

PROVINCIAL ASSEMBLY OF SINDH

NOTIFICATION

KARACHI, THE 12TH APRIL, 2017

NO.PAS/Legis-B-12/2016- The Sindh Food Authority Bill, 2016 having been passed by the Provincial Assembly of Sindh on 08th March, 2017 and assented to by the Governor of Sindh on 08th April, 2017 is hereby published as an Act of the Legislature of Sindh.

THE SINDH FOOD AUTHORITY ACT, 2016

SINDH ACT NO. XIV OF 2017

AN

ACT

to provide for the safety and standards of food and for establishment of an Authority known as the Sindh Food Authority.

WHEREAS it is expedient to provide safe, hygienic and Preamble. healthy food as per set standards of the Government and to provide for establishment of the Authority known as the Sindh Food Authority, and to provide for matters connected therewith or ancillary thereto;

CHAPTER 1
PRELIMINARY

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Food Authority Act, 2016. Short title,

extent and

(2) It shall extend to the whole of the Province of Sindh. commencement.

(3) It shall come into force on such date as the Government may, by notification, specify;

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

(a) "adulterated food" means the 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 adversely affect the nature, substance or quality of the food; or

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

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

(b)

(c)

(d)

(g)

(h)

(v) which contains any poisonous or other 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 having been prepared, packed or kept under unhygienic and insanitary conditions; has been contaminated or has become injurious to health;

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

"Authority" means the Sindh Food Authority established under section 3;

"Chairperson" means the Chairperson of the Authority;

"consumer" means a person who receives food against a consideration or otherwise and includes an end user of the food;

"Code" means the Criminal Procedure Code, 1898;

"Director General" means the Director General of the Authority;

"food" means anything used as food or drink for human consumption other than drugs, 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 thing prescribed as food;

(vii) canned food and soft drinks;

Explanation-I.- A thing shall not cease to be food by reason that it is also capable of being used as drugs.

Explanation-II.- In this clause, the word "drugs" has the same meaning as is assigned to it in the Drugs Act 1976 (XXXI of 1976).

(GQ)

(k)

@

(m)

(n)

(o)

(p)

(q)

(x)

(s)

(t)

"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 the food;

"food business" means any undertaking, whether or not for profit, carrying out any of the activities related to any stage of manufacturing, processing, packaging, storage, transportation, distribution of food, import, export and includes food services, catering services, sale of food or food ingredients;

"food laboratory" means any food laboratory or institute established or recognized by the Authority;

"food operator" means a person or company or association of persons who manufactures for sale, transports, stores, sells, distributes, imports or exports food;

"Food Safety Officer" means a Food Safety Officer appointed under this Act;

"Fund" means the Fund established under section 50;
"Government" means the Government of Sindh;

"import" means bringing into any article of food by any means including land, sea, river, canal or air in the Province of Sindh;

"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, including date of manufacturing, expiry along with its batch number;

"licence" means a licence granted under this Act or rules or regulations;

"Member" means a member of the Authority;

"misbranded food" means the food —

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

(ii) which is so coloured, flavoured, coated, powdered or polished as to conceal the true nature of the food; 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 in the food, that is false or misleading;

(u)

(vy)

(w)

(x)

(y)

(2)

(aa)

(bb)

"package" includes anything in which food is wholly or partly cased, covered, contained, placed or otherwise packed in any manner and any such other receptacle of any kind whether opened or closed;

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

"prescribed" means prescribed by the rules or regulations;

"public analyst" means a public analyst appointed under this Act;

"safe food" means an article of food which is safe for human consumption;

"Scientific Panel" means the Scientific Panel constituted under this Act;

"standard", in relation to any article of food, means the prescribed standard and includes the standard notified by the Food Authority; and

"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 AUTHORITY

3. (1) Government may, by notification in the official Gazette, establish the Sindh Food Authority for purposes of this Act.

(2) The 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, its office should be at Karachi.

4. (1) The Food Authority shall consist of--

(a)

(aa)

(b)

(c)

Minister/Advisor on Food, Sindh. Chairperson
Chairman, Standing Committee on Member

Food.

Secretary to Government, Food Convener

Department, Sindh.

Secretary to Government, Health Vice
Department, Sindh. Chairperson

Establishment of
the Food Authority.

Composition of the
Food Authority.

(d) Secretary to Government, Culture Member & Tourism Department, Sindh.

