

A

BILL

*to establish National Food Safety, Animal and Plant Health
Regulatory Authority and the matters connected therewith*

WHEREAS, it is obligatory to regulate the quality aspects of agricultural produce, plants and animals, and products based thereon used as food, feed or otherwise being exported to or imported from, other countries and to frame standards to meet national and international quality requirements in accordance with the recognized SPS measures and to promote international trade thereof on competitive basis in the light of domestic needs and international commitments;

It is hereby enacted as follows:-

**CHAPTER – I
PRELIMINARY**

1. Short title, extent and commencement.– (1) This Act may be called the National Food Safety, Animal and Plant Health Regulatory Authority Act, 2017.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(i) "agricultural product" includes all produce of agriculture or horticulture, forest, wildlife, fisheries, animals and plants and all articles of food or drink wholly or partly manufactured from any such produce, and fleeces and the skins of animals;

(ii) "animal" includes all kinds of,-

- (a) birds;
- (b) crustacean;
- (c) fish;
- (d) honey bee;
- (e) insects;
- (f) mammals, except man;
- (g) mollusc; and
- (h) reptiles;

(iii) "Authority" means the National Food Safety, Animal and Plant Health Regulatory Authority established under section 3;

(iv) "Authorised Officer" means an officer of or nominated by the Authority under section 19;

- (v) "Board" means the Board established under section 5;
- (vi) "business operator" means the natural or legal person responsible for ensuring that the SPS measures are complied with within the business under his control;
- (vii) "Certificate" means the certificate issued by the Authorized Officer confirming compliance or otherwise with the provisions of this Act;
- (viii) "Chairperson" means Chairperson of the Board appointed under sub-section (2) of section 5;
- (ix) "Chief Executive" means the executive head of the Authority appointed under section 9;
- (x) "Consultative Committee" means the committee as established under section 12;
- (xi) "crop" includes all agricultural or horticultural crops and all trees, bushes, herbs, shrubs, grass, plants, roots, fungi and algae grown for commercial purposes;
- (xii) "Department" includes the departments as mentioned in section 62;
- (xiii) "disease" means suffering from or carrying any infectious or contagious disease or such disease as may be declared by the Federal Government from time to time by notification in the official Gazette;
- (xiv) "export" shall have the meaning assigned by the Imports and Exports (Control) Act, 1950 (XXXIX of 1950);
- (xv) "feed" means animal feed, including hay, roughage, concentrate or any other substance used for feeding animals;
- (xvi) "fish" means aquatic animals which belong to class Pisces, Crustacea, Echinoderms, and Molluscs, excluding Reptiles and Mammals, which is by order declared to be fish for the purposes of this Act under clause (d) of section 2 of the Pakistan Fish Inspection and Quality Control Act, 1997 (XXXV of 1997);
- (xvii) "food" means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum and any substance which has been used in the manufacture, preparation or treatment of food, including novel foods. 'Food' shall not include,-
 - (a) Feed;
 - (b) animals unless they are prepared for placing on the market for human consumption, in live form;
 - (c) plants prior to harvesting;

- (d) medicinal products within the meaning of the Drug Act, 1976 (XXXI of 1976);
 - (e) tobacco and tobacco products within the meaning of Pakistan Tobacco Board Ordinance, 1968 (1 of 1968);
 - (f) narcotic or psychotropic substances within the meaning of the Single Convention on Narcotic Drugs, 1961, the Convention on Psychotropic Substances, 1971, and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988; and
 - (g) residues and contaminants;
- (xviii) "food safety" means measures taken by the Federal Government and Provincial Governments for ensuring that unsafe food is not placed on the market. Unsafe food shall include food which does not comply with the relevant food laws and SPS conditions;
- (xix) "fungi" means all rusts, smuts, mildews, moulds, yeast, and similar forms of plant life prescribed in this behalf;
- (xx) "genetically modified food" means food derived from a genetically modified organism;
- (xxi) "harmful organism" means any living stage of any or all insects, mites, nematodes, protozoa, slugs, snails, or other invertebrate animals, fungi, bacteria, parasitic plants, virus or reproductive parts thereof, or any pathogen, weed, rodent, or other plant and animal organism which may, directly or indirectly, injure or cause disease to any crop, plant or animal species;
- (xxii) "hazard" means a biological, chemical or physical agent with the potential to cause an adverse effect on food safety, animal health or plant health and includes bio-identical or synthetic hormones;
- (xxiii) "import" shall have the meaning assigned by the Imports and Exports (Control) Act, 1950 (XXXIX of 1950);
- (xxiv) "international standards, guidelines and recommendations" shall include,-
- (a) for food safety - the standards, guidelines and recommendations established by the Codex Alimentarius Commission;
 - (b) for animal health and zoonoses- the standards, guidelines and recommendations developed under the auspices of the World Organization for Animal Health (OIE);
 - (c) for plant health - the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with regional organizations operating within the framework of the IPPC; and

- (d) for matters not covered by the above organizations - appropriate standards, guidelines and recommendations adopted by other relevant international organizations;
- (xxv) "novel foods" means any food or food ingredient which has not hitherto been used for human consumption to a significant degree;
- (xxvi) "pesticides" means any substance or mixture of substances used or represented as a means for preventing, destroying, repelling, mitigating or controlling, directly or indirectly, any harmful organism or any other substance notified as pesticide under the Agricultural Pesticides Ordinance, 1971 (II of 1971), or any other law in force for the time being, but does not include a substance which is a 'drug' within the meaning of the Drugs Act, 1976 (XXXI of 1976);
- (xxvii) "placed on the market" means the holding or displaying for sale, offering for sale, selling, delivering or any other form of placing on the market, including import and export, and retail and wholesale trade;
- (xxviii) "plant" means all species of plants or parts thereof, whether living or dead, including stems, branches, tubers, bulbs, corns, stocks, bud-wood, cuttings, layers, slips, suckers, roots, aquatic algae, leaves, flowers, fruits and seeds;
- (xxix) "points of entry" and "points of exit" mean any sea port, airport, dry-port or land routes respectively designated for the import or export of agricultural product, food or feed and includes any other authorized land, sea or air route declared by the Federal Government from time to time by notification in the official Gazette;
- (xxx) "prescribed" means prescribed by rules or regulations, as the case may be, under this Act;
- (xxxi) "process" includes any practice, treatment and mode of manufacture of any article;
- (xxxii) "product" means raw material, semi finished or finished products;
- (xxxiii) "quality" means conformity to a prescribed requirement or specification of a product or service;
- (xxxiv) "quarantine facility" means a site or premises provided or approved by the Federal Government for the isolation and examination of plants, plant material, animals and animal products intended for import or export;
- (xxxv) "regulation" means regulations made under section 62;
- (xxxvi) "risk analysis" means a process consisting of three interconnected components - risk assessment, risk management and risk communication;
- (xxxvii) "risk assessment" means a scientifically based process consisting of following steps: (i) hazard identification, (ii) hazard characterisation, (iii) exposure assessment, and (iv) risk characterisation;

- (xxxviii) "risk management" means the process, distinct from risk assessment, of weighing policy alternatives in consultation with interested parties considering risk assessment and other legitimate factors, and, if need be, selecting appropriate prevention and control options;
- (xxxix) "risk communication" means the interactive exchange of information and opinion throughout the risk analysis process concerning risk, risk-related factors and risk perceptions, among risk assessors, risk managers, consumers, feed and food businesses industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions;
- (xl) "rules" means rules made under section 61;
- (xli) "Sanitary and Phytosanitary (SPS) measure" means any technical regulation applied within the territory of Pakistan or any part of it to,-
- (a) protect human life or health from risks arising from harmful organisms carried by animals, plants, fish or products based thereon, or from the entry, establishment or spread of harmful organisms;
 - (b) protect animal, fish or plant life or health from risks arising from the entry, establishment or spread of harmful organisms;
 - (c) protect human, animal, fish or plant life or health from risks arising from additives, contaminants, residues of pesticides and veterinary medicines, toxins or disease-causing organisms in food and feed; or
 - (d) prevent or limit other damage from the entry, establishment or spread of harmful organisms via trade and commerce in products to which this Act applies;
- (xlii) "Schedule" means a Schedule to this Act;
- (xliii) "Scientific Committee" means the committee as established under section 10;
- (xliv) "scientific opinion" means the opinion rendered by the Scientific Committee under section 11;
- (xlv) "seed" means any of the following classes of seeds used for sowing or planting, namely:-
- (a) seeds of food crops such as cotton seed, edible oil seed and seeds of fruits and vegetables, or
 - (b) seeds of fodder, and includes seedlings, layering, tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material of food crops or fodder;
- (xlvi) "station" means the station, centre, office or any other facility whatever the nomenclature or designation may be used for the purposes of inspection and certification as required under this Act;

- (xlvi) "Technical Barriers to Trade" means the technical regulations including packaging, marking, and labelling requirements and procedures for assessment of conformity with technical regulations do not create unnecessary obstacles to international trade;
- (xlviii) "technical regulation" means a legal instrument prescribed by the Authority which lays down conditions designed to protect animal health, plant health and food safety; and
- (xlix) "tribunal" means the Appellate Tribunal established under section 29.

CHAPTER II

ESTABLISHMENT AND MANAGEMENT

3. Establishment of the Authority.- (1) Upon the commencement of this Act, there shall be established the National Food Safety, Animal and Plant Health Regulatory Authority (the Authority) to carry out the purposes of this Act. The Authority shall be under the administrative control of the Federal Government.

(2) Subject to the provisions of this Act, the Authority shall be independent in the performance of its functions and exercise of its powers. The Authority shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Act, to enter into contracts, acquire, hold and dispose of property, both movable and immovable, and to sue and be sued in its said name.

(3) The headquarters of the Authority shall be at Islamabad with offices set up at such places, as it may deem necessary, as and when required, with the prior approval of the Board.

4. Management of the Authority.- (1) The general direction, all matters of policy and administration of the Authority and its affairs shall vest in the Board which may exercise all powers, perform all functions and do all acts and things which may be exercised, performed or done by the Authority.

(2) The Board shall be,-

- (a) guided on questions of policy by such directions, not inconsistent with the provisions of this Act, as the Federal Government may give from time to time. If any question arises as to whether any matter is a question of policy or not, the decision of the Federal Government shall be final;
- (b) advised in relation to the scientific basis for the SPS measures by a Scientific Committee, which shall be composed of and operate subject to the provisions of section 10 ;and
- (c) advised in relation to stakeholder's views and opinions by a Consultative Committee which shall be composed of and operate subject to the provisions of section 12.

(3) The Authority shall be supported, in the performance of its functions under this Act, by an executive branch headed by the Chief Executive.

5. Board.- (1) The Board shall be the apex body and shall consist of a Chairperson and Deputy Chairperson plus seven members, of whom,-

(a) four members, one nominated by each Provincial Government, shall be appointed by the Federal Government;

(b) the remaining members shall be appointed by the Federal Government out of whom at least one shall be the nominee of the Federation of Pakistan Chambers of Commerce and Industry (FPCCI).

(2) The Chairperson and Deputy Chairperson, who shall be members of the Board, shall be appointed by the Federal Government on such terms and conditions as may be prescribed.

(3) The Chief Executive of the Authority shall be an exofficio member of the Board, without voting right, and shall act as the secretary of the Board.

(4) The Board may co-opt such other members as are deemed necessary for the conduct of its business. The co-opted members shall not have the right to vote on resolutions considered by the Board.

(5) The Federal Government may, by notification in the official Gazette, increase or decrease the membership of the Board.

(6) The members, other than Chairperson, Deputy Chairperson and the exofficio member, shall be appointed for a term of three years and may be re-appointed for a similar term on such terms and conditions as may be prescribed. No person shall be appointed as member of the Board for more than two terms.

(7) Before appointing a person as Chairperson, Deputy Chairperson or member of the Board, the Federal Government shall,-

(a) ensure that the persons, to be appointed, are men of high repute and integrity, possess relevant educational qualifications, and have at least five years experience in matters related to the SPS measures;

(b) consider whether any person, whom it is proposed to be appointed, has any financial or other interest which is likely to prejudice the exercise of his or her duties.

(8) The Chairperson, Deputy Chairperson and members shall not have, during their term of office, directly or indirectly, financial interest of whatsoever nature in the activities regulated by and under this Act.

(9) The Chairperson, Deputy Chairperson or a member may, other than the exofficio member, by writing under his hand addressed to the Federal Government, resign his office.

(10) The Chairperson, Deputy Chairperson or a member may be removed by the Federal Government from his office if he is found incapable of performing the functions of his office by reason of mental or physical incapacity or has been guilty of misconduct.

Explanation: For the purposes of this sub-section, the expression "misconduct" means conviction for any offence involving moral turpitude and includes conduct prejudicial to good order or unbecoming of a gentleman.

(11) The Chairperson, Deputy Chairperson and a member, other than the exofficio member, shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Board without the leave of the Board.

(12) The Board may delegate any of its powers and functions under this Act to the Chief Executive, any officer of the Authority, or any other Federal or Provincial authority, subject to such terms and conditions as it may determine.

(13) The Chief Executive shall initiate the process of filling in the vacancy in the membership of the Board immediately on the occurrence of such vacancy, but not later than seven days. The Federal Government shall fill in the vacancy within sixty days of its occurrence.

(14) In case the vacancy has occurred against the position reserved for a Province, the concerned Provincial Government shall nominate the replacement within thirty days of the receipt of information from the Chief Executive.

