

Procurement Of Food Registration And Food License In India

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Introduction

Food Safety and Standards Act, 2006 (Hereinafter referred to as FSSAI) was enacted for laying down science-based standards for articles and food and to regulate their storage, distribution, manufacture, same and import and to ensure safe food availability to the citizens of India. The intention of the Legislature was to take care of the international practices and to create single window to guide and regulate persons engaged in manufacture, marketing, processing, transportation, import and sale of food items. The Act tries to harmonize the interest of the consumers and manufacturers to ensure (1) Food Safety (2) protect the interest of the Consumer (3) ensure safe and wholesome food for the people and at the same time ensure the growth of the Food industry in India.¹

Prior to the enactment of FSSAI there was multiplicity of Food Laws which had led to lack of uniformity and approach in the Food Industry. Apart from this, there were various regulatory authorities for setting standards and enforcement of different sectors of Food which resulted in rigidity and uncertainty within the food Industry. Lack of testing laboratories coupled with thin spread of manpower and other resources led to poor dissemination of information at consumer level. In this background, there was a need for single regulatory authority at national level of all food related matters to ensure uniformity, holistic approach, ease of doing business and protection of consumer interest. Hence FSSAI was

enacted to meet this objective and repealing the below orders, rules and regulations,

1. Prevention of Food Adulteration Act, 1954 (37 of 1954);
2. Fruit Products Order, 1955; the Meat Food Products Order, 1973;
3. Vegetable Oil Products (Control) Order, 1947; the Edible Oils Packaging (Regulation) Order, 1998;
4. Solvent Extracted Oil, De oiled Meal,
5. Edible Flour and (Control) Order, 1967;
6. Milk and Milk Products Order, 1992; and
7. any other order issued under the Essential Commodities Act, 1955 (10 of 1955);

Thus, FSSAI was enacted to consolidate laws relating to food and to establish the Food safety and Standards Authority in India for laying down science-based standards for articles of Food. The Act also laid down penal provisions for not adhering to the provisions of the Act. Thus, it became utmost important that the provisions of the Act be properly implemented by the Food regulatory authorities to enable state achieve an appropriate level of human life and health, safeguarding the right to Life guaranteed under Article 21 of the Constitution.

In order to achieve the above objective, under Section 4 of the FSSAI, a body named Food Safety and Standards Authority of India (Hereinafter referred to as Food Authority) is

being constituted. This authority is being vested with the duty to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food. Under Section 16 of FSSAI, the authority is being vested with the powers to make further regulations for exercise of their powers and appropriate implementation of the provisions of FSSAI. It is also the duty of the Food Authority to specify, by regulations, the standards and guidelines in relation to articles of food, mechanism and guidelines for accreditation of certification bodies engaged in management systems for food business.²

In order to establish any kind of business in India, you need a Food License and registration. Before entering into Food Industry, one needs to ensure that the Food product is not harmful in any manner. Hence, an industry needs to procure the Food License which would ensure the quality issues are addressed. This would also ensure better consumer confidence and better sales in the market. Below are few advantages of licenses and registration of Food:

- **Ensures food/food product is verified chemically and safe for consumption.**

The Food operators are susceptible to various issues of Food Contamination, hence one of the ways to ensure its quality is procurement of Food Licenses. On procurement of Food license and registration, the Food operator gets the right to use FSSAI logo on the menu, packaging, pamphlets etc. This Logo depicts the trust and validity of the product and its assurance of safety. This assures the customer food is of high quality as the same is certified by the authority.

- **Legal Compliance & Mandate as per the FSSAI**

FSSAI makes it mandatory for all the food operators, manufacturers, exporters, importers

etc to get registered and procure the food licenses. Non-compliance with these provisions may also attract penal provisions. Many of the food operators do not procure the licenses considering the legal aspects and costs involved in the same. Therefore, in order to ensure compliance with the Laws of the country it is mandatory to procure the Food License and registration.

- **Customer Acceptance**

Food License and registration would establish the reliability on the company and FSSAI certification can be used as marketing strategy. This would ensure establishment of better customer connect and reliability on the product sold. Having FSSAI license also gives one a competitive advantage as the customers trust the hygiene and the quality of food outlets which possess a food license more than the outlets not having the licenses.

- Apart from these various advantages like Standardization of kitchen and food items, helps in business expansions, health safety of the products are all the added advantages of procuring Food Licenses in India.

Therefore, licenses and registration of food products play a major role from the perspective of both the consumer and corporates. The question arises -should all the food dealers get their products registered in India? What is the process and the modalities required for registration of food products? The expenditure involved in procuring the said Licenses? The answers to all these questions were provided through a specific regulation (provided below) which deals exclusively with the process and method of procuring registration and Licenses.

