

## **THE ADULTERATION OFFENCES (SPECIAL COURTS) ACT, 2003**

A Bill to control, curb and eradicate the menace of adulteration  
Gazette of Pakistan, Extraordinary, Part III, 12th November, 2003

**Whereas** it is expedient to control, curb and eradicate the menace of adulteration;

**And whereas** it is necessary to enhance the punishment of offences relating to adulteration and to provide for Special Courts for trial of such offences and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:---

**1. Short title, extent and commencement :** --- (1) This Act may be called the Adulteration offences (Special Courts) Act, 2003.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may, by notification in the official gazette, appoint which shall not be later than ninety days from the date this Act is published in the official Gazette as an act of the Majlis-e-Shoora (Parliament).

**2. Definitions.**--- (1) In this Act, unless there is anything repugnant in the subject or context,---

(a) "adulterated drug" means a drug—

(i) which consists in whole or in part of any filthy, putrid or decomposed substance or which contains any foreign matter, vermin, worm, rodent or insect; or

(ii) which has been manufactured, packed, or held under unsanitary conditions whereby it has been contaminated with dirt, filth or any other foreign matter or whereby it may have been rendered injurious to health; or

(iii) the container of which releases any poisonous or deleterious substance which may render the injurious to health; or

(iv) which bears or contains as an ingredient a substance other than the prescribed substance; or

(v) with which any substance has been mixed or packed so as to reduce its quality or strength or for which any substance has been substituted wholly or in part or which is fake or spurious or has been imitated or misbranded; or

(vi) which has expired; or

(vii) which has been declared by the Federal Government, by notification in the official gazette, to be adulterated drug for the purposes of this Act;

**Provided that** for the purposes of this clause a drug may not be treated as fake or spurious if the quantity of adulteration in such drug is of such a nature and substance which is not ordinarily considered as fake or spurious and does not render it injurious to health;

(b) "adulterated food" means an article of 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 affect adversely the nature, substance or quality thereof, or

(iii) which is processed, mixed, colored, powdered or coated with any other substance which adversely affects its nature or quality; or

(iv) Any constituent of which has been wholly or in part abstracted so as to affect injuriously its nature, substance or quality; or

(v) Which contains any poisonous or other ingredient which may render it injurious to

health; or

(vi) The quality or purity of which does not conform to the prescribed standards or is fake, spurious or misbranded; or

(vii) Which having been prepared, packed or kept under unsanitary conditions, has been contaminated or becomes injurious to health; or

(viii) Which has become stale or rotten and injurious to health;

(ix) Is insect-infested or is otherwise unfit for human or animal consumption; or

(x) Which has been declared by the Federal Government, by notification in the official Gazette, to be adulterated food for the purposes of this Act:

**Provided that** for the purposes of this clause an article of food may not be treated as fake or spurious if the quantity of adulteration in such article is of such a nature and substance which is not ordinarily considered as fake or spurious and does not render it injurious to health;

(c) "adulterated pesticide" means a pesticide with which spurious, deleterious or harmful substance has been mixed or is fake or misbranded or which is wholly or mainly ineffective for the purpose for which it is intended; or which has been declared by the Federal Government, by notification in the official Gazette, to be adulterated pesticide for the purposes of this Act.

(d) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(e) "drug" means the drug as defined in the Drugs Act, 1976 (XXXI of 1976):

**Provided that** it shall include a drug used or prepared for use in accordance with the unani, homoeopathic, ayurvedic or biochemic system or treatment;

(f) "Federal Government" for the purpose of investigation and filing of complaint means the Ministry of Interior and for all other purposes the Ministry of Law, Justice and Human Rights;

(g) "food" means any article used as food or drink for human or animal consumption and includes—

(i) any substance which is intended for use in the composition or preparation of food;

(ii) any favoring matter or condiment;

(iii) any colouring matter intended for use in food;

(iv) chewing gum and other products of the like nature;

(v) water in any form, including ice, intended for human consumption or for use in the composition or preparation of food; or

(vi) "drink" which means and includes beverages, mineral and/or bottled water, milk, juice, sweet drink, ice, or drink in any form intended for human or animal consumption or for use in preparation of food; and

(vii) any other article declared by the Federal Government, by notification in the official gazette, as food or drink for the purposes of this act.

(h) "Pesticide" means the pesticide as defined in the Agricultural Pesticide Ordinance, 1971 (II of 1971);

(i) "Special Court" means a special Court constituted under section 4;

(j) "Sub-standard drug" means a drug which is not according to specifications; and

(k) "sub-standard pesticide" means the pesticide which is not according to specifications and includes expired pesticide.

(2) All other terms and expressions used but not defined in this Act shall have the meanings as are assigned to them in the Drugs Act, 1976, the Agricultural Pesticide Ordinance, 1971, and any other relevant law.

**3. Application of laws not barred :** --- The provisions of this Act, shall be in addition to, and not in derogation of the Drugs Act, 1976 (XXXI of 1976), the Agricultural Pesticides Ordinance, 1971 (II of 1971) and any other law for the time being in force.

**4. Constitution of Special courts :** --- (1) The Federal government may, by

notification in the official gazette, establish one or more Special courts and may fix their territorial limits for purposes of jurisdiction.

(2) A Special Court shall consist of a person who is serving as District and Session judge, or any other person, who is qualified for appointment as a judge of a High Court or is retired judge of a High court.

(3) A judge of a special court shall be appointed by the Federal government in consultation with the Chief justice of the High Court in case of a serving District and Sessions judge and in other cases in consultation with the Chief justice of Pakistan.

(4) Notwithstanding anything contained in the code or any other law for the time being in force a Special court shall have exclusive jurisdiction to try offences under this act, including the offences as may be specified by the Federal Government by Notification in the official gazette.

(5) The procedure laid down in chapter XXIIA of the code shall mutatis mutandis apply to trial of offences under this act and a person conducting prosecution before a Special Court shall be deemed to be a public prosecutor.

(6) The terms and conditions of service of a judge of a Special Court shall be such as may be determined by the Federal Government.

(7) A Special court shall sit at such place or places as the Federal Government may, by order, specify in that behalf.

(8) Where more than one special Court have been established at a place, the Federal Government shall designate a judge of any such court to be an administrative judge and a case triable under this Act shall be filed before the court of the Administrative judge who may either try the case himself or assign it for trial by any other Special court established at that place, in respect of a case assigned to a court, all orders made or proceedings taken before the assignment shall be deemed to have been made or taken by the court to which the case has been assigned.

**5. Investigation :** --- (1) Notwithstanding anything contained in the code or any other law for the time being in force the investigation of an offence under this act shall be undertaken by the Federal Investigation Agency constituted under the federal Investigation act, 1974 (VIII of 1974).

(2) Subject to any order which the Federal Government may make in this behalf, the members of the Federal Investigation Agency shall, for the purpose of inquiry or investigation under this act, have throughout Pakistan such powers relating to search, arrest of persons, seizure of property and duties, privileges, liabilities and such other powers as the officers of provincial Police have in relation to inquiry and investigation of offences under the code or under any other law for the time being in force.

**6. Prohibition of adulteration :** --- whoever shall, directly or indirectly, himself or by any other person;

(a) Adulterate any food or drink intended for sale which renders it noxious, injurious to health or unfit human or animal consumption;

(b) Adulterate any drug or medical preparation intended for sale for human or animal consumption which renders it sub-standard, noxious or injurious to health;

(c) adulterate any pesticide intended for sale which wholly or mainly become sub-standard or ineffective for the purpose for which it is intended; or

(d) import, export, manufacture, formulate, sell, offer for sale, hold in stock for sale or advertise for sale an adulterated or sub-standard food, drug or pesticide.

Be guilty of offence and punishable as hereinafter provided.

**7. Penalty for adulteration of food or drink intended for sale :** --- Whoever adulterates any article of food or drink, so as to make such article injurious to health or noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, or imports, exports, manufactures, formulates, sells, or offers or exposes for sale, holds in stock for sale, or advertises for sale, as food or drink, any adulterated article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that he same is noxious as food or drink, shall be punished with imprisonment of either description fro a term which may extend to twenty-five years and with fine which may extend to ten hundred thousand rupees;

**Provided that** fine shall not be less than—

- (i) three hundred thousand rupees where the convict is a manufacturer;
- (ii) one hundred thousand rupees where the convict is wholesaler; distributor or dealer;
- (iii) ten thousand rupees where the convict is a retailer.

**8. Penalty for adulteration of drugs :** --- Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious or injurious to health intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, or knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious or injurious to health, imports, exports, manufactures, formulates, sells, or offers or exposes it for sale, holds it in stock for sale, advertises it for sale, or issues it form any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes, shall be punished with imprisonment of either description for a term which may extend to twenty-five years and with fine which may extend to ten hundred thousand rupees:

**Provided that** fine shall not be less than—

- (i) three hundred thousand rupees where the convict is a manufacturer;
- (ii) one hundred thousand rupees where the convict is wholesaler;
- (iii) ten thousand rupees where the convict is a retailer.

**9. Penalty for adulteration of pesticide :** --- Whoever adulterates any pesticide intended for sale which makes it wholly or mainly ineffective for the purpose for which it is intended, or imports, exports, manufactures, formulates, sells, offers or exposes for sale, holds in stock for sale or advertises for sale any adulterated or sub-standard pesticide, shall be punished with the imprisonment of either description for a term which may extend to ten years and with fine which may extend to ten hundred thousand rupees:

**Provided that** fine shall not be less than—

- (i) two hundred thousand rupees where the convict is a manufacturer;
- (ii) fifty thousand rupees where the convict is wholesaler, distributor or dealer;
- (iii) five thousand rupees where the convict is a retailer.

**10. Forfeiture of property and cancellation of license :** --- Where a person has been convicted under any provision of this Act, the food, drug or pesticide in respect of which the offence has been committed may be forfeited including stock and the processing equipment or machinery to the Federal Government and if the accused possesses any licence for import, export, sale, manufacture or formulation of such food, drink, drug or pesticide shall stand cancelled and he shall also be debarred from holding any public office.

**11. Offences by companies, etc :** --- Where the person guilty of an offence under this act, is a company, corporation, firm, agency or institution, every director, partner and officer in the management of the company, corporation, firm, agency or institution shall be guilty of the offence and the company, firm, agency or institution shall be liable to such further action including action or closure of its business connected with the offence, as has been provided under the companies ordinance, 1984 (XLVII of 1984) or any other law for the time being in force or as may be prescribed by the Federal Government under the rules in consultation with the securities and Exchange Commission of Pakistan constituted under the securities and Exchange commission of Pakistan Act, (XLVII of 1997).

**12. Publication of offender's name :** --- (1) If any person is convicted of an offence under this act, it shall be lawful for the Special Court and the Federal Government to cause the offender's name, place of residence, the offence of which he has been convicted and the penalty which has been inflicted upon him, to be published at the expense of such person in such newspapers or in such other manner as the court may direct.

(2) Where the publication under sub-section (1) is made under direction of the court, the expenses of such publication, if not paid by the offender, shall be recoverable in the same manner as a fine and if the publication is made by the Federal government, the expenses shall be borne by the Federal Government.

**13. Provisions of the Code to apply :** --- Unless there is anything inconsistent with the provisions of this act, the provisions of the code of criminal procedure, 1898 (Act V of 1898), shall mutatis mutandis apply to the proceedings under this act.

