

REGISTERED NO. S-2771

| EXTRA ORDINARY

THE BALOCHISTAN GAZETTE
PUBLISHED BY AUTHORITY

NO. 22 QUETTA TUESDAY MARCH 08, 2022.

BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT.

NOTIFICATION.

Dated Quetta, the 08" March, 2022.

No. PAB/Legis:V(04)/2022/7726. The Balochistan Fertilizer Control Bill 2022, (Bill No.04 of 2022), having been passed by the Provincial Assembly of Balochistan on 22TM February, ' 2022 and assented to by the Governor Balochistan, on 07TH March, 2022 is hereby published as an Act of the

Balochistan Provincial Assembly.

THE BALOCHISTAN FERTILIZER CONTROL ACT, 2022 ACT NO. III
OF 2022.

(first published after having received the assent of the Governor of Balochistan in the Balochistan Gazette(Extra-ordinary) dated 08" March, 2022.

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nd Stationery Department, Balochistan Quetta.

Printed by the Chief Controller, Government Printing a
Price Rs.260/= D.No. 22-150-Copies-04-2022.

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AN

ACT

to regulate the manufacture, sale and distribution of fertilizers.

WHEREAS under the 18th Amendment in the Constitution of Pakistan Agriculture
Stands as provincial subject enabling the provincial government of Balochistan to
promulgate new and amend existing laws pertaining to the agriculture Sector in

the public good and interest.

Preamble. WHEREAS, it is expedient to regulate the manufacture, sale and

dumping of fertilizers and for matters ancillary thereto:

It is hereby enacted as follows:

CHAPTER -I

INTRODUCTORY

Short Title, 1. (1) This Act may be called the Balochistan

Extent and Fertilizers Control Act, 2022 |

Commencement. - (2) It extends to the whole of the Balochistan

Province.

(3) It shall come into force at once.

— 2. The provisions of this Act shall be in addition to, and
Application of not in derogation of, the provisions of any other law for the

other laws not time being in force.

barred.

3. In this Act, unless there is anything repugnant in the
_ Subject, or context, the following expressions shall have
the meanings hereby respectively assigned to them, that is
to say—

(a) "Act" means the Balochistan Fertilizer

Control Act, 2022.

(b) "Adulterated" when used with reference to
a fertilizer, means any fertilizer to which

Definition.

(C)

(d)

(e)

any other material, including fertilizer of
other type, has been added which alters
the characteristics of _ its professed
Standard of quality expressed on its label
or marking under which it is sold as
fertilizer:

L Intentional adulterants are those
substances that are added as a
deliberate act on the part of the
adulterer (manufacturer, dealers,
and seller) with the intention to
increase the margin of profit. e.g.
sand, marble chips, stones, mud,
chalk powder, water, dyes, or any
material which may cause harmful
effects on the plants, ecosystem
and environment.

IL. Incidental adulterants are those
substances found in fertilizer due to
ignorance, negligence or lack of
proper facilities. It is not a willful act
on the part of the adulterer;

"Advertise" means to make known by
publication or distribution of any
advertisement, circular or other notice
including the use of print and electronic
media;

"Brand" means the trade name applied by
any manufacturer or vendor to the
fertilizer, manufactured or offered for sale
by him;

"Committee" means the Fertilizer
Registration Committee (FRC) constituted

under section 12;

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(f) "Essential plant nutrient" includes carbon, hydrogen, oxygen, nitrogen, phosphorus, potassium, Sulphur, calcium, magnesium, boron, copper, iron, manganese, Zinc, molybdenum, chlorine, etc.; including all plant growth regulators as well;

(g) "Department" means department of Agriculture & Cooperatives Balochistan headed by Secretary Government of Balochistan.

(h) "Fake fertilizer" means a fertilizer which does not contain the required ingredients according to its specifications both quantitatively and qualitatively;

(i) "Fertilizer" means any materials organic, inorganic in nature applied into soil, or in any other form (foliar spray) as nutrient for the crop or for enhancing soil fertility level in any shape (i.e. solid, liquid, power, granular etc.);

(j) "Fertilizer laboratory" means a_ fertilizer testing laboratory or a research institute set up or nominated under section 13;and duly notified by the Government:

(k) "Government" means the provincial Government of Balochistan:

(l) "Government analyst" means an analyst appointed by Government under section 14.

