsanitary conditions
5. Poisonous ingredients
6. Colouring agents and / or preservatives in excess of prescribed limits.
7. Quality or purity below the prescribed standards
8. If the constituents of the article are present in quantities which are not within prescribed limit.

1.3.5 Adulterated Food

(i) Milk not confirming to standard is adulterated (standard required fat and solid content 14%) but the milk contained fat 5.7% and solid 7.25% i.e. total 13%.
(ii) Excess content of fat than the prescribed level will also amount to adulteration.

(iii) The knowledge and awareness of the buyer is wholly immaterial as the object of the act is to protect the public.
(iv) Sale of wheat flour as pure when it contains some mixture of barely (the quantum of admixture is immaterial)
(v) The addition of water with milk is adulteration
(vi) Sale of mixed linseed and rapeseed oil amounts to sale of adulterated oil.
(vii) (i) Insect infested:
Living – not for human consumption Dead
(viii) Suji and maida samples containing large number of alive and dead insects or adulterated.
(ix) Pan masala is food – Tobacco comes under the definition of food.

(x) Country liquor – comes under the definition of food.
(i) Food made available in a hotel is food
(ii) Wheat flour kept in Dhaba for preparation of Chapatis for sale is food.

1.3.6 Articles held as Food by Courts

1. Arhar Dal
2. Coconut oil
3. Country liquor
4. Fruits
5. Cota Haldi
6. Gram Flour
7. Groundnut oil
8. Gunja Oil
9. Gur
10. Ice Fruit
11. Jaggery
12. Kesari Dal
13. Mustard Oil
14. Tea Flour
15. Tea
16. Til Oil
17. Wines Liquors

1.3.7 What is Misbranded Food

An article is considered as misbranded :

1. If an article is an imitation of, or is substitute for another article of food;
2. If it is sold under the name of another article;
3. If the true character of the article is not indicated plainly and conspicuously on the label;
4. If it is sold by a name which belongs to another article of good;
5. Makes false claim for the article on the label or otherwise;
6. If the fact of an article beings damaged is concealed through colouring, polishing etc. ;
7. If the contents of each package are not conspicuously and correctly stated on the outside of the package.

1.4 FUNCTIONS / RESPONSIBILITIES OF VARIOUS AUTHORITIES

The Ministry for its implementation consists of 53 members- The composition is as follows**:**

a. Director General Health Services (DGHS)	1 (Ex officio Chairman)
b. Directors – Central Food Labs (CFL)	4
c. Experts of Central Government	2
d. Representative of Department of Food, Agriculture Commerce, Defence, Industry and Suppliers & Railways	7
e. Each State (one representative)	28
f. Union Territories	2
g. Representative to represent Agricultural, Commercial & Industrial Interest	3
h. Consumers interests including one from hotel industry	5
i. Indian Council of Medical Research	1
j. Bureau of Indian Standards	1
TOTAL	**54**

The tenure of a member is 3 years, except Chairman and Directors of CFL. The members can be renominated. The Committee may appoint as many sub-committees as it deems fit and non-CCFS members can be appointed to the Sub-committees.

The Committee is to advise the central and state governments on matters arising out of the administration of the Act.

There are 9 sub-committees functioning at present: The details of such committees are given as under :

1. Sub- Committee on Food Laws and Legal advisory Committee
2. Sub - Committee on Food Labelling
3. Sub- Committee on Food Additives & Contaminants
4. Sub- Committee on Milk and Milk Products
5. Sub- Committee on Microbiological
6. Sub- Committee on Oil and Fats
7. Sub- Committee on Pesticide Residues
8. Sub- Committee on Nutrition Food for Special Dietary Uses for Infant, and
9. Sub- Committee on Methods of Analysis

The Committee has made bye-laws called “Procedure and Transaction of Business” with the approval of central government for its functioning (See Annex 1)

The Committee is a recommendatory body to the Central Government and the State Governments, regarding administration of the Act, setting standards/ specifications of various foodstuffs, use of additives and their maximum levels, fixation of maximum levels of contaminants (physical, chemical and microbiological), toxins, MRL of Pesticides, functioning of various regulatory authorities viz. Central, State and local bodies, labeling, licensing etc.

The committee had 57 meetings since its inspection till August 2008.