(e) Secretary to Government, Agriculture, Member Livestock Department, Sindh.

(f) Secretary to Government of Sindh, Member Social Welfare Department.

(g) Secretary to Government, Local Member Government Department, Sindh.

(h) Secretary to Government of Sindh, Member Public Health Engineering Department.

(ij) Three Members of Provincial Members Assembly to be nominated by the Speaker.

(j) One representative from Chamber Member of Commerce & Industry.

(k) One food technologist or scientist to Member be nominated by Government.

Legal Advisor

(1) One representative of food operators. Member (m) One representative of food Member

operators and food industry.

(n) One representative of consumers. Member

(o) Any — other = member/respective Member Divisional Commissioner, as co-opted by the Chairman of the Authority.

(2) Government shall appoint the non-official members on the recommendation of a committee consisting of the following:-

(a) Secretary, Food Department, Convener Government of Sindh.

(b) Secretary, Health Department, Member Government of Sindh.

(c) Chairperson, Department of Food Member Sciences, University of Karachi.

(3) The Authority may, with the simple majority, co-opt any other person as a member but such person shall have not right of vote.

(4) The members, other than ex-officio members, shall be appointed in such a manner as to ensure the highest standards of professional competence and experience.

(5) In the absence of Chairperson or Vice Chairperson any MPA may preside over the meeting.

5. (1) The members, other than ex-officio members, shall hold office for a term of four years.

(2) A person shall not be appointed as member, other than ex-officio member, for more than two terms, whether consecutive or otherwise.

(3) A member, other than an ex-officio member, may resign from his office by serving one month's notice in writing to Government.

6. (1) Government may remove a member, other than an ex-officio member, if he—

(a) has been adjudged an un-discharged insolvent; or

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

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

(d) has abused his position and rendered his continuance in the office prejudicial to public interest.

(2) A member shall not be removed from office except after affording him a reasonable opportunity of being heard.

7. (1) The 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 Authority may —

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

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

(c) formulate method of sampling, analysis of samples and reporting of results;

(d) specify licensing, prohibition orders, recall procedures, improvement notices or prosecution;

Terms and
conditions of

Chairperson and
members.

Removal of
members.

Powers and
functions of the
Food Authority.

- (e) determine terms and conditions of service of its employees;
- (f) provide scientific advice and technical support to the Government in matters relating to food;
- (g) collect and analyze relevant scientific and technical data relating to food;
- (h) establish a system of network of food operators and consumers to facilitate food safety and quality control;
- (i) organize training programmes in food safety and standards;
- (j) promote general awareness as to food safety and standards;
- (k) levy fee for registration, licensing and other services;
- (l) certify food for export;
- (m) perform any other function as may be prescribed; and
- (n) do any other thing which is incidental to or necessary for the discharge of its functions under this Act.

(3) The Authority shall exercise its functions, as far as possible, in accordance with the well-established scientific principles and international best practices.

8. Government may, as and when it considers necessary, issue directions to the Authority on matters of policy, and such directions shall be binding upon the Authority.

9. (1) The meetings of the Authority shall be regulated by regulations but until regulations are framed, the meetings shall be held as directed by the Chairperson; provided that the meeting shall be held atleast once in a quarter.

(2) The meetings of the Authority shall normally be presided over by the Chairperson but in case the Chairperson is absent, the member shall elect from amongst themselves a member to preside the meeting.

(3) One-third of the total members shall constitute a quorum for a meeting of the Authority.

(4) The members shall have reasonable notice of the time and place of the meeting and matters on which a decision by the Authority shall be taken in such meeting.

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

Power of
Government to

issue directives

Meetings of the
Authority.

(6) All orders, determination and decision of the Authority shall be taken in writing and shall be signed by the Convenor.

10. (1) There shall be a full-time Director General of the Authority and shall be appointed by Government on such terms and conditions as it may determine.

(2) The Director General shall be an eminent professional of known integrity and competence having experience of public or private sector management especially in the context of managing human resources, financial management, program implementation and has technical understanding of standards, procedures, processes and guidelines in relation to any aspect of food.

(3) The Director General shall be appointed for a period of four years and shall be eligible for reappointment for more than one term on the basis of his performance provided that Government on a complaint regarding the performance of the Director General or otherwise reduce his term or as the case may be terminate his services.

(4) The Director General may at any time, on three months' notice, resign his office by writing under his hand addressed to the Chairperson.