6. Functions and powers of the Authority.- (1) The Authority shall,-

- (i) advise the Federal Government on setting of SPS measures in relation to import and export of agricultural products, food and feed in accordance with the principles of risk analysis and taking into account relevant international standards, guidelines and recommendations developed or made by concerned international organizations;
- (ii) develop and prescribe science based technical regulations for the SPS measures in relation to agricultural products, food and feed;
- (iii) administer all legislative and regulatory acts adopted by the Federal Government with regard to SPS measures in relation to imports and exports of, and inter-provincial trade in animals, plants and agricultural products, food and feed, including the Acts set out in the Schedule;
- (iv) implement inspection and quarantine controls at points of entry and exit with regard to import and export of animals, plants and agricultural products, food and feed, including certification of consignments in relation to compliance with the SPS measures;
- (v) perform SPS risk assessments and communicate information regarding risks of SPS hazards to relevant stakeholders and consumers;

- (vi) co-ordinate with the Provincial Governments in the implementation of the SPS measures to be applied in the production and marketing of agricultural products, food and feed intended for export from Pakistan;
- (vii) co-ordinate with Provincial Governments on matters relating to management of SPS risks associated with the production and marketing of agricultural products, food and feed in Pakistan, including measures implemented by the Provincial Governments and other related matters under this Act or the laws specified in the Schedule and rules and regulations made thereunder;
- (viii) prepare national crisis management plans for the control of sanitary and phytosanitary risks, and implement emergency measures in collaboration with the relevant Provincial authorities;
- (ix) nominate the accredited testing facilities and laboratories which may undertake testing for official controls relating to the SPS measures of agricultural products, food and feed;
- (x) co-ordinate with international organizations and represent Pakistani interests at international fora and also enter into arrangements and agreements relating to bilateral and multi-lateral co-operation with regard to SPS matters;
- (xi) ensure implementation of obligations under bilateral or multilateral agreements concerning food safety and the SPS measures;
- (xii) assist the Federal Government on policy matters and international negotiations concerning the SPS measures;
- (xiii) co-ordinate with other governmental agencies in the implementation of foreign-aided technical assistance projects regarding matters under this Act; and
- (xiv) maintain a system to provide, in accordance with the provisions of the relevant laws, access to public documents and information relating to any matter under this Act.

(2) In performing its functions and exercising its powers as set out in sub-section (1), the Authority may,-

- (i) engage in any study or project relating to any matter under this Act in conjunction with other authorities, international agencies or organizations;
- (ii) invest in and provide laboratory testing services in relation to parameters of relevance to the SPS measures;
- (iii) levy such charges and fees as may be reasonable for the performance of its control functions, services and facilities provided by it as prescribed in the regulations made under this Act;
- (iv) enter into contracts for the supply of goods or services as may be necessary for the discharge of any of its functions and exercise of powers

- (v) initiate and encourage research and development for different matters under this Act, relating to the provision of scientific information required for risk assessment;
- (vi) promote awareness relating to the SPS measures;
- (vii) develop working manuals, references, materials and procedures in order to assist in improving the implementation of the SPS measures;
- (viii) hold training programmes, national and international conferences, policy seminars, symposia, or awareness workshops in relation to the SPS measures;
- (ix) conduct studies, surveys, experiments and analysis of data regarding the application of the SPS measures in international trade;
- (x) receive and manage property transferred, income, grants, contributions made to it, raise loans and to invest any fund representing such property, grants, bequests, trusts, gifts, donations, endowments or contributions in accordance with guidelines and directions of the Federal Government; and
- (xi) perform any other function and deal with matters and things that may be necessary or incidental thereto for the fulfilment of its functions under this Act or may be assigned to it by the Federal Government, from time to time.

7. Functions and Powers of the Board.- (1) In addition to powers and functions contained in other provisions of this Act, the Board shall perform the following functions and exercise the powers, namely:-

- (i) exercise general supervision over affairs of the Authority so as to ensure that its functions specified in section 6 are fulfilled;
- (ii) determine a staffing structure appropriate to the functions and appoint such officers and employees, advisors, consultants, experts or scientists as deemed necessary on terms and conditions as prescribed, on the recommendation of the selection and promotion committees to be headed by the Chief Executive or any other person authorized by him;
- (iii) issue the views and comments of the Authority with regard to control plans and reports submitted by the Provincial authorities in accordance with section 31;
- (iv) approve the annual report and annual plans of the Authority prepared in accordance with sections 31 and 47;
- (v) approve the annual budget estimates for submission to the Federal Government;
- (vi) approve for receiving and managing of any property, grants, bequests, trusts, gifts, donations, endowments and other contributions made to the Authority;

- (vii) approve proposals for purchase or otherwise acquire movable or immovable property subject to budgetary provision or as the case may be;
- (viii) approve for construction or renovation and expansion of the Authority's buildings;
- (ix) approve such regulations as are considered necessary for the proper administration of the affairs of the Authority;
- (x) approve agreements, contracts or arrangements to be entered into with any person, institution or organization, national or international; and
- (xi) approve service regulations dealing with the creation of posts, appointments and promotions against such posts, terms and conditions including disciplinary action.

8. Meetings of the Board.- (1) The Board shall meet quarterly or as often as is expedient to perform its functions and exercise its powers or on the specific request of a Province.