1.5 CENTRAL FOOD LABORATORIES

Section 4: This section provides for the establishment of Central Food Laboratories (CFL) At present there are four such labs: one each at (i) Kolkata & (ii) Ghaziabad (under Central Government), (iii) Public Health (PH), LAB, Pune and (iv) Central Food Technological Research Institute (CFTRI), Mysore, notified as CFL for the purposes of the Act.

CFL's are the appellate laboratories for the following purposes:-

(i) for the analysis of samples received from courts under section 13 (2) (b) and issue certificates of analysis which supersedes the report of Public Analysts [(Section 13 (3)]. The jurisdiction of these labs for various areas are specified in table (1) of Rule 3 (2) of PFA Rules.
(ii) for the analysis of import products sent by the customs (Section 6) (2)]. The areas in respect of local areas assigned to various labs are provided in Table II of rule 3 (2) of PFA Rules.
(iii) for any other matter as considered necessary by Central Government [Section 4 (2)])

Section 5: This section provides for prohibition of imports which are in contravention of law.
Section 6: This section provides powers to Custom officers to detain imported foods prohibited under the law, and send samples to Central Food Laboratory. Custom officer solicits the assistance of Port Health Officers and food inspector for sampling purposes etc.
Section 7: This section prohibits the manufacture, sale or storage of adulterated foods.
Section 8 (Analysis of Foods): This section empowers **t**he Central Government/ State Governments to appoint **Public Analyst** having prescribed qualifications (rule 6). The primary task of public analysist is to analyse the samples sent by the food inspectors, consumer organizations or others as provided in the state rules (Section 24) on payment of fees or otherwise as provided in the state rules by the state governments.

The territorial jurisdictions of work of Public Analysts are prescribed in the State Rules.

1.6 ROLE OF FOOD INSPECTORS

1.6.1 Section 9/ 10 (Appointment and powers of Food Inspectors

The section 9 confers powers upon to the Central/ State Governments to appoint food inspectors having prescribed qualifications (Rule 8). The primary responsibility of food inspector is to draw the samples from the manufacturer's premises/ markets or other places under their jurisdiction as provided in the State rules for analysis by the Public Analyst.

The Food Inspector, with the approval of Local (Health) Authority [L(H)A]/ Food (Health) Authority [F(H)A] has the powers to prohibit the sale of an article of food, if it appears to be adulterated and to seize and carry away the seized stock or keep it in the custody of vendor under a bond {Section {10 (4)} and send part of the sample for analysis by the public analysists. The cost of the sample should be paid by the Food Inspector (10 (3).

In case the seized article is of perishable in nature and if the Local (health) Authority is satisfied that it is unfit for human consumption, the authority may destroy the same after giving notice to the vendor. [section 10 (4)].

The Food Inspector may seize the books of accounts which are useful and relevant for any investigation (to be returned later) with the approval of his immediate officer. [section 10 (6)] & 10 (7 A)].

Food Inspector is to call one or more witness while taking sample (Section 10(a) or in case where an article is seized (Section 10 (7).

1.6.2 Section 11 Procedure to be followed by Food Inspector

This section provides the procedure to be followed by the Food Inspector for drawing samples. The procedure to be followed are as under :

a) Give notice in writing of his intention to have it analysed to the person from whom he has taken the sample and to the person, if any, whose name and addresses have been disclosed.
b) Divide the sample into three parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken.
c) If the person refuses to sign or put his thumb impression, the Food Inspector shall call upon one or more witnesses and take their signature or thumb impression, in liew of the signature or thumb impression of such person.
   (i) send one part of the sample to the public analyst under intimation to the local authority.
   (ii) send remaining two parts to the local (Health) authority for further legal action.
d) An article of food seized shall be produced before Magistrate as soon as possible, but in any in case, not later than 7 days after receipt of the report of the public analyst.
e) If an application is made to the Magistrate by the person from whom the food article has been seized, the Magistrate shall by order in writing direct the Food Inspector to produce the seized article before him within such time as may be specified in order.

