

THE BALOCHISTAN DEVELOPMENT AUTHORITY
ACT, 1974

(Baln. Act X of 1974)

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'THE 7BALOCHISTAN DEVELOPMENT AUTHORITY
ACT, 1974

(Balochistan Act X of 1974)

[22" July, 1974]

An Act to provide for the establishment of a Development Authority for the promotion of the economic and industrial development of Balochistan.

Preamble. WHEREAS it is expedient to provide for the establishment of a Development Authority for the promotion of the economic and industrial development of Balochistan and for matters ancillary thereto;

It is hereby enacted as follows: —

Short title, extent 1. (1) This Act may be called the Balochistan and Development Authority Act, 1974.

commencemen

t. (2) It extends to the whole of the Province of

Balochistan excluding Tribal Areas'.

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

(a) "Authority" means the Balochistan Development Authority established under section 3;

(b) "Board" means the Board of Directors of the Authority;

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

(d) "Director" means a Director of the Authority and includes the Chairman;

(ec) "Government" means the Government of Balochistan;

(f) | "Governor" means the Governor of Balochistan;

(g) '4["industry" means an industry engaged in the manufacture of consumer goods and_ shall

1 This Act was passed by the Balochistan Assembly on 4" June, 1974; and assented to by the Governor of Balochistan; publis

in the Balochistan Gazette (Extraordinary) No. 44, dated 22TM July, 1974.

2 Spelling of the word "Baluchistan", wherever it appears in this Act, is corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

Extended to Tribal Areas of Province of Balochistan by Balochistan Regulation II of 1974; came into force on 14" January,

1974. See Balochistan Gazette (Extraordinary) No. 51, dated 29" July, 1974.

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include any other concern which may be declared by the Government to be industry for the purpose of this Act, but shall not include an industry the development of which is under Federal control.

Explanation— For the purpose of this clause shipbreaking concerns at Gadani Beach in District Lesbela shall be deemed to be an industry; |

(h) “minerals” means all minerals excluding minerals which are exclusively under Federal control;

(i) “regulations” means regulations made under this Act;

(j) “rules” means rules made under this Act;

(k) “scheduled bank” means the bank for the time being included in the list of banks, maintained under sub-section (1) of section 37 of the State Bank of Pakistan Act, 1956 (XXXII of 1956); and

(1) “State Bank” means the State Bank of Pakistan.

Establishment of 3. (1) As soon as may be after the commencement of Authority and this Act, Government shall establish an Authority to be called its offices. the Balochistan Development Authority.

(2) The Authority shall be a body corporate having perpetual succession and common seal with power, subject to the provisions of this Act, to acquire and hold property, both movable and immovable, and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at Quetta, but the Government may, by notification in the official Gazette, transfer it to such other place as may be specified in such notification.

(4) The Authority shall establish regional offices at such places as the Government may direct.

Management. 4. (1) The general direction and administration of the affairs of the Authority and the determination of its general

4 Clause (g) substituted by Balochistan Ordinance XI of 1980 with effect from 4th June, 1974; made by Governor of Balochistan and published in the Balochistan Gazette (Extraordinary) No. 159, dated 20th July, 1980.

Constitution of the
Board of
Directors and
appointment of

policy shall vest in the Board which may exercise all such powers and do all such acts and things as maybe exercised or done by the Authority in accordance with the provisions of this Act.

(2) The Board in discharging its functions shall act on sound principles of development and economic planning and shall be guided on the following and other matters of policy by such directions as the Government may from time to time give namely: —

(a) approval of the Annual Budget, the Annual Development Programme and the Five-Year Development Plan;

(b) sector-wise allocation of funds for the projects to be included in the Annual Development Plan or the Five-Year Plan and other projects;

(c) selection of areas for the implementation of projects or schemes;

(d) determination of priorities for the execution of approved projects or schemes;

(e) sanction for projects or schemes not included in any plan;

(f) appointment of officers of the Authority; and

(g) entering into contracts for the execution of projects through any agency.

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

(4) If the Board fails to comply with any direction given to it under sub-section (2), the Government may remove the Directors including the Chairman, from office and appoint a person or body of persons to perform the functions of the Board until a new Board is constituted under section 5.

5. (1) There shall be a Board of Directors of the Authority consisting of such number of Directors, not being less than three or more than five, as may be appointed by

its Chairman.

Remuneration and
other
conditions of
service.

Disqualifications of
Directors.

Government.

