

THE BALOCHISTAN IRRIGATION AND DRAINAGE AUTHORITY

ACT, 1997

(Baln Act I of 1997)

CONTENTS

SECTIONS

Preamble.

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement.

2. Definitions.

CHAPTER-II

CONSTITUTION OF THE AUTHORITY

3. Establishment of the Authority.

4. Appointment and term of office of Chairman and Members of the Authority.

5. Remuneration of the chairman and members of the Authority.

6. Removal of members of the Authority.

7. The Board of Management.

CHAPTER-III

POWER AND DUTIES OF THE AUTHORITY

8. Power and Duties of the Authority.

9. Contractual Services.

10. Acquisition of land by the Authority.

11. Right of entry.

12. Arrangement with Local Bodies or other agencies.

13. Control over provincial water resources.

CHAPTER-IV

ESTABLISHMENT

14. Appointment of officers, servants.

15. Conditions of service and disciplinary powers.
16. Immunity of the Authority and its employees.
17. Delegation of Power to Managing Director.
18. Industrial Relation Ordinance, 1969 not to apply.
19. Persons serving the Provincial Irrigation and Power Department.

**CHAPTER-V
FINANCE**

20. Funds of the Authority.
21. Authority to be deemed to be a local authority.
22. Limited Liability.
23. Procedure for fixation of rates for supply of water.
24. Books of Accounts.
25. Annual Financial Statement.
26. Audit.

**CHAPTER-VI
AREA WATER BOARDS**

27. Establishment of Area Water Boards.
28. Constitution of Area Water Boards.
29. Meeting of the Board.
30. Function of Area Water Boards.

**CHAPTER-VII
FARMERS ORGANIZATIONS**

31. Formation of Former Organizations.
32. Bye laws and regulations for Farmer Organization.
33. Functions and powers of Farmers Organizations.

**CHAPTER-VIII
REPORTS AND STATEMENTS**

34. Submission of yearly reports and returns.

35.

36.

37.

38.

39.

40.

CHAPTER-IX
MISCELLANEOUS

Transfer of rights and liabilities.

Indemnity.

Rules and regulations.

Removal of difficulties.

Provisions of this Act to override other laws.

Repeal.

'THE BALOCHISTAN IRRIGATION AND DRAINAGE

Preamble.

Short title, extent
and
commencemen
t.

AUTHORITY ACT, 1997

(Baln Act I of 1997)

[19% July, 1997]

An Act to provide for streamlining the Irrigation and
drainage system in the Province of Balochistan;

WHEREAS it is expedient to replace the existing
administrative set up and procedures with more responsive,
efficient and transparent arrangements to achieve economical
and effective operation and maintenance of the irrigation,
drainage and flood control system in the Province; AND

WHEREAS it is expedient to ensure equitable and assured
distribution of irrigation water and to provide effective drainage
and flood control to the affected lands in the Province;

AND WHEREAS it is expedient and necessary to make
the irrigation and drainage network sustainable on a long term
basis and introduce participation of beneficiaries in the operation
and management thereof;

AND WHEREAS it is expedient to improve the
efficiency of utilization of water resources and minimize the
drainable surplus;

AND WHERE it is expedient to transform the Irrigation
Wing of the Provincial Irrigation and Power Department into an
autonomous Authority and progressively establish Area Water
Boards and Farmers' Organizations for development and
management of the Irrigation, drainage and flood control
infrastructure of the Province;

It is hereby enacted as follows:—

CHAPTER- I
PRELIMINARY

1. (1) This Act may be called the Balochistan Irrigation
and Drainage Authority Act, 1997.

(2) It extends to the whole of Balochistan.

(3) It shall come into force at once.

1 This Act was passed by the Balochistan Assembly on 7" July, 1997; assented to by the Governor of Balochistan; and published in Balochistan Gazette (Extraordinary) No. 57, dated 19" July, 1997. For Statement of Objects and Reasons see the Balochistan

www.ezqanoon.com

(Extraordinary) No. 36, dated 10" May,

1997. Earlier, Baln. Ordinance V of 1997 was made by Governor Balochistan on 21%

April, 1997; and published in Balochistan Gazette (Extraordinary) No. 30, dated 3"! May, 1997, now repealed by S.40.

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

(i) "Area Water Board" means an Area Water Board constituted by the Government under Chapter VI of the Act;

(ii) "Authority" means the Balochistan Irrigation and Drainage Authority established under Section 3;

(iii) "Canal" means a canal as defined in the Balochistan Canal and Drainage Ordinance, 19807;

(iv) "Drain" means a natural drain, surface or sub-surface drainage network provided for the evacuation of the surplus sub-soil and surface water from the land under the command of a canal system;

(v) "Drainage Cess" means the drainage fees to be charged from water users/ consumers/ other beneficiaries for the conveyance and disposal of effluent;

(vi) "entities"? means Area Water Board, Farmer Organization or any other institution for that

purpose;

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

(viii) "Local Body" means any District Board, District Local Board, Municipal Corporation, Municipal Committee, Town Committee, Union Council or notified Area Committee;

(ix) "Province" means the Province of Balochistan;

(x) "Rules" or "Regulations" means Rules or Regulations made under this Act;

(xi) "WAPDA" means the Pakistan Water and Power Development Authority;

(xii) "Water" means any water, standing or flowing on surface or sub-surface within the territory of the Province except such water in the inter-provincial reservoirs and/or rivers and canals within the

2 That is Balochistan Ordinance XX of 1980, published in Balochistan Gazette (Extraordinary) No. 241, dated 10" December,

and Protected continue in force by Article 270 AA of the Constitution of Pakistan (1973).

Province as is allocated to any other Province or Provinces under the Water Apportionment Accord, 1991;

(xili) "Water Rate" means the charge for which the Authority agrees to supply water to an Area Water Board or any other water user or an Area Water Board to Farmer's Organization or to any other water user or a Farmer's Organization to its members, as the case may be.

CHAPTER— II CONSTITUTION OF THE AUTHORITY

Establishment of 3. (1) As soon as may be after the commencement of the Authority. this Act; Government shall establish an Authority to be known as the Balochistan Irrigation and Drainage Authority.

(2) The Authority shall be a body corporate, to acquire, hold and dispose of property, having perpetual succession and a common seal with powers subject to the provision of this Act; and shall by the said name, sue and be sued.

(3) The headquarters of the Authority shall be at Quetta.

Appointment and 4. (1) The Authority shall consist of:— term of office

of chairman (a) The Provincial Irrigation - Chairman Minister and members

of the (b) Additional Chief Secretary, - Vice Authority. Planning and Development Chairman Department

(c) Secretary Finance - Member Department

(d) Secretary Irrigation and - Member Power Department.

(e) Secretary Agriculture - Member Department

(f) Managing Director of the - Member Authority

(g) Four representatives of the - Member

Farmer's Organizations.

Remuneration of
the chairman
and members
of the
Authority.

Removal of
members of
the Authority.

(2) The Authority shall meet at least once in every quarter. However the Chairman shall, at the written request of not less than three members, convene a meeting of the Authority, after giving not less than seven days prior notice of such meeting, within a period of not exceeding 15 days from the receipt of such requisition.

(3) The quorum for the meeting of the Authority shall be 4 members with at least presence of one of the representative of Farmers will be compulsory.

(4) The term of Office of the Members of the Authority other than the Ex-Officio members shall be 4 Years.

(5) Any member of the Authority (other than the ex-officio members), upon the expiry of the term of his office shall be eligible for re-appointment for one similar term.

(6) The Chairman or any member of Authority may, at any time, resign:

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

5. Each non-official member of Authority shall receive, for every meeting actually attended, such allowances as may be prescribed by the Authority. No other salary, payment or compensation shall be paid to the Chairman and the members of the Authority for attending the meetings and/or doing any work as Chairman or member of the Authority:

Provided that nothing contained in this section shall apply to the Managing Director of the Authority.

6. The Government may by notification remove any member of the Authority except the ex-officio members, in case such member:—

(a) is incapable of discharging his responsibilities under this Act; or

- (b) has been declared insolvent; or
- (c) has been declared to be disqualified for employment, or has been dismissed from the service of the Government, or has been convicted of an offence involving moral turpitude; or
- (d) has knowingly acquired or has continued to hold without the permission, in writing, of the

The Board of
Management.

