

THE BALOCHISTAN GROUND WATER
RIGHT ADMINISTRATION
ORDINANCE, 1978

(Baln. Ordinance IX of 1978)

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'THE *BALOCHISTAN GROUND WATER

Preamble.

Short title, extent
and
commencemen
t.

Definitions.

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RIGHTS ADMINISTRATION
ORDINANCE, 1978

(Balochistan Ordinance IX of 1978)

[22nd March, 1978]

An Ordinance to provide for the management of Ground Water Rights in Balochistan.

WHEREAS it is necessary to provide for a law to regulate the use of Ground Water and to administer the rights of various persons therein;

AND WHEREAS, the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977? read with the Law (Continuance in Force) Order 1977 (CMLA Order NO. 1 of 1977)* and in exercise of all powers enabling him in that behalf, the Governor of Balochistan is pleased to make and promulgate the following Ordinance: —

1. (1) This Ordinance may be called the Balochistan Ground Water Rights Administration Ordinance, 1978.

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

(3) It shall come into force at once.

2. (1) In this Ordinance unless there is anything repugnant in the subject or context, the following terms shall be defined as under: —

(a) "PROVINCIAL WATER ~~ BOARD"
means a body consisting of such members as may be appointed by the

Government to administer the ground

This Ordnance was promulgated by the Governor of Balochistan on 21st March, 1978; published in the Balochistan Gazette (Extraordinary) No. 20, dated 22nd March, 1978. Saved and validated by Article 270-A of the Constitution of the Islamic Republic of Pakistan (1973).

? Spelling of the word "Baluchistan", wherever it appears in this ordinance, is corrected by insertion of letter "o" instead of "u";

per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18th June, 1989.

3 Proclamation of Martial Law, published in the Gazette of Pakistan, Extraordinary, Part I, dated 5th July, 1977.

4 Chief Martial Law Administrator Order I of 1977, published in the Gazette of Pakistan, Extraordinary, Part I, dated 5th July, 1977.

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Establishment &
functions of
Provincial

Water Board.

(b)

(c)

(d)

(f)

(g)

water rights and to lay down policies for
conservation and development of ground
water resources.

"DISTRICT WATER COMMITTEE"
means a body consisting of such official
and non-official members of the District
as may be notified by the Government for
carrying out the functions mentioned in
this Ordinance.

"BASIN" means the surface area within a
given water-shed.

"AQUIFER" means a preamble geological
formation that stores and transmits water.

"BASE RUN-OFF" means sustained or
dry weather flow. In most streams base
run-off is composed largely of subsurface
run-off.

"DEPLETION" means the continued
withdrawal of water from a surface or
ground water stream, reservoir or basin at
a rate greater than the rate of
replenishment.

"ABANDONED WELL" means any well
whose use has_ been permanently
discontinued. Any well shall be deemed
abandoned which is in such a state of to
disrepair of obtaining ground water in
impractical.

3. (1) There shall be a Provincial Water Board

consisting of: —

(a)

(b)

(c)

(d)

Additional Chief Secretary (Dev)/
Commissioner, P&D Government of
Balochistan.

Member, Board of Revenue, Balochistan.

Secretary, Government of Balochistan,
Irrigation Department.

Two such other non-official members as

the Provincial Government may appoint.

TQ) The Government may appoint any officer of the Irrigation Department as Secretary of the Board.]

(3) The tenure of the office of non-official members in the Board will be terminated after three years.

(4) The Government may appoint any member of the Board for a second term of three years.

(5) The Government may also make any change in the composition of the Board whenever necessary.

(6) The Provincial Water Board will: —

(a)

(b)

(e)

(d)

(f)

(g)

(h)

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Lay down policies for conserving and developing the ground water resources in Balochistan;

Make rules and regulation for use of ground water resources and administering the water rights of various persons;

Act as a supervising and controlling authority of the various water committees;

Work as revisional authority against the decisions of Water Committees and other tribunals charged with the administration of Water Rights;

Identify aquifers of ground water and declare such aquifers as it may consider necessary as Designated Ground Water Basins;

Such basins shall be notified by the Board in the official Gazette;

The Board will arrange to determine the existing withdrawal of ground water through tube wells/open surface wells/Persian wells/karezes or any other means;

All the existing open surface wells /tube wells/karezes/ springs and any other device of extracting ground water will be

Substituted by Balochistan Ordinance XV of 1979; made by Governor of Balochistan on 29" November, 1977 and published in the Balochistan Gazette (Extraordinary), dated 3% December, 1979. Saved and validated by Article 270-A of the Constitution of Islamic Republic of Pakistan, 1973.

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Establishment of

Water
Committee.

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(1)

Gj)

(k)

got registered with the Provincial Water
Board;

All such registered wells/karezes/ springs
and other means of extracting ground
water will be notified by the Provincial
Water Board;

The Water Board will also lay down
distances between wells/ springs and
karezes within which the District Water
Committee shall be allowed to issue
permits; and

It shall also determine the safe yield in
respect of each basin beyond which the
District Water Committee will not be
authorized to issue further permits.

