

THE KHYBER PAKHTUNKHWA PUBLIC HEALTH
(SURVEILLANCE AND RESPONSE) ACT, 2017.

(KHYBER PAKHTUNKHWA ACT NO. XXX OF 2017)

CONTENTS

PREAMBLE

SECTIONS

Chapter — 1

PRELIMINARY

Short title, extent and commencement.

Definitions.

CHAPTER 2

PROVINCIAL PUBLIC HEALTH COMMITTEE

Khyber Pakhtunkhwa Public Health Committee.

Meeting of the Public Health Committee.

Powers and Functions of the Public Health Committee.

CHAPTER 3

HEALTH EMERGENCY

Declaration of state of health emergency.

CHAPTER 4

DISEASE SURVEILLANCE

Establishment of Provincial Disease Surveillance Center.

Functions of Provincial Disease Surveillance Center.

Establishment of district disease surveillance centre.

CHAPTER 5

DISEASE NOTIFICATION AND HEALTH HAZARDS

Disease Surveillance and reporting.

Prevention of Infection through Schools and Madrassas.

Mandatory reporting of health hazard.

13. Principles of implementation and enforcement of this Act.

Chapter 6

OFFENCES

14. Penalties.

15. Second Offence.

16. Head of the office to be liable.

17. Compensation.

Chapter 7

JURISDICTION

'[18. Jurisdiction of the Court.]

19. Cognizance of offences.

20. Trial of offence.

21. Overriding effect.

22. Power to make Rules.

23. Repeal and Savings.

24. Repeal.

1 Section 18 substituted by Khyber Pakhtunkhwa Act No. XXVII of 2020:

THE KHYBER PAKHTUNKHWA PUBLIC HEALTH
(SURVEILLANCE AND RESPONSE) ACT, 2017.

(KHYBER PAKHTUNKHWA ACT NO. XXX OF 2017)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 27th October, 2017).

AN
ACT

to provide for the implementation and enforcement of the measures
to prevent and control of diseases in the Province of the
Khyber Pakhtunkhwa

WHEREAS it is expedient to provide for the implementation and enforcement of the measures to prevent and control spread of disease, provide for the disease surveillance, detection, and reporting system from grass root to Provincial level, and to provide health response through analysis of the problem and development of specific approaches in the Province of the Khyber Pakhtunkhwa and for matters incidental thereto and connected therewith;

It is hereby enacted as follows:

Chapter — 1
PRELIMINARY

1. Short title, extent and commencement.--- (1) This Act may be called the Khyber Pakhtunkhwa Public Health (Surveillance and Response) Act, 2017.

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

(2) It shall come into force at once.

2. Definitions. In this Act, unless there is anything repugnant to subject or context-

(a) "affected area" means a specific geographical location for which health measures have been recommended by the World Health Organization, under the International Health Regulations or by the Authority under this Act;

(b) "contamination" means the presence of an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk;

(c) "Chairperson" means the Chairperson of the Public Health Committee;

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“Department” means the Health Department of the Government;

“diagnostic examination” means and includes, for the purposes of determining the existence or identity of an infectious agent or a hazardous agent, or of managing a health condition, collecting bodily fluids and substances for examination, diagnostic imaging examinations, skin testing, and psychological testing;

“Director-General” means the Director General, Health Services, Khyber Pakhtunkhwa;

“disease” means a definite pathologic process with a characteristic set of signs and symptoms which may affect the whole body of a human or any of its part, etiology, pathology, and prognosis which may be known or unknown and also includes communicable and non-communicable diseases;

“Disease Surveillance Reporting Offices” means and includes the offices in-charge of all primary health care facilities including civil dispensary, Basic Health Units and Rural Health Centers etc and secondary and tertiary health care facilities including specialized hospitals and private sector facilities.

