

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION
KARACHI, THE 28th DECEMBER, 2021

NO.PAS/LEGIS-B-23/2020-The Sindh Food Fortification Bill, 2020 having been passed by the Provincial Assembly of Sindh on 25th November, 2021 and assented by the Governor of Sindh on

17th December, 2021 is hereby published as an Act of the Legislature of Sindh.

THE SINDH FOOD FORTIFICATION ACT, 2021

SINDH ACT NO. XXXIII OF 2021

AN
ACT

to address and alleviate nutritional deficiencies through food fortification.

WHEREAS the people of Sindh Province especially women and children are suffering from severe micronutrients malnutrition which is adversely affecting their health and ability to work and study; mandatory fortification of wheat flour, ghee, edible oil and other staple food is necessary to address and alleviate nutritional deficiencies; to promote the nutritional status and health of residents of Sindh, and to deal with matters connected therewith or ancillary thereto.

It is hereby enacted as follows:

CHAPTER-I

PRELIMINARY

1.(1) This Act may be called the Sindh Food Fortification Act, 2021.

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

(3) It shall come into force at once.

2.(1) This Act shall apply to wheat flour, ghee, edible oil or other food included in the Schedule imported, manufactured, commercially used, distributed, traded

or sold for human consumption in Sindh Province and includes any such food manufactured for export or consumption outside Sindh Province.

(2) The micronutrients in the premix for a food and standard of fortification of the food is mentioned against the food in the Schedule and addition of a micronutrient under this Act shall not be considered as additive.

3.(1) In this Act, unless there is anything repugnant in the subject or context —

(a) "Authority" means the Sindh Food Authority established under the Sindh Food Authority Act, 2016 (XIV of 2017);

(b) "consumer" means an end user of food and includes a person who purchases the food for consumption;

(c) "Consumer Court" means a Consumer Court established under the Sindh Consumer Protection Act, 2014 (XVII of 2015);

Preamble.

Short title,
extent and
commence-
ment.

Applicability.

Definitions.

(d) "Department" means the Food Department;

(e) "food" means wheat flour, atta, maida, suji, fine atta, vanaspati ghee, edible oil or other food included in the Schedule;

(f) "Food Safety Officer" means a Food Safety Officer appointed under the Sindh Food Authority Act, 2016 (XIV of 2017) and includes an officer of Government on whom powers of Food Safety Officer are conferred under this Act;

(g) "fortify" or "fortification" means mixing of micronutrient in form of premix with food according to the scale contained in the Schedule;

(h) "Government" means the Government of Sindh;

(i) "importer" means a person who imports large scale food into Sindh Province for commercial purposes;

G) "large scale" means the minimum quantity of single import or possession for use of food mentioned in the Schedule;

(k) "manufacturer" means a person who is owner or occupant of a wheat flour mill, chakki, ghee mill, edible oil mill or any other production unit of a food;

(l) "premix" means the micronutrient premix additives mentioned in the Schedule;

(m) "prescribed" means prescribed by rules or regulations;

(n) "rules" and "regulations" means the rules and regulations made under this Act; and

(o) "Schedule" means the Schedule appended to this Act.

(2) The words and expressions used but not defined in this Act shall have the same meanings as assigned to them in the Sindh Food Authority Act, 2016 (XIV of 2017).

CHAPTER-II

FOOD FORTIFICATION

4.1) An importer or a manufacturer of food shall fortify the food under the Schedule at the time of import or manufacture before trading the food.

(2) A commercial user of food shall use food fortified under the Schedule for manufacturing of any product of the food.

(3) If a wholesaler or retailer of food stores or sells unpacked food, packed food without label or food without proper purchase invoice, the wholesaler or

Food fortification.

retailer shall be responsible for fortification in the same manner as the importer or manufacturer is responsible under this section.

5. Government shall, in coordination with the Federal Government, ensure availability of premix and related equipment for fortification of food including rapid testing kits for immediate testing of food for fortification.

6.(1) In addition to warranty on the label of a packed or unpacked food, an importer, a manufacturer, commercial user, wholesaler or retailer of food warrants to the purchaser or consumer that the food conforms to the legal requirements of fortification as specified in the Schedule.

(2) Nothing in this section shall make a wholesaler or retailer of food liable if the wholesaler or retailer purchased and sold the packed food in the same pack as received from the importer or manufacturer with proper invoice and exercised due care in storage and transportation of the food.

7.1) A person shall not manufacture or import food for trade, unless registered with the Authority.

(2) The manufacturer or importer shall undertake to fortify food as specified in the Schedule and provide access and information, from time to time, required by the Authority.

