

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
Law, Justice, Parliamentary Affairs and Human Rights Department

"Muzaffarabad"
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No.LD/Legis-Act/645-58/2017. The following Act of Assembly received the assent of the President on the 8th day of September 2017, is hereby published for general information.

[Act XXXVII of 2017]

An

Act

to provide for the safety and standards of Food and for establishment of the Azad Jammu and Kashmir Food Authority

Whereas, it is expedient to protect public health, to provide for the safety and standards of food, to establish the Azad Jammu and Kashmir Food Authority and for other connected matters;

It is enacted as follows:-

CHAPTER- I

PRELIMINARY

1. **Short title, Extent and Commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Food Authority Act, 2017.
 - (2) It shall extend to whole of the Azad Jammu and Kashmir.
 - (3) It shall come into force on such date as the Government may, by notification, specify and different dates may be so specified for different areas.
2. **Definitions.**- In this Act,—
 - (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
 - (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 has been prepared, packed or kept under unhygienic and insanitary conditions; or
- (viii) which is contaminated or has become injurious to health;
- (b) “Advertisement” means any publicity, representation or pronouncement made by any means for purposes of promoting the sale or disposal of any food;
- (c) “Chairperson” means the Chairperson of the Food Authority;
- (d) “Code” means the Code of Criminal Procedure, 1898 (V of 1898);
- (e) “Consumer” means a person who receives Food against a consideration or otherwise and includes an end user of the food;
- (f) “Director” means Director of the Food Authority;
- (g) “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:

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 (Act XXXI of 1976), as adopted in Azad Jammu and Kashmir;

- (h) “Food Additive” includes any substance not normally consumed as Food by itself or used as a typical ingredient of Food but the addition of which to Food affects the characteristics of the food;
- (i) “Food Authority” means the Azad Jammu and Kashmir Food Authority established under this Act;
- (j) “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;

- (k) “Food Laboratory” means any Food Laboratory or institute established or recognized by the Food Authority;
- (l) “Food Operator” means a person who manufactures for sale, transports, stores, sells, distributes, imports or exports food;
- (m) “Food Safety Officer” means a Food Safety Officer appointed under this Act;
- (n) “Government” means the Azad Government of the State of Jammu and Kashmir;
- (o) “Import” means bringing into the Azad Jammu and Kashmir any article of Food by any means including land, river, canal or air;
- (p) “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;
- (q) “Licence” means a Licence granted under the Act or the rules or the regulations;
- (r) “Member” means a Member of the Food Authority;
- (s) “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;
- (t) “Natural Decomposition” means loss of freshness, taste, fragrance or any active ingredient which is dependent on climate or weather;
- (u) “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;
- (v) “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;
- (w) “Prescribed” means Prescribed by the rules or the regulations;
- (x) “Public Analyst” means a Public Analyst appointed under this Act;

- (y) “Safe Food” means an article of Food which is not unsafe;
- (z) “Scientific Panel” means the Scientific Panel constituted under this Act;
- (aa) “Standard”, in relation to any article of food, means the Prescribed Standard and includes the Standard notified by the Food Authority; and
- (bb) “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. **Establishment of the Food Authority.**– (1) The Government may, by notification in the Official Gazette, establish the Food Authority in Azad Jammu and Kashmir for the purposes of this Act.
 (2) The Food Authority shall be a body corporate, having perpetual succession and a common seal, with power to enter into contract, acquire or dispose of property, and may, by its name, sue or be sued.
 (3) The Food Authority shall be the Special Institution of the Food Department.
4. **Composition of the Food Authority.**– (1) The Food Authority shall consist of a Chairperson who shall be Minister for Food and a Vice Chairperson who shall be Secretary to the Government of Food Department and the following members,–
 - (a) Secretary to the Government, Health Department;
 - (b) Secretary to the Government, Physical and Planning Department;
 - (c) Secretary to the Government, Agriculture Department;
 - (d) Secretary to the Government, Local Government & Rural Development Department;
 - (e) three members of the Legislative Assembly including at least one female Member of the Assembly to be nominated by the Government;
 - (f) two food technologists or scientists to be nominated by the Government;
 - (g) one representative of the Chambers of Commerce & Industry;
 - (h) one representative of Food industry;
 - (i) one representative of food operators;
 - (j) two representatives of farmers; and
 - (k) two representatives of consumers.
 (2) The Government shall appoint the non-official members on the recommendation of a committee consisting of the following:-
 - (a) Chief Secretary to the Government (Convener);