(5) No person shall be appointed or continue as Director General, if he —

(a) has been convicted of an offence involving moral turpitude;

(b) has been removed from service for misconduct;

(c) has been adjudicated as insolvent;

(d) is incapable of discharging his duties by reasons of physical or mental incapacity and has been so declared by a Medical Board appointed by the Federal Government; or

(e) fails to disclose any conflict of interest at or within the time provided for such disclosure by or under this Act or contravene any of the provisions of this Act.

11. (1) The Director General shall be the executive head of the Authority and have power and responsibility to -

(a) exercise administrative control over the Authority and day to day functioning of the Authority, including management, financial management, human resource management;

(b) submit the annual budget proposals to the Authority;

(c) run the affairs of the Authority for attaining its objectives through the executive tier placed under therein;

(d) prepare the annual report for placing before the

Authority;

Appointment of
Director General.

Powers of Director
General.

(e) perform such functions and exercise such powers as the Authority may delegate to him; and

(f) act on behalf of the Authority, in any emergency, subject to the obligation to report such action to the Authority at its next meeting and to seek the ratification of Authority of any action so taken.

12. There shall be established a fully-fledged organizational tier of the Authority, under the Director General in such manner and with such functions as may be prescribed by regulations.

13. The Authority may set up such administrative and technical committees for the efficient performance of its functions as may be necessary and entrust to the committees such functions as it may consider necessary.

14. (1) The Authority may establish one or more Scientific Panels, which shall consist of the following:-

(a) Director of the Food Authority (Convener);

(b) a representative, having background of food science or technology, of an organization established for determining standards and quality of food;

(c) a representative, having background of food science or technology, of an organization established for scientific or industrial research on food;

(d) a representative, having background of food science or technology, of the Agriculture University Tandojam;

(e) a food technologist or scientist;

(f) a medical practitioner registered with Pakistan Medical and Dental Council; and

(g) one representatives of the food manufacturers in the relevant field.

(2) A Scientific Panel may co-opt any other member from the relevant industry.

(3) The Authority shall determine the terms and conditions, including tenure of members of a Scientific Panel other than ex-officio member.

(4) The Authority may refer any matter relating to food to the Scientific Panel for recommendation.

(5) The Scientific Panel may, after due deliberations with the relevant industry and consumer representatives, make recommendations to the Authority on standards, products, procedures, processes and guidelines in relation to any technical aspect of the food.

Organizational
Tier.

Committees.

Scientific Panel.

(6) If the Authority does not agree to the recommendations of the Scientific Panel, it may, with reasons, refer the case back to the Scientific Panel for reconsideration.

(7) The Scientific Panel shall reconsider the reference and forward its reconsidered recommendations and the Food Authority shall act accordingly.

15. (1) The Authority may, by notification, appoint Food Public Analysts for such areas as it may assign to them.

(2) A Food Analyst shall possess such qualifications as may be prescribed.

(3) The production in a trial of a certificate under the hand of a Food Analyst 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.

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

16. (1) The 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.

(3) Notwithstanding anything in sub-section (2), the Authority, in public interest, may confer the powers of a Food Safety Officer on a Government servant.

17. (1) A Food Safety Officer may —

(a) take sample of any food or any substance, which appears to him to be intended for sale, or has been sold as food;

(b) seize any food, apparatus or utensil which appears to the

Food Safety Officer to be in contravention of this Act, the rules or the regulations;

(c

NS)

enter or seal any premises where he believes any food is prepared, preserved, packaged, stored, conveyed, distributed or sold, examine any such food and examine anything that he believes is used, or capable of being used for such preparation, preservation, packaging, storing, conveying, distribution or sale;

(d) open and examine any package which, he believes, to contain any food;

Food Analysts.

Food Safety
Officer.

Powers of Food
Safety Officer.

(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.

(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 from whom it is seized or, if such person is not present, send such copy to him by mail.

(3) A person claiming any seized item or property 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 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 forfeited to the Authority.

(6) Any person may make an application in writing to the Food Safety Officer asking him to obtain a sample of any food from a food operator and get it analyzed from the public analyst.

18. The Authority may, from time to time and within its resources, create posts, appoint such officers, servants, advisers, consultants and experts as it considers necessary for the performance of its functions in such manner and on such terms and conditions as may be prescribed.

CHAPTER-II ENFORCEMENT MECHANISM

19. (1) No person shall use any place for food business except under the prescribed registration and possessing of a valid licence.