Government directly or indirectly any share or
interest in any contract or employment with or on
behalf of the Authority likely to be benefited as a
result of the operations of the Authority or

- (e) is under the age of 21 years, or
- (f) is not a citizen of Pakistan :

Provided that where action is proposed to be taken by the
Government under (a) or (d) above, the concerned
member of the Authority shall be duly informed of the
case against him and shall be afforded a reasonable
opportunity to show cause.

7. (1) Subject to the overall control and guidance of the
Authority, the day to day management of the affairs of the
Authority shall be carried out by a Board of Management
comprising of a Managing Director and General Managers who
shall be appointed in the prescribed manner with the approval of
Government on the recommendations of Authority: —

(a) General Manager — Policy and
Regulation

(b) General Manager — Operation,
Research and
Development

(c) General Manager — Finance and
Administration

(2) The Managing Director and the General
Managers shall have requisite technical background and practical
experience in the profession relevant to their descriptions. The
Managing Director shall possess at least 25 Years of professional
standing in the field of irrigation and drainage whereas General
Managers shall possess a minimum of 15 years experience in
their relevant fields.

(3) The Managing Director or Member may, at any
time, resign of his office:

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

(4) The maximum tenure of the Managing Director
shall be four years.

(5) The Authority may remove any member of the

Board of Management including the Managing Director on the same grounds as provided in clause (a) to (f) of section 6:

Provided that in the case of any proposed removal of the Managing Director or any member of Board of Management under this section, the Authority shall obtain prior

approval of the Government to that effect.

CHAPTER— II

POWER AND DUTIES OF THE AUTHORITY

Power and Duties 8.
of the
Authority.

duties:

(2)

(3)

w Ny rR

iN

www.ezqanoon.com

The Authority shall have the following powers and

(a) General

(1)

Subject to the provisions of the Indus Water Treaty, 1960! and the Water Apportionment Accord, 1991? to receive irrigation supplies at the barrages falling within the Province and/or from the inter-provincial/link canals and deliver the same in agreed quantities to the various Area Water Boards in the Province at the relevant canal headworks. The Authority shall drain effluent at designated points on canal command

receive

boundaries and convey the same to the inter-provincial outfall drains.

To exercise all the powers under the

Balochistan Canal and _ Drainage
Ordinance, 1980? and Balochistan Ground
Water Rights Administration Ordinance,
19784.

To fix the rate in consultation with the
Provincial Government at which it will
supply irrigation water at its disposal to its
various constituent Area Water Boards
other entities as provided under this Act as
also the Drainage Cess payable by the

A treaty signed by the Government of India and Pakistan on 19" September, 1960.

The Water Apportionment Accord was agreed upon on March 16, 1991 at Karachi in a meeting of the Chief Minister's of the fo
provinces along with several provincial representatives.

That is Balochistan Ordinance XX of 1980, published in Balochistan Gazette (Extraordinary) No. 241, dated 10" December, 1980
and Protected continue in force by Article 270 AA of the Constitution of Pakistan (1973).

That is Balochistan Ordinance IX of 1978, published in Balochistan Gazette (Extraordinary) No. 20, dated 22"4 March, 1978. S
validated by Article 270-A of the Constitution of Pakistan (1973).

(4)

AWBs or any other entity for the conveyance/disposal of the effluent through the relevant drains.

The Authority may levy appropriate surcharge for late payments and recover arrears from defaulters under the Balochistan Land Revenue Act, 1967°:

Provided that in case the Government declares a remission, waiver, re-scheduling or suspension of payment of any of the dues of the Authority, the same shall be to the account of the Government who shall simultaneously notify how the Authority shall be compensated for the loss thereby caused to the Authority and/or any other entity established under this Act.

(b) Policy and Regulations

(1)

(2)

(3)

To formulate and implement policies in the water resources sector with a view to continuously improve and _ achieve effective, economical and_ efficient utilization, preservation and improvement of such water resources by the water users of Province on a financially and environmentally sustainable basis.

To formulate and implement policy guidelines/procedures for the proper and efficient exercise of powers available under this Act by the various entities and their directors, employees and _ to prescribed training requirements and programmes which may be conducted by the various entities under this Act in this behalf.

To conduct any inquiries and hear any

complaints and adjudicate on any disputes
and/or differences of opinion between the

That is W.P. Act XVII of 1967, published in the W.P. Gazette (Extraordinary), dated 7th December, 1967, pages 3603-3656; ad

Balochistan Laws (Adaptation) Order, 1975, with substitution of the word "Balochistan" for the words "West Pakistan".

www.ezqanoon.com

(4)

(5)

Authority and different entities established under this Act and/or any individual in accordance with the principles of (*Islam) natural justice relevant there-to and to implement such decisions as per the letter and spirit thereof.

To prescribed and adhere to the procedures for the filing of documentation regarding water allocation in the Province and all concessions, licenses and leases granted by any entity under this Act and to ensure availability thereof to the general public for inspection and taking copies thereof.

To establish criteria and procedures for granting, modifying, reassigning, renewing, suspending or revoking any concessions, licenses, subleases granted by the Authority to any other entity or person and/or for the management of the infrastructure in the event of suspension or revocation of a concessions, licenses or subleases granted by the Authority to any other entity or person.

(c) Operations

(1)

(2)

(3)

To operate and maintain the irrigation, drainage, storage, reservoirs and flood control infrastructure in the Province including hill torrent control and development works for irrigation of adjoining lands including watershed management practices in catchment areas.

To plan, design, construct and improve the irrigation, drainage, storage reservoirs and flood control system with a view to ensure optimal utilization of the water resources

of the Province on an equitable and efficient basis.

To maintain all relevant, necessary records, registers and data banks as may be relevant and necessary for the effective

(d)

(4)

(5)

(6)

(7)

performance of any or all of its above referred powers and duties.

To issue such directions and take all such steps as may be necessary for the prevention of encroachments and unauthorized construction along or on the properties of the Authority.

To prescribed rates, fee and other charges to be payable in respect of various types of services which the Authority may be required to render or provide under this Act.

To operate and maintain the equipment, machinery and stores of the Authority efficiently and in a business like manner.

To undertake anti erosion operations including conservation of forests and reforestation and with a view to achieve this purpose, to restrict or prohibit by general or special order the clearing or breaking up of land in the catchment areas of any rivers, hill torrents and/or other streams.

Finance and Administration

(1)

(2)

(3)

To undertake any work, incur any expenditure, procure machinery, plant and stores required for use by the Authority and to negotiate, execute and adopt ratify all such contracts as may be considered

necessary or expedient with the approval of the Government.

To acquire by purchase, lease, exchange or otherwise and dispose of by sale, exchange or otherwise any land, property or machinery/ equipment or any other interest in or regarding any land or

property.

To utilize the Authority Fund to meet the

cost and expenses incurred on account of and in connection with the due

performance of various functions of the Authority under this Act including the payment of salaries and _ other remunerations to the management and employees of the Authority and for Capital formation.

(4) To formulate financial policies aimed at ensuring that the finances of the Authority are managed in a consistent, conservative and diligent manner as to protect its assets including providing for their maintenance and periodic replacement as necessary, preserve its capital and reserves, and promptly service its debts and obligations.

(e) Transition

(1) To formulate, adopt and implement policies aimed at promoting formation, growth and development of AWBs/Farmer Organizations and compilation/ faithful monitoring of the results thereof as per the requirements prescribed under this Act and to ensure orderly and systematic induction thereof into the operations of the Authority.

(2) To prepare, cause to be prepared and regularly update, cause to be updated Staffing and Operational and Financial Plan which will generally deal with and reflect such matters as may be prescribed.

(3) To formulate and implement policies with a view to ensure that the Authority and other entities under the Act become fully operative as self supporting and financially self sustaining entities as regards Operation and Maintenance cost of irrigation and drainage as defined in Chapter 5 within a period of seven to ten years.

(f) Research and Development

(1) To formulate, implement and regularly update policies, studies and _ research

Contractual
Services.

programmes with a view to solve, eliminate and prevent water-logging and salinity, and to develop _ irrigated agriculture.

