

THE WEST PAKISTAN PURE FOOD ORDINANCE, 1960.
ORDINANCE NO.VII OF 1960.

[11TM March, 1960]

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SCHEDULE

THE WEST PAKISTAN PURE FOOD ORDINANCE, 1960.
(W.P ORDINANCE NO.VII OF 1960.)
[11TM March, 1960]

AN
ORDINANCE

To consolidate and amend the law relating to the preparation and sale of foods in the Province of West Pakistan.

WHEREAS, it is expedient to consolidate and amend the law relating to the preparation and sale of foods in the Province of West Pakistan—;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance: —

PART-I
PRELIMINARY.

1. (1) This Ordinance may be called the West Pakistan Pure Food Ordinance, 1960.

'1(2) It extends to the whole of the *[Province of the Khyber Pakhtunkhwa] except the Tribal Areas].

(3) It shall come into operation in respect of such foods or generally in respect of such areas as Government may by notification direct.

*[2. In this Ordinance, unless the context other-wise requires, the following expressions shall have the meanings here by respectively assigned to them, that is to say:-

(1) “adulterated food” means an article of food:-

(i) which is not of the nature, substance or quality which it purports or is represented to be, or

(ii) which contains any such extraneous substance as may affect adversely the nature, substance or quality thereof, or

' Substituted vide W.P. Act No. II of 1963.

* Substituted vide K.P A.L.O 1975 and then.

* Substituted vide W.P. Act No. V of 1965.

Preamble.

Short title
extent and
application.

Definitions.

(iii) which is processed, mixed, coloured, powdered or coated with any other substance in contravention of the rules, or

(iv) any constituent of which has been wholly or in part abstracted so as to affect injuriously its nature, substance or quality, or

(v) which contains any poisonous or other ingredient which may render it injurious to health, or

(vi) the quality or purity of which does not conform to the prescribed standards, or

(vii) which having been prepared, packed or kept under insanitary conditions, has been contaminated or become injurious to health;

(2) “banaspati” means such article of food resembling ghee as is prepared by hydrogenation of edible vegetable oil and contains no milk or animal fat;

(3) “butter” means such article of food derived exclusively from the milk of cow or buffalo or from cream or dahi prepared from such milk, whether with or

without salt or other prescribed preservative;

(4) “charbi” means an article of food which resembles ghee or banaspati, but contains animal fat other than milk fat;

(5) “Chemical Examiner” means—

(i) the Chemical Examiner to Government, and

(ii) any other officer appointed by Government to be the Chemical Examiner for the purposes of this Ordinance;

(6) “cream” means that portion of the milk of cow or buffalo which is rich in fat and rises in the surface of milk on standing, or which has been separated by skimming or otherwise;

(7) “dahi” means the product obtained by lactic acid fermentation of milk.

(8) “Director” means the Director, Health Services, [* * *].

(9) “food” means any article used as food or drink for human consumption other than drugs, and includes—

' Omitted vide Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

(i) any substance which is intended for the use in the composition or preparation of food;

(ii) any flavouring matter or condiment;

(iii) any colouring matter intended for use in food;

(iv) chewing gum and other products of the like nature; and

(v) water in any form, including ice, intended for human consumption or for use in the composition or preparation of food.

Explanation.— An article shall not cease to be food by reason only that it is also capable of being used as a medicine.

(10) “ghee” means ghee prepared exclusively from butter;

(11) “Government” means the Government of [Khyber Pakhtunkhwa].

(12) “godown” means a place where articles of food are received or stored for sale or delivery to a customer or consignee, and includes godowns of the Railways, and of shipping or other transport agencies;

(13) “Health Officer” means the District Health Officer or the Assistant District Health Officer, and includes a Medical Officer of Health, an Assistant Medical Officer of Health of a Local Authority, and any other person appointed by Government to be Health Officer for the purposes of this Ordinance;

(14) “Inspector” means an Inspector appointed under this Ordinance;

*1(15) “Local Authority” means a Local Council constituted under the [Khyber Pakhtunkhwa] Local Government Ordinance, 1972 (“[Khyber Pakhtunkhwa], Ordinance No. II of 1972), and includes an authority declared by Government, by notification in the Official Gazette, to be a Local Authority for the purposes of this Ordinance;]

(16) “margarine” means any food, whether mixed with butter or not, which resembles butter and is not milk blended butter;

(17) “milk” means the normal, clean and pure section obtained from the udders of a healthy cow, buffalo, goat or sheep, whether boiled, pasteurized, homogenized or sterilized, and includes standardized and toned milk;

' Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

? Substituted vide Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

* Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

(18) "misbranded food" means an article of food:—

(i) which is an imitation of, or a substitute for, or resembles, in a manner likely to deceive, another article of food, and is sold or is intended to be sold under the name under which such other articles is sold, or is not correctly labeled to indicate its true character; or

(ii) which is so coloured, flavoured, coated, powdered or polished as to conceal the true nature thereof; or

(iii) which is contained in any package which, or the label of which, bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents; or

(iv) which is not properly packed and labelled in accordance with the rules;

(19) "occupier" means the person who has control of the affairs of a factory, shop or godown and includes the manager or managing agent or any other person

authorized to represent the occupier;

(20) "package" includes every article in which goods for carriage or for sale are cased, covered, enclosed, contained or packed;

(21) "pre-packed" means packed or made up in advance ready for retail sale in a wrapper or Container;

(22) "prescribed" means prescribed by rules;

(23) "Public Analyst" means Public Analyst appointed under this Ordinance;

(24) "retail sale" means any sale to a person buying otherwise than for the purpose of re-sale;

(25) "rules" means rules made under this Ordinance;

(26) "sale" in relation of food, means a transfer of ownership either by way of barter or in exchange for a price paid or promised or part paid and part promised;

(27) "standardized milk" means milk which has been reduced to the prescribed level of milk fat by removal of fat;

(28) "toned milk" means milk which has been standardized to the prescribed level of milk fat and solids by addition of reconstituted milk solids;

(29) "transit" includes all stages of transportation from the place of manufacture or other source of origin to the consumer; and

(30) "wholesale" means any sale other than retail sale.

PART - II

GENERAL PROVISIONS.

3. No person shall in respect of any food sold by him or given by him for sale to an agent give to the purchaser or his agent a false warranty in writing.

4. (1) No person shall mix, colour, stain or powder or direct or permit any other person to mix, colour, stain or powder any food with any matter or ingredient—

(a) in contravention of the prescribed rules; or

(b) so as to render the food injurious to health with intent that the same may be sold in that state.

(2) No person shall sell, offer, keep or store any food so mixed, coloured, stained or powdered.

5. No person shall, directly or indirectly, himself or by any other person —

(a) prepare, manufacture, keep or store for sale, or sell or offer to sell, any food which is unsound, unwholesome, injurious to health or unfit for

human consumption; or

(b) import or export any food in such manner or in such condition as renders it or is likely to render it injurious to health].

' Substituted vide W.P. Act No. V of 1965.

False warranty.

Prohibition of
mixing and
selling mixed
food.

Prohibition of
sale, preparation
manufacture,
import or export
of unwholesome

food intended
for human
consumption.

'16. (1) No person shall, directly or indirectly, himself or by any other person, prepare, manufacture, keep or store for sale, or sell or offer to sell any food—

(a) which is adulterated;

(b) which is misbranded;

(c) which is not of the nature, substance or quality demanded, or which it purports or is represented to be;

(d) for the sale of which a licence is required otherwise than in accordance with the conditions of the licence;

(e) in contravention of any other provision of this Ordinance or the rules.

(2) No person shall directly or indirectly, himself or by any other person, manufacture, sell, offer to sell, keep or store for sale any food notified in this behalf by Government, unless it is coloured in the manner prescribed.

(3) Government may, by notification in the official Gazette, prohibit or regulate the keeping, in any factory or wholesale business premises in which such articles of food as are specified in the notification are manufactured or stored, of any substances likely to be used as adulterants as so specified.]

°17. No person shall keep or store for sale, or sell or offer to sell, any pre-packed food unless he has complied with the rules made in this behalf.]

3[8. No person shall import, export, prepare, manufacture, keep or store for sale or sell any food unless the rules providing for the mode of its manufacture, processing or preparation, packaging, labelling, consignment, delivery, standard of quality or bill of containers have been complied with.

'19. (1) Bunsapati, charbi and margarine shall be packed, labeled or marked in such manner as may be prescribed.

(2) No person shall sell, whether wholesale or retail, or transport by way of trade any bunsapati, charbi or margarine unless every package containing any such substance is durably marked or labelled in such manner as may be prescribed.]

' Substituted vide W.P. Act No. V of 1965.

* Substituted by the Act *ibid*.

* Substituted by the Act *ibid*.

* Substituted by the Act *ibid*.

Prohibition of
sale or
manufacture for
sale of food
which is
adulterated or
misbranded or
not of the
nature,

substance or
quality
demanded.

Sale of pre-
packed food

Prohibition of
sale of food
with
outcomplaying
with rules.

Sale of
margarine
banaspati and
Charbi.

