

REGISTERED No. M - 302
L.-7646

The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, MAY 23, 2011

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF GILGIT-BALTISTAN

GILGIT-BALTISTAN SECRETARIAT

(Law and Prosecution Department)

Gilgit, the 5th April, 2011

THE GILGIT-BALTISTAN PURE FOOD ACT, 2011

(ACT No. III OF 2011)

AN
ACT

to regulate provision of pure food in Gilgit-Baltistan.

No. Secy-Law (Legis)-1/2008.—WHEREAS it is expedient to regulate by law the preparation and sale of Pure Food in the Gilgit-Baltistan.

It is hereby enacted as follows:—

(187)

Price : Rs. 20.50

[447(2011)/Ex. Gaz.]

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement.—

- (i) This Act shall be called the Gilgit-Baltistan Pure Food Act, 2011.
- (ii) It shall extend to the whole of Gilgit-Baltistan.
- (iii) It shall come into force at once.

2. **Definition.**— In this Act unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say.—

(1) “Adulterated food” means an article of food—

- (i) which is not of the nature, substance or quality which purports or is represented to be; or
- (ii) which contains any such extraneous substance as may affect adversely the nature, substance or quality thereof, or
- (iii) which is processed, mixed, coloured, powdered or created with any other substance in contravention of the rules; 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 ingredient which may render it injurious to health; or
- (vi) the quality or purity of which does not conform to the prescribed standards; or
- (vii) which having been prepared, packed or kept under in-sanitary conditions, have been contaminated or become injurious to health;

2. “Banaspati” means such article of food resembling ghee as it is prepared by hydrogenation of edible vegetable oil and contains no milk or animal fat;

3. “Charbi” means an article of food which resembles ghee or banaspati, but contains animal fat other than milk fat;

4. "Chemical Examiner" means—

- (i) The Chemical Examiner to Government; and
 - (ii) Any other officer appointed by government to be Chemical Examiner for the purpose of this Act;
- (6) "Cream" means the portion of the milk of cow or buffalo which is rich in fat and rises to the surface of milk on standing, or which has been separated by skimming or otherwise;
- (7) "Dahi" means the product obtained by lactic acid fermentation of milk;
- (8) "Director" means the Director Health Services, of Gilgit-Baltistan;
- (9) "Food" means any article used as food or drink for human consumption other than drugs, and includes.—
- (i) any substance which is intended for use in the composition or preparation of food;
 - (ii) any flavoring matter or condiment;
 - (iii) any colouring matter intended for use in food;
 - (iv) chewing gum and other products of the like nature; and
 - (v) water in any form, including ice, intended for human consumption or for use in the composition or preparation of food.

Explanation-I.— An article shall not cease to be food by reason only that it is also capable of being used as medicine.

Explanation-II.— Iodized salt shall for the purpose of this Act be considered as food either consumed one or as an ingredient in other foods.

- (10) "Ghee" means ghee prepared exclusively from butter;
- (11) "Government" means the Gilgit-Baltistan Government.
- (12) "Godown" means a place where articles of food are received or stored for sale or delivery to a customer or consignee;

- (13) "Health Officer" means the District Health Officer or the Assistant District Health Officer, and includes a Medical Officer of Health, an Assistant Medical Officer of Health of a Local Authority, and any other person appointed by government to be Health Officer for the purpose of this Act;
- (14) "Inspector" means an Inspector appointed under this Act;
- (15) Iodized salt means edible common salt (namak) to which potassium iodine has been added, for the purpose of fortifying or enriching it as a means of preventing lodging deficiency and disorder, in the manner and quantity as may be prescribed.
- (16) "Local Authority" means.—
- (i) a Municipal Committee or Town Committee constituted under the Gilgit-Baltistan Local Government Order, 1979;
 - (ii) a Local Council constituted under the Gilgit-Baltistan Local Government Order 1979;
 - (iii) an authority declared by Government, by notification in the official Gazette, to be a Local Authority for the purpose of this Act;
- (17) "Margarine" means any food, whether mixed with butter or not, which resembles butter and is not milk-blended butter;
- (18) "Milk" means the normal, clean and pure secretion obtained from the udder of a healthy cow, buffalo, goat or sheep, whether boiled, pasteurized, homogenized or sterilized, and includes standardized and toned milk;
- (19) "Misbranded food" means an article of food.—
- (i) which is an imitation of or substitute for or resembles, in a manner likely to deceive, another article of food and is sold or is intended to be sold under the name, under which such other article is sold, or is not correctly labeled to indicate its true character; or
 - (ii) which is so coloured, flavoured, coated, powdered or published as to conceal the true nature thereof; or

