**PROVINCIAL ASSEMBLY OF THE PUNJAB**

**Bill No. 23 of 2018**

**THE PUNJAB FERTILIZERS BILL 2018**

A

BILL

*to regulate the production, quality, supply, distribution, storage, sale and prices of fertilizers.*

It is necessary to regulate the production, quality, supply, distribution, storage, sale and prices of fertilizers; and, other matters connected therewith.

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

**1. Short title, extent and commencement**.– (1) This Act may be cited as the Punjab Fertilizers Act 2018.

 (2) It extends to whole of *the* Punjab.

(3) It shall come into force at once.

**2. Definitions**.– In this Act:

(a) “Act” means the Punjab Fertilizers Act 2018;

(b) “adulterated fertilizer” means a fertilizer whose physical and chemical properties are different from those mentioned in Schedule-A, Schedule-B and Schedule-C or whose nutritional strength has been altered, debased or corrupted so as to render it less effective or ineffective or harmful to the soil productivity or to a plant;

(c) “bio-fertilizer” means the product containing carrier based solid or liquid, living organisms agriculturally useful for nitrogen fixation, phosphorus solubilization or nutrient mobilization to increase soil productivity;

(d) “Board” means the Provincial Quality Control Board established under the Act;

(e) “brand” means the exclusive name of a fertilizer registered under the Act and by the Trade Mark Authority;

(f) "Controller" means the Controller appointed under the Act;

(g) “crop supplement or soil amendment or soil conditioner” means a chemical substance which supplements the growth of a plant or, as the case may be, which is used to improve the structure and porosity of soil; and

(h) “dealer” means a person or a body of persons registered under the Act for the wholesale or retail sale of any brand of fertilizer;

(i) “distributor” means a person or a body of persons, authorized by the manufacturer or the importer of a fertilizer to purchase that fertilizer from him and sell or supply it within a specified area;

(j) “fertilizer” means any substance, organic or inorganic, or a mixture of such substances used to provide one or more of the essential elements of nutrition for soil or a plant and includes a bio-fertilizer or a minor fertilizer;

(k) “Fertilizer Registration and Advisory Committee” means a Committee constituted under the Act;

(l) “Government” means Government of the Punjab;

(m) "Government Analyst" means the Agricultural Chemist or the Incharge of Soil and Water Testing Laboratory for Research or, as the case may be, Provincial Reference Fertilizer Testing Laboratory;

(n) “importer” means a person or a body of persons, importing any brand of fertilizer from any other country in the Punjab and includes a buying agent, or an indenter or a manufacturer’s agent;

(o) “manufacturer” means a person or a body of persons engaged in the manufacture or production of a fertilizer;

(p) “minor fertilizer” means the prescribed bio-fertilizer, growth regulator, soil conditioner or soil amendment or crop supplement;

(q) “prescribed" means prescribed by rules;

(r) “producer” means a person or a body of persons engaged in the manufacture, mixture, packing or labeling of a fertilizer;

(s) “Product Standardization Committee” means the Product Standardization Committee constituted under the Act;

(t) “Regional Inspection Committee” means the Regional Inspection Committee constituted under the Act;

(u) "rules" mean rules made under the Act;

(v) “Schedule” means the Schedule appended to the Act; and

(w) “substandard fertilizer” means a fertilizer manufactured or produced in deviation of its registered specifications or which contains ingredients below the standards mentioned in Schedule ‘A’ for macro fertilizer and Schedule ‘B’ for micro fertilizer.

**3. Registration of a fertilizer**.– (1) An application for registration of a fertilizer of a specific denomination, and meeting standards of its composition notified by the Government or by the Pakistan Standards and Quality Control Authority, shall be made in Form-A, to the Director General Agriculture Extension and Adaptive Research, and the Director General shall refer it to the Regional Inspection Committee and send a copy to the Director Agriculture Extension in the respective division.

(2) The Director Agriculture Extension (Inputs Management) shall place the copy of the application before the Regional Inspection Committee which shall inspect the manufacturing unit of the fertilizer under registration within the prescribed period.

(3) The Regional Inspection Committee, if satisfied with inspection, shall take samples of the fertilizer sought to be registered and after sealing and signing it shall send it to the Provincial Reference Fertilizer Testing Laboratory for test and analysis and the office in charge shall submit the test and analysis report within fifteen days to the Director General Agriculture Extension and Adaptive Research.