(2) To conduct studies with a view to regularly analyze and evaluate the impact of the operations policies of the Authority on the ecology and the environment with a view to establish the various available options for the minimization of the adverse impact of such operations and policies, if any, and to adopt the optimal option for further action.

(3) To coordinate, regulate the measures being undertaken, required to be undertaken for recording, gauging surface water, monitoring of groundwater table and quality of water and the compilation of data relevant thereto and in this regard to establish and regularly maintain proper liaison with similar work being undertaken in other provinces.

(4) To cause studies, surveys, experiments, technical investigations and research to be conducted in connection with or regarding the functions and duties of the Authority and, or of any other entity under this Act.

(5) To publish, cause to be published the various policies, details, data and information relevant to the affairs of the Authority on a regular basis and to ensure reasonable access of the public to the same.

9. (1) The Authority may, with the prior of the Government under a written agreement as to the terms and conditions including the extent, the manner of payment for the same, undertake execution of any scheme or exercise technical supervision, administrative and financial control over the execution of any scheme framed or sponsored by any other agency.

Acquisition of land

by the
Authority.

1

www.ezqanoon.com

(2) Notwithstanding anything to the contrary contained in this Act, the Authority may with the previous approval of and written agreement as to the terms and conditions including the extent and manner of payment for the same with the Government, provide agreed services for the execution of any agency under the control of the Government or provide technical supervision and financial and administrative control over the execution of any such scheme.

10. Acquisition of any land or any interest in land by the Authority for the purposes of or under this section, or for any scheme under this Act shall be deemed to be an acquisition for a public purposes within the scope and meaning of the Land Acquisition Act, 1894!:

Provided that the Authority, prior to approaching the Government for any proposed acquisition of land or any interest therein shall, in consultation with the likely affectees, prepare a resettlement plan which shall be duly approved by the Authority.

Act I 1894, adopted by Balochistan Laws (Adaptation) Order, 1975, published in the Balochistan Gazette (Extraordinary) No. 1

9" May 1975.

Right of entry.

Arrangement with
Local Bodies
or other
agencies.

Control over
provincial
water
resources.

1

11 (1) The Managing Director, or any other person authorized by him in writing, may, after reasonable prior notice to that effect, enter upon and survey any land, erect pillars for the determination of intended line of work, make borings and excavations and do all other acts which may be necessary for the preparation and implementation of any scheme under the provisions of this Act:

Provided that when the affected land does not vest in the Authority, the power conferred by the above sub-section shall be exercised in such manner as to cause the least interference with and or damage to such land and the right of the owner thereof.

(2) When any person enters into or upon any land pursuant to sub-section (1) above, he shall, at the time of such entry or as soon thereafter as may be practicable but in no case later than 30 days from the date of such entry, pay or tender payment for all necessary damage likely to be caused on account of any operations proposed to be carried out under sub-section (1) above. In case of any dispute, the same shall be referred to the Collector/ [Executive District Officer (Revenue)] of the District who shall decide the same within a maximum period of 60 days from the date of reference.

12. (1) As soon as any scheme has been completed by the Authority or a later date, the Authority may arrange by a written agreement with a Local Body or other agency within whose jurisdiction any particular area covered by the scheme lies take over and maintain any of the works comprising such scheme in the said area.

(2) The Government shall have the power to direct the Authority to hand over any scheme completed by the later to any agency of the Government or a Local Body or take over such scheme completed by any agency. In any such case, the Authority shall be liable, entitled to the extent of audited expenditure incurred on such scheme.

13. Subject to the relevant provisions in the Indus Basin Treaty, 1960⁷, and the Water Apportionment Accord, 1991⁸, the Authority shall have control over all the rivers, canals, drains, streams, hill torrents, springs, reservoirs except such reservoirs

Subs. by Ordinance XLIX of 2001, for the words "Duty Commissioner".

2 A treaty signed by the Government of India and Pakistan on 19th September, 1960.

3

The Water Apportionment Accord was agreed upon on March 16, 1991 at Karachi in a meeting of the Chief Minister's of the four provinces along with several provincial representatives.

www.ezqanoon.com

Appointment of
officers,
servants.