(2) The meetings of the Board shall be presided over by the Chairperson or Deputy Chairperson or in their absence by a member of the Board provided that he is notified by the Federal Government to look after the work of the Chair-person.

(3) The meetings of the Board shall be held at such time, place, and in such manner as may be decided by the Chairperson or in his absence by the Deputy Chairperson. In the absence of both the Chairperson and the Deputy Chairperson, the meeting may be called by a member of the Board:

Provided that such member is notified by the Federal Government to look after the work of the Chairperson.

(4) Sixty percent of the total membership of the Board, excluding the exofficio member, shall constitute the quorum for a meeting of the Board requiring a decision of the Board.

(5) The members shall have reasonable notice of the date, time and place of the meeting and the matters on which a decision by the Board shall be taken in such meeting.

(6) The decisions of the Board shall be taken by majority of its members present and voting, and in case of a tie, the Chairperson, Deputy Chairperson or a member, who is presiding over the meeting, shall have a casting vote.

(7) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy, or any defect, in the constitution of the Board provided that other conditions of this section are fulfilled.

(8) All orders, determinations and decisions of the Board shall be reduced in writing and shall be signed by the Chief Executive.

9. Chief Executive.- (1) The Federal Government shall, by notification in the official Gazette, appoint a person, having relevant educational qualifications and experience and on such terms and conditions as may be prescribed, to perform the functions of Chief Executive

of the Authority under this Act for a term of three years. He may be reappointed for another like term.

(2) Until the Board is duly constituted, the Chief Executive shall, subject to such directions as the Federal Government may give from time to time, exercise powers, and perform the functions of the Board, subject to the limit of three months.

(3) In addition to any power, contained in any other provision of this Act, the Chief Executive shall have the powers and perform the following functions, namely:—

- (i) exercise administrative control over the personnel;
- (ii) keep safe custody of the records and seal;
- (iii) subject to the provisions of clause (II) of sub-section (I) of section 7 fill posts in various categories as prescribed in the regulations;
- (iv) submit the annual budget proposals and revised budget estimates for approval to the Board;
- (v) incur expenditure and re-appropriate funds within the approved budgetary estimates. Re-appropriation shall be done with the approval of the Board, if necessary;
- (vi) prepare, as required under section 47 the annual report for the approval of the Board;
- (vii) exercise powers of a controlling officer in respect of his own bills and of the employees;
- (viii) perform any other act and duties and exercise such powers as the Board may assign or delegate to him, from time to time;
- (ix) exercise disciplinary powers; and
- (x) act on behalf of the Board, in an emergency, subject to the obligation to report such action to the Board at next meeting and to seek its ratification.

(4) The officers and staff of the Authority shall have such powers and shall perform such functions as may be assigned to them by the Chief Executive or delegated to them under this Act.

10. Scientific Committee.- (1) The Scientific Committee shall be responsible for rendering scientific opinions of the Authority on matters related to the SPS measures.

(2) The Scientific Committee shall adopt its working procedures, in relation to the preparation of scientific opinions. These procedures shall be approved by the Board.

(3) The Scientific Committee shall be composed of up to ten eminent scientists with relevant qualifications and experience, whose term of appointment will be three-years, which may be renewed.

(4) The members of the Scientific Committee shall be appointed by the Board, on proposal from the Chief Executive, following a call for applications from candidates published in the national media and relevant scientific journals on such terms and conditions as prescribed.

(5) The Scientific Committee shall elect a Convenor from amongst its members.

(6) Where a subject on which the Scientific Committee is to give an opinion does not fall within the expertise of its members, the Scientific Committee shall request the Board to co-opt additional member and to establish a sub-committee for the purpose.

(7) The Scientific Committee shall provide an opinion by a majority of its members and any minority opinions shall be recorded.

(8) The representatives of the Authority shall be entitled to be present in the meetings of the Scientific Committee. If invited to do so, they may assist for the purposes of clarification.

9) The Authority shall provide the technical, logistic and secretarial support necessary for the Scientific Committee.

11. Scientific opinions.- (1) The Scientific Committee shall render a scientific opinion regarding assessment of food safety, SPS risks,-

(a) at the request of the Board, in respect of its functions, and in cases where national legislation makes provision for the Scientific Committee to be consulted; and

(b) on its own initiative, on matters falling within the purview of sub-section (1) of section 10.

(2) The requests referred to in clause (a) of sub-section 1 shall be accompanied by an explanatory note explaining the scientific issue to be addressed.

(3) The Scientific Committee shall render scientific opinion within the time limit specified in the request for opinion, except in duly justified circumstances.

(4) The Board shall take into account the scientific opinion in its decisions.

12. Consultative Committee.- (1) The Consultative Committee shall be composed of minimum twelve and maximum twenty-four representatives of organisations and groups holding valid interests in the food safety and SPS status of Pakistan.

