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**GOVERNMENT OF THE PUNJAB
LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT**

**NOTIFICATION
(44 of 2017)**

15 March 2017

The following Notification No. DG(PFA)/Admin/2017/826, dated 13.03.2017 issued under section 57 of the Punjab Food Authority Act, 2011 (XVI of 2011) for the Punjab Food (Improvement Notice, Prohibition Orders and Emergency Prohibition Orders) Regulations, 2017 is published for general information:

DR SYED ABUL HASSAN NAJMEE

Secretary
Government of the Punjab
Law and Parliamentary Affairs
Department

GOVERNMENT OF THE PUNJAB/826
PUNJAB FOOD AUTHORITY

Dated: 13th March, 2017

NOTIFICATION

No. DG/PFA(Admin) 826. In exercise of the powers conferred under section 57 read with section of the Punjab Food Authority Act, 2011 (XVI of 2011), Punjab Food Authority is pleased to make the following Regulations;

The Punjab Food (Improvement Notice, Prohibition Orders and Emergency Prohibition Orders) Regulations, 2017

PART-I

(1) **Short title and commencement.**—(1) These regulations may be called as **Punjab Food (Improvement Notice, Prohibition Orders and Emergency Prohibition Orders) Regulations 2017**

(2) These shall come into force at once.

2. **Definitions.**—(1) In these regulations, unless there is anything repugnant in the subject or context;-

(a) **"Act"** means the Punjab Food Authority Act, 2011 (Act XVI of 2011);

(b) **"Code"** means the Code of Criminal Procedure, 1898 (V of 1898);

(c) **"Court"** means Special Court established under section 40 of the Act and include a Magistrate exercising powers under section 30 of the Code for the area shall be deemed to be Special Court under the Act;

(d) **"Food Authority"** means the Punjab Food Authority established under the Act;

(e) **"Food Safety Hazard"** means and includes biological, chemical, physical, allergenic, nutritional and/or biotechnology-related agent with the potential to cause adverse health consequences for consumers. Food safety hazards occur when food is exposed to hazardous agents which result in contamination of that food.

(f) **"Food Safety Officer"** means a Food Safety Officer appointed under the Act and includes any authorized officer especially appointed or designated by the Director General, Food Authority in this regard;

(g) **"Food Operator"** means a person who manufactures for sale, transports, stores, sells, distributes, imports or exports food;

(h) **"health risk"** means identification of biological, chemical, physical, radiological or allergens agents capable of causing adverse health effects and which may be present in a particular food or group of foods whether processed or otherwise;

(i) **"level of risk"** in relation to any food means health risks that is likelihood of causing harm or adverse health effects to the consumer or end user of such food.

(2) An expression used in these regulations but not defined shall have the same meaning as assigned to it under the Act.

PART-II

3. Improvement Notices.

(3.1) An Improvement Notice means notices issued under section 16 of the Act and includes any notice issued or served upon the Food Operators, by the Food Safety Officer or Assistant Food Safety Officer or any authorized officer of the Authority containing instructions or directions therein for Food Operators; if it appears to the FSO/AFSO or any authorized officer, that measures or actions are required to secure food in compliance with the provisions of the Act, the rules or the regulations framed from time to time.

(3.2) The notices mentioned in sub-regulation (3.1), apart from other instructions/directions, may specify the following;

(a) provisions of the Act, the rules or the regulations which FSO/AFSO or any authorized officer may consider to have been contravened;

(b) description of the matter(s), issues or discrepancies which constitute an offence under the Act, the rules or the regulations and which the food operator has failed to comply in due course of time;

(c) specify the time limits during which the discrepancies are required to be rectified by the Food Operator up to the satisfaction of the Food Safety Officer/Assistant Food Safety Officer or any authorized officer as the case may;

(d) substantial measures which the food operator should take in order to show compliance, which may include securing the observance of hygienic conditions, and other practices in connection with the carrying out of commercial activities in relation to any aspect of food, food premises or food sources.

(e) any other instruction or direction which the Food Safety Officer/Assistant Food Safety Officer or any authorized officer may deem fit and appropriate for the provision of safe and wholesome food may be mentioned in the Improvement Notices

(3.3) Notwithstanding anything contained in the Act, the rules or the regulations, Improvement Notices shall only be issued or served where the Food Safety Officer/Assistant Food Safety Officer or any authorized officer has reason to believe that there are such issues or discrepancies which are rectifiable or amendable and that there are no health risks or health hazard involved in connection to any aspect of food.

(3.4) Improvement notice may be issued or served by the Food Safety Officer/Assistant Food Safety Officer or any authorized officer in the prescribed Form as may be devised from time to time.

