

THE BALOCHISTAN HEALTH FOUNDATION
ACT, 1994

(Baln Act, I 1994)

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'THE BALOCHISTAN HEALTH FOUNDATION

Preamble.

Short title, extent
and
commencemen
t.

Definitions.

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ACT, 1994

(Baln Act I of 1994)

[19" March, 1994]

An Act to provide for the Establishment of the
Balochistan Health Foundation.

WHEREAS _ it is expedient to make provision for the
establishment of the Balochistan Health Foundation to promote
and finance the development of Health Services in the Province
of Balochistan and matters ancillary, incidental and
supplemental thereto in the manner hereinafter appearing;

It is hereby enacted as follows:-

CHAPTER- I PRELIMINARY

1. (1) This Act may be called the Balochistan Health
Foundation Act, 1994.

(2) It extends to the whole of the Province of
Balochistan except Tribal Areas.

(3) It shall come into force at once.

2. In this Act, unless there is any thing repugnant in the
subject or context:—

(a) "Agency" means any department or organization
of the Provincial Government and includes a
Corporation or the body set up and controlled by
the Government;

(b) "Board" means the Board of Directors of the
Foundation constituted under sub section (1) of
section 5;

(c) "Chairman" means the Chairman of the Foundation;

(d) "Committee" means a committee constituted

For Bill and the Statement of objects and reasons see Balochistan Gazette (Extraordinary) No. 38, dated 26th January, 1994. T

passed by the Balochistan Assembly on 1st February, 1994; assented by the Governor of Balochistan; and published in the Balochistan Gazette (Extraordinary) No. 40, dated 19th March, 1994. Earlier it was promulgated by an Ordinance No. IV of 1993; made by the Governor Balochistan on 30th August, 1993; and published in the Balochistan Gazette (Extraordinary) No. 24, dated 13th September

1993, now repealed by this Act, s. 27.

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under sub-section (6) of section 6;

“Director” means a member of the Board of Directors of the Foundation;

“Foundation” means the Balochistan Health Foundation establishment under sub section (1) of Section 3;

“Fund” means a fund constituted under sub section (1) of Section 14;

“Government” means the Government of Balochistan;

“Land” includes building and benefits arising out of land and things attached to the earth or permanently attached to earth;

“Loan” means a refundable sum of money advanced by the Foundation and an _ health institution working in the private sector as specified under sub- section (1) of Section 13;

“Managing Director” means the Managing Director of the Foundation;

“Member” means a member of the Board;

“Non Government Organization” means an organization set-up with Private finance for providing health facilities and to achieve the prescribed objective of this Act;

“Prescribed” means prescribed by the rules under this Act;

“Rules” means the rules framed under this Act;

“Regulations” means the regulation framed under this Act; and

“Rural Areas” means areas declared by Government to be rural areas;]

“Urban Areas” means areas declared by Government to be urban areas;

“Vice Chairman” means the Vice Chairman of the Foundation. |

Subs. by Act III of 1998; published in the Balochistan Gazette (Extraordinary) No. 85, dated 14" November, 1998, for the exist

(q).

2 Clauses (r) and (s) added, *ibid.*

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Establishment of
the Foundation.

Management.

Constitution of the
Board.

CHAPTER- II

3. (1) There shall be established a Foundation to be known as Balochistan Health Foundation for carrying out the purpose of this Act.

(2) The Foundation shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and shall by its name sue and be sued.

(3) The head office of the Foundation shall be at Quetta.

4. (1) The administration and management of the Foundation and its affairs shall rest in the Board of Directors which may exercise the powers and do all acts and things that may be exercised or done by the Foundation.

(2) The affairs of the Foundation shall be conducted subject to the supervision and control of the Government.

(3) If any question arises as to whether any matter is a matter of policy or not, the decision of the Government shall be final.

5. (1) There shall be a Board of Directors of the Foundation consisting of such number of official and non official members including the Chairman as may be appointed by the Government through a gazette notification:

Provided that the Board shall consist of not less than six and not more than eleven members including the Chairman.

(1A) — The Vice Chairman shall be designated amongst the members of the Board, who shall carry out all the duties and functions of the Chairman in his absence.]

(2) The Chairman and members other than ex-officio member, shall unless the Government otherwise directs hold office for period of three years but he may be re-appointed as such for another term of three years or for such shorter term as the Government may direct.

(3) The Government may remove a member/Director on the ground of inefficiency, un-suitability or misconduct after giving him an opportunity of being heard

(4) The Chairman and any member may by writing

1 Inserted by Act III of 1998; published in the Balochistan Gazette (Extraordinary) No. 85, dated 14" November, 1998.

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Duties and
functions of the
Chairman and
members.

Appointment and
functions of the
Managing
Director etc.

under his hand addressed to the Government resign his office:

Provided that his resignation shall not take effect
until accepted by the Government.

6. (1) The Chairman and members shall discharge such
duties and perform such functions as assigned to them by or
under this Act.

(2) Until the Board is duly constituted, the Chairman
shall subject to such directions as the Government may from
time to time give, exercise the power, discharge the duties and
perform functions of the Board.

(3) No Act or proceeding of the Board shall be
invalid by reason only of the existence of a vacancy in, or any
defect in the constitution of the Board.

(4) A simple majority of the members of the Board
shall constitute the quorum of the Board.

(5) The meeting of the Board shall be held at such
time and places and in such manner as the regulations may
provide:

Provided that until regulations are made in this
behalf the meeting of the Board shall be held as and when
convened by the Chairman.

(6) The Board may constitute such financial
technical and advisory committee, as may be desired necessary
for carrying out the purpose of this Act.

CHAPTER- III ESTABLISHMENT

7. (1) The Government shall appoint a whole time
Managing Director of the Foundation whose qualifications and
terms and conditions of service shall be such as may be
determined by the regulations.

(2) Subject to sub-section (4), the term of the Managing Director shall be three years but the Government may extend the same for period not exceeding one year at a time.

(3) The Managing Director shall be the Chief Executive of the Foundation, he has to serve as member of the Board also, and shall exercise effective control over and make all decisions necessary for the smooth functioning of the day to

Recruitment
conditions of
services of
officers,
officials etc.

Members and
officers to be

public servant.

day affairs of the Foundation, under the general supervision of
the Board.

(4) The Government may remove the Managing
Director on the ground of inefficiency, un-suitability or mis-
conduct after giving him an opportunity of being heard.

(5) In particular and without prejudice of the
generality of foregoing powers, the Managing Director shall
have the power and responsibility to:—

(a) exercise administrative control over the
officers, officials of the Foundation;

(b) exercise, in respect of the Foundation
such other management, administrative
and financial deemed
appropriate by the Foundation;

powers as

(c) submit the annual budget proposals of the
Foundation to the Board;

(d) maintain the accounts of the Foundation;

report of the
Board and _ the

(e) prepare the annual
Foundation for the

Government;

(f) exercise such powers as the Board may
delegate to him; and

(g) act on behalf of the Foundation any
emergency subject to the obligation to
report such action to the Board at its next

meeting and to seek the Board's rectification of any action so taken.

8. The Foundation shall, by regulation make with the prior approval of the Government, lay down the procedure for the appointment of its officers and officials and the terms and conditions of their services and shall be competent to take disciplinary action against them, according to the prescribed rules.

9. The Chairman, members, officers and officials of the Foundation shall, when acting or purporting to act, in pursuance of any of the provisions of this Act, be deemed to be public servant within the meaning of section 21 of the Pakistan Penal Code (XIV of 1860).

Indemnity. 10. No suit prosecution or other legal proceeding shall lie against the Foundation, the Board, the chairman or any member, officer or official of the Foundation in respect of any thing done in good faith or intended to be done under this Act.

Members, officers 11. (1) The members, Directors, Advisors, Officers and and officials officials of the Foundation shall be indemnified by the not personally Foundation against all losses and expenses sustained or incurred liable. by him in the discharge of his duties save such losses and

expenses as are substantial and incurred as result of his own wilful act or default.

(2) The Managing Director, shall not be personally responsible for the acts of any member, Director, advisor, officer or official of the Foundation which he could not have reasonably prevented by the due exercise of his powers and functions under this Act and the rules and regulation, made thereunder or for any loss or expense resulting to Foundation by reason of the insufficiency or deficiency in value of, or title to any property or security acquired or taken on behalf of Foundation by the wrongful act or any thing done by him in good faith in execution of the duties of his office.

