

THE QUETTA WATER AND SANITATION

AUTHORITY ACT, 2004

(Baln Act XII of 2004)

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'THE QUETTA WATER AND SANITATION

1 This Act was passed by the Balochistan Assembly on 24th August, 2004: assented to by the Governor of Balochistan on 27th Balochistan Gazette (Extraordinary) No. 101, dated 30th August, 2004.

Preamble.

Short title, extent

and commencement.

Definitions.

AUTHORITY ACT, 2004

(Baln Act XII of 2004)

[30" August, 2004]

An Act to provide for establishment of Water and Sanitation Authority for Quetta District.

WHEREAS, it is expedient to make provisions for the Development of water supply, sewerage, and sanitation in Quetta District coordinating planning, design, construction, operation and maintenance of water supply, sewerage and sanitation, and for matters connected therewith or ancillary

thereto;

It is hereby enacted as follows:

CHAPTER-I
PRELIMINARY

1. (1) This Act may be called the Quetta Water and Sanitation Authority Act, 2004.

(2) It extends to the whole of Quetta District.

(3) It shall come into force at once.

2. (1) In this Act, unless, there is anything repugnant in the subject or context;-

(a) "Authority" means the Quetta Water and Sanitation Authority;

(b) "Board" means the Board of the Authority constituted under section 5;

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

(d) "Executive District Officer" means the Executive District

Officer, Revenue, of the District;

(e) "District Government" means the Quetta City District Government;

(f) "Government Agency;" means a statutory body created by and responsible to the Provincial Government;

(g) "Industrial waste" means any liquid, either with or without particles of matter in suspension therein, which is wholly or

Establishment of
Authority.

Management.

in part produced in the course of any
trade or industry, but does not include
domestic sewerage;

(h) "Licence" means a licence granted under
this Act;

(i) "Member" means a member of the Board
including the Chairman and the
Managing Director;

(j) "Provincial Government" means the
Government of Balochistan.

(k) "Regulation" means the regulations made
under this Act;

(l) "Sanitation" means self— contained
system for the removal of sewerage from
properties and includes latrines;

(m) "Sewage" means any liquid, either with or
without particles of matter in
suspension therein, which is wholly
produced by the domestic use of water in
a community.

(n) "Sewerage" means the system of pipes or
sewers used for conveyance of sewerage
of industrial properties.

(2) All words and expressions not defined in this
Act and defined in the Balochistan Local Government
Ordinance, 2001 (XVUHI of 2001), shall have the same
meanings as respectively assigned to them under the said
Ordinance.

CHAPTER-II CONSTITUTION OF THE AUTHORITY

3. There shall be an Authority which shall be a body
corporate in the name of Quetta Water and Sanitation Authority
having perpetual succession and a common seal, with powers to
acquire and hold property, both movable and immovable, ad to
sue or be sued by the said name.

4. (1) The general direction and administration of the affairs of the Authority and the determination of its general policy shall vest in the Board which may exercise all such powers and functions or done by the Authority in accordance with the provisions of this Act.

(2) The Board in discharging its functions shall act on generally accepted principles of development, execution, regulation, operation and maintenance of water supply,

Constitution of the
Board.

Chairman of the
Board.

Meeting of the
Board.

Appointment of
Managing Director.

sewerage and sanitation schemes to improve the levels of service to persons in the Quetta District with special regard to care the health and hygiene and its improvement.

5. (1) The Board shall consist of a Chairman, a Managing Director, Secretary and six other members as may be notified by the Provincial Government.

(2) The Managing Director shall be a whole time Member.

(3) The Secretary of the Board shall be the Director Administration Authority.

6. The ?[Minister WASA] shall be the Chairman of the Board.

7. (1) The meetings of the Board shall be held:-

(a) at intervals of not less than once in each month; and

(b) at such time and at such places as may be prescribed by regulation;

Provided that until such regulations are made, such meetings shall be convened by the Chairman.

(2) No business shall be transacted:-

(a) at an ordinary meeting, unless a quorum of one third of the total number of the members are present;

(b) at a special meeting, unless a quorum of one half of the total number of member is present.

