

THE KHYBER PAKHTUNKHWA FOOD SAFETY AUTHORITY ACT, 2014.

(KHYBER PAKHTUNKHWA ACT NO. X OF 2014)

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'Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

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'Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

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THE KHYBER PAKHTUNKHWA FOOD SAFETY AUTHORITY ACT, 2014.
(KHYBER PAKHTUNKHWA ACT NO. X OF 2014)

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AN
ACT

‘to provide for the safety and standard of food including Halal food and to promote their inter provincial trade and commerce and processes and to establish the Khyber Pakhtunkhwa Food Safety and Halal Food Authority in the Province of the Khyber Pakhtunkhwa.]

°>TWHEREAS it is expedient to provide for the safety and standard of food including Halal food and to promote their inter provincial trade and commerce and processes and to establish the Khyber Pakhtunkhwa Food Safety and Halal Food Authority in the Province of the Khyber Pakhtunkhwa and for matters connected therewith and ancillary thereto;]

It is hereby enacted as follows:

Chapter I
Preliminary

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa *[Food Safety and Halal Food Authority] Act, 2014.

(2) It shall extend to whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless the context otherwise requires, the following expressions shall have meanings hereby respectively assigned to them, that is to say,-

(a) “adulterated food” means food-

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

(ii) | which contains any such extraneous substance as may adversely affect the nature, substance or quality of the food; or

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*Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

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(iii) which is processed, mixed, coloured, or coated with any other substance in contravention of this Act or the rules or the regulations made hereunder; 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 ingredient that may render it injurious to human health; or

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

(vii) which has been prepared, packed or kept under unhygienic and insanitary conditions; or

(viii) which has become injurious to health;

“article” means any substance, artificial or natural, or partly artificial or partly natural, whether partly or wholly processed or manufacture product and any service or financial product offered to the public;]

“advertisement” means any publicity, representation or pronouncement made by any means for the purposes of promoting the sale or disposal of any food;

“2/Food Safety and Halal Food Authority] Fund” means the Khyber Pakhtunkhwa °* [Food Safety and Halal Food Authority] Fund established under this Act;

“Chairperson” means the Chairperson of the '[Food Safety and Halal Food Authority] ;

“consumer” means any person, who receives food against a consideration or otherwise and includes an end user of the food;

“Director General” means the Director General of the *[Food Safety and Halal Food Authority] appointed under section 11 of this Act;

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*Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

(fi) “export” means sending, taking or carrying out of the Khyber Pakhtunkhwa, any article of food including Halal food, by any means including land, river, canal or air;]

(g) “food” *[except as otherwise specifically provided in this Act, means any article used as food including Halal food] food or drink for human consumption other than drugs as defined in the Drugs Act and

includes,-

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

(ii) any flavouring agent or condiment;

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

(iv) | chewing gum, confectionary and other products of like nature;

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

(vi) any other article prescribed as food for the purposes of this Act.

Explanation: An article shall not cease to be food by reason that it is also capable of being used as drugs.

(h) “food additive” includes any substance not normally consumed as food by itself or used as a typical ingredient of food but the addition of which to food affects the characteristics of such food;

(i) “3 Food Safety and Halal Food Authority] ” means the Khyber Pakhtunkhwa “[Food Safety and Halal Food Authority] established under this Act;

Gj) “food business” means any undertaking, whether for profit or not, carrying out any of the activities related to any stage of manufacturing, processing, packaging, storage, transportation, distribution, import including catering services, food services, sale of food or food ingredients;

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“food laboratory” means any food laboratory or institute established or recognized by the '[Food Safety and Halal Food Authority] ;

“food operator” means a person, who manufactures for sale, transports, stores, sells, distributes, imports or exports food;

“Government” means the Government of the Khyber Pakhtunkhwa;

*[(m-i) “Halal” means anything permitted by the laws of Islam;

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“Hala logo” means the logo approved by the Halal Food Safety Authority for a Halal article or process signifying that the same is in conformity with Halal standard pertaining thereto;

“Halal Standard” means the Pakistan Halal Standards for an article or process notified by the National Standards Body;]

“import” means bringing into Khyber Pakhtunkhwa any article of food by any means including land, river, canal or air;

“label” includes any tag, brand, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, painted, embossed or impressed on, or attached to or included in, belonging to, or accompanying any food;

“licence” means a licence granted under this Act;

“misbranded food” means the food which-

(i) is an imitation of another food done in a manner which is likely to deceive the consumer; or

(ii) is so coloured, flavoured, coated, or powdered so as to conceal the true nature of the food; or

(iii) is contained in a package which, or the label of which, bears any statement, design or device regarding the ingredients or

the substances contained in the food, that is false or misleading; or

(iv) is not properly packed and labeled in accordance with the provisions of this Act or rules made thereunder.