Conditions of
service and
disciplinary
powers.

Immunity of the
Authority and

its employees.

Delegation of
Power to
Managing
Director.

as are under the control of WAPDA! and underground water
resources within the Province.

CHAPTER— IV ESTABLISHMENT

14. (1) Subject to any other provisions of this Act, the Authority may from time to time employ such officers and servants, or appoint such experts or consultants as it may consider necessary for the performance of its functions, on such terms and conditions as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1) above any rules made, or orders or instructions issued by the Authority, the Authority may at any time, for reasonable cause, relieve or remove from its service any person after giving him not less than 90 days notice or pay for the period by which such notice falls short of 90 days.

15. The Authority shall prescribe the procedure for appointment and terms and conditions of service of its officers and servants and shall be competent to take disciplinary action against its officers and servants as per its rules and regulations.

16. (1)
Management, officers and servants of the Authority shall, when action or purporting to act, in pursuance of any of the provisions

The Managing Director, members of Board of
of this Act, be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code'.

(2) No suit, prosecution or other legal proceedings

shall lie against the Authority, the Managing Director, Members or officers and servants of the Authority in respect of anything done or intended to be done in good faith under this Act.

17. The Authority may, by general or special order, delegate to the Managing Director, a Member of the Board of Management or officer of the Authority, any of its powers, duties or function, under this Act subject to such conditions as it may deem fit to impose.

1 Pakistan Water and Power Development Authority constituted under S. 3 of the W.P. Act XXXI of 1958.

2 ie. Act XLV of 1860.

www.ezqanoon.com

Industrial Relation
Ordinance,
1969 not to

apply.

Persons serving the
Provincial
Irrigation and
Power
Department.

3

18. Nothing contained in the Industrial Relation Ordinance, 1969? (XXIII of 1969), shall apply to or in relation to the Authority.

19. (1) All employees of the Irrigation Wing of the Provincial Irrigation and Power Department become the employees of the Authority, subject to any other provision contained herein, on coming into force of this Act.

(2) Employees under sub-section (1) above shall serve the Authority on such terms and conditions as may be prescribed by rules and regulations of the Authority but in any case not less favorable than their existing terms and conditions of service.

(3) The Authority shall, through prescribed policies of hiring, freeze, reassignment, non-replacement of employees on death or retirement upon attaining of age of superannuation and also providing incentives for early retirement, bring the number of its employees in conformity with the corresponding numbers to be indicated in the relevant staffing, operational and financial plans.

(4) Until the Authority frames its rules, the service and other connected rules applicable to the civil servants shall continue to apply.

(5) The administrative structure of the Authority shall be of dire need, without increasing and rather decreasing as may be determined by rules.

(6) Subject to other provisions of the Act, fresh appointments in the event of necessity shall not take place without advertisement, selection on merit.

(7) The Government shall contribute to the pension, gratuity and final payment of the provident fund of the

employees of the provincial Irrigation and Power Department
who become the employees of the Authority under sub section
(1) above as per relevant rules.

(8) The Authority shall frame Regulations for
payment of gratuity/pension in line with the other such bodies by
considering its financial resources.

Now Balochistan Industrial Relation Act, 2010 (Act XIII 2010), published in the Balochistan Gazette (Extraordinary) No. 147, d

22" February, 2011.

Funds of the Authority.

Authority to be deemed to be a local authority.

Limited Liability.

Procedure for fixation of

1

CHAPTER— V FINANCE

20. (1) There shall be a fund to be known as the Funds of the Authority vested in the Authority.

(2) The Funds of the Authority shall consist of :

(a) all sums received by the Authority in respect of water charges, sale proceeds, development cess, drainage cess, etc;

(b) grants made by the Government;
(c) loans obtained from the Government;

(d) grants made by Local Bodies as required by the Government;

(e) sale proceeds of bonds or any other debt instruments issued under the Authority of the Government;

(f) loans obtained by the Authority with the special or general sanction of the Government;

(g) foreign assistance and loan obtained from different foreign agencies with the sanction of, and on such terms and conditions as may be approved by the federal and provincial Governments;

(h) all other sums received by the Authority.