- (iii) which is contained in any package or label or which bears any statement, design or device regarding the ingredients or the substance contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents; or
 - (iv) which is not properly packed and labelled in accordance with the rules.
- (20) "Occupier" means the person who has control of the affairs of a factory, shop or godown and includes the manager or managing agent or any other person authorized to represent the occupier;
- (21) "Package" includes every article in which goods for carriage or for sale are cased, covered, enclosed, contained or packed;
- (22) "Pre-packed" means packed or made up in advance ready for retail sale in a wrapper or container;
- (23) "Prescribed" means prescribed by rules;
- (24) "Public Analyst" means Public Analyst appointed under this Act;
- (25) "Retail sale" means any sale to a person buying otherwise than for the purpose of re-sale;
- (26) "Rules" means rules made under this Act;
- (27) "Sale" in relation to food, means a transfer of ownership either by way of barter or in exchange for a price paid or promised or part paid and
- (28) "Standardized milk" means milk which has been reduced to the prescribed level of milk fat by removal of fat;
- (29) "Toned milk" means milk which has been standardized to the prescribed level of milk fat and solids by addition or reconstituted milk solids;
- (30) "Transit" includes all stages of transportation from the place of manufacture or other source of origin to the consumer; and
- (32) "Wholesale" means any sale other than retail sale.

CHAPTER -II

GENERAL PROVISIONS

3. **False warranty.**— No person shall in respect of any food sold by him or given by him for sale to an agent to give to the purchaser or his agent a false warranty in writing.

4. **Prohibition of mixing and selling mixed food.**— (1) No person shall mix, colour, stain or powder or direct or permit any other person to mix, colour, stain, or powder any food with any matter or ingredient—

(a) In contravention of the prescribed rules; or

(b) so as to render the food injurious to health with intent that the same may be sold in that state.

(2) No person shall sell, offer, keep or store any goods so mixed, coloured, stained or powdered.

5. **Prohibition of sale, preparation, manufacture, import or export of unwholesome food intended for human consumption.**— No person shall, directly or indirectly, himself or by any other person.—

Prepare, manufacture, keep or store for sale, or sell or offer to sell, any food which is unsound, unwholesome, injurious to health or unfit for human consumption; or

Import or export any food in such manner or in such condition as renders it or is likely to render it injurious to health.

6. **Prohibition of sale or manufacture for sale of food which is adulterated or misbranded or not of the nature, substance or quality demanded.**— (1) No person shall, directly, or indirectly himself or by any other person, prepare, manufacture, keep or store for sale, or sell, or offer to sell any food.—

(a) which is adulterated;

(b) which is misbranded;

(c) which is not of the nature, substance or quality demanded, or which it purports or is represented to be;

(d) for the sale of which a license is required otherwise than in accordance with the condition of the license;

(e) in contravention of any other provision of this Act or the rules.

(2) No person shall directly or indirectly, himself or by any other person, manufacture, sell, offer to sell, keep or store for sale any goods notified in this behalf by Government, unless it is coloured in the manner prescribed.

(3) Government may, by notification in the official Gazette, prohibit or regulate the keeping, in any factory or wholesale business premises in which such articles of food as are specified in the notification are manufactured or stored or any substances likely to be used as adulterants as so specified.

7. **Sale of pre-packed food.**— No person shall keep or store for sale or offer to sell, any pre-packed food unless he has complied with the rules made in this behalf.

8. **Prohibition of sale of food without complying with rules.**— No person shall import, export, prepare, manufacture, keep or store for sale or sell any food unless the rules providing for the mode of its manufacture, processing or preparation, packing, labelling, consignment, delivery standard of quality or bill of containers have been complied with.

9. **Sale of margarine, banaspati and charbi.**— (1) Banaspati, charbi and margarine unless every package containing any such substance is durably marked or labelled in such manner as may be prescribed.

(2) No person shall sell, whether wholesale or retail, or transport by way of trade any banaspati, charbi or margarine unless every package containing any such substance is durably marked or labelled in such manner as may be prescribed.