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1(q-i) "National Accreditation Body" means the Pakistan National Accreditation Council or such other body as may be notified for the purpose by the Federal Government;

(q-ii) "National Standards Body" means the Pakistan and Quality Control Authority or such other body, as may be notified for the purpose by the Government;]

(r) "package" includes anything in which food is wholly or partly packed, covered, placed or otherwise packed in any manner, whether opened or closed;

(s) "premises" include any place, shop, stall, hotel, restaurant, airline services, canteens, or vehicle, or any other structure and any adjoining land used in connection with it and any conveyance where any food is sold or manufactured or stored for sale;

(t) "prescribed" means prescribed by the rules or regulations made under this Act;

*[(t-1) "process" means series of steps for the production, manufacture or development of any article or system;]

(u) "rules" means rules made under this Act;

(v) "regulation" means regulation made under this Act;

(w) "safe food" means an article of food which is not unsafe;

(x) "standard", in relation to any article of food, means the prescribed

standard and includes the standard notified by the *[Food Safety and Halal Food Authority] ; and

(y) "unsafe food" means the food whose nature, substance or quality is so affected by any means as to render it injurious to human health.

Chapter II

Establishment of "[Food Safety and Halal Food Authority]

3. Establishment of the *° [Food Safety and Halal Food Authority] .---(1)
Government may, by notification in the official Gazette, establish the Khyber Pakhtunkhwa [Food Safety and Halal Food Authority] for purposes of this Act.

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*Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

(2) The *TFood Safety and Halal Food Authority] shall be a body corporate, having perpetual succession and a common seal, with power to enter into contract, acquire or dispose of property, and may, by its name, sue or be sued.

4. Composition of the *[Food Safety and Halal Food Authority] .---(1) The “[Food

Safety and Halal Food Authority] shall consist of:

(a) Additional Chief Secretary to Government; | Chairperson

(b) Secretary to Government, Member
Health Department;

(c) Secretary to Government, Member
Food Department;

(d) Secretary to Government, Member
Public Health Engineering Department;

(e) Secretary to Government, Member
Agriculture, Livestock and Dairy
Development Department;

(f) Secretary to Government, Member
Local Government Department;

(g) Secretary to Government, Member
Home and Tribal Affairs Department;

*[(g-i) Secretary to Government, Member
Science and Technology &

Information Technology Department;

(g-ii) | Secretary to Government, Member
Augaf, Hajj, Religious Affairs and Minority
Affairs Department;

(g-iii) | Secretary to Government, Member
Industries Department;

(g-iv) |a representative of the Pakistan Halal | Member
Authority;

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(g-v) | a representative of the Pakistan National and | Member]
Accreditation Council;

(h) Head of the Food Science Division, Nuclear | Member
Institute of Food and Agriculture (NIFA),
Tarnab Peshawar;

(i) Dean, Faculty of Nutrition Sciences, | Member
Agriculture University of Peshawar;

Gj) one representative of the Chambers of | Member
Commerce and Industry;

'1G-i) | a well-reputed Shariah Scholar, to be | Member]
nominated by Government;

(k) one representative of Food Industries; Member

() one representative of Food Operators; Member

(m) two representatives of Registered Farmers' | Members
Association;

(n) two representatives of Registered | Members
Consumers' Association; and

(0) Director General of the *[Food Safety and | Member-cum-
Halal Food Authority] . Secretary

(2) The non-official members at *Tclauses "Q), G-1)], (kx), (), (m) and (n) shall be
appointed by Government on the recommendation of a committee consisting of the

following-

(a) Secretary to Government,
Health Department;

(b) Secretary to Government,
Food Department; and

(c) Director General, Agriculture Research Institute,
Tarnab, University of Agriculture, Peshawar.

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°Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

*Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

Chairman/
Convener

Member

Member

(3) The '[Food Safety and Halal Food Authority]' may, with the prior approval of the Government, co-opt any other person as a member.

(4) The non-official members shall be appointed in such a manner as to ensure the highest standards of professional competence and equitable geographic distribution within the Province.

(5) A non-official member may, under his hand by writing resign his office.

5. Meeting of the > [Food Safety and Halal Food Authority] .---(1) The *TFood Safety and Halal Food Authority] shall meet at least two times a year and the meetings of the "[Food Safety and Halal Food Authority] shall be held in such a manner as may be prescribed by rules and until rules are made in such a manner, as may be determined by the *[Food Safety and Halal Food Authority] .

