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GOVERNMENT OF THE PUNJAB LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT

NOTIFICATION

12th August 2015

No.Legis:13-38/2010 (P-II): The following Ordinance promulgated by Governor of the Punjab is hereby published for general information:

THE PUNJAB FOOD AUTHORITY (AMENDMENT) ORDINANCE 2015

(XXI OF 2015)

AN ORDINANCE

to amend the Punjab Food Authority Act 2011.

It is necessary to amend the Punjab Food Authority Act 2011 (*XVI of 2011*) for purposes of categorization of food business premises, enhancing punishments and for other purposes;

Provincial Assembly of the Punjab is not in session and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action;

In exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

1. Short title and commencement.— (1) This Ordinance may be cited as the Punjab Food Authority (Amendment) Ordinance 2015.

(1) It shall come into force at once.

2. Amendment in section 2 of Act XVI of 2011.— In the Punjab Food Authority Act 2011 (XVI of 2011), for brevity cited as the said Act, in section 2:

(a) after clause (c), the following clause (ca) shall be inserted:

"(ca) "Code" means the Code of Criminal Procedure, 1898 (V of 1898);" and

(b) after clause (r), the following clause (ra) shall be inserted:

"(ra) "natural decomposition" means loss of freshness, taste, fragrance or any active ingredient which is dependent on climate or weather;"

3. Insertion of section 8A in Act XVI of 2011.— In the said Act, after section 8, the following section 8A shall be inserted:

"8A. 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 subsection (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 39 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 subsection (2) of section 39.

(4) The Food Authority may, by any means, create general awareness about categorization of the premises under this section."

4. Amendment in section 13 of Act XVI of 2011.— In the said Act, in section 13, in subsection (1), after clause (c), the following clause (ca) shall be inserted:

"(ca) impose fine on a food operator if the Authority has delegated such power to him;"

5. Amendment in section 22 of Act XVI of 2011.— In the said Act, for section 22, the following shall be substituted:

"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 subsection (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 subsection (1) of section 39."

6. Insertion of section 22A of Act XVI of 2011.— In the said Act, after section 22, the following section 22A shall be inserted:

"22A. Offence by large scale manufacturers.— Notwithstanding anything contained in section 22, if a food operator 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."

7. Amendment in section 23 of Act XVI of 2011.— In the said Act, for section 23, the following shall be substituted:

"23. 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."

8. Amendment in section 24 of Act XVI of 2011.— In the said Act, for section 24, the following shall be substituted:

"24. 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;
- (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."

9. Amendment in section 25 of Act XVI of 2011.— In the said Act, in section 25:

- (a) in subsection (1), for the words "six months and fine which may extend to one million rupees", the words "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" shall be substituted; and
- (b) in subsection (2), for the words "six months and fine which may extend to one million rupees", the words "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" shall be substituted.

10. Amendment in section 26 of Act XVI of 2011.— In the said Act, in section 26:

- (a) in subsection (1), for the words "six months and fine which may extend to one million rupees", the words "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" shall be substituted; and

- (b) in subsection (2), for the words "six months and fine which may extend to one million rupees", the words "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" shall be substituted.

11. Amendment in section 28 of Act XVI of 2011.— In the said Act, for section 28, the following shall be substituted:

"28. 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."

12. Amendment in section 32 of Act XVI of 2011.— In the said Act, for section 32, the following shall be substituted:

"32. 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."

13. Amendment in section 39 of Act XVI of 2011.— In the said Act, in section 39, for subsection (1); the following shall be substituted:

"(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 Special 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."

14. Amendment in section 40 of Act XVI of 2011.— In the said Act, for section 40, the following shall be substituted:

"40. Special Court.— An offence punishable under this Act shall be exclusively triable by the Special Court established by the Government and where it establishes more than one Special Courts, it shall specify the territorial limits within which each Special Court shall exercise jurisdiction under the Act.

(2) A Special Court shall consist of a presiding officer and two technical members.

(3) The Government shall send a panel of two or more persons to the Chief Justice of Lahore High Court and the Chief Justice shall recommend a person in the panel for appointment as the presiding officer of a Special Court.

(4) Subject to subsection (3), the Government may appoint a person as presiding officer of a Special Court who has not less than:

- (a) five years' experience as a Magistrate first class; or
- (b) ten years' experience as a prosecutor, law officer or advocate; or
- (c) ten years' experience in the service of Pakistan and is a law graduate.

