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THE INDECENT ADVERTISEMENTS PROHIBITION ACT, 1963

Act No. XII OF 1963

[18th June, 1963]

An Act to prohibit indecent Advertisements

WHEREAS it is expedient to provide for the prohibition of indecent advertisements;
AND WHEREAS the national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Indecent Advertisements Prohibition Act, 1963.

(1) It extends to the whole of Pakistan.

(2) It shall come into force at once.

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

(a) “advertisement” includes any notice, circular or other document, displayed on any house, building or wall, or published in any newspaper or periodical, and any announcement made orally or by any means of producing or transmitting light or sound, but does not include trade circulars issued by manufacturers of drugs to medical practitioners;

(b) “indecent” includes whatsoever may amount to any incentive to sensuality and excitement of impure thoughts in the mind of an ordinary man of normal temperament, and has the tendency to deprave and corrupt those whose minds are open to such immoral influence, and which is deemed to be detrimental to public morals and calculated to produce pernicious effect, in depraving and debauching the minds of persons;

(c) “taking any part in the publication of any advertisement” includes—

(i) the writing, typing, stamping, drawing, announcing, printing or transmitting of the advertisement ;

(ii) the publication of any advertisement outside Pakistan by or at the instance of a person residing in Pakistan ;

(d) “public place” means any place where an advertisement can be seen or heard by members of the public.

3. Prohibition against person advertising, displaying, etc., indecent advertisements.—
Subject to the provisions of this Act—

(i) no person shall take any part in the publication of any advertisement which is indecent ; and

(ii) no person having the ownership, possession or control of any property or public place shall knowingly allow any advertisement which is indecent to be displayed on such property or place, or to be announced therefrom.

4. Penalty.— Whoever contravenes any of the provisions of this Act shall, on conviction, be punishable—

(a) in the case of a first conviction, with imprisonment which may extend to six months, or with fine, or with both; and

(b) in the case of any subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.

5. Confiscation of documents, etc., containing indecent advertisements.—Any person authorised by the '[Provincial Government]' in this behalf may, at any time, seize and detain any document, article or thing which such person has reason to believe contains any advertisement which contravenes any of the provisions of this Act and the court trying such contravention may direct that such document (including all copies thereof), article or thing shall be forfeited to the Government.

6. Offences by companies.—(1) If the person contravening any of the provisions of this Act is 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 contravention and shall be liable to be proceeded against and punished accordingly:

Provided 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 on such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence was 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 any body corporate and includes a firm or other association of individuals, and

(b) 'director' in relation to a firm means a partner in the firm.

7. Complaint by a police officer.—Without prejudice to the right of any other person to make a complaint of an offence under this Act, a police officer not below the rank of sub-inspector who receives information that such an offence has been committed, shall, if he is satisfied as to the truth of the information, make a complaint of the offence in writing to the nearest *[Judicial Magistrate] having jurisdiction.

'Subs. by F.A.O., 1975(P.O. NO. 4 of 1975), Art. 2 and Sch., for "Central Government".

?Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch. I

8. Jurisdiction to try offences.—No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

9. Officers to be deemed to be public servants.—Every person authorised under section 5 shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

10. 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.

11. Other laws not affected.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

12. Power to exempt from application of Act.—If, in the opinion of the '[Provincial Government]', public interest so requires, it may, by notification in the official Gazette, direct that the provisions of section 3 shall not apply, or shall apply subject to such conditions as may be specified in the notification, to, or in relation to, the advertisement of any specified drug or class of drugs.

13. Power to make rules.—The '[Provincial Government]' may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

14, 2[Omitted]

'Subs. by F.A.O., 1975 (P.O. No. 4 of 1975), Art. 2 and Sch., for "Central Government".

Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch.