

An Act

Whereas it is expedient to ensure implementation and enforcement of measures (i) to prevent and control spread of disease; (ii) to provide health / disease surveillance, detection, and reporting system from grass root to provincial level; and (iii) provide health response and health emergency systems, therefore, it is hereby enacted as follows:

1- Short title, extent and commencement: -- (1) This Act shall be called Khyber Pakhtunkhwa Public Health (Surveillance and Response) Act, 2017.

(2) It shall come into force at once.

(3) It shall extend to whole of Khyber Pakhtunkhwa.

Chapter - 1 - DEFINITIONS AND EXTENT

2. Definitions. In this Act, unless there is anything repugnant to subject or context:

(a) “**Act**” means the Khyber Pakhtunkhwa Public Health (Surveillance and Response) Act, 2017

(b) “**affected area**” means a specific geographical location for which health measures have been recommended by WHO under IHR or by public health task force under this Act ;

(c) “**communicable disease**” means an illness caused by an infectious agent or its toxic products;

(d) “**contamination**” means the presence of an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk;

(e) "**Department**" means any department of Government, or any other statutory authority, institute or body corporate managed, controlled or funded by Government whether directly or indirectly as well as District Governments established under local government laws;

(f) "**Department of Health**" means the Health Department of the Province;

(g) "**diagnostic examination**" means and includes, for the purposes of determining the existence or identity of an infectious agent or a hazardous agent, or of managing a health condition,

(a) collecting bodily fluids and substances for examination,

(b) diagnostic imaging examinations,

(c) skin testing, and

(d) psychological testing;

(h) "**Director-General Health Services**" means the Director General Health Services of the Government;

(i) "**Disease**" means an illness or medical condition, irrespective of origin or source, that presents or could present significant harm to humans;

(j) "**Disease Surveillance Report**" means the report in writing made by a Health Professional to the Disease Surveillance Reporting Offices in the Province, duly signed, mentioning relevant details of the affected person present in the Province for the time being, type of notified disease or un-usual event detected and observed, health condition of such person, examination and tests performed and treatment provided as well as provisional assessment of the risk which may be caused to public health by such person;

(k) "**Disease Surveillance Reporting Offices**" means and includes the offices of Medical Officers of Basic Health Units,

Senior Medical Officers of Rural Health Centers, Medical Superintendents of Category A, B, C, D Hospitals, District Health Officers, persons Incharge of Governmental Health Establishments, Office of Director General Health Services of the Province as well as such other offices as may be notified by the Government from time to time though Notification in the Official Gazette;

(l) "**District Disease Surveillance Cells**" means the Disease Surveillance Cells established in each District;

(m) "**District Government**" means the District and City District Governments established in provinces under Local Government Laws;

(n) "**employee**", except in relation to an employee of a local government, includes a volunteer and a person providing services under contract;

(o) "**exposed**" means to have been
(a) in contact with, or near, a person or thing that is or may be infected with an infectious agent or contaminated with a hazardous agent, or
(b) in an environment contaminated with an infectious agent or a hazardous agent,
in such a manner as to be at risk of being infected with the infectious agent or contaminated with the hazardous agent;

(p) "**Government**" means the Government of Khyber Pakhtunkhwa;

(q) "**hazardous agent**" means a prescribed thing that
(a) may cause a risk to health if a person is contaminated with the thing, or
(b) indicates the presence of a contaminant that could cause a risk to health;

(r) **“Health Emergency”** means the state of health emergency declared by the Chairperson of Public Health Task Force;

(s) **“Health Emergency Area”** means the specific area of the Province where, on account of health situation of serious nature, the Chairperson of Public Health Task Force of the Province has declared state of health emergency;

(t) **“health hazard”** means

(a) a condition, a thing or an activity that

(i) endangers, or is likely to endanger, public health, or

(ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or

(b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that

(i) is associated with injury or illness, or

(ii) fails to meet a prescribed standard in relation to health, injury or illness;

“health impediment” means a prescribed condition, thing or activity

(a) the cumulative effects of which, over a period of time, are likely to adversely affect public health,