"110. No person shall sell beanspati, margarine or *[Charbi] loose or from an open package, provided that banaspati may be sold under a licence and subject to such conditions as may be prescribed in this behalf.

3[11 (1) No place shall be used —

(a) for the preparation, or the manufacturing, processing,

blending, preserving, refrigerating, canning or bottling of any food;

(b) for the business of a wholesale dealer in banaspati, charbi, ghee, margarine, fish oil, mustard oil, cotton seed oil or other edible oils and such food as may be prescribed;

(c) as a creamery, dairy or bakery;

(d) as a hotel, restaurant or eating house;

except under a licence to be granted in such manner and by such authority as may be prescribed:

Provided that Government may exempt any specified premises or class of premises from the operation of this section.

(2) The licence required under this section may be renewed annually on payment of prescribed fees.

(3) The renewal of a licence may be refused, or a licence may be cancelled by the authority granting the licence, if—

(i) the licensee fails to maintain the register referred to in section, 12, or is convicted of an offence under this Ordinance; or

(ii) the premises is not maintained in such condition as may be prescribed.

(4) No person shall keep or store for sale, or sell or offer to sell any food for human consumption unless he is in possession of such identification permit as may be prescribed].

' Substituted vide W.P. Act No. II of 1963.

* Substituted vide W.P. Act No. V of 1965.

* Substituted vide W.P. Act No. II of 1963.

Banaspati,
margarine or
charbi not to be
sold loose.

Licence for
manufacture
storage and sale
of goods.

112. Every occupier of a place used for the preparation or manufacture for the purposes of trade of any such article of food as Government may, by notification in the official Gazette, specify in this behalf, and every wholesale dealer or his agent who stores any such article shall, keep and maintain a register in such form as may be prescribed, and such register shall be open to inspection, by the Inspector.]

*[13. (1) If a Health Officer or an Inspector has reason to suspect that any food or any vessel or utensil with which food may come in contact is likely to cause food poisoning (acute, chronic or cumulative) by chemical or bacteriological agents, he may take a sample of such food or the vessel or the utensil for analysis under this Ordinance, and if he takes a sample, give notice to the person in charge of the food that, until the result of the analysis is known, the food or any specified portion thereof shall not be used and shall be kept or removed in the manner specified in the notice.

(2) If a Health Officer has reason to suspect that tuberculosis is likely to be caused by the consumption of milk supplied from any dairy or other source, he may, by notice to the person in charge of such dairy or source, prohibit the supply of milk from such dairy or source.

(3) If a person is, in the opinion of the Local Authority, suffering from any communicable disease, the Local Authority may, by notice to such person, prohibit him from preparing, manufacturing, selling or offering to sell any article of food for human consumption.

(4) A Health Officer may, by notice to any person handling articles of food in any hotel, restaurant, sweetmeat shop, or any other public eating place, require him to obtain and keep in his possession a health certificate from a Health Officer to the effect that he is free from communicable disease, and to get it renewed from year to year, till such time as he continues so to handle such articles.

(5) Every person to whom a notice under this section has been given shall comply with such notice.

(6) Wherever practicable, the Health Officer shall instruct the owner of the dairy of other source from which milk is supplied to carry out such remedial measures as considered necessary by him, and if these are complied with to his satisfaction, the notice issued under sub-section (2) shall be withdrawn.

Explanation:- Persons debarred under sub-section (3) shall have to produce a certificate as laid down in sub-section (4).]

' Substituted vide W.P. Act No. V of 1965.

* Substituted by the Act *ibid*.

Register for
manufacture
and whole sale
business.

Food Poisoning.

PART - III
ANALYSIS OF FOOD

14. Government may, by notification, appoint Public Analysts for the purposes of this Ordinance, for the whole or any part of the Province, for any specified food or generally for all foods.

'[15. It shall be the function of every Local Authority to carry into execution and enforce the provisions of this Ordinance within its jurisdiction with a view that all articles of food and drink are sold in a pure and genuine state.]

116. (1) Government may appoint Inspectors in respect of all or any specified food, and an Inspector, so appointed shall have jurisdiction in such area as Government may direct.

(2) Subject to any rules made in this behalf, a Local Authority shall appoint Inspectors in respect of all or any specified food, and an Inspector so appointed, shall unless the Local Authority otherwise directs, exercise the powers and perform the functions of an Inspector under this Ordinance throughout the area over which such Local Authority has jurisdiction.

(3) The Director may exercise the powers and perform the functions of any Inspector under this Ordinance, and any Assistant Director or any other officer working under the Director may exercise such powers and perform such functions of an Inspector within such area as the Director may, by order in writing, direct.