8.(1) A manufacturer, a large scale commercial user or an importer shall conduct routine internal checks, rapid tests and analyses to ensure that the food is manufactured, packaged, labeled, stored, transported, and maintained in accordance with the requirements contained in the Schedule.

(2) The Authority shall specify quality assurance requirements, procedures, maintenance of record and provision of periodic information to the Authority.

9.(1) The Authority shall specify packaging requirement for a food to preserve the composition, quality and purity of food, fortification and to minimize dissipation of its nutritive properties from climatic and other conditions.

(2) The Authority may prohibit storage or sale of an unpacked food.

(3) An importer, a manufacturer, commercial user, wholesaler or retailer of food trade the food shall comply with the specifications and direction of the Authority issued under this section.

10.11) An importer or a manufacturer shall label the pack of food providing minimum essential information about food specified by the Authority.

(2) An importer or a manufacturer shall display a fortification logo on the pack of a food as may be prescribed by the Authority

Availability of
premix and
equipment.

Warranty.

Registration.

Quality
assurance.

Packaging.

Labeling.

11.(1) An importer, a manufacturer, wholesaler or retailer of food may advertise the food but the advertisement shall be true, accurate, and shall not be misleading.

(2) The advertisement shall provide essential information about the food and protect the consumer from false or misleading claims.

(3) The Authority may issue detailed instructions for advertisement of food.

12.(1) An importer, a manufacturer, commercial user, wholesaler or retailer of food shall transport, store or display food in the manner that preserves the composition, quality, hygiene and safety of the food, minimizes dissipation of its micronutrient properties from climatic and other conditions and protects beneficial effects of the fortification.

(2) The Authority may specify measures for proper transportation, storage and display of food.

13.(1) A commercial user of food shall use fortified food for making any food product.

(2) A large scale commercial user shall conduct rapid testing of the food for ascertaining fortification and maintain record of the results of the tests in accordance with the directions of the Authority.

(3) If a commercial user of food has reason to believe that the food is not fortified in accordance with the Schedule, he shall immediately inform the Authority.

CHAPTER-III INSPECTION AND INVESTIGATION

14.(1) A Food Safety Officer may inspect and investigate any place or site where food is manufactured, stored, sold, transported, distributed or located.

(2) The Authority may, with the approval of Government, confer the powers of Food Safety Officers upon the officers of the Government to the extent of inspection and investigation of a particular food.

(3) A Food Safety Officer may observe production process of food, examine and copy records of an importer, manufacturer, commercial consumer, wholesaler or retailer of food and may take samples of food, analyze them or have them analyzed.

15.(1) A Food Safety Officer may stop and search any vehicle used for transportation of food.

(2) If the food is not fortified or being transported in contravention of this Act, rules or regulations, the Food Safety Officer may seize the food and the vehicle on which the food is being transported.

(3) If the food manufactured, stored or displayed is not fortified, the Food Safety Officer may seize the food and seal the premises for a period which may extend to seven days.

Advertising.

Transport,
storage and
display.

Duty of a
commercial
user.

Inspections and
investigations.

Power to stop,
search and
seize.

16. An importer, a manufacturer, commercial user, wholesaler or retailer of food or any person acting on their behalf shall cooperate with a Food Safety Officer in search, inspection or investigation and shall provide true, accurate and complete information requested by a Food Safety Officer.

17.(1) The Authority shall ensure that a Food Safety Officer shall not misuse the powers conferred under this Act, rules or regulations.

(2) The Authority may-

(a) issue guidelines or regulations for selection of premises or vehicle used for manufacturing, storage or transportation of food;

(b) constitute teams of Food Safety Officers for exercise of powers under this Act, rules or regulations; and

(c) make mandatory electronic recoding of an inspection, search, taking of samples, seizure of food or vehicle and sealing of a premises.

CHAPTER-IV SAMPLING AND LABORATORIES

18.(1) A Food Safety Officer may, in the prescribed manner, obtain samples of food from the premises of an importer, a manufacturer, commercial user, wholesaler or retailer of food or from a transportation vehicle used by any one of them in a transparent manner ensuring integrity and sanctity of the samples.

(2) A Consumer Court or any other Court may direct a Food Safety Officer to obtain samples of any food from a premises or vehicle under sub-section (1), conduct rapid testing and send the samples to a laboratory for analysis.

19.(1) The Authority may establish or recognize a food laboratory for purposes of carrying out analysis of samples of any food or fortification related equipment.

(2) The Authority may make procedures for the laboratory's operation, including sample analysis, preservation of evidence, and quality assurance.

(3) A laboratory shall conduct analyses of a sample of food received from a Food Safety Officer, a Court or from any other person as may be prescribed by the Authority and convey the report in the prescribed manner.