(2) The Authority may, in the prescribed manner, exempt a class of food operators from obtaining compulsory registration or possessing of licence.

20. (1) If a Food Safety Officer has reasons to believe that any food operator 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 —

Appointment
of officers
and staff.

Licensing of food
business.

Improvement
notice.

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

(b) specifying the matters which constitute the food operator's failure so to comply; and

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

(2) If the food operator fails to comply with the improvement notice within the prescribed time, the Authority may cancel or suspend his licence or take such other action as it deems appropriate.

21. If any food operator 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.

22. (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 food operator and for reasons to be recorded in writing, restrain him from carrying on the food business with or without specifying conditions or period of such restraint.

(2) The Food Safety Officer shall, within twenty four hours of the action taken under sub-section (1), report such action to the Authority which may, after serving a notice on the food operator and for reasons to be recorded in writing, confirm, modify, set aside or annul the order of the Food Safety Officer.

23. The Authority may, by notification, require medical practitioners carrying on profession in any local area to report all occurrences of food poisoning to the Food Safety Officer or the Authority.

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

(2) Any person, who is aggrieved by any action taken under this section, may, in the prescribed manner, prefer an appeal to the Authority.

(3) The 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).

Prohibition orders.

Emergency
prohibition orders.

Notification of food
poisoning.

Food recalls
procedures.

25. (1) The Authority may establish a food laboratory for purposes of Establishment of carrying out analysis of samples of any food or food related equipments or utensils.

(2) The Authority may recognize or accredit a food laboratory for any of the purposes contained in sub-section (1).

CHAPTER IV OFFENCES AND PENALTIES

26. 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, shall be liable to imprisonment for a term which may extend to six months or fine which may extend to one million rupees or with both.

27. Any person, who manufactures for sale, stores, sells, distributes, imports or exports any food which is not of standard or misbranded, shall be liable to imprisonment for a term which may extend to six months and fine which may extend to one million rupees or with both.

28. A food operator, who manufactures for sale, stores, sells, distributes, imports or exports any unsafe food, shall be liable —

(a) where the unsafe food does not result in injury to any person, to imprisonment for a term which may extend to six months and fine which may extend to two hundred thousand rupees;

(b)

Se

where such unsafe food results in injury or partial disability to any person, to imprisonment for a term which may extend to three years and fine which may extend to one million rupees; or

(c) where such unsafe food results in complete disability or 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.

29. (1) Any person, who for purposes of effecting or promoting the sale of any food, publishes or causes to be published, any advertisement 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 imprisonment for a term which may extend to six months and/or fine which may extend to one million rupees.

food laboratories.

Selling food not

in

compliance of the

Law.

Substandard
misbranded food.

Unsafe food.

False
advertisement.

or

(2) 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, shall be liable to imprisonment for a term which may extend to six months or fine which may extend to one million rupees or with both.

30. (1) Any person, who prepares, packages, labels any food which does not comply with the prescribed standard, shall be liable to imprisonment for a term which may extend to six months and or fine which may extend to one million rupees or with both.

(2) Any person, 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 imprisonment for a term which may extend to six months or fine which may extend to one million rupees or with both.

31. If any person, without reasonable cause, fails to comply with any order or notice issued by the Authority or a Food Safety Officer, he shall be liable to imprisonment for a term which may extend to three months or fine which may extend to five hundred thousand rupees or with both.

32. Any person, who manufactures or processes or keeps any food under unhygienic or unsanitary conditions, shall be liable to imprisonment for a term which may extend to six months or fine which may extend to one million rupees or with both.

33. If a person, who commits an offence prescribed under the rules, for which no penalty has been provided under this Act, shall be liable to imprisonment for a term which may extend to three months or fine which may extend to five hundred thousand rupees or with both.

34. If a person makes a false or misleading statement, provides false or misleading information or produces any false or misleading document before the Authority or a Food Safety Officer, he shall be liable to imprisonment for a term which may extend to six months and fine which may extend to five hundred thousand rupees or with both.

35. (1) Any person, who obstructs a Food Safety Officer in the performance of his duties, shall be liable to imprisonment for a term which may extend to six months or fine which may extend five hundred thousand rupees or with both.

(2) Any person, 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 imprisonment for a term which may extend to six months and or fine which may extend to five hundred thousand rupees or with both.

36. If a food operator manufactures, sells, offers for sale, stores or distributes or imports any food without the prescribed registration

False labeling.

Failure to comply
with the directions.

Unhygienic or
unsanitary
conditions.

Penalty for
prescribed offences.

False information.

Obstructing the
Food Safety
Officer.

Business _ without
licence.

or licence, he shall be liable to imprisonment for a term which may extend to one year and or fine which may extend to five hundred thousand rupees or with both.

37. (1) A food operator 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 regulations.

(2) Any person, who contravenes the provisions of sub-section (1), of Clause-37, shall be liable to imprisonment for a term which may extend to six months and or fine which may extend to one million rupees or with both.

(3) Any food vendor, who gives to the purchaser a warranty in writing which is false, shall be liable to imprisonment for a term which may extend to six months or fine which may extend to five hundred thousand rupees or with both.

38. If any person, after having been previously convicted of an offence under this Act, commits subsequent offence under this Act, his licence shall be cancelled forthwith and shall also be liable to—

(a) twice the punishment of imprisonment and fine, which is provided for the offence under this Act; or

(b) further fine which may extend to two hundred thousand rupees;

39. (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 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 one million rupees in case of complete disability or death; or

(b) not exceeding five hundred thousand rupees in case of partial disability or injury.

(2) If the food operator fails to pay the compensation under this section, the 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.

40. In case of a conviction under this Act, the Court may direct that any food, equipment, machinery, vehicle or any other thing, to which the conviction relates, shall be confiscated and shall vest in the Authority.

41. (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

Warranty.

Punishment for
subsequent offence.

Compensation in
case of injury,
partial disability,
complete disability
or death of a
consumer.

Forfeiture of
food, etc.

Offences by
companies.

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 such offence.

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

42. If a person is convicted of an offence and the conviction has attained finality, the Authority may, keeping in view the nature or intensity of the offence, publish the name of the person together with the name and place of his business, the nature of the offence and the fine, forfeiture, or other penalty imposed on him, in newspapers or in any other mode for information of the people for awareness of general public and the convict shall be liable to pay the cost of such publication.

CHAPTER V

JURISDICTION AND PROCEDURE

43. (1) On information received from a Food Safety Officer or any other person, the Authority may, for reasons to be recorded in writing-

(a) order prosecution of a food operator under this Act;

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

(c) impose on the food operator fine which may extend to, unless otherwise provided in this Act, five hundred thousand rupees; or

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

(2) If the Authority cancels the licence or imposes fine on a food operator, the food operator may, within fifteen days of the communication of the order, prefer an appeal against such order to such Appellate Authority as Government may specify by notification in the official Gazette.

(3) The Authority or the Appellate 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 food operator.

(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.

44. An offence punishable under this Act shall be tried by a Judicial Magistrate of First Class.

newspapers.

Jurisdiction of the
Food Authority.

Jurisdiction of the
Court.

45. (1) Subject to sub-section (2), no Court shall take cognizance of an offence under this Act except on a complaint in writing made by or on behalf of the 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).

46. 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.

47. (1) Notwithstanding anything contained in the Code of Criminal Procedure 1898 (V of 1898) but subject to sub-section (3), the Court shall summarily try an offence punishable under this Act and impose punishment of imprisonment for a term not exceeding six months or fine not exceeding one million rupees or with both.

(2) The Court 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 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).

48. 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 food operator took all reasonable precautions and exercised due diligence to prevent the commission of the offence.

49. (1) The Authority shall recover the fine, fee or any other amount, imposed or levied, under this Act, the rules or the regulations, as an arrears of land revenue and, for the purpose, authorize an officer to exercise the powers of Collector under the Sindh Land Revenue Act 1967 (XVII of 1967).

(2) The fine imposed or the fee charged under this Act, rules or regulations shall be deposited with the Authority and shall form part of the Authority Fund.

CHAPTER VI FINANCES AND REPORTS

50. (1) There shall be established a fund to be known as the Sindh Food Authority Fund to be administered and controlled by the Authority.

(2) The Fund shall consist of —

(a) funds provided by Government or the Federal Government;

(b) loans or grants made by Government or the Federal Government;

Cognizance of

offences.

Time limit for
prosecutions.

Summary trial.

Defence available.

Recovery

of fines etc.

Food
Fund.