“District Disease Surveillance Centre” means the Disease Surveillance Centre, established in each District;

“event” means an occurrence that may have negative consequences for human health, including those that have not yet caused disease or illness but that have potential and those that may require a coordinated response;

“Government” means the Government of the Khyber Pakhtunkhwa;

“hazardous agent” means biological, chemical, radiological, or physical agent which has the potential to cause harm to humans;

“health professional” means registered medical practitioner, dental practitioner, paramedical staff, and other person, qualified and permitted by law to provide health care services in the Province whether in the service of any governmental health establishment or private health establishment, as the case may be;

“notified disease” means the disease as may be notified by Government, under this Act, from time to time;

“Provincial Disease Surveillance Center” means the Center established under section 7 of this Act;

“Province” means the Province of the Khyber Pakhtunkhwa;

“public health” means the prevention of disease, prolonging life and promoting health;

“public health committee” means a committee, established under section 3 of this Act; and

“report” means the report of disease surveillance, in writing, made by a health professional to the Disease Surveillance Reporting Offices in the

Province, duly signed, mentioning relevant details of the affected person, present in the Province for the time being, type of notified disease or unusual event detected and observed, health condition of such person, examination and tests performed and treatment provided as well as provisional assessment of the risk which may be caused to public health

by such person; and

“Vice-Chairperson” means the Vice Chairperson of Public Health

Committee.

CHAPTER 2

PROVINCIAL PUBLIC HEALTH COMMITTEE

3. Khyber Pakhtunkhwa Public Health Committee.--- There shall be a Khyber Pakhtunkhwa Public Health Committee which shall consist of the following, namely;

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Minister for Health, Khyber Pakhtunkhwa;
Secretary to Government, Health Department;

Director General, Directorate General Health
Services, Khyber Pakhtunkhwa;

Additional Secretary, Home and Tribal Affairs
Department;

Director General, Agriculture Khyber
Pakhtunkhwa;

Director General, Provincial Disaster Management
Authority, Khyber Pakhtunkhwa

Director General, Livestock and Dairy
Development, Khyber Pakhtunkhwa;

Director, Information and Public Relations,
Khyber Pakhtunkhwa

Director General, Food Safety Authority, Khyber
Pakhtunkhwa

Director General, Environmental Protection
Agency, Khyber Pakhtunkhwa

Chief Engineer, Public WHealth Engineering
Department;

Director General, Local Government, Elections

and Rural Development, Khyber Pakhtunkhwa;

Director, Elementary and Secondary Education,
Khyber Pakhtunkhwa;

Chief Executive, Health Care Commission,
Khyber Pakhtunkhwa;

Chairperson

Vice Chairperson

Member

Member

Member

Member

Member

Member

Member

Member

Member

Member

Member

Member

0. Provincial Coordinator, Emergency Operation Member Center;

p. a representative of the Civil Aviation Authority, Member not below the rank of BPS-19;

q. Operation Officer of World Health Organization; Member

r Director, Institute of Public Health, Khyber Member Medical University; and

S. Director, Public Health, Directorate General Member-Cum-Health Services, Khyber Pakhtunkhwa. Secretary

4. Meetings of the Public Health Committee.--- (1) The Public Health Committee shall meet at least twice in a year on such dates and in such places as may be communicated by the Chairperson to all the members for assessing the situation of the public health in the Province:

Provided that the Public Health Committee may meet as frequently as required in cases of emergency.

(2) Meetings of the Public Health Committee shall be presided by the Chairperson or in his absence by the Vice Chairperson.

(3) All the decisions of the Public Health Committee shall be made by a majority vote and in case of equality of votes of members, the Chairperson or Vice Chairperson, as the case may be, shall have a casting vote.

(4) The Chairperson may invite to the meetings any expert, consultant or representative of any organization as may be deemed necessary, however, they shall have no right of vote.

(5) The quorum of the Public Health Committee shall be one third of its members.

