

PROVINCIAL ASSEMBLY OF THE PUNJAB

NOTIFICATION

14 April 2016

No.PAP/Legis-2(125)/2016/1406. The following Bill, which was introduced in the Provincial Assembly of the Punjab on Thursday, April 14, 2016, is hereby published for general information under rule 93(1) of the Rules of Procedure of the Provincial Assembly of the Punjab, 1997:-

THE PUNJAB AGRICULTURE, FOOD AND DRUG AUTHORITY BILL 2016

Bill No. 19 of 2016

A
BILL

to establish the Punjab Agriculture, Food and Drug Authority for forensic examination and testing of fertilizer, pesticides, food and drugs.

The Punjab Agriculture, Food and Drug Authority is being established for forensic examination and testing of fertilizer, pesticide, food and drug; to render an expert opinion in respect of the ingredients and quality of fertilizer, pesticide, food or drug; and, to deal with other related matters.

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

1. Short title and commencement.— (1) This Act may be cited as the Punjab Agriculture, Food and Drug Authority Bill 2016.

(2) It extends to whole of the Punjab.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, determine and different dates may be determined for different areas.

2. Definitions.— (1) In this Act:

- (a) "Authority" means the Punjab Agriculture, Food and Drug Authority established under section 3 of this Act;
- (b) "Code" means the Code of Criminal Procedure, 1898 (V of 1898);
- (c) "concerned authority" includes an officer of the Government or a police officer holding an inquiry or investigation;
- (d) "Director General" means Director General of the Authority;
- (e) "drug" means the drug as defined in the Drugs Act, 1976 (XXXI of 1976) and includes any material purported to be a drug;
- (f) "employee" includes an expert, officer or official of the Authority;
- (g) "expert" includes a foreign expert working in a forensic science facility and whose evidence is admissible in the country of his origin;
- (h) "fertilizer" means the fertilizer as defined in the Punjab Fertilizers (Control) Order, 1973 (VII of 1973) and includes any material purported to be fertilizer;
- (i) "food" means the food as defined in the Punjab Food Authority Act 2011 (XVI of 2011) or the Punjab Pure Food Ordinance (VII of 1960) and includes any material purported to be food;
- (j) "Government" means Government of the Punjab;
- (k) "member" means a member of the Authority and includes the Chairperson and Vice Chairperson of the Authority;
- (l) "offence" means an act or omission made punishable under any law;

- (m) "pesticide" means the pesticide as defined in the Agricultural Pesticides Ordinance, 1971 (II of 1971) and includes any material purported to be pesticide;
- (n) "police officer" means a police officer appointed under the Police Order, 2002 (22 of 2002), or any other person exercising the powers of a police officer under any other law; and
- (o) "prescribed" means prescribed by the rules or regulations.

(2) A word or an expression used in this Act and not defined shall mean the same as in the Code.

3. The Authority.— (1) The Government shall, by notification, establish an Authority to be called 'the Punjab Agriculture, Food and Drug Authority'.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to enter into contracts, acquire or dispose of property, and may, by the said name, sue or be sued.

(3) The Authority shall consist of the Chairperson who shall be the Chief Minister or a Minister nominated by the Chief Minister and the following members:

- (a) Vice Chairperson;
- (b) Minister for Primary and Secondary Healthcare or Advisor to Chief Minister for Primary and Secondary Healthcare;
- (c) Minister for Agriculture;
- (d) Minister for Food;
- (e) Secretary to the Government, Primary and Secondary Healthcare Department;
- (f) Secretary to the Government, Specialized Healthcare and Medical Education Department;
- (g) Secretary to the Government, Agriculture Department;
- (h) Secretary to the Government, Food Department;
- (i) Director General, Punjab Forensic Science Agency;
- (j) not more than five scientists, including at least one female scientist, if available, in the relevant field from public or private sector; and
- (k) Director General (Member/Secretary).

(4) If a member mentioned at (e), (f), (g) or (h) of subsection (3) is unable to attend a meeting for reasons beyond his control, he may depute an officer of his department not below the rank of Additional Secretary to attend the meeting.

(5) The Government shall appoint the Vice Chairman and members, other than the *ex-officio* members, for each term of three years.

(6) The Vice Chairperson or a member, other than an *ex-officio* member, shall not be appointed as a member for more than two consecutive terms.

(7) No act or proceedings of the Authority shall be invalid merely by reason of any vacancy or defect in the constitution of the Authority.

(8) Seven members shall constitute the quorum for a meeting of the Authority, and the decision of the Authority shall be taken in terms of the majority of the members.

(9) The Authority shall meet at least once in three months.

(10) A meeting of the Authority shall be held on such date and time as the Chairperson may determine.