(2) Each Director shall: —

(a) be a whole-time or part-time officer of
the Authority as the Government may
determine;

(b) — perform such duties as the Board may by
regulations assign to him;

(c) if he is appointed a whole-time Director
before assuming that office, divest
himself of any directorship or other
interest held by him in any other
Corporation, Company, or concern other
than public company sponsored by the
Authority under sub-section (5) of
section 17.

(3) Government shall appoint one of the Directors
to be the Chairman of the Board, who shall be the chief
executive of the Authority.

(4) The Directors shall, unless sooner removed,
hold office for a term of three years, and may be appointed
thereafter for a further term or terms of such duration as the
Government may determine.

(5) A Director may at any time resign his office by
writing under his hand addressed to the Government.

6. The Directors shall receive such salary and allowances
and shall be subject to such terms and conditions of service as
may be determined by the Government.

7. (1) No person shall be or shall continue to be a
Director, if he: —

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

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

(c) is found a lunatic or becomes of unsound mind; or

(d) is or at any time has been, disqualified for employment in, or dismissed from,

Powers and
functions of
Directors.

Appointment of
officers,
advisers, etc.

Powers of
Authority to
associate other
persons.

Financial technical
and advisory
committee.

Declaration of
fidelity and
secrecy.

the service of Pakistan; or
(e) is under the age of twenty-one years; or

(f) is not a citizen of Pakistan.

8. The Directors shall exercise such powers and perform
such functions as are assigned to them by or under this Act.

9. (1) The Authority may, subject to such general or
special orders as Government may from time to time give,
appoint such officers, experts, advisers, consultants and
employees as it considers necessary for the efficient
performance of its functions, on such terms and condition~ as
it may determine.

(2) The Authority may employ such officers,
experts, advisers, consultants and other persons as may be
transferred to it by Government, on such terms and conditions
as may be determined by Government.

(3) The Chairman may, in cases of urgency,
appoint such officers, experts, advisers, consultants and other
employees as he may deem necessary:

Provided that every appointment made under
this sub-section shall be reported to the Board without
unnecessary delay, and shall not continue beyond six months
unless approved by the Board.

10. (1) The Authority may associate with itself, in such

manner, on such terms and for such period as it may deem fit, any person whose assistance or advice it may deem necessary in carrying out any of the purposes of this Act.

(2) A person associated with the Authority under sub-section (1) shall have a right to take part in the deliberations of the Board relating to the purpose for which he is associated but shall not have a right to vote nor shall he be deemed to be a Director for any purpose.

11. The Authority may constitute such financial, technical and advisory committees as may be necessary for carrying out the purposes of this Act.

12. (1) Every Director, Expert, Adviser, Consultant, Officer, or other employee of the Authority, before entering upon his duties, shall make such declaration of fidelity and

Meetings of the
Board.

Forwarding of
statements,
etc., to

secrecy as may be prescribed by regulations.

(2) Any Expert, Adviser, Consultant, Officer or other employee of the Authority who in the opinion of the Governor or a person authorised by the Governor in this behalf, 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.

13. (1) The meetings of the Board shall be held at such times and at such places as may be prescribed by regulations:

Provided that at least one meeting shall be held every month:

Provided further that, until regulations are made in this behalf, such meetings shall be held at such times and at such places as may be determined by the Chairman.

(2) The quorum necessary for transacting business at a meeting of the Board shall be three, if the Board consists of five Directors and two if the number is less.

(3) Each Director, including the Chairman, shall have one vote, but in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) The meetings of the Board shall be presided at by the Chairman, and, in his absence, by a Director authorized by him in this behalf, and where no such authorization has been made by a person elected for the purpose by the Directors present from among themselves.

(5) No act or proceeding of the Board shall be invalid merely on the ground of the existence of a vacancy in, or defect in the constitution of, the Board.

(6) The minutes of every meeting, stating, among other things, the names of the Directors present, shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting; and such book shall at all reasonable times and without any charge be

opened to inspection by any Director.

14. (1) If the Governor so directs in any case, the Chairman shall forward to him copies of all papers which were laid before the Board for consideration at a meeting.

Government.

Delegation of
Powers.

Functions of the
Authority.

(2) Government may require the Chairman to furnish it with: —

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority; or

(b) a report on any such matter; or

(c) a copy of any document in the charge of the Chairman.

(3) The Chairman shall expeditiously comply with any requisition made to him under sub-section (2).