(b) that causes significant chronic disease or disability in the population,

(c) that interferes with or is inconsistent with the goals of public health initiatives respecting the prevention of injury or illness in the population, including chronic disease or disability, or

(d) that is associated with poor health within the population;

(u) **“Health Professional”** means registered medical practitioner, dentist, doctor, surgeon, pathologist, radiologist, paramedical staff, healthcare provider and other person qualified and permitted by law to provide health care services in the Province whether in the service of any governmental Health Establishment or Private Health Establishment;

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- (v) "**Infectious diseases**" means the diseases or conditions notified by the Health Department from time to time in the official gazette
- (w) "**infected person**" or "**infected thing**" means a person who, or thing that,
- (a) is or is likely infected with, or has been or has likely been exposed to, a prescribed infectious agent, or
 - (b) is or is likely contaminated with, or has been or has likely been exposed to, a prescribed hazardous agent regardless of whether the person or thing suffers any communicable disease or adverse effect from the infectious agent or hazardous agent, or exhibits any symptom of being ill or infected;
- (x) "**infectious agent**" means a prescribed thing that could give rise to an illness and that may be transmitted in any manner and at any distance
- (a) by a person who, or thing that, is infected with the thing, or
 - (b) through another thing, the environment or any other means;
- (y) "**laboratory**" means
- (a) a medical or clinical diagnostic laboratory,
 - (b) a veterinary laboratory,
 - (c) a medical research laboratory,
 - (d) a laboratory that tests environmental samples, or
 - (e) a laboratory or class of laboratories as may be designated by order of the minister as a laboratory for the purposes of this Act and the regulations made under it;
- (z) "**IHR**" means the World Health Organization International Health Regulations 2005 as well as any subsequent amendments made therein from time to time;

(aa) **“Notifiable Diseases”** means all such diseases which may have serious public health impact, so notified by the Health Department in the official gazette.

(bb) **Officer On Special Duty For Health Emergency** means an Officer On Special Duty For Health Emergency appointed by Chairperson, Public Health Task force for effective dealing with of state of health emergency in any specific area of the Province;

(cc) **“operator”** means a person who performs a regulated activity, and includes any person who assists, directs, supervises or employs that person for the purpose of doing the regulated activity;

(dd) **“Province”** means the Province of Khyber Pakhtunkhwa

(ee) **“WHO”** means World Health Organization;

3. Overriding effect: - The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

4. Principles of implementation and enforcement of this Act. -- (1) The implementation of provisions of this Act shall be ensured by all concerned authorities while maintaining the highest standards of human respect, dignity and privacy.

(2) In protection of public health, the Government shall ensure maintenance of secrecy of personal health information and data of the citizens in a manner that the same is not disclosed to any person so as to cause any damage to the respect, dignity and reputation of a the citizens.

CHAPTER 2 - PUBLIC HEALTH TASK FORCE

5. Establishment of Khyber Pakhtunkhwa Public Health Task Force : -- (1) There shall be a Khyber Pakhtunkhwa Public Health Task Force headed by Minister Health of the Government,

which shall be responsible for implementation, administration and enforcement of this Act.

(2) The Task Force shall comprise of the following:

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| (i) Minister Health | Chairperson |
| (ii) Secretary Health | Vice
Chairperson |
| (iii) Director General Health Services | Member |
| (iv) Additional Secretary Home Department | Member |
| (v) Additional Director General (Health) Services | Member |
| (vi) Director General Agriculture | Member |
| (vii) Director General Provincial Disaster Management Authority | Member |
| (viii) Director General Livestock | Member |
| (ix) Director General Information & Public Relations | Member |
| (x) Director General Food Safety Authority | Member |
| (xi) Director General Environmental Protection Agency | Member |
| (xii) Chief Engineer Public Health Engineering | Member |
| (xiii) Director General Local Government | Member |
| (xiv) Director Elementary & Secondary Education | Member |
| (xv) Provincial Coordinator EOC | Member |
| (xvi) Representative of Civil Aviation Authority | Member |
| (xvii) Nominee of the WHO | Member |
| (xviii) Director Institute of Public Health Khyber Medical University | Member |
| (xix) Director Public Health | Secretary |

Provided that the Government may co-opt anyone as Member for a specific period or event, as the case may be.