(2) The Secretary of the S[Food Safety and Halal Food Authority] shall, on the direction of the Chairperson, call a meeting of the '[Food Safety and Halal Food Authority]

(3) Chairperson shall preside over the meeting of the '[Food Safety and Halal Food Authority] and in his absence any person nominated by him shall preside over the meeting of the *[Food Safety and Halal Food Authority] .

(4) The quorum for a meeting shall be one third of the total membership.

(5) A decision shall be made by simple majority present and voting. The Chairperson or the member presiding over the meeting shall have a casting vote in case of tie.

(6) No act or proceedings of the '° [Food Safety and Halal Food Authority] shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the constitution of the "[Food Safety and Halal Food Authority] .

(7) All the members shall attend the meetings of the [Food Safety and Halal Food Authority] in person and shall not nominate any subordinate officer in this regard.

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6. Terms and conditions of non-official members.---(1) The non-official members, shall hold office for a term of three years and shall be eligible for re-appointment.

(2) A non-official member shall not be appointed for more than two terms, whether consecutive or otherwise.

(3) A non-official member, may resign from his office by serving one month's notice in writing to Government.

(4) The '[Food Safety and Halal Food Authority] shall determine the honouraria honouraria of the non-official members as and when they attend the meetings.

(5) A non-official member shall hold office during the pleasure of Government, however, a member shall not be removed from office except after affording him a reasonable opportunity of being heard.

7. Removal of a non-official members.---Government may remove from office, a non-official member if he—

(a) has been adjudged an un-discharged as insolvent by the competent court; or

(b) has been convicted of an offence which involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the member; or

(d) has abused his position and rendered his continuance in the office

prejudicial to public interest; or

(e) does not consecutively attend three meetings of the *[Food Safety and and Halal Food Authority] .

8. Powers and functions of the *[Food Safety and Halal Food Authority] .---(1) The “[Food Safety and Halal Food Authority] shall regulate and monitor the food business in order to ensure provision of safe food.

(2) Without prejudice to the provisions of sub-section (1), the *[Food Safety and and Halal Food Authority] may,-

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*Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

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formulate or adopt standards, procedures, processes and guidelines in relation to any aspect of food including food business, food labeling, food additive, and specify appropriate enforcement systems;

develop policies, plans and programmes for ensuring compliance of Halal articles and processes with the Halal Standards and for promotion of their inter provincial trade and commerce in Halal articles and processes;

develop and authorize use of Halal logo for Halal articles and processes;

may operate as a certification body after obtaining due accreditation from the National Accreditation Body;]

specify procedures and guidelines for setting up and accreditation of food laboratories;

formulate method of sampling, analysis of samples and reporting of results;

specify licensing, prohibition orders, recall procedures, improvement notices and prosecution;

determine terms and conditions of service of its employees;

provide scientific advice and technical support to the Government in matters relating to food;

collect and analyze relevant scientific and technical data relating to

food;

establish a database and information system of network of food operators and consumers to facilitate food safety and quality control;

organize training programmes in food safety and standards;
promote general awareness about food safety and standards;
levy fee for registration, licensing and other services;
certify food for *Timport andJexport;

establish safe limits (maximum permissible limits-MRLs) for processing residues in the foods;

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*Added vide Khyber Pakhtunkhwa Act No. XVI of 2017

(n) implement rules and regulations relating to:

- (i) genetically modified foods;
 - (ii) irradiated foods;
 - (iii) fortified foods;
 - (iv) — organic foods;
 - (v) foods for special dietary needs;
 - (vi) — functional foods;
 - (vii) nutraceuticals;
 - (viii) health supplements;
 - (ix) proprietary and noval foods;
 - (x) beverages;
 - (xi) Ordinary foods;
- (0) regulate matters relating to “Halal Food” etc;

(p) prepare periodic technical reports/gazette on situation of food safety in the province; and

(q) perform any other function, if any, assigned to it by Government to carry out the objects of this Act.

(3) Subject to sub-section (1) and (2), the '[Food Safety and Halal Food Authority] shall exercise its functions, as far as possible, in accordance with the well established scientific principles and international best practices.

9. Appointment of officers and employees.---In the discharge of its function, the *[Food Safety and Halal Food Authority] may, from time to time, appoint such officers, officials, consultants and advisors, as it may consider necessary for its efficient performance, on such terms and conditions, as it may deem fit.

10. Expert Committees.---(1) The *[Food Safety and Halal Food Authority] may constitute committees of experts, or may appoint experts for the purposes of detailed study,

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*Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

*Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

on any aspect relating to food or any specific matter before it or on such other matters as may be necessary for the purposes of this Act.