15. Subject to the provisions of sub-section (4) of section

5, the Authority may, by general or special order in writing, direct that such of its powers shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by the Chairman or such Director, officer or employee of the Authority as may be specified therein

16. (1) The following shall be the functions of the Authority, namely: —

execution of

development
programmes, including projects and
schemes relating to land and water
development, power,
industry and activities ancillary thereto,
for the economic uplift of relatively
under-developed areas to be notified by

(a) Preparation and
comprehensive

agriculture,

Government;

(b) Planning, promoting, organising and

implementing projects for:—

(i) mineral exploitation and development including

establishment of mineral-based

* Sub-sections (4) and (5) were added by the Balochistan Ordinance II of 1990; made by the Governor Balochistan on 17th September, 1990; published in the Balochistan Gazette (Extraordinary) No. 136, dated 22nd September, 1990. However, the Ordinance was lapsed after 90 days of its promulgation, under Article 128 of the Constitution of Islamic Republic of Pakistan, 1973.

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industries; and

(ii) establishment of such other industries as Government may direct.

(2) Notwithstanding anything contained in subsection (1), the Authority shall perform such other duties and functions as Government may, from time to time, assign to

it.

Formation of 17. (1) The Authority may, for the purposes of carrying Companies. out any of the functions under clause (b) of subsection (1) of

section 16, and, where Government so directs, shall, sponsor limited companies independent of each other or subsidiary companies incorporated under the Companies Act. 1913!:

Provided that before sponsoring any such company, the Authority shall obtain the approval of the Government to the company's capital structure.

(2) The Authority shall be represented on the Board of Directors of every such company.

(3) The Authority may issue the capital required for a company sponsored under sub-section (1) for public subscription and may, if any portion thereof remains unsubscribed after the expiry of the closing date for public subscription, subscribe, on behalf of the Government. the unsubscribed portion:

Provided that the Authority shall not subscribe to an extent which in the aggregate exceeds such limit as may be notified by Government from time to time.

(4) The Authority may underwrite the whole or any portion of the capital issued under sub-section (3).

(5) The Authority may, when it considers the time opportune, sell or transfer the shares subscribed for by it under sub-section (3):

Provided that no such sale or transfer shall take place at a rate below the market quotation or below the par value of such shares without the previous sanction of Government.

(6) The Authority may participate in joint ventures

1 That is Act VII of 1913. Now the Companies Ordinance, 1984 (Ord. XLVII of 1984), published in the Gazette of Pakistan (Extraordinary), Part, I, dated 8" October, 1984, which repealed the earlier Act VII of 1913, S. 508, 7" Schedule.

Powers of the Authority.

? Clause (e) added, ibid.

with the private sector in regard to matters specified in clauses (a) and (b) of sub-section (1) of section 16.

18. (1) Subject to provisions of this Act and the rules made thereunder, the Authority may take such measures and exercise such powers as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the powers conferred by sub-section (1) the Authority may: —

(a) cause studies, surveys, experiments and technical researches to be made or contribute towards the cost of any such studies, surveys, experiments or technical researches undertaken by any other organisation or person at the instance of the Authority;

(b) procure plant, machinery, instruments and materials required for its use and dispose of such of them as are no longer required by it;

(c) incur any expenditure in connection with the discharge of its functions; and

(d) with the previous sanction of the Government, impose '[tonnage charges or royalty or] development fee, Abyana, or any other fee or charge to meet the expenses incurred by the Authority in the performance of its functions or on the provision of any benefits or services.

*[(e) The Tonnage Charges or royalty or development fee Abyana or any other fee or charges described in clause (d) shall be recoverable as arrears of land revenue. |

(3) The Authority may sanction individual scheme costing not more than ten lakhs of rupees non-recurring and not more than five lakhs of rupees recurring which are part of the plan approved by Government and for the execution of

1 Inserted by Balochistan Ordinance XI of 1980; and taken effect from 4th June, 1974; published in the Balochistan Gazette (Extraordinary) No. 159, dated 20th July, 1980; and validated under Article 270-A of the Constitution of Islamic Republic of Pakistan, 1973.

3[Validation of
certain fees etc.

Borrowing Powers.

Funds.

3 Section 18-A inserted, ibid.

which funds are available in the sanctioned budge of the Authority.

18-A. Notwithstanding any order, judgement or decision of any Court, the fees levied as Tonnage Charges or royalty in pursuance of the Notification of Board of Revenue No. 85-41/75/Rev/12046, dated the 21% October, 1975, shall be deemed to have been validly levied under clause (d) of sub-section (2) of Section 18 of this Act and shall always be deemed to have been so levied under this Act.]

19. (1) The Authority may, with the previous approval in writing of the Government, raise funds for carrying out its functions by issuing bonds and debentures carrying interest at such rates as may be approved by the Government.