(4) On examination of the reports received from the Regional Inspection Committee and the Provincial Reference Fertilizer Testing Laboratory, the Director General Agriculture Extension and Adaptive Research shall make his recommendations to the Fertilizer Registration and Advisory Committee for registration of the fertilizer and issuance of a certificate of registration in Form-B after approval by the Controller.

(5) Applications for registration of a fertilizer, meeting the prescribed standards shall be processed on fast track.

(6) The Certificate of registration shall take effect on and from the date the fertilizer is registered and shall be valid for such period as may be prescribed.

(7) On an application in Form-C, the certificate of registration may be renewed by the Director General Extension and Adaptive Research in Form-D.

(8) When, at any time after the registration of a fertilizer, it is found that the registration has been secured in violation of any provisions of the Act or the rules or that the fertilizer is ineffective or less effective or harmful to soil productivity or to a plant, the Director General Agriculture Extension and Adaptive Research, on the recommendations by the Controller may, after giving an opportunity of being heard to the holder of the certificate, cancel the registration after recording reasons for cancellation.

**4.** **Control of prices**.– (1) The Government may, by notification in the official Gazette, fix maximum price of any fertilizer and no importer, producer or dealer shall sell it at a price higher than the price so fixed.

(2) The producer, manufacturer, distributor or importer shall conspicuously mark on each bag, pack or container, the price fixed under subsection (1).

(3) The Controller may, in writing, direct an importer, producer, distributor or dealer to exhibit the price fixed under subsection (1) in the price list which shall be displayed by him at a conspicuous place of the sale point.

(4) Every importer, producer, distributor or dealer shall give the purchaser a cash memorandum containing particulars of the transaction of sale and complete address of the purchaser.

(5) Every importer, producer, distributor and dealer shall maintain a complete record of the sales and purchase of fertilizers on such Forms as may be prescribed.

**5. Information to be provided by the importers**.– Every importer shall, within two weeks of the arrival of the consignment of fertilizer in the Punjab, furnish to the Controller in Form-E, by registered post, acknowledgement due, the following information in respect of the consignment:

(a) the date and place of arrival of the consignment in the Punjab;

(b) the description and quantity of the fertilizer;

(c) the landed cost of the fertilizer showing the cost and freight value, customs duty and incidental charges, if any;

(d) the indented commission included in the invoiced value of the consignment; and

(e) such other information as may be prescribed.

**6. Information to be provided by the producers**.– Every producer shall furnish to the Controller in Form-F, the following information:

(a) the description and actual quantity of each brand of fertilizer produced and supplied in the preceding calendar month;

(b) the actual or estimated cost of the production of each fertilizer; and

(c) such other information as may be prescribed.

**7. Information to be provided by the dealers**.– Every dealer shall furnish the following information in Form-G, to the Controller:

(a) actual quantity of each brand of fertilizer received in stock on each working day by the end of preceding calendar month;

(b) the details of retail sale of fertilizers to the farmers; and

(c) such other information as may be prescribed.

**8. Information to be provided by the distributors**.–Every distributor shall furnish following information in Form-H to the Controller:

(a) the description and actual quantity of each brand of fertilizer distributed and supplied in the preceding calendar month; and

(b) such other information as may be prescribed.

**9. Fertilizer Registration and Advisory Committee**.– (1) The Government shall, by notification in the official Gazette, constitute the Fertilizer Registration and Advisory Committee, to advise the Government for carrying out the purposes of the Act and to approve registration of fertilizers.

(2) The Committee shall consist of a Chairperson and such other members as the Government may appoint.

(3) Secretary to the Government, Agriculture Department and the Director General Agriculture Extension and Adaptive Research, shall respectively be the Chairperson and Secretary of the Committee.

(4) Non-official members of the Committee shall hold office for a period of three years and shall be eligible for re-appointment for another term.

(5) A member of the Committee other than an *ex-officio* member may in writing under his hand, at any time, addressed to the Government resign his office but he shall continue to hold office until his resignation is accepted.

(6) A person appointed to fill a casual vacancy shall hold office for the remaining term of his predecessor.