Authority

- (c) other loans or funds obtained by the Authority;
- (d) grants and loans negotiated and raised, or otherwise obtained, by the Authority with the prior approval of Government;
- (e) fee, charges, rentals and fines collected by the Authority;
- (f) income from the lease or sale of the property;
- (g) funds from floating bonds, shares, debentures, certificates, or other securities issued by the Authority; and
- (h) all other sums received by the Authority.

(3) The Authority shall meet all of its expenses from the Authority Fund.

(4) The Fund shall be managed and operated in the manner as may be prescribed.

51. The Authority may open and maintain its accounts at such scheduled banks as may be prescribed, and until so prescribed, as the Government may determine.

52. (1) The Authority 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 Authority, in the manner prescribed, shall cause to be prepared for the financial year statements of account of the Authority which shall include a balance-sheet and an account of income and expenditures.

(3) The 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 Authority.

53. (1) The Auditor General of Pakistan shall annually audit the accounts of the Authority.

(2) Government, in addition to the audit under sub-section (1), shall cause the accounts of the Authority annually audited by a Chartered Accountant or a firm of Chartered Accountants.

(3) The auditor appointed under sub-section (2) shall be provided such access to the books, accounts and other documents as may be considered necessary for the audit of accounts.

(4) The auditor shall submit the annual or any special audit report to the Authority, and the Authority, under intimation to Government, shall take appropriate remedial or other action in the light of the audit

report.

Bank accounts.

Budget and
accounts.

Audit.

54. (1) The Authority shall, within three months of the close of a financial year, submit to Government an annual performance report.

(2) The report under sub-section (1) shall consist of —

(a) the statement of accounts and audit reports of the Authority;

(b) a comprehensive statement of the work and activities of the Authority during the preceding financial year and its proposed projects and schemes; and

(c) such other matters as may be prescribed or as the Authority may consider appropriate.

(3) Government shall, within ninety days of receiving the report from the Authority, give notice for laying the report in the Provincial Assembly of Sindh, and shall lay the report in the first available session of the Assembly.

CHAPTER VII MISCELLANEOUS

55. The Authority may delegate, subject to such conditions and restrictions as may be specified in the order, any of its functions to a body, committee or an officer, 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.

56. The Authority may, in the manner prescribed by the rules, make payment of reward from the Fund to any person who has made an exceptional effort towards accomplishing the objective of this Act.

57. The Chairperson, the members and the employees of the 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).

58. No suit, prosecution or other legal proceedings shall lie against Government, any officer of Government, the Authority, the Chairperson, a member or any employee of the Authority for anything which is done in good faith under this Act, the rules or regulations.

59. The provisions of this Act shall have effect notwithstanding anything contained in any other law, for the time being in force.

60. Government may make rules for carrying out the purposes of this Act.

61. (1) Subject to this Act and the rules, the Authority may, with the prior sanction of Government, frame regulations to give effect to the

provisions of this Act.

Annual report.

Delegation of
powers.

Reward by the
Food Authority.

Public servants.

Immunity.

Overriding effect.
Government to
make rules.

Food Authority to
frame regulations.

(2) Without prejudice to the generality of sub-section (1), such regulations may provide for -

- (a) procedure for transaction of business of the Authority;
- (b) terms and conditions of service of the employees of the Authority;
- (c) procedure and conduct of business by a scientific panel;
- (d) standards and guidelines in relation to any food, food places, food workers and food handlers;
- (e) limits of additives, contaminants, toxic substance, heavy metals pesticides, veterinary drugs, residues, in the food;
- (f) marking, packaging, labeling, advertising and warranty of any food;
- (g) food recall procedures, improvement notices and prohibition orders;
- (h) licensing and registration procedures;
- (i) inspection of food business, safe and hygienic storage and transportation practices;
- (j) recognition and accreditation of laboratories and scale of fee for a laboratory test; search of a premises, vehicle or person and guidelines for taking and handling samples of any food;
- (1) prosecutions and appeals under this Act; and
- (m) finances, accounts, budget and reporting procedures.

(k

oS

63. (1) The West Pakistan Pure Food Ordinance 1960 (VII of 1960), in its application to the Province of Sindh, is hereby repealed.

(2) Notwithstanding the repeal of the provisions of the Ordinance under sub-section (1), all orders, rules or regulations made, notifications issued, actions and proceedings taken under the said Ordinance shall continue to remain in force until altered, amended or repealed under the provisions of this Act.

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

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

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH

Repeal and savings.