(m)

(0)

(p)

(q)

"Grade" means the guaranteed analysis of a fertilizer containing one or more, of the essential plant nutrient elements expressed as percentage Nitrogen(N), available Phosphate (P2O5) and Potash as KO2; |

"Guarantee" means~ the _ statement including the nutrient strength, effectiveness and other qualities of a brand of a fertilizer which a manufacturer, vendor or person holding stock for sale of brand of fertilizer is required to submit under the rules at the time of applying for the registration of the brand;

"Gypsum" means Sulphate of calcium;
"ingredient" means any material present in a fertilizer:

- "Inspector" means an Inspector appointed

under section 15;

"Marking" means the written or graphic matter printed on or attached to a fertilizer container, bag or other retail package, if

any;

(Ss) "Maximum" Price means the Prices, which the Registrar may, by notification in the official gazette, fix the maximum price of fertilizer and no importer, producer o, dealer shall sell it at a higher price than the price so fixed:

(t) "Prescribed" means prescribed by rules made under this Act;

(u) "Registrar" means Director Agriculture Soi Fertility Balochistan;

(v) "Registered" means registered under this Act:

(w) "Registration number" means a specific number assigned by the Registrar to each registered brand of fertilizer:

(x) "Rules" mean rules made under this Act:

(y) "Secretary" means Secretary to Government of Balochistan, Agriculture & Cooperatives Department.

(Z) "Section" means a section of this Act: and

(aa) "Worker" means an employee of fertilizer manufacturer, stock holder or seller

CHAPTER - II MANUFACTURE, SALE, REGISTRATION AND DISTRIBUTION OF FERTILIZER.

Fertilizer to be

4. No person shall manufacture, sell, offer for sale, or hold in stock for sale or advertise in any manner, any brand of fertilizer which has not been registered in the

Brand of manner as provided. |
fertilizer 'ny person intending to manufacture, sell,

, offer for sale, hold in stock for sale or advertise any brand

of fertilizer may apply to Government for registration of the

brand under such name as he may indicate in the application.

(2) Where the person making an application under sub-section (1), is not domiciled in Pakistan, the application shall be signed, besides such person, by his agent or representative in Pakistan.

(3) An application under sub-section (1) shall be in such form, be accompanied by such fee and contain such statements and information as may be prescribed.

(4) Upon receipt of an application under sub-section (1), Government shall register a brand of a fertilizer by the name indicated in the application, if it is

Satisfied that the brand is not such as would tend to deceive or mislead the purchaser with respect to the guarantee relating to the fertilizer or its ingredients or the method of its preparation.

(5) When it registers a brand of a fertilizer on the application of any person, the registrar shall grant him a certificate of registration in such form as may be

prescribed.

Effectiveness of 6. The registration of a brand of a fertilizer shall be registration. effective from the date of its registration and shall be valid until it is cancelled under section 7.

Cancellation of
registration.

Prohibition on
manufacture,
etc.

Brand or
marking of
fertilizer.

Condition of
sale

Appointment of
Registrar.

. Fertilizer
Registration
Committee.

- Fertilizer

7. If, at any time, after the registration of a brand of a fertilizer, Government is of the opinion that the registration has been secured in violation of any of the provisions of this Act or the rules made there under or that the fertilizer is ineffective or does not achieve the desired end or is dangerous to human, plant or animal life, it may, after giving the person, on whose application it has been registered, an opportunity of being heard, cancel the registration.

8. If any fertilizer is found to be adulterated or incorrectly or misleadingly tagged, labelled, marked or named, or its sale in any way contravenes any of the provisions of this Act, the registrar with prior approval of the department may, by notification, prohibit further manufacture or sale of such fertilizer and ban its use.

9. No person shall sell, offer or expose for sale, advertise or hold in stock for sale any fertilizer unless each package containing the fertilizer and tag or label durably attached thereto, is branded or legibly marked in printed character in such form and in such manner as may be

“prescribed.

10. No person shall store or sell any fertilizer, save in accordance with the provision of this Act and the rules made thereunder.

11. As soon as may be after the commencement of this Act, the Secretary shall notify the Director Agriculture Soil Fertility department of Agriculture Extension as Registrar.

12. (1) The Secretary shall, by notification in the official Gazette, constitute a Committee, to be called the Registration Committee (FRC), to advise Government on all matters arising out of the implementation of this Act and to perform any other

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function assigned to it by or under this Act. The Committee Shall have the right to have access to such data and information from any manufacturer, distributor and vendor as the Committee deem necessary for the effective implementation of this Act.

(2) The Committee shall consist of the Registrar and such number of other members, being officers of the Agriculture Extension and Research Services, the persons representing trade and industry engaged in fertilizer and gypsum business and representative of farmers as the department may deem fit to appoint.

(3) The Secretary shall appoint one of the members of the Committee, being an officer of the Agricultural Extension Department, to be the Secretary of the Committee.

(4) The non-official members of the Committee shall hold office for a term of three years and shall be

_ eligible for re-appointment, on the basis of performance.

(5) A non-official member of the Committee may, at any time, resign by writing under his hand and address to the Registrar but the post of such member shall not be deemed to have fallen vacant unless the resignation has been accepted by the Registrar with the prior approval of Government.

