



The Punjab Gazette

PUBLISHED BY AUTHORITY

LAHORE THURSDAY AUGUST 06, 2015

GOVERNMENT OF THE PUNJAB LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT NOTIFICATION

06th August 2015

No.Legis:13-84/2009 (P-IV): The following Ordinance promulgated by Governor of the Punjab is hereby published for general information:

THE PUNJAB DRUGS (AMENDMENT) ORDINANCE 2015

(XX OF 2015)

AN
ORDINANCE

further to amend the Drugs Act, 1976.

Certain amendments in the Drugs Act, 1976 (XXXI of 1976) are required *inter alia* for the eradication of the menace of spurious drugs, for more effective enforcement of the law through stricter penalties and for ancillary matters;

Provincial Assembly of the Punjab is not in session and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action;

In exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

1. Short title and commencement.— (1) This Ordinance may be cited as the Punjab Drugs (Amendment) Ordinance 2015.

(2) It shall come into force at once.

2. Amendment in section 3 of Act XXXI of 1976.— In the Drugs Act, 1976 (XXXI of 1976), for brevity cited as the said Act, in section 3:

(a) after clause (j), the following clause (ja) shall be inserted:

"(ja) "Foreign Drug Authority" means a Foreign Drug Authority recognized by the Federal or the Provincial Government and, unless specified otherwise, Federal Drug Authority of the United States of America, European Drug Authority, Medicines and Healthcare Regulatory Agency of the United Kingdom, Drug Authorities of Australia, Japan and Canada shall be deemed to be recognized Foreign Drug Authorities;"

(b) in clause (zb), for sub-clause (i), the following shall be substituted:

"(i) which purports to be a drug but does not contain the ingredients of the drug as per specifications;" and

- (c) at the end of clause (zb), the word "and" shall be inserted and at the end of clause (zc), the word "and" and clause (zz) shall be omitted.

3. Amendment in section 11 of Act XXXI of 1976.— In the said Act, in section 11, in subsection (1), for the words "a Provincial Quality Control Board", the words "one or more Provincial Quality Control Boards with specific area of jurisdiction" shall be substituted.

4. Amendment in section 18 of Act XXXI of 1976.— In the said Act, in section 18, in subsection (1):

- (a) In clause (j), in the proviso, for the colon, the expression "; and" shall be substituted; and
- (b) after clause (j), the following clause (k) shall be inserted:
 "(k) stop the manufacture of drugs in case of unsatisfactory or inadequate compliance with prescribed standards and specifications;"

5. Amendment in section 19 of Act XXXI of 1976.— In the said Act, in section 19:

- (a) in subsection (3), for the words "within seven days", the words "within three days" shall be substituted;
- (b) in subsection (5), for clause (a), the following shall be substituted:

"(a) he shall as soon as practicable seek confirmation from the Provincial Quality Control Board; and";

- (c) for subsection (6), the following shall be substituted:

"(6) The Provincial Inspector, finding any contravention under subsection (1) or subsection (2) of section 27, shall give an information under section 154 of the Code of Criminal Procedure, 1898 (V of 1898)."; and

- (d) after subsection (6), the following subsections (6a), (6b) and (6c) shall be inserted:

"(6a) On registration of information under subsection (6), the investigating officer shall investigate the case jointly with an Inspector authorized in this behalf by the Provincial Government and submit a joint investigation report to the Provincial Quality Control Board for appropriate action and the Board may or may not accord sanction for prosecution.

(6b) If sanction for prosecution is not accorded by the Provincial Quality Control Board, it may:

- (a) discharge the accused;
- (b) direct cancellation of the case; or
- (c) recommend disciplinary or other action against the complainant Inspector.

(6c) If sanction for prosecution is given, the investigating officer shall, through public prosecutor, submit the report in the concerned Drug Court under section 173 of the Code of Criminal Procedure, 1898 (V of 1898).

(6d) The Provincial Inspector, finding any contravention under subsection (4) of section 27, shall, within fifteen days, refer the case to the Provincial Quality Control Board for orders as to the action to be taken in respect of such contravention."

6. Amendment in section 22 of Act XXXI of 1976.— In the said Act, in section 22:

- (a) in subsection (2), for the words "within sixty days", the words "within thirty days" shall be substituted;
- (b) in subsection (4), for the words "within thirty days", the words "within fifteen days" shall be substituted; and
- (c) in subsection (5), after the words "make the test or analysis and report", the commas and words ", within thirty days," shall be inserted.