(11) The Chairperson shall approve the agenda of a meeting of the Authority.

(12) The Chairperson and, in his absence, the Vice Chairperson shall preside a meeting of the Authority and in the absence of both, the meeting shall be presided by the member nominated for the purpose by the Chairperson and if not so nominated, by the member elected to preside the meeting by the members present.

(13) The Director General shall maintain or cause to be maintained the record of each meeting of the Authority, including the minutes of the meetings, in the prescribed manner.

4. Disqualification of the members.— No person shall be appointed or continue as the member, who:

- (a) is or, at any time, has been convicted of an offence involving moral turpitude;
- (b) is or, at any time, has been adjudicated as an insolvent; or
- (c) is found to be a lunatic or of unsound mind; or
- (d) is in a situation of irreconcilable conflicting interest with the Authority.

5. Functions.— (1) The Authority may perform such functions and exercise such powers as are necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the functions mentioned in subsection (1), the Authority shall:

- (a) make policies for carrying out forensic examination and testing of fertilizer, pesticide, food and drug and establish and manage the testing facilities for the purpose;
- (b) accredit, in the prescribed manner, the facilities for forensic examination and testing of fertilizer, pesticide, food and drug;
- (c) provide expert opinion with regard to the forensic examination and testing of fertilizer, pesticide, food and drug;
- (c) procure, operate and maintain scientific instruments for forensic examination and testing of fertilizer, pesticide, food and drug;
- (d) propose advancement in forensic techniques and suggest the use of suitable scientific instruments for forensic examination and testing of fertilizer, pesticide, food and drug;
- (e) seek information or clarification from the persons responsible for the collection or handling of fertilizer, pesticide, food and drug in the prescribed manner;
- (f) approve procedures for the collection, preservation and handling of samples for forensic examination and testing of fertilizer, pesticide, food and drug;
- (g) collect samples for forensic examination and testing of fertilizer, pesticide, food and drug, where special expertise or scientific methods for collection and preservation of samples is required;
- (h) maintain record of forensic examination and testing of fertilizer, pesticide, food and drug including the record pertaining to the identity of the person connected with, or accused of, an offence in the prescribed manner;
- (i) promote general awareness on matters relating to forensic examination and testing of fertilizer, pesticide, food and drug;
- (j) specify timelines for retention of samples and results of forensic examination and testing of fertilizer, pesticide, food and drug;
- (k) ensure complete independence and impartiality of all the laboratories administered or accredited by it;
- (l) maintain its operational autonomy and neutrality and shall guard against any extraneous or external interference or influence in the discharge of its functions under this Act;
- (m) undertake research and development in the relevant and allied fields;

- (n) be responsible for obtaining and maintaining international accreditation for its laboratories; and
 - (o) perform any other functions ancillary to the above functions or such functions as the Government may, by notification, assign.
- (3) The Authority shall be deemed as:
- (a) a drug testing laboratory under the Drugs Act, 1976 (XXXI of 1976);
 - (b) a food laboratory for purposes of the Punjab Food Authority Act 2011 (XVI of 2011) or the Punjab Pure Food Ordinance, 1960 (VII of 1960);
 - (c) a fertilizer testing laboratory under the Punjab Fertilizers (Control) Order, 1973 (VII of 1973); and
 - (d) a pesticides laboratory under the Agricultural Pesticides Ordinance, 1971 (II of 1971).

6. Allocation of laboratories.— The Government may, by notification, allocate a laboratory or any testing or other facility of the Government connected with the forensic examination and testing of fertilizer, pesticide, food or drug to the Authority on such terms and conditions as the Government and the Authority may determine.

7. Director General.— (1) Subject to subsection (2), the Government shall appoint the Director General from amongst a panel of qualified experts possessing such qualifications and experience and selected in the prescribed manner and until so prescribed, as the Government may determine.

(2) The Director General shall be an expert in one or more disciplines of forensic science relevant to fertilizer, pesticide, food or drug in accordance with the prescribed standards.

(3) The Director General shall hold office for a renewable term of three years.

(4) The Government shall determine the terms and conditions of service of the Director General and they shall not be varied during his term of office.

(5) The Government may, after notice and inquiry in the prescribed manner, remove the Director General during the tenure of his office on the ground of inefficiency, corruption or inability to perform functions owing to medical or other reasons.

(6) The Director General shall be the chief executive officer of the Authority and, subject to the general supervision and direction of the Authority, shall exercise such administrative and financial powers of the Authority as the Authority may delegate to him or as may be prescribed.

8. Experts.— (1) The Authority, for the discharge of its functions under this Act, may appoint experts in such manner and on such terms and conditions, including the market-based salary, as it may, through regulations, determine.