Licenses and registration of Food Business under FSSAI

Section 32 of FSSAI contains the provisions with regard to Licensing and registration of the

food business. Below are a few highlights of the section:

- It is mandatory to procure a food license for carrying on or before commencement of food business in India.
- However, the below are exempted from procuring Licenses:
 - a) Petty Food Manufacturers³
 - b) Hawkers
 - c) Itinerant vendor
 - d) Temporary stalls
 - e) Small scale or cottage industries engaged as food business operators.

However, the exceptions provided to the above category of vendors shall not effect/harm the availability of safe and wholesome food safe for human consumption or affecting the interests of the consumers.

Though the above category is exempted from procurement of Licenses but registration of their food operations is still mandatory under the Act.

- Every business operator shall submit an application to the designated officer for procuring Licenses for the food it intends to sell. The designated officer shall within a period of two months pass an order allowing or declining the application. If no order is received within a period of two months, from the date of the Application then it is deemed acceptance. However, the officer still has the power to issue improvement notice.
- Apart from these there are provisions pertaining to appeal, renewal of Licenses, powers of the officers while exercising their power of granting Licenses.

Food Safety and Standards (Licensing and Registration of Food Businesses, Regulation, 2011

Having understood the substantial law with regard to licenses and registration, Food Safety and Standards (Licensing and Registration of Food Businesses, Regulation, 2011 (Hereinafter referred as regulation) was further enacted which lays down the further procedural and detailed provision on registration and licenses of food operators in India.

Below is the summary of the provisions of the said regulations:

I. Registration of Petty Food Business

Regulation 2:1 lays down the provisions regard to registration of petty food business. As discussed above, it is not necessary to procure the license, however registration of the establishment is mandatory. The intending petty food operator shall submit a declaration⁴ about the basic hygienic and safety requirements as mandated under the regulation alongwith an Application⁵ requesting the registration. The registration authority shall consider the Application and pass an order within 7 days of the receipt of application for registration.

II. Licenses for Food Business

Regulation 2.1.1 lays down detailed provisions with regard to License for Food Businesses. As per the regulation it is mandatory for every business operator engaged in food Industry to possess a valid License. The Regulation lays down various business in Schedule 1⁶ of the Regulation and if the operators business falls within the said Schedule then the Food License shall be granted by the Central government Licensing authority. In case the business of the Food operator doesn't fall within schedule 1,

then the state/Union Territory licensing authority shall grant the license.

Documents needed for the purpose of registration and License ⁷

Below documents are needed for the purpose of obtaining registration and Food Licenses:

- Application required for Obtaining Central License
 - a. Form A ⁸ (Registration) Form B⁹ (Licenses) duly completed and signed
 - b. Plan of the processing unit showing the dimensions and operation-wise area allocation (Mandatory only for manufacturing and processing units only)
 - c. List of Directors/ Partners/ Proprietor with address, contact details, and photo ID
 - d. Name and list of equipment and machinery used with the number and installed capacity(Mandatory only for manufacturing and processing units only)
 - e. List of food category to be manufactured (In case of Manufacturers)
 - f. Authority letter from manufacturer nominated a responsible person name and address
 - g. Analysis report of water to be used in the process to confirm the portability (Mandatory only for manufacturing and processing units only)
 - h. Recall plan wherever applicable
 - i. Ministry of Commerce Certificate for 100% Export Oriented Unit.
 - j. NOC/PA document issued by FSSAI
 - k. Proof of possession of premises
 - l. Partnership deed/ affidavit of proprietorship
 - m. NOC from the municipality or local body

- n. Supporting document for proof of turnover and transportation
- o. Declaration form¹⁰

Above-mentioned are generalized documents. Apart from the above, there many be specific Industry specific documents that may be required as per the applicable norms.

Processing the Application for License

Once the filled-up Application and the required documents are ready, the submission process in online and commences on FOSCOS (Food Safety Compliance System) ¹¹. This is an integrated system established under the FSSAI that regulates and monitors the registration process and the License procurement process in India.

On receipt of the Application, the licensing authority shall scrutinize the documents, and shall revert back on the status/requirement of additional documents within 15 days of the receipt of the application. On receipt of complete application, an application ID shall be allotted for all further references. Thereon, the Licensing authority shall with the assistance of the Food inspector visit the premises and suggest the changes with regard to general hygiene and sanitary conditions. On incorporation of the changes to the satisfaction of the food Inspector, the Food License shall be granted accordingly. And if the directions are not met by the Food Operator, the Application for grant of Food License shall be rejected immediately. As a general rule, the Food License shall be issued within 60 days from the date of allocation of application ID no.

Annual returns

As per regulation 2.1.13, every manufacturer and importer who has been issued a License, shall before 31st May of each year, submit a

return electronically or physical form, in Form D-1¹² in respect of food items handled by him during the previous financial year.