(2) Each committee constituted under sub-section (1), shall consist of such members as the '[Food Safety and Halal Food Authority] may appoint from time to time and each such member shall hold office during the pleasure of the *[Food Safety and Halal Food Authority] .

(3) The *[Food Safety and Halal Food Authority] shall determine the terms and conditions, including tenure of members of a committee.

11. Appointment of Director General.---(1) There shall be a Director General of the "[Food Safety and Halal Food Authority] , who shall be appointed by Government on deputation basis from amongst Government Officers of Basic Pay Scale 19 or 20.

(2) Unless earlier removed, the Director General shall hold office for a period of three years.

(3) The Director General, subject to the control of the >[Food Safety and Halal Food Authority] , shall be responsible for execution of the decisions and policy setout by the '[Food Safety and Halal Food Authority] from time to time and implementation of the rules and regulations made under this Act.

(4) The Director General shall exercise such powers as are mentioned in the Act or as may be prescribed or delegated to him.

12. Public analysts.---(1) The '[Food Safety and Halal Food Authority] may, by notification, appoint public analysts for such areas as it may assign to them.

(2) A public analyst shall possess such qualifications as may be prescribed.

(3) The production of a certificate under the hand of a public analyst in any trial shall, until the contrary is proved, be sufficient proof of the facts contained in the certificate.

(4) 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 public analyst or any reference laboratory duly accredited who shall present his/their analysis within a stipulated period.

(5) Unless otherwise directed by the Court, the accused, on whose request any food or sample of food is sent for analysis, shall bear its cost.

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°Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

'Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

13. Food Safety Officer.---(1) The '[Food Safety and Halal Food Authority] may, by notification, appoint Food Safety Officers for such areas as it may assign to them.

(2) A Food Safety Officer shall possess such qualifications as may be prescribed by regulation.

(3) Notwithstanding anything contained in sub-section (2), the *[Food Safety and Halal Food Authority] with previous approval of Government, in public interest, may confer the powers of a Food Safety Officer on a Government servant.

14, Powers of Food Safety Officer. (1) A Food Safety Officer may-

5l(a) take sample of any food including Halal food, or any substance or material used in any article or process, from any premises, godown and market, which appears to him to be intended for sale, or has been sold as food or Halal food in relation to which Halal logo has been used;]

(b) seize any food, apparatus or utensil which appears to him to be in contravention of this Act, the rules or the regulations;

(c) enter or seal any premises where he believes any food is prepared, preserved, packed, stored, conveyed, distributed or sold, handled or served, examine any such food and examine anything that he believes is used, or capable of being used for such preparation, preservation, packing, storing, conveying, distribution or sale "[in contravention of this Act];

(d) open and examine any package which, he believes, to contain any food into contravention of the provisions of this Act;

(e) examine any book or documents with respect to any food and make copies of or take extracts from the book or document;

(f) demand the production of the identity card, the business registration certificate, licence or any other relevant document from a food operator;

(g) mark, seal or otherwise secure, weigh, count or measure any food or appliance; and

(h) search and seize any vehicle carrying food in contravention of the provisions of this Act.

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(2) A Food Safety Officer shall prepare a statement describing the food, apparatus, utensil or vehicle seized and shall deliver a copy of the statement to the person or his agent from whom it is seized or, if such person is not present, send such copy to him or his agent by mail.

(3) A person claiming back anything seized under sub-section (1) may, within seven days of the seizure, apply to the Court and the Court may confirm such seizure, wholly or in part, or may order that it be restored to the claimant.

(4) If the Court confirms the seizure of the food, apparatus or utensil, it shall be forfeited to the '[Food Safety and Halal Food Authority] or the Court may direct that such food, apparatus, utensil may be destroyed at the cost of the owner or person in whose possession it was found.

(5) If an application is not made within fifteen days under sub-section (3), the food, apparatus or utensil seized, shall be confiscated to the *[Food Safety and Halal Food Authority] .

(6) Any person may make an application in writing to the Food Safety Officer asking him to purchase a sample of any food from a food operator and get it analyzed from the public analyst. The person making an application will bear the expenses of the sample and analysis. In case of positive results, the expense will be reimbursed to the complainant and paid for by the accused.

Chapter III Enforcement Mechanism

15. Licensing of food business.---(1) Any person desirous of obtaining a licence for using any place for food business or commencing any food business, shall apply to the 3[Food Safety and Halal Food Authority] in such a manner and subject to such conditions and on payment of such fees, payable for each year or otherwise, as may be prescribed.

(2) The "[Food Safety and Halal Food Authority] shall process each application in accordance with prescribed procedure and shall bound to decide the fate of application in either way within sixty days.

