

THE BALOCHISTAN GAZETTE
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GOVERNMENT OF BALOCHISTAN

LAW DEPARTMENT.

NOTIFICATION.

Dated Quetta, the 13th September, 1993.

No. Legis.3-67/Law/87. The following Ordinance made by the Governor of Balochistan on 30th August, 1993, is hereby published for general information :--

BALOCHISTAN ORDINANCE NO.IV OF 1993.

THE BALOCHISTAN HEALTH FOUNDATION
ORDINANCE, 1993.

AN

ORDINANCE.

to provide for the establishment of the Balochistan Health Foundation.

Preamble. WHEREAS it is expedient to make provisions for the

establishment of the Balochistan Health Foundation to promote and finance the Development of Health Services in the province of Balochistan and maiters ancilisry. incides's: and supplemental thereto in the number hereinafter appearing:

AND WHEREAS the Provincial Assembly of Balochistan is not in session and the Governor of Balochistan is satisfied that circumstances exist which render it necessary to take immediate action;

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Short title,
extent and
commencement.

Definitions.

NOW, THEREFORE, in exercise of the powers conferred by

Article 128 of the Constitution of Islamic Republic of Pakistan 1973, the

Governor of Balochistan is pleased to make and promulgate the following
Ordinance :--

CHAPTER - |
PRELIMINARY.

1. (1) This Ordinance may be called the Balochistan Health
Foundation Ordinance, 1993.

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

(3) it shall come into force at once.

2; In this Ordinance, unless there is anything repugnant in the
subject or context :--

(a) "Agency" means any department or organization of the
Provincial Government and includes a Corporation or the
body set-up and controlled 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) "Committee" 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.

Establishment
of the
Foundation.

Management.

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

(k) "Managing Director" means the Managing director of the Foundation;

(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 objectives of this

Ordinance;

(n) "Prescribed" means prescribed by the rules under this

Ordinance;

(o) "Rules" means the rules framed under this Ordinance;

(p) "Regulations" means the regulations framed under this Ordinance;

CHAPTER - II.

(1) There shall be established a Foundation to be Known as Balochistan Health Foundation for carrying out the purposes of this Ordinance;

(2) The Foundation shall be @ 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 Director 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.

Constitution
of the Board.

Duties and
functions of
the Chairman

and members.

5. (1) 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 an ex-officio member, shall unless the government otherwise directs hold office for period of three years but he may be re-appointed as such for an other 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 be writing under his hand addressed to the Government resign his office:

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 Ordinance:

(2) Until the Board is dully 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 in-valid 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.

Appointment
and functions
of the Manag-

ing Director etc:

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

CHAPTER - III

ESTABLISHMENT.

7. (1) 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.

(2) Subject to sub section (4), the term of office of the Managing Director shall be three years but the Government may extend the same for a 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 mis-conduct 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

Recruitment
conditions of
services of
officers,
officials etc:

Members and
officers to

be public
servant.

Indemnity.

Members, officers
and officials

not personally
liable.

Delegation of
Powers to
Chairman etc:

(g) act on behalf of the Foundation in 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 Ordinance, be deemed to be public servant within the
meaning of section 21 of the Pakistan Penal Code (XIV of 1860).

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 Ordinance.

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 Ordinance and the rules and regulation, made thereunder or for any loss or expense resulting to the 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 Ordinance to such conditions or limitations as may be specified in the order.

CHAPTER - IV.

Powers and Duties of the Foundation.

Functions of the
Foundation.

13. (1) Subject to the other provisions of this Ordinance 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 Ordinance.

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

(a)

(b)

(d)

(e)

(f)

(g)

(h)

(i)

Establish or cause to be established health institutions and such allied Projects;

Give grants preferably to non profit making health institutions in rural areas and small two cities for purchase of medicines, land, construction of building, purchase of equipment further, etc; not exceeding 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 basis (rural areas and small cities) to the extent of 1/3rd of the total cost whereas 2/3rd of cost shall be borne by the institution it self;

Provide loans to doctors for opening clinics preferably in rural areas and small cities;

Assist the commercial/non-commercial institutions and doctors working in rural areas and small cities in getting loans from scheduled banks and financial institutions;

Grant scholarship, provide facilities or otherwise assist

in medical education, research and training;

Lease plots or assist in getting plots and land from Government, Development Authorities and Housing Agencies controlled by the Government;

Encourage in establishment Of non-Government and non-commercial organizations to achieve the prescribed objectives of this Ordinance;

Encourage private sector for providing necessary facilities for population welfare; and

Balochistan
Health Foundation
Fund.

Budget.

(i) perform such other functions as may be assigned to it by the Government.

CHAPTER - V.

Finance.

14. (1) There shall be formed a fund to be known as the Foundation Fund, which shall vest in the Foundation and shall be utilized by the

Foundation to meet the charges in connection with its functions under this Ordinance.

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

(a) grants 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;

(e) grant made by the Local Bodies: and

(f) 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.

Audit and
Accounts.

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 of his own motion or upon request received in this behalf from the Government shall undertake such audit of the account books and connected documents at 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 examine any officer of the Foundation.

(5) The auditors shall report to the Government upon the annual balance sheet and accounts and in their report state whether in their opinion the balance sheet is a full and fair balance sheet containing all — necessary particulars and properly drawn 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 objecting to in audit.

Accounts.

Penalty.

Cognizance
of offences.

Submission of

yearly report
and returns.

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

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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 Ordinance 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 Ordinance, 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;

(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.

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

Power of 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 and
liabilities.

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ze. 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 purposes of this Ordinance.

25: All acts and proceedings of the Board shall be subject to the control of the Government and the Government may suspend or modify any such act or proceedings.

26. 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) On and from the said date.

(a) (i) all properties, funds and dues placed at the disposal of the Foundation by Government; and

(ii) 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 realisable by the Foundation, shall vest in, and be realisable by the Government.

(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 realisable 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 realising properties, funds and dues re-referred to in clause (a) and (b) as the case may be; and

Removal of
difficulties.

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

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

Dated Quetta BRIG:(RETD)S.A.RAHEEM DURRANI,
the 3rd Aug: 1993. GOVERNOR BALOCHISTAN.

Muhammad Anwar Lehri,
Secretary Law.