(2) The Authority shall not appoint a person as expert unless he is qualified to conduct forensic examination or testing of fertilizer, pesticide, food or drug.

- (3) A person appointed by the Authority as an expert shall be deemed as:
- (a) an expert appointed under section 510 of the Code;
 - (b) a person specially skilled in forensic examination or testing of fertilizer, pesticide, food or drug under Article 59 of the Qanun-e-Shahadat Order, 1984 (X of 1984);
 - (c) a Government analyst under the Drugs Act, 1976 (XXXI of 1976) and the Agricultural Pesticides Ordinance, 1971 (II of 1971);

- (d) a public analyst under the Punjab Food Authority Act 2011 (XVI of 2011) and the Punjab Pure Food Ordinance, 1960 (VII of 1960); and
- (e) an Agricultural Chemist under the Punjab Fertilizers (Control) Order, 1973 (VII of 1973).

(4) The Authority shall not entrust forensic examination or testing of fertilizer, pesticide, food or drug to a person who has been convicted of an offence of giving false evidence.

9. Expert opinion.— (1) A court, tribunal or concerned authority may send to the Authority, a sample of fertilizer, pesticide, food or drug connected with investigation or proceedings before it for examination and expert opinion.

(2) The Authority shall authenticate and send the expert opinion to the court, tribunal or concerned authority in the prescribed manner.

(3) The expert opinion shall carry the name and designation of the expert who conducted the examination or test of fertilizer, pesticide, food or drug.

10. Clarification of opinion.— (1) If an expert opinion is not clear, the court, tribunal or concerned authority may refer it to the Authority for clarification on a specific question.

(2) The Authority shall, on receipt of the reference, send the clarification on the question to the concerned court, tribunal or authority.

(3) If the condition of the sample of fertilizer, pesticide, food or drug or any other fact does not allow submission of a clear answer to the question, the Authority shall state its inability to answer the question.

11. Re-examination of samples.— (1) A person aggrieved by the opinion of the expert, may for sufficient cause, submit for re-examination an application before the court, tribunal or concerned authority before which the opinion is rendered or the court or tribunal before which the opinion is submitted by the concerned authority.

(2) If the court, tribunal or concerned authority is satisfied that there are sufficient grounds for reconsideration of the opinion, it may, for reasons to be recorded in writing, direct the Authority to re-examine the sample of fertilizer, pesticide, food or drug.

(3) The Director General shall, on receipt of the direction, constitute a panel of three or more experts to re-examine the sample of fertilizer, pesticide, food or drug or refer the same to any other forensic examination facility for examination and opinion.

(4) The Director General shall submit the finding of the team of experts or the forensic facility to the court.

12. Fund.— (1) There shall be established a fund to be known as the Punjab Agriculture, Food and Drug Authority Fund to be administered and controlled by the Authority.

(2) The 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) grants and loans negotiated and raised, or otherwise obtained, by the Authority with the prior approval of the Government;
- (d) fee, charges, rentals, fines and other moneys collected by the Authority;
- (e) income from the lease or sale of the property;

- (f) funds from floating bonds, shares, debentures, certificates, or other securities issued by the Authority; and
 - (g) all other sums received by the Authority.
- (3) The Authority shall meet all its expenses from the Fund and shall exercise prudence in its expenditures from the Fund.

13. Bank account.— The Authority may open and maintain its accounts at such scheduled banks as may be prescribed, and until so prescribed, as the Authority may determine.

14. Budget and accounts.— (1) The Director General shall prepare the budget of the Authority for each financial year commencing on first day of July of an year and ending on thirtieth day of June of the succeeding year.

(2) The Director General shall place the budget for approval before the Authority at least forty five days prior to the commencement of a financial year.

(3) The accounts of the Authority shall be maintained in such manner as may be prescribed.

15. Audit.— (1) The Auditor General of Pakistan shall conduct audit of the accounts of the Authority.

(2) The Authority shall appoint a firm of chartered accountants, which is placed in category 'A' by State Bank of Pakistan, for the annual audit of the accounts of the Authority.

(3) The auditors appointed under subsection (2) shall submit the report to the Authority and the Authority may take such action and make such decisions as may be necessary in the light of the audit report.

16. Appointment of employees.— Subject to the prior approval of the Authority, the Director General may appoint such employees as may be necessary for the efficient performance of functions of the Authority on such terms and conditions and on such market based remuneration as the Authority may, through regulations, prescribe.

(2) The Authority shall not transfer or lend any of its employees to any other organization or the Government and shall not accept by transfer or on deputation any officer or official of any such organization or the Government.