10. **Banaspati, margarine or 'charbi' not to be sold loose.**— (1) No person shall sell banaspati, margarine charbi loose or from an open package—

Provided that banaspati may be so sold under a license and subject to such conditions as may be prescribed in this behalf.

11. **License for manufacture, storage and sale of goods.**— (1) No place shall be used.—

(a) for the preparation, or the manufacturing, processing, blending, preserving, refrigerating, canning or bottling of any food;

(b) for the business of a wholesale dealer in banaspati, charbi, ghee, margarine, fish oil, mustard oil, cottonseed oil or other edible oils and such food as may be prescribed;

(c) as a creamery, dairy or bakery;

(d) as a hotel, restaurant or eating house;

Except under a license to be granted in such manner and by such authority as may be prescribed;

Provided that Government may exempt any specified premises or class of premises from the operation of this section.

(2) The license required under this section may be renewed annually on payment of prescribed fees.

(3) The renewal of a license may be refused, or a license may be cancelled by the authority granting the license, if.—

(i) the licensee fails to maintain the register referred to in section 12, or is convicted of an offence under this Act; or

(ii) the premises is not maintained in such condition as may be prescribed.

(4) No person shall keep or store for sale or sell or offer to sell any food for human consumption unless he is in possession of such identification permit as may be prescribed.

12. Register for manufacture and wholesale business.— Every occupier of a place used for the preparation or manufacture for the purposes of trade of any such article of food as Government may, by notification in the official Gazette, specify in this behalf and every wholesale dealer or his agent who stores any such article, shall keep and maintain a register in such form as may be prescribed, and such register shall be open to inspection, by the Inspector.

13. Food poisoning.— (1) If a Health Officer or an Inspector has reason to suspect that any food or any vessel or utensil with which food may come in contact is likely to cause food poisoning (acute, chronic or cumulative) by chemical or bacteriological agents, he may take sample of such food or the vessel or the utensil for analysis under this Act, and if he takes a sample, give notice to the person-in charge of the food that, until the result of the analysis is known, the food or any specified portion thereof shall not be used and shall be kept or removed in the manner specified in the notice.

(2) If a Health Officer has reason to suspect that tuberculosis is likely to be caused by consumption of milk supplied from any dairy or other source, he may,

by notice to the person-in charge of such dairy or source, prohibit the supply of milk from such dairy or source.

(3) If a person is, in the opinion of the Local Authority, suffering from any communicable disease, the Local Authority may, by notice to such person, prohibit him from preparing manufacturing, selling or offering to sell any article of food for human consumption.

(4) A Health Officer may, by notice to any person handling articles of food in any hotel, restaurant, sweetmeat shop, or any other public eating place, require him to obtain and keep in his possession a health certificate from a Health Officer to the effect that he is free from communicable disease, and to get it renewed from year to year, till such time as he continues so to handle such articles.

(5) Every person to whom a notice under this section has been given shall comply with such notice.

(6) Whether practicable, the Health Officer shall instruct the owner of the dairy or other source from which milk is supplied to carry out such remedial measures as considered necessary by him, and if these are complied with to his satisfaction the notice issued under sub-section (2) shall be withdrawn.

Explanation.— Persons debarred under sub-section (3) shall have to produce a certificate as laid down in sub-section (4).

CHAPTER -III

ANALYSIS OF FOOD

14. **Appointment of Public Analyst.**— Government may, by notification appoint Public Analysts for the purposes of this Act, for the whole or any part of the Gilgit-Baltistan for any specified food or generally for all foods.

15. **Local Authorities to enforce the Act.**— It shall be the function of every Local Authority to carry into execution and enforce the provisions of this Act within its jurisdiction with a view that all articles of food and drink are sold in a pure and genuine state.

16. **Appointment of Inspectors.**— (1) Government may appoint Inspectors in respect of all or any specified food, and an Inspector so appointed shall have jurisdiction in such areas as Government may direct :

Provided that Health Officer of Local Authority and such other holders of offices and posts in or under Local Authorities (Including Local Councils) and such

officers in the service of Government, as Government may by Notification in the Official Gazette specify in this behalf shall be *ex-officio* Inspectors in respect of all food within the areas under their respective jurisdiction.