(3). Functions of Public Health Task Force shall include the following, and shall include any other functions so notified by the Government in Schedule 3 of the Act:

- (a) To ensure implementation and enforcement of this Act from the grass root to Provincial level;
- (b) To ensure the core capacities of IHR with regard to coordination, disease surveillance, response, preparedness, risk communication, human resource and laboratory.
- (c) To ensure the reporting, notification, and verification of events within stipulated time.
- (d) To ensure that the availability of most adequate means of transportation and efficient disposal system for solid and liquid medical wastes are in place in the Province.
- (e) To prepare and notify from time to time, events and diseases that may have serious public health impact whether known or un-known but have potential of rapid spread causing serious risk to public health.
- (f) To establish and supervise the implementation of IHR and make arrangements for exchange of relevant information and data with Districts and National IHR focal point.
- (g) To make arrangement for availability of all necessary equipment, devices, machines and instruments to assist in surveillance, prevention and control of spread of notified diseases or other diseases and unusual events having potential to spread in health and non-health sector to ensure the safety of human health .
- (h) To evaluate health situation in the Province and in case of apprehension of spread of any notified disease, advise the Chairperson of the Public Health Task Force to declare state of health emergency in whole or any specific part of the Province for any specific period of time.

(i) In case of declaration of state of health emergency in Pakistan, to take appropriate measures to deal with such a health emergency in the Province.

(j) To make arrangements for technical training of health professionals to deal with situations of health emergency in the Province, prevention and control of spread of disease and allied matters thereto.

(k) To make arrangements for implementation and enforcement of all measures recommended by the Federal Government and WHO for dealing with the declared health emergency in the Province.

(l) To collaborate and coordinate with WHO and any other international organizations, institutions or companies relating to their technical, financial or in kind assistance and support for prevention and control of spread of disease.

(m) To co-ordinate with the concerned Departments for maintenance of an effective disease surveillance system so that risk of communication or transmission of any disease to human is avoided.

(n) To coordinate with Departments of Elementary and Higher Education so as to ensure that the purpose and scope of Khyber Pakhtunkhwa Public Health (Surveillance And Response) Act, 2017 is brought to the knowledge of students in educational institutions, both public and private, and madrassas.

(o) To carry out any other acts or functions or make any recommendations to achieve the objectives of this Act including amendment in other laws to the extent of provisions of this Act.

(p) To recommend framing of Rules and Regulations to carry out purposes and object of this Act.

6. Meetings and decisions of Public Health Task Force: --

(1) The Task Force shall meet at least twice a year in such dates as may be communicated by the Chairman to all the members for assessing the situation of health in the Province.

Provided that the Public Health Task Force may meet as frequently as required in cases of emergency;

Provided further that in such a case, the Deputy Inspector General nominated by the Inspector General of Police of the Province shall also be a Member.

(2) All the decisions by the Public Health Task Force shall be made by a majority vote and in case of equality of votes of members, the Chairperson or Officer Presiding over the meeting will cast his casting vote.

(3) The Chairman of the task force may invite to the meetings any expert, consultant or representative of any Organization as may be deemed necessary. However, they shall not be authorized to vote.

CHAPTER 3 - HEALTH EMERGENCY

7. Declaration of state of Health Emergency in any area of the Province and powers of Chairperson of Public Health Task Force: -

(1) Chairperson of Public Health Task Force on the basis of information received from the Province through disease surveillance system or through other sources and after consultation with Director General Health Services and WHO, if necessary, through a Notification in the Official Gazette, may declare the state of Health Emergency in the Province or in any specific part thereof for such period as he may deem appropriate and require the the task force to convene meeting of PHR Implementation Cell of the province on a specified date and time but not later than 48 hours.

(2) Upon declaration of the state of health emergency at National or Provincial levels, the Chairperson shall have

authority to communicate instructions, directions and recommend measures to concerned Zilla Nazims and the Deputy Commissioners, in the province, for dealing with health emergency situation in their respective districts.

(3) Upon declaration of state of the health emergency in the province, the Chairperson Public Health Task Force may appoint any **Officer On Special Duty For Health Emergency** for any territory of the province and the concerned Zilla Nazims and Deputy Commissioners, in the province, shall be bound to carry out instructions, directions and orders of such Officer on Special Duty in implementation of health emergency measures in the territory.

(4) Upon being satisfied that the situation of health emergency has ceased to exist and there is no further apprehension of spread of disease, the Chairperson Public Health Task force, through Notification in Official Gazette, may revoke the declaration of the state of Health Emergency.

8. Obligations of District Governments in case of declaration of state of the health emergency: - (1) Upon declaration of the state of Health Emergency in any area of the province, it shall be the duty of every concerned Zilla Nazim and the Deputy Commissioner, to implement the instructions and directions of Chairperson Public health Task force to deal with situation of health emergency in its respective territory, and they shall make available all the facilities available with them including but not limited to manpower, machinery, transport, equipment, funds and infrastructure which can be useful for dealing with situation of health emergency.

(2) Any non-compliance of the orders, instructions and directions of the Officer on Special Duty by any official of the District Administration or any other department under sub-section (1) above shall be violation of the service rules and regulations by the concerned official.

CHAPTER 4 - DISEASE SURVEILLANCE

9. Establishment of Provincial Disease Surveillance Center: -- There shall be established a Provincial Disease Surveillance cell headed by the Director Public Health in DGHS and assisted by such number of officers and health professionals as the Secretary Health may deem appropriate.

10. Functions of Provincial Disease Surveillance Center: --

(1) Provincial Disease Surveillance Center shall be responsible to collect, receive and exchange information with District Disease Surveillance Cells.

(2) Provincial Disease Surveillance Center shall, after verification provide all information and data with regard to events, diseases and persons affected with notified or other diseases and conditions received from District Disease Surveillance Cells to the Public Health Task force for assessment of events and disease on basis of information made available through Disease Surveillance Systems functioning under this Act.

(3) After making assessment of events and diseases as provided by preceding Sub-Section, and determining that any of them may constitute a public health emergency of international concern, PHR Implementation Cell shall forward its assessment of events and diseases in prescribed manner to National IHR Focal Point within twenty four hours of completion of such assessment process for reporting to Director General, WHO through WHO IHR Contact Point.

(4) The Provincial Disease Surveillance Center, on the basis of the Report, may make immediate arrangements to prevent the spread of disease and communicate its directions and recommended measures to concerned Health Professionals of the Governmental or other Health Establishments, in the area where the affected or suspect person has been detected.

(5) Upon receipt of any recommendations from Director General, WHO through National IHR Focal Point, the Public

Health Task force shall make arrangements of implementation of the same in the Province.

11. Establishment of District Public Health committee & Disease Surveillance Cells: -- (1) District Public Health Committee shall be notified for each district under the chairmanship of Deputy Commissioner concerned.

(2) District Disease Surveillance Cells shall be established in each District and the District Health Officer concerned shall be Incharge of such Cell.

CHAPTER 5 - DISEASE NOTIFICATION

12. Disease Surveillance and reporting obligations of Health Professionals: - (1) Every registered medical practitioner, registered dentist and other Health Professional working in any Governmental or Private Health care establishment shall be under an obligation to ascertain whether the person under their examination or treatment suffers from or is affected by any notified and other disease, un-known or unusual conditions and in case of detection of any such disease, micro-organism or suspicion thereof, the Health Professional shall immediately report such a case to the nearest Disease Surveillance Reporting Office in the manner and within the stipulated time as notified by the Health Department through a Notification in official Gazette.

(2) The information of disease or events shall be reported by Health Professionals to the Disease Surveillance Office on the prescribed form of Disease Surveillance Report in duplicate and the Disease Surveillance Office receiving such report shall acknowledge the receipt of Report on duplicate copy.

13. Notification by pathology services. — The person in charge of a pathology service, where a test has been performed on a specimen which indicates the probable presence of a human pathogenic organism associated with a notifiable disease, must

notify the nearest Disease Surveillance Reporting Office of the detection of the presence of that organism in the manner and within the time specified by the Health Department through Notification in the official gazette.