Food Inspector is required to call one or more witness while taking sample if the vendor refuses to sign the wrapper or other documents as required under the Act/Rules (Section 11(1) (b) and Rules 16(c).The Food Inspector should pay the cost of the sample [section 10 (3)]

1.6.3 Section 12 (Power of Purchaser)

This section allows a purchaser or a recognized consumer organization to get the sample analysed by a Public Analyst on payment of fee and to receive the report of the analysis. The fee as prescribed by the State Government is refunded if the sample is adulterated.

1.6.4 Section 13 Report of Analyst

As per this section, the report of Public Analyst, prima facie forms the basis for further action by the authorities. The report is sent to Local Health Authority, who shall forward a copy of the report to the vendor and to the manufacturers/ distributors/ dealer who has supplied the material to the vendor under warranty (Section 14 A).

As per section 13(2) the court has power to call for the part of the sample from local (Health) Authority, if so desired by the manufacturer/distributor/dealer for getting it analyzed by Central Food Laboratory and after ascertaining the intactness of the seals, send the same to Central Food Laboratory for final opinion which supersedes the public analyst report [Section 13(3)].

1.6.5 Section 14 (Issue of Warranty)

This section provides that a manufacturer, distributor or dealer has to give a warranty in writing to the vendor, which stands as a defence to vendor in case the same is declared adulterated (Section 19).A cash memo/ bill is considered as a warranty.

1.6.6 Section 15 Report of Food Poisoning

As per this section, the Central/ State governments may require medical practitioners to report cases of food poisoning in their areas of jurisdiction.

1.7 PENALTIES (Section 16)

The section 16 deals with the Penalties as detailed below:

Offences	**Penalties**
• **Adulterated** but not injurious and not within prescribed specifications, • misbranded; • non-injurious adulterant, • preventing a Food Inspector from drawing sampling or in exercise of his duties, • use of report of public analyst/ CFL for advertisement, providing false warranty etc.	• Minimum imprisonment of 6 months, extending to 3 years and fine not less than Rs 1,000/-
• **Primary food adulterated** by human agency (but of non-injurious nature) or improper labelling, licensing condition etc.	• Imprisonment of not less than 3 months, extending to 2 years and fine not less than Rs 500/- •
• Adulterated, injurious nature (clause (e) to (L) of Section (2) (ia)	• Imprisonment not less than 1 year and extending to 6 years and fine of not less than Rs 2,000/-
• In case of death/ grievous injury	• Imprisonment of not less than 3 years, extending to life and fine not less than Rs 5,000/-
• Tampering commodity kept under the custody of vendor vide Section 10 (4)	• Imprisonment of not less than 6 months, extending to 2 years and fine not less than

	Rs 1,000/-
• Tampering commodity kept under the custody of vender and of injurious nature/ likely to cause death	• Imprisonment of not less than 3 years, extending to life and fine not less than Rs 5,000/-
• Not providing warranty (Section 14) or not disclosing name of manufacturer (Section 14A)	• Imprisonment upto 6 months and fine not less than Rs 5,00/-
• Repeat of offence	• Cancellation of license
• Subsequent offence	• Offenders name and place to be published

Section 16A: Summary Trials: This section provides summary trials by Judicial Magistrates of 1st class or Metropolitan Magistrate who can pass maximum imprisonment of 1 year. Magistrate has powers to try cases other than summary trials if he is of the opinion that the punishment higher than 1 year is to be passed.

Section 17: Nomination by Company: As per this section, the companies can nominate a person responsible for the business of the company and inform Local Health Authority of such nominations with the written consent of the nominee. The person so nominated is to inform Local Health Authority for canceling his nomination when he leaves the company or otherwise under intimation to the company.The nominee stands responsible for any offence committed by the Company.

Section 18: Forfeiture: As per this section the articles of food, contravening the law, can be forfeited by the concerned authorities. However, the court can allow reprocessing of such food articles under the supervision of some officer if the same can be made to confirm to the standards prescribed under law.

Section 19: A warranty under section 14 from a licensed vendor stands as a defence in as a case of prosecution, as per section 19.

Section 20: Cognizance of offence: This section stipulates that a prosecution can be launched with the written consent of a person authorized by Central/ State Government except in case of warranty (Section 14/ 14A). However, a purchaser (Section 12) can directly make a complaint to the court with a copy of the report of Public Analyst. A purchaser or recognized consumer associations (Section 12) may also institute a prosecution in a court with copy of the report of the Public Analyst along with the complaint.

Section 20A: Impleading Manufacturer: As per section 20 A, a manufacturer, distributor or dealer can be impleaded on the evidence adduced before the court if such person is also connected with the commission of the offence .

Section 21: Power of Magistrate : The section 21 clearly stipulates that only the 1st class Magistrate or Metropolitan Magistrate can pass any sentence under this Act except life imprisonment or more than 6 years imprisonment.

Section 22: Protection to Government Officers if action is taken in good faith: As per this section, legal proceedings cant not be initiated against government officers , if the action is taken in food faith.

What is done in "Good Faith" : The term " Good Faith" is defined in the General Clauses Act (X of 1897) under section 3(22). As per this section " a thing shall be deemed to be done in "good faith" where it is in fact done honestly, regardless of the fact whether it is done negligently or not" The section 52 of Indian Penal Code under describes action taken in good faith as "Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

The word "due care and attention' means that a person has to show not only that he had good intention but also exercised such care and skill as the duty reasonably demanded for its due discharge.

Section 22A: Direction by Central Government to be Complied with: As per this section, the direction given by central government to State Governments should be complied with by State Government.

Section 23: Powers of Central Government to make rules:

1. **Defining standards of quality :** The Rules (Appendix B) provide in detail the Standards of a product in relation to quality parameters like fat content in different classes of milk or milk products, ingredients to be used in different categories of food e.g. use of additives like colours, preservatives , antioxidants, artificial sweeteners etc and their maximum levels of use, the requirements of nutrients in certain food viz Infant food, infant milk substitutes characteristics to detect adulteration, minimum juice content in fruit drinks etc.
2. To impose conditions for manufacture, distribution, sale, registration of premises conditions for sale, licences etc (Part IX – Rules 49,50, 51).
3. To prescribe conditions of packaging, labeling including nutritional labeling, or special labeling provisions in case of fortified food etc. (Rule 32 to 43)
4. Qualifications, powers and duties of Food Inspectors and Public Analysts- (Rules 6 to 9)
5. To define infrastructure for laboratories where samples can be analysed/ recognition of labs having necessary infrastructure for analytical purposes.
6. To restrict use of certain ingredients etc.
7. To prescribe licensing conditions for import of foods, to check the quality of imports to ensure/ verify that such imports conform to PFA Act/ Rules etc.
8. Procedure of drawing and dispatch of samples by a Food Inspector.
9. To provide methods of analysis for guidance of a public analyst.
10. To provide exemption to any article from provisions of the Act/ Rules subject to any conditions deemed necessary.
11. To provide procedure of destruction etc in case so ordered by the central government or an authorized officer.
12. Any other action necessary to carry out the provisions of the Act

The Rules under this Act are made with prior consultation of CCFS and previous publication in the official gazette. The rules so made are to be placed before each house of parliament within time period as prescribed in the Act (30 days at present). However, prior consultation with CCFS

can be dispensed with if matter is of urgent nature but committee to be consulted within a period of 6 months.

1.8 POWERS OF THE STATE GOVERNENTS

Section 24: Powers of State Governments: This section empowers the state governments to frame rules and regulations after consultation with CCFS and previous publications, for the following purposes:

1. Defining powers, jurisdictions and duties of Food (Health) Authority and Local (Health)Authority.
2. Form, fees and conditions for licences for manufacture, storage, sale, and distribution of articles of food.
3. Fees for analysis, apportionment (distribution) of fines between local authorities and others.
4. Delegation of powers to subordinate authorities by food (Health) Authority.
5. Rules made by State Government to be laid before state legislatures.

Section 25: As per section 25, all corresponding laws/ Acts in force in states/ union territories stand repealed.

1.9 DISCUSSION ON AMENDMENTS TO PFA ACT AND RULES

The PFA Act has been amended thrice in 1964, 1976 and 1986 which inter-alia provided the following.