(2) Subject to any rules made in this behalf, a Local Authority shall appoint Inspectors in respect of all or any specified food, and an Inspector so appointed, shall unless the Local Authority otherwise directs, exercise the powers and perform the functions of an Inspector under this Act throughout the area over which such Local Authority has jurisdiction.

(3) The Director Food may exercise the powers and perform the function of an Inspector under this Act, and any Assistant Director or any other officer working under the Director may exercise such powers and perform such functions of an Inspector within such areas as the Director may, by order in writing, direct.

(4) The Health Officer and Sanitary Inspectors of Local Authorities and such other holders of offices and posts in or under a Local Authority and such officers in the service of Government as Government may, by notification in the official Gazette, specify in this behalf, shall be *ex-officio* Inspector in respect of all foods within the limits of their respective jurisdiction.

17. General Powers of Inspectors.— (1) An Inspector may detain and search any vehicle or package of any food intended for sale or in the course of delivery if he has reason to suspect that the food therein carried or contained may be injurious to health, unwholesome or unfit for human consumption or not of the same nature, substance or quality which it purports to be.

(2) An Inspector may:

- (i) enter into and inspect any market, godown, shop, stall or other place used for sale of any food intended for human consumption or for the preparation, manufacture, or storage of any such food for the purpose of trade or sale;
- (ii) enter upon any premises for the purpose of exercising the powers of purchasing or taking a sample under section 18 and may in such premises inspect and examine any food and any apparatus, utensil or vessel used for preparing, manufacturing or containing such food.
- (iii) enter into and inspect any market, godown, shop, stall or other place used for the manufacture, storage or sale of any apparatus, utensil or vessel ordinarily used or intended to be used or likely to be used for preparing, manufacturing or containing any food.

(3) If any such food as is mentioned in sub-section (1) or Clause (a) of sub-section (2) appears to the Inspector to be injurious to health, unwholesome, unfit for human consumption or not of the same nature, substance or quality which it purports to be, or not fulfilling the prescribed conditions subject to which such food is to be prepared, manufactured, kept, stored or sold or if any such apparatus or utensil as is [mentioned in Clause(ii) of sub-section (2)] is of such kind or in such state as to render any food prepared, manufactured or contained therein or may ordinarily, prepared manufactured or contained therein unwholesome or unfit for human consumption or injurious to health, he may seize and remove such food, apparatus or utensil to be dealt with as hereinafter provided.

(4) An Inspector may, instead of removing such food, apparatus, utensil or vessel seized under sub-section (3), leave the same in the custody of the person from whose possession, custody or control the same was seized or in such safe custody as he may deem fit, so as to be dealt with as hereinafter provided; and he may at any time thereafter remove the same to the custody of the Local Authority concerned.

(5)(a) When any food, apparatus, utensil or vessel is seized under sub-section (3), it may be destroyed by the officer making the seizure with consent in writing of the owner or the person in whose possession, custody or control it is found.

(b) If any food seized under sub-section (3) is of a perishable nature and is, in the opinion of the Inspector unsound, unwholesome or unfit for human consumption, it may be destroyed without such consent but in the presence of two respectable witnesses.

(6) An Inspector shall prepare a statement describing the food, apparatus or utensil seized and shall deliver a copy thereof to the local Authority and to person from whose custody the food, apparatus or utensil is seized or, if such person be not present, send such copy to him by post.

(7)(a) Any person claiming anything seized under sub-section (3) may within seven days of the seizure complain to any Magistrate of the first class having jurisdiction at the place of seizure, who after making such enquiry as he may deem necessary, may either confirm or disallow such seizure wholly or in part or may order the article to be restored to the claimant.

(b) If the Magistrate confirms the seizure, the food, apparatus, utensil or vessel, as the case may be forfeited to the Food Authority concerned or the Magistrate may direct that such food, apparatus, utensil or vessel may be destroyed or disposed of at the cost of the owner or person in

whose possession, custody or control it was found at the time of the seizure in such manner as to prevent the same being again sold, kept stored or used as food or for the manufacture or preparation of, or for containing, any such food.

(8) If no complaint is made within the said period of seven days, the article of food or the apparatus, utensil or vessel, as the case may be, seized shall be confiscated to the food Authority concerned.

18. **Purchase of samples, etc.**— (1) An Inspector may, for the purpose of analysis purchase a sample of food—

- (a) in transit;
- (b) sold, offered for sale, hawked about, kept or stored or received for the purpose of preparing or manufacturing therewith any food; or
- (c) Kept or stored in a market godown, shop, stall, hotel, restaurant or eating house for the purpose of trade or received therein for the purpose of preparing or manufacturing therewith any food.

