

THE BALOCHISTAN FOOD AUTHORITY ACT, 2014.

(Baln Act VI of 2014)

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¹THE BALOCHISTAN FOOD AUTHORITY ACT, 2014

(Baln Act VI of 2014)

[7th February, 2014]

AN Act to provide for the safety and standards of food and for establishment of Balochistan Food Authority.

Preamble.

Whereas, it is expedient to protect public health and to provide for the safety and standards of food, to establish the Balochistan Food Authority and to provide for the matters connected therewith or incidental thereto;

It is hereby enacted as follows: -

CHAPTER- I

PRELIMINARY

Short title, extent and commencement. 1. (1) This Act may be called the Balochistan Food Authority Act, 2014.

(2) It extends to the whole of Balochistan, except Tribal Areas.

(3) It shall come into force on such date in the different areas of Balochistan and to the extent as Government may specify by notification in the official Gazette.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context –

(a) “Act” means the Balochistan Food Authority Act, 2014;

(b) “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, colored, powdered or coated with any other substance in contravention of the rules or regulations; or

(iv) any constituent of which has been wholly

¹ This Act was passed by the Balochistan Assembly on 28th January, 2014: assented to by the Governor of Balochistan on 4th February, 2014: published in the Balochistan Gazette (Extraordinary) No. 29 dated 7th February, 2014.

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;
- (c) “Advertisement” means any publicity, representation or pronouncement made by any means for purposes of promoting the sale or disposal of any food;
- (d) “Chairperson” means the Chairperson of the Food Authority;
- (e) “Consumer” means a person who receives food against a consideration or otherwise and includes an end user of the food;
- (f) “Court” means the court having jurisdiction under Section 40 of this Act;
- (g) “Director General” means Director General appointed under Section 10 of the Act;
- (h) “Food” means anything used as food or drink for human consumption or to feed animals other than drugs, and includes–
- (i) any substance which is intended for use in the preparation of food;
 - (ii) any flavoring substance or condiment;
 - (iii) any coloring 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 (XXXI of 1976);

- (i) “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;
- (j) “Food Authority” means the Balochistan Food Authority established under Section 3 of the Act;
- (k) “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;
- (l) “Food laboratory” means any food laboratory or institute established or recognized by the Food Authority;
- (m) “Food operator” means a person who manufactures for sale, transports, stores, sells, distributes, imports or exports food;
- (n) “Food Safety Officer” means a Food Safety Officer appointed under section 12 of the Act;
- (o) “Government” means the Government of the Balochistan;
- (p) “Import” means bringing into Balochistan any article of food by any means including land, river, canal, sea or air;
- (q) “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;
- (r) “License” means a license granted under the Act or the rules or regulations made there under;
- (s) “Member” means a member of the Food Authority;
- (t) “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 colored, flavored, 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;
- (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 section 10 of the Act;
 - (y) “rules” means the rules made under this Act.
 - (z) “safe food” means an article of food which is not injurious to human health or to the life of any living being;
 - (aa) “Scientific Panel” means the Scientific Panel constituted under section 9 of the Act;
 - (ab) “standard” in relation to any article of food, means the prescribed standard and includes the standard notified by the Food Authority; and
 - (ac) “Unsafe food” means the food whose nature, substance or quality is so affected by any means as to render it injurious to human health or to the life of any living being.

CHAPTER- II

ESTABLISHMENT OF FOOD AUTHORITY

- Establishment of the Food Authority. 3. (1) The Government may, by notification in the official Gazette, establish the Balochistan Food Authority for

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, possess or dispose of property, and may, by its name, sue or is sued.

Composition of the Food Authority.

4. (1) The Food Authority shall consist of a Chairperson and the following members—

- (a) Secretary, Food Department, Government of Balochistan;
- (b) Secretary, Health Department, Government of Balochistan;
- (c) Secretary, Public Health Engineering Department, Government of Balochistan;
- (d) Secretary, Industries & Commerce Department, Government of Balochistan;
- (e) Secretary, Agriculture Department, Government of Balochistan;
- (f) Secretary Livestock & Dairy Development Department, Government of Balochistan;
- (g) Secretary, Local Government & Community Development Department, Government of Balochistan;
- (h) Three members of the Provincial Assembly of the Balochistan to be nominated by the Government;
- (i) Two food technologists or scientists to be nominated by the Government;
- (j) One representative of the Chambers of Commerce & Industry;
- (k) One representative of Food Industry;
- (l) One representative of Food operators;
- (m) Two representatives of farmers; and
- (n) Two representatives of consumers.

(2) The Government shall, in the prescribed manner, appoint a person who possesses the prescribed qualification and experience, as Chairperson.

(3) The Government shall appoint the non-official members on the recommendation of a committee consisting of the following:-

- (a) Chief Secretary to the Government of

Balochistan (Convener);

- (b) Secretary, Food Department, Government of Balochistan; and
- (c) Secretary, Health Department, Government of Balochistan.

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

(5) The Chairperson and 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 Province.

(6) A meeting of the Food Authority shall be held in the manner as prescribed, 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 the 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.

Terms and conditions of Chairperson and members.

5. (1) The Chairperson and the members, other than ex-officio members, shall hold office for a term of three years and shall be eligible for re- appointment.

(2) A person shall not be appointed as Chairperson or a member, other than ex-officio member, for more than two terms, whether consecutive or otherwise.

(3) The Government shall prescribe the salary and allowances payable to, and the other terms and conditions of service of the Chairperson.

(4) The Chairperson or a member, other than an ex-officio member, may resign from his office by serving one month's notice in writing to the Government.

Removal of Chairperson and members.

6. (1) The Government may remove from office, the Chairperson or a member, other than an ex-officio member, if he—

- (a) has been adjudged an undercharged

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 Chairperson or a member shall not be removed from office except after affording him a reasonable opportunity of being heard.

Powers and functions of the Food Authority.

7. (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 subsection (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 programs in food safety and standards;
- (j) promote general awareness as to food

safety and standards;

- (k) levy fee for registration, licensing and other services with prior approval of the Government;
- (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 the 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.

Proceedings of the Food Authority.

8. 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.

Scientific Panel.

9. (1) The Food Authority may establish one or more Scientific Panels, which shall consist of the following—

- (a) Director General 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 the National Institute of Food Science & Technology, University of Agriculture, Faisalabad;
- (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

Director General.

10. (1) The Government may appoint a Director General in such manner and on such term and conditions as it may prescribe.

(2) The Director General shall hold office during the pleasure of the Food Authority.

(3) The Director General shall be the Secretary of the Food Authority.

(4) The Director General, 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.

(5) The Director General shall exercise such powers as are mentioned in the Act or as may be prescribed or delegated to him.

(6) The Director General may exercise powers of a Food Safety Officer under the Act.

Public Analysts.

11. (1) The Food Authority may, by notification, appoint public analysts for such areas as it may assign to them.

(2) A 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.

Food Safety Officer. 12. (1) The Food Authority may, by notification, appoint Food Safety Officers for such areas as it may assign to them.

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

(3) Notwithstanding anything hereinabove subsection (2), the Food Authority, in public interest, may confer the powers of a Food Safety Officer on a Government servant.

Powers of Food Safety Officer.

13. (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) open and examine any package which, he believes, to contain any food;
- (e) examine any book or documents with respect to any food and make copies of or take extracts from the book or document;
- (f) demand the production of the identity card, the business registration certificate, license or any other relevant document from a food operator;
- (g) mark, seal or otherwise secure, weigh, count or measure any food or appliance; and
- (h) 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.

Other employees of the Food Authority.

14. The Food Authority may determine the number, categories and rank of other employees of the Food Authority in consultation with the Provincial Finance Department and shall prescribe the terms and conditions for their services with approval of the Government, by a notification in the official Gazette.

CHAPTER- III

ENFORCEMENT MECHANISM

Licensing of food business.

15. (1) No person shall use any place for food business except under a registration or a valid license by the authority as prescribed.

(2) The Food Authority may, in the prescribed manner, exempt a class of food operators from obtaining compulsory registration or license under this section.

Improvement notice.

16. (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 license or take such other action as it deems appropriate.

Prohibition orders.

17. 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, it may impose—

- (a) prohibition on the use of a process, treatment, premises or equipment for purposes of the food business; or
- (b) prohibition, with or without specifying period of prohibition, on the food operator to conduct or operate the food business.

Emergency prohibition orders.

18. (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 sub-section (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.

Notification of food poisoning.

19. 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.

Power to withdraw food from Markets.

20. (1) If the Director General has reasons to believe that the health risk condition exists with respect to any food or that some food is not in compliance with the Act, rules or regulations, 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 modifies an order made under sub-section (1).

Establishment of food laboratories.

21. (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

Selling food not in compliance of the Law.

22. 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 and fine which may extend to one million rupees.

Substandard or misbranded food.

23. 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 five years and fine which may extend to two million rupees.

Unsafe food.

24. A food operator, who manufactures for sale, stores, sells, distributes, imports or exports any unsafe food, shall be liable—

- (a) where the un-safe food does not result in injury to any person, to imprisonment for a term which may extend to five years and fine which may extend to two million rupees;
- (b) where such unsafe food results in injury to any person, to imprisonment for a term which may extend to five years and fine which may extend to two million 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 and fine which shall not be less than two million rupees.