(5) The Government shall appoint a person as technical member of a Special Court and determine terms and conditions of service of the presiding officer and technical members in the prescribed manner.

(6) The presiding officer and at least one technical member shall constitute quorum for a sitting of a Special Court.

(7) A decision of a Special Court shall be expressed in terms of the opinion of the majority, or if the case has been decided by the presiding officer and only one of the members and there is a difference of opinion between them, the decision of the Special Court shall be expressed in terms of the opinion of the presiding officer.

(8) If the Special Court is not established or it is not functional in an area, a Magistrate exercising powers under section 30 of the Code for the area shall be deemed to be Special Court under this Act."

15. Amendment in section 41 of Act XVI of 2011.— In the said Act, for section 41, the following shall be substituted:

"41. 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 Special Court.

(2) If the offence causes death of, or injury to, a person, the aggrieved person may also file a complaint in the Special 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 Special Court under the Code.

(4) The offences under section 22A and clauses (b) and (c) of section 24 of this Act shall be non-bailable."

16. Amendment in section 43 of Act XVI of 2011.— In the said Act, for section 43, the following shall be substituted:

"43. Summary trial.—(1) Notwithstanding anything contained in the Code but subject to subsection (2), a Special Court may 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) If a Special Court is of opinion that the nature of the offence does not justify summary trial, it may conduct proceedings in accordance with the provisions of Chapter XX of the Code."

17. Insertion of sections 45A and 45B in Act XVI of 2011.— In the said Act, after section 45, the following sections 45A and 45B shall be inserted:

"45A. Appeal against conviction.— (1) The Authority or the person sentenced by a Special Court may, within thirty days from the date of communication of the order, file an appeal against a final order of the Special Court to Lahore High Court.

(2) Save as provided in this Act or rules, no court shall take cognizance or revise a sentence, or transfer any case from a Special 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 Special Court.

45B. Transfer of cases.— (1) A case regarding any matter within the jurisdiction of a Special Court, pending in any court immediately before the establishment of a Special Court under this Act, shall stand transferred to the Special Court which has jurisdiction to try such case.

(2) The Lahore High Court may transfer a case from one Special Court to another Special Court or from a Special Court to any other court or from any other court to a Special Court."

18. Insertion of sections 50A and 50B in Act XVI of 2011.— In the said Act, after section 50, the following sections 50A and 50B shall be inserted:

"50A. 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 the 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 the Act and the Authority shall implement the directions.

50B. Monitoring and evaluation.— (1) The Government shall, at least once in a year, conduct or cause to be conducted, the performance audit of the 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 subsection (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."

19. Insertion of section 54A in Act XVI of 2011.— In the said Act, after section 54, the following section 54A shall be inserted:

"54A. Bar of jurisdiction.— A civil court shall not entertain a suit or an application against any proceedings taken or order made under the Act."

20. Insertion of Schedule in Act XVI of 2011.— In the said Act, after section 59, the following Schedule shall be inserted:

"SCHEDULE

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, Malda, Suji, Basin	1000 kg
7	Sugar, Honey, Gur, or other sweeteners	1000 kg
8	Prepared food	100 kg
9	Ketchup, Sauces & Pickles	250 kg
10	Aerated Carbonated water	1000 litre
12	Spices	250 kg
13	Cereal & Cereal Product(other than Atta)	500 kg
14	Snack Products	500 kg
15	Confectionary	250 kg

16	Ice Cream, Kulfi, cream, condensed milk, cheese, Yogurt	250 kg
17	Baby Foods	100 kg
18	Milk Powders	500 kg
19	Syrup, sherbets, Fruit and Vegetable concentrates	500 litre
20	Water	500 litre
21	Vegetables & Fruits	200 kg
22	Meat & Poultry	200 kg
23	Meat & Poultry (If section 2(a)(i) is attracted)	20 kg
24	Foods not specified.	250 kg"

(MALIK MUHAMMAD RAFIQUE RAJWANA)
GOVERNOR OF THE PUNJAB

Dated: 10 /08/2015

DR SYED ABUL HASSAN NAJMEE
Secretary
Government of the Punjab
Law and Parliamentary Affairs
Department