(3) The Chairman shall preside over every meeting in which he is present, and if the Chairman is absent from the

meeting a member of the Board present and in the meeting shall be chosen by the members for the purpose who shall preside over the meeting.

(4) Each Member, including the Chairman, shall have one vote, and in the event of an equality of votes, the Chairman shall have a casting vote.

8. (1) The Managing Director shall:-

(a) be appointment by the Provincial Government on such terms and conditions as may be determined by the

2 Subs for the words "Nazim Quetta City District Government" by Balochistan Act VIII of 2010: Published in the Balochistan Gazette dated 17" June, 2010.

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Appointment of
Members.

Office of the

Provincial Government;

(b) exercise such powers and perform such functions as may be prescribed by the Board.

(2) When the Managing Director is on leave or is absent or is outside Pakistan, the Chief Engineer (Deputy Managing Director Quetta Water and Sanitation Authority) shall exercise the functions of the Managing Director.

9. (1) Every Member other than the Chairman and Managing Director shall;:-

(a) hold office for a period of three years unless earlier removed, and may be reappointed thereafter for such period or periods, not exceeding three years at a time, as the Provincial Government may in each case determine;

(b) receive such remuneration, fees or allowances as may be prescribed by

regulations of the Board or as the Provincial Government may determine; and

(c) perform such functions and duties as may be prescribed by regulations of the Board or as the Government may determine.

(2) A casual vacancy in the office of a Member shall be filled in by the Provincial Government and the person appointment against such vacancy shall hold office for the unexpired period of the term of his predecessor.

(3) No persons may be, or may continue to be a member who:-

(a) is or, at any time, has been convicted of an offence involving moral turpitude;

(b) is or, at any time has been adjudicated insolvent;

(c) is a minor; or

(d) has a financial interest of a conflicting interest in any scheme of the Authority, directly or indirectly, and has failed to disclose such interest in writing to the Provincial Government.

10. The Authority shall establish its office in Quetta.

Authority.

Guiding principle
for actions and
decisions of the
Authority.

Functions of the
Authority.

CHAPTER-III

POWERS AND FUNCTIONS OF THE AUTHORITY

11. The Authority shall, in exercising powers and functions under this Act, have regard to the health and welfare of all the people in its area, for the importance of providing and adequate supply of potable water to meet the basic needs of all people Quetta District, and for eliminating water borne diseases through the provision of effective sewerage and sanitation systems.

12. The functions of the Authority shall be:-

(a)

(b)

(c)

(d)

(e)

(f)

(g)

to initiate and maintain a continuous process of comprehensive water supply, sewerage and sanitation in the area;

to operate and maintain water supply, sewerage and sanitation system within the service area of the Quetta Water and Sanitation Authority to be

established under Section 3 of this Act;

to establish, maintain and periodically revise as necessary, planning controls, design and

construction criteria, and regulations for water supply, sewerage and sanitation services for Quetta District to:-

(1) provide appropriate design standards and protect public health;

(ii) ensure compliance with the development plans of the Authority;

to approve all proposed new, extension or rehabilitation works on the water supply, sewerage and sanitation system up to Rupees fifty millions whether owned and carried out by the Authority, Government Departments or Development Agencies, Private Developers or individual consumers.

to monitor and control water resource both surface and underground, and issue licences for abstraction of water from such resources in accordance with regulations made by the Authority;

to take over ownership and responsibility for all services pertaining to water supply, sewerage and sanitation of Quetta District;

to prepare and implement any other scheme

Power of the
Authority to make
Regulation.

Power to issue
License.

Powers to set Charge
recover Revenue.

assigned to the Authority by the Provincial
Government; and

(h) to appropriate, collect or recover rates, charges
or fees for water supply, sewerage and sanitation
services, including so far as practicable arrears
thereof.

