

THE PUNJAB HALAL DEVELOPMENT AGENCY ACT 2016

(LVI OF 2016)

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TEXT

¹THE PUNJAB HALAL DEVELOPMENT AGENCY ACT 2016

(LVI of 2016)

[6 December 2016]

An

Act

to establish the Punjab Halal Development Agency to regulate and promote the trade of halal food and non-food products in the Punjab.

It is necessary to establish Punjab Halal Development Agency to promote the trade of halal food and non-food products, to regulate halal processes of trade and commerce in the Province and to ensure the implementation of uniform Halal Standards and directions of the Pakistan Halal Authority; and, to deal with ancillary matters.

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Halal Development Agency Act 2016.

(2) It extends to whole of the Punjab.

(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.– (1) In this Act:

(a) “Act” means the Punjab Halal Development Agency Act 2016;

(b) “Accredited Body” means a body to which Pakistan National Accreditation Council has accorded formal recognition that the body is competent to carry out specified tasks;

(c) “Agency” means the Punjab Halal Development Agency established under section 3 of the Act;

(d) “Authority” means the Pakistan Halal Authority established under the Pakistan Halal Authority Act, 2016 (VIII of 2016);

(e) “article” means any substance, artificial or natural, or partly artificial and partly natural, whether partly or wholly processed, or a manufactured product, and any service or financial product offered to the public;

(f) “Chairperson” means the Chairperson of the Agency;

(g) “Domestic Halal Certificate” means the permit to use Halal logo issued by the Agency;

(h) “food” includes every article manufactured, sold or represented for use as food or drink for human consumption or which enters into or is used in the composition, preparation, preservation of any food or drink and

¹This Act was passed by the Provincial Assembly of the Punjab on 1 December 2016; assented to by the Governor of the Punjab on 5 December 2016; and, was published in the Punjab Gazette (Extraordinary), dated: 6 December 2016, pp.2903-2910.

includes confectionery, chewing substances and any ingredient of such food, drink, confectionery or chewing substances;

- (i) "food premises" means the premises used for, or in connection with, preparation, preservation, packaging, storage, conveyance, distribution or sale of any food or the re-labelling, reprocessing or reconditioning of any food;
- (j) "Government" means Government of the Punjab;
- (k) "halal" means anything which is not *haram* or *najis* and is considered halal by the laws of Islam;
- (l) "Halal Certificate" means the certificate issued by the Agency to the effect that an article or process is in conformity with the Halal Standard pertaining thereto, and authorizing use of the Halal logo in respect thereof;
- (m) "Halal Certification" means the entire process of conformity assessment including audit, inspection, testing, and evaluation to establish that an article or process is in conformity with the Halal Standard, resulting in issue of a Halal Certificate;
- (n) "Inspection Body" means a person or body of persons certified by the Agency to act as Inspection Body under the Act;
- (o) "manufacturer" includes a person or entity who:
 - (i) is in the business of manufacturing food or a product for purposes of trade or commerce within the Province;
 - (ii) labels food or a product as his own or who otherwise presents himself as the manufacturer of the food or product;
 - (iii) as a seller, exercises control over the design, construction or quality of the food or a product that causes damage;
 - (iv) assembles food or a product by incorporating into his product a component or part manufactured by another manufacturer; and
 - (v) is a seller of a food or product of a foreign manufacturer and assumes or administers warranty obligations of the product, or affiliated with the foreign manufacturer by way of partial or complete ownership control, or modifies or prepares a food or a product for sale or distribution;
- (p) "prescribed" means prescribed by the rules or regulations made under the Act;
- (q) "process" means a series of steps for the production, manufacture or development of any article or system;
- (r) "product" has the same meaning as assigned to the word "goods" in the Sale of Goods Act, 1930 (III of 1930), and includes products which have been subsequently incorporated into another product but does not include animals or plants or natural fruits and other raw products, in their natural state, that are derived from animals or plants;
- (s) "Province" means Province of the Punjab;
- (t) "Registrar" means Registrar of the Agency;

- (u) "regulations" mean regulations framed under the Act; and
- (v) "rules" mean rules made under the Act.

(2) A word or expression used in the Act but not defined herein shall have the meaning assigned to it in the Pakistan Halal Authority Act, 2016 (VIII of 2016).

3. Establishment of the Agency.— (1) The Government may, by notification in the official Gazette, establish the Punjab Halal Development Agency for carrying out the purposes of this Act.