Delegation of 12. The Foundation or the Board may by general or special powers to order, delegate to the Chairman or a member or any officer, Chairman etc. — official or the Foundation any of its powers duties or functions

under this Act to such conditions or limitations as may be specified in the order,

CHAPTER- IV

POWERS AND DUTIES OF FONDATION

Function of the 13. (1) Subject to the other provisions of this Act the Foundation. Foundation shall take measures and exercise such powers as

may be necessary for the promotion, development and financing of health institutions in private sector and for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the functions mentioned in sub section (1) the Foundation shall:—

(a) Establish or cause to be established health institutions and such allied projects;

'T(b) Give grants, to non-profit making Health

1 Subs. by Act II of 1998; published in the Balochistan Gazette (Extraordinary) No. 85, dated 14" November, 1998, for the exis

(b), (©), (d) and (e).

(c)

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Institutions in rural and urban areas for purchase of Medicines, Land, Construction of Building, Purchase of Equipments, Furniture etc. not exceeding 1/3" of total cost as Grant, and 1/3" as a Loan, while remaining cost shall be borne by the Organization/Institution:

Provided that Grant-in-Aid is not applied for the amount of the Loan applied/offered, can be upto 50% of the proposed Project/Scheme;

Give Loans to such Health Institutions working on commercial basis in rural and urban areas to the extent of 50% of the total cost, whereas the remaining 50% of the cost shall be borne by the Institution itself;

Provide Loans to Doctors for opening of Clinics in Rural and Urban Areas of the Province;

Assist the Commercial/Non-Commercial Institutions and Doctors working in the Rural and Urban Areas in getting Loans from Scheduled Banks and Financial Institutions;]

Grants scholarships, provide facilities or otherwise assists in medical education, research and training;

Lease plots or assists in getting plots and land from Government, Development Authority and Housing Agencies

controlled by the Government;

Encourage in establishment of non-Government and non-Commercial Organization to achieve the prescribed objectives of this Act;

Encourage private sector for providing necessary facilities for population welfare; and

Balochistan Health
Foundation
Fund.

Budget.

Audit and
Accounts.

(j) Perform such other functions as may be
assigned to it by the Government.

CHAPTER- V FINANCE

14. (1) There shall be formed a fund to be known as the
Foundation Fund, which shall vest in the Foundation and shall
be utilized by the Foundation to meet the charges in connection
with its functions under this Act.

(2) To the credit of the Balochistan Health
Foundation fund, shall be placed:—

(a) grant made by Government and the
Federal Government;

(b) income from investments made by
Foundation;

(c) donation and endowments;

(d) revolving funds placed by _ the
Government at the disposal of the
Foundation;

(e) grant by the Local Bodies; and

(f) all other sums received by the Foundation
and incomes from other sources.

(3) The fund shall be kept in such custody and shall
be utilized and regulated in such manner as may be prescribed.

15. (1) In the month of November each year, the
Foundation shall submit to the Government for approval a
statement of the estimated receipt and expenditure in rupees in
respect of the next financial year.

(2) In the manners prescribed by the Government,
the Foundation shall also submit to the Government for
approval a statement of the estimated receipts and expenditure

in foreign exchange in respect of the next financial year.

(3) The Foundation shall obtain specific sanction of the Government in respect of each individual scheme costing Rs.10 lac each to be financed by the Foundation.

16. (1) The Foundation shall maintain proper accounts and other relevant records and prepare annual statement of account, including balance sheet in accordance with such

general directions as may be issued, and in such form as may be specified by Government.

(2) The accounts of the Foundation shall be audited by two auditors who shall be Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the Foundation with the approval of Government, on such remuneration, to be paid by the Foundation as the Government may fix.

(3) Notwithstanding the provision of sub-section (2) the Accountant General Balochistan, may, either of his own motion or upon request received in this behalf from the Government shall undertake such Audit of the account books and connected documents and such place or places as the Accountant General Balochistan may fix, and furnish such explanations and information as the Accountant General Balochistan or an officer authorized by him in this behalf may ask for.

(4) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance sheet of the Foundation and shall examine it together with the accounts and vouchers relating thereto and shall have a list delivered to him of all books kept by the Foundation, and shall at all reasonable times have access to the books of accounts and other documents of the Foundation and may in relation to such accounts to examine any officer of the Foundation.

(5) The auditor shall report to the Government upon the annual balance sheet and accounts in their report state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn-up so as to exhibit a true and correct view of the state of the Foundation's affairs and, in case they have called for any explanation or information from the board, whether it has been given and whether it is satisfactory.

