

General provisions relating to penalty under Food Safety and Standards Act, 2006

The general provisions relating to penalty has been prescribed in Section 49 to Section 67 of FSS Act, 2006.

1. Section 50: Penalty for selling food not of the nature or substance or quality demanded: Any person selling any food which is not in compliance with the provisions of FSS Act, 2006 or the regulations made thereunder, or of the nature or substance or quality demanded by the purchaser, shall be liable to a penalty not exceeding five lakhs rupees.

2. Section 51: Penalty for sub-standard food:

Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is sub-standard, shall be liable to a penalty which may extend to five lakhs rupees.

3. Section 52: Penalty for misbranded food:

Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sales or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakhs rupees.

4. Section 53. Penalty for misleading advertisement:

Any person who publishes, or is a party to the publication of an advertisement, which-

(a) Falsely describes any food; or

(b) Is likely to mislead as to the nature or substance or quality of any food or gives false guarantee,

Shall be liable to a penalty which may extend to ten lakh rupees.

5. Section 54: Penalty for food containing extraneous matter.

Any person whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption containing extraneous matter, shall be liable to a penalty which may extend to one lakh rupees.

6. Section 55: Penalty for failure to comply with the directions of Food Safety Officer.

If a food business operator or importer without reasonable ground, fails to comply with the requirements of this Act or the rules or regulations or orders issued thereunder, as directed by the Food Safety Officer, he shall be liable to a penalty which may extend to two lakh rupees.

7. Section 56: Penalty for unhygienic or unsanitary processing or manufacturing of food.

Any person who, whether by himself or by any other person on his behalf, manufactures or processes any article of food for human consumption under unhygienic or unsanitary conditions, shall be liable to a penalty which may extend to one lakh rupees.

8. Section 57: Penalty for possessing adulterant.

Subject to the provisions of this chapter, if any person who whether by himself or by any other person on his behalf, imports or manufactures for sale, or stores, sells or distribute any adulterant shall be liable-

- (i) Where such adulterant is not injurious to health, to a penalty not exceeding two lakh rupees;
 - (ii) Where such adulterant is injurious to health, to a penalty not exceeding ten lakh rupees.
- (2) In a proceeding under sub-section (1), it shall not be a defence that the accused was holding such adulterant on behalf of any other person.

9. Section 58: Penalty for contraventions for which no specific penalty is provided.

Whoever contravenes any provisions of this Act or the rules or regulations made thereunder, for the contravention of which no penalty has been separately provided in this Chapter, shall be liable to a penalty which may extend to two lakh rupees.

10. Section 59: Punishment for unsafe food.

Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,-

- (i) Where such failure or contravention does not result in injury, with imprisonment for a term which may extend to one lakh rupees;
- (ii) Where such failure or contravention does not results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to one lakh rupees;
- (iii) Where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;
- (iv) Where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also fine which shall not be less than ten lakh rupees.

12. Section 60: Punishment for interfering with seized items.

If a person without the permission of the Food Safety Officer, detains, removes or tampers with any food, vehicle, equipment, package or labelling or advertising material or other thing that has been seized under this Act, he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

13. Section 61: Punishment for false information.

If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

14. Section 62: Punishment for obstructing or impersonating a Food Safety Officer.

If a person without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault a Food Safety Officer in exercising his functions under

15. Section 63. Punishment for carrying out a business without licence.

If any person or food business operator (except the persons exempted from licensing under sub-section (2) of section 31 of this Act), himself or by any person on his behalf who is required to obtain licence, manufacturers, sells, stores or distributes or imports any article of food without licence, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees.

16. Section 64. Punishment for subsequent offences.

(1) If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence;

(ii) a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one; and

(iii) his licence shall be cancelled.

(2) The Court may also 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 and 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.

17. Section 65: Compensation in case injury of death of consumer

(1) Without prejudice to the other provisions of this Chapter, if any person whether by himself or by any other person on his behalf, manufactures or

distributes or sells or imports any article of food causing injury to the consumer or his death, it shall be lawful for the Adjudicating Officer or as the case may be, the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum—

(a) not less than five lakh rupees in case of death;

(b) not exceeding three lakh rupees in case of grievous injury; and

(c) not exceeding one lakh rupees, in all other cases of injury: Provided that the compensation shall be paid at the earliest and in no case later than six months from the date of occurrence of the incident: Provided further that in case of death, an interim relief shall be paid to the next of the kin within thirty days of the incident.

(2) Where any person is held guilty of an offence leading to grievous injury or death, the Adjudicating Officer or the court may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Adjudicating Officer or the court may direct and 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.

(3) The Adjudicating Officer or the court may also,—

(a) order for cancellation of licence, re-call of food from market, forfeiture of establishment and property in case of grievous injury or death of consumer;

(b) issue prohibition orders in other cases.

18. Section 66. Offences by companies.

(1) Where an offence under this Act which has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be

guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that where a company has different establishments or branches or different units in any establishment or branch, the concerned Head or the person in-charge of such establishment, branch, unit nominated by the company as responsible for food safety shall be liable for contravention in respect of such establishment, branch or unit: Provided further that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation

.—For the purpose of this section,—

(a) “company” means anybody corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

19 Section 67. Penalty for contravention of provisions of this Act in case of import of articles of food to be in addition to penalties provided under any other Act.

(1) Any person who imports any article of food which is in contravention of the provisions of this Act, rules and regulations made thereunder, shall, in addition to any penalty to which he may be liable under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) and the Customs Act, 1962 (52 of 1962) be also liable under this Act and shall be proceeded against accordingly.

(2) Any such article of food shall be destroyed or returned to the importer, if permitted by the competent authority under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or the Customs Act, 1962 (52 of 1962), or any other Act, as the case may be.