(2) The Agency shall be a body corporate having perpetual succession and a common seal, with powers, subject to the provisions of the Act, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

(3) The headquarters of the Agency shall be at Lahore and it may, with the prior approval of the Government, set up offices at such other places as may be required.

(4) The Agency shall consist of the Chairperson to be nominated by the Government and the following members:

- (a) Secretary to the Government, Auqaf and Religious Affairs Department;
- (b) Secretary to the Government, Industries, Commerce and Investment Department;
- (c) Secretary to the Government, Livestock and Dairy Development Department;
- (d) Secretary to the Government, Agriculture Department;
- (e) Secretary to the Government, Food Department;
- (f) six eminent citizens who have expertise in the field of food technology and nutrition sciences, pharmaceuticals, religious affairs or poultry and livestock industry to be nominated by the Government; and
- (g) Registrar (member/Secretary).

(5) The Chairperson shall preside the meetings of the Agency; but, in the absence of the Chairperson, the members present at a meeting shall elect one of the members to preside that meeting.

(6) No act or proceeding of the Agency shall be invalid merely on the ground of existence of any vacancy or defect in the constitution of the Agency.

4. Terms of office of members.— (1) A member, other than an *ex-officio* member, shall hold office for a period of three years from the date of assuming office.

(2) A member other than an *ex-officio* member may, at any time, resign his office by writing under his hand addressed to the Government.

5. Removal of members.— The Government may, after affording an opportunity of hearing, remove 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 a member; or
- (d) has abused his position as a member and rendered his continuance in the office prejudicial to the public interest.

6. Functions of the Agency.— (1) The Agency shall generally assist the Authority in the performance of its functions.

(2) Without prejudice to the generality of the foregoing powers and subject to the provisions of this Act, the Agency shall:

- (a) maintain a continuing working relationship and coordinate with the Authority, international forums, entities and organizations to promote halal concept and certification;
- (b) develop procedure and auditing system for implementation of Halal Standards and certification;
- (c) issue domestic halal certificate, certifying that the products listed are Halal;
- (d) issue Halal Licence certifying that the plant, production facility, food premises, slaughterhouse or abattoir, or the establishment handling food has been approved to produce, distribute or market halal food and the items listed therein;
- (e) implement the certification process and procedure for the appointment of Inspection Bodies;
- (f) grant and revoke licence of certified Inspection Bodies and maintain list of such bodies;
- (g) maintain a register of all approved bodies to be called the Provincial Register of the Halal approved bodies;
- (h) authorize use of the halal logo by the halal certificate holders;
- (i) recommend the Authority to suspend or revoke the halal certificate issued by the Authority for export or import or inter-provincial commerce;
- (j) develop the capacity of all stakeholders for development of the Halal products and certification system through national and international coordination and support;
- (k) arrange and conduct public awareness campaign for promotion of halal sector; and
- (l) perform such other functions as may be assigned by the Government.

7. Registrar.— (1) There shall be a Registrar of the Agency who shall be the chief executive of the Agency and who shall be appointed by the Government on such terms and conditions as are prescribed and until so prescribed as the Government may determine.

(2) The Registrar shall discharge such duties and perform such functions as are assigned to him by the Agency or Government.

8. Domestic Halal Certificate.— (1) A person or body may apply for:

- (a) Domestic Halal Certificate for its product;

- (b) Halal Licence for plant production facility or abattoir; and
- (c) permission to use the Halal logo.

(2) An application for obtaining Domestic Halal Certificate shall be made to the Agency in such form and be accompanied by such fee and shall contain such information as may be prescribed.

(3) The Agency shall evaluate the application in accordance with the prescribed criteria and shall assign it to its Auditor and Shariah Department or to a Licensed Certified Inspection Body to audit the product or process or plant production facility or abattoir of the applicant as the case may be and shall submit audit report within the prescribed time.

(4) On receipt of the report, the Agency may issue the Domestic Halal Certificate or Halal Licence subject to such conditions as may be prescribed and until so prescribed as the Agency may deem appropriate.

(5) The Domestic Halal Certificate or Halal Licence shall be valid for one year and may be renewed by the Agency in the prescribed manner.

(6) An application for renewal of the Certificate shall be submitted to the Agency, at least, three months prior to the date of expiry of the Certificate or Halal Licence.