- (b) Secretary to the Government, Food Department;
- (c) Secretary to the Government, Health Department; and
- (d) Chairman, Department of the Food Science & Technology, the University of the Poonch, Rawalakot.

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

(4) The members, other than *ex-officio* members, shall be appointed in such manner as to ensure the highest standards of professional competence and experience, gender balance and equitable geographic distribution within the State.

(5) The non-official members shall be appointed on honorary basis and shall not be entitled to any remuneration.

(6) A meeting of the Food Authority shall be held in the manner as may be provided and until so provided, as may be determined by the Food Authority.

(7) The Secretary of the Food Authority shall, on the direction of the Chairperson, call a meeting of the Food Authority.

(8) The Food Authority shall meet at least thrice in a year.

(9) The Chairperson, and in his absence, any other Member elected by the members present at a meeting, shall preside at a meeting of the Food Authority.

(10) The quorum for a meeting shall be one third of the total members, the fraction being counted as one.

5. Removal of members.— (1) The Government may remove from office, a member, other than an *ex-officio* member, if he,—

- (a) has been adjudged an undischarged 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 Chairperson or the Member; or
- (d) has abused his position and rendered his continuance in the office prejudicial to public interest.

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

6. Powers and functions of the Food Authority.— (1) The Food Authority shall regulate and monitor the Food Business in order to ensure provision of Safe Food.

(2) Without prejudice to the provisions of sub-section (1), the Food 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;
- (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 prescribed function; and
- (n) do any other thing which is necessary for the discharge of its functions under this Act.

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

7. **Proceedings of the Food Authority**.– No act or proceedings of the Food Authority shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Food Authority.

8. **Categorization of premises**.– (1) The Food Authority may,-

- (a) categorize a Premises in the light of the Prescribed objective criteria based on the level of adherence to the standards, established scientific principles and international best practices; and
- (b) periodically revise, in the prescribed manner, the categories of Premises under clause (a).

(2) If the Premises are categorized under sub-section (1), the Food Authority shall issue a certificate showing the category of such Premises and the Food Operator shall display the certificate at a conspicuous place of the Premises.

(3) If a Food Operator removes the certificate or in any manner tampers with it or defaces or mutilates it, the Food Authority may take one or more actions under Section 40 of the Act.

(4) A Food Operator, aggrieved by any decision of the Food Authority regarding categorization of his premises, may, within sixty days of such decision, prefer an appeal to the Appellate Authority notified under sub-section (2) of Section 40.

(5) The Food Authority may, by any means, create general awareness about categorization of the Premises under this Section.

9. Scientific panel.– (1) The Food 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 any recognized University of the Poonch, Rawalakot Azad Jammu and Kashmir;
- (e) a food technologist or scientist;
- (f) a medical practitioner registered with Pakistan Medical and Dental Council; and
- (g) three 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 Food Authority shall determine the terms and conditions, including tenure of members of a Scientific Panel other than *ex-officio* members.

(4) The Food 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 Food Authority on standards, products, procedures, processes and guidelines in relation to any technical aspect of the food.

(6) If the Food 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.

10. Director.— (1) Director Food shall be the Director and Secretary of Food Authority.

(2) The Director, subject to the control of the Food Authority, shall be responsible for accomplishing the objectives of this Act and for efficient implementation of the Act, the rules and the regulations.

(3) The Director shall exercise such powers as are provided in this Act or as may be Prescribed or delegated to him.

(4) The Director may exercise powers of a Food Safety Officer under this Act.

11. Public analysts.— (1) The Food Authority may, by notification, appoint public analysts or confer powers of public analysts to Government officers for such areas as it may assign to them.