(4) The Health Officers and Sanitary Inspectors of Local Authorities and such other holders of offices and posts or under Government may, by notification in the official Gazette, specify in this behalf, shall be ex-officio Inspectors in respect of all foods within the limits of their respective jurisdiction.]

17. (1) An Inspector may detain and search any vehicle or package of any food intended for sale or in the course of delivery if he has reason to suspect that the food therein carried or contained may be injurious to health, unwholesome or unfit for human consumption or is not of the same nature, substance or quality which it purports to be:

Provided that nothing in this section shall authorize the detention of any vehicle belonging to the Railways.

(2) An Inspector may *[* * *]

' Substituted vide W.P. Act No. V of 1965.

* Substituted by the Act *ibid*.

> Omitted by the Act *ibid*.

Appointment of
Public Analysts.

Local
authorities to
enforce the
ordinance.

Appointment
of Inspectors.

General powers
of Inspectors.

(i) enter into and inspect any market, godown, shop stall or other place used for the sale of any food intended for human consumption or for the preparation, manufacture or storage of any such food for the purposes of trade or sale;;

(ii) enter upon any premises for the purposes of exercising the powers of purchasing or taking a sample under section 18 and may in such premises inspect and examine any food and any apparatus, utensil or vessel used for preparing, manufacturing or containing such food

'E

*[(iii) enter into and inspect any market, godown, shop, stall or other place used for the manufacture, storage or sale of any apparatus, utensil or vessel, ordinarily used or intended to be used or likely to be used for preparing, manufacturing or containing any food.]

3[(3) If any such food as is mentioned in sub-section (1) or clause (i) of sub-section (2) appears to the Inspector to be injurious to health, unwholesome, unfit for human consumption or not of the same nature, substance or quality which it purports to be, or not fulfilling the prescribed conditions subject to which such food is to be prepared, manufactured, kept, stored or sold, or if any such apparatus or utensil as is mentioned in clause (ii) of sub-section (2) is of such kind or in such states as to render any food prepared, manufactured or contained therein unwholesome or unfit for human consumption or injurious to health, he may seize and remove such food, apparatus or utensil to be dealt with as hereinafter provided.]

(4) An Inspector may, instead of removing such food, apparatus, utensil or vessel seized under sub-section (3), leave the same in the custody of the person from whose possession custody or control the same was seized or in such safe custody as he may deem fit, so as to be dealt with as hereinafter provided; and he may at any time thereafter remove the same to the custody of the "[Local Authority] concerned.

(5) (a) When any food, apparatus, utensil or vessel is seized under sub-section (3), it may be destroyed by the officer making the seizure with the consent "fin writing] of the owner or the person in whose possession, custody or control it is found.

S[(b) if an food seized under sub-section (3) is of a perishable nature and is, in the opinion of the Inspector, unsound, unwholesome or unfit for human

' Inserted vide W.P. Act No. II of 1963.

* Inserted by the Act *ibid*.

* Substituted vide W.P. Act No. V of 1965.

* Substituted by the Act *ibid*.

* Inserted by the Act *ibid*.

° Substituted by the Act *ibid*.

consumption, it may be destroyed without such consent but in the presence of two respectable witnesses].

'1(6) An Inspector shall prepare a statement describing the food, apparatus or utensil seized and shall deliver and shall delivered a copy there of the apparatus or utensil is seized, or, if such person be not present, send such copy to him by post].

(7) (a) Any person claiming anything seized under sub-section (3) may within seven days of the seizure complain to any Magistrate of the first or second class having jurisdiction at the place of seizure, who, after making such enquiry as he may deem necessary, may either confirm or disallow such seizure wholly or in part or may order the article to be restored to the claimant.

(b) If the Magistrate confirms the seizure, the food, apparatus, utensil or vessel, as the case may be, shall be forfeited to the *[Local Authority] concerned or the Magistrate may direct that such food, apparatus, utensil or vessel may be destroyed or disposed of at the cost of the owner or person in whose possession, manner as to prevent the same being again sold, kept, stored or used as food or for the manufacture or preparation of, or for containing, any such food.

(8) If no complaint is made within the said period of seven days, the article of food or the apparatus, utensil or vessel, as the case may be, seized shall be confiscated to the *[local Authority] concerned.

4[18. (1) An Inspector may, for the purpose of analysis purchase a sample of food

(a) in transit;

(b) sold, offered for sale, hawked about, kept or stored or received for the purpose of preparing there with any food; or

(c) kept or stored in a market, godown, shop, stall, hotel restaurant or eating house for the purpose of trade or sale or received therein for the purpose of preparing or manufacturing therewith any food.