(4) If integrity or sanctity of a sample is compromised due to any cause including afflux of time, a laboratory may refuse to conduct analyses of the sample by specifying reasons in writing.

(5) The Authority shall issue a schedule of fee for analyses and report of a sample of food or fortification related equipment in a laboratory.

20.(1) The Authority may establish mobile laboratories for immediate analysis and reporting on food samples.

(2) The Department, the Authority, a Court or Tribunal may send a food sample already analyzed by a laboratory to a laboratory notified by Government as a reference laboratory.

Duty to assist.

Transparency in
exercise of
powers.

Samples of
food.

Laboratories.

Mobile and
reference
laboratories.

21.(1) The Authority, a Court or Tribunal shall consider report of a laboratory as an expert opinion based on the analyses of a food sample or any fortification related equipment.

(2) The report of a laboratory shall contain method and mode of analyses and lead expert who conducted the analyses of the sample or equipment.

(3) In case of difference of opinion between a laboratory and a reference laboratory, the Authority, Court or Tribunal shall accept the expert opinion of the reference laboratory.

CHAPTER-V PENALTIES AND PROCEDURES

22.(1) If analysis of a food sample proves that the food is not sufficiently fortified, a Food Safety Officer shall serve an improvement notice on the person responsible for fortification directing him to immediately remove the deficiency otherwise penal action under the Act will be initiated against him.

(2) If the food of a manufacturer or an importer is not fortified, the Authority may direct the manufacturer or importer to immediately withdraw or recall the food from the market.

23.(1) If a person commits violation of a provision of this Act, the Authority may-

(a) impose fine upon the person which may extend to five hundred thousand rupees;

(b) suspend or cancel registration of the person under this Act;

(c) direct sealing of a premises for a period specified under section 15);

(d) direct publicity of the violation for information of general public or a section of public or members of an association specifically naming the violator;

(e) direct the person to cease production, processing or import of food without registration under this Act; and

(f) direct reprocessing, reconditioning, or the seizure and destruction of food, not being in conformity with this Act.

(2) The Authority may not impose any penalty upon a person whose only violation is deficiency of fortification unless an improvement notice was issued to the person during the past one year from the date of taking cognizance of the matter by the Authority.

(3) The Authority shall make regulations to ensure fair procedure based on the principles of natural justice for a decision under this section.

24.(1) If a person is aggrieved from any action of a Food Safety Officer under this Act, the person may within thirty days of the action or communication of the action file an application before the Authority.

(2) The Authority may, on an application or on its own accord, set aside, modify or confirm the action of a Food Safety Officer.

Report of a laboratory.

Improvement or recall order.

Civil penalties.

Grievance against Food Safety Officer.

25.(1) If a person required to be registered under this Act fails to apply for registration within the time specified by the Authority, the person shall be liable to imprisonment which may extend to ninety days or fine which may extend to one million rupees or both, whereas in case of a Chakki the fine may extend to one hundred thousand rupees.

(2) If a person willfully or negligently fails to fortify food or obstructs a Food Safety Officer or fails to comply with the decision of the Authority, the person shall be liable to imprisonment which may extend to six months or fine which may extend to two million rupees or both.

(3) If the Authority has already imposed a civil penalty upon a person for an act which is also an offence under this section, such person shall not be liable to be proceeded against under this section for the same act.

26.(1) If a person is found guilty of an offence under this Act, the Court may direct the convict to do one or more of the following in lieu of sentence prescribed in section 25 —

(a) take any action the Court considers appropriate to remedy or avoid the hazard caused by the commission of the offence;

(b) pay a person an amount of money as compensation, in whole or in part, for the cost of a remedial or preventive action taken by or on behalf of the convict as a result of the commission of the offence;

(c) perform community service for a period of upto two years;

(d) not to do any act or engage in any activity that may, in the opinion of the Court, result in the continuation or repetition of the offence or the commission of a similar offence under this Act;

(e) comply with any conditions that the Court considers appropriate for preventing the offence, from continuing or repeating the offence or committing a similar offence under this Act; or

(f) submit to the Authority or its authorized officer, information respecting his activities or activities of any person acting on his behalf that the Court considers appropriate in the circumstances, for a period of upto two years.

(2) For the purpose of sub-section (1), the Court may require the convict to submit —

(a) a bond for an amount the Court considers appropriate for the purpose of ensuring compliance with a prohibition, direction or requirement under this section; and

(b) samples or analysis to inspections, or do any other thing necessary to permit a Food Safety Officer to monitor compliance, for a period of up to two years, with an order made under this section.

