

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. PIII

G A Z E T T E

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, THURSDAY, 16TH APRIL, 2015

**PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 16th April, 2015.

No. PA/Khyber Pakhtunkhwa/Bills/2015/9081.—The Khyber Pakhtunkhwa Consumer Protection (Amendment) Bill, 2015 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 10th April, 2015 and assented to by the Governor of the Khyber Pakhtunkhwa on 15th April, 2015 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA CONSUMER PROTECTION (AMENDMENT) ACT, 2015

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2015)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 16th April, 2015).

**AN
ACT**

**further to amend the Khyber Pakhtunkhwa
Consumer Protection Act, 1997.**

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Consumer Protection Act, 1997 (Khyber Pakhtunkhwa Act No. VI of 1997), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Consumer Protection (Amendment) Act, 2015.

(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. VI of 1997.—In the Khyber Pakhtunkhwa Consumer Protection Act, 1997 (Khyber Pakhtunkhwa Act No. VI of 1997), hereinafter referred to as the said Act, in section 2,—

- (i) In clause (c), after the words “any person”, the words “or entity” shall be added;
- (ii) after clause (f), the following new clauses (fa), (fb) and (fc) shall be inserted, namely:
 - “(fa) “Directorate” means the Directorate of Industries and Commerce, Khyber Pakhtunkhwa;
 - (fb) “Director” means the Director of Industries and Commerce, Khyber Pakhtunkhwa; and
 - (fc) “entity” means an organization that has a legal identity apart from its members.”.

3. Insertion of sections 7A, 7B and 7C to the Khyber Pakhtunkhwa Act No. VI of 1997.—In the said Act, after section 7, the following new sections 7A, 7B and 7C shall be inserted, namely:

“7A. Duty of disclosure.—(1) Where the nature of goods or products detail are such that the disclosure of its components, parts, quality, ingredients, or date of manufacturing and expiry is material to the decision of the consumer to enter into a contract of sale, the manufacturer shall disclose the same.

(2) Where the nature of service is such that disclosure of capabilities or qualification of the services provider or quality of the products that service provider intends to use, is material to the decision of the consumer to enter into contract, the services provider shall disclose the same.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Court or Director may, by general or special order, require such disclosure in any case.

7B. Defective in construction, composition or design.—A good or product shall be defective in construction, composition or design if, at the time of manufacturing, a material or design deviation was made by the manufacture on specifications whether known to the consumer or not.

7C. Prohibition.— The manufacturer, traders and goods or service provider shall not indulge in any unfair trade practices.”.

4. Amendment of section 8 of the Khyber Pakhtunkhwa Act No. VI of 1997.— In the said Act, in sub-section (1) of section 8, for the words and commas “on the Provincial and District level, as it may deem necessary”, the words “at Provincial level” shall be substituted.

5. Substitution of section 10 of the Khyber Pakhtunkhwa Act No. VI of 1997.— In the said Act, for section 10, the following shall be substituted, namely:

“10. Functions of the Council.—The Council shall-

- (a) be responsible for formulation of policies for the promotion and protection of the rights of consumers, fair and honest trade practices by the manufacturers, producers and suppliers of goods and services in relation to interest of consumers and their effective implementation; and
- (b) coordinate between Government, manufacturers, producers, suppliers and consumers.”.

6. Insertion of new PART-II-A in the Khyber Pakhtunkhwa Act No. VI of 1997.— In the said Act, after PART-II, the following new PART-II-A, shall be inserted, namely:

**“PART-II-A
DISPOSAL OF COMPLAINTS BY THE DIRECTOR**

11B. Manner in which complaint shall be made.— (1) The Director may, on his own motion or by reference from a consumer against any individual or entity under section 5-6 and 7A, 7B and 7C of this Act shall, after conducting an inquiry under section 11C, is satisfied that violation has been committed, may fine the violator with an amount, which may extend to fifty thousand rupees but not less than five thousand rupees and which may be recovered as arrears of land revenue.

(2) The Director may file a complaint before the court, for declaring a product or a service as faulty or defective under the provisions of this Act without proof of any damage actually suffered by a consumer but likely to be suffered keeping in view the general standard of that service or product.

11C. Inquiry and Inspection.—(1) The Director on receipt of a complaint or on his own motion or on the direction of the Court, may hold an inquiry as to defects in products or services, which contravene any of the provisions of this Act; provided that no prior notice shall be required to be given to a manufacturer or trader or service provider for holding an inquiry.

(2) While making an inquiry under this Act, the Director may,-

- (i) inspect at reasonable time with or without police assistance, any place where the activities or transaction of trade and commerce or services are carried out;
- (ii) have the power to take sample of goods, products, services and to check the defect, standard and purity through laboratory test or other means, as may be prescribed;
- (iii) require any manufacturer, trader or service provider or his employee or agent to produce before him for inspection, all product, items and record of documents;
- (iv) seize and detain any goods or products sold or delivered or caused to be sold or delivered alongwith record relating thereto in respect of which an offence under this Act has been committed or likely to be committed; and
- (v) seal any premises where an offence under this Act has been committed or likely to be committed.

(3) The Director may delegate any of his powers to the subordinate officers of the Directorate with specified area of jurisdiction.”.

7. Amendment in the heading of PART-III of the Khyber Pakhtunkhwa Act No. VI of 1997.—In the said Act, in PART-III, in the heading, after the word “Complaints”, the words “by Court” shall be added.

8. Amendment of section 13 of the Khyber Pakhtunkhwa Act No. VI of 1997.—In the said Act, in section 13, in sub-section (1),-

- (i) clause (b) shall be deleted; and
- (ii) for clause (d), the following shall be substituted, namely:
“(d) by the Director or any officer of the Directorate authorized by him in this behalf.”

9. Amendment of section 16 of the Khyber Pakhtunkhwa Act No. VI of 1997.—In the said Act, in section 16, for sub-sections (1) and (2), the following shall be substituted, namely:

“(1) Where any right of consumer required to be protected under this Act is in any way infringed, or likely to be infringed, the person responsible for such infringement shall be punished with rigorous imprisonment which shall not be less than seven days or with fine which shall be extended to fifty hundred thousand rupees but not less than ten thousand rupees or with both and shall also be liable to provide such compensation or relief to the consumer as may be determined by the Court.

(2) Whoever makes advertisement through print or electronic or social media or by wall chalking or in any other manner in contravention of the provisions of this Act, the person responsible shall be punished with rigorous imprisonment which shall not be less than seven days or with fine which shall be extend to twenty hundred thousand rupees but not less than ten thousand rupees or with both.”.

10. Amendment of section 17 of the Khyber Pakhtunkhwa Act No. VI of 1997.—In the said Act, the existing section 17, shall be re-numbered as sub-section (2) of section 17 and before sub-section (2), as so re-numbered, the following new sub-section (1) shall be inserted, namely:

“(1) Any person aggrieved from the order passed by the Director, under sub-section (1) of section 11 A of this Act, may file an appeal in the Court within a period of thirty days of such order by depositing full amount of the fine so imposed, which shall be reimbursed in case, the Court set-aside the decision of the Director.”.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA**

**(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa**