

THE PUNJAB SAFE MEDICAL SUPPLIES AUTHORITY ACT
2018
(II of 2018)

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¹THE PUNJAB SAFE MEDICAL SUPPLIES AUTHORITY ACT 2018

(II of 2018)

[15 February, 2018]

**An
Act**

to establish an Authority for procuring drugs and medical equipment and providing them to the public health facilities in the Punjab

It is necessary to establish an Authority for purposes of procuring quality drugs and medical equipment and for effective administration for prompt and equitable distribution to the public health facilities in the Punjab; and, for ancillary matters.

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

1. Short title, extent and commencement.– (1) This Act may be cited as the Punjab Safe Medical Supplies Authority Act 2018.

(2) It extends to whole of the Punjab.

(3) It shall come into force on such date as the Government may, by notification, specify and different dates may be so specified for different areas and for different public health facilities.

2. Definitions.– In this Act:

- (a) “Act” means the Punjab Safe Medical Supplies Authority Act 2018;
- (b) “Authority” means Punjab Safe Medical Supplies Authority;
- (c) “Chief Executive Officer” means the Chief Executive Officer of the Authority;
- (d) “contract” means an agreement between the Authority and any other party for the procurement of goods and services;
- (e) “drug” means any drugs including tablets, syrups, injections, enemas, ointments, drops, creams, lotions, intravenous drips, serum and vaccines being used in the health facilities for any medical or surgical treatment;
- (f) “equipment” means any biomedical apparatus or equipment and includes any other article or machinery used in the health facilities;
- (g) “Government” means Government of the Punjab;
- (h) “health facility” means a first aid post, dispensary, basic health unit, rural health center, tehsil headquarters hospital, district headquarter hospital (teaching and non-teaching), tertiary care hospital, children hospital, cardiology, urology, kidney or oncology center, center for

¹This Act was passed by the Provincial Assembly of the Punjab on 31 January, 2018; assented to by the Governor of the Punjab on 15 February 2018; and, was published in the Punjab Gazette (Extraordinary), dated: 15 February 2018, pp. 5839-5845.

organ transplant and any other health facility administered and managed by the Government or the Federal Government;

- (i) “member” means a member of the Authority and, unless the context otherwise provides, includes the chairperson and the vice chairperson of the Authority;
- (j) “prescribed” means prescribed by rules or regulations;
- (k) “procurement” means the procurement of goods or services or both for the health facilities in accordance with the Punjab Procurement Rules 2014, and includes the goods or services procured on the request in writing from a private health facility or trust hospital;
- (l) “regulations” means the regulations framed under the Act;
- (m) “rules” means the rules made under the Act;
- (n) “specifications” mean the specifications of a drug or equipment prescribed by the Authority;
- (o) “storage premises” means any place for the storage of drugs or equipment or both; and
- (p) “transportation vehicle” means the vehicle deployed for the transportation of drugs or equipment or both.

3. The Authority.— (1) The Government may, by notification in the official Gazette, establish Punjab Medical Supplies Authority for carrying out the purposes of the Act.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to enter into contracts and acquire or, subject to subsection (3), dispose of property, and may by its name, sue or be sued.

(3) The Authority shall not dispose of any immovable property without prior approval, in writing, of the Government.

(4) The headquarters of the Authority shall be at Lahore but the Authority may, with the prior approval of the Government, establish its offices at such other place or places in the Punjab as may be deemed necessary to accomplish the purposes of the Act.

4. Composition of the Authority.— (1) The Authority shall consist of the chairperson who shall be appointed by the Chief Minister and the following members:

- (a) three members of Provincial Assembly of the Punjab to be nominated by the Speaker;
- (b) Parliamentary Secretary for Specialized Healthcare and Medical Education;
- (c) Secretary to the Government, Specialized Healthcare and Medical Education Department;
- (d) Secretary to the Government, Primary and Secondary Healthcare Department;

- (e) Secretary to the Government, Finance Department;
- (f) Secretary to the Government, Industries Commerce and Investment Department;
- (g) two renowned pharmacists;
- (h) two renowned professors of pharmacology;
- (i) one renowned biomedical or electrical engineer;
- (j) one representative of Chamber of Commerce and Industry; and
- (k) Chief Executive Officer (Member/Secretary).

(2) The Government may, by notification in the official Gazette, increase the membership of the Authority if public interest so requires.

(3) The Government shall, for a term of three years, nominate the members, other than *ex officio* members, but at least one female member shall be so nominated against the categories mentioned in clauses (a), (g) and (h) of subsection (1).

(4) The Government may, at any time, remove the chairperson or member, other than *ex officio* member.

(5) The chairperson or member may submit his resignation to the Government.