14. Notification of micro-organisms in food and water supplies. — The person in charge of a Food Testing Laboratory, so declared under Khyber Pakhtunkhwa Food Safety Act, 2014, where a micro-organism associated with a notifiable disease is isolated or detected at that laboratory, must notify the Disease Surveillance Reporting Office of that isolation or detection in the manner and within the time specified by the Health Department through Notification in the official gazette.

15. Prevention of Infection through Schools and Madrassas. -- (1) The parent or guardian of a child attending a school or a Madrassa must inform the principal/teacher or person in charge of the school or Madrassa, as the case may be, as soon as practicable if the child is infected with an infectious disease or has been in contact with a person who is infected with an infectious disease.

(2) If the principal/teacher or person in charge of a school or a Madrassa believes, on reasonable grounds, that a child enrolled at the school or Madrassa is suffering from an infectious disease or has not been immunized against such a disease and has been in contact with a person at the school or the Madrassa who is infected with such a disease, he or she must, within 24 hours of reaching that belief, inform the parent or guardian of the child; and the nearest Disease Surveillance Reporting Officer.

16. Obligations of Disease Surveillance Reporting Offices: -- (1) Every Disease Surveillance Reporting Office, after verification shall forward the Disease Surveillance Report received by it from the Health Professional and others under obligation to do so under this Act to the provincial Disease Surveillance Cell as soon as possible, but not later than six hours of its receipt along with its tentative assessment of the findings recorded by the Health Professional in its Report.

(2) The Disease Surveillance Reporting Offices shall maintain record of receipt of Disease Surveillance Reports from Health Professionals and others under obligation to do so under this Act for a period of three years from the date of report.

17. Mandatory reporting of health hazard. - (1) If any person becomes aware that a health hazard exists or may exist, the person must promptly report the following information, to the extent of his or her knowledge, to the nearest Disease Surveillance Reporting Officer:

- (a) the nature of the health hazard, including its location and cause or source;
- (b) the identity of persons involved in causing or responding to the health hazard;
- (c) the persons who may be adversely affected by the health hazard;
- (d) prescribed information;
- (e) any other relevant information requested by the Disease Surveillance Reporting Officer to whom the report is made.

CHAPTER 6 - Preventing Disease and Other Health Hazards

18. Not willingly cause health hazard. -- A person must not willingly cause a health hazard, or act in a manner that the person knows, or ought to know, will cause a health hazard.

19. Preventive measures for Health Hazards: (1) It is obligatory on a public body or Operator to ensure the following preventive measures for health hazards, including the following:

- (a) being treated or vaccinated;
- (b) taking preventive medication;
- (c) washing with, applying or ingesting a substance, or having a substance injected or inserted;
- (d) undergoing disinfection and decontamination measures;
- (e) wearing a type of clothing or other personal protective equipment, or changing, removing or altering clothing or personal protective equipment;
- (f) using a type of equipment or implementing a process, or

removing or altering equipment or processes.

(2) A person requiring any one or more of the preventive measures as in sub-rule (1) above must not be in a place or do a thing that is prohibited by any other law in force

20. Must seek advice if infected or exposed.-- (1) If a person is informed by a health professional, or by a person acting on the instructions of a health professional, that he is an infected person, or has custody or control of a person who is an infected person or of a thing that is an infected thing, and is required to do the things as prescribed the person must comply.

(2) In case of non-compliance, or compliance beyond the mandatory time period for compliance prescribed the designated authority may take action as prescribed against him.

CHAPTER 7 - **Regulating Activities that May Cause Health Hazards**

21. Duties of operators (1) An operator who engages in a regulated activity as notified by Government in the official gazette from time to time, must take reasonable care to

- (a) prevent health hazards from arising in the course of the regulated activity, and
- (b) respond to health hazards that arise, including mitigating harmful effects of the health hazard.

(2) An operator who is an employer must ensure that employees are adequately trained and sufficiently equipped to recognize, prevent and respond to health hazards that may arise when engaging in a regulated activity.

(3) An operator who engages in a regulated activity must comply with any requirement or duty set out in a regulation respecting the regulated activity.