(2) No person shall refuse to sell food to an Inspector intending to purchase for the purpose of sub-section (1) in such reasonable quantity and from such container as he may ask for.

Explanation.—The purchase or sale of a sample of any food for the purpose of analysis under this Act shall be deemed to be purchased or sold for human consumption or use.

(3) If, in contravention of sub-section (2), any person refuses to sell the food to the Inspector, the Inspector may without prejudice to any penalty to which such person may be liable for such contravention, seize such quantity of the food as may appear to him to be necessary, and shall give such person a certificate showing the price, nature and quantity of the food seized, the date, time and place of seizure, and on demand being made in that behalf, the price of the food seized.

(4) The Inspector shall prepare in such form as may be prescribed, a declaration in triplicate containing full particulars relating to the sample seized and such declaration shall be signed or marked both by the Inspector and the person from whose possession, custody or control the food has been seized, and a copy thereof shall be given to such person.

(5) When a sample is taken from the stock in the possession of a commission agent, he shall be bound to give the name and such other particulars of the person on whose behalf such stock is held by him as the Inspector may require.

19. Right of private persons to have samples analyzed.— (1) Any person may make an application in writing to an Inspector asking him to purchase a sample of such food and from such person as may be specified in the application and to submit such sample to the Public Analyst for analysis.

(2) The cost of the sample purchased and of the analysis done under subsection (1) shall be payable by the person making the application:

Provided that, in case the sample is found by the Public Analyst to be adulterated, any amounts paid by the applicant under this sub-section shall be refunded to him.

20. Method of taking samples.— (1) An inspector after purchasing or procuring or seizing any food with intention of submitting the same for analysis shall, forthwith, divide the food in three parts to be then and there separated and each part shall be marked, sealed or fastened in such manner as the nature of the case will permit; and the person from whom the sample is taken may, if he so desires, also affix his seal or mark on each of the three parts.

(2) An Inspector shall.—

- (a) if required to do so deliver one part to the person from whom the article is purchased or seized or the sample is taken;
- (b) retain one part for future comparison; and
- (c) submit one part to the Public Analyst:

Provided that where the sample is taken from any food which is about to be imported or is in transit or at the place of delivery to the purchaser, consumer or consignee or is unclaimed, the first-mentioned part of the sample shall be retained by Inspector, unless the name and address of the consignor appear on the container containing the article sampled, in which case he shall forward that part to the consignor by registered post or otherwise, together with a notice informing that person that the sample would be analyzed by the Public Analyst.

21. Certificate of Analyst.— (1) The Public Analyst upon receiving any food or a sample of food from the Inspector shall, as soon as possible, analyze the same and deliver or send to the Inspector forwarding the sample, on payment of

such fees as may be prescribed, certificate in the form specified in the Schedule showing the result of the analysis.

(2) A copy of such certificate may be obtained from the Public Analyst by the person from whom the article so analyzed was purchased or obtained on payment of a fee of five hundred rupees.

(3) No person shall display any such copy on his premises or use copy as an advertisement.

22. Power of Government to have articles analyzed.— Government may, in relation to any matter appearing to it to affect the general interests of the consumers of any food, direct any public servant shall have all the powers of an Inspector under this Act.

Provided that.—

- (a) the public servant upon receiving the certificate of the Public Analyst shall take proceedings or cause proceedings to be taken as if he himself had caused such analysis to be made;
- (b) any fee prescribed for such analysis, the cost of the sample and the expenditure incurred in procuring it, including the traveling allowance, if any, of the public servant procuring the same shall be payable by the Local Authority of the area from where the sample is procured.

CHAPTER – IV

PENALTIES AND PROCEDURE

23. Penalties.— (1) Whoever contravenes provisions of section 12, or 21, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

(2) Whoever contravenes the provisions of Sections 7, 8, 9, 10, 11 or 18, shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both but the term of imprisonment shall not be less than six months and the fine shall not be less than five thousand rupees.

(3) Whoever contravenes the provision of Sections 3, 4, 5, 6, or 13 shall be punished with imprisonment of either description for a term which may extend to seven years and with fine, but the term of imprisonment shall not be less than one year and the fine shall not be less than five thousand rupees.

