

| EXTRAORDINARY

THE HALOCHISTAN GAZETTE  
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NO. 40 QUETTA SATURDAY MARCH, 19, 1994.

ROVINCIAL ASSEMBLY SECRETARIA  
NOTIFICATION eo -

Dated Quetta; the 19th March, 1994.

No. PAB/Legis::V (4)/94. The Balochistan Health Foundation Bill; 1994 having beeoh passed by the Provincial Assembly of Balochistan on 1st February, 1994 and dsenited to by the Governor of Balochistan, is hereby ptblistied as an Act of the Provincial Assembly.

THE BALOCHISTAN HEALTH FOUNDATION  
ACT, 1994.

(BALOCHISTAN ACT NO.! OF 1994).

(First published after having received the assent of the Governor of Balochistan in the Balochistan Gazette (Extra Ordinary) dated the 19th Match, 1994).

AN  
ACT

to provide for the Establishrtient of the Balochistan Health Foundation.

Preamble. WHEREAS it is expedient to make provision for the establishment of the Balochistan Health Foundation to promote and finance the development of Health Services in the Province of Balochistan and matters ancillary: 2 incidental and supplemental thereto in the manner hereinafter appearing;

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It is hereby enacted as follows:-.

CHAPTER:L

PRELI

Short title, 1, () This Act may be called the Balochistan Health Foundation Act, extent and 1994. commencement.

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

(3) It shall come in to force at once.

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

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

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

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

(d) "Cominittee" means a committee constituted under sub section (6) of section 6:

(e) "Director" means a member of the Board of Directors of the Foundation;

(f) "Foundation" means the Balochistan Health Foundation

establishment under sub section (1) of section 3;

(g) "Fund" means a fund constituted under sub section (1) of section

14:

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

(i) "Land" includes building and benefits arising out of land and

things attached to the earth or permanently attached to earth;

@) "Loan" means a refundable sum of money advanced by the Foundation and un Health institution working in the private sector as specified under sub section (1) of section 13:

& (k) "Managing Director" means the Managing Director of the Foundation:

Establishment  
of the  
a Foundation.

Management.

Constitution  
of the Board.

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- (1) "Member" means a member of the Board;
- (m) "Non Government Organization" means an organization set-up with private finance for providing health facilities and to achieve the prescribed objective of this Act;
- (n) "Prescribed" means prescribed by the rules under this Act;
- (o) - "Rules" means the rules framed under this Act;
- (p) "Regulations" means the regulation framed under this Act; and
- (q) "Small cities" means any city having population of less than 5000 inhabitants.

## CHAPTER-II.

- 3. (1) There shall be established a Foundation to be known as Balochistan Health Foundation for carrying out the purpose of this Act.
- (2) The Foundation shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and shall by its name sue and be sued.
- (3) The head office of the Foundation shall be at Quetta.
- 4. (1) The administration and management of the Foundation and its affairs shall rest in the Board of Directors which may exercise the powers and do all acts and things that may be exercised or done by the Foundation.
- (2) The affairs of the Foundation shall be conducted subject to the supervision and control of the Government.
- (3) If any question arises as to whether any matter is a matter of policy or not, the decision of the Government shall be final.
- 5. () There shall be a Board of Directors of the Foundation consisting of such number of official and non official members including the Chairman as may be appointed by the Government through a gazette notification:

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

(2) The Chairman and members other than ex-officio member, shall  
unfess the Government other wise directs hold office for period of three years but

Duties and  
functions of  
the Chairman  
and members.

Appointment  
and functions  
of the  
Managing  
Director etc.

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he may be reappointed as such for another term of three years or for such shorter term as the Government may direct.

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

- being heard.

(4) The Chairman and any member may by writing under his hand

addressed to the Government resign his office: 7

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

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

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

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

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

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

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

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

CHAPTER - III,  
ESTABLISHMENT.

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

Recruitment  
conditions of  
services of  
officers,  
officials etc.

Members and  
officers to

be public  
servant.

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(2) 7 Subject to sub section (4), the term of the Managing Director shall be three years but the Government may extend the same for period not exceeding one year at a time.

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

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

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

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

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

(c) Submit the annual budget proposals of the Foundation to the Board: :

(d) maintain the accounts of the Foundation;

(e) prepare the annual report of the Foundation for the Board and the Government;

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

(g) act on behalf of the Foundation any emergency subject to the obligation to report such action to the Board at its next meeting and to seek the Board's rectification of any action so taken.

8. The Foundation shall, by regulation make with the prior approval of the

Government, lay down the procedure for the appointment of its officers and officials and the terms and conditions of their services and shall be competent to take disciplinary action against them, according to the prescribed rules.

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

Indemnity.

Members,  
officers and  
officials not

personally liable.

Delegation of  
powers to  
Chairman etc.

Function of the  
Foundation.

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

11. (1) The members, Directors, Advisors, Officers and officials of the Foundation shall be indemnified by the Foundation against all losses and expenses sustained or incurred by him in the discharge of his duties save such losses and expenses as are substantial and incurred as result of his own wilful act or default.

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

12. The Foundation or the Board may, by general or special order, 'delegate to the Chairman or a member or any officer, official of the Foundation any of its powers duties or functions under this Act to such conditions or limitations as may be specified in the order.

#### CHAPTER-IV.

#### POWERS AND DUTIES OF FOUNDATION.

13. (1) Subject to the other provisions of this Act the Foundation shall take

measures and exercise such powers as may be necessary for the promotion, development and financing of health institutions in private sector and for carrying

' out the purposes of this Act.

» (2) Without prejudice to the generality of the functions mentioned in sur  
section (1) the Foundation shall:-

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

(b) Give grants preferably to non profit making health institutions in rural areas and small cities for purchase of medicines, land, construction of building, purchase of equipment further, etc; not acceding 1/3rd of total cost as a grant and 1/3rd as a loan while the remaining amount shall be borne by the organization/institution:

Give loans to such health institutions working on commercial

6) 3

basis (rural areas and small cities) to the extent of 1/3rd of the total cost whereas 2/3 -rd of costs shall be borne by the institution itself; ;

(d) provide loans to doctors for opening clinics preferably in rural areas and small cities;

(e). Assist the commercial/non-commercial institution and doctors working in rural areas and small cities in getting loans from scheduled banks and financial institution;

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

(g) Lease plots or assists in getting plots and land from Government, Development Authorities and Housing Agencies controlled by the Government; :

(h) Encourage in establishment of non-Government and non-Commercial Organizations to achieve the prescribed objectives of this Act; .

(i) Encourage private sector for providing necessary facilities for population welfare: and

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

## CHAPTER-V, FINANCE.

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

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

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

(b) income from investments made by Foundation;

(c) donations and endowments:

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

Foundation;

Budget.

\_ Audit and  
Accounts.

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(e) grant by the Local Bodies; and

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

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

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

(2) In the manners prescribed by the Government, the Foundation shall also submit to the Government for approval a statement of the estimated receipts and expenditure in foreign exchange in respect of the next financial year.

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

16. (1) The Foundation shall maintain proper accounts and other relevant records and prepare annual statement of account, including balance sheet in accordance with such general directions as may be issued, and in such form as may be specified by Government.

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

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

"may ask for.

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

Accounts.

Penalty.

Cognizance  
of offenses.

Submission of  
yearly report  
and returns.

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- S) The auditér shall report to the Government upon the annual balance sheet and accounts in their report state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars

"and properly draw-up so as to exhibit a true and correct view of the state of the

Foundation's affairs and, in case they have called for any explanation. or information from the board, whether it has been given and whether it is Satisfactory.

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

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

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

CHAPTER-VI.

PENALTY AND PROCEDURE.

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

19. No court other than a Court of Magistrate 1st. class shall take cognizance

of any offence punishable under this Act, on a complaint in writing made by the Foundation or an officer/ official authorized for the purpose by the Foundation.

CHAPTER-VII.

. MISCELLANEOUS.

20. (1) The Foundation shall submit to the Government as soon as

possible after the end of every financial year but before the last day of December next following a report on the conduct of its affairs for that year.

(2) The Government may, after giving sufficient notice to the

Foundation, require it to furnish the Government with:

Board not responsible for certain acts of its officers & officials.

Power to dispose of land.

Power of Foundation to make rules.

Control of Government over acts and proceedings of the Board.

Dissolution of Foundation and transfer of its assets stands and liabilities

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

\_information regarding any matter under the control of the

Foundation; or

(ii) a report on any subject with which the Foundation is concerned; or

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

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

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

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

24. All acts and proceeding of the Board shall be subject to the control of the Government and the Government may Suspend or modify any such act'or

proceeding.

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

(2)

{a)

on and from the said date;

(i)

(ii)

all properties, funds and dues placed at the disposal of

the Foundation by Government; and

all properties, funds and dues exchanged derived from, or otherwise attributable to the properties, funds and dues referred to in sub-clause (1), which immediately before the said date were held by or were realizable by the Foundation, shall vest in, and be realizable by the Government.

Removal of  
difficulties.

Repeal.

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(b) all properties, funds and dues, other than those referred to in clause (a), which immediately before the said date, the Foundation shall vest in and be realizable by the Government may determine, and its decision thereon shall be final:

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

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

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

26. If any difficulty arises in giving effect to any of the provision of this Act especially in respect of the adjustment of the power, functions and jurisdiction of the Foundation under this Act, the Government may make such order as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

2ds The Balochistan Health Foundation Ordinance, 1993 (IV of 1993), is hereby repealed.

AKHTAR HUSAIN KHAN:  
Secretary,  
Provincial Assembly of Balochistan,