False advertisement.

25. (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 three years and fine which may extend to 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 three years and fine which may extend to one million rupees.

False labeling.

26. (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 three years and fine which may extend to one million 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 three years and fine which may extend to one million rupees.

Failure to comply with the directions.

27. 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 six months and fine which may extend to five hundred thousand rupees.

Unhygienic or unsanitary conditions.

28. 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 one month and fine which may extend to one million rupees.

Penalty for prescribed offences.

29. If a person, who commits an offence prescribed under the rules, for which no penalty has been provided in the Act, shall be liable to imprisonment for a term which may extend to one month and fine which may extend to five hundred thousand rupees.

False information.

30. 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 one year and fine which may extend to five hundred thousand rupees.

Obstructing the Food Safety Officer.

31 (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 to 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 one year or fine which may extend to five hundred thousand rupees or both.

Business without license.

32. If a food operator manufactures, sells, offers for sale, stores or distributes or imports any food without the prescribed registration or license, he shall be liable to imprisonment for a term which may extend to one year and fine which may extend to five hundred thousand rupees.

Warranty.

33. (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 one year 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 two years and fine which may extend to five hundred thousand rupees.

Punishment for subsequent offence.

34. (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 the Act; and

(b) a further fine which may extend to two hundred thousand rupees.

(2) The license of a food operator on conviction under sub-section (1), shall be cancelled.

Compensation in case of injury or

35. (1) In case of injury or death of a consumer due to unsafe food, the Court, in addition to any other penalty under

death of consumer.	<p>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–</p> <p style="margin-left: 40px;">(a) not less than one million rupees in case of death; and</p> <p style="margin-left: 40px;">(b) not exceeding five hundred thousand rupees in case of injury.</p> <p style="margin-left: 40px;">(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.</p>
Forfeiture of food, etc.	<p>36. 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.</p>
Offences by companies.	<p>37. (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.</p> <p style="margin-left: 40px;">(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.</p> <p style="margin-left: 40px;">Explanation – In this section, “Company” means a body corporate and includes a firm or any other association of persons.</p>
Publication in newspapers.	<p>38. 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.</p>

CHAPTER- V

JURISDICTION AND PROCEDURE

Jurisdiction of the Food Authority.	<p>39. (1) On information received from a Food Safety Officer or any other person, the Food Authority may, for</p>
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reasons to be recorded in writing—

- (a) order prosecution of a person under this Act;
- (b) suspend or cancel the license of the food operator;
- (c) impose on the food operator fine which may extend to five hundred thousand rupees; or
- (d) decide, if the circumstances so warrant, not to take any action on the information.

(2) If the Food Authority cancels the license 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 license or imposition of fine without providing an opportunity of hearing to the food operator.

(4) An order of suspension of a license under this section shall not be passed for a period exceeding seven days at a time and, unless sooner withdrawn or the license is cancelled, shall cease to have effect on the expiry of the thirtieth day from the date of first such order.

Jurisdiction of the Court.

40. All the offences punishable under this Act shall be tried by a Court of Judicial Magistrate of First Class, Session Judge or Additional Sessions Judge, within whose jurisdiction the offences falls committed, in accordance with the punishment provided for the offence:

Provided that the Government may for any Local area in place of a Judicial Magistrate, appoint any of it officer to be a Special Magistrate as per procedure laid down in section 14 of the Code of Criminal Procedure, 1898 (Act No. V of 1898), for trial of offences under this Act with power of summary trial as provided under Section 43, by a notification in the official Gazette.

Cognizance of offences.

41. (1) Subject to sub-section (2), a Court shall not take cognizance of an offence under this Act except on a complaint made by or on behalf of the Food Authority.

(2) If the offence causes death of or injury to a person, an aggrieved person may also file a complaint in the Court under Chapter XVI of the Code of Criminal Procedure

1898 (Act No. V of 1898).

Time limit for prosecutions.

42. The prosecution for an offence under the 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 earlier, however, the breach of any of the provision of the Act that came in the notice of the Food authority or the officer so authorized in this respect, may be removed any time even after the aforesaid time limit, in accordance to the provisions of this Act.

Summary trial.

43. (1) Notwithstanding anything contained in the Code of Criminal Procedure 1898 (Act No. V of 1898) but subject to hereinafter 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 the Act in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure 1898 (Act No. 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 (Act No. V of 1898).

Defense available.