(2) The meetings of the Consultative Committee shall be chaired by the Chief Executive. It shall meet at the invitation of the Chair.

(3) The members of the Consultative Committee shall be selected by the Board from a list of candidates prepared after publication in the national media of a call for expression of interest, in membership of the Consultative Committee.

- (4) The members of the Consultative Committee shall not be members of the Board.
- (5) The Consultative Committee shall,-
 - (a) facilitate communication with stakeholders regarding matters of concern to the Authority; and
 - (b) provide an opinion to the Authority regarding the implementation of existing and proposed SPS measures.
- (6) The operational procedures of the Consultative Committee shall be specified in the Authority's internal orders.
- (7) The Authority shall provide technical, logistic and secretarial support necessary for the Consultative Committee.
- (8) The Chief Executive may invite representatives from other relevant bodies to participate in the meeting of the Consultative Committee.

13. Remuneration and expenses. - The Authority shall pay the Chairperson, Deputy Chairperson and members of the Board, Scientific Committee and Consultative Committee prescribed remunerations and expenses as incurred in undertaking their responsibilities for and on behalf of the Authority.

14. Vacation of office by death. - The office of Chairperson, Deputy Chairperson, Chief Executive and member of the Board, Scientific Committee or Consultative Committee shall ipso facto be vacated if the incumbent passed away.

CHAPTER III

FOOD SAFETY AND SPS MEASURES

15. Requirement to comply with the SPS measures.- The agricultural products, food or feed intended for export from or import into Pakistan, shall comply with the SPS measures to which this Act refers.

16. Inter-provincial trade. - (1) The inter-provincial trade in agricultural products, food or feed shall comply with the SPS measures.

(2). Any agricultural product, food or feed, which complies with the SPS measures of one Province shall not be prevented from being placed on the market in any other Province by reason of it not complying with corresponding measures applied in that Province, unless it can be established on the basis of risk assessment that such measures are necessary to protect human, plant and animal health in that Province.

(3). In case of a dispute between the Provinces concerning the compliance with the SPS measures, the Authority shall facilitate the settlement.

17. Official controls.- (1) The Authority shall ensure that the business operators engaged in the import and export of agricultural products, food or feed comply with the SPS measures through a system of official controls.

(2) Official controls shall take into account.-

- (a) identified risks associated with agricultural products, food, or feed businesses;
- (b) agricultural products, food or feed business operators' record as regards compliance with the SPS measures; and
- (c) any other information that might indicate non-compliance.

(3) Official controls shall be carried out without prior warning, except in cases where prior notification of the agricultural products, food or feed business operator is necessary.

(4) Official controls shall be carried out at any of the stages of preparation of agricultural products, food or feed meant for export.

18. Import and export of agricultural products, food, and feed.- (1) No business operator shall import into or export from Pakistan any agricultural product, food or feed without first registering himself with the Authority on the payment of registration fee.

(2) The Authority may by regulation prescribe that import into or export from Pakistan of any specified agricultural product, food or feed be undertaken only by a business operator registered under sub-section (1), and holding a valid licence issued by the Authority, subject to the condition of compliance with the SPS measures and payment of license fee.

(3) The SPS conditions of any licence referred to in sub-section(2) shall be prescribed in the regulation ensuring that they do not constitute a means of arbitrary or unjustifiable discrimination to the right of business operator to import or export.

(4) Subject to the provisions of sub-sections (1) and (2), no business operator shall import into or export from Pakistan any consignment of any agricultural product, food or feed without obtaining a certificate issued by the Authorised Officer attesting to its compliance with the SPS measures.

(5) The customs authorities shall ensure that no consignment of agricultural product, food or feed is cleared for export or import which is not accompanied by the certificate as provided in sub-section (4).

(6) The Authority shall prescribe, through regulation, the rates of registration fee, license fee and service charges for carrying out official controls including the circumstances under which the cost of any laboratory testing considered necessary may be charged to the business operator.

19. Nomination of Authorised Officers.- (1) The Authority may nominate its officer or any officer, after consultation with the Federal or Provincial Government, to act as an Authorised Officer for the purposes of implementing the responsibilities of the Authority under this Act.

(2) The powers of the Authorised Officer shall be limited to the jurisdiction of the Authority.

(3) The Authority shall issue to the Authorised Officer a certificate of his authority.

(4) The Authority, while authorizing such officer, shall ensure that he is (i) a person of integrity, (ii) possesses relevant educational qualification, (iii) possesses sufficient experience in matters related to the SPS measures, and (iv) not, directly or indirectly, engaged in any agriculture product, food or feed business or has financial interest therein.