(2) No person shall refuse to sell food to an Inspector intending to purchase for the purpose of sub-section (1) in such reasonable quantity and from such container as he may ask for.

' Substituted vide W.P. Act No. V of 1965.

* Substituted by the Act *ibid*.

* Substituted by the Act *ibid*.

* Substituted by the Act *ibid*.

Purchase of
sample etc

Explanation:- The purchase or sale of a sample of any food for the purpose of analysis under this Ordinance shall be deemed to be purchased or sold for human consumption or use.

(3) If, in contravention of sub-section (2), any person refuses to sell the food to the Inspector, the Inspector may, without prejudice to any penalty to which such person may be liable for such contravention, seize such quantity of the food as may appear to him to be necessary, and shall give such person a certificate showing the price, nature and quantity of the food seized, the date, time and place of seizure, and on demand being made in that behalf, the price of the food seized.

(4) The Inspector shall prepare in such form as may be prescribed, a declaration in triplicate containing full particulars relating to the sample seized and such declaration shall be signed or marked both by the Inspector and the person from whose possession, custody or control the food has been seized, and a copy thereof shall be given to such person.

(5) When a sample is taken from the stock in the possession of a commission agent, he shall be bound to give the name and such other particulars of the person on whose behalf such stock is held by him as the Inspector may require.]

'119. (1) Any person may make an application in writing to an Inspector asking him to purchase a sample of such food and from such person as may be specified in the application and to submit such sample to the Public Analyst for analysis.

(2) The cost of the sample purchased and of the analysis done under sub-section (1) shall be payable by the person making the application:

Provided that, in case the sample is found by the Public Analyst to be adulterated, any amount paid by the applicant under this sub-section shall be refunded to him.]

20. (1) An Inspector after purchasing or procuring or seizing any food with the intention of submitting the same for analysis shall, forthwith, divide the food in three parts to be then and there separated and each part shall be marked, sealed or fastened in such manner as the nature of the case will permit; and the person from whom the sample is taken may, if he so desires, also affix his seal or mark on each of the three parts.

(2) An Inspector shall —

' Substituted vide W.P. Act No. V of 1965.

Right of private
persons to have
samples
analysed.

Methods of
taking samples.

(a) if required to do so, deliver one part to the person from whom the article is purchased or seized or the sample is taken;

(b) retain one part for future comparison; and

(c) submit one part to the Public Analyst:

Provided that where the sample is taken from any food which is about to be imported or is in transit or at the place of delivery to the purchaser, consumer or consignee or is unclaimed, the first-mentioned part of the sample shall be retained by Inspector, unless the name and address of the consignor appear on the container containing the article sampled, in which case he shall forward that part to the consignor by registered post or otherwise, together with a notice informing that person that the sample would be analysed by the Public Analyst.

21. (1) The Public Analyst upon receiving any food or a sample of food from the Inspector shall, as soon as possible, analyse the same and deliver or send to the Inspector forwarding the sample, on payment of such fees as may be prescribed, a certificate in the form specified in the T * * * | Schedule showing the result of the analysis.

(2) ** *]

3[(2) A copy of such certificate may be obtained from the Public Analyst by the person from whom the article so analysed was purchased or obtained on payment of a fee of two rupees.]

413) No person shall display any such copy on his premises or use such copy as an advertisement. |

22. Government may, in relation to any matter appearing to it to affect the general interests of the consumers of any food, direct any public servant to procure for analysis, samples of such food and thereupon such public servant shall have all the power of an Inspector under this Ordinance:

Provided that:-

(a) the public servant upon receiving the certificate of the Public

Analyst shall take proceedings or cause proceedings to be taken, as if he himself had caused such analysis to be made:

' Omitted vide W.P. Act No. V of 1965.

? Omitted by the Act *ibid*.

* Re-numbered by the Act *ibid*.

* Re-numbered by the Act *ibid*.

Certificate of
Analyst.

Power of
Government to
have articles

analysed.

(b)

Any fee prescribed for such analysis, the cost of the sample and the expenditure incurred in procuring it, including the traveling allowance, if any, of the public servant procuring the same shall be payable by the '[Local Authority] of the area from where the sample is procured.

PART -IV

PENALTIES AND PROCEDURE

"123. (1) Whoever contravenes any of the provisions of sections 3, 4, 5, 6, 7, 8, 9, 10, 11 *[other than contravention of the provisions of clause (c) of sub-section (1) of section 6 by roller flour mills] shall be punished—

(a)

(b)

(c)

for a first offence with rigorous imprisonment for a term which may extend to "[three year] and with fine ranging from "[one thousand rupees to two thousand rupees]

for a second offence, with rigorous imprisonment for term which shall not be less than *Tthree years, and not more than five years, and fine ranging from five '[thousand] rupees to ten thousand rupees;

for repeated offences or for offences of large scale adulteration or adulteration with injurious substances, even in the first instance, with rigorous imprisonment for a term which shall not be less than three years and not more than five years, and with fine ranging from *[ten] thousand rupees to one lakh rupees.]