1) Stringent penalties:- A minimum of 6 months imprisonment for non- injurious adulteration to a maximum of life imprisonments in case of grievous injury/ death has been prescribed under the Act.
2) By way of an amendment, a middle level officer has been designated as Local (Health) Authority, as incharge of administration for local area so notified by the State Governments.
3) Powers have been conferred up on the consumer organizations to draw samples and receive reports of analysis from the Public Analyst for further action.
4) Provision for summary trial has been made
5) The central government has been vested with the power to give directions to state governments.
6) A defence to the vendor has been provided in an adulterated case, if he can produce letter of warranty (from a manufacturer, distributor or dealer) and proof that it was properly stored while in his possession and sold it in the same condition as he purchased it.

1.9.1 Prevention of Food Adulteration (PFA) Rules

The PFA Rules provide standards of about 250 articles of food which are of mass consumption. Over 350 amendments have been made since its inception with the objective of updating its standards etc with the latest advancement in technologies and in harmonization with Codex Standards, guidelines, codes practices etc. The use of additives as per Codex recommendations are constantly reviewed by CCFS to make domestic food compatible to imports.

The details of various appendics are as below:

Appendix A : Forms
Appendix B : Definitions and Standards of Quality for various foods.
Appendix C: 15 Tables listing use of additives in various foods
Appendix D: 3 Tables providing micro biological requirements of various foods.

1.10 SHORTCOMINGS/INADEQUACIES IF ANY

In addition to PFA Act and Rules made there under, there are other Acts and rules which also formulated and implemented the standards of similar commodities under the those laws. A few of such examples are given below:

Ministry	**Act/ Rules**
Ministry of Food Processing Industry	Fruit Product Order 1955 (FPO) (under Essential Commodities Act, 1953) Meat Food Products Order 1973 (MFPO)
Ministry of Consumer Affairs, food and Public Distribution	- Consumer Protection Act – 1986 - Standards of Weights and Measures Act 1976/ Rules – 1977 - Bureau of Indian Standards Act 1986 - Vegetables Oils Product Order 1998. (under Essential Commodities Act 1953)
Ministry of Agriculture (Department of Animal Husbandry, Dairying and Fisheries)	-Agriculture Produce (Grading and Marketing Act 1937) (AGMARK) -Various orders issued under Essential Commodities Act such as - Milk and Milk Products (Control) Order 1992 - Edible Oils Packaging Order 1998 -Solvent Extracted Oils, Deoiled Meal and Edible Flour Order, 1973 (SEO)
Ministry of Environment	Environment Protection Act 1986
Ministry of Human Resources Development; Women and Child Welfare Development	Infant Milk Substitutes, Feeding Bottles & Infant Foods (Regulation of Production, Supply and distribution) Act 1992 and Rules 1993
Ministry of Commerce	The Export (Quality Control & Inspection) Act 1963

There were variations in specifications of similar food products in the above cited Acts/ orders/ rules and regulations. Example: PFA Rules permit the use of artificial sweetener in certain food products while Fruit Products Order does not allow the same.

The Packages Commodity Rules [(PCR) (Schedule) 3] under Standards of Weights and Measures Act 1976 provides certain commodities to be packed in specified sizes while the PFA Act does not have such restrictions. There are many such other variations.

A need was felt to provide an integrated comprehensive legislation under one authority which will regulate manufacture, storage, distribution and sale and provide hygienic conditions to ensure availability of safe and wholesome food for human consumption and provide fair trade in food as a self regulation by the industry and trade. The large number of cases pending over 61,000 till 1996 in courts also demanded a quick judicial system which will dispose of the disputes quickly.

Keeping in view the wide spread prevalence of food adulteration and multiple agencies involved to control such malpractices and in view of the concept note of the Ministry of Health and family Welfare, while proposing PFA (Amendment) Bill 2002, it was observed as under.

The cases pending in various courts of the country was 28,364 at the end of the year 1981, whereas at the end of the year 1996, the pendency has gone upto 61019. The note is suggestive of the view that the concept of minimum punishment of six months imprisonment (since 1976 amendment) has also become an indirect factor causing delay and the current scheme of enforcement has not fulfilled the purpose, hence, some substantial changes are necessary. They suggested:

- The need for settling down the time limit for investigation so that the period should not exceed 6 months.
- To shift to promotion of GMP and in process control concept such as HACCP thus making the standards more safety oriented based on science.
- Launching of education programmes for consumer and small food markets and street vendors including enforcement staff etc.