5. Power and Functions of the Public Health Committee.--- The Public Health Committee shall-

(a) ensure the core capacities of International Health Regulations, 2005 of the World Health organization with regard to coordination, surveillance, response, preparedness, risk communication and human resource;

(b) ensure the reporting, notification, and verification of the events within stipulated time;

(c) ensure availability of all necessary equipment, devices, machines and instruments to assist in surveillance, prevention and control of spread of notifiable diseases and unusual public health events having potential to spread in health and non-health sector to ensure the safety of public health;

(d) review public health situation in the Province and in case of apprehension of spread of any notified diseases, advise the Chairperson to declare state of health emergency in whole or any specific part of the Province for any specific;

(e) take appropriate measures to deal with such a health emergency in the province in case of declaration of national health emergency;

(f) collaborate and coordinate with World Health Organization and any other international organizations, institutions or companies, relating to their technical, financial or in kind assistance and support for prevention and control of spread of disease;

(g) ensure that the Department has established an effective disease surveillance system and all other line departments provide necessary support within their mandate so as to prevent and control spread of disease;

(h) ensure that the concerned Government Departments highlighted the purpose and scope of this Act in the curriculums of the educational institutions both public and private sector, and madrassas; and

(i) recommend amendment in other relevant laws for the time being in force to the extent of provisions of this Act for the purpose of bringing improvements in the public health.

CHAPTER 3 HEALTH EMERGENCY

6. Declaration of state of health emergency.---(1) The Chairperson, on the basis of information, received from various parts of the Province, through provincial disease surveillance centre or through other sources and after consultation with the Director General and World Health Organization, if necessary, through a Notification in the official Gazette, may declare the state of health emergency in the Province or in any specific part thereof for such period as he may deem appropriate and require to convene meeting of the public health committee within forty eight (48) hours.

(2) On declaration of the state of health emergency at National or Provincial levels, the Chairperson or on his behalf Vice Chairperson, as the case may be, shall have authority to communicate instructions, directions and recommend measures to concerned District Nazim and Deputy Commissioner of the district concerned, in the Province, for dealing with health emergency situation in their respective districts. The concerned District Nazim and Deputy Commissioner shall be bound to comply with the instructions of the Chairperson or Vice-Chairperson, as the case may be and they shall make available all the required facilities including but not limited to manpower, machinery, transport, equipment, funds and infrastructure which can be useful for dealing with situation of health emergency.

(3) On declaration of state of the health emergency in the Province, the Chairperson may also designate any officer on special duty for health emergency for any area of the Province who shall be assisted by the concerned District Nazim and Deputy Commissioner of the concerned district to carry out instructions, directions and orders of the public health committee in implementation of health emergency measures in such area.

(4) The Chairperson or the Vice-Chairperson, as the case may be, on being satisfied that the situation of health emergency has ceased to exist and there is no further apprehension of spread of disease, may revoke the declaration of state of health emergency, by a notification, in this regard, in the official Gazette.

CHAPTER 4 DISEASE SURVEILLANCE

7. Establishment of Provincial Disease Surveillance Center.-- There shall be established a Provincial Disease Surveillance Center headed by the Director, Public Health, in Directorate General Health Service, Khyber Pakhtunkhwa, who shall be assisted by such number of officers and health professionals as the Government may deem appropriate.

8. Functions of Provincial Disease Surveillance Center.— The Provincial Disease Surveillance Center shall be responsible-

(a) to collect, receive and exchange information with district disease surveillance centers.

(b) after verification provide all information and data with regard to events, diseases and persons affected with notified diseases or other diseases and conditions received from district disease surveillance centre to the public health committee for assessment of information related to events and diseases.

(c) to make immediate arrangements to prevent the spread of disease and communicate its directions and recommended measures to concerned line departments and district disease surveillance centre.

(d) to forward the assessment of events and diseases in prescribed manner to National International Health Regulations, 2005 of the world health organization, as notified by Federal Government from time to time, within twenty four hours (24) of completion of such assessment process;

(e) to provide technical support to the district disease surveillance centre as and when required;

(f) to make arrangements of implementation of the recommendation from the focal point of the international health regulation;

(g) to develop and implement a health hazard management system to identify, assess, investigate and manage health hazards in the environment, in collaboration with line departments or agencies of Government;

(h) to identify and assess relevant health hazards and risks to public health by identifying the hazards relevant to public health that may give rise to a public health emergency;

(i) to assess the risk of the identified hazards through risk assessment methodology;

Gj) to review the hazard identification and risk assessment at least annually and updating when required;

(k) to undertake a preliminary assessment to determine the level of potential impact in cases of complaints and reports received by it; and

() to conduct investigations and risk assessments of reported health hazards in the environment in consultation with the people of the affected area and Government agencies, to evaluate the possible risks to public health.