13. (1) The Authority may make regulations, with the
prior approval of the Provincial Government not inconsistent
with this Act, to provide for all matters for which it is
necessary or expedient for the purpose of giving effect to the
provisions of this Act;

(2) In particular and without prejudice to the
generality of the power in sub-section (1) the Authority may
make regulations to provide for the installation, operation and
maintenance of water supply, sewerage and sanitation service
including:-

(1) procedures for applying for and
providing connections for water supply,
sewerage and sanitation systems in the
Quetta District;

(ii) specification of design — standards,
construction methods and materials for
water supply and sanitary pipe work,
fixtures and fittings;

(iii) specification and procedures for
installation and maintenance of internal
pipe work, fixtures and fittings.

(iv) measures to protect water resources and
water supply systems from sources of
contamination or pollution;

(v) control of the discharge of industrial
wastes to sewerage and sanitation
systems;

(vi) powers of inspection and enforcement;
and

(vii) licensing of contractors.

14. The Authority shall have the power to issue, refuse to

issue, alter or revoke licenses in respect of any matter for which
license are required under this Act.

15. The Authority shall have all necessary powers to set
charges and recover revenues for the services it provided under
this Act and shall:-

(a) sanction and implement schedules of water

Provision of
services.

Powers of Entry.

Control of
Discharges.

supply, sewerage and sanitation tariff rates and charges with the approval of the Provincial Government;

(b) collect or recover rates, charges or fees for water supply, in the event of contravention of the provisions of the Act or regulations;

(c) have the power to reduce, suspend or disconnect the water supply in the event of contravention of the provisions of the Act or regulations;

(d) have the power to impose surcharge, not exceeding double the amount due, if rates, charges or fees for water supply, sewerage or sanitation service or the arrears thereof are not paid within the time fixed by the Authority.

16. (1) The Authority may undertake construction, improvement, maintenance and operation of :-

(1) water supply works including wells and recharge facilities for collecting, purifying, pumping, storing and distributing water to all types of customer;

(ii) | sewerage works for collecting, pumping treating and disposing of sewerage and industrial waste;

(iii) sanitation works for collecting and disposing of sewerage from properties not having access to sewerage service.

(2) The Authority may review the existing schemes or prepare new schemes relating to water supply, sewerage, and sanitation works and undertake execution thereof up to maximum limit of Rupees fifty million.

17. (1) The Authority shall have the powers to authorize its employees and contractors to enter any land, house or other building and to carryout, in, on, under or over that land, house

or other building and action necessary to facilitate the execution of its duty under Section 12 and enforce regulations made under Section 13.

(2) Where entry under sub-section (1) above is refused by the owner or occupier of the said land, house or building the Authority may through to a Magistrate for an order to enable such entry to be carried out.

18. (1) No industrial waste shall be discharged into the Authority's sewerage or sanitation system without the consent of person or persons responsible for or having control of that

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Regulation of Water Supply.

Delegation.

Committees

Water and Sanitation Authority Fund.

industrial waste first obtaining a license from the Authority permitting the discharge of that industrial waste into the systems.

(2) No sewage, treated or untreated or industrial waste shall be discharged into surface or underground waters without the consent of person or persons responsible for the discharge of those wastes first obtaining a license from the Authority permitting that discharge.

19. In times of water shortage or other emergency thereby limiting the availability of water supplies, the Authority may take such action as is necessary to regulate the water supply to consumers.

20. The Board may, by general or special order, delegate to the Chairman, Managing Director, a Committee constituted under section 21, a Member or officer of the Authority any of its powers, duties or functions under this Act or the rules and regulations made thereunder subject to such conditions as it may deem fit to impose.

21. The Board may constitute such financial, technical and advisory committees as may be deemed necessary for carrying out the purposes of this Act and such committees shall exercise such powers and perform such functions as may be delegated or assigned to them by the Board.

CHAPTER-IV FINANCE

22. (1) There shall be formed a fund to be known as the "Quetta Water & Sanitation Authority Fund" which shall vest in the Authority and shall be utilized by the authority in connection with its functions under this Act including the payment of salaries and other remunerations to the duly appointed members, officers, servants, experts and consultants of the Authority.