24. **Power to try summarily.**—Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 any Magistrate for the time being empowered to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 may try summarily any offence made punishable under Clause (a) of sub-section (1) of section 23 of this Act or sub-section 2 of the said section in accordance with the provisions of Chapter XXII of that Code.

25. **Presumption.**— In every prosecution under this Act relating to any food the Court shall presume.—

- (a) that any food found in possession of any person, who is or has been habitually found manufacturing, selling, keeping, storing, offering or exposing for sale or hawking about such food, was being manufactured, sold, kept, stored, offered or exposed for sale or hawked about by such person;
- (b) that any food commonly used for human consumption is sold, kept or stored for human consumption;
- (c) that any food commonly used for the preparation or manufacture of such food, was intended to be prepared or manufactured for human consumption;
- (d) that any substance capable of being used in the manufacture or preparation of any food commonly used for human consumption, which is found on premises in which such food is manufactured or prepared, was intended to be used in the manufacture or preparation of such food;
- (e) that any food is not of the nature, substance or quality it purports to be, if it is deficient in any of its normal constituents to the extent specified in the rules made under this Act or if any extraneous matter has been added to it in contravention of such rule.

26. **Declaration under Section 18 to be evidence.**— A declaration signed or marked under sub-section (4) of section 18 may be produced as evidence of the fact contained therein in any enquiry, trial or other proceedings under this Act.

27. **Certificate of Public Analyst to be evidence of fact therein stated.**— (1) The production in any enquiry, trial or other proceedings under this Act of a certificate under the hand of a Public Analyst in the form specified in the schedule shall, until the contrary is proved, be sufficient evidence of the facts therein stated.

(2) When any person is accused of an offence under this Act, he may require the Court to summon as a witness the Public Analyst who analyzed the food or sample of food in respect of which he is accused of having committed an offence and the Court may, and shall, in every case in which the accused deposits in the Court a sum of money in accordance with the sale prescribed, summon the Public Analyst and if such person is acquitted, any sum of money so deposited shall be refunded to him.

28. Analysis by Chemical Examiner.— (1) 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 Chemical Examiner to Government who shall thereupon with all convenient speed analyze the same and report the result of the analysis to the Court in the form specified in the schedule, and the cost of such analysis shall be paid by the accused if the Court so directs.

(2) The certificate of the Chemical Examiner to Government shall, until the contrary is proved, be sufficient evidence of the facts therein stated, but if the Court considers it necessary in the interests of justice it may summon him to give evidence in connection with the certificate issued by him and in such a case the cost of summoning the Chemical Examiner to Court shall be paid by the accused or the Local Authority as the Court may direct.

(3) The provisions of sub-section (3) of section 21, shall apply in respect of the report of the Chemical Examiner.

29. What is or is not a good defence in a prosecution under the Act.— (1) In any prosecution under this Act relating to any food it shall be no defence to allege—

(a) that the accused was ignorant of the nature, substance or quality of the food; or

(b) that the purchaser having bought only for analysis was prejudiced.

(2) The seller shall not be deemed to have committed an offence under this Act if he proves.—

(a) that the food sold was purchased or obtained as agent by him as being of the same nature, substance or quality as that demanded by the purchaser and with written warranty to the effect that it was of such nature, substance, or quality;

(b) that he had no reason to believe at the time when he sold it that the food was not of such nature, substance or quality as required; and

(c) that he sold it in the same state in which he purchased it.

(3) No evidence of a warranty under clause (a) of sub-section (2) shall be admissible on behalf of the seller—

(a) Unless the seller has on or before the first day of hearing of the case in the court against him sent to the Inspector a copy of the warranty (together with a translation thereof in English) with notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to the person; and

(b) Unless such warranty is given by a person permanently residing or carrying on business in Pakistan.

(4) The Court shall summon the warrantor as a co-accused if it admits the warranty on behalf of the seller.

30. Forfeiture of food upon conviction.— In the case of any conviction under this Act the convicting Magistrate may order that any food to which the conviction, relates, together with all packages or vessels containing the same, shall be confiscated to Government and disposed of as the Magistrate may direct.