21. The Authority shall be deemed to be a Local Authorities under the Local Authorities Loans Act, 1914! for the purpose of

borrowing money under the said Act, and the making and execution of any scheme under this Act shall be deemed to be a work which such Authority is legally authorized to carry out.

22. The Liability of the Government to the creditors of the Authority shall be limited to the extent of grant made by the Government and the loans raised by the Authority with the sanction of the Government.

23. (1) The Authority shall normally supply water to

That is Act IX of 1914, extended to on 14% October, 1955 to the whole of Pakistan by the Central Laws (Statute Reforms) Ord

1960 (Ord. XXI of 1960, S. 3 and Sch.

rates for
supply of
water.

Books of Accounts.

Annual Financial
Statement.

different areas on equitable and reasonably assured basis.

(2) The rates at which the Authority shall supply water shall be so fixed as to provide for meeting the operation and maintenance cost of the system within a period of 7-10 years:

Provided always that before proposing any enhancement in the existing rates and/or agreeing to the same, the Authority Area Water Boards concerned shall use their best endeavours to reduce the quantum of the proposed enhancement of rates through adoption of the following measures:

(i) reducing costs;

(ii) improving assessment and collection of Water Rate and Drainage Cess;

(iii) recovery of arrears;

(iv) recovery of cost of providing drainage flood control to non farming beneficiaries;

(v) disinvestment of fresh water tubewells in Salinity Control and Reclamation Project areas.

(3) The components of Operation and Maintenance to be recovered from the farmers in the form of abiana shall be 100% Operation and Maintenance cost of irrigation canals and secondary drains.

(4) The Operation and Maintenance cost of flood protection and public sector Fresh Ground Water tubewells will be excluded from abiana. A nominal proportion of 5% of the Operation and Maintenance cost of Saline Ground Water tubewells and or main drains may, however, be borne by the farmers if such a need is felt by the Authority at some later stage.

24. The Authority shall maintain proper books of accounts and records on Generally Acceptable Accounting Principles, to explain all its transactions and to give a true and fair view of its

state of affairs. The Book of Accounts relating to a period of not less than ten years immediately preceding the current year shall be preserved in good order.

25. (1) The Authority shall, not later than six months after the end of each financial year, prepare financial statements including a balance sheet as at the end of the financial year, income and expenditure account for the financial year, and a

Audit.

1

statement of changes in financial position or statement of sources and application of funds for the financial year, and cause these accounts to be audited in the manner specified in Section 26. The financial statement shall be approved by the Authority.

(2) The balance sheet shall give the state of affairs of the Authority as at the end of its financial year, and the income and expenditure account shall give a true and fair view of the surplus of deficit of income over expenditure of the Authority for the financial year.

(3) Accounting Standards of the Pakistan Institute of Chartered Accountants shall be followed in regard to the Books of Accounts and preparation of the Financial Statement.

(4) Accounting policies shall be stated as part of the Financial Statement.

(5) The Authority shall attach to its Financial Statement a statement providing information on any material changes and commitments affecting the financial position of the Authority which have occurred between the end of the financial year to which the financial statements relate and the date on which the financial statements were prepared.

(6) In the month of February each year, the Authority shall submit to the Government, for information projected financial statements for the next year.

26. (1) The Authority shall have a double audit system.

(2) The financial statements of the Authority shall be audited every year by the '[Auditor General of Pakistan] as well as by the commercial auditors who shall be appointed by the Authority.

(3) The Auditor shall carry out the audit in accordance with the professional standards of auditing prescribed by the Pakistan Institute of Chartered Accountants, and shall issue a report on the audit.

(4) The Authority shall provide a copy of the audit report and Financial Statements together with detailed information and explanation in regard to any observation, reservation, qualification or advance remarks contained in the Auditor's Report to the Government, and shall file a copy with the '[Auditor General of Pakistan] within 30 days of the period

stipulated for their preparation in Section 25. The Authority shall

Subs. by Balochistan Ordinance VII of 2000, for the words "Accountant General of the Province".

Establishment of
Area Water
Boards.

Constitution of
Area Water
Boards

carry out all reasonable directives issued by the Government for compliance with any observation, reservation, qualification or adverse remarks in the Audit Report.