(2) The Public Analyst shall possess such qualifications as may be Prescribed.

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

12. Food Safety Officer.— (1) The Food Authority may, by notification, appoint Food Safety Officers or confer powers of food safety officers to Government servants for such areas as it may assign to them.

(2) A Food Safety Officer shall possess such qualifications as may be Prescribed.

13. Powers of Food Safety Officer.— (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) 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) impose fine on a Food Operator if the Authority has delegated such power to him;

- (e) open and examine any Package which, he believes, to contain any food;
 - (f) examine any book or documents with respect to any food and make copies of or take extracts from the book or document;
 - (g) demand the production of the identity card, the business registration certificate, Licence or any other relevant document from a Food Operator;
 - (h) mark, seal or otherwise secure, weigh, count or measure any food or appliance; and
 - (i) 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 back anything seized under sub-section (1) may, within seven days of the seizure, apply to the Court and the Court may confirm such seizure, wholly or in part, or may order that it be restored to the claimant.
- (4) If the Court confirms the seizure of the Food, apparatus or utensil, it shall be forfeited to the Food 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 seven days under sub-section (3), the Food, apparatus or utensil seized, shall be forfeited to the Food Authority.
- (6) Any person may make an application in writing to the Food Safety Officer asking him to purchase a sample of any food from a Food Operator and get it analyzed from the Public Analyst.

14. **Other employees of the Food Authority.**– (1) The Food Authority may, with the concurrence of Finance Department and approval of the Government, determine the number, categories and rank of other employees of the Food Authority.
- (2) The Food Authority may determine terms and conditions of its employees, as may be Prescribed.

CHAPTER-III

ENFORCEMENT MECHANISM

15. **Licensing of Food Business.**–(1) A person shall not use any place for Food Business except under the Prescribed registration or Licence.
- (2) The Food Authority may, in the Prescribed manner, exempt a class of food operators from obtaining compulsory registration or Licence under this Section.

16. **Improvement notice.**—(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,—
- (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 Food Authority may cancel or suspended his Licence or take such other action as it deems appropriate.
17. **Prohibition orders.**— 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.
18. **Emergency prohibition orders.**—(1) If the Food Safety Officer is satisfied that the health risk condition exists with respect to any food business, he may, after serving a notice on the 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 subsection (1), report such action to the Food Authority which may, after serving a notice on the Food Operator and for reasons to be recorded in writing, confirm, modify or set aside the order of the Food Safety Officer.
19. **Notification of food poisoning.**—The Food 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 Food Authority.
20. **Food recall procedures.**—(1) If the Director has reasons to believe that some food is not in compliance with this Act, the rule or the regulation, he may, after recording reasons, order immediate 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 Food Authority.

(3) The Food Authority may, on its own accord or on the application of an aggrieved person, set-aside or modify an order made under sub-section (1).

21. Establishment of food laboratories.—(1) The Food Authority may establish a Food Laboratory for purposes of carrying out analysis of samples of any food or food related equipments or utensils.

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

CHAPTER-IV

OFFENCES AND PENALTIES

22. Selling food against the law.— (1) 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 but which shall not be less than one month and fine which may extend to one million rupees but which shall not be less than one hundred thousand rupees.

(2) Nothing contained in sub-section (1) shall apply to a person who sells or offers for sale non-processed food which is not fit for human consumption by way of Natural Decomposition and the Authority may take any of the actions against the person under clauses (c), (d), (e) or (f) of sub-section (1) of Section 40.

23. Offence by large scale manufacturers.— Notwithstanding anything contained in Section 24, if a Food Operator or manufactures, keeps, transports, imports or exports Adulterated Food for large scale use or consumption in quantities equal to or in excess of the quantities mentioned in the Schedule appended to this Act, he shall be liable to imprisonment for a term which may extend to five years but which shall not be less than six months and fine which may extend to two million rupees but which shall not be less than five hundred thousand rupees.

24. Substandard or misbranded food.— 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 but which shall not be less than one month and fine which may extend to one million rupees but which shall not be less than one hundred thousand rupees.