9. Establishment of district disease surveillance centre.--- (1) There shall be a district disease surveillance centre for each district, which shall be headed by the Deputy Commissioner of the district concerned and in his absence by the district health officer concerned and shall also be assisted by such number of officers as may require.

(2) The district disease surveillance centre shall be responsible-

(a) to coordinate, collect, analyze and interpret information received from disease surveillance reporting offices i.e all health facilities within the district;

(b) to provide information with regard to events, diseases and persons affected with notified diseases, received from disease surveillance reporting offices to the Provincial Disease Surveillance Centre for assessment of information of related events and diseases;

(c) to make arrangements for prevention and control of the disease on the basis of the information so received from such disease surveillance reporting office; and

(d) to manage identified health hazards in the environment by developing implementing Action plans, including strategies for corrective Actions for controlling and, where possible, mitigating exposure based on a risk assessment approach. Monitoring corrective Actions pertaining to identified health hazards in the environment.

CHAPTER 5

DISEASE NOTIFICATION AND HEALTH HAZARDS

10. Disease Surveillance and reporting.---(1) Every health professional working in any Governmental or private health care establishment shall be under an obligation to ascertain whether the person under their examination or treatment suffers from or is affected by any notifiable disease, un-known or unusual conditions, the health professional shall immediately report such a case to the concerned disease surveillance reporting office or district disease surveillance centre, as the case may be, in the manner and within the stipulated time as notified by the Health Department through a notification in official Gazette.

(2) The information of disease or events shall be reported by health professionals (public or private) to the concerned disease surveillance reporting office on the form as may be prescribed.

(3) The Disease surveillance reporting office on receipt of the report shall share it on immediate or weekly basis as the case with the district disease surveillance centre which in turn shall submit the information to the Provincial Disease Surveillance Centre.

(4) The Provincial Disease Surveillance Centre in case of emergency shall inform the chairperson of the public health committee through Director General while in routine matters the report shall be submitted in the meeting of the Provincial Health Committee.

(5) The Disease Surveillance Reporting Offices shall maintain record of receipt of disease surveillance reports from health professionals and others under obligation to do so under this Act for a period of three (03) years from the date of report.

(6) The person in charge of a pathology service (Public or Private), where a test has been performed on a specimen which indicates the probable presence of a human pathogenic organism associated with a notifiable disease, must notify the nearest disease surveillance Reporting Office of the detection of the presence of that organism in the manner and within the time specified by the Health Department through notification in the official gazette.

(7) The person in charge of a Food Testing Laboratory, so declared under Khyber Pakhtunkhwa Food Safety Act, 2014, where a micro-organism associated with a notifiable disease is isolated or detected at that laboratory, must notify the disease surveillance reporting Office of that isolation or detection in the manner and within the time specified by the Department.

11. Prevention of Infection through Schools and Madrassas.--- (1)The parent or guardian of a child attending a school or a Madrassa, as the case may be, must inform the principal, teacher or person in charge of the school or Madrassa, as the case may be, as soon as practicable if a health professional declares or suspects that the child is infected with an communicable disease or has been in contact with a person who is infected with a communicable disease.

(2) If the principal, teacher or person in charge of a school or a Madrassa as per recommendations of health professional, that a child enrolled at the school or Madrassa is suffering from a communicable disease or has not been immunized against such a disease and has been in contact with a person at the school or the Madrassa who is infected with such a disease, he or she must, within twenty four(24) hours, inform the parent or guardian of the child; and the concerned Disease Surveillance Reporting Office.