(7) No act or proceedings of the Committee shall be invalid only by reason of any defect or vacancy in the Committee.

(8) The Committee may constitute a sub-committee to assist it or to investigate into such issues as may be entrusted to it.

**10.** **Product Standardization Committee**.– (1) There shall be the Product Standardization Committee to identify and evaluate a fertilizer to make recommendations to the Government to notify a new fertilizer of specific category.

(2) The Committee shall be headed by the Director General Agriculture Research and shall consist of the following members:

(a) Director Agriculture Extension (Inputs Management);

(b) Director National Institute of Agriculture and Biology Faisalabad; and

(c) Director, Rapid Soil Fertility Survey and Soil Testing Institute, Punjab, Lahore.

 (3) The Committee may co-opt an eminent scientist dealing with production of fertilizers.

**11. Regional Inspection Committee**.– (1) The Regional Inspection Committee shall be headed by Director Agriculture (Extension) and shall consist of the following members:

(a) Agricultural Chemist of the Soil and Water Testing Laboratory for Research in the Division; and

 (b) Respective Deputy Director Agriculture (Extension).

 (2) The Regional Inspection Committee shall:

(a) inspect a fertilizer manufacturing unit for purposes of registration of a fertilizer and shall submit its report in Form-I; and

(b) ensure that the manufacturing unit maintains the prescribed quality of the that fertilizer.

(3) The Controller may, by notification, authorize the Director Rapid Soil Fertility Survey and Soil Testing Institute or Director Agriculture Extension (Inputs Management) or any other officer for purposes of inspection of any fertilizer manufacturing unit or fertilizer center to ensure compliance with the provisions of the Act and the rules.

**12. Provincial Quality Control Board**.– (1) The Government shall constitute the Provincial Quality Control Board consisting of such members, including the Chairperson, as the Government may determine.

 (2) The Board may:

(a) recommend to the Government necessary measures for the quality control of fertilizers;

(b) ascertain the names of such authorities, owners, members or employees of the fertilizer manufacturing units as may be guilty of an offence under the Act or the rules; and

(c) allow the Controller to institute prosecution against them.

(3) The Chairperson and other members of the Board shall hold office during the pleasure of the Government, on such terms and conditions as the Government may determine.

(4) The Government shall appoint a person to act as the Secretary of the Board and provide the Board with such staff as the Government may consider necessary.

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

(6) The Government may constitute, as many committees as it deems proper, consisting of members of the Board and at least two other professionals and may delegate any of its functions to a committee to exercise the functions within a specified area.

**13. Controller**.– The Government shall, by notification in the official Gazette, appoint such number of Controllers, having such qualifications as may be prescribed and define the local limits of their authority.

**14. Powers of Controller**.– The Controller shall:

(a) require a manufacturer, importer, distributor or dealer to provide him information relating to manufacture, storage, sale, purchase and disposal of fertilizers in his possession;

(b) take samples of a fertilizer in the prescribed manner;

(c) enter upon and search a place where he has reason to believe that a fertilizer has been or is being manufactured, produced, stored, sold, distributed or offered for sale in contravention of the Act or the rules;

(d) seize a fertilizer in respect of which he has reason to believe that it has been or is being manufactured, produced, stored, sold, distributed or offered for sale in contravention of the Act or the rules after recording reasons in writing and providing a copy thereof along with a sample of that fertilizer to the manufacturer or the person keeping such a fertilizer;

(e) seize books of accounts or documents relating to the manufacture, production, distribution, storage or sale of a fertilizer of the kind mentioned in clause (d) after providing an inventory of such books or documents to the person who holds or keeps their custody; and

(f) institute prosecution against a manufacturer, importer, distributor or dealer or any other person on the basis of primary results of the tests of samples of a fertilizer taken from the place of manufacture or, as the case may be, the place of business; or on the ground of contravention of any provision of the Act or rules.

**15. Instructions**.– The Controller may issue such instructions in writing to an importer, manufacturer, producer, distributor or dealer in regard to the sale of fertilizer as he deems necessary in public interest.

**16. Packing and labelling**.– (1) The bag, box, pack, packet, parcel or a container of a fertilizer shall be of such material as is appropriate for maintaining the quality and contents of the fertilizer during storage and transportation, and the shelf life shall be marked or impressed on the bag, box, pack, package, parcel or container.

