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THE PAKISTAN GENERAL COSMETICS ACT, 2023

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THE PAKISTAN GENERAL COSMETICS ACT, 2023
ACT NO. OF 2023

[3" August, 2023]

AN
ACT

to regulate the quality, standard, labeling, packing, manufacturing, storage, distribution and sales of general cosmetics

WHEREAS, it is expedient to regulate the standard of the general cosmetics to ensure the quality of general cosmetics including labeling, packing, manufacturing, storage, sale and distribution and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act shall be called the Pakistan General Cosmetics Act, 2023.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Analyst” means analyst appointed by the government in the laboratory under the control and management of Pakistan Standard Quality Control Authority;

(b) “Association” means Pakistan Cosmetics Manufacturing Association;

(c) “Authority” means the Pakistan General Cosmetics Regulatory Authority constituted under section 3 of this Act;

(d) “Code means the Code of Criminal Procedure, 1898 (Act V of 1898);

(e) “Cosmetic Manufacturing Unit” premises comprising of the building, Quality Control Lab, storage and requisite machinery used for the manufacturing of the general cosmetics and its standard must fulfill all the hygienic conditions which may be necessary for the safety and health of human beings;

(f) “Counterfeit cosmetic” means general cosmetic manufactured, processed and packed in violation of the registered trade mark, label, design and copyright

of any product which already been used and registered for any other firm;

(g) “Division concerned” means the division to which the business of this Act stands allocated;

(h) “expiry date” means a date after which general cosmetic product shall not be displayed for sale;

(i) "free sale certificate" means free sale certificate issued by the Trade Development Authority under the Trade Development Authority of Pakistan Act, 2013, but shall not include Medicated Cosmetics as defined in clause (xix) of section 2 of the Drug Regulatory Authority of Pakistan Act, 2012 (XXI of 2012);

Gj) "general cosmetic" means any substance intended to be used to clean improve or change of complexion of skin, hair, nails or teeth and include the beauty preparations for make-up, perfume, skin cream, skin lotion nail polish, nail paint, soap, shampoo, shaving cream, gel, sun care and deodorant also include any article intended for use as a component of general cosmetics or any other item declared by the Authority for the purposes of this Act;

(k) "Government" means the Federal Government;

() "inspector" means an inspector appointed under section 15 of the Pakistan Standards and Quality Control Authority Act, 1996 (VI of 1996);

(m) "label" means a display of written, printed or graphic matter upon the primary and secondary packaging or the outside container or wrapper of a cosmetic product;

(n) "manufacturing date" means date of production with specific batch number of any general cosmetics product;

(0) "Pakistan Standard" shall have the same meaning as assigned to in the Pakistan Standards and Quality Control Authority Act, 1996 (VI of 1996);

(p) "Prescribed" means prescribed by rules made under this Act;

(q) "president" means president of the Authority;

(x) "PSQCA" means the Pakistan Standards and Quality Control Authority established under section 3 of the Pakistan Standards and Quality Control Authority Act, 1996 (VI of 1996):

(s) "Rules" means rules made under this Act;

(t) "standards and quality certificate" means standard and quality certificate issued by the Pakistan Standards and Quality Control Authority; and

(u) "substandard cosmetics" means general cosmetics products that fail to meet either their quality standards or specification or hazardous to human use as per standards and quality notified by the PSQCA.

3. Establishment of the Authority.—(1) On the commencement of this Act, there shall stand established an authority to be known as the Pakistan General Cosmetics Regulatory Authority to carry out the purposes of this Act.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to enter into contracts within its budgetary allocation following all the applicable rules and

regulations, acquire or dispose of property, both movable and immovable, and may, by its name, sue or be sued.

(3) The Authority shall be an autonomous body under the administrative control of the Ministry of Science and Technology with its headquarter at Islamabad.

(4) The Authority may set up its sub-offices at Provincial capital and such other places, as it may deem necessary from time to time with the approval of the Federal Government.

(5) The common seal of the Authority shall be kept in the custody of the president or such other persons as may be prescribed by rules and documents required or permitted to be executed under the common seal shall be specified and authenticated in such manner as may be prescribed by rules.

4. Composition of the Authority—(1) The Authority shall consist of a president and following members:—

(a) four members from the association who are professional of known integrity and eminence with a minimum of ten years of related experience in the field of general cosmetics;

(b) one member who is professional of known integrity and eminence with a minimum of fifteen years of related experience in the field of law;

(c) one member who is a professional chemist of known integrity and eminence with a minimum of fifteen years of related experience in the field of chemistry;

(d) one member who is a professional of known integrity and eminence with a minimum of fifteen years of related experience in the field of dermatology;

(e) Secretary of the Division concerned or any officer nominated by the Secretary but not below the rank of BPS-20;

(f) one member from Ministry of Law and Justice not below the rank of BPS 20
Ex-Officio Member

(g) one member from Ministry of Commerce not below the rank of BPS-20
Ex-Officio Member

(h) one member from Ministry of Industry and Production not below the rank of BPS 20
Ex-Officio Member

(2) The President and the Members under clauses (a) to (d) of sub-section (1) shall be appointed by the Prime Minister on the recommendations of the Division concerned.

(3) The president shall be the convener and head of the Authority. The president shall be appointed from amongst the members under clauses (a) to (d) of sub-section (1). The term of the president and members shall be four years, on such terms and conditions as may be prescribed:

(4) The president and members shall be eligible for reappointment for one additional term of four years.

(5) The Prime Minister, if necessary, may designate any member of the Authority to act as president.

5. Removal of the president and members.—(1) The president or any other member may, prior to expiry of their respective term, resign from office by writing under his hand addressed to the Prime Minister.

(2) The Prime Minister upon recommendations of the Authority, may remove the president or any member from office on grounds of inefficiency, incapacity or misconduct. For the purposes of such recommendations the Authority shall conduct an inquiry in such manner as may be prescribed by rules.

(3) In case of vacancy occurring due to death, resignation, retirement or removal of the president or any member, the appointment another qualified person to the said post shall be made within a period not exceeding ninety days from the date of such vacancy.

6. Meetings of the Authority—(1) The meeting of the Authority shall be held on quarterly basis.

(2) The president shall also call a meeting of the Authority, within five working days, on being requested in writing to do so by at least three Members of the Authority.

(3) The Members of the Authority shall have reasonable notice of the date, time, and place of a meeting of the Authority and each matter on which a decision has to be made:

Provided that in case of an urgent issue, the requirement of prior notice may be waived by the president.

(4) The Authority may, by the regulations, prescribe the manner in which Authority meetings are to be held.

(5) The president or in his absence, any other Member so nominated by the president, shall preside the meeting of the Authority.

(6) The decisions of the Authority shall be taken by majority of its members present and in case of a tie, the member presiding a meeting shall have a casting vote.

(7) The quorum for a meeting shall be sixty percent of the total Members with a fraction being counted as one.

(8) No act or proceedings of the Authority shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Authority.

7. Powers and functions of the Authority—(1) In addition to such other powers and functions as may be assigned under this Act, the Authority shall be responsible to regulate the standard and to ensure the quality of general cosmetics including labeling, packing, manufacturing, storage, sale and distribution.

(2) Without prejudice to generality of the foregoing, the Authority may be responsible to—

(a) make the policies for the development of general cosmetics business in Pakistan;

(b) make the policies for import and export of general cosmetics;
(c) issue guidelines from time to time;

(d) facilitate advancement and up gradation of the sector to meet national and international standards of general cosmetics;

(e) take steps for development and promotion of general cosmetics;
(f) prepare annual budget;

(g) develop working manuals, references, materials and procedures from time to time etc.

(h) perform any other function which is necessary for the discharge of its functions under this Act.

8. Business liberty.—The business of general cosmetics is related to the Intra-Provincial Trade. However, cosmetic firms or companies are at liberty to run their business, inside or outside Pakistan, under prevailing laws and rules made thereunder.

9, Pakistan Penal Code, 1860 (Act XLV of 1860) to apply.—The provisions of the Pakistan Penal Code, 1860 (Act XLV of 1860), to the extent not inconsistent with anything provided in this Act, shall apply to the offences provided in this Act.

10. Implementing authority.—The PSQCA shall be investigating authority for the purposes of investigation of offences of substandard.

(2) The inspector shall in all matters follow the procedure laid down in the Code.

11. Offences, penalties etc.—If any product is found to be counterfeit, the person who may be found involve in this process or liable to be punished with rigorous imprisonment of three years

and fine up to five million rupees. The premises where these counterfeit products are being processed shall be sealed and machinery shall also be confiscated.

12. Cognizance of offences.—(1) Cognizance of offences shall be initiated in accordance with the Code on the complaint received from an aggrieved person.

(2) The trial of offences shall be conducted by Magistrate of Ist class.

(3) The provisions of Pakistan Penal Code, 1860 relating to the offence of counterfeit or substandard also shall be applicable.

13. Funds.—There shall be established a fund to be called the General Cosmetics Fund which shall consist of—

(a) Grant-in-aid from the Federal Government, and the Provincial Governments;

(b) Collections, subscriptions, and donations from any person body, association or organization;

(c) receipts from other sources as may be approved by the Federal Government including sale proceeds from the Institute's products, publications, and holding of exhibitions, programs, festivals and projects as a self-generated fund, which the Authority may, retain and spend therefrom and the balance, if any, shall be deposited in the self-generated fund account maintained by the Authority separately for this purpose in the scheduled banks; and

(d) such funds as it may generate through private-public partnerships.

14. Budget.—The Authority shall, in respect of each financial year, by such date as may be determined by the Federal Government, submit to it for approval a statement, to be called the Annual budget statement, in the prescribed manner, showing the estimated receipts and expenditure and the sums likely to be required during the next financial year along with detail program of works for that year.

15. Maintenance of accounts and audit.—The Authority shall maintain complete and accurate accounts and other relevant records in such manner and form as may be prescribed by the Federal Government in consultation with Auditor General of Pakistan which shall be audited by the Auditor-General of Pakistan.

16. Public servants—Members and employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

17. Annual Report.—(1) The Authority shall, within three months of the end of a financial year, submit to the Prime Minister, its annual report, which shall consist of the accounts and audit reports of the Authority, a comprehensive statement of the work and activities carried out by the Authority during the preceding financial year, and its proposed activities as well as such other matters as may be deemed necessary by the Authority.

(2) The Prime Minister, at any time, may seek any details or clarification from the Authority about its financial affairs,

18. Employees.—To carry out the purposes of this Act, employees including officers and staff of the Authority shall be appointed on such terms and conditions of services as may be prescribed by rules.

19. Indemnity.—No suit prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rules made there under.

20. Power to make rules.—The Government may, by notification in the Official Gazette, make rules not inconsistent with the provisions of this Act, for carrying out the purposes of this Act.

21. Act not in derogation.—This Act shall be in addition to and not in derogation of any other law.

22. Power to remove difficulties.—if any difficulty arises in giving effect to any provision of this Act, the Prime Minister may make such order not inconsistent with the provisions of this Act, as may be necessary to remove the difficulty.