20. Powers of Authorised Officers: - (1) An Authorised Officer may,-

- (a) at any reasonable hour or whenever work is in progress in any establishment in which agricultural product, food or feed is believed to be produced, stored, processed or packaged for export, enter that establishment for the purposes of determining compliance with the SPS measures;
- (b) examine any article in any establishment to which he believes that this Act applies, or which he believes is used or capable of being used for the preparation of any agricultural product, food or feed to which this Act or any regulation made thereunder applies and take samples thereof for laboratory analysis or other examination;
- (c) stop, search or detain any vehicle, vessel, train or aircraft in which he believes that any article to which this Act applies is conveyed, examine the article and take samples thereof subject to law;
- (d) open and examine any receptacle or package which he believes to contain any article to which this Act applies, examine the article and take samples thereof;
- (e) call for any books, documents or other records in any medium such as computer which he believes contain any information or data relevant to the enforcement of the provisions of this Act with respect to any agricultural product, food or feed, make copies thereof and take extracts there from;
- (f) seize or detain for such time, as may be necessary, any article by means of, or in relation to which, he is of the opinion that the provisions of this Act have been contravened and shall, at the time of seizure or detention, inform, in writing, the owner or the person from whose possession the seizure or detention is made, of the grounds for the said action;
- (g) exercise any other function assigned to him by the Authority; and
- (h) seek assistance from a police officer or other security officer for use of force that is reasonably necessary in the circumstances when carrying out a function under this Act. Such police officer or security officer, while assisting the Authorized Officer, shall have the same authority as an Authorized Officer and the same liability and protection as an Authorised Officer in relation to carrying out the functions.

(2) In sub-section (1), the expression "any article" includes any.-

- (a) agricultural product, food or feed, or any substance capable of being used in the composition or preparation of any food or feed;
- (b) thing used or capable of being used for the manufacture, preparation, preservation, packing or storage of agricultural products, food or feed, including packaging material; and
- (c) labelling or advertising material.

(3) An Authorised Officer shall in the exercise of his powers under sub-section (1), if required by any person affected thereby, produce his certificate of authority issued to him under section 19.

(4) The Authorised Officer shall release any article seized or detained by him under clause (f) of sub-section 1, where he is satisfied, on the basis of evidence received by him, that the provisions of this Act, in relation to the article, have been complied with.

(5) Where an Authorised Officer has seized or detained any article under clause (f) of sub-section 1 and the owner thereof or the person in whose possession it was at the time of the seizure or detention consents in writing to its destruction or disposal, the article shall be destroyed or otherwise disposed of as the Authorised Officer may direct, without prejudice to the taking of any proceedings for an offence committed under this Act.

(6) Where the owner or the person as mentioned in sub-section (5), does not consent for the destruction or disposal of the article seized or detained under clause (f) of sub-section 1 and in respect of which he remains of the opinion that the provisions of this Act have not been contravened, then the Authorized Officer shall,-

- (a) without delay refer the sample to a nominated laboratory for analysis; and
- (b) order, on the basis of the laboratory report, for the - (i) release of the article, or treatment so as to render it compliant with the provisions of this Act, as the case may be, or (ii) impose penalty, under section 26, if he decides that the provisions of this Act have been violated, order for the destruction of the article, and the recovery of expenses incurred thereon, from the owner.

(9) A person is not excused from giving any information to the Authorized Officer, in response to a direction or requirement of the Authorized Officer, on the ground that the information might tend to incriminate him or render him liable to a penalty.

(10) If an objection is made and the information is recorded, in writing or otherwise, the record shall set out the fact of the objection having been made.

21. Risk analysis. - (1) The food safety and the SPS measures, applied under this Act, shall be based on principles of risk analysis (risk assessment, risk management, and risk communication).

(2) The risk analysis shall be based on the available scientific evidence and undertaken in an independent, objective and transparent manner.

(3) The risk analysis shall be conducted according to the regulation prescribed by the Authority.

22. Transparency. - (1) There shall be open and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of risk management measures under this Act, except where the urgency of the matter does not allow it.

(2) Without prejudice to the applicable provisions of national law on access to documents, where there are reasonable grounds to suspect that an agricultural product, food or feed may present a risk for human health, animal health and plant health, then depending on the nature, seriousness and extent of that risk, the concerned authorities shall take appropriate steps to inform the agricultural product, food and feed business operators and, if necessary, the general public, of the nature of the risk to human health, animal health, plant health or identifying to the fullest extent possible the agricultural product, food or feed, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk.

23. Confidentiality.- (1) No information relating to any individual business, which is obtained by the Authority during the course of official controls under this Act, shall, without the previous consent in writing of the business operator, be disclosed, except,-

- (a) in accordance with the directions of the Board, so far as may be necessary for the purposes of this Act;
- (b) for the purposes of any proceedings for an offence or any report of those proceedings; or
- (c) in compliance with the orders of a court or tribunal.