44. In any proceedings for an offence under this Act, the exercise of due care and caution shall be valid defense if it is proved that the person took all reasonable precautions and exercised due diligence to prevent the commission of the offence.

Recovery of fines etc.

45. (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 Balochistan Land Revenue Act 1967 (XVII of 1967).

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

CHAPTER- VI

FINANCES AND REPORTS

Food Authority Fund.

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

Bank accounts.

47. 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.

Budget and accounts.

48. (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

Audit.

49. (1) The Auditor General of Pakistan shall annually audit the accounts of the Food Authority.

(2) The Government, in addition to the audit under sub-section (1), shall 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

Annual report.

50. (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 Provincial Assembly of the Balochistan, and shall lay the report in the first available session of the Assembly.

CHAPTER- VII

MISCELLANEOUS

Delegation of powers.

51. 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.

Reward by the Food Authority. 52. The Food Authority may, in the manner prescribed by the rules, 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.

Public Servants. 53. 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 Pakistan Penal Code 1860 (Act No. XLV of 1860).

Immunity. 54. 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.

Overriding effect. 55. The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

Rules. 56. (1) The Food Authority may with approval of the Government, by notification in the official gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality to the foregoing power, such rules may provide for—

- (a) procedure for conduct of business by the Food Authority;
- (b) terms and conditions of the service of employees of the Food Authority;
- (c) licensing and registration procedures;
- (d) recognition and accreditation of laboratories and scale of fee for a laboratory test;
- (e) prosecutions and appeals under the Act;
- (f) finances, accounts, budget; and

- (h) all other matters which by the Act are to be or may be prescribed by rules.

Regulations.

57. (1) The Food Authority may frame regulations, not inconsistent with the provisions of this Act and the rules framed there under, to give effect to the provisions of this Act, by notification in the official gazette.

(2) In particular and without prejudice to the generality to the foregoing power, such regulations may provide for—

- (a) procedure and conduct of business by a scientific panel;
- (b) standards and guidelines in relation to any food, food places, food workers and food handlers;
- (c) limits of additives, contaminants, toxic substance, heavy metals pesticides, veterinary drugs, residues etc., in the food;
- (d) marking, packaging, labeling, advertising and warranty of any food;
- (e) food recall procedures, improvement notices and prohibition orders;
- (f) inspection of food business, safe and hygienic storage and transportation practices;
- (g) search of a premises, vehicle or person and guidelines for taking and handling samples of any food;
- (h) the contents of and the manner in which the Annual Reports are be prepared and presented before the Board and the Government; and
- (i) all other matters which by the Act are to be or may be prescribed by regulations.

Repeal and savings.

58. (1) The Balochistan Pure Food Ordinance 1960 (Ordinance No.VII of 1960) is hereby repealed.

(2) Notwithstanding the repeal of the Balochistan Pure Food Ordinance 1960 (Ordinance No.VII of 1960) under sub-section (1) (hereinafter referred as the repeal Ordinance), the rules, regulations, bye laws made or saved, orders, licences and notifications issued, the standards, safety requirements in force, anything done, action taken, obligation, liability, penalty of punishment incurred, inquiry or proceeding commenced,

person authorized, jurisdiction of powers conferred under any of the provisions of the repealed Ordinance and in force immediately before the date of commencement of this Act, if not inconsistent with the provisions of this Act, shall continue to be in force and deemed to have been done, taken, incurred, commenced, appointed, authorized, conferred, made, imposed or assessed, released or issued under this Act, until they are repealed, rescinded, withdrawn, cancelled, replaced or modified in accordance with the provisions of this Act.

Power to remove difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification in the official Gazette, make such provisions, not inconsistent with this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no such notification shall be issued after the expiry of six months from the commencement of this Act.

(2) Every notification issued under this section shall be laid before the Provincial Assembly.

STATEMENT OF OBJECTS AND REASONS

After the 18th amendment in the Constitution of Pakistan, 1973, the functions and control of tourism related activities and matters are devolved to the Provincial Government, as such, to enable the Provincial Tourism Department for performing its functions, management, control, promotion and advancement of tourism and related activities in the Province of Balochistan and the matters connected therewith, the Provincial Government has to frame its own laws.

The Tourism Department has to provide tourists facilities, infrastructure to develop tourism related commercial projects and tourist information centers as well as packages to various resorts, and in this context it is necessary and expedient to provide for the regulation and control of the profession of Tourist Guides in Balochistan and for matters connected therewith or ancillary thereto.

To seek the above said objects this Bill i.e. *the Balochistan Food Authority Act, 2012* is being presented for consideration and approval of the honorable Assembly.

MINISTER FOR Food

Quetta,

the_____ May, 2012.