 (2) No manufacturer, importer, distributer, dealer or any other person shall, sell or offer for sale any fertilizer unless it has been registered and labelled in accordance with Schedule-D and the rules.

**17. Procedure of sampling**.– (1) Subject to other provision of this section, where a Controller takes a sample of a fertilizer for its test or analysis, he shall intimate such purpose in writing in Form-J to the person from whose possession he takes it and in the presence of such person, unless he willfully absents himself, shall divide it into three portions and effectively seal and suitably mark each portion in the prescribed manner and permit such person to add his own seal and mark, if any, to all or any of the portions so sealed and marked.

(2) Where the sampling relates to a bio-fertilizer, the Controller shall take three samples of the original packing of the same batch for laboratory analysis.

(3)Where the fertilizer is packed in packets not more than one kilogram in weight or contained in containers not exceeding one liter in volume, the Controller shall, instead of dividing the sample as aforesaid, take into custody three such packets or containers and seal and mark them each, accordingly.

(4) In case of major fertilizers, where standards are prescribed by the Pakistan Standards and Quality Control Authority, the sampling procedure given by the Authority shall be followed.

(5) The Controller shall restore one portion of a sample so divided or as the case may be, one packet or container in Form-K, to the person from whom he takes it for its production by that person as a piece of evidence for reanalysis on his appeal, if any and shall retain the remainder for its disposal as follows:

1. he shall forthwith send through special messenger or registered post or courier service one portion, or as the case may be, one packet or container to the Fertilizer Coding Center at Rapid Soil Fertility Survey and Soil Testing Institute, and that Center shall, after coding and allocating a distinct number to the sample, send it to the Government analyst at a Government fertilizer testing laboratory for test and analysis; and

(b) he shall send second portion or as the case may be, packet or container, through special messenger or registered post or courier service to the fertilizer Coding Center and that Center after coding and allocating a distinct number to the sample send it to the Provincial Reference Fertilizer Testing Laboratory which for analysis on appeal.

**18. Government Analyst**.– (1) The Controller may, by a notification in the official Gazette, appoint as many Government Analysts for notified fertilizers as he deems fit and where more than one Government Analysts is appointed, it shall specify the jurisdiction of each Government Analyst.

(2) A Government analyst appointed under subsection (1) shall have such qualifications and experience as may be prescribed.

**19. Government Fertilizer Testing Laboratories**.– (1) The Soil and Water Testing Laboratories for Research shall function as Government Fertilizer Testing Laboratories and the Provincial Reference Fertilizer Testing Laboratory Lahore, as the Provincial Reference Fertilizer Testing Laboratory.

(2) A Soil and Water Testing Laboratory for Research shall discharge its functions under the administrative control of the Agriculture Department and the Provincial Reference Fertilizer Testing Laboratory, under control of such Authority as the Government may determine.

(3) Each Government Fertilizer Testing Laboratory and Provincial Reference Fertilizer Testing Laboratory shall have a valid ISO Certificate.

(4) For the sake of transparency in analysis, minimum 30% of the fit fertilizer samples shall be re-checked and re-analyzed, as prescribed.

**20. Report of Government analyst**.– (1) Subject to subsection (1), on receipt of the sealed and marked portion or packet, the Government analyst, or an officer authorized in writing in this behalf, shall open the portion or packet and shall carry out the test or analysis and send to the Controller, within prescribed period of the receipt of the portion or packet, a report, in triplicate, in the prescribed form, the result of the test or analysis:

 (2) The test and analysis report in regard to a sample taken in a raid by the Controller shall be sent within the prescribed period.

(3) The report of the test or analysis shall be signed by the Government Analyst himself who shall also record his observation as to the condition of seal on the portion or packet received by him and the method of test applied by him.

(4) The Controller shall dispatch a copy of the report received by him from the Government Analyst through courier service or registered post acknowledgement due to:

(a) the person from whose possession the sample was taken;

(b) Additional Secretary (Task Force), Government of the Punjab, Agriculture Department; and

(c) Director, Soil Fertility Survey and Soil Testing Institute.