(7) The body or person in whose name the Domestic Halal Certificate or Halal Licence is registered shall keep the record of the business as mentioned in the Act or as prescribed and shall make such record available to any official authorised by the Agency or the Authority for purposes of implementation of the provisions of this Act or the Pakistan Halal Authority Act 2016(VIII of 2016).

(8) If at any time, after issuance of the Domestic Halal Certificate or Halal Licence, the Agency is satisfied, either on a reference made to it in this behalf by any person or otherwise, that:

- (a) the Halal business is not being conducted in accordance with the provisions of the Act; or
- (b) the licence granted by it has been obtained by misrepresentation or suppression of material facts; or
- (c) there is an adverse material change in the conditions in which the halal products are being processed, manufactured or made,

the Agency may order special inspection by the Inspector or by the Certified Inspection Body who shall submit the inspection report and the Agency may, after giving due notice and after affording an opportunity of hearing may cancel or suspend the licence for such period as it may determine.

(9) The Agency shall have the power to suspend the Domestic Halal Certificate or Halal Licence where the circumstances so warrant after obtaining special report and providing an opportunity of hearing to the holder of Domestic Halal Certificate or Halal Licence.

9. Certification of Inspection Bodies.— (1) A person or body may apply for a licence to act as Certified Inspection Body by submitting an application and on payment of fee as may be prescribed by the Agency.

(2) The Agency shall maintain a list of the Inspection Bodies in the prescribed manner.

(3) If, at any time, after issuance of the licence to act as an Inspection Body, the Agency is satisfied either on a reference made to it in this behalf or otherwise, that:

- (a) the licence granted by it has been obtained by misrepresentation or suppression of material facts; or
- (b) there is an adverse material change in the conditions in which the licence to act as Inspection Body was granted,

the Agency may, after giving due notice and after affording an opportunity of hearing, cancel or suspend the licence, as the case may be, for the period it may deem appropriate.

10. Inspectors.— (1) The Agency may appoint Inspectors, having the prescribed qualifications, for the purpose of enforcement of this Act or rules or regulations made thereunder.

(2) Subject to the Act and rules or regulations, an Inspector shall have powers to:

- (a) inspect any operation carried on in connection with any article or product or action or process in relation to Halal Certification;
- (b) take samples of any article, or of any material or substance used in any article or process, in relation to which Halal logo has been used;
- (c) seize and detain for such time as may be necessary, any article to which he believes any provision of the Act has been contravened; and
- (d) stop, search or seize any transport vehicle in which he believes on reasonable ground that any article is being transported which does not conform to Halal Standards and certification.

(3) Every Inspector, at the time of inspection, must hold the identification card which shall be produced on demand.

(4) A person who obstructs or impedes the performance of duties by an Inspector or an officer authorized by the Agency shall be guilty of an offence punishable under section 17 of the Act.

(5) An article seized under subsection (2) may be kept or stored in the premises where it is seized or may be removed to any other place or appropriately disposed of in case of its perishable nature, or as an Inspector may deem appropriate.

(6) The Inspector shall release any article seized by him under subsection (2) if he is satisfied that all the requirements of the Act stand complied with.

(7) Any person who removes, alters, or interferes in any way with an article seized by an Inspector shall be guilty of an offence punishable under section 17 of the Act.

(8) A person who knowingly makes any false or misleading statement either verbally or in writing to the Agency or an Inspection Body or Inspector, engaged in carrying out duties under the Act, shall be guilty of an offence punishable under section 17 of the Act.

11. Authentication of orders and other instruments of the Agency.— All orders, decisions, instruments and notifications issued by the Agency shall be

authenticated with signatures of an officer or officers authorized by the Agency in this behalf.

12. Power to obtain information.— Every holder of a Halal Certificate or Halal Licence shall provide to the Agency such information and such samples of an article or material or substance used in relation to any article or process as the Agency may require.

13. Duty of disclosure.— Every manufacturer of an article, food or a product shall, on the wrapper, bottle or container containing such article, food or product, disclose its components, parts, ingredients, quality, date of manufacture, date of expiry and the fact that the article, food or product is halal.

14. Prohibition of improper use of Halal logo.— No person shall use, in relation to any article, product or process or in the title of any patent or in any trademark or design, the Halal logo except under the terms of a Domestic Halal Certificate or Halal Licence issued under this Act.

15. Prohibition of use of certain name, mark or logo.— No person shall, without the previous permission of the Agency, and subject to such conditions as the Agency may impose, use, in any manner whatsoever, any name, mark or logo which resembles the name, mark or logo of the Agency or contains an expression or any abbreviation of such expression relating to Halal Standards recognized by the Agency.

16. Marketing of Halal products.— No food or non-food product shall be marketed or offered for sale with the description or representation of being a halal article or product within the Province unless it bears the Halal logo of the Agency.

17. Penalty.— (1) A person who contravenes the provisions of the sections 13, 14, 15 and 16 of this Act shall be punished with imprisonment of either description for a term which may extend to three years, or with a fine which may extend to one million rupees but which shall not be less than one hundred thousand rupees, or with both.

(2) A person who contravenes any of the provisions of this Act, or any rule made or notification issued thereunder shall, if no other penalty elsewhere is provided under the Act or any other law for the time being in force, be punished with imprisonment of either description for a term which may extend to one year, or with a fine up to five hundred thousand rupees but which shall not be less than fifty thousand rupees, or with both.

(3) A court convicting a person under subsection (1) may direct that the articles, in respect of which the contravention is made, be forfeited to the Government.

18. Cognizance of offence.— (1) No court shall take cognizance of an offence under this Act except on a complaint by an officer authorized by the Agency.

(2) No court inferior to that of Magistrate of the First Class shall try an offence punishable under the Act.

19. Appeals.— A person aggrieved by an order of the Agency may prefer an appeal to the Government within thirty days of the date of such order in the prescribed manner.

20. Appointment of officers, staff, etc.— (1) The Agency may, from time to time, create posts and appoint such officers, staff, experts or consultants as it may consider necessary for the performance of its functions, on such terms and conditions as may be prescribed but the appointment in basic pay scale 18 or above shall be made with the previous approval of the Government.

(2) The officers of the Agency shall have such powers and shall perform such functions as may be assigned to them by the Agency, Chairperson or Registrar.

21. Members and officers etc. to be public servants.— The Registrar, members, officers, staff, experts and consultants of the Agency shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

22. Delegation of powers.— The Agency may, by a general or special order and subject to such conditions as it may deem appropriate, delegate to a member or an officer any of its powers or functions under this Act.

23. Fund.— (1) The Agency shall create a Fund to be known as the Punjab Halal Development Agency Fund.

(2) The Fund shall vest in, and be utilized by, the Agency to meet its expenses in connection with the performance of functions under this Act.

(3) The Fund shall consist of the following:

(a) grants made by the Federal Government or the Government;

(b) loans, aid, donations and contributions received from foreign governments, national or international agencies and non-governmental and private organizations, with the approval of the Government; and

(c) fees and other income received by the Agency.

(4) All sums payable to the Agency may be recovered as arrears of land revenue under the Punjab Land Revenue Act, 1967 (XVII of 1967).

24. Budget.— The Agency shall, in respect of each financial year, submit for approval of Government, by such date as may be prescribed, a statement of the estimated receipts and expenditure, including requirements of foreign exchange for the next financial year.

25. Audit and accounts.— (1) The Agency shall maintain its accounts in such manner as may be prescribed and until so prescribed as is applicable to a Government department.

(2) The accounts of the Agency shall be audited every year by the Auditor General of Pakistan.

26. Directions by the Government.— The Government may issue such directions to the Agency as may be necessary to accomplish the objectives of the Agency and the Agency shall comply with such directions.

27. Protection of actions taken in good faith.— No suit, prosecution or other legal proceeding shall lie against the Government or the Agency or any person acting under authority of the Government or the Agency for anything which is in good faith done or intended to be done in pursuance of this Act or the rules or the regulations made thereunder.

28. Reports.— (1) As soon as may be after the end of every financial year but before the last day of September, the Agency shall submit to the Government, a report on the conduct of its affairs and its future plans.

(2) The Government may, after giving sufficient notice, require the Agency to furnish any report, document, return, statement, estimate, statistics, or other information regarding any matter or subject concerning the Agency.

29. Power to make rules.— The Government may, by notification in the official Gazette, make rules for carrying out purposes of this Act.

30. Power to frame regulations.— Subject to this Act and the rules, the Agency may frame regulations to give effect to the provisions of the Act.

31. Power to exempt.— The Government may, by notification in the official Gazette, exempt any article or class of articles from operation of all or any of the provisions of this Act.

32. Saving.— The provisions of the Act shall be in addition to and not in derogation of the Pakistan Halal Authority Act, 2016 (VIII of 2016).