# Prevention of food adulteration (Food adulteration Act, 1940)-

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**Introduction-**

*Adulteration* is the fraudulent addition to any substance of another, for the sake of increased sale or profit. The oxford dictionary defines it as making some substance impure by adding any impurities or removing a vital component. It means the reduction in quality of the food substances either by addition of foreign substances. A substance added to a food-item to reduce its quality in order to increase its quantity is called as an *adulterant*. For eg., Mustard is invariably adulterated with flour or argemone seed; Pepper is largely adulterated with meal or starch, gypsum, and dirt of any kind, to give bulk and weight etc. The Prevention of Food Adulteration Act, 1954 takes cognizance of evil of adulteration in India.

**History of the Act-**

Food adulteration was initially dealt with under IPC,1860, Sec 269 to 275. The Code has distinguished such acts into four categories. viz. (i) spreading of infections (Sec.269 to 271); (ii) Adulteration of Food, drink and drugs (Sec.272 to 276) (iii) Fouling of water (Sec.277) and (iv) making atmosphere noxious to health (Sec.273).

However, post independence, in order to bring uniformity in all the laws of States, a consolidated Act was passed by Parliament after placing the subject in the concurrent list of Constitution of India. The degree of the menace by the time of enactment and inadequacy of the law had) been felt by the legislatures.

The Prevention of Food Adulteration Act, 1954 (Act 37 on of 1954 came into force on 1$^{st}$ June, 1955.

**Aims and Objectives of the Act-**

The primary object of the legislation is to protect the health and safety of the people and eradicate the evil of adulteration.

The object of the Act is not to ‘punish’ but to ‘prevent’ adulteration and raise branding of foods as provided therein.

The provisions of the law are directed for the purpose of securing purity of food and to inform purchasers of what they are buying and they must be construed to effect such purpose. To achieve such an object, the Act has provided adequate punishment to food adultetrators and

made the obligations widely comprehensive and has attempted to make it impossible for them to escape liability.

In *Municipal Corporation of Delhi v. Surja Ram*, the object of the Act was explained as follows: The object and the purpose of the Act are to eliminate the dangers to human life from sale of unwholesome article of food...it is enacted to curb the widespread evil of food adulteration and is legislative measure for social defense. It is intended to suppress a socio-economic mischief, an evil that attempts to poison, for monetary gains, a very source of substance of life and well being of the community.

The Supreme Court of India in *Municipal Corporation of Delhi V Kacheroomal* (1976), observed that the Prevention of Food Adulteration Act, 1954 was enacted to curb and remedy the wide spread evil of food adulteration, and to ensure the sale of wholesome food to the people. It was further observed that wherever possible, without unreasonable stretching or straining the language of such a statute should be construed in a manner which would (a) suppress the mischief; (b) advance the remedy; (c) promote its object (d) prevent its subtle evasion; and (e) foil its artful circumvention.

**When is an article of food deemed to be adulterated?**

A food article is deemed to be adulterated if-

1. if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser or which it purports to be;
2. if the article contains any substance affecting its quality or of it is so processed as to injuriously affect its nature, substance or quality;
3. if any inferior or cheaper substance has been substituted wholly or partly for the article, or any constituent of the article has been wholly or partly abstracted from it, so as to affecting its quality or of it is so processed as to injuriously affect its nature, substance or quality;
4. if the article had been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health;

5. if the article consists wholly or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance or being insect-infested, or is otherwise unfit for human consumption;
6. if the article is obtained from a diseased animal;
7. if the article contains any poisonous or other ingredient which is injurious to health;
8. if the container of the article is composed of any poisonous or deleterious substance which renders its contents injurious to health;
9. if the article contains any prohibited colouring matter or preservative, or any permitted colouring matter or preservative in excess of the prescribed limits;
10. if the quality or purity of the article falls below the prescribed standard, or its constituents are present in proportions other standard, or its constituents are present in proportions other than those prescribed, whether or not rendering it injurious to health.

Thus, additions of water to milk amount to adulteration, within the meaning of sub-clauses (b) or (c).

**When food articles are be deemed as Misbranded?**

An article of food shall be deemed to be misbranded-

1. if it is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food, and is not conspicuously labelled so as to indicate its true character,
2. if it is falsely stated to be the product of any place or country,
3. if it is sold by a name which belongs to another article of food,
4. if it is so coloured, flavoured, coated, powdered or polished as to conceal any damage to the article or to appear of greater value than it really is,
5. if false claims are made for it upon the label or otherwise,
6. if, when sold in sealed or prepared packages by its manufacturer, the contents of each package are not conspicuously and correctly stated on the outside thereof;
7. if the package containing it is deceptive with respect to its contents, in any manner, such as label, statement, design or device which is misleading,

8. if the package containing it, or the label thereon, bears the name of a fictitious individual or company as the manufacturer or producer of the article,
9. if it purports to be, or is represented as being for special dietary uses, unless its label bears the prescribed information concerning its dietary properties,
10. if it contains any artificial flavouring, colouring or chemical preservatives without declaring the same on the label, or in violation of the requirements of this Act and the Rules made thereunder,( Preservative: means a substance which when added to food, is capable of inhibiting, retarding or arresting the process of fermentation, acidification or other decomposition of food)
11. if it is not labelled in accordance with the requirements of this Act and the Rules made thereunder.

**Prohibitions under the Act-**

No person shall manufacture, store, sell or distribute

a) any adulterated food,
b) any misbranded food,
c) food articles to be sold under licence without fulfilling the conditions of the licence,
d) any food article the sale of which is prohibited by the Food (Health) Authority in the interest of public health,
e) any food article in contravention of any other provision of the Act or the Rules, (see 'Conditions for Sale') or
f) any adulterant.

# Food Inspector

**Appointment-** Food Inspector is appointed by the Central Government or State Government for Local Areas identified.

**Qualification-**

(a) A medical officer in-charge of Health Administration of Local Area or

(b) A graduate in medicine with a minimum of one month training in inspection of food sampling work in an institution approved by Central Government or State Government or

(c) A graduate in science with chemistry/agriculture/pharmacy/ veterinary science/food technology/dairy technology/public health/diploma holder in food or dairy technology or equivalent qualification and a minimum of 3 months satisfactory practical training in inspection of food and training approved by Central Government or State Government.

**Duties of Food Inspectors-**

1. To inspect establishment for licence for manufacture, storage or sale of food article and satisfy that the conditions and provisions of the Act are complied with
2. To make enquiries on receipt of complaints about the quality of food and conduct inspection accordingly.
3. To procure the sample of food and send to public analyst as and when required.
4. To investigate into matters of specific complaints given in writing.
5. To maintain the records of inspection properly and keep inform higher authorities about inspection.

**Powers of Food Inspectors**

• The food inspector can prohibit sale of food article in public interest for a specific period,

• can also stop the vehicles carrying adulterated or misbranded food,

• seize the samples of food articles prepared in contravention with the provisions of the Act,

• enter the premises within the reasonable time of business and seize the sample or

• break open any package containing adulterated or misbranded food.

The constitutionality of the powers vested in the food inspector was challenged in *S.Narasinqa Rao V State of Andhra Pradesh* (1964) on the ground of arbitrariness which is being abused imperiling the trade and business in as much as restrictions of defences under section 19 of the Act are discriminatory. The contention was rejected on the face of various safeguards provided for the accused including penalty on Food Inspector for vexatious and unreasonable prosecutions, or unwarranted actions injuring the person.

## Procedure to be followed by food Inspectors

When a food inspector takes a sample of food for analysis, he shall—

- give notice in writing then and thereof 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 under section 14A the person from whom he purchased the article of food.
- except in special cases provided by rules under this Act, divide the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits
- he shall then take the signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as may be 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 signatures or thumb impressions, as the case may be, in lieu of the signature or thumb impression of such person.

- Thereafter, the Food Inspector shall send one of the parts for analysis to the public analyst under intimation to the Local (Health) Authority; and send the remaining two parts to the Local (Health) Authority for the purposes of sub-section (2) of this section and sub sections (2A) and (2E) of section 13, i.e. to institute prosecution proceedings against the guilty persons if the food item is found to be adulterated, sending them a copy of the result and informing them that they may within 10 days of receiving the report apply to court to get the sample of the article of food kept by the Local (Health) Authority analysed by the Central Food Laboratory.

*Note :-If the sample sent to the public analyst under sub-clause (I) of clause (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 dispatch one of the parts of the sample sent to it under sub-clause (ii) of the said clause (c) to the public analyst for analysis.*

- Within seven days after the receipt of the report of the public analyst the article of food seized under section 10(4), shall be produced before a magistrate.

- If it appears to the magistrate on taking such evidence as he may deem necessary—

**Case 1-**

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.

(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.

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

(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.

**Case 2-**

**The adulterant seized under section 10(6)** 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.

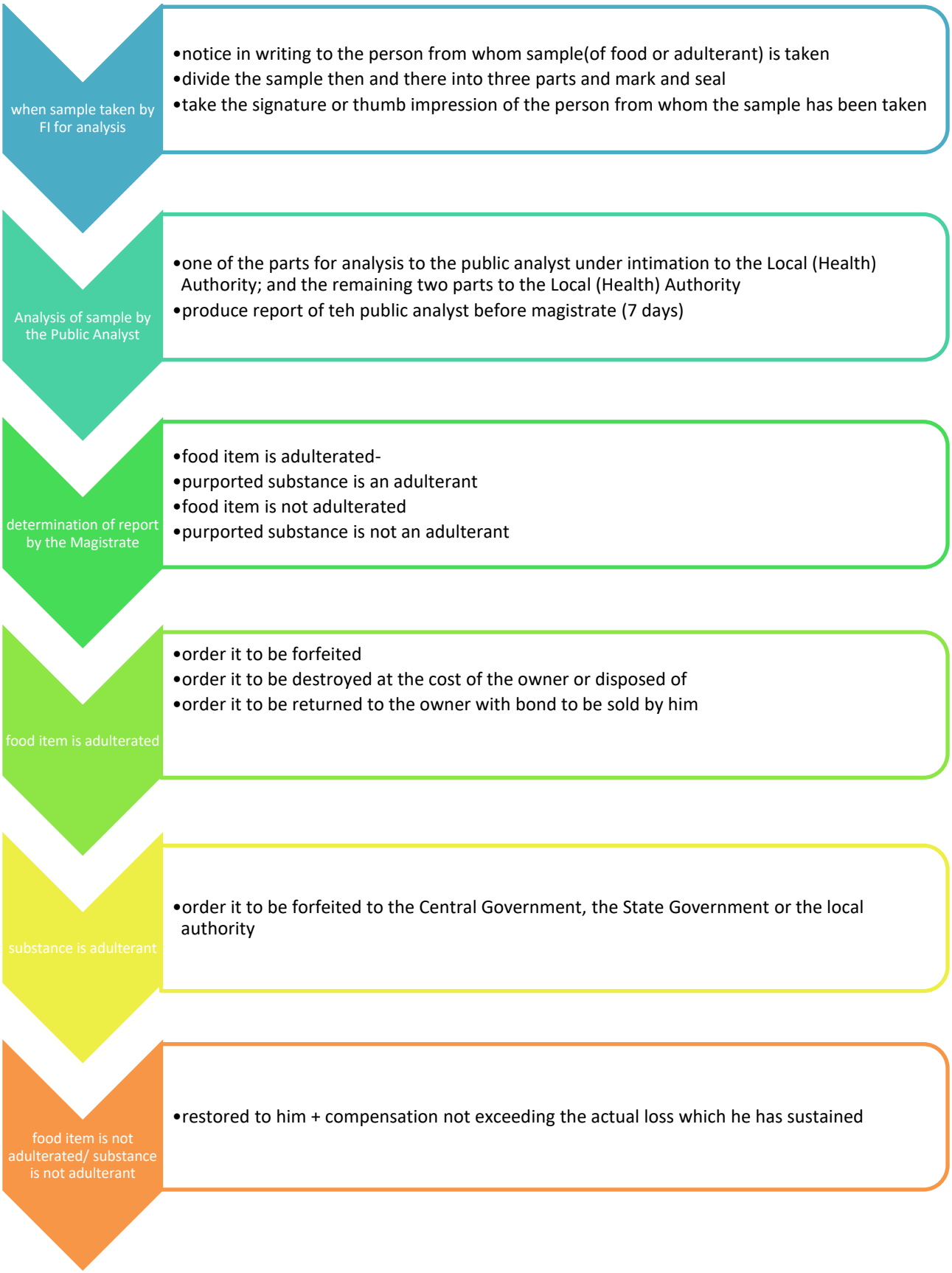
**Case 3-**

If it appears to the magistrate that any such—

a) **article of food is not adulterated**; or
b) **adulterant which is purported to be an adulterant is not an adulterant**

The person from whose possession the article of food or adulterant was taken shall be entitled to have it restored to him and it shall be in the discretion of the magistrate to award such person from such fund as the State Government may direct in this behalf, such compensation not exceeding the actual loss which he has sustained as the magistrate may think proper.

Flowchart of Procedure-


when sample taken by FI for analysis
•notice in writing to the person from whom sample(of food or adulterant) is taken
•divide the sample then and there into three parts and mark and seal
•take the signature or thumb impression of the person from whom the sample has been taken
Analysis of sample by the Public Analyst
•one of the parts for analysis to the public analyst under intimation to the Local (Health) Authority; and the remaining two parts to the Local (Health) Authority
•produce report of teh public analyst before magistrate (7 days)
determination of report by the Magistrate
•food item is adulterated-
•purported substance is an adulterant
•food item is not adulterated
•purported substance is not an adulterant
food item is adulterated
•order it to be forfeited
•order it to be destroyed at the cost of the owner or disposed of
•order it to be returned to the owner with bond to be sold by him
substance is adulterant
•order it to be forfeited to the Central Government, the State Government or the local authority
food item is not adulterated/ substance is not adulterant
•restored to him + compensation not exceeding the actual loss which he has sustained

**Authorities under the Act-**

**Food Inspector (Sec 9)**

**Public Analyst (Sec 8)**

**The Central Committee for Food Standards- (Sec 3)**

- Established by Central Government to advise the Central Government and the State Governments on matters arising out of the administration of the Act and to carry out the other functions assigned to it under it.
- It consists 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
  c. Laboratory is established, the Directors of such Laboratories, ex officio;
  d. two experts nominated by the Central Government;
  e. 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;
  f. one representative each nominated by the Government of each State;
  g. two representatives nominated by the Central Government to represent the Union territories
  h. one representative each, nominated by the Central Government, to represent the agricultural,
  i. commercial and industrial interests;
  j. five representatives nominated by the Central Government to represent the consumers'
  k. interests, one of whom shall be from the hotel industry;
  l. one representative of the medical profession nominated by the Indian Council of Medical Research;

m. one representative nominated by the Indian Standards Institution referred to in clause (e) of section 2 of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952).]

- The members of the Committee shall, unless their seats become vacant earlier by registration, death or otherwise, be entitled to hold office for three years and shall be eligible for re-nomination.

**Central Food Laboratory-**

Established by Central Government to carry out the functions entrusted to the Central Food Laboratory by this Act (Sec 4)

*Suggested Readings-*

*Please go through the Bare Act once.*

# Control of spurious drugs - Drugs and Cosmetics Act, 1940

**Objectives of the act-**

- To regulate the import, manufacture, distribution and sale of drugs & cosmetics through licensing.
- Manufacture, distribution and sale of drugs and cosmetics by qualified persons only.□ To prevent substandard in drugs.
- To regulate the manufacture and sale of Ayurvedic, Siddha and Unani drugs.
- To establish Drugs Technical Advisory Board(DTAB) and Drugs Consultative Committees(DCC) for Allopathic and allied drugs and cosmetics.

**Definitions-**

**Drugs :** All medicines for internal or external use of human beings or animals and all substances intended to be used for or in the diagnosis, treatment, mitigation or prevention of any disease or disorder in human beings or animals, including preparations applied on human body for the purpose of repelling insects like mosquitoes.

**Cosmetic :** Any article intended to be rubbed, poured, sprinkled or sprayed on, or introduced into, or otherwise applied to, the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and includes any article intended for use as a component of cosmetic.

**Misbranded drugs:** (a) if it is so coloured, coated, powdered or polished that damage is concealed or if it is made to appear of better or greater therapeutic value than it really is; or (b) if it is not labelled in the prescribed manner.

**Adulterated drug:** (a) if it consists, in whole or in part, of any filthy, putrid or decomposed substance; or (b) if it has been prepared, packed or stored under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health;

or (c) if its container is composed in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

**Spurious drugs:** (a) if it is manufactured under a name which belongs to another cosmetic; or

(b) if it is an imitation of, or a substitute for, another cosmetic or resembles another cosmetic in a manner likely to deceive or bears upon it or upon its label or container the name of another cosmetic unless it is plainly and conspicuously marked so as to reveal its true character and its lack of identity with such other cosmetic; or

(c) if the label or container bears the name of an individual or a company purporting to be the manufacturer of the cosmetic which individual or company is fictitious or does not exist; or

(d) if it purports to be the product of a manufacturer of whom it is not truly a product

**Administration of the act and rules-**

| Authority | Composition | Functions |
|---|---|---|
| Advisory | | |
| Drugs Technical Advisory Board | Ex- officio<br>(i) Director General of Health Services (Chairman)<br>(ii) Drugs Controller, India<br>(iii)Director of the Central Drugs Laboratory, Calcutta<br>(iv) Director of the Central Research Institute, Kasauli<br>(v)Director of Indian Veterinary Research Institute, Izatnagar<br>(vi) President of Medical Council of India | • To advise the Central Government and the State Governments on technical matters.<br>• To carry out the other functions assigned to it by this Act |