(3) The licence granted under this section shall, unless sooner suspended or cancel, remain in force for a period of two years from the date of issue and may thereafter be renewed on payment of such fee as may be prescribed.

(4) The '[Food Safety and Halal Food Authority] may refuse to issue and renew the licence, if it does not fulfill the requirements of this Act or the rules or regulation, in which case, reasons shall be recorded in writing.

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(5) Any person aggrieved from any order passed under sub-section (4), may within fifteen days of the communication of the order, prefer an appeal against such order to the Chief Secretary to Government.

16. Jurisdiction of the *[Food Safety and Halal Food Authority] .--(1) On information received from a Food Safety Officer or any other person or any person involved in food business, the *[Food Safety and Halal Food Authority] may, for reasons to be recorded in writing,-

(a) order prosecution of a person under this Act;

(b) suspend or cancel the licence of the food operator;

(c) impose on the food operator fine which may extend to fifty thousand rupees; or

(d) decide, if the circumstances so warrant, not to take any action on the information.

(2) If the “[Food Safety and Halal Food Authority] cancels the licence or imposes fine on a food operator, the food operator may, within 15 days of the communication of the order, prefer an appeal against such order to the Chief Secretary to Government.

(3) The *[Food Safety and Halal Food Authority] or the Appellate °[Food Safety and Halal Food Authority] shall not pass any order relating to suspension or cancellation of the licence or imposition of fine without providing an opportunity of hearing to the person involved in food business.

(4) An order of suspension of a licence under this section shall not be passed for a period exceeding seven days at a time and, unless sooner withdrawn or the licence is cancelled, shall cease to have effect on the expiry of the thirtieth day from the date of first such order.

17. Improvement notice.---(1) If a Food Safety Officer has reasons to believe that any person involved in food business has failed to comply with any provisions of this Act, the rules or the regulations, he may serve an improvement notice upon the food operator,-

(a) stating the grounds for believing that any person involved in food business has failed to comply with any provisions of the Act or the rules or the regulations;

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(b) specifying the matters which constitute failure of the person involved in food business so to comply; and

(c) intimating the measures which the person involved in food business should take in order to secure compliance with the relevant provisions of the law.

(2) If any person involved in food business fails to comply with the improvement notice within the prescribed time, the [Food Safety and Halal Food Authority] may cancel or suspend his licence or take such other action as it deems appropriate.

18. Prohibition orders.---If any person involved in food business is convicted of an offence under this Act and the Court is satisfied that the health risk exists with respect to the food business, the Court, may impose the following prohibitions:

(a) a prohibition on the use of a process, treatment, premises or equipment for purposes of the food business; or

(b) a prohibition, with or without specifying period of prohibition, on the food operator to conduct or operate the food business.

19. Emergency prohibition orders.---(1) If the Food Safety Officer is satisfied that the health risk condition exists with respect to any food business, he may, after serving a notice on the person involved in food business and for reasons to be recorded in writing, impose the emergency prohibition against carrying out that food business.

(2) The Food Safety Officer shall, within 24 hours of the action taken under subsection (1), report such action to the Court which may, after serving a notice on the person involved in food business and for reasons to be recorded in writing, confirm, modify or set aside the order of the Food Safety Officer.

20. Notification of food poisoning.---The *[Food Safety and Halal Food Authority] may, by notification, require medical practitioners carrying on profession in any local area to report all occurrences of food poisoning that come to their attention to the Food Safety Officer or the *[Food Safety and Halal Food Authority] .

21. Food recall procedures.--(1) If the Director General has reasons to believe that some food is not in compliance with this Act, the rules or the regulations, he may, after recording reasons, order immediate withdrawal of the said food from the market.

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(2) Any person, who is aggrieved by any action taken under this section, within twenty four hours apply to the Court and the Court may set aside or modify an order made under sub-section (1).

(3) The '[Food Safety and Halal Food Authority] may, on its own accord or on the application of an aggrieved person, set-aside or modify an order made under sub-section

(1).

22. Establishment of food laboratories.---(1) The *[Food Safety and Halal Food Authority] may establish a food laboratory/laboratories for purposes of carrying out analysis of samples of any food or food related equipments or utensils.

(2) The >[Food Safety and Halal Food Authority] may recognize or accredit or establish a reference food laboratory for purpose of appeal or otherwise.

Chapter IV

Offences and Penalties

23. Selling food not in compliance of the Law.--- A person, who sells or offers for sale any adulterated food or food which is not in compliance with the provisions of this Act, the rules or the regulations; and/ or who manufactures or processes or keeps any food under unhygienic or unsanitary conditions; and/ or who manufactures for sale, stores, sells, distributes, imports or exports any food which is not of standard or misbranded, shall be liable to fine which shall not be less than Twenty five thousand rupees and not more than one million rupees or in default of fine for simple imprisonment for a term of three months.