(2) There shall be credited to the Quetta Water and Sanitation Authority Fund; -

- (a) grants and loans made by the Provincial Government;
- (b) all moneys received from _ Federal Government or any _ international agency by way of grants, loans, advances or otherwise;
- (c) all fees, rates and charges received by the Authority under this Act;

Revenue from
Government.

Powers to Invest.

Powers to Borrow
money.

Accounts.

Audit.

(d) all moneys received by the Authority
from the disposal of lands, building and
other properties movable and immovable;
and

(e) all other sums receivable by _ the
Authority.

23. In the case of a deficit in the revenue of the Authority,
the authority may request the Provincial Government to provide
from its own revenues or from any other sources, such sum as
may be necessary for the efficient performance of the functions
of the Authority under this Act.

24. The Authority may keep in the current account of any
scheduled bank or banks such sums as may be prescribed by
Provincial Government and any amount in excess of the said
amount shall be invested on deposit in any scheduled bank or
banks or in any security of the Federal Government or
Provincial Government or in security that has been declared as
approved security by the Provincial Government and the
Authority shall receive the interest on such deposits and
securities.

25. The Authority may, from time to time, with the previous
sanction of the Provincial Government, and on such terms and
conditions as may be approved by the Government borrow
money necessary for the purposes of defraying any cost,
charges or expenses incurred or to be incurred:-

(a) for the execution of any works authorized by or
under this Act;

(b) for payment of compensation for any land
acquired for the purpose of this Act;

(c) for the payment of any loan raised under this
Act or transferred to the Authority under the
provision of this Act; or

(d) for any other purpose within the intent of this Act.

26. The Authority shall maintain proper accounts and other relevant records in such form as may be prescribed by the Board and approved by the Provincial Government.

27. (1) The authority shall appoint Auditors who shall be chartered Auditors within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961).

(2) A statement of accounts in the prescribed form audited by the Auditors referred to in the proceeding sub-section shall be furnished to the Provincial Government as soon

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etc.

as conveniently possible and not later than three months after
the end of every financial year.

(3) It shall be open to the Provincial Government to
authorize the Government Auditor to conduct a test or other
audit or the accounts submitted to it in the form prescribed
under Section 26 on such terms and conditions as the
Provincial Government may determine.

28. The Authority shall, within three months after the end of
every financial year, submit to the Provincial Government an
annual report on the conduct of its affairs for the year. It shall
also prepare and submit its proposals and budget estimates for
the next ensuing year at least one month before the
commencement of such year.

CHAPTER-V SUPPLY OF WATER AND EXECUTION OF SCHEMES

29. The Authority may make bulk supply available to
consumers outside its area at such rates and subject to such
terms and conditions as may be determined by the Authority;

Provided that until such terms and conditions and/or
quantity of water is determined, the Authority shall continue the
bulk water supply according to the arrangement s existing
immediately before the commencement of this Act.

30. (1) The Authority or any person authorized by it
shall have the power to place and maintain aqueducts, conduits
and lines of mains, drains, sewers or pipes over, under, along or
across any immovable property without acquiring such
property, and to enter on such property for the purpose of
examining, repairing, altering in or removing any aqueducts,
conduits or lines of mains, sewers or pipes;

Provided that the Authority shall not, except as
otherwise required under this Act, acquire any right other than
the power aforesaid.

(2) The power conferred by sub-section (1) _ shall
not be exercisable in respect of any property vested in or under
the control of management of the Federal Government or

Provincial Government or any local authority or Railways Administrations save with the prior permission of such Government or local authority or Railway Administrations:

Provided that such permission shall not be necessary if any repair, replacement, removal or improvement in connection with water and sanitation works is required to be made urgently in order to maintain the service without interruption or for averting danger to human life or property.

Preparation of
Schemes.

Modification of
Schemes.

Land Acquisition.

Employment.

3

(3) The Authority or any person authorized by it shall while exercising the power under this section, cause as little damage and inconvenience as possible, and if any damage or inconvenience is actually caused, a reasonable compensation as may be determined by the Authority, or by a person appointed by it in this behalf, shall be paid for such damages or inconvenience.