(6) A person appointed to fill a vacancy, fell vacant by the resignation or death of a non official member shall hold office for the residue of the term of his predecessor.

(7) The Committee shall perform its functions notwithstanding any vacancy in the membership thereof.

(8) The Committee shall have the power to regulate, with the prior approval of Government, the procedure for the conduct of its business.

(9) The Committee may appoint a _ sub-committee consisting of specialists for the consideration of a particular matter for such period not exceeding three

years, as it may consider necessary.

(10) The committee may co-opt a member

from public or private sector on a particular matter.

Fertilizer 13. (1) As soon as may be after the

analysis. commencement of this Act, Government shall set up or nominate fertilizer testing laboratories suitably equipped to carry out the functions entrusted to it by or under this Act.

(2) The manner and mode of submission of samples for analysis in the laboratory shall be in such form as may be prescribed and the laboratories shall conduct the analysis accordingly.

(3) The secrecy of the formula of brands of fertilizers, samples of which are submitted to the fertilizer laboratory for analysis or test, shall be duly safeguarded in the manner to be prescribed by rules.

Appointment of 14. Where fertilizer laboratories are set up under this

Government Act, Government may, by notification in the official

analysts. Gazette, appoint as many persons as it deems fit to be Government analysts, and where it appoints more than one person it shall specify in the notification the local limits within which each one shall perform his functions as Government analyst.

Appointments of 15. The Secretary may by notification, appoint

Inspectors. Inspectors from among the staff of Agriculture Extension Service (soil Fertility) for checking and reporting irregularities in fertilizers and gypsum business.

Power of 16. An Inspector may, within the local limits of his

Inspectors. jurisdiction, enter upon any premises where fertilizer or gypsum is kept or stored, whether in bag or in bulk or in any other packing or container by or on behalf of the owner, including premises belonging to Bailee, such as railway, shipping company or any other carrier and may take samples therefrom for examination. No compensation shall be paid for the samples so taken.

Intimation of
purpose.

Delivery of
report.

17. (1) Where an Inspector takes a sample of fertilizer or gypsum for the purpose of test or analysis under section 16, he shall intimate such purpose, in writing in the prescribed form to the person from whose Possession he takes it. The Inspector shall, in the Presence of such person as may choose to be present. divide the sample into three portions and effectively seal and suitably mark it and permit such person to add his

Own seal and mark to all or any of the portions so sealed and marked.

(2) The Inspector shall restore one portion of the Sample so divided to the person from whom it was taken and shall forthwith send one of the remaining two portions

to the fertilizer laboratory for testing or analysis and the other portion to the Registrar.

18. (1) The fertilizer laboratory, to which a

sample of any fertilizer has been forwarded by an Inspector under sub-section (2) of section 17, shall deliver within two weeks to the Inspector, a signed report of the

result of the chemical test or analysis in the prescribed form in triplicate.

(2) The Inspector shall deliver one copy of the received by him to the person from whose possession the sample was taken and shall send one copy to the Registrar while the third copy of the report shall be retained for his own record.

(3) Any document purporting to be a report signed by the fertilizer laboratory under this Chapter shall be conclusive evidence of the particulars stated therein, unless the person, to whom the report has been delivered under sub-section (2), disputes the correctness of the laboratory test report and, within thirty days of the delivery of the report to him, places before the Registrar evidence which in his opinion controverts the correctness of such report or analysis.

report

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(4) Where the evidence placed pene re Registrar under sub-section (3) 'S such as ee aus the opinion, justify further investigation, he may ' le. sent to him under section portion of the same sample, — Th 17(2), to be analyzed at another fertilizer laboratory. e result should be received within a period not exceeding two weeks.

(5) After the sample forwarded by the Registrar under sub-section (4) has been analyzed by another fertilizer laboratory, it shall record the result of the analysis in a certificate of analysis and forward it to the Registrar. The result should be received within a period not exceeding two weeks.

(6) A certificate of analysis prepared under sub-section (5) shall be conclusive evidence of the facts stated therein.

Application for 19. (1) Any person—who has purchased a registered conducting test brand of fertilizer which he claims to be adulterated, may of fertilizer. apply to the Registrar for an order directing the fertilizer laboratory to conduct a test or analysis of the fertilizer.

(2) An application under sub-section (1) shall be made in such form and manner and be accompanied by such sample and fee as may be prescribed.

(3) The Registrar upon being satisfied, after such investigation as he deems fit, that the fertilizer has not been tampered with or adulterated after its manufacture, . may refer the application and sample to the fertilizer laboratory.

(4) The fertilizer laboratory, to which a reference is made in accordance with subsection (3), shall conduct the analysis of the sample and issue to the applicant a report of the test or analysis.

(5) Registrar may take action pertaining to fertilizers quality as if come to his notice thorough media or other reliable source.