**21. Analysis at Reference Fertilizer Testing Laboratory**.– (1) The person to whom the report has been delivered may challenge the correctness of the analysis conducted by the Government Analyst within thirty days of the receipt of report by him before the Additional Secretary (Task Force), Government of the Punjab, Agriculture Department and produce such evidence as, in his opinion, controverts the correctness of such analysis.

(2) Where the evidence produced under subsection (1) is such as in the opinion of the Additional Secretary justifies further investigation, he may send the second portion of the sample to the Provincial Reference Fertilizer Testing Laboratory for analysis.

(3) After analysis of the sample, the Provincial Reference Fertilizer Testing Laboratory shall report the result of the test or analysis within the prescribed period and such report shall be conclusive evidence of the facts stated therein.

(4) The Provincial Reference Fertilizer Testing Laboratory shall send a copy of test or analysis to:

(a) the Controller concerned;

(b) the Additional Secretary (Task Force), Government of the Punjab, Agriculture Department; and

(c) such Authority as may be notified by the Government.

**22. Declaration of godowns, warehouses etc**.– (1) Every manufacturer, producer, importer, distributor or dealer holding stock of a fertilizer shall, within two weeks of the enforcement of the Act, declare to the Controller the place or places where such stock is kept or stored.

(2) A manufacturer, producer, importer, distributor or dealer who intends to change the place declared under subsection (1), shall give a prior notice of seven days to the Controller.

**23. Evaluation of market indexes**.– The Government shall, from time to time, cause supervision and monitor the forces of demand and supply of fertilizers in the Province.

**24. Saving**.–The provisions of the Act shall be in addition to and not in derogation of any other law for the time being in force.

**25.** **Fees**.– (1) The fees payable under the Act shall be such as may be prescribed and shall be non-refundable.

 (2) The authority to whom and the manner, in which the fees fixed under subsection (1) are paid, shall be such as may be prescribed.

**26. Offences**.–(1) No dealer, distributor, importer or manufacturer, or any other person shall, unless registered in the prescribed manner, sell or offer for sale or carry on the business of selling a fertilizer.

(2) No dealer, distributor, importer or manufacturer or any other person shall sell or offer for sale a fertilizer when he has reason to believe that it may be used for a purpose other than agriculture.

(3) No importer, manufacturer or producer, distributor shall sell or otherwise dispose of a fertilizer, imported or, as the case may be, manufactured or produced by him save in accordance with the provisions of the Act and rules.

(4) No dealer or any other person shall store, distribute, sell or offer for sale an adulterated, substandard or un-registered fertilizer.

(5) No dealer or any other person shall distribute, sell or offer for sale a fertilizer of lesser weight than marked or shown on the bag, packet or container of the fertilizer.

(6) No dealer or any other person responsible for storage, distribution and sale of a fertilizer shall mix it with any foreign material so as to make it an adulterated or a substandard fertilizer.

(7) No dealer or any other person shall destroy, efface, damage or change or cause to be destroyed, effaced, damaged or changed any label or sign impressed on any brand of fertilizer or any price or quantity of fertilizer marked on a bag, packet or container, as the case may be, by the manufacturer, producer, importer or distributor.

**27. Punishments**.– (1) Whoever imports, manufactures, produces, formulates, repacks, distributes, sells, offers for sale, holds in stock for sale or advertises for sale of any adulterated, substandard, unregistered or expired fertilizer shall be punished:

(a) in case of commission of first offence relating to an adulterated or unregistered fertilizer, with imprisonment for a term which may extend to three years but which shall not be less than one year and with fine which may extend to five hundred thousand rupees but which shall not be less than two hundred and fifty thousand rupees and for every subsequent offence committed in this regard, with imprisonment for a term which may extend to seven years but which shall not be less than two years and with fine which may extend to one million rupees but which shall not less than five hundred thousand rupees; and

(b) in case of commission of first offence relating to a substandard or expired fertilizer, with imprisonment for a term which may extend to two years but which shall not be less than six months and with fine which may extend to five hundred thousand rupees but which shall not be less than one hundred thousand rupees and for every subsequent offence with imprisonment which may extend to five years but which shall not be less than three years and fine which my extend to one million rupees but which shall not be less than five hundred thousand rupees.

(2) Whoever manufactures or produces a fertilizer in contravention of the Act or unlawfully uses registration number of a fertilizer shall be punishable with imprisonment for a term which may extend to three years but which shall not be less than one year and with fine which may extend to five hundred thousand rupees but which shall not be less than one hundred thousand rupees.