| | | |
|---|---|---|
| | (vii) President of the Pharmacy Council of India<br>(viii)Director of Central Drug Research Institute, Lucknow | |
| | Nominated:<br>1) Two persons by the Central Government.<br>2) One person by the Central Government from the pharmaceutical industry<br>3) Two persons holding the appointment of Government Analyst under this Act | |
| | Elected:<br>1)one person, to be elected by the Executive Committee of the Pharmacy Council of India<br>2)one person, to be elected by the Executive Committee of the Medical Council of India<br>3)one pharmacologist to be elected by the Governing Body of the Indian Council of Medical Research;<br>4)one person to be elected by the Central Council of the Indian Medical Association;<br>5)one person to be elected by the Council of the Indian Pharmaceutical Association | |
| Drugs Consultative | Two representatives of the | • To advise the Central |

| | | |
|---|---|---|
| Committee | Central Government One representative of each State Government | Government, the State Governments and the Drugs Technical Advisory Board on any other matter tending to secure uniformity throughout India in the administration of this Act.<br>• The Drugs Consultative Committee shall meet when required.<br>• Has power to regulate its own procedure. |
| Analytical | | |
| Central Drugs Laboratory | Established in Calcutta, under the control of a director appointed by the Central Government. | • Analysis or test of samples of drugs/cosmetics sent by the custom collectors or courts. Analytical Q.C. of the imported samples.<br>• Collection, storage and distribution of internal standards.<br>• Preparation of reference standards and their maintenance.<br>• Maintenance of |

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| | | microbial cultures.<br>• Any other duties entrusted by Central Government.<br>• Acting as an appellate authority in matter of disputes. |
| Drug Control Laboratory in states | Baroda<br>Bhuj<br>Rajkot | • Testing of drug sample Analysis of food sample Analysis of excise sample |
| Government Analysts | These officers are appointed by the central or state government and perform the duties. | • The Government Analyst shall cause to be analyzed or tested such samples or drugs and cosmetics as may be sent to him by Inspectors.<br>• A Government Analyst shall from time to time forward reports to the Government giving the result of analytical work and research with a view to their publication. |
| Executives | | |

| | | |
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| Licensing authorities | (i) Graduate in Pharmacy on Pharmaceutical Chemistry or in Medicine with specialization in clinical pharmacology or microbiology from a University established in India by law; and<br>(ii)Experience in the manufacture or testing of drugs a minimum period of five years, | • to inspect all establishments licensed for the sale of drugs within the area assigned to him;<br>• to satisfy himself that the conditions of the licences are being observed;<br>• to procure and send for test or analysis, if necessary, imported packages.<br>• to investigate any complaint. |
| Drug Inspectors | (i)Persons having qualification for appointment as government as governmental Analysis for allopathic drugs ; or<br>(ii) having a degree in ayurved, sidha or unani system and not less than three year post graduate experience in the analysis of drugs in a laboratory under control of a government analyst, or a chemical examiner, or head of an institution specially approved for this purpose. | (a) Inspect-<br>(i) any premises where in any drug or cosmetic is being manufactured.<br>(ii) any premises where in any drug or cosmetic is being sold, or stocked or exhibited or offered for sale, or distributed ;<br>(b) Take samples of any drug or cosmetic- |

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| | | (i) which is being manufactured or being sold or is stocked or exhibited or offered for sale, or is being distributed;<br>(ii) from any person who is in the course of conveying, delivering or preparing to deliver such drug or cosmetic to a purchaser or a consignee. |

**Applicability of Act is on-**

- Import
- Manufacturing
- Sales
- Labeling and Packaging of drugs.

**Offences and Penalties under the act-**

| OFFENCES | PENALTIES |
|---|---|
| Import of spurious OR adulterated drug OR drug which involves risk to human beings or animals OR drug not having therapeutic values | a) 3 years imprisonment and 5000 Rs. fine on first conviction<br>b) 5 years imprisonment OR 1000 Rs. fine OR both for subsequent conviction |
| Contravention of the provision | a) 6 months imprisonment OR 500 Rs. fine OR both for first conviction<br>b) 1 year imprisonment OR 1000 Rs. fine for subsequent offence |

| OFFENCES | PENALTIES |
| --- | --- |
| Manufacture of any spurious drugs | a) 1-3 years imprisonment and Rs.5000 fine<br>b) 2-6 years imprisonment & Rs.10000 fine on subsequent conviction |
| Manufacture of adulterated drugs | a) 1 year imprisonment & Rs.2000 fine<br>b) 2 years imprisonment & Rs.2000 fine for subsequent conviction |
| Manuf. of drugs in contravention of the provisions | a) Imprisonment up to 3 months & Rs.500 fine<br>b) Imprisonment up to 6 months & Rs.1000 fine on subsequent conviction |