(6) The Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Foundation for the protection of the interests of the Government and of the creditors of the Foundation or upon the sufficiency of their procedure in auditing the accounts of the foundation and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other

Accounts.

Penalty.

Cognizance of
offences.

Submission of
yearly report
and returns.

examination be made by the auditors if in its opinion the public
interest so requires.

(7) The Foundation shall comply with every
direction issued by the Government for the rectification of
matters objected to in audit.

17. The Foundation shall, with the prior approval of the
Government, open an account in any Schedule Bank of
Pakistan.

CHAPTER- VI PENALTY AND PROCEDURE

18. | Whoever contravenes any provision of this Act or any
rule or regulation made or scheme sanctioned thereunder shall,
if no other penalty is provided for such contravention, be
punishable with imprisonment for a term which may extend to
six months or with fine, or with both.

19. '[(1)] No court other than a Court of Magistrate Ist
Class shall take cognizance of any offence punishable under
this Act, on a complaint in writing made by the Foundation or
an officer/official authorized for the purpose by the Foundation.

*1(2) All dues and outstanding shall be recovered as
arrear of Land Revenue.]

CHAPTER- VII MISCELLANEOUS

20. (1) The Foundation shall submit to the Government
as soon as possible after the end of every financial year but
before the last day of December next following a report on the
conduct of its affairs for that year.

(2) The Government may, after giving sufficient
notice to the Foundation, require it to furnish the Government
with;

(i) any return, statement, estimates,
statistics, or other information regarding

any matter under the control of the
Foundation; or

(i1) a report on any subject with which the

1 Section 19 re-numbered as sub-section (1) by Act III of 1998, published in the Balochistan Gazette (Extraordinary) No. 85, d
November, 1998.

2 Sub-section (2) added, *ibid*.

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Foundation is concerned; or

(iii) | a copy of any document in the charge of Foundation and the Foundation shall comply with such requisition.

Board not 21. The Board shall not responsible for any disfeasance, responsible for malfeasance and non-feasance of any officer or official certain acts of appointed under this Act or of any person acting under the its officers and authority or direction of or in sub-ordination to any such officer

officials. or official.

Power to dispose of 22. The Foundation may retain, or may leave, sell, land. exchange, rent or otherwise dispose of any land vested in it.

Power of 23. The Foundation may with the approval of the Foundation to Government, make rules for carrying out the purpose of this make rules. Act.

Control of 24. — All acts and proceeding of the Board shall be subject to Government the control of the Government and the Government may

over acts and suspend or modify any such act or proceeding. proceedings of the Board.

Dissolution of 25. (1) The Government may, by notification in the Foundation and official Gazette declare that the Foundation shall be dissolved transfer of its on such date as may be specified in such notification, and the assets stands Foundation shall stand dissolved accordingly.

and liabilities. (2) On and from the said date;

(a) (i) all properties, funds and dues placed at the disposal of the Foundation by Government; and

(ii) all properties, funds and dues exchanged derived from, or otherwise attributable to the properties, funds and dues referred to in sub-clause (i), which immediately before the said date were held by or were realizable by the Foundation, shall vest in, and be realizable by the Government.

(b) all properties, funds and dues, other than

those referred to in clause (a), which immediately before the said date, the Foundation shall vest in and be realizable by the Government may determine, and its decision thereon shall be final;

(c) all liabilities which immediately before the said date, were enforceable against the Foundation shall be assumed by and be enforceable against the Government or such agency as the Government determines under clause (b) as the case may be;

(d) for the purpose of completing the execution of any scheme which has not been fully executed by the Foundation and of realizing properties, funds and dues re-referred to in clause (a) and (b) as the case may be; and

(e) the agency referred in clause (b), (c), shall keep such accounts of all moneys, respectively received and expended by it under this Act as the Government may

prescribed.

Removal of 26. If any difficulty arises in giving effect to any of the difficulties. provision of this Act especially in respect of the adjustment of

the power, functions and jurisdiction of the Foundation under this Act, the Government may make such order as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

Repeal. 27. The Balochistan Health Foundation Ordinance, 1993! (IV of 1993), is hereby repealed.

1 Published in Balochistan Gazette (Extraordinary) No. 24, dated 13 September, 1993.