7. Amendment in section 27 of Act XXXI of 1976.— In the said Act, in section 27:

- (a) for subsection (1), the following shall be substituted:

"(1) If a person himself or through any other person acting on his behalf:

- (a) exports, imports, manufactures or sells any spurious or adulterated drug;
- (b) manufactures for sale any drug without a license;
- (c) manufactures, transports or sells a temperature sensitive drug in conditions which are likely to cause the drug to lose its potency; or
- (d) imports or sells an imported drug not registered under this Act or by a Foreign Drug Authority;

he shall be punished with imprisonment which may extend to ten years but which shall not be less than five years in case of export, import or manufacture of a spurious drug and three years in any other case and with fine which may extend to five million rupees but which shall not be less than one million rupees.";

- (b) for subsection (2), the following shall be substituted:

"(2) If a person himself or by any other person on his behalf:

- (a) imports, manufactures or sells any imitation product; or
- (b) gives to the purchaser a false warranty in respect of any drug sold by him that the drug does not in any way contravene the provisions of section 23 and is not able to prove that, when he gave the warranty, he had good and sufficient reason to believe the same to be true; or
- (c) applies or permits to be applied to any drug sold, or stocked or exhibited for sale, by him, whether on the container or a label or in any other manner, a warranty given in respect of any other drug, or
- (d) imports, manufactures for sales or sells any drug under a name other than the registered name;

he shall be punished with imprisonment for a term which may extend to seven years but which shall not be less than one year and with fine which may extend to one million rupees.";

- (c) for subsection (4), the following shall be substituted:

"(4) subject to the provisions of subsection (1), subsection (2) and subsection (3), if a person himself or through any other person acting on his behalf contravenes any of the provisions of this Act or any rules, he shall be punished with imprisonment for a term which may extend to five years but which shall not be less than six months and with fine which may extend to five hundred thousand rupees."

8. Amendment in section 30 of Act XXXI of 1976.— In the said Act, in section 30, for subsection (2), the following shall be substituted:

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898):

- (a) an offence punishable under this Chapter, other than an offence mentioned in subsection (1) or subsection (2) of section 27, shall be non-cognizable;
- (b) an offence punishable under subsection (1) and subsection (2) of section 27 shall be cognizable and non-bailable; and
- (c) no Court other than a Drug Court shall try an offence punishable under this Chapter."

9. Amendment in section 31 of Act XXXI of 1976.— In the said Act, in section 31, subsection (7) and subsection (8) shall be omitted.

10. Insertion of section 31A in Act XXXI of 1976.— In the said Act, after section 31, the following section 31A shall be inserted:

"31A. Appeal.— (1) The Provincial Government or the person sentenced by a Drug Court may, within sixty days, file an appeal against a final order of the Drug Court to Lahore High Court and the appeal shall be heard by a Bench of that Court consisting of not less than two Judges.

(2) A Drug Court shall, as soon as possible, supply copies of a final order to the parties free of cost.

(3) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908) shall be applicable to an appeal under this section."

11. Insertion of section 41A in Act XXXI of 1976.— In the said Act, after section 41, the following section 41A shall be inserted:

"41A. Suspension of license by Provincial Quality Control Board.— (1) A Provincial Quality Control Board may, subject to the conditions specified in section 41, suspend the manufacturing license of a manufacturer within the Punjab for a specified period not exceeding fifteen days and shall, as soon as possible, report the matter to the Central Licensing Board for further necessary action.

(2) The suspension of a license under subsection (1) shall, on the expiry of the specified period, cease to have effect unless the period of suspension is extended by the Central Licensing Board or, in the absence of any decision of the Central Licensing Board, by the Provincial Quality Control Board."

12. Insertion of section 43A in Act XXXI of 1976.— In the said Act, after section 43, the following section 43A shall be inserted:

"43A. Power to delegate.— The Provincial Government may delegate any of the functions of the Provincial Quality Control Board under this Act, the rules or the regulations to any other Board, body or authority constituted under the rules."

(MALIK MUHAMMAD RAFIQUE RAJWANA)
GOVERNOR OF THE PUNJAB

Dated: 05/08/2015

DR SYED ABUL HASSAN NAJMEE
Secretary
Government of the Punjab
Law and Parliamentary Affairs
Department