(4) In the case of disagreement between the Authority and the person to whom damages are due the amount of compensation shall be determined by arbitrator, appointed for the purpose by the Authority and the claimant, and shall be binding on the parties.

31. (1) All water supply, sewerage and sanitation schemes prepared by the Authority in accordance with Section 12 of this Act shall be submitted to the Provincial Government for its approval, except those schemes, the provisional estimated cost of which does not exceed such limit or for which no loan or grant is required from the Provincial Government.

(2) The Authority shall publish the sanctioning of any such schemes in the two daily newspapers and shall forthwith proceed to execute the same.

(3) The publication of a sanction under sub-section (2) shall be conclusive evidence that the scheme has been duly framed and sanctioned.

32. Any scheme prepared under this Act may, at any time, be amended or modified by the Authority in the same manner as may be prescribed for the preparation of a scheme.

33. Any land with the area may be liable for acquisition by the Authority at any time for discharging of any of its functions under this Act in accordance with the provision of the Land Acquisition Act, 1894.

EMPLOYEES OF THE AUTHORITY

34. (1) The Authority *[] may employ such officers, advisers, experts, consultants, deputations and employees, as it considers necessary for the efficient performance of its functions with the prior approval of the Provincial Government.

(2) The terms and conditions of employment under sub-section (1) above shall be determined by regulations framed under this Act the Authority for this purpose.

The words "with the prior approval of Provincial Government" are omitted by Balochistan Act VIII of 2010: Published in the Bal

[Extraordinary] No. 63, dated 17" June, 2010.

Transfer of certain
Employees.

Penalty.

Causing Damage to
Property and
Disobedience
Offenders.

35. (1) — Employees of Government Departments serving in connection with the water supply and sewerage service may be transferred to serve under the Authority as Government may direct and on such terms and conditions as may be determined by the Authority:

Provided that such terms and conditions shall not be less favorable than those admissible to such employees immediately before such transfer:

Provided further that the employees as transferred shall until the terms and conditions of service and determined under this Act, continue to be governed by the same terms and conditions as were admissible to them immediately before such transfer.

(3) Pension, gratuity and other service benefits admissible to the employees of the Government Department, who retired or died while serving in relation to water supply or sewerage service before the commencement of this Act, shall be the responsibility of the Authority.

CHAPTER-VII PENALTY AND PROCEDURE

4[36. Whoever contravenes any provision of this Act or regulation or licenses made there under shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding Rupees five thousand or with both.]

37. (1) Whoever wilfully causes damages or allow damage to be caused to any property which vests in the Authority, or which intended to be acquired by the Authority, or unlawful converts it to his own or any other person's use, shall be punishable with imprisonment for a term which may extend to one year, or with fine not exceeding Rupees *[ten thousands], or with both.

(2) Who ever refuses or wilfully neglects to provide any officer or servant of the Authority with the means necessary for entering into any premises for the purpose of collecting any information or making an examination or enquiry in relation to any functions of the Authority under this Act, shall be

punishable with imprisonment extending to one year or with fine not exceeding Rupees [ten thousands] or with both.

(3) Whoever attempts to commit or abets the commission of an offence punishable under this Act, shall be deemed to have committed that offence.

4 Subs for section 36 by Balochistan Act VIII of 2010: Published in the Balochistan Gazette [Extraordinary], dated 17" June, 2010.

5 Subs for the Words "five thousand" by Act ibid.

6 Subs the words "five thousand" by Balochistan Act VIII of 2010: Published in the Balochistan Gazette [Extraordinary] No. 63/2010.

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Cognizance of
Offence Courts.

Eviction and
Removal.

Members, Offices
and Employees to be
Public Servants.

Immunity of the
Authority and its
Employees.

(4) Any Magistrate empowered for the time being to try in a summary way the offence specified in sub-section (1) of Section 260 of the Code of Criminal Procedure, 1898, may if such Magistrate thinks fit, on application being made in this behalf by the prosecution, try an offence punishable under this Act, in accordance with the provisions contained in Sections 262 to 265 of the said Code.