(3.5) Where the food operator fails to comply with the instructions or directions contained in improvement notice within the stipulated time; legal proceedings under section 27 of the Act shall be carried out against such non compliant Food Operator. In addition to the legal proceedings initiated under section 27 of the Act, any other legal actions warranted under the Act, the rules or the regulations may also be carried out by the Director General, Food Authority against the Food Operator after providing opportunity of hearing to all the concerned.

(3.6) Order passed or decisions taken by the Director General, Food Authority under the Act, Rules or these regulations shall be considered as final and shall not be challenged in any court of law.

PART-III**4. Prohibition orders.**

(4.1) If any food operator is involved in processing, treatment of any food which may result the health risks to human health or there are sufficient grounds that health risks exists in any food, the Food Safety Officer/Assistant Food Safety Officer or any authorized officer shall present the case before the court for seeking prohibition orders against such food operator.

(4.2) It shall be the duty of Food Safety Officer/Assistant Food Safety Officer or any authorized officer to establish through evidence/technical arguments in cases filed before the Court of law in consultation with legal wing of the Food Authority (if required) that there are certain health risks/hazards present in food.

(4.3) If Food Operator is convicted by court of competent jurisdiction of an offence under the Act, the rules, or the regulations, Food Safety Officer/Assistant Food Safety Officer or any authorized officer may apply to court for issuance of prohibition order.

(4.4) The court may decide to grant the prohibition order in addition to, any other sentence or measures, penalty under the Act, the rules or the regulations which it may deem fit and appropriate in the interest of justice and equity.

(4.5) A Prohibition Order may specify time limit or the conditions which are required to be complied with by the Food Operator.

(4.6) A food operator, may, if he considers that the conditions giving rise to the prohibition order are no longer exists or that he has complied with the conditions specified in the order, may apply in writing to the Director General Food Authority for the cancellation or withdrawal of prohibition order.

(4.7) Where the Director General Food Authority is satisfied that the conditions giving rise to the prohibition order have been complied with or otherwise there are sufficient grounds of satisfaction, he after recording reasons in writing pass an appropriate order and direct the Food Safety Officer/Assistant Food Safety Officer or any authorized officer to apply to the court of law for review of the prohibition order passed by that court.

PART-IV

5. Emergency prohibition orders.

(5.1) In considering whether a health risk conditions exists in relation to any food business for justifying the passing of an emergency prohibition orders, Food Safety Officer/Assistant Food Safety Officer or any authorized officer shall take into account the level of health risk, the severity of the food safety hazard concerned and the dimensions of food business.

(5.2) Where the Food Safety Officer/Assistant Food Safety Officer or any authorized officer is satisfied that there is sufficient evidence available regarding health risk or health hazard and also such risks/hazards are not cure-able through serving prior notice, he/she shall without further delay pass/issue emergency prohibition order on the prescribed Form as may be specified from time to time

(5.3) The order so passed under sub-regulation (5.2) shall be signed stamped and witnessed (if possible) and acknowledged by the Food Operator or his representative. The order shall specify the time duration for which it shall remain enforced.

(5.4) The emergency prohibition order so passed shall specify the nature of food safety risks/hazards, condition identified, and any conditions which must be fulfilled within stipulated time frame.

(5.6) A copy of emergency prohibition order so passed shall be forwarded immediately not later than 24 hours, to the Director General, Food Authority for further necessary actions in this regard.

(5.7) The Director General, Food Authority after reasons recorded in writing may confirm, modify, or cancel such emergency prohibition order passed by Food Safety Officer/Assistant Food Safety Officer or any authorized officer.

(5.8) The food operator shall be informed accordingly regarding the final decision of the Director General, Food Authority

(5.9) If the Director General, Food Authority confirms the emergency prohibition order, Food Safety Officer/Assistant Food Safety Officer or any

authorized officer may serve copy of such order through any mode including affixation of such order at any conspicuous place of premises of food operator.

(5.10) The decision of the Director General, Food Authority shall be final and cannot be called in question in any court of law.

(5.11) Where the food operator fails to comply with directions contained in the emergency prohibition order the Director General, Food Authority may take following actions against the non compliant food operator:-

(a). Impose fine which the Director General Food Authority deems fit and appropriate;

(b) Cancel or suspended food license of such food operator;


(c) Order for initiation of legal proceedings section 27 of the Act or any other enabling provision of law; or

(d) Decide to take any other action as warranted under any law for the time being in force.

6. Withdrawal of emergency prohibition order

(6.1) A food operator, may, if he considers that the conditions giving rise to the emergency prohibition order are no longer exist or that he has complied with the conditions specified therein, apply to the Director General, Food Authority for reconsideration upon the emergency prohibition order passed under these regulations.

(6.2) Where the Director General, Food Authority is fully satisfied and has reason to believe that a health risk/hazard is no longer present in food against which emergency prohibition order was passed; he after recording reasons in writing recall/withdrawal or suspend such order or pass any appropriate order he deem fit and appropriate in this regard.


Director General
Punjab Food Authority