(2) The Authority may, with the sanction of, and on such terms and conditions as may be approved by the Federal Government, borrow in foreign currency from the International Bank for Reconstruction and Development, Asian Development Bank, or from any other sources outside Pakistan, moneys required for the purposes of this Act.

20. (1) There shall be a fund to be known as the "Balochistan Development Authority Fund" which shall vest in the Authority and shall be utilised by the Authority for the proper conduct of its business under this Act, including the payment of salaries and other remuneration to the Chairman, Directors, officers, experts, advisers, consultants and other employees of the Authority.

(2) To the credit of the Balochistan Development Authority Funds shall be placed: —

(a) grants in aid from the Federal Government;

(b) loans and grants made by the Government;

(c) sale-proceeds of bonds or debentures issued with the approval of the

Government;

(d) loans obtained with the special or general sanction of the Government;

(e) foreign aid and loans obtained with the

sanction of the Federal Government;

(f) all other sums receivable by the Authority.

Liability. 21. — The liability of the Government to the creditors of the Authority shall be limited to the extent of grants made by the Government and the loans raised by the authority with the sanction of Government.

Annual Budget 22. The Authority shall by such date in each year as may be prescribed by rules, submit to Government for approval in the form prescribed a statement, to be called the Annual Budget Statement, for the next financial year showing the estimated receipts and expenditure and sums which are likely to be required from Government during that financial year.

Custody and 23. (1) All moneys at the credit of the Authority shall be invested in such institutions or banks as may be approved by the Authority fund. Government.

(2) Nothing in sub-section (1) shall be deemed to preclude the Authority from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the Trusts Act, 1882 (II of 1882), or placing them in fixed deposit with a bank approved by Government or in such other manner as may be approved by Government.

Maintenance of 24. The Authority shall maintain proper accounts and other accounts. relevant records prepare annual statement of account, including the profit and loss account and balance sheet, in accordance with such general directions as may be issued, and in such form as may be specified, by Government in consultation with the Auditor General of Pakistan, hereinafter referred to as the Auditor General.

Audit. 25. (1) The accounts of the Authority shall be audited by '[an Auditor who shall be chartered accountant] within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) appointed, with the approval of Government by the Authority on such remuneration as it may think fit, and such remuneration shall be paid by the Authority.

(2) Notwithstanding the audit provided for in sub-

1 Substituted for the words "two Auditors who shall be chartered accountants" by Ordinance II of 1981, made by Governor

Balochistan on 9" February, 1981; published in the Balochistan Gazette No. 18, dated 14" February, 1981. Validated by Article 270-A of the Constitution of Islamic Republic of Pakistan, 1973.

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Annual report.

Public servants.

Indemnity of

Directors etc.

section (1), the Auditor General shall once in a year audit or cause to be audited the accounts of the Authority.

(3) The Auditor-General shall also hold, or cause to be held a test audit of the undertakings wholly owned by the Authority and of the companies sponsored by it, and in the event of a test audit disclosing irregularities, the Auditor General may carry out, or cause to be carried out, such further audit as he may consider necessary.

(4) The Authority and every such undertaking and company as is referred to in sub-section (3) shall produce the accounts, books and connected documents, at the place where they are normally expected to be available, and furnish such explanation and information as the Auditor General or any officer authorized by him in this behalf may require at the time of the audit.

(5) The Auditor General shall in holding the audit, keep in view the provisions of sub-section (2) of section 5 and state in his report how far in his opinion these provisions have been complied with.

(6) A statement of accounts of the Authority and the report of the Auditor General on the said accounts, together with the report of the Auditor General on the accounts of the undertakings and the companies referred to in sub-section (3), shall be furnished to Government by the Authority after the close of every financial year.

26. (1) The Authority shall, as soon as possible after the close of every financial year, submit an annual report to the Government on the conduct of its affairs for that year, and on its proposals for the next financial year.

(2) The annual report referred to in sub- section (1) shall, as soon as possible, be laid by the Government before the Provincial Assembly of Balochistan.

27. The Chairman, Directors, officers, advisers, or employees of the Authority shall, while acting or purporting to act in pursuance of the provisions of this Act, or the rules or regulations made thereunder, shall be deemed to be public

servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

28. (1) Every Director, adviser, officer or other employee of the Authority shall be indemnified by the

Authority against all losses and expenses incurred by him in the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A Director shall not be personally responsible for the acts of any other Director, or of any officer, adviser, or employee of the Authority for any loss or expense resulting to the Authority by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Authority, or by the wrongful act of any person under a liability to the Authority, or by anything done by him in good faith in the execution of the duties of his office.