38. No Court shall take cognizance of any offence punishable under this Act, except on a complaint made in writing by an officer authorized for the purpose by the Authority.

39. (1) The Executive District Officer Revenue or any person or the Authority authorized by the Executive District Officer Revenue to act on his behalf, may summarily evict any person who is in unauthorized occupation of any land or property vested in the Authority, and may for such eviction use such force as may be necessary.

(2) If any structure, work or land is erected or used in contravention of the provisions of this Act any regulation made thereunder, the Executive District Officer Revenue, or any person or the Authority authorized by the Executive District Officer Revenue to act on his behalf may by order in writing require the owner, occupier, user or person in control of such structure, work or land to remove or alter the structure or work or cease the use of the land.

(3) If the owner, occupier, user or person in control fails to comply with an order made under sub-section (2) above, the Authority may carry out such actions as are necessary to ensure compliance with the said order and may recover the costs of such action from the said owner, occupier, user or person in control thereof.

CHAPTER-VIII

MISCELLANEOUS

40. The Chairman, Members of the Board, Managing Director Officers, servants, experts and consultants of the Authority shall when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860.

41. No suit, prosecution or any other legal proceeding shall lie against the Authority, the Chairman, the Managing Director, any Member, officer, servant, expert or consultant of the Authority in respect of any thing done or intended to be done in good faith under this Act.

Declaration of
Fidelity and Secrecy.

Dissolution of the
Authority.

42. (1) Every Member of the Board, Chairman, Managing Director, officer, servant expert and consultant of the Authority, before entering upon his duties, shall make such declaration of fidelity and secrecy as may be prescribed by regulations.

(2) Every Member of the Board, including the Chairman, Managing Director, officer, servant expert and consultant of the Authority, who in the opinion of the Authority has violated the declaration of fidelity or secrecy made by him under sub-section (1) shall be liable, after being given a reasonable opportunity of showing cause against the action proposed to be taken with respect to him to be forthwith removed from his office or post.

(3) An appeal against an order or decision of the Authority under sub-section (2) above may be made by any party aggrieved or affected by the order or decision of the Provincial Government within thirty days of the date of communication to the order or decision.

43. The Provincial Government may by notification in the Official Gazette dissolve the authority. On and from the date of dissolution:-

(a) (1) all properties, funds and dues placed at the disposal of the Authority by the Provincial Government; and

(ii) all properties, funds and dues exchanged for, derived from, or otherwise attributable to the properties, funds and dues referred to in paragraph (i), which, immediately before said date, were held by or were realizable by the Authority, shall vest in and be realizable by the Provincial Government;

(b) (ii) all properties, funds and dues, other than referred in sub-section (a), which, immediately before said date, were vested in or were realizable by the Authority shall vest in and be realizable by such agency as the Provincial Government may determine and its decision thereon shall be final;

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

Saving.

Repeal.

(d) for the purpose of completing the execution of any scheme sanctioned under this Act which has not been fully executed by the Authority and of realizing properties, funds and dues referred to in sub-section (a) and (b), the functions of the Authority and Chairman of the Authority under this Act shall be discharged by the Provincial Government or by the agency determined by the Provincial Government or by the agency determined by the Provincial Government under sub-section (b), and (c), as the case may be.

44. Any rules, regulations and orders made, or notifications issued, or land acquired, schemes prepared or executed, rates and fees imposed, penalties or other charges levied, contracts made, suits instituted by or against the Balochistan Water and Sanitation Authority, created vide Balochistan Water and Sanitation Authority Act, 1989 (IX of 1989) or any other right accrued, or liability incurred or action taken, or proceedings initiated, shall so far as they are consistent with the provisions of this Act, continue in force and be deemed to have been made, imposed, levied, entered into, instituted, prepared, executed, accrued or incurred, taken and initiated by the Authority under this Act.

45. The Balochistan Water and Sanitation Authority Act, 1989 (IX of 1989), is hereby repealed.