CHAPTER— VI AREA WATER BOARDS

27. The Government shall, within one year of coming into force of this Act, notify the establishment of various Area Water Boards in the Province together with their respective territorial jurisdictions which will preferably be based on the canal commands:

Provided that Area Water Boards shall be formed only as pilots for certain selected command areas to be replicated later around all major canal commands in the Province, if the result of Pilot Area Water Boards are satisfactory.

28. (1) The Government shall simultaneously with the notification of the establishment of the Area Water Boards in the Province under section 27 notify the constitution of the Boards of Directors of such Area Water Boards. Each Board shall comprise of not less than 8 members with the following compositions.

(a) Four elected representatives of Farmer Organization elected by the chairmen of the Farmer Organization covered by the Area Water Boards;

(b) A representative of the Authority;
(c) Director Agriculture Ex-officio;

(d) Two technocrats with backgrounds in Water Resources Management and Finance respectively;

(e) Director of the Area Water Boards Ex-officio;

(f) One member representing the Government Ex-officio.

(2) The members of a Board shall in their first meeting elect from amongst themselves a chairman who shall preside over their meeting during their tenure of office. In case the said chairman, for any reason is unable to attend a meeting of the Board, the members present at such meetings may elect one of the present members as the chairman for the meeting.

Meeting of the
Board.

Function of Area
Water Boards.

Formation of
Former
Organizations.

(3) The terms of office of the members of the board other than Ex-officio shall be four years on the expiry whereof they shall be eligible for election for one more similar term.

(4) Each non-official member of the Board shall receive such allowances as may be prescribed.

29. (1) The Board shall meet at least once in every quarter. However the chairman of the Board shall, upon receipt of requisition signed by at least 3 members convene a meeting of the Board, after giving 7 days notice to all the members, within a period not exceeding 15 days from the date of receipt of such requisition.

(2) The quorums for a meeting of the Board shall be 5 members.

30. The functions of Area Water Boards shall be:—

(1) To formulate and implement policies with a view to achieve and continuously improve effective, economical and efficient utilization of irrigation water at its disposal and to ensure that within a period not exceeding 07 to 10 years from the date of its constitution, it becomes fully operative as a self-supporting and financially self-sustaining entity.

(2) To plan, design, construct, operate and maintain the irrigation, drainage and flood control infrastructure located within its territorial jurisdiction.

(3) To adopt and implement policies aimed at promoting formation, growth and development of Farmer Organizations including pilot projects for Farmer Organizations and faithful monitoring of the results thereof.

(4) To perform any other functions assigned by the Authority.

CHPATER— VII
FARMERS ORGANIZATIONS

31. (1) The Authority and Area Water Boards shall, within one year of its establishment, devise and implement pilot programs, policies and take step thereunder to ensure that Farmer Organizations are formed at the minor/ distributary, level

Bye laws and
regulations for
Farmer
Organization.

in a phased and orderly manner in accordance with the relevant Bye-Laws and Regulation framed by the Authority under section 32.

(2) The Authority and Area Water Board concerned shall enable the Farmer Organizations formed under (1) to become financially self sustaining and self sufficient for the due and effective performance of their functions prescribed under this Act within a maximum period of seven years from the respective date of their formation under (1):

Provided that Former Organizations established by Agriculture Department, Community Organizations and other sponsoring entities shall be deemed to be Farmer Organizations within the meaning of this Act.

32. [(1)] The Authority shall, within such period as may be reasonable but in no case exceeding six months from the date of coming into force of this Act shall publish Bye-Laws, Regulations relevant to the formation of the Farmer Organizations in the Province.

*[(2) Such bye laws or regulations may provide for,

(a) delineation of the territorial jurisdiction of the Farmer's Organization and the manner of their constitution;

(b) manner and procedure of their registration, suspension, cancellation of — such registration, and dissolution of the Farmers Organizations;

(c) membership of Farmers Organizations, qualifications disqualifications and method of election of such members;

(d) manner and procedure of adjudication of election disputes;

(e) establishment of Irrigation Tribunals and Irrigation Appellate tribunals, for the adjudication of election and_