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Enforcement of the Food Safety and Standards Act, 2006: A Comprehensive Guide for Food Business Operators



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Introduction:

The Food Safety and Standards Act, 2006 designates the Food Safety and Standards Authority of India (FSSAI) and the State Food Safety Authorities as the primary bodies responsible for enforcing the Act. These authorities are tasked with monitoring and verifying that food business operators comply with the law at all stages of food business operations. Additionally, they ensure the effective implementation of food safety measures and coordinate with other agencies to enforce the Act, thereby safeguarding public health.

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Role of the Commissioner of Food Safety:

The FSSA, 2006 mandates that the State Government appoint a Commissioner of Food Safety for each state. This Commissioner is responsible for ensuring the effective implementation of food safety standards and other requirements specified under the Act, as well as the associated rules and regulations. The role of the Commissioner is crucial for maintaining food safety and ensuring that all food businesses comply with the legal standards set forth in the Act.

Licensing Requirements:

The FSSA, 2006 requires that no person can start or run a food business without obtaining a license. This means that all food businesses must be registered or licensed to operate legally. The licensing process ensures that food businesses comply with safety standards and regulations to protect public health.

Improvement Notices:

Section 32 of the Food Safety and Standards Act, 2006, outlines the procedure for issuing improvement notices to Food Business Operators (FBOs) who fail to comply with food safety regulations. This section ensures that FBOs are given a fair opportunity to address and rectify any non-compliance issues before more severe actions are taken.

The process begins when the Designated Officer identifies a failure to comply with the regulations. In such cases, the officer may serve an improvement notice to the FBO. This notice details the specific areas of non-compliance and the corrective measures that need to be taken. The improvement notice must clearly state the grounds for believing that the FBO has failed to comply with the regulations. It should also specify the time frame within which the FBO must take the necessary measures to comply. If the FBO fails to comply with the improvement notice within the specified time, the Designated Officer may take further action. This can include suspending or canceling the FBO's license, or initiating prosecution under the Act.

Appeal Mechanism:

Section 32(4) of the Food Safety and Standards Act, 2006, provides a mechanism for appeal for any person aggrieved by certain actions taken under the Act. Specifically, if a person is dissatisfied with an improvement notice, the refusal to issue a certificate of improvement, or the cancellation, suspension, or revocation of a license, they have the right to appeal to the Commissioner of Food Safety. The decision made by the Commissioner on such appeals is considered final.

Prohibition Orders:

Section 33 of the Food Safety and Standards Act, 2006, deals with the issuance of prohibition orders to food business operators (FBOs) who fail to comply with food safety regulations. This section ensures that FBOs are given a fair opportunity to address and rectify any non-compliance issues before more severe actions are taken.

The process begins when the Designated Officer identifies a failure to comply with the regulations. In such cases, the officer may serve a prohibition order to the FBO. This order details the specific areas of non-compliance and the corrective measures that need to be taken. The prohibition order also specifies a time frame within which the FBO must take the necessary measures to comply with the regulations. This period allows the FBO to make the required adjustments to their operations to meet the prescribed standards. The goal is to provide a structured and fair opportunity for the FBO to address the issues without immediately resorting to punitive measures. If the FBO fails to comply with the prohibition order within the specified time, the Designated Officer has the authority to take further action. This can include suspending or cancelling the FBO's license or initiating prosecution under the Act. These steps ensure that there are consequences for continued non-compliance, thereby upholding the integrity of food safety standards.

Emergency Prohibition Notices and Orders:

Section 34 of the Food Safety and Standards Act, 2006, addresses the issuance of emergency prohibition notices and orders. This section empowers authorities to take immediate action when there is an imminent risk to public health due to food safety violations.

Subsection (1) allows the Designated Officer to serve an emergency prohibition notice to a food business operator (FBO) if they believe that the activities of the FBO pose an imminent risk to public health. This notice requires the FBO to cease the specified activities immediately.

Subsection (2) states that if the FBO fails to comply with the emergency prohibition notice, the Designated Officer can apply to the Commissioner of Food Safety for an emergency prohibition order. This order, once issued, legally mandates the cessation of the specified activities.

Subsection (3) requires the Designated Officer to notify the FBO in writing about the issuance of the emergency prohibition order. The notice must include the reasons for the order and inform the FBO of their right to appeal.

Subsection (4) provides the FBO with the right to appeal against the emergency prohibition order. The appeal must be made to the Commissioner of Food Safety, who will review the case and make a final decision. The decision of the Commissioner is binding and must be complied with by the FBO.

Subsection (5) mandates that the Designated Officer must keep a record of all emergency prohibition notices and orders issued. This record must be available for inspection by the Commissioner of Food Safety and other relevant authorities.

Conclusion:

For Food Business Operators (FBOs), understanding the enforcement mechanisms under the Food Safety and Standards Act, 2006 is essential for maintaining compliance and ensuring the safety of the food supply. By being well-versed in the procedures for licensing, improvement notices, appeals, prohibition orders, and emergency prohibition notices, FBOs can effectively manage food safety risks and avoid legal complications. This proactive approach not only helps in upholding high standards of food safety but also builds consumer trust and ensures the long-term success of their business.