**14. Cognizance of offence :** --- The Special court may take cognizance of an offence under this Act:

(i) upon a complaint made by an officer of the Federal or a provincial Government, other than a police officer, duly authorised by the federal Government in this behalf; or

(ii) upon receiving a complaint supported by relevant material from an individual consumer or a consumer's association or organization.

**15. Transfer of cases :** --- The Federal Government may, if it considers it expedient to do so in the interest of justice or where the convenience of the parties or the safety of the witnesses so requires, transfer any case from one special court to another.

**16. Procedure of special Court :** --- (1) On taking cognizance of a case, the special court shall proceed speedily with the trial from day to day and shall decide the case within ninety days and for any delay, reasons shall be recorded.

(2) A Special Court shall not adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interest of justice and no adjournment shall, in any case, be granted for more than three working days.

(3) A Special court shall not, merely by reason of change of its composition or transfer of a case under any provision of this act be bound to recall and rehear and witness who has given evidence, and it may act on the evidence already recorded.

(4) Any default on the part of an investigating officer, prosecutor or any other person required by law to perform any functions in connection with the inquiry or investigation, which results in, or has the effect of delaying the inquiry or investigation or trial of the case shall be willful disobedience of the order of the

special court and dealt with under the law accordingly and in case of Government official he shall also be liable to disciplinary action by the department to which he belongs.

**17. Power of court to implead manufacturers, etc :** --- Where at any time during the trial of any offence under this act alleged to have been committed by any person, not being the manufacturer, wholesaler, distributor or dealer, of any article of food or drink, the Special court is satisfied, on the evidence adduced before it, that such manufacturer, wholesaler, distributor or dealer is also concerned with that offence, then the court may, notwithstanding anything contained in the code, or in section 14, proceed against him as though complain has been instituted against him under section 14.

**18. Bail :** --- notwithstanding anything contained in the Code, no court other than special court shall have the power or jurisdiction to grant bail to any accused person in a case triable by a special Court:

**Provided that** the Special court shall not release the accused on bail, if there appear reasonable grounds for believing that he has been guilty of the offence for which he has been charged; nor shall an accused person be so released unless the prosecution has been given notice to show cause why he should not be so released.

**19. Appeal :** --- (1) Any person aggrieved by a final judgment of the special court may, within thirty days of the judgment, prefer an appeal to the High court.  
(2) Where a Special court has passed an order of acquittal, the Federal Government may prefer an appeal to the High court within sixty days of the order of acquittal.  
(3) Appeal preferred under sub-section (1) in case sentence is more than seven years or an appeal under sub-section (2) shall be heard by a bench of two judges.

**20. Vigilance cell :** --- (1) There shall be established a Vigilance cell in the ministry of Interior to amonite or the investigation of offences under this act.  
(2) A Vigilance cell shall also be set up in the Ministry of law, justice and human Rights to monitor work of the public prosecutors and progress of the cases in the Special courts.  
(3) The cell in the Ministry of interior shall coordinate with a cell in the ministry of law, justice and human rights in the matters relating to monitoring the investigation and prosecution.

**21. Notifying of laboratories :** --- The Federal Government may, in the official gazette, notify the laboratories for testing of samples of foods, drug and pesticide for the purposes of this act.

**22. Act to override other laws :** --- Without prejudice to the provisions of section 3, the provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

**23. Transfer of pending cases :** --- (1) All cases triable by a Special Court under Section 4, which immediately before the commencement of this Act, were pending before any court shall, on such commencement, be forwarded fro trail to the Special Court having jurisdiction over such cases, provided that nothing contained herein shall affect any proceedings pending before an appellate court including the supreme court.

(2) In respect of cases transferred to a special Court under sub-section (1), the

Special court may proceed from the stage at which the proceedings had reached immediately prior to the transfer and decide the case according to law.

**24. Power to make rules :** --- The Federal Government, may, by notification in the official gazette, make rules to carry out the purposes of this act.