4. [*] There shall be a water committee in each District

to be constituted by the Government.

*[(a)

(b)

(c)

The Committee shall consist of Deputy
Commissioner, Executive Engineer of
Water Supply Division, Director/ Project
Engineer, Quetta Development
Authority, (in respect of Quetta District)
Extra Assistant Director Agriculture and
one non-official member to be nominated

by the Government. Executive Engineer, Water Supply Division of the Irrigation Department, will be the Secretary of the Committee. |

The Committee shall work under the direct supervision and overall control of the Provincial Water Board for the purpose of carrying out the objectives of this Ordinance.

No person will be allowed to extract ground water within designated ground water basins, without the permission of

Brackets and figure "(1)" omitted by Balochistan Ordinance XVII of 1984; made by Governor Balochistan on 31st December, 1984; and published in the Balochistan Gazette (Extraordinary), dated 9th January, 1985. Saved and validated by Article 270-A of the Constitution of Islamic Republic of Pakistan, 1973.

Clause (a) substituted by Balochistan Ordinance VI of 1983; made by Governor of Balochistan on 11th May, 1983 and published in the Balochistan Gazette (Extraordinary), dated 14th May, 1983. Saved and validated by Article 270-A of the Constitution of Islamic Republic of Pakistan, 1973.

the District Water Committee.

(d) Any person who wants to extract ground water within designated ground water basin will submit an application on prescribed form to the District Water Committee.

(e) The Committee will invite objections in respect of the above application from various persons having any interest in the ground water either in the vicinity of proposed place of mining of ground water or in the basin as a whole.

(f) The Committee will hear all such objections and will give due opportunity to all such interested persons to produce evidence in respect of their contention. After hearing the parties it will either grant permission to the applicant to mine the ground water subject to such conditions as may be prescribed by it or it may reject the application.

(g) The District Committee while accepting or rejecting the application will give grounds for doing so.

(h) The Committee will have the power to stop the extraction of ground water by any unauthorised person.

(i) The Committee will also have the power of forfeiting any machinery, equipment and tools deployed for the purpose of unauthorised extraction of ground water.

(j) The Committee may also take cognizance of any dispute pertaining to any tube wells / surface wells / karezes pending before any Revenue Officers.

(k) The Committee will also issue a permit to any person applying for a new tube well which is a substitute for the abandoned well, The Committee may not hear objections in such cases.

Functions of Water
District

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(l)

(m)

(n)

[(o)]

[(p)]

The
responsible: —

The Committee may allow a permit holder to change the location of his well before the completion of the well. It will amend the permit if it considers that the change of location does not effect the existing water rights of any other person.

While issuing permit the Committee will ensure that the extraction of water by a permit holder does not cause depletion of perennial stream or any other perennial source of water.

The decision of the District Water Committee on an application submitted to it for extraction of ground water will be governed by the decision of the majority of the members.

Any person aggrieved of any order of the District Water Committee may file an appeal before the Commissioner of the Division within a period of 30 days *[who shall dispose of the same after providing the appellant an opportunity of being heard. |

The Provincial Water Board shall have the power to call for the record of any case relating to the water rights pending either before the District Water Committee or the Commissioner, to

examine and satisfy itself as to the regularity, propriety and legality of the proceedings and may after hearing the parties likely to be affected, set aside any of the order or quash the proceedings, if it considers that any material irregularity has occurred so as to occasion a miscarriage of justice.]

District Water Committees shall be

Substituted for the bracket and word "(e)", by Balochistan Ordinance XVII of 1984. For more detail see footnote under section

2 Full stop appearing after the word "days" omitted and thereafter words added, *ibid.*

3 Substituted, *ibid.*

Committee.

Offences and
penalties.

Rule making.

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(a) To implement the policies and directions given to it by the Provincial Water Board from time to time;

(b) To issue water permits to various water users; and

(c) To hear and decide the objections raised by various persons about the use of ground water.

6. (1) Any person contravening any of the provisions of this Ordinance shall be punished with imprisonment of either description for a term which may extend to one year or with fine or both.

(2) The offence under the Ordinance shall be bailable.

(3) The court shall not take cognizance of offence under this Ordinance unless a complaint in writing has been made by the District Water Committee.

(4) The court while passing any sentence on a person accused of violating any provisions of this Ordinance may also order payment of compensation to the aggrieved person out of fine imposed on the accused.

7. The Government may make rules! to carry out the purpose of this Ordinance.

For the Balochistan Ground Water Rights Administration Rules, 2014. See the Irrigation Department, Government of Balochistan Notification No. DOJ(579)/2014/116-219, dated 15" January, 2015; published in the Balochistan Gazette (Extraordinary) No.

105, dated 15" January, 2015.