25. **Unsafe food.**– 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 but which shall not be less than one month and fine which may extend to one million rupees but which shall not be less than one hundred thousand rupees; or
 - (b) where such Unsafe Food results in injury to any person, to imprisonment for a term which may extend to three years but which shall not be less than three months and fine which may extend to one million rupees but which shall not be less than one hundred thousand rupees; or
 - (c) where such Unsafe Food results in death of a person, to imprisonment for a term which may extend to imprisonment for life but which shall not be less than ten years and fine which may extend to three million rupees but which shall not be less than two million rupees.
26. **False advertisement.**– (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 one year but which shall not be less than six months and fine which may extend to two million rupees but which shall not be less than one million rupees.
- (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 one year but which shall not be less than six months and fine which may extend to two million rupees but which shall not be less than one million rupees.
27. **False labeling.**– (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 one year but which shall not be less than six months and fine which may extend to one million rupees but which shall not be less than five hundred thousand rupees.

- (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 one year but which shall not be less than six months and fine which may extend to one million rupees but which shall not be less than five hundred thousand rupees.
28. **Failure to comply with the directions.**— If any person, without reasonable cause, fails to comply with any order or notice issued by the Food Authority or a Food Safety Officer, he shall be liable to imprisonment for a term which may extend to three months and fine which may extend to five hundred thousand rupees.
29. **Unhygienic or unsanitary conditions.**— 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 but which shall not be less than three days and fine which may extend to one million rupees but which shall not be less than twenty thousand rupees.
30. **Penalty for Prescribed offences.**— If a person, who commits an offence Prescribed under the rules, for which no penalty has been provided in this Act, shall be liable to imprisonment for a term which may extend to three months and fine which may extend to five hundred thousand rupees.
31. **False information.**— If a person makes a false or misleading statement, provides false or misleading information or produces any false or misleading document before the Food 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.
32. **Obstructing the Food Safety Officer.**— (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 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 or fine which may extend to five hundred thousand rupees.
33. **Business without licence.**— If a Food Operator manufactures, sells, offers for sale, stores or distributes or imports any food without the Prescribed registration or Licence, he shall be liable to imprisonment for a term which may extend to one year but which shall not be

less than three days and fine which may extend to five hundred thousand rupees but which shall not be less than ten thousand rupees.

- 34. Warranty**– (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 the regulations.
- (2) Any person, who contravenes the provisions of sub-section (1), shall be liable to imprisonment for a term which may extend to six months and fine which may extend to one million rupees.
- (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 and fine which may extend to five hundred thousand rupees.
- 35. Punishment for subsequent offence**– (1) If any person, after having been previously convicted of an offence under this Act, commits any offence under this Act, he shall be liable to,—
- (a) twice the punishment of imprisonment and fine, which is provided for the offence under this Act; and
- (b) a further fine which may extend to two hundred thousand rupees.
- (2) The Licence of a Food Operator mentioned in sub-section (1) shall be cancelled.
- 36. Compensation in case of injury or death of a Consumer**– (1) In case of injury or death of a Consumer due to unsafe food, the Court, in addition to any other penalty under this Act, shall direct the Food Operator 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 death; and
- (b) not exceeding five hundred thousand rupees in case of injury.
- (2) If the Food Operator fails to pay the compensation under this Section, the Food Authority shall recover the compensation as arrears of land revenue and make payment of the recovered amount to the Consumer or, as the case may be, the legal heirs of the Consumer.
- 37. Forfeiture of food, etc.**– 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 Food Authority.
- 38. Offences by companies**– (1) Where an offence under this Act has been committed by a Company, every person, who at the time of the commission of the offence, was in charge

of the Company shall be liable to punishment for the offence and the Company shall also be liable to the punishment of fine or compensation specified for the offence.

(2) Notwithstanding anything contained in sub-section (1), where it is proved that the offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the Company, such director, manager, secretary or other officer shall also be liable to punishment for the offence.

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

39. **Publication in newspapers.**— If a person is convicted of an offence and the conviction has attained finality, the Food Authority shall, if so directed by the Court, 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 and the convict shall be liable to pay the cost of such publication.