(2) Any person, who discloses any such information in contravention of sub-section (1), shall be proceeded against for misconduct.

CHAPTER - IV

JURISDICTION, OFFENCES AND PENALTIES

24. Contravention with the provisions of the Act to be an offence.- (1) Any business operator who has contravened, attempts to contravene or abets the contravention of the provisions of this Act, rules or regulations made thereunder shall be guilty of an offence and shall be punished as provided in section 26.

(2) Subject to the generality of the provisions of sub-section (1), a person commits an offence if the person –

- (i) without lawful excuse, does not comply with a direction of the Authorized Officer. The details, such as the notice of direction, procedure for its issuance, compliance and time limits shall be provided in the regulation;
- (ii) without lawful excuse, does not comply with any other lawful requirement (however described) of the Authorized Officer under this Act;

- (iii) without lawful excuse, wilfully obstructs, hinders or resists the Authorized Officer who is carrying out a function under this Act;
- (iv) without lawful excuse, wilfully obstructs, hinders or resists the police officer or security officer, assisting the Authorized Officer, who is carrying out a function under this Act; or
- (v) wilfully makes a false statement to, or misleads, the Authorized Officer who is carrying out a function under this Act.

25. Offences by companies, etc.- Where any contravention of this Act has been committed by a statutory body or a company registered under the Companies Ordinance, 1984 (XLVII of 1984) and it is proved that such offence has been committed with the consent or connivance, or is attributed to any negligence, on the part of any director, partner, manager, secretary or other officer of the statutory body or a company, such director, partner, manager, secretary or other officer of the statutory body or a company shall be deemed guilty of such contravention along with the statutory body or a company and shall be punished accordingly.

Explanation. - For the purposes of this section, "statutory body" includes a firm, association of persons and a society registered under the Societies Registration Act, 1860, or the Co-operative Societies Act, 1925.

26. Penalties.- (1) Whoever has contravened, attempts to contravene or abets the contravention of the provisions of this Act, rules or regulations made thereunder shall, without prejudice to any other penalty to which he may be liable, be punished in case of offence relating to.-

- (i) export and import without securing certificate, to be issued by the Authorized Officer, with imprisonment for one year, fine of two million rupees and suspension of registration for three years;
- (ii) deliberate misstatement in regard to compliance with food safety and SPS conditions, with imprisonment for six months, fine of one million rupees and suspension of registration for two years; and
- (iii) offences, other than those mentioned in (i) and (ii) above, as prescribed in the regulation, with fine of two hundred fifty thousand rupees and suspension of registration for six months to one year, depending upon the nature and gravity of offence.

(2) A business operator may be charged and convicted for more than one offence. In such a case, he shall be punished with the maximum penalty.

(3) The Federal Government may, by notification in the official gazette, increase or decrease the amount of fine under sub - section (1).

(4) The Federal Government shall place before the National Assembly all notifications issued under sub - section (3) in the first week of January every year.

27. Cognizance of offences. - (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the court of Sessions shall take cognizance of an offence punishable under clauses (i) and (ii) of sub-section (1) of section 26, on a complaint in writing made by the Chief Executive or a person authorized by him in this behalf.

(2) If a business operator is charged for an offence, mentioned in clause (iii) of sub-section (1) of section 26, the Authorized Officer shall take cognizance of the offence.

(3) If any person is convicted of an offence punishable under this Act, the court of the Authorized Officer may further direct that the agricultural product, food or feed involved shall be forfeited to the Authority and disposed off as prescribed in the regulation.

28. Appeal. - Any person aggrieved by a decision or an order, may within thirty days of the receipt of such decision or order prefer an appeal,-

- (a) if the decision or order is passed by the court of Sessions, to the High Court; and
- (b) if the order is passed by the Authorized Officer, to the Appellate Tribunal, as provided under section 29.

29. Appellate Tribunal. - (1) The Federal Government shall constitute an Appellate Tribunal consisting of three members of the Board to hear and decide appeals against the decisions and orders of the Authorized Officers.

(2) The matters pertaining to the nomination of members of the Tribunal, its procedure and other related issues shall be prescribed in the rules.

30. Bar of jurisdiction.- No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done under this Act, other than the court or the Authorized Officer as mentioned in section 27.

CHAPTER V

COORDINATION WITH PROVINCIAL GOVERNMENTS

31. Coordination with Provincial Governments: - (1) The Authority shall,-

- (a) require each Provincial Government to nominate its authority empowered for the implementation of official controls of food safety, animal health and plant health;
- (b) require the nominated authority to prepare annual programme of official control activities in relation to matters falling within the jurisdiction of the Authority as set out in sub-section (1) of section 6, specifying,-
 - (i) the type of control activities to be carried out; and
 - (ii) the criteria applied in drawing up the programme;