*T(1-A) Whoever, running a roller flour mill, contravenes the provisions of clause (c) of sub-section (1) of section 6 shall be punished —

(a) for a first offence, with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than fifty thousand rupees;

(b) for a second offence, with rigorous imprisonment for a term which may extend to two years and with fine which shall not be less than seventy five thousand rupees;

' Substituted vide W.P. Act No. V of 1965.

> Substituted vide W.P. Act No. V of 1965.

* Inserted vide Khyber Pakhtunkhwa Ord. No. III of 1983.

- 4 Substituted vide Khyber Pakhtunkhwa Act No. IX of 1976.
- * Substituted vide Khyber Pakhtunkhwa Act No. IX of 1976.
- ® Substituted vide Khyber Pakhtunkhwa Act No. IX of 1976.
- 7 Substituted vide Khyber Pakhtunkhwa Act No. IX of 1976.
- * Substituted vide Khyber Pakhtunkhwa Act No. IX of 1976.
- ° Inserted vide Khyber Pakhtunkhwa Ord. No. III of 1983.

Penalties.

(c) for any subsequent offence, with rigorous imprisonment for a term which may extend to three years and with fine which shall not be less than one hundred thousand rupees.]

(2) Whoever contravenes any of the provisions of section 12, section 18 or section 21 or of any rule, shall be punished with imprisonment for a term which may extend to one year and with fine.

(3) Any person who attempts to contravene or abets the contravention of any of the provisions mentioned in sub-section (1) '[or sub section (IA)] or sub-section (2) shall be punishable with the same punishment as is provided for such contravention.]

*[23-A *[Notwithstanding anything to the contrary contained in the Code of Criminal Procedure 1898], any Magistrate for the time being empowered to try in a summary way the offences specified in sub-section (1) of section 260 of the code of Criminal Procedure, 1898, may try summarily any offence made punishable under clause (a) of sub-section (1) of section 23 of this Ordinance or sub-section (2) of the said section in accordance with the provisions of chapter XXII of that code.]

24. In every prosecution under this Ordinance relating to any food the Court shall presume —

(a) that any food found in possession of any person, who is, or has been habitually found manufacturing, selling, keeping, storing, offering or exposing for sale or hawking about such food, was being manufactured, sold, kept, stored, offered or exposed for sale or hawked about by such person;

(b) that any food commonly used for human consumption is sold, kept or stored for human consumption;

(c) that any food commonly used for human consumption, which is found on premises used for the preparation of manufacture of such food, was intended to be prepared or manufactured for human consumption;

(d) that any substance capable of being used in the manufacture or preparation of any food commonly used for human consumption, which is found on premises in which such food is manufactured or prepared, was intended to be used in the manufacture or preparation of such food;

' Inserted vide Khyber Pakhtunkhwa Ord. No. III of 1983.

* Inserted vide W.P. Act No. II of 1963.

* Inserted vide W.P. Act No. IV of 1965.

Power to try
summarily.

Presumption.

(e) that any food is not of the nature, substance or quality it purports to be, if it is deficient in any of its normal constituents to the extent specified in the rules made under this Ordinance or if any extraneous matter has been added to it in contravention of such rules.

25. A declaration signed or marked under sub-section (4) of section 18 may be produced as evidence of the facts contained therein in any enquiry, trial or other proceedings under this Ordinance.

26. (1) The production in any enquiry, trial or other proceeding under this Ordinance of a certificate under the hand of a Public Analyst in the form specified in the '[* * *] Schedule shall, until the contrary is proved, be sufficient evidence of the facts therein stated.

(2) When any person is accused of an offence under this Ordinance, he may require the Court to summon as a witness the Public Analyst who analysed the food or sample of food in respect of which he is accused of having committed an offence and the Court may, and shall, in every case in which the accused deposits in the Court a sum of money in accordance with the scale prescribed, summon the Public Analyst, and if such person is acquitted, any sum of money so deposited shall be refunded to him.

27. (1) The Court may of its own accord or on the request of the accused cause any food or sample of food to be sent for analysis to the Chemical Examiner to Government, who shall there upon with all convenient speed analyse the same and report the result of the analysis to the Court in the form specified in the '[* * *] Schedule, and the cost of such analysis shall be paid by the accused if the Court so directs.