CHAPTER-V

JURISDICTION AND PROCEDURE

40. **Jurisdiction of the Food Authority.**— (1) On information received from any source, the Food Authority may, for reasons to be recorded in writing,—
- (a) register information of an offence under this Act;
 - (b) submit complaint of an offence before the Court;
 - (c) suspend or cancel the Licence of the food operator;
 - (d) impose fine on the Food Operator which may extend to one million rupees;
 - (e) direct destruction of an adulterated or Unsafe Food in the prescribed manner; or
 - (f) decide, if the circumstances so warrant, not to take any action.
- (2) If the Food 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 the Government may specify by notification in the Official Gazette.
- (3) The Food 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.

41. **Jurisdiction of the Court.**– An offence punishable under this Act shall be tried by a Magistrate of First Class.
42. **Cognizance and investigation.**– (1) An offence under this Act shall be cognizable on information provided to the officer incharge of a police station by an officer authorized by the Food Authority or the Food Authority may, through public prosecutor, file complaint of an offence before the Court.
- (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.
- (3) The Government shall, by notification, constitute standing investigation team for an area consisting of a police officer and a Food Safety Officer to investigate an offence under this Act and, through public prosecutor, to submit report in the Court under the Code.
- (4) The offences under Section 23 and clauses (b) and (c) of Section 25 of this Act shall be non-bailable.
43. **Time limit for prosecutions.**– The prosecution for an offence under this Act shall not be allowed after the expiry of three years from the date of the commission of the offence or one year from its discovery by the complainant, whichever is the earlier.
44. **Summary trial.**– (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.
- (2) The Court shall conduct the summary trial of an offence under this 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).
45. **Defence available.**– In any proceedings for an offence under this Act, the exercise of due care and caution shall be valid defence if it is proved that the person took all reasonable precautions and exercised due diligence to prevent the commission of the offence.
46. **Recovery of fines etc.**– (1) The Food 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 West Pakistan Land Revenue Act, 1967 as adopted and enforced in Azad Jammu and Kashmir.

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

47. Appeal against conviction.– (1) The Authority or the person sentenced by Court may, within thirty days from the date of communication of the order, file an appeal against a final order of the Court to District and Sessions Judge.

(2) Save as provided in this Act or rules, no court shall take cognizance or revise a sentence, or transfer any case from a Court, or make order under Sections 426, 491 or 498 of the Code or have jurisdiction of any kind in respect of any proceedings of the Court.

48. Transfer of cases.– The High Court of Azad Jammu and Kashmir may transfer a case from one Court to any other court.

CHAPTER-VI

FINANCES AND REPORTS

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

(2) The Food Authority Fund shall consist of,–

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

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

(4) It shall be the duty of the Food Authority to conserve the Food Authority Fund while performing its functions and exercising its powers under this Act.

50. Bank accounts.– The Food Authority may open and maintain its accounts at such scheduled banks as may be Prescribed, and until so Prescribed, as the Government may determine.

51. Budget and accounts.– (1) The Food 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 Food Authority, in the manner Prescribed, shall cause to be prepared for the financial year statements of account of the Food Authority which shall include a balance-sheet and an account of income and expenditures.

(3) The Food Authority shall approve its annual budget for a financial year in the Prescribed manner.

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

52. Audit.– (1) The Auditor General of Azad Jammu and Kashmir shall annually audit the accounts of the Food Authority.

(2) The Government, in addition to the audit under sub-section (1), may cause the accounts of the Food 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 Food Authority, and the Food Authority, under intimation to the Government, shall take appropriate remedial or other action in the light of the audit report.

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

(2) The report shall consist of,–

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

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

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

(3) The Government shall, within two months of receiving the report from the Food Authority, give notice for laying the report in the Legislative Assembly of Azad Jammu and Kashmir, and shall lay the report in the first available session of the Assembly.

54. Periodical reports.– (1) The Food Authority shall every three months submit to the Government a report about the performance of the Food Authority especially with respect to the protection of public health, provision of safety and standards of Food during the months under report and the steps taken and likely to be taken to achieve the purposes of this Act.