The Government thus formulated an integrated food law which was passed by the Parliament and assented by the President on 23rd August 2006. The title of the Act is called "The Food Safety and Standards Act 2006". It is believed that this Act will remove the difficulties encountered in the implementation of the present Act and provide a single agency to deal with all aspects of Food Safety and Quality. The Ministry of Health is the nodal Ministry for implementation of the said Act. (comments: To be filled by Prof Salooja about this act)

1.11 HARMONIZATION OF PFA ACT WITH CODEX

After signing Sanitary and Phytosanitary (SPS) and Technical Barrier to trade (TBT) agreements by India under WTO regime and removal of Quantitative Restriction on import of food products into India, the exercise of harmonization of standards for food products, use of food additives, microbiological requirements, harmonization of regulations, in line with international standards prescribed by Codex Alimentarious.

Commission and International Organisation of Standards (ISO) will be a major task before the Food Safety and Standards Authority. The work on the same has already received the attention of the authorities.

India has been an active member of the Codex and has been attending regularly the various sessions of Codex Alimentarious Commission and its Codex General subjects/ Commodity

committees to put forward its views in the standard setting procedures. The Ministry of Health and Family Welfare which is the nodal authority for the administration of Food Safety and Standards Act is also designated as National Codex Contact Point in India to examine and formulate India's views on agenda for the various meeting of Codex Alimentarious Commission (a joint venture of FAO/WHO dealing with International Food Standards) and its subsidiary committees. As such India will be in a position to place before the international standard setting body (Codex), its views whenever the developed countries suggest stringent standards than what are necessary for Appropriate Level Of Protection (ALOP).

Check Your Progress Exercise 1

Note: a) Use the space below for your answer:
b) Compare your answers with those given at the end of the unit.

1) What are the enforcement agencies at different levels?

……

……

……

……

2) What are the functions of a Public Analyst and a Director Central Food Laboratory, who is superior in rank and why?

……

……

……

……

3) What is a standard setting procedure?

……

……

……

……

4) Can a prosecution be launched by a food Inspector directly before to the Court. If not what is the procedure?

……

……

……

……

5) What are the responsibilities of a manufacturer/ processor and what procedures should be taken to fulfill their responsibilities?

……

……

……

……

6) Can a producer of raw Agriculture or Horticulture material (primary food) be held responsible for the quality of the article if it has fallen below the prescribed standards under the law.

……

……

……

……

1.12 LET US SUM UP

The PFA Act paved the way for Central Legislation in 1954, thus replacing the state laws which lacked uniformity in the specifications and also in implementations. During its period of over 50 years enforcement, amendments were carried to provide stringent punishment, summary trials and powers to consumer organizations for drawing of samples. However in the process of development of food industry, multiple agencies/ department of Central Government formulated laws in parallel dealing with particular food sector like fruits and vegetables, dairy products, infant foods etc, which are at variance in quality and other parameters etc. Hence a need was felt for an integrated Act which paved the way for the passage " Food Safety and Standards Act 2006".

1.13 SUGGESTED FURTHER READING

1. Prevention of Food and Adulteration Act and Rules with Court judgments
2. Laws relating to PFA in India by HP shrivastava.
3. Standards of Weights and Measures Act/ Packaged Commodities Rules
4. Fruit Products Order
5. Meat Food Products Order
6. Milk and Milk Products Order
7. Vegetable Oils Products Order
8. Solvent Extracted Oil, Deoiled Meat and Edible Flour order
9. Two Man committee report

10. Workshops

11. Strategies of Planning

12. PFA Amendment Bill

13. Essential Commodities Act and various orders issued in the Act.

1.14 KEY WORDS

Key-term		Definitions
PFA ACT	:	Prevention of Food Adulteration Act
CCFS	:	Central Committee for Food Standards
PA	:	Public Analyst
CFL	:	Central Food Laboratory
F(H) A	:	Food (Health) Authority
L(H)A	:	Local (Health) Authority
FI	:	Food Inspector
CCrP	:	Code of Criminal Procedure
GMP	:	Good Manufacturing Practices
GHP	:	Good Hygiene Practices
HACCP	:	Hazard Analysis and Critical Control Point
AGMARK	:	Agriculture Produce (Grading and Marking) Act 1937
MRL	:	Maximum Residue Levels of Pesticides
Vet. Drugs	:	Veterinary Drugs
IS Specifications	:	Standards established by Bureau of India Standards
PC Rules	:	Packaged Commodities Rules under Standards of Weights & Measures Act
ISI/ BIS	:	Indian Standards Institution / Bureau of Indian Standards

