

# The Prevention of Food Adulteration Act, 1954

An Act to make provision for the prevention of adulteration of food.

## Section 2. Definitions

(i) “adulterant” means any material which is or could be employed for the purpose of adulteration;

(i-a) “adulterated”—an article of food shall be deemed to be adulterated-

(a) If the article sold is not of the nature, substance or quality, demanded by the purchaser

(b) If the article contains any other substance or is so processed, as to affect injuriously the nature, substance or quality thereof;

(c) If any inferior or cheaper substance has been substituted

(d) If the article has been abstracted so as to affect injuriously the nature, substance or quality thereof.

- (e) If the article has been prepared, packed or kept under insanitary conditions
- (f) If the article consists wholly or in part of any filthy, putrid, rotten, decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption;
- (g) If the article is obtained from a diseased animal;
- (h) If the article contains any poisonous or other ingredient which renders it injurious to health:
- (i) If the container of the article is composed, of any poisonous or deleterious substance, which renders its contents injurious to health;
- (j) If any colouring matter, is not within the prescribed limits of variability;
- (k) If the article contains any prohibited preservative or permitted preservative in excess of the prescribed limits;
- (l) If the quality or purity of the article falls below the prescribed standards
- (m) If the quality or purity of the article falls below the prescribed standard
- (v) "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

(ix) “Misbranded”-an article of food shall be deemed to be, misbranded-

(a) If it is an imitation or resembles in a manner likely to deceive, another article of food under the name of which it is sold,

(b) If it is falsely stated to be the product of any place or country

(c) If it is sold by a name which belongs to another article of food;

(d) If it is so coloured, flavored or coated, powdered or polished that the fact that the article damaged is concealed or if the article is made to appear better or of greater value than it really is;

(e) If false claims are made for it upon the label or otherwise;

(f) If, when sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer and which bear his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act:

(g) If the package containing it, or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents;

(h) If the package containing it or the label on the package bears the name of a fictitious

individual or company as the manufacturer or producer of the article;

(i) If it purports to be, or is represented as being, for special dietary uses, unless its label bears such information as may be prescribed concerning its vitamin, mineral, or other dietary properties in order sufficiently to inform its purchaser as to its value for such uses:

(j) If it contains any artificial flavouring, artificial colouring or chemical preservative, without a declaratory label stating that fact, or in contravention of the requirements of this Act or rules made thereunder;

(k) If it is not labelled in accordance with the requirements of this Act or rules made thereunder:

### **Section 3. The Central Committee for Food Standards**

(1) The Central Government shall, constitute a Committee called the Central Committee for Food Standards to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it under this Act.

(2) The Committee shall consist of the following members, namely:

(a) The Director-General, Health Services, ex officio, who shall be the Chairman:

(b) The Director of the Central Food Laboratory or, in a case where more than one Central Food Laboratory is established, the Directors of such Laboratories, ex officio;

(c) Two experts nominated by the Central Government;

(d) One representative each of the Departments of Food and Agriculture in the Central Ministry of Food and Agriculture and one representative each of the Central Ministries of Commerce, Defence, Industry and Supply and Railways, nominated by the Central Government;

(e) One representative each nominated by the Government of each State;

(f) Two representatives nominated by the Central Government, to represent the, <sup>4</sup>[Union territories;

(g) One representative each, nominated by the Central Government, to represent the agricultural, commercial and industrial interests;

(gg) Five representatives nominated by the Central Government to represent the consumer's interests, one of whom shall be from the hotel industry;

(h) One representative of the medical profession nominated by the Indian Council of Medical Research;

(i) One representative nominated by the Indian Standards Institution referred to in Cl. (e) of Sec. 2 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952)

(3) The members of the Committee shall, hold office for three years and shall be eligible for re-nomination.

## **Section 10. Powers of Food Inspectors**

(1) A Food Inspector shall have power-

(a) To take samples of any article of food from-

(i) Any person selling such article

(ii) Any person who is in the course of conveying, delivering or preparing to deliver such article to a purchaser or consignee:

(iii) A consignee after delivery of any such article to him and

(b) To send such sample for analysis to the Public Analyst for the local area within which such sample has been taken;

(c) With the previous approval of the Local (Health) Authority having jurisdiction in the local area, concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of- any article of food in the interest of public health.

Explanation-For the purposes of sub-clause (iii) of Cl. (a), consignee” does not include a person who purchases or receives any article of food for his own consumption.

(2) Any Food Inspector may enter and inspect any place where any article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food for sale, or exposed or exhibited for sale or where any adulterant is manufactured or kept, and take samples of such article of food or adulterant for analysis:

Provided that no sample of any article of food, being primary food, shall be taken under this sub-section if ‘it is intended for sale as such food.

(3) Where any sample is taken under Cl. (a) of sub-section (1) or sub-section (2), 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.