24. Unsafe food.--A person or company, who manufactures for sale, stores, distributes imports or exports any unsafe food, shall be liable,-

(a) where the unsafe food does not result in injury to a person, to a fine which shall not be less than two hundred thousand rupees and not more than two million rupees; in default of fine for a simple imprisonment for a term not less than six month and not more than one year;

(b) where such unsafe food results in injury to any person, to a fine which shall not be less than four hundred thousand rupees or not more than two million rupees; and default of fine simple imprisonment which shall not be less than one year and not more than two year; and

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(c) where such unsafe food results in death of a person, to imprisonment for a term which may extend to imprisonment for life and fine which shall not be less than two million rupees.

25. False advertisement.--- A person or a firm, who for purposes of effecting or promoting the sale of any food, publishes or causes to be published, any advertisement; and/ or any person, who publishes or causes to be published an advertisement, which does not contain the true name of the person by whom the advertisement is published or the address of his place of business, which,-

(a) falsely describes any food; or
(b) is contrary to any rules or regulations; or

(c) is likely to deceive a purchaser with regard to the character, nature, value, substance, quality, strength, purity, composition, merit or safety, weight, proportion, origin, age or effects of any food or of any ingredient or constituent of the food, shall be liable to fine which shall not be less than one hundred thousand rupees or more than one million rupees.

26. False labeling.--- A person or a firm, who prepares, packages, labels any food which does not comply with the prescribed standard; and/ or who labels any food in a manner which is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety, strength, purity, weight, origin, age or proportion, shall be liable to fine which shall not be less than one hundred thousand rupees or more than one million rupees.

27. Failure to comply with the directions.---(1) Except section 16, if a person or a firm, without reasonable cause, fails to comply with any order or notice issued by the [Food Safety and Halal Food Authority] or a Food Safety Officer; and or manufactures, sells, offers for sale, stores or distributes or imports or exports any food without the prescribed registration or licence; and or makes a false or misleading statement, provides false or misleading information or produces any false or misleading document before the Food Safety *[Food Safety and Halal Food Authority] or a Food Safety Officer; shall not be less than fifty thousand rupees or not more than three hundred thousand rupees or in default one year imprisonment.

(2) A person or a firm who obstructs a Food Safety Officer in the performance of his duties; and or who unlawfully removes, alters or interferes, in any manner, with any food, equipment or vehicle seized or any premises sealed under this Act, shall be liable to fine which shall not be less than one hundred thousand rupees or not more than two million rupees or in default for simple imprisonment which may extend to one year.

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28. Penalty for prescribed offences.---If a person, who commits an offence, prescribed under the rules, for which no penalty has been provided in the Act, shall be liable to fine which shall not be less than fifty thousand rupees or more than three hundred thousand rupees.

29. Warranty.---(1) A person involved in food business who is a manufacturer, distributor or dealer of a prescribed food shall not sell such food to any food vendor unless a written warranty or other written statement is given that the food complies with the provisions of this Act, the rules and the regulations.

(2) Any person or a firm, who contravenes the provisions of sub-section (1), shall be liable to fine which shall not be less than fifty thousand rupees or more than three hundred thousand rupees.

(3) A food vendor, who gives to the purchaser or consumer a warranty in writing which is false, shall be liable to fine which shall not be less than fifty thousand rupees or more than three hundred thousand rupees.

30. Penalty for Subsequent Offence.---(1) Whoever having been convicted of an offence under any provision of this Act, or rules or regulations made hereunder, is convicted for a subsequent offence under this Act shall be punishable with imprisonment which shall not be less than double of the punishment or fine mentioned in the relevant section for the same offence. .

(2) A licence if any issued under this Act, or rules or regulations made hereunder to a person or firm convicted under sub-section (1), shall be cancelled.

31. Forfeiture.---(1) Where a person or firm has been convicted under this Act, for contravening any such provisions of this Act or any rule as may be prescribed in this behalf, the Court may order that the stock of food or substance by means of or in relation to which the offence was committed or anything of a similar nature belonging to or in the possession of the accused or found with such food, and any implements used in manufacturing or sale of such food and any receptacles, packages or coverings in which such food is contained and the vehicles, or other conveyances, used in carrying such food, be forfeited to the Government. Upon such order being made, such food, implements, packages or coverings, vehicles, or conveyance may be disposed of as that Government may direct.