(6) The Government may designate a member of the Authority as vice chairperson of the Authority.

(7) The Vice Chairperson shall perform such functions as may be prescribed or as the Authority may assign.

(8) No act or proceedings of the Authority shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Authority.

5. Disqualification of members.— No person shall be appointed a member, or shall continue to be a member who:

- (a) is or, at any time, has been convicted of an offence involving moral turpitude;
- (b) is or, at any time, has been adjudicated as an insolvent;
- (c) is found to be of unsound mind; and
- (d) has a conflict of interest with the Authority and fails to disclose, in writing, such conflict of interest to the Authority.

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

(2) Without prejudice to the generality of the functions and powers under subsection (1), the Authority shall:

- (a) procure quality drugs and equipment at competitive rates for the health facilities;

- (b) prescribe the standards, procedures, processes and guidelines under the Act with respect to the procurement of drugs and equipment for the health facilities;
- (c) prescribe the formularies and specifications of equipment for various categories of health facilities;
- (d) conduct or cause to be conducted researches relevant to its functions under the Act;
- (e) pre-qualify the firms, sole agents or authorized dealers for the procurement of drugs and equipment;
- (f) prescribe standards and procedures for the storage and supply of drugs and equipment and ensure that the drugs are stored under the prescribed storage conditions;
- (g) establish premises and ware houses for drug storage as per best international practices or obtain such storage facilities from private sector;
- (h) prescribe guidelines for proper storage and disbursement of the drugs in a health facility;
- (i) ensure timely supply of drugs and equipment to each category of the health facilities;
- (j) devise an annual calendar for the procurement of drugs and equipment; and
- (k) perform such other functions as may be incidental to the functions mentioned above or as the Government may assign or as may be prescribed by rules.

(3) The Authority shall exercise its functions, as far as possible, in accordance with the well-established international best practices, scientific principles and procedures.

7. Categorization of storage premises.— (1) The Authority shall, by regulations:

- (a) categorize storage premises for the storage of drugs or equipment or both; and
- (b) prescribe the standards and procedures, based on established scientific principles and international best practices for the storage and transportation of drugs and equipment.

(2) The Authority shall issue a certificate for every storage premises and transportation vehicle in the prescribed manner.

(3) The certificate issued under subsection (2) shall be displayed at a conspicuous place of the storage premises or, as the case may be, the transportation vehicle.

8. Business and Scientific Board.— (1) The Authority shall establish a Business and Scientific Board, consisting of the following:

- (a) Chief Executive Officer;

- (b) one member possessing the prescribed qualification in pharmacy and having five years' experience of working in an organization established for determining standards and quality of drugs;
 - (c) one member possessing the prescribed qualification in biomedical or electrical engineering and having five years' experience of working in an organization established for scientific or industrial research on biomedical and allied equipment;
 - (d) one member possessing the prescribed qualification in pharmacology and having five years' experience of working in a public sector medical college or medical university;
 - (e) one renowned surgeon or physician;
 - (f) one renowned businessman having experience in the procurement of drugs and equipment; and
 - (g) two experts in procurement.
- (2) The Chief Executive Officer shall be the convener of the Board.
 - (3) The Board may co-opt any other member from the relevant industry.
 - (4) The Authority shall determine the terms and conditions of the members of the Board, other than *ex-officio* members.
 - (5) The Authority may refer any matter relating to procurement to the Board for recommendations.
 - (6) The Board may make recommendations to the Authority with respect to the standards, products, procedures, processes and guidelines in relation to any technical aspects of procurement.
 - (7) The Authority may, after recording reasons, refer the recommendations to the Board for reconsideration either generally or any particular aspect of the recommendations.
 - (8) The Board shall reconsider the case and shall again submit its recommendations and the Authority shall act accordingly.

9. Chief Executive Officer.— (1) Subject to the general supervision and control of the Authority, the administration and management of the affairs of the Authority shall vest in the Chief Executive Officer.

(2) The Chief Executive Officer shall have such qualifications, experience, age and other requirements, shall receive such salary and allowances, and be subject to such conditions of service as may be prescribed by rules, and until so prescribed, as the Government, on the recommendations of the Authority, may determine.

(3) The Chief Minister shall appoint the Chief Executive Officer.

(4) The Chief Executive Officer shall be the whole time officer of the Authority and shall exercise such powers and perform such functions as may be prescribed or as the Authority may delegate.

10. Employees, etc.— (1) The Authority may, on such terms and conditions as may be prescribed by regulations, appoint advisors, consultants, experts or other

administrative and technical personnel necessary for the discharge of its functions under the Act.

(2) The Government may, with the concurrence of the Authority, transfer the services of any of its employees to the Authority.

(3) The Authority may, with the concurrence of the employee and the Government, absorb the services of the employee into its service on the terms and conditions as are acceptable to the employee and approved by the Government.

(4) The terms and conditions of the service of an employee transferred from the Government shall not be less favourable than those in his parent department.

11. Committees.— (1) The Authority may constitute standing or special committees by such nomenclature as it deems necessary and assign functions to each such committee.

(2) The committee may consist of the members and such other persons as may be necessary.

12. Recovery of dues.— Any sum due to the Authority from any person under the Act, shall be recoverable as arrears of land revenue under the Punjab Land Revenue Act, 1967 (*XVII of 1967*).

13. Delegation of powers.— The Authority may delegate any of its functions to the chairperson, vice-chairperson, a member, Chief Executive Officer, committee or an employee of the Authority, except the following functions:

- (a) adaptation, amendment or repeal of regulations;
- (b) approval of annual budget of the Authority;
- (c) consideration and decision on the audit reports;
- (d) approval of policies, standards, procedures and guidelines for the discharge of functions by the Authority;
- (e) approval of the annual reports; and
- (f) constitution of the committees and filling a vacancy in a committee.

14. Fund.— (1) There shall be a Fund to be known as Punjab Safe Medical Supplies Authority Fund.

(2) The Fund shall vest in the Authority and shall be utilized by the Authority to meet its expenses including the payment of salaries and other remuneration to the members, officers, employees, experts, advisers and consultants.

(3) The Fund shall consist of:

- (a) loan and grant by the Government or the Federal Government or from any other source;
- (b) fee, charges and other moneys received by the Authority;
- (c) income from lease or sale of the property; and
- (d) all other sums received by the Authority.

(4) The Authority shall not incur any loan without prior approval of the Government.

(5) The Authority shall frugally meet all its expenses from the Fund.

15. Fees and charges.— The Authority may, with the prior approval of the Government, impose fees and charges for the services it renders.

16. Budget.— (1) The Chief Executive Officer shall prepare the budget of the Authority for each financial year commencing on first day of July of a year and ending on thirtieth day of June of the succeeding year.

(2) The Chief Executive Officer shall place the budget for approval before the Authority at least ninety days prior to the commencement of a financial year.

(3) After the Authority has approved the Budget, the Chief Executive Officer shall submit the budget to the Government for sanction at least sixty days prior to the commencement of a financial year.

17. Accounts.— The Authority shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form and manner as may be prescribed.

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

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

(2) In addition to the audit under subsection (1), the Authority may appoint a firm of chartered accountants placed in category 'A' by State Bank of Pakistan, for the annual audit of the accounts of the Authority.

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

20. Annual performance report.— (1) The Authority shall prepare and forward to the Government by 30 October each year, the annual performance report.

(2) The report shall consist of:

(a) the statement of accounts and audit reports of the Authority;

(b) a comprehensive statement of the work and activities of the preceding financial year and its proposed projects and schemes; and

(c) such other matters as may be prescribed or as the Authority may consider appropriate or as the Government may direct.

(3) The Government may, after considering the report, issue such directions to the Authority as may be necessary for carrying out the purposes of the Act and the Authority shall implement such directions.

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

(2) The Government shall evaluate the report and shall issue such directions to the Authority as may be necessary and the Authority shall implement the directions.

22. Employees to be public servants.— The chairperson, vice chairperson, Chief Executive Officer, members, officers and other personnel of the Authority, acting or purporting to act in pursuance of any of the provisions of this Act, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (*XLV of 1860*).

23. Indemnity.— No suit, prosecution or other legal proceedings shall lie against the Authority, the chairperson, vice chairperson, member, officer, servant, expert or consultant of the Authority in respect of anything done or intended to be done in good faith under the Act.

24. Administrative penalty.— (1) A person who fails to display the certificate issued to him under section 7 of the Act or removes the certificate or tempers with or defaces or mutilates the certificate in any manner whatsoever shall be guilty of an offence and may, in the prescribed manner, be awarded administrative penalty which may extend to five hundred thousand rupees but which shall not be less than twenty five thousand rupees.

(2) In case the offence under subsection (1) is repeated, the maximum administrative penalty of rupees five hundred thousand shall be awarded and, in addition, the competent authority may, in the prescribed manner, decide to nullify the contractual arrangement with such person and cancel the licence or permit issued to him.

(3) Any person aggrieved by a final order under subsection (1) or subsection (2) may, within thirty days of the receipt of order, submit a representation to the appellate committee constituted by the Authority and the decision of that committee shall be final.

25. Rules.— The Government may make rules for carrying out the purposes of this Act.

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