(4) If any article intended for food appears to any Food Inspector to be adulterated or misbranded, he may seize and carry away or keep in the safe custody of the vendor such article in order that it may be dealt with as hereinafter provided; 2[and he shall, in either case, take a sample of' such article and submit the same for analysis to a public analyst):

Provided that where the Food Inspector keeps such article in the safe custody of the vendor he may require the vendor to execute a bond for a sum of money equal to the value of such article with one or more securities as the Food Inspector deems fit and the vendor shall execute the bond accordingly.

(4-A) Where any article of food seized under sub-section (4) is of a perishable nature and the local (Health) Authority is satisfied that such article of food is so deteriorated that it is unfit for human consumption, the said Authority may, after giving notice in writing to the vendor, cause the same to be destroyed.

(5) The power conferred by this section includes power to break open any package in which any article of food may be contained or to break open the door of any premises where any article of food may be kept for sale

(6) Any adulterant found in the possession of a manufacturer or distributor of, or dealer in any article of food, may be seized by the Food Inspector and a sample of such adulterant submitted for analysis to a public analyst :

(7-B) When any adulterant is seized under sub-section (6), 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.

(9) Any Food Inspector exercising powers under this Act or under the rules made thereunder who-

(a) Vexatiously and without any reasonable grounds of suspicion seizes any article of food <sup>11</sup>[or adulterant]: or

(b) 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; Shall be guilty of an offence under this Act and shall be punishable for such offence with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees.

### **Section 11. Procedure to be followed by Food Inspectors**

(1) When a Food Inspector takes a sample of food for analysis, he shall-

(a) Give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any whose name, address and other particulars have been disclosed Sec. 14-A:

(b) Except in special cases provided by rules under this Act, divide the sample then and there into three part 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 in such place and in such manner as maybe prescribed:

Provided that where such person refuses to sign or put his thumb impression the Food Inspector shall call upon one or more witnesses and take his or their signature or thumb impressions, as the case may be, in lieu of the signature or thumb impression of such person;

(C) (i) Send one of the parts for analysis to the public analyst under Intimation to the Local (Health) Authority: and

(ii) Send the remaining two parts to the Local (Health) Authority for the purposes of sub-section (2) of this section of sub-Sections (2-A) and (2-F,) of Sec.13.



(2) Where the part of the sample sent to the public analyst under sub- clause (i) of Cl. (c) of sub-section (1) is lost or damaged, the Local (Health) Authority shall, on a requisition made to it by the public analyst or the Food Inspector despatch one of the parts of the sample sent to it under sub- clause (ii) of the said C1. (C) To the public analyst for analysis.]

(3) When a sample of any article of food <sup>1</sup>[or adulterant] is taken under sub- section (1) or sub-section (2) of Sec. 10. <sup>2</sup>[the Food Inspector shall, by the immediately succeeding working day, send a sample of the article of food or adulterant or both, as the may be,] in accordance with the rules prescribed for shambling to the public analyst for the local area concerned.

(4) An article of food seized under- sub-section (4) of See, 10,'Unless destroyed under sub-section (4-A) of that section, and any adulterant seized under sub-sections (6) of' the section, shall be produced before a Magistrate as soon as possible and in any case not later than seven days after the receipt of the report of the public analyst.

(5) If it appears to the Magistrate on taking such evidence as he may deem necessary-

(a) That the article of food produced before him under sub- section (4) is adulterated or misbranded he may order it-

(i) To be forfeited to' the Central Government, the State Government or the local authority, as the case may be , or

(ii) To be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food; or

(iii) To be so disposed of' as to prevent its being again exposed for sale or used for food under its deceptive name; or

(iv) To be returned to the owner, on his executing a bond with or without sureties, for being sold under its appropriate name or, where the Magistrate is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, for being sold after reprocessing under the supervision of such officer as may be specified in the order;

(b) That the adulterant seized under sub-section (6) of Sec. 10 and produced before him is apparently of a kind which may be employed for purposes of adulteration and for the possession of which the manufacturer, distributor or dealer, as the case may be, is unable to account satisfactorily, he may order it to be forfeited to the Central Government, the State Government or the local authority, as the case may be.]

### **Section 12. Purchaser may have food analysed**

Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a Food Inspector <sup>1</sup>[or a recognised consumer association, whether the purchaser is a member of that association or not,] from having such article analysed by the public analyst on payment of such fees as may be prescribed and from receiving from the public analyst a report of his analysis:

Provided that <sup>2</sup>[such purchaser or recognised consumer association shall inform the vendor at the time of purchase of his or its intention] to have such article so analysed provided further that the provisions of sub-sections (1), (2) and (3) of Sec. 11 shall, as far as may be, apply to a <sup>3</sup>

[purchaser of article of food or recognised consumer association who or which intends] to have such articles so analysed, as they apply to a Food Inspector who takes sample of food for analysis:

Provided also that if the report of the public analyst shows that the article of food is adulterated, the <sup>4</sup>[purchaser or recognised consumer association shall be entitled to get refund of the fees paid by him or it] under this section.