(2) Without prejudice to the provisions of sub-section (1), where the Court is satisfied on the application of a Food Safety Officer or otherwise, and after such inquiry as may be necessary that a food contravenes the provisions of this Act, the Court may order that such food be forfeited to and, upon such order being made, such food may be destroyed or otherwise disposed of as that Government may direct.

32. Compensation in case of injury or death of a consumer.---(1) In case of injury or death of a consumer due to unsafe food, the Court, in addition to any other penalty under this Act, shall direct the food operator or firm to pay compensation to the consumer or, as the case may be, the legal heirs of the consumer, an amount which is-

- (a) not less than three million rupees in case of death; and
- (b) not exceeding five hundred thousand rupees in case of injury.

(2) If the food operator or firm fails to pay the compensation under this section, the '[Food Safety and Halal Food Authority]' shall recover the compensation as arrears of land revenue and make payment of the recovered amount to the consumer or, as the case may be, the legal heirs of the consumer.

33. Offences by companies.---(1) Where an offence under this Act has been committed by a Company, every person, who at the time of the commission of the offence, was in charge of the Company shall be liable to punishment for the offence and the Company shall also be liable to the punishment of fine or compensation specified for the offence.

(2) Notwithstanding anything contained in sub-section (1), where it is proved that the offence 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 liable to punishment for the offence.

Explanation: In this section, "Company" means a body corporate and includes a firm or any other association of persons.

Chapter V

Jurisdiction

34. Jurisdiction of the Court.--- An offence punishable under this Act, shall be tried by a Magistrate of First Class.

35. Cognizance of offences.---(1) Subject to sub-section (2), a Court shall not take cognizance of an offence under this Act except on a complaint made by or on behalf of the '[Food Safety and Halal Food Authority]' .

(2) If the offence causes death of, or injury to, a person, the aggrieved person may also file a complaint in the Court under Chapter XVI of the Code of Criminal Procedure 1898 (V of 1898).

36. Time limit for prosecutions.--- The prosecution for an offence under this Act shall not be allowed after the expiry of three years from the date of the commission of the offence or one year from its discovery by the complainant, whichever is the earlier.

37. Summary trial.---(1) Notwithstanding anything contained in the Code of Criminal Procedure 1898 (V of 1898) but subject to sub-section (3), the Court of First Class Judicial Magistrate shall summarily try an offence punishable under this Act and impose

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⁵Substituted vide Khyber Pakhtunkhwa Act No. XVI of 2017

punishment of imprisonment for a term not exceeding six months or fine not exceeding one million rupees.

(2) The Court of First Class Judicial Magistrate shall conduct the summary trial of an offence under the Act in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure 1898 (V of 1898) relating to the summary trials.

(3) If the Court of First Class Judicial Magistrate is of opinion that the nature of the offence does justify summary trial, it may conduct proceedings in accordance with the provisions of Chapter XX of the Code of Criminal Procedure 1898 (V of 1898).

38. Defence available.--- In any proceedings for an offence under this Act, the exercise of due care and caution shall be valid defence, if it is proved that the person took all reasonable precautions and exercised due diligence to prevent the commission of the offence.

39. Recovery of fine.---(1) A fine imposed under this Act or regulations made thereunder, if not paid, shall be recovered as an arrear of land revenue and the defaulters licence shall be suspended till the penalty is paid.

(2) All fines and composition fees shall be deposited with the '[Food Safety and Halal Food Authority] and shall form part of the *[Food Safety and Halal Food Authority] fund.

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Chapter VI
Finances and Reports

40. '[Food Safety and Halal Food Authority] Fund.---(1) There shall be established a fund to be known as the Khyber Pakhtunkhwa *[Food Safety and Halal Food Authority] Fund, to be administered and controlled by the *[Food Safety and Halal Food Authority] .

(2) The "[Food Safety and Halal Food Authority] Fund shall consist of,-

funds provided by the Government of the Federal Government;

other loans or funds obtained by the *[Food Safety and Halal Food

grants and loans negotiated and raised, or otherwise obtained, by the
°[Food Safety and Halal Food Authority] with the prior approval of

fee, charges, rentals and fines collected by the '[Food Safety and
income from the lease or sale of the property;

funds from floating bonds, shares, debentures, certificates, or other
securities issued by the *[Food Safety and Halal Food Authority] ;

- (a)
- (b) loans or grants by the Government;
- (c)
Authority] ;
- (d)
the Government;
- (e)
Halal Food Authority] ;
- (f)
- (g)
- and
- (h)

all other sums received by the °[Food Safety and Halal Food
Authority] .

(3) The '[Food Safety and Halal Food Authority] shall meet all of its expenses
from the "[Food Safety and Halal Food Authority] Fund.