31. Expenses of analysis to be paid by offenders on conviction.— When any person is convicted of an offence under this Act, the convicting Magistrate shall order that all fees and other expenses incidental to the analysis of any food in respect of which the conviction is made, which shall in no case be less than one thousand rupees, be paid by the person convicted, in addition to the fine, if any, which he may be sentenced to pay and the amount of such fees and expenses may be recovered as if it were a fine.

32. Offences under the Act not to be tried by a Magistrate exercising lesser power than Magistrate of the First Class.— No offence under this Act or the rules made thereunder shall be triable by a Magistrate exercising powers less than those of a Magistrate of the First Class.

33. Cognizance of offences.— Offences under this Act shall be cognizable and non-bailable.

CHAPTER- V

MISCELLANEOUS

34. Protection of action taken under the Act.— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any provision of this Act.

35. **Inspector to be deemed public servant.**— An Inspector while exercising any of the functions conferred upon him by or under this Act and all other persons assisting him in discharging such functions shall be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

36. **Power of Government to appoint public servant to exercise the function of any Local Authority.**— (1) If the Deputy Commissioner of a district receives information from the Director or has reason to believe that a Local Authority has failed to execute or enforce any of the provisions of this Act in relation to any food and that the failure affects the general interest of the consumers, he may, after making such inquiry from the Local Authority as he thinks fit, by order, empower any public servant to execute or enforce these provisions or to procure the execution or enforcement thereof in relation to such food and the order may fix a reasonable remuneration to be paid to such public servant, and such remuneration together with any expenses incurred by the public servant in performing the duties of the Local Authority under this Act shall be paid by the Local Authority.

(2) If the expenses and remuneration are not so paid, the Deputy Commissioner may make an order directing any person who for the time being has custody of any money on behalf of the Local Authority, as its officer, treasurer, banker or otherwise, to pay such expenses and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) When the Deputy Commissioner makes any order under this section, he shall forthwith forward to the Home Secretary and to the Local Authority affected thereby a copy of the order with a statement of the reason for making it, and it shall be in the discretion of the Home Secretary to rescind the order, or to direct that it may continue in force with or without modifications.

(4) The Home Secretary forthwith submit to Government a report of every case occurring under this section, and Government may confirm, revise or modify the order, or make in respect thereof any other order which the Home Secretary could have made;

Provided that no order of the Deputy Commissioner or the Home Secretary passed under this section shall be confirmed, revised, or modified by Government without giving the Local Authority a reasonable opportunity of showing cause against such order.

37. **Delegation.**— Government may delegate all or any of its powers and functions under this Act to the Director or any other officer by name or designation.

38. **Power to make rules.**— (1) Government may frame rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, Government may frame rules.—

- (a) prescribing the qualifications of person who may be appointed public analysts for the purpose of this Act;
- (b) Regulating the appointment and qualifications of persons to be appointed as Inspectors under this Act;
- (c) Prescribing the methods of analysis to be followed by public Analysts for the analysis of any food;
- (d) Fixing the fee to be paid in respect of the analysis of any food by a public Analyst;
- (e) Prohibiting the use of any particular matter or ingredient in the manufacture or preparation of any food;
- (f) specifying the conditions (which include the addition of a colour or any other substance) subject to which any food shall be manufactured, sold, kept, stored, offered or exposed for sale;
- (g) Prohibiting the keeping or storage of foods other than those approved under rules;
- (h) securing the cleanliness and free from contamination of any food in the course of its manufacture, preparation, storage, packing, carriage, delivery or exposure for sale, and securing the cleanliness of places, receptacles, packages, wrappings, appliances and vehicles used in such manufacture, preparation, storage, carriage or delivery;
- (i) Prescribing the method, in which labels shall be affixed, languages in which the labels shall be printed and symbols which shall be used for different kinds of food;
- (j) Prescribing the manner in which, and the conditions subject to which a license is to be granted under Section 11;
- (k) Prescribing the form, and the particulars to be entered in the register to be kept under Section 12;

- (l) Authorizing a person taking a sample of milk or any other food for the purpose of analysis to add preservatives to such samples for maintaining it in a suitable condition for analysis and regulating the nature and method of addition of such preservative;
- (m) Prohibiting the use or addition as a preservative of any article, material, or substance in the manufacture or preparation for sale of any food;
- (n) Prescribing the fees which a local Authority may levy for the grant of a license; and
- (o) Prescribing the fees to be deposited in Court for summoning a public Analyst.

HAFIZ-UR-RAHMAN,
Secretary Law.