3[(1-A) The Director may of his own accord or on the application in writing of the inspector taking the sample, or on the application in writing of any other person cause the food or sample of food, retained by the inspector in pursuance of the provisions contained in clause (b) of sub-section 2 of section 20, to be sent for analyses to the Chemical Examiner to Government, who shall thereupon with all convenient speed analyses the same and report the result of the analyses to the Director in the form specified in the schedule.]

(2) The certificate of the Chemical Examiner to Government shall, until the contrary is proved, be sufficient evidence of the facts therein stated, but if the Court considers it necessary in the interests of justice it may summon him to give evidence in connection with the certificate issued by him, and in such a case the

' Omitted vide W.P. Act No. V of 1965.

* Omitted vide W.P. Act No. V of 1965.

* Inserted vide Khyber Pakhtunkhwa Act No. IX of 1976.

Declaration
under section 18
to be evidence.

Certificate of
Public Analyst
to be evidence

of fact therein
stated.

Analysis by
Chemical
Examiner.

cost of summoning the Chemical Examiner to Government shall be paid by the accused of the '[Local Authority]' as the Court may direct.

(3) The provisions of sub-section 7[(3)] of section 21 shall apply in respect of the report of the Chemical Examiner.

28. (1) In any prosecution under this Ordinance relating to any food it shall be no defence to allege—

(a) that the accused was ignorant of the nature, substance or quality of the food, or

(b) that the purchaser having bought only for analysis was not prejudiced.

(2) The seller shall not be deemed to have committed an offence under this Ordinance if he proves-

(a) that the food sold was purchased or obtained as agent by him as being of the same nature, substance or quality as that demanded by the purchaser and with written warranty to the effect that it was of such nature, substance or quality;

(b) that he had no reason to believe at the time when he sold it that the food was not of such nature, substance or quality as required; and

(c) that he sold it in the same state in which he purchased it.

(3) No evidence of a warranty under clause (a) of sub-section (2) shall be admissible on behalf of the seller —

(a) unless the seller has 3[on or before the first day of the hearing of the case in the Court against him] sent to the Inspector a copy of the warranty (together with a translation thereof in English) with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person; and

(b) unless such warranty is given by a person permanently residing or carrying on business in Pakistan.

' Substituted vide W.P. Act No. V of 1965.

* Substituted vide W.P. Act No. V of 1965.

* Substituted vide W.P. Act No. V of 1965.

What is or is not
a good defence
in a prosecution
under the
Ordinance.

(4) The Court shall summon the warrantor as a co-accused if it admits the warranty on behalf of the seller.]

29. In the case of any conviction under this Ordinance the convicting Magistrate may order that any food to which the conviction relates, together with all packages or vessels containing the same, shall be confiscated to Government and disposed of as the Magistrate may direct.

30. When any person is convicted of an offence under this Ordinance, the convicting Magistrate shall order that all fees and other expenses incidental to the analysis of any food in respect of which the conviction is made, which shall in no case be less than thirty rupees, be paid by the person convicted, in addition to the fine, if any, which he may be sentenced to pay and the amount of such fees and expenses may be recovered as if it were a fine.

31. No offence under this Ordinance or the rules made thereunder shall be triable by a Magistrate exercising powers less than those of a Magistrate of the * [First class]:

* [Provided that in case of contravention of provisions of sub-section (1-A) of section 23, the offence shall be triable by a Magistrate of 1st class invested with powers under section 30 of the Code of Criminal Procedure, 1898 (V of 1898).]

4[32. Offences under this Ordinance shall be cognizable and Non-bailable.]

PART -V MISCELLANEOUS

°[33. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any provision of this Ordinance.]

34. An Inspector while exercising any of the functions conferred upon him by or under this Ordinance and all other persons assisting him in discharging such functions shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

"Inserted vide W.P. Act No. V of 1965.

> Substituted vide W.P. Act No. V of 1965.

* Inserted vide Khyber Pakhtunkhwa Ord. No. III of 1983.

* Substituted vide Khyber Pakhtunkhwa Act No. IX of 1976.

* Substituted vide W.P. Act No. V of 1965.

Forfeiture of
food upon
conviction.

Expenses of
analysis to be
paid by

offenders on
conviction.

Offences under
the Ordinance
not to be tried
by a Magistrate
exercising lesser
powers than
Magistrate of
the 1 (First)
class.

Cognizance of
offences.

Protection of
action taken
under the
Ordinance.

Inspector to be
deemed public
servant.