## Section 15. Notification of food poisoning

The Central Government or the State Government] may, by notification in the Official Gazette, require medical practitioners carrying on their profession in any local area specified in the, notification to report all occurrences of food poisoning coming within their cognizance to such officer as may be specified in the notification.

## Section 16. Penalties

<sup>1</sup>[(1) Subject to the provisions of subsection (I -A) it any person, -

(a) Whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any article of food—

(i) Which is adulterated within the meaning of sub-clause (m) Of Cl. (i-a) of Sec. 2 or misbranded within the meaning of Cl. (ix) Of that section or the sale of' which is prohibited under any provision of this Act or any rule made thereunder or by an order of the Food (Health) Authority;

(ii) Other than an article of food referred to in sub-clause (i), in contravention of any of the provisions of this Act or of any rule made thereunder ; or

(b) Whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any adulterant which is not injurious to health; or

(c) Prevents a Food Inspector from taking a sample as authorised by this Act : or

(d) Prevents a Food Inspector from exercising any other power conferred on him by or under

this Act : or

(e) Being a manufacturer of an article of food, has in his possession, or in any of- the premises occupied by him, any adulterant which is not injurious to health; or

(f) Uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory or by a public analyst or any extent thereof for the purpose of 'advertising any article of food; or

(g) Whether by himself or by any other person on his behalf, gives to the vendor, a false warranty in writing in respect of any article of food sold by him, he shall, in addition to the penalty to which he may be liable under the provisions of Sec. 6, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine which shall not be less than one thousand rupees':

Provided that-

(i) If the offence is under sub-clause (i) of Cl. (a) and is with respect to an article of food, being primary food which is adulterated due to human agency or is with respect to an article of food which is misbranded within the meaning of sub-clause (k) of Cl. (ix) of Sec. 2 or

(ii) If the offence is under sub-section (ii) of Cl. (a), but not being an offence with respect to the contravention of any rule made under Cl. (a) or Cl. (g) of sub-section (I-A) of Sec. 23 or under Cl. (b) of sub-section (2) of Sec 24,

The Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend to two years, and with fine which shall not be less than five hundred rupees:

Provided further that if offence is under sub-clause (ii) of Cl. (a) and is with respect to the

contravention of any rule made under Cl. (a) or Cl. (g) of sub-section (I -A) of Sec. 23 or under Cl. (b) of sub-section (2) of Sec. 24, the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees.]

<sup>2</sup>[(I-A) If 'any person whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes, -

(i) Any article of food which is adulterated within the meaning of any of sub- clauses (e) to (1) (I-) both inclusive) of Cl. (i-a) of Sec. 2, or

(ii) Any adulterant which is injurious in addition to the penalty to which he may be liable under the provisions of' Sec.6, be punishable with imprisonment for a term which shall not be less than one year but which may extend to six years and with fine which shall not be less than two thousand rupees :

Provided that if such article of food or adulterant when consumed by any person is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of Sec. 320 of the Indian Penal Code (45 of 1860), he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with line which shall not be less than five thousand rupees.]

<sup>3</sup>[(i-AA) If any person in whose safe, custody any article of food has been kept under sub-section (4) of Sec. 10, tampers or in any manner interferes with such article, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not less than one thousand rupees.]

<sup>4</sup>[(I -B) If any Person in whose safe, custody any article of food has been kept under sub-section (4) of 'Sec. IO sells or distributes such article, which is found by the Magistrate before whom it is produced to be adulterated within the meaning of sub-clause (h) of Cl. (i-a) of Sec. 2 and which, when consumed by any person, is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of Sec. 320 of the Indian Penal Code (45 of 1860), then, notwithstanding anything contained in sub-section (I -AA), he shall be punishable with imprisonment for a term which shall not be less than three years but

which may extend to term of life and with fine which shall not be less than five thousand rupees.]

(I-C) If any person contravenes the provisions of Sec. 14 or Sec. 14-A, he shall be punishable with imprisonment for a term, which may extend to six months and with fine, which shall not be less than five hundred rupees.

(I -D) If any person convicted of an offence under this Act commits a like offence afterwards, then, without prejudice to the provisions of' sub-section (2), the Court, before which the second or subsequent conviction takes place, may order the cancellation of the licence, if any, granted to him under this Act and thereupon such licence shall, notwithstanding anything contained in this Act or in the rules made thereunder, stand cancelled.

(2) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the Court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Court may direct. The expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner- as a fine.

## **Section 19. Defences, which may or may not be allowed in prosecutions under this Act**

(1) It shall be no defence -- that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

(2) A vendor shall not be deemed to have committed an offence pertaining to the sale of any adulterated or misbranded article of food if he proves-,

(a) That he purchased the article of- food--

(i) In a case where a licence is prescribed for the sale thereof, from a daily licensed manufacturer, distributor or dealer;

(ii) In any other case, from any manufacturer, distributor or dealer, with a written warranty in the prescribed form; and

(b) That the article of food while in his possession was properly stored and That he sold it in the same State as he purchased it.