(3) A Government agency including police and anti-corruption establishment shall not initiate any enquiry or investigation against the official conduct of any of the employees without prior approval or complaint of the Authority.

17. Public servants.— All persons acting or purporting to act in pursuance of any provision of this Act, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

18. Delegation of powers.— The Authority may delegate to the Director General, a committee of the Authority, a member or any employee of the Authority any of its functions except the following functions:

- (a) adaptation or amendment or repeal regulations;
- (b) approval of annual budget of the Authority;
- (c) consideration and decision on the audit reports;
- (d) approval of the standards and procedures for operation of the Authority; or
- (d) fill a vacancy in a committee of the Authority.

19. Conflict of interest.— (1) A member shall not, directly or indirectly, receive any profit from his position as the member except the reasonable expenses incurred by the member in the performance of duties under this Act.

(2) The pecuniary interests of the immediate family members or close personal or business associates of a member shall also be considered to be the pecuniary interest of the member.

(3) A member shall be in conflict of interest if the member:

- (a) is an employee, or a paid consultant of a business entity that has, or of a trade association of business entities that have, a substantial interest in any of the functions of the Authority;
- (b) owns, controls, or has, directly or indirectly, more than ten per cent equity in a business entity that has a substantial interest in any of the functions of the Authority;
- (c) receives more than twenty-five per cent of his individual income from a business entity that has a substantial interest in any of the functions of the Authority; and
- (d) benefits either directly or indirectly, financially or otherwise, from being the member.

(4) A member shall disclose a potential, real or perceived conflict of interest as soon as he becomes aware of the potential conflict before the Authority or any of its committees seized of the matter.

(5) If a member is not certain about the situation of the conflict of interest, the member shall place the matter before the Authority for advice and the decision of the Authority on conflict of interest shall be final.

(6) A member shall not take part in the proceedings of the Authority in which any question of conflict of interest of the member is on the agenda.

(7) The disclosure of conflict of interest and the decision of the Board shall be recorded in the minutes of the meeting.

20. Offence.— (1) If an employee of the Authority knowingly or negligently renders false, incorrect or misleading opinion before a court, tribunal or the concerned authority, he shall be punished with imprisonment which may extend to three years but which shall not be less than one month and with fine which may extend to five hundred thousand rupees but which shall not be less than twenty five thousand rupees.

(2) An offence under this section shall be triable by a Court of Sessions.

(3) The Court shall not take cognizance of an offence under this Act except on a complaint in writing of the Director General in the prescribed manner.

21. Appeal.— A person aggrieved by an order or sentence passed by a Court of Sessions under section 20 of this Act may, within thirty days, prefer an appeal to Lahore High Court.

22. Recovery of dues.— (1) The 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 employee to exercise the powers of Collector under the Punjab Land Revenue Act 1967 (XVII of 1967).

(2) The fee charged under this Act, the rules or the regulations shall be deposited in the Fund of the Authority.

23. Annual performance report.— (1) The Authority shall prepare and forward to the Government by 30 September each year, the annual performance report relating to performance of its functions with respect to forensic examination or testing of samples of fertilizer, pesticide, food and drug during the preceding financial year.

(2) The Government shall, as soon as possible, submit the report before the Provincial Assembly of the Punjab.

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

(2) The Government shall evaluate the reports mentioned in subsection (1) of section 23 and subsection (1) of this section shall issue such directions to the Authority as may be necessary for accomplishing the objectives under this Act and the Authority shall implement the directions.

25. Other laws.— (1) The provisions of this Act shall be read in conjunction with and not in derogation from any other law for the time being in force but in case of any inconsistency or conflict, the provisions of this Act shall prevail to the extent of the inconsistency or conflict.

26. Rules.— The Government may, by notification, make rules for carrying out the purposes of this Act.

27. Regulations.— Subject to this Act and the rules, the Authority may frame regulations to give effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Presently, forensic testing and analyses of fertilizers, pesticides, food and drugs system in the Punjab is not efficient, independent and is not internationally accredited. Such forensic analyses of fertilizers, pesticides, food and drugs required to be upgraded through establishment of an independent and state of the art facilities for ensuring provision of quality fertilizers, pesticides, food and drugs to the people of the Punjab. The Government has decided to establish the Punjab Agriculture, Food and Drug Authority in the Punjab. The said Authority is being established for inter alia forensic examination and testing of fertilizers, pesticides, food and drugs. The Authority will also render an expert opinion in respect of the ingredients and quality of fertilizers, pesticides, food and drugs. This will be an independent and autonomous organization which will have state of the art forensic facilities with international accreditation. Hence this Bill.

MINISTER INCHARGE

Lahore:
14 April 2016

RAI MUMTAZ HUSSAIN BABAR
Secretary