(4) The money credited to the Fund with the approval of the '[Food Safety and
Halal Food Authority] shall be kept in a scheduled bank.

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41. Budget.---The Director General shall, in respect of each financial year, submit for the approval of the '[Food Safety and Halal Food Authority] , by such date and in such manner as may be prescribed, a statement showing the estimated receipts, the current and development expenditures and the sum required as grant-in-aid from Government.

42. Maintenance of accounts.---(1) The *TFood Safety and Halal Food Authority] shall shall maintain proper accounts and other records relating to its financial affairs including its income and expenditures and its assets and liabilities in such form and manner as may be prescribed.

(2) After the conclusion of a financial year, the *[Food Safety and Halal Food Authority] , in the manner prescribed, shall cause to be prepared for the financial year statements of account of the "[Food Safety and Halal Food Authority] which shall include a a balance-sheet and an account of income and expenditures.

(3) The *[Food Safety and Halal Food Authority] shall approve its annual budget for a financial year in the prescribed manner.

(4) No expenditure for which provision has not been made in any approved budget shall be incurred without prior approval of the °[Food Safety and Halal Food Authority] .

43. Audit.---The Auditor General of Pakistan shall annually audit the accounts of the "[Food Safety and Halal Food Authority] .

44. Annual report.---(1) The "[Food Safety and Halal Food Authority] shall, within three months of the close of a financial year, submit to the Government an annual performance report.

(2) The report shall consist of-

(a) the statement of accounts and audit reports of the °[Food Safety and Halal Food Authority] ;

(b) a comprehensive statement of the work and activities of the '°[Food Safety and Halal Food Authority] during the preceding financial year and its proposed projects and schemes; and

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(c) such other matters as may be prescribed or as the '[Food Safety and Halal Food Authority] may consider appropriate.

(3) The Government shall, within two months of receiving the report from the *[Food Safety and Halal Food Authority] , give notice for laying the report in the Provincial Assembly of the Khyber Pakhtunkhwa, and shall lay the report in the first available session of the Assembly.

Chapter VII Miscellaneous

45. Delegation of powers.--- °[Food Safety and Halal Food Authority] may delegate, subject to such conditions and restrictions as may be specified in the order, any of its functions to the Chairperson, Director General, member, officer or committee except the function to—

- (a) frame or amend regulations;
- (b) constitute a committee or fill a vacancy in a committee;
- (c) formulate standards, procedures, processes and guidelines in relation to any aspect of food; and
- (d) approve the annual report, annual budget and audited accounts.

46. Reward by the "[Food Safety and Halal Food Authority] .---The °[Food Safety and Halal Food Authority] may, in the manner prescribed by the rules, make payment of reward from the °[Food Safety and Halal Food Authority] Fund to any person who has made an exceptional effort towards accomplishing the objective of this Act.

47. Public servants.---The Chairperson, the members and the employees of the '[Food Safety and Halal Food Authority] shall be deemed, when acting in the discharge of their functions under this Act, to be public servants within the meaning of section 21 of the Pakistan Penal Code 1860 (XLV of 1860).

48. Immunity.---No suit, prosecution or other legal proceedings shall lie against the Government, any officer of the Government, the *[Food Safety and Halal Food Authority] , its Chairperson, members or any other employee of the °[Food Safety and Halal Food Authority] in respect of anything which is done or intended to be done in good faith under this Act, the rules or the regulations.

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49. Overriding effect.---The provisions of this Act shall have effect notwithstanding anything contained in any other law.

50. Government to make rules.---Subject to the provisions of this Act, Government may make rules for carrying out the purposes of this Act.

51. '[Food Safety and Halal Food Authority] to frame regulations.---Subject to the provisions of this Act, the *[Food Safety and Halal Food Authority] may, by notification, may make regulations to give effect to the provisions of this Act.

52. Repeal and savings.---(1) The West Pakistan Pure Food Ordinance, 1960 (W.P. Ord. No. VII of 1960) is hereby repealed.

(2) Subject to the provisions of this Act, any licence or order issued under the repealed Ordinance, which is in force on the date of coming into force of this Act, shall be deemed to have been issued under this Act and shall continue to be in force until expired, cancelled or withdrawn.

(3) The standards, safety requirements and other provisions of the repealed Ordinance or the rules made thereunder, shall, to the extent of consistency with this Act, continue to remain in force till the standards, safety requirements are prescribed under this Act.

53. Power to remove difficulties.---If any difficulty arises in giving effect to any provisions of this Act, Government may issue such orders, not inconsistent with the Act or the rules made thereunder, for the removal of difficulty.

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