35. (1) If the Deputy Commissioner of a district receives information from the Director or has reason to believe that a '[Local Authority] has failed to execute or enforce any of the provisions of this Ordinance in relation to any food and that the failure affects the general interest of the consumers, he may, after making such inquiry from the *[Local Authority] as he thinks fit, by order, empower any public servant to execute or enforce these provisions or to procure the execution or enforcement thereof in relation to such food and the order may fix a reasonable remuneration to be paid to such public servant, and such remuneration together with any expenses incurred by the public servant in performing the duties of the *[Local Authority] under this Ordinance shall be paid by the local authority.

(2) If the expenses and remuneration are not so paid the Deputy Commissioner may make an order directing any person who for the time being has custody of any moneys on behalf of the local authority, as its officer, treasurer, banker or otherwise, to pay such expenses and remuneration from such money as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) When the Deputy Commissioner makes any order under this section, he shall forthwith forward to the Commissioner and to the local authority affected thereby a copy of the order with a statement of the reasons for making it, and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it may continue in force with or without modifications.

(4) The Commissioner shall forthwith submit to Government a report of every case occurring under this section, and Government may confirm, revise or modify the order, or make in respect thereof any other order which the Commissioner could have made.

Provided that no order of the Deputy Commissioner or the modified by Government without giving the local authority a reasonable opportunity of showing cause against such order.

36. Government may delegate all or any of its powers and functions under this Ordinance to the Director or any other officer by name or designation.

37. (1) Government may frame rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In Particular and without prejudice to the generality of the foregoing power, Government may frame rules—

' Substituted vide W.P. Act No. V of 1965.

* Substituted vide W.P. Act No. V of 1965.

* Substituted vide W.P. Act No. V of 1965.

Power of
Government to
appoint a public
servant to
exercise the
functions of any
1[Local

authority.]

Delegation.

Power to make
tules.

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)
- G)
- ()
-)

prescribing the qualifications of persons who may be appointed Public Analysts for the purpose of this Ordinance;

regulation the appointment and qualifications of persons to be appointed as Inspectors under this Ordinance;

prescribing the methods of analysis to be followed by Public Analysts for the analysis of any food;

fixing the fees to be paid in respect of the analysis of any food by a Public Analyst;

prohibiting the use of any particular matter or ingredient in the manufacture of preparation of any food;

specifying the conditions (which) include the addition of a colour or any other substance) subject to which any food shall be manufactured, sold, kept, stored, offered or exposed for sale;

prohibiting the keeping or storage of foods other than those approved under the rules;

securing the cleanliness and freedom from contamination of any food in the course of its manufacture, preparation, storage, packing, carriage, delivery or exposure for sale, and securing the cleanliness of places, receptacles, packages, wrappings, appliances and vehicles used in such manufacture, preparation, storage, packing, carriage or delivery;

prescribing the method in which labels shall be affixed, languages in which the labels shall be printed and the symbols which shall be used for different kinds of foods;

prescribing the manner in which, and the conditions subject to which, a licence is to be granted under section 11:

prescribing the form, and the particulars to be entered in the register to be kept under section 12;

authorising a person taking a sample of milk or any other food for the purpose of analysis to add preservatives to such samples for maintaining it in a suitable condition for analysis and regulating the nature and method of addition of such preservatives;

(m) prohibiting the use or addition as a preservative of any article,

material or substance in the manufacture or preparation for sale of any food;

(n) prescribing the fees which a local authority may levy for the grant of a licence; and

(0) prescribing the fees to be deposited in Court for summoning a Public Analyst.

[38]. (1) The following enactments are hereby repealed:-

*E(a) ***]

(b) the Punjab Pure Food Act, 1929, in its application to the territories which formed the *[Khyber Pakhtunkhwa] before establishment of West Pakistan;

‘I(c) ***]

td) ***]

(dd) ** *]

Te) ***]

(f) the North West Frontier Province Artificial Ghee Colourization Act, 1939.

(2) Notwithstanding the repeal of the enactments mentioned in sub-section (1), everything done and all action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorized, jurisdiction or power conferred, rule made and _ notification issued any provisions of the said enactments shall, if not inconsistent with the provisions of the Ordinance, continue in force and be deemed to have been respectively done, taken, incurred, commenced appointed authorized, conferred, made or issued under this Ordinance.

(3) The areas to which any of the enactments enumerated in sub-section(1) applied before the commencement of this Ordinance, shall be considered to have been duly notified under sub-section (3) of section | of this Ordinance.

' Re-numbered vide W.P. Act No. V of 1965.

? Omitted vide Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

* Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

4 Omitted vide Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

* Omitted vide Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

° Omitted vide Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

7 Omitted vide Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

Repeal and savings.