However the Licensee engaged in Milk and Milk products shall submit half yearly returns on form D-2¹³. Such return shall be filled within a month from the end of the period. A separate return shall be filed for every license issued under these regulations.

If there is a delay in filing these returns as stipulated in these regulations, there would be penalty of Rs. 100 for per day of delay.

Hygienic and Sanitary Practices to be followed by Food Business Operators

As per Regulation 2.1.2 and Schedule 4¹⁴ of the Regulations, it is mandatory for the Food operators to adhere to the guidelines to ensure safe, clean and wholesome food for all the consumers of the country. These are rules which every registered or Licensed establishment engaged in food being handled, processed, manufacturer, storage and distributed needs to adhered to.

a) Sanitary and Hygienic requirements of for Food Manufacturers/Processor/Handler and Street Food Vendors.

The premises where the food operations are carried out should be situated in clean environment free from filthy surroundings. There should be sufficient place and the same should be adequately lighted and ventilated. The floor of the premises needs to be maintained adequately and needs to be washed with disinfectant to keep the premises clean. There should be continuous supply of adequate portable water and in case of shortage of the same, necessary arrangement should be made for storage of portable water. All the equipment's used in the premises should be kept clean and in good condition. Several steps are indicated for the personal hygiene of the

food handlers like use of aprons, hand gloves, washing of hands with soaps/detergent etc. The vehicles used for transportation of the food commodities should be in good repair condition and always kept clean.

Apart from the above, there are other basic conditions to be adhered to by the Street Food Vendors. There are specific ruled with regard to vending carts- their size, hygiene and maintenance. The working surfaces of the street food vendors should always be clean and above the surface level by 60 to 70 cms. There are detailed provisions with regard to maintenance of utensils used for cooking the food and their hygienic standards. The notification also lays down provision on separate handling of vegetation and non-vegetarian food products.

b. General hygiene and Sanitary practices to be followed by the Business operators applying for Food License:

Regulation 2.1.1 (4) and Part II of Schedule 4¹⁵ of the Regulations, lay down general hygiene and sanitary practices to be followed by all the food operators applying for Food Licenses in India. Below is the summary of such requirements,

- i. The location of the food establishment should be away from such areas which are environmentally polluted or where hazardous industrial activities which may pose a threat to food contamination are carried on. In case there are hazardous industries located then additional steps need to be taken by the food operators to protect the area from food contamination. The manufacturing area should not have

- any access to direct access to residential area.
- ii. The layout of the food establishment should be such that food production and manufacturing process are not amenable to cross-contamination. The floors, ceilings, walls, doors should always be made of such material to ensure minimization of dust, condensation and unnecessary particles. The windows of the establishment shall be screened by insect-proof meshes to protect the premises. The food manufacturer shall take adequate steps to ensure disinfection of the floor and proper drainage facilities on the premises.
 - iii. It is the duty of the food operators to keep the equipment and containers that are used for food manufacturing and handling be made of corrosion free material and shall always be kept in good order in clean and sanitary condition. The utensils shall always be covered and shall not be kept in any such place whereby the food is likely to be contaminated by impure dust or noxious gas or substance.
 - iv. Only portable water, shall be used as an ingredient in processing and cooking of food products. The water storage tanks shall be cleaned periodically and records about the cleaning timed and process shall be maintained at all times.
 - v. Food waste and other waste materials shall be removed on regular basis from the food manufacturing area to avoid the mixing of the same. The disposal of the sewage and effluents (solid, liquid and gas) shall be in conformity with the Laws of the Land.
 - vi. The food operator shall ensure adequate personal facilities and toilets.
- The personnel handling the food should wash their hands periodically and necessary hot and cold-water facility with adequate number of basins shall be provided. Adequate number of toilets for male and females should be provided and the personnel should be made educated about the importance of hygiene and cleanliness while handling the food processes.
- vii. The raw materials procured by the Food operator shall be clean and free from any kind of parasites, pesticides or other toxic substances. The records of raw material, food additives and ingredients as well as their source of procurement shall be maintained at all times for inspection purposes. The food operators shall ensure the packaged food product are used before the “expiry-date”/ best-before/ use-by date.
 - viii. The storage facility of the raw-material should be designed in such manner to disable the contamination at all times. Adequate cold-storage facilities should be made available where ever necessary. The rule to be followed while handling the raw-material would be FIFO (First in, First Out), FEFO (First Expire-First Out).
 - ix. The packaging materials shall provide protection of all the food products to prevent food contamination, damage and ensure compliance with the labelling norms.
 - x. The food operator shall take all the necessary steps to ensure all critical links of food supply are identified to minimize food spoilage during transportation. The transportation shall be carried out in such manner so that the requisite food temperature, humidity, atmosphere and such other

conditions to avoid spoilage of the food are ensured.