(3) Whoever sells or offers for sale a fertilizer below the quantity or for more than the price marked or impressed on the bag, box, pack, packet, parcel or a container shall, when such a person is a manufacturer, producer or importer, be punishable with fine which may extend to five hundred thousand rupees but which shall not be less than three hundred thousand rupees and in other cases with fine which may be extended to one hundred thousand rupees but which shall not be less than fifty thousand rupees.

(4) Whoever stores, sells, offers for sale or runs business of sale of a fertilizer without a valid certificate of registration shall be punished with imprisonment for a term of six months and with fine which may extend to five hundred thousand rupees but which shall not be less than one hundred thousand rupees.

(5) Whoever fails to produce company invoice or company dealership certificate or to display dealership or registration certificate or who does not maintain a stock register, cash memorandum, proper godown or warehouse shall be punished with fine which may extend to one hundred thousand rupees but which shall not be less than fifty thousand rupees.

(6) Whoever contravenes or fails to comply with any of the provisions of the Act for which no other penalty is provided, shall be liable to fine which may extend to five hundred thousand rupees but which shall not be less than ten thousand rupees and when a person repeats the contravention or failure, he shall be liable to fine of ten hundred thousand rupees.

**28.** **Obstruction to lawful authority**.– Whoever willfully obstructs, hinders or in any way resists any authority in the performance of his duties under the Act shall be liable to imprisonment for a term which may extend to six months and with fine which may extend to one hundred thousand rupees but which shall not be less than twenty five thousand rupees.

**29. Offences by corporation**.– If the person committing an offence under the Act or contravening its provisions is a company or other body corporate, every executive director, manager, secretary or other officer or agent thereof, shall unless he proves that the commission or contravention took place without his knowledge or that he exercised due diligence to prevent such commission or contravention, be deemed to be guilty of such commission or contravention.

**30. Trial of offences**.– (1) Offences under the Act shall be cognizable and non-bailable.

(2) The trial of offences under the Act shall be under the Code of Criminal Procedure, 1898 *(V of 1898)*.

**31. Delegation**.– (1) The Government may delegate any of its powers to any officer or authority subject to such terms and conditions as it may determine.

(2) The Controller may delegate any of his powers, except the powers delegated to him by the Government, to any officer or authority subject to such terms and conditions as he may determine.

**32. Indemnity**.– No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under the Act.

**33. Rules**.– The Government may, by notification in the official Gazette, make rules for carrying out the purposes of the Act.

**34. Repeal and savings**.– (1) The Punjab Fertilizers (Control) Order, 1973 *(VII of 1973)* is hereby repealed.

 (2) Notwithstanding the repeal of the Punjab Fertilizers (Control) Order, 1973 *(VII of 1973), any* order, proceeding, action or notification passed, taken or issued under the repealed order shall, so far as it is not inconsistent with the provisions of the Act, be deemed to have been passed, taken or issued under the Act and shall continue to have force unless it is superseded by an order, proceeding, action or notification under the Act.

 (3) An offence committed in relation to a fertilizer under the Punjab Essential Articles (Control) Act, 1973 *(XVII of 1973),* if being investigated, prosecuted or tried, shall continue to be investigated, prosecuted or tried as if the Punjab Fertilizers (Control) Order, 1973 *(VII of 1973)* has not been repealed.

**STATEMENT OF OBJECTS AND REASONS**

The Punjab Fertilizers (Control) Order, 1973 was made under section 3 of the Punjab Essential Articles (Control) Act, 1973. The objective of this Order is to safeguard the interest of the farmers by ensuring the timely supply of quality fertilizers in the province of Punjab. Owing to multiple issues relating to supplies and quality of fertilizer, the Punjab Fertilizers (Control) Order, 1973 is deficient. Further, the Provincial Reference Fertilizer Testing Laboratory has recently been aligned with the newly established Punjab Agriculture, Food and Drug Authority which requires changes in provisions of the existing laws/regulations pertaining to fertilizer quality. Hence this Bill.

 **MINISTER INCHARGE**

**Lahore: RAI MUMTAZ HUSSAIN BABAR**

**16 May 2018 Senior Secretary**