(3) The measures contained in this section shall be in addition to the requirements under other provisions of this Act.

27.(1) A Court competent to take cognizance of an offence under the Sindh Food Authority Act, 2016 (XIV of 2017) shall also take cognizance of an offence under this Act and conduct summary trial of the offence in accordance with the provisions of the Sindh Food Authority Act, 2016 (XIV of 2017).

Offences.

Alternative
penalties.

Cognizance,
trial and appeal.

(2) A convict or the Authority may, within thirty days of the judgment of a Court under this Act, file an appeal before the Court of Sessions.

28.(1) A person shall not be liable for any penalty under this Act who —

(a) purchased the food in packed form from another under a written warranty for sale in the same form and has complied with the law relating to transportation, storage or display of food;

(b) handled the food in compliance with all the legal requirements;

(c) sold, traded or distributed the food in the same condition or packing it was in at the time of its purchase or reconditioned it to meet the legal requirements;

(d) could not have discovered, through the exercise of reasonable diligence, that the food did not conform to the legal requirements; or

(e) is charged with act of non-fortification proves non-availability of the premix in the market at the time of commission of the act.

(2) If an action is initiated against a person under this Act, such person shall allege and prove the defense under this section.

29.(1) A purchaser or consumer of food that does not meet legal requirements of fortification may file a complaint in a Consumer Court irrespective of any other enforcement or penal action under this Act against the importer, manufacturer, wholesaler or retailer of food.

(2) The Consumer Court may direct a Food Safety Officer to take samples of the food from any premises, get them analyzed and submit report before the Court.

(3) If it is proved that the food is not fortified or not fortified in accordance with the Schedule, the Consumer Court shall direct the responsible importer, manufacturer, wholesaler or retailer to pay damages to the complainant which shall not be less than ten thousand rupees.

(4) Subject to this Act, the Consumer Court shall follow the procedure under the Sindh Consumer Protection Act, 2014 (XVII of 2015) in trial of a complaint under this Act.

(5) A person aggrieved from the final order of the Consumer Court may, within thirty days of the order, file an appeal before the Court of Sessions.

30.(1) Where an offence under this Act has been committed by a Company or a body corporate, every person who at the time of commission of offence was in charge of, and was responsible to the institution for the conduct of its activities, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished.

(2) Nothing contained in this section shall render any such person liable to any punishment provided in this Act if it is proved that the offence was committed without the person's knowledge or that such person exercised all due care to prevent the commission of such offence.

Defenses.

Private rights of action.

Liability in case of body corporate.

(3) The Authority may impose civil penalty on a Company or body corporate and a purchaser or consumer may file complaint against a Company or body corporate in exercise of private right of action under this Act.

CHAPTER VI

MISCELLANEOUS

31.(1) Government may grant or recommend to the Federal Government to grant favorable tax or tariff treatment, patent rights or other measures to promote fortification and to reward those properly engaged in fortification.

(2) The department may take measures to make premix available in the market at affordable prices.

(3) If any person is availing any Government concession, tax rebate or quota but fails to comply with the legal requirement of registration or fortification under this Act as reported by the Authority, the department may withdraw the concession, tax rebate or quota.

(4) For creating awareness amongst the masses about the subject law, the department will initiate awareness campaign/drive through print and electronic media.

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

(2) The fee charged under this Act, the rules or regulations shall be deposited in the Authority Fund.

33.(1) A person aggrieved from a final order or direction, of the Authority may, within fifteen days from the date of communication of the order or direction, file an appeal before the Secretary of the department as the appellate authority whose decision on such appeal shall be final.

(2) The appellate authority shall decide the appeal within ninety days from the date of filing of the appeal and shall provide an opportunity of hearing to the appellant and the Authority before deciding the appeal.

(3) If the appellate authority fails to decide the appeal within the stipulated ninety days, the appeal shall stand transferred to the Secretary to Government, Law and Parliamentary Affairs Department who shall decide the appeal within sixty days from the date it is received in his office.

34.(1) Government may conduct a provincial nutrition survey of status of specific micronutrients amongst residents of Sindh after every three to five years.

(2) The provincial nutrition survey shall be based on proper sampling system including entire province, geographical units and urban rural divides within geographical unit.

(3) The department shall analyze the report of the provincial nutrition

survey and identify causes of micronutrient deficiency in any area or section of public.

Special incentives for fortification.

Recovery of dues.

Appellate authority.

Provincial nutrition survey.

(4) Government may conduct the first provincial nutrition survey within five years from the commencement of this Act.

(5) The department may obtain views of the Authority on the report of provincial nutrition survey before identifying causes of micronutrient deficiency in any area or section of public.