NOTIFICATION

Annexure 1 B

S.O. 657 (E):- In exercise of the Powers conferred by Sub- Section (6) of Section 3 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) and after obtaining previous approval of the Central Government, the Central Committee for Food Standards (hereinafter referred to as

the Committee) hereby makes the following Bye – laws for regulating its procedure and transaction of its business, namely:-

1. **Short title and commencement-**

(i) These Bye- laws may be called the Central Committee for Food Standards (Procedure and Transaction of Business) Bye- laws, 1986.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. **Time and place of meetings of the Sub- Committee:** The Committee shall meet at such time and place as the Chairman of the Committee (hereinafter referred to as the Chairman) may from time to time determine.

3. **Power to call meeting of the Committee:** The Chairman may, at any time, call a meeting of the Committee and shall also do so, if a requisition for that purpose is presented to him in writing by not less than fifty percent of the members of the Committee specifying the subject of discussion at the meeting proposed to be called.

4. **Notice for meeting:**

(i) A notice of not less than twenty- one clear days' in respect of every meeting of the Committee, shall be given to each of its members who are for the time being in India.

(ii) The aforesaid notice may be served on any member of the Committee either through a person or by registered post or telegram sent to each such member at his latest address intimated by him in writing to the secretary of the committee.

(iii) Any incidental omission to give the aforesaid notice to any of the members of the committee shall not invalidate any decision taken or resolution passed at any such meeting of the committee.

(iv) Notwithstanding anything contained in clause (i), a meeting of the Committee may be called by the Chairman at a shorter notice of not less than seven clear days if he is of opinion that the matter to be discussed at the proposed meeting is of such a matter that it requires to be considered urgently by the Committee.

5. Quorum:

(1) No business shall be transacted at a meeting of the Committee unless at least one-third of its members are present.

(2) If there is no quorum within half an hour from the time appointed for holding the meeting, the same stand adjourned till such time to the same day as the Chairman may decide.

(3) Notwithstanding anything contained in clause (1), if there is no quorum at any such adjourned meeting also, members present at the meeting shall form the quorum.

6. **Chairman to preside over meetings of the Committee:-**

(1) The Chairman of the Committee shall, when present, preside over all meetings of the Committee.

(2) If for any reason, the Chairman is not present in any meeting any other member duly authorized by the Chairman shall preside over the meeting of the Committee.

7. **Adjournment of Meeting**

(1) The Chairman may, with the consent of the members present at any meeting of the committee, adjourn the meeting from time to time.

(2) No business other that the business included in the agenda for that meeting shall be transacted at any such adjourned meeting except with the consent of the Chairman.

8. **Voting:**

(1) Each member of the Committee shall have one vote.

(2) All matters submitted for consideration at a meeting of the Committee shall be decided by a majority of the members present and voting at such meeting; and in case of equality of votes on an issue, the Chairman or the person presiding at the said meeting shall have second or casting vote.

9. **Transaction of business by circulation of papers:**

(1) Any business, which in the opinion of the Chairman, is necessary for the Committee to transact before the next meeting of the Committee, may be transacted by circulation of papers sent to all the members of the Committee, for the time being in India, in the manner and at the latest address as is specified in clause (2) of bye-law 4, and any decision taken or resolution passed by a majority of the members through such circulation shall be as effectual and bindings as if it has been taken or, as the case may be passed at a meeting of the Committee.

(2) When any papers mentioned in clause (1) are sent to the members for circulation, a period of not less than 21 clear days shall be allowed for the receipt of replies from the members and such period shall be counted from the date on which the said papers are so sent. The letter shall be sent by the fastest mode of postage.

10. **Record of business:** A record of all business transacted by the Committee, shall be maintained including the issue of the minute. The said minute duly approved by the Chairman shall be circulated to all the members, for their approval or comments within 30 days of the date of which the minutes are issued. Comments received on the minutes, if any, should be put at the next meeting of the Committee for confirmation of the said minutes.