(2) The Government may, after considering the report, issue such directions to the Food Authority as may be necessary for achieving the purposes of this Act and the Authority shall implement the directions.

55. Monitoring and evaluation.—(1) The Government shall, at least once in a year, conduct or cause to be conducted, the performance audit of the Food Authority to assess and evaluate the performance of the Food Authority in accomplishing the objectives of this Act.

(2) The Government shall evaluate the report mentioned in sub-section (1) and shall, on the basis of the report, issue such directions to the Food Authority as may be necessary for accomplishing the objectives of this Act and the Food Authority shall implement the directions.

CHAPTER-VII MISCELLANEOUS

56. Delegation of powers.— The Food 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.

57. Reward by the Food Authority.— The Food Authority may, in the manner as may be Prescribed, make payment of reward from the Food Authority Fund to any person who has made an exceptional effort towards accomplishing the objective of this Act.

58. Public Servants.— The Chairperson, the members and the employees of the Food Authority shall be deemed, when acting in the discharge of their functions under this Act, to be public servants within the meaning of Section 21 of the Azad Penal Code, 1860 (Act XLV of 1860).

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

60. Bar of jurisdiction.— A civil court shall not entertain a suit or an application against any proceedings taken or order made under this Act.

61. **Overriding effect.**– The provisions of this Act shall have effect notwithstanding anything contained in any other law.
62. **Government to make rules.**– The Government may make rules for carrying out the purposes of this Act.
63. **Food Authority to frame regulations.**– (1) Subject to this Act and the rules, the Food Authority may, by notification, frame regulations to give effect to the provisions of this Act.
- (2) Without prejudice to the generality of sub-section (1), the regulations may provide for,-
- (a) procedure for transaction of business of the Food Authority;
 - (b) terms and conditions of service of the employees of the Food 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 etc., in the Food;
 - (f) marking, packaging, labelling, 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;
 - (k) search of a premises, vehicle or person and guidelines for taking and handling samples of any food;
 - (l) prosecutions and appeals under this Act; and
 - (m) finances, accounts, budget and reporting procedures.
64. **Repeal and savings.**– (1) The West Pakistan Pure Food Ordinance, 1960, as adopted in Azad Jammu and Kashmir is hereby repealed.
- (2) 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 this Act and shall continue to be in force until expired, cancelled or withdrawn.
- (3) The standards, safety requirements and other provisions of the repealed Ordinance or the rules made thereunder, shall, to the extent of consistency with this Act, continue to remain in force till the standards, safety requirements are Prescribed under this Act.

65. **Power to remove difficulties.**— The Government may, by notification, make such provisions not inconsistent with this Act, as may appear necessary for removing any difficulty or giving effect to the provisions of this Act.

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(Mehr-un-Nisa Qadri)
Section Officer (Legislation)

SCHEDULE

(Section 23)

Sr#	Article of Food	Quantity
1	Milk	500 litre
2	Desi Ghee, Butter	1000 kg
3	Khoya	1000 kg
4	Edible oils & fats	1000 litre
5	Tea	250 kg
6	Atta, Maida, Suji, Basin	1000 kg
7	Sugar, Honey, <i>Gur</i> , <i>Shakar</i> or other sweeteners	1000 kg
8	Prepared food	100 kg
9	Ketchup, Sauces & Pickles	250 kg
10	Aerated Carbonated water	1000 litre
11	Spices	250 kg
12	Cereal & Cereal Product(other than Atta)	500 kg
13	Snack Products	500 kg
14	Confectionary	250 kg
15	Ice Cream, Kulfi, cream, condensed milk, cheese, Yogurt	250 kg
16	Baby Foods	100 kg
17	Milk Powders	500 kg
18	Syrup, sherbets, Fruit and Vegetable concentrates	500 litre
19	Water	500 litre
20	Vegetables & Fruits	200 kg
21	Meat & Poultry	200 kg
22	Meat & Poultry (If Section 2(a)(i) is attracted)	20 kg
23	Foods not specified.	250 kg