22. Licenses and Permits.-- (1) If an operator is required by

law to have a licence or permit to engage in a regulated activity, the operator may apply for the licence or permit as prescribed in the law or rules made thereunder.

(2) On receiving such a request as in sub-rule (1) above the Regulator as specified in concerned law must set in place a mechanism which carried out detailed inspections before such license or permit is issued.

(3) The Regulator must also ensure annual follow up inspections of such premises which must include, amongst others, annual medical examination as prescribed, of all persons requiring preventive measures and working there.

Chapter _8_ - Offences

23. Commission of Offences.-- (1) A person who contravenes any of the following provisions of this Act commits an offence:

(2) A person who does either of the following commits an offence:

(a) knowingly provides false or misleading information to a person who is exercising a power or performing a duty under this Act, or a person acting under the order or direction of that person;

(b) wilfully interferes with, or obstructs, a person who is exercising a power or performing a duty under this Act, or a person acting under the order or direction of that person.

(3) A person who commits an offence under this Act may be liable for the offence whether or not an order is made under this Act in respect of the matter.

(4) A proceeding for an offence under this Act may not be commenced in any court more than 2 years after the facts on which the proceeding is based first come to the knowledge of the Government.

24. Offence by corporation or employee.-- (1) If a corporation commits an offence under this Act, an employee, an officer, a director or an agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence whether or not the corporation is convicted.

(2) If an employee commits an offence under this Act, an employer who authorized, permitted or acquiesced in the offence commits the offence whether or not the employee is identified or convicted.

25. Continuing offences. -- (1) If a person commits an offence under this Act and continues to commit the offence, separate penalties may be imposed in respect of the offence for each day the original offence continues.

(2) If a person commits an offence under this Act and an order is made in respect of the matter that is the subject of the offence, but the offence continues after the date by which the order is to be complied with,

(a) subsection (1) applies from the date by which the order is to be complied with, and

(b) the person may be prosecuted both for the original offence and for the additional offence of contravening the order.

26. Defences. -- A person must not be convicted of an offence under this Act if the person proves that he or she

(a) exercised due diligence by taking all reasonable steps to avoid committing the offence,

(b) reasonably believed in the existence of facts that, if true, would establish that the person did not contravene this Act or a rules made under it,

27. Jurisdiction of the Court.--- An offence punishable under this Act, shall be tried by a Court of Sessions.

28. Cognizance of offences.---(1) Subject to sub-section (2), a Court shall not take cognizance of an offence under this Act except on a

complaint made by or on behalf of the District Surveillance Monitoring Officer concerned,

(2) If the offence causes death of, or injury to, a person including an employee, the aggrieved person or the employee, as the case may be, may also file a complaint in the Court under Chapter XVI of the Code of Criminal Procedure 1898 (V of 1898).

29. Time limit for prosecutions.--- The prosecution for an offence under this Act shall not be allowed after the expiry of three years from the date of the commission of the offence or one year from its discovery by the complainant, whichever is the earlier.

30. Penalties---(1) Notwithstanding anything contained in the Code of Criminal Procedure 1898 (V of 1898) an offence is punishable under this Act with imprisonment for a term not exceeding 10 years or fine not exceeding ten million rupees or both.

31. Compensation in case of injury or death.---(1) In case of injury or death of an employee working under an Operator due to Health Hazard, the Court, in addition to any other penalty under this Act, shall direct the operator or firm to pay compensation to the employee or, as the case may be, the legal heirs of the person, an amount which is-

1. (a) not less than five million rupees in case of death; and
2. (b) not exceeding one million rupees in case of injury.

(2) If the Operator or firm fails to pay the compensation under this section, the Government shall recover the compensation as arrears of land revenue and make payment of the recovered amount to the employee or, as the case may be, the legal heirs of the employee.

31. Recovery of fine.---(1) A fine imposed under this Act or regulations made thereunder, if not paid, shall be recovered as an arrear of land revenue and the defaulters licence shall be suspended till the penalty is paid.

(2) All fines and composition fees shall be deposited with the Government.

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32. Power to make Rules. - The Government may, by notification in the Official Gazette, make rules to carry out purposes and objects of this Act.

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