35.(1) Government shall prescribe key performance indicators for the Authority to assess the status of fortification.

(2) Based on the key performance indicators, the Government may conduct or cause to be conducted annual monitoring and evaluation of the Authority to provide information on efficacy of this Act in bringing the change in the behaviors it prescribed and its anticipated impact.

(3) The Authority shall provide full access to the monitoring and evaluation agency to its records relating to this Act and personnel working on implementation of the Act and the monitoring and evaluation agency shall collect relevant data or information, evaluate the data or information, and submit monitoring and evaluation report to Government.

(4) The department shall obtain views of the Authority on the monitoring and evaluation report.

36. (1) The Authority shall prepare an annual report of a calendar year on implementation of each aspect of fortification including registration, status compliance, instances of violations, enforcement actions, number of samples obtained at manufacturing and sale point level, laboratory reports of food samples, civil penalties and convictions, and reasons for non-compliance.

(2) The Authority shall, in January every year, submit the annual report of previous calendar year to Government.

(3) Government may add its views on the annual report of the Authority and shall, as soon as possible, submit the annual report before the Provincial Assembly of Sindh.

(4) Government shall, as soon as possible, submit the monitoring and evaluation report and report of provincial nutrition survey along-with views on each of these reports before the Provincial Assembly of Sindh.

(5) The Provincial Assembly may refer a report submitted under this section to the concerned Standing Committee for analysis and recommendations.

(6) The Provincial Assembly may, through resolution, approve the recommendations of the Standing Committee directing the Government to take remedial measures contained in the recommendations for improving the micro-nutrition deficiencies amongst the residents of Sindh Province or a particular area or section of public more effected from any such deficiency.

37. No suit, prosecution or any other legal proceedings shall lie against the Government, Department, Authority, Food Safety Officer or any other person acting or purporting to act under this Act, in respect of anything done or intended to be done in good-faith under the Act.

Monitoring and
evaluation.

Reporting to
the Provincial
Assembly.

Indemnity.

38. Subject to this Act, a Court shall not entertain a suit or an application for anything done, about to be done or purported to have been done under the Act.

39. Government may, by notification in the official Gazette, amend the Schedule through addition, alteration, deletion or substitution of an entry in the Schedule.

40. Government may, by notification in the official Gazette, make rules to carry out the purpose of this Act.

41.(1) The Authority may, by notification in the official Gazette and publication on its website, frame regulations to give effect to this Act.

(2) The Authority may frame regulations under sub-section (1) after prior publication, inviting and deciding objections and suggestions on the draft regulations.

(3) In case of conflict between rules and regulations, the rules shall prevail over regulations.

(4) The regulations may include provisions for the following:-

(a) methods of manufacturing, packaging, storing, transporting, and distributing food;

(b) labeling and advertising of food;

(c) quality assurance including record-keeping requirements for food;

(d) procedures for inspections, investigation, sampling and testing of food;

(e) enforcement including legal proceedings under this Act; and

(f) any other matter necessary for the efficient and effective administration and implementation of this Act.

42.(1) In case of any inconsistency or conflict with any other law, the provisions of this Act shall prevail to the extent of the inconsistency or conflict.

(2) Where no provision or no sufficient provision exists under this Act, rules or regulations, a Food Safety Officer or the Authority may apply the provisions of the Sindh Food Authority Act, 2016 (XIV of 2017), rules and regulations made under the Sindh Food Authority Act, 2016.

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH

Bar of
jurisdiction.

Amendment of
the Schedule.

Rules.

Regulations.

Act to override
other laws.

SCHEDULE

Food, Micronutrient Required to be Mixed, Quantity of Micronutrient Premix and Large Scale Quantity

[See sections 2, 3, 4, 6, 7, 8 and 39]

S# Food Micronutrient Quantity of the Source of Large Scale
to be added Micronutrient Micronutrient and (Minimum
Activity quantity)

Minimum Maximum

1 Wheat Flour, Iron 15 mg/kg 45 mg/kg NaFeEDTA 1000 Kg

Atta, Maida,

Suji, Fine minimum activity

Atta 12.5% with free

iron less than

0.05%.

Folic Acid 1 mg/kg 3 mg/kg minimum activity

90.5%

Zinc 30 mg/kg 90 mg/kg Zinc Oxide

minimum activity

80%

Vitamin B12 0.008 0.024 Cyanocobalamin

mg/kg mg/kg

2 Vanaspati Vitamin A 33,000 45,000 iu/kg Retinol 1000 Kg

Ghee or iu/k

Edible Oil 9

Vitamin D3 3,000 iu/kg 4,500 iu/kg Cholecalciferol