12. Mandatory reporting of health hazard.---If any person becomes aware that a health hazard exists or is likely to exist, the person must promptly report the following information to the best of his or her knowledge, to the nearest Disease Surveillance Reporting Office or District Disease Surveillance Centre, as the case may be-

(a) the nature of the health hazard, including its location and cause or source;

- (b) the identity of persons involved in responding to the health hazard; and
- (c) the persons who may be adversely affected by the health hazard.

13. Principles of implementation and enforcement of this Act.--- (1) The implementation of the provisions of this Act shall be ensured by all concerned authorities while maintaining the highest standards of human respect, dignity and privacy.

(2) In protection of public health, the Government shall ensure maintenance of secrecy of personal health information and data of the citizens in a manner that the same is not disclosed to any person so as to cause any damage to the respect, dignity and reputation of a the citizens.

Chapter 6

OFFENCES

14. Penalties.--- (1) Any person who violates the provisions of this Act shall be punishable with fine which may extend to rupees three lacs but shall not be less than rupees fifty thousands in any case.

(2) The Court while awarding the punishment of fine to such person shall keeping in view the gravity of the offence for which he is charged.

(3) In case of any person or institution, as the case may be, which violates the provision of this Act, their names shall be reported to the respective professional registration body for appropriate Actions that includes removal of their names from the registration for a period of one year for the first offence and permanently for subsequent offence.

15. Second Offence.---Whoever having been convicted of an offence under this Act, is convicted for a subsequent offence under this Act shall be punishable with imprisonment which may extend to three years and fine which shall not be less than double of the amount of fine awarded for the first offence.

16. Head of the office to be liable.--- Where any offence has been committed by a person employed in an office, its chief executive or director or head or any other person who, at the time when offence was committed, was in-charge of the office, shall also be liable for the offence committed by an employee under this Act. In addition, the person and the office shall also be proceeded against under sub-section (4) of section 20 of this Act.

17. Compensation.--- (1) In the event of an injury or death of person due to health hazards, the court, in addition to any other penalty under this Act, shall direct the concerned organization, institution or office to pay as compensation to the person or, as the case may be, the legal heirs of the person, an amount which shall-

- (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 organization, institution or office, as the case may be, fails to pay the compensation under sub-section (1), the government shall recover the compensation from the concerned organization, institution or office, as the case may be, and make payment of the recovered amount to the person or, as the case may be, the legal heirs of the person.

Chapter 7 JURISDICTION

18. Jurisdiction of the Court.--- An offence punishable under this Act shall be tried Special Magistrate, appointed under section 14A of the Code of Criminal Procedure, 1898 (Act No. V of 1898).]

19. Cognizance of offences.---A Court shall not take cognizance of an offence under this Act except on a complaint made by or on behalf of the Provincial Disease Surveillance Centre or District Surveillance Centre Officer concerned.

20. Trial of offences.---Offences under this Act shall be tried in the manner as provided in chapter xxii of the code of criminal procedure 1898 (Act No. V of 1898).

21. Overriding effect.--- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

22. Power to make Rules.--- Government may, by notification in the Official Gazette, make rules to carry out purposes of this Act.

23. Repeal and Savings:(1) The West Pakistan Epidemic Disease Act, 1958 (W.P.Act No. XXXVI of 1958) to the extent of the province is hereby repealed.

(2) Notwithstanding the repeal of the West Pakistan Epidemic Disease Act 1958 (W.P.Act No. XXXVI of 1958, anything done, Actions taken, orders made, notifications issued, proceedings taken, shall be deemed to have been validly done, taken, made, issued and taken under this Act.

24, Repeal.---The Khyber Pakhtunkhwa Public Health (Surveillance and Response) Ordinance, 2017 (Khyber Pakhtunkhwa Ord. No. II of 2017) is hereby repealed.

1 The following section 18 substituted by Khyber Pakhtunkhwa Act No. XXVII of 2020:

“18. Jurisdiction of the Court.--- An offence under this Act shall be tried by a Court of Sessions punishable under this Act, shall Sessions.”