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CHAPTER - III

MISCELLANEOUS

Sale of Fake 20. Any person who—(1)_ sells, offers or exposes for Fertilizer. sale, holds in stock for sale or advertises registered brand

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of a fertilizer or gypsum which is not of nutritional strength and purity represented by the brand or mark on the package containing it or, as the case may be, on the tag or label attached thereto; or

(2) falsely represents a_ fertilizer or gypsum in an advertisement; or /

(3) contravenes any of the provision of

this Act or the rules, made under this for the contravention of which no other penalty is provided in this Act;

(4) shall be punished for the first offence with fine which shall not be less than twenty five thousand rupees or more than thirty thousand rupees and for every ~ subsequent offence with fine which shall not be less than thirty five thousand rupees or more than fifty thousand

- rupees and in default of payment of any such fine, the offender may be punished with simple imprisonment for a term which may extend up to two years in the case of first offence and up to three years in the case of every subsequent offence.

False warranty. 21. Whoever gives false warranty to a dealer or purchaser in respect of a fertilizer or fertilizer material that it complies in all respects with the provisions of this Act shall, unless he proves that when he gave the warranty, he had good reasons to believe the warranty to be true, be punished with fine which may extend to twenty-five thousand rupees or in default of payment of fine with simple imprisonment which may extend up to two years.

Any person who- (1) unlawfully uses any

registration number assigned under this Act; or

(2) willfully alters the composition

or gypsum by mixing any other substance

used in the market by the ;

Unlawful use of = 22.

registration.

of a fertilizer

therewith after it has been pla

manufacturer, importer or vendor, or 3

(3) willfully obstructs, — hinders, .

resists, or in any way opposes any Inspector in performing

his duties under this Act; shall be punished with a fine

which shall not be less than ten thousand rupees or more

than thirty thousand rupees OF with imprisonment for a

term which may extend to two years.

Power to enter 23. (1) If an Inspector has reasons to believe that an

offence punishable under this Act or the rules made

and search.

thereunder has been, is being or is about to be. committed

at any time or place, he may enter and search such place

and seize any fertilizer, or fertilizers material, article or

thing to which the offence relates.

(2) Any fertilizer, article or thing seized under

sub-section (1) shall be disposed-off in accordance with

the decision of the court which tries the offender.

Forfeiture of 24. If any person is convicted of an offence, .

fertilizer. punishable under this Act, the Court convicting him may

further direct that the fertilizer, article or thing be forfeited

to Government.

Cognizance of 25. No court inferior to the court of Magistrate First

offence. Class shall try an offence punishable under this Act.

Indemnity. 26. No suit, prosecution or other legal proceedings shall

lie against any person for anything in good faith done. or

intended to be done under this Act or the rules made there

under.

ee to make Seti, Government may om consultation wan the
2 and after publication in the official Gazette
make rules for Carrying out the provisions of this Act
(2) In particular, and without prejudice to the
generality of the foregoing power, such rules may provide
for all or any of the following matters. namely

(a) the form in which an application for the
registration of a brand of fertilizer or
gypsum shall be furnished and the fee
that shall accompany it

(b) the procedure for the grant of
certificate of registration of brands of
fertilizer or gypsum = or — fertilizer
businesses and the form of such
certificates;

(c) the language of the tag or label or
marking on the containers. bags and
packages containing fertilizer or
gypsum and character and location of
the printing to be marked on such tag,
labels, containers, bags and packages:

(d) the functions of the fertilizer laboratory
and the procedure to be followed by it
in the performance of such functions,
including—

(i) | safeguarding of the secrecy of the
formula of the brands of fertilizer
disclosed to it;

(ii) | collection of samples of fertilizer
and gypsum for test or analysis;

(iii) the form in which its reports of
tests or analysis shall be written,

(e) the methods of chemical analysis and
other testing to be followed, and the
limit of variability to be allowed by the
Registrar as between the information
marked on the packages or on a label
attached thereto or supplied to the

purchaser or sold in bulk or retail and the results of the laboratory tests:

(f) the qualification and duties of Government Analyst and the Inspector.

(g) the form in which intimation of the purpose for which a sample is taken by an Inspector to be given by him to the person from whose possession the sample is taken, the instruments to be employed and the quantities to be taken by such an Inspector for laboratory test and the manner in which it should be preserved and sent to the Registrar and the fertilizer laboratory;

(h) the requirements for the safe storage of fertilizer and gypsum: and

(i) the quantities of different brands of fertilizer which a person may hold in Stock at one time and the premises in which and the conditions Subject to which the same may be held in stock.

Delegation of 28. Government may, by notification in the official

powers. Gazette, direct that all or any of its power under this Act or rules framed thereunder shall in such circumstances, and under such conditions, if any, as may be specified in the direction, be exercised by any officer or authority subordinate to it.

TAHIR SHAH KAKAR,
Secretary.