Placing of audit 29. (1) The annual statement of accounts referred to in

reports, etc., section 24, together with the audit report and the test audit before the report of the Auditor General on the accounts of the Authority, Asembly undertaking and companies referred to in section 25 shall be placed by the Government before the Provincial Assembly of Balochistan as soon as possible after they are received, and the Provincial Assembly shall refer the same to its Committee on

Public Accounts for scrutiny.

(2) The Committee on Public Accounts shall scrutinize and examine the reports referred to it under sub-section (1) in the same manner, and shall, in respect thereof perform the same functions and exercise the same powers, as are required by it to be performed and exercised in respect of appropriation accounts of the Provincial Government and the report of the Auditor General thereon.

Power to make 30. (1) The Government may, by notification in the

Rules. official Gazette, make rules! for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for:

Note.

a. For "The Balochistan Development Authority (Efficiency and Discipline) Rules, 1987", see the Balochistan Gazette (Extraordinary) No. 158, dated 4° November, 1987.

For "The Balochistan Ship Breaking Industry Rules, 1979", see the Balochistan Gazette (Extraordinary) No. 117, dated 16° September, 1979.

For "The Balochistan Development Employees (Pension) Rules, 1991", see the Balochistan Gazette (Extraordinary) No. 79, dated 14" July, 1992.

For "The Balochistan Development Authority (BPS-1 to 15) Service Rules, 1994", see the Balochistan Gazette (Extraordinary) No. 23, dated 2nd February, 1995.

For "The Balochistan Development Authority (BPS-16 and above) Service Rules, 1995", see the Balochistan Gazette (Extraordinary) No. 23-A, dated 20th February, 1995.

A Martial Law Order NO. 155 was made on 2nd January, 1984 by Martial Law Administrator, Zone 'D', Balochistan, effective from 2nd June, 1974 regarding Ship-breaking; and published in the Balochistan Gazette (Extraordinary) No. 11, dated 11th January, 1984. The same has been validated by Article 270-A of the Constitution of Islamic Republic of Pakistan, 1973.

Power to make regulations.

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

the manner of keeping and maintaining accounts of the Authority and the companies managed by it;

the recruitment of officers, advisers and employees of the Authority;

the terms and conditions of service of the officers, experts, advisers, consultants and employees of the Authority, including the functions of the advisers;

the borrowing by the Authority;

the purchase and sale of goods by the Authority;

the date by which, and the form in which, the annual budget statement shall be submitted in each year;

the procedure for appropriation and re-appropriation of moneys at the credit of the Authority;

the form and manner in which and the authorities to whom returns, reports or statements shall be submitted; and

such other matters relating to the administration of the affairs of the Authority as Government may think fit

to regulate by rules.

31. (1) The Authority may, with the previous sanction of Government, make regulations to provide for all matters, not provided for in the rules for which provision is necessary or expedient for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of foregoing power, such regulations may provide

for: —

- (a)
- (b)

the meetings of the Board;

the investment of the Authority's funds;
and

the sale or transfer of shares under sub-section (5) of section 17.

Winding up of the
Authority.

Saving of actions
taken under
Balochistan

Ordinance No.

II of 1974.

Extension of
Balochistan
Development
Authority Act,
1974, to the
tribal areas of
Balochistan.

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32. No provision of law relating to the winding up of companies and corporation shall apply to the Authority and the Authority shall not be wound up except by order of the Government and in such manner as it may direct.

33. The lapse of the Balochistan Development Authority Ordinance, 1974! (Balochistan Ordinance No. II of 1974) hereinafter referred to as the said Ordinance shall not: —

(a) affect the previous operation of the said Ordinance; or

(b) affect any right, privilege, obligation or liability, acquired, accrued or incurred under the said Ordinance; or

(c) affect any legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, as aforesaid; and any such legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, or forfeiture be considered to have been imposed as if the said Ordinance has not lapsed.

^oThe provisions of the Balochistan Development Authority Act, 1974 (Balochistan Act No. X of 1974), and the rules made there under shall apply to the whole of the tribal areas of the Province of Balochistan as they apply to the other areas of the Province.

This Ordinance was promulgated by Governor Balochistan on 14" January, 1974; and published in the Balochistan Gazette

(Extraordinary) No. 2 of 1974, dated 14" January, 1974. Lapsed after 90 days of its promulgation under Article 128 of the Constitution of Islamic Republic of Pakistan, 1973.

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dated 29" July, 1974.

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Regulation II of 1974 came into force with effect from 14" January, 1974; and published in the Balochistan Gazette No. 51,