- xi. The food operator shall ensure setting-up adequate food testing laboratory inside the food establishment. The food products shall be regularly checked for food contaminations and other adequate standards in accordance with the regulations laid down by the Food authority. In case there is no such internal testing Laboratory, then regular testing shall be carried out by accredited lab notified by FSSAI.
- xii. Periodic audits shall be conducted on regular basis to ensure the compliance with the food products. Appropriate records of food processing/preparation/transportation, food quality, laboratory reports shall be kept for a period of one year or shelf-life of the product whichever is earlier.

Apart from the general rules laid down above, there are specific hygiene and sanitary practices to be followed by food handlers of Milk and Milk Products¹⁶ and Meat and Meat products¹⁷. Apart from the same there are specific regulations for food operators engaged in catering/Food Service Establishments¹⁸.

Conditions of License

Annexure 3 of the Regulations lay down the conditions of License that all food operators must adhere to during all times during the course of its food business. Below is the summary of the rules,

1. Display a true copy of the License at all times at a prominent place in the place of business.
2. The authorities shall at all times be given access to the premises.

3. The authorities shall be informed about any change or modifications in activities/content of License.
4. The Food Operator shall furnish an annual return¹⁹ (1st April to 31st March), within 31st May of each year. The Food operator shall also submit half-yearly returns²⁰ (wherever applicable) by stipulated time.
5. The food operator shall maintain daily records or production, raw material utilization and the sales separately.
6. The food operator shall maintain factory's hygienic standards as specified in Schedule 4 (discussed above).
7. The proprietors of hotels, restaurants and other food stalls who sell or expose sale savories, sweets and other food articles shall display a notice board indicating lists of articles cooked in ghee, edible oil and other fat products.

Fee for Procurement of License

Along with the Application form, one needs to pay the fee for procurement of License and registration. The same is stated in Regulation 2.1.3 read with Schedule 3²¹ of the Regulations. The fee for registration is INR 200. The fee for grant of License varies between INR 2,000-INR 7,500 depending upon the nature of the industry. The said fee shall be non-refundable fee. In case the food operator needs Duplicate copy of the License, then the same shall be granted on a fee of 10% of applicable fee.

Validity and Renewal of Registration and License

The registration or license granted under these regulations, shall be valid and subsisting for a period of 1 to 5 years, as chosen by the Food operator, from the date of issue of the registration or license.

Renewal of Registration and License

Regulation 2.1.7 lays down the provisions with regard to renewal of the Licenses. The food operator shall make an Application for grant of renewal within 30 days of the expiry date of the License. The Application alongwith the requisite fee shall be made to the Licensing authority in Form A or B²² of Schedule 2 of the Regulation. Any delay in filing the renewal Application beyond the stipulated time in case of Food License, shall attract a penalty of INR 100 per day for each day of delay. In case the renewal is not done within time, then the License shall stand cancelled and the food operator is bound to stop all the activated from the premises. In case the operator intends to restart the business, then a fresh Application shall be made to the concerned authorities.

Guarantee

Regulation 2.1.14 makes it mandatory for every food manufacturer, distributor or dealer selling an article of Food to give a warranty²³ about the products sold and its compliances with the applicable laws.

Suspension or cancellation of the registration certificate or License

As per Regulation 2.1.8 and section 32 of FSSAI, in case the Food Operator has failed to comply the conditions of the registration or License, then the registering or Licensing authority after giving a reasonable notice of being heard, and after non-compliance of Improvement Notice²⁴ suspend the registration and License of the Food Operator. However,

the authority has the power to forthwith cancel the registration and License in the interest of public health and the reasons for the same shall be recorded in writing.

Conclusion

Above-mentioned is the detailed discussion on the provisions of the Regulations. In case any food operator fails to comply with the provisions of these regulations, there is penalty that may run upto Rs. 5,00,000/- (Five Lakhs) and also penal provision with regard to Imprisonment of the Food operator.

Food being one of the basic necessities for human existence and India's commitment and Indian judicial mandate of right to clean and Hygienic food for all the citizens of the country, these regulations are definitely a step forward to protect consumer welfare and interest. The compliances stated in these regulations are exhaustive in nature and aim towards the goal of FSSAI to provide healthy and hygienic food to the consumers. The mandate of getting every Food establishment to get registered and every food product Licensed will ensure compliances under the provisions of FSSAI and these regulations.

The enforcement of these regulations has also been effective by government of India. Procuring a registration and food licenses are no longer problematic in the country. There is one online portal where the person seeking registration and License needs to apply on the portal, upload all the documents and the reply is also received within the stipulated time. The tracing of the Application is also an easy process and the same is also available on the same portal. All the returns are also filed on the same portal. This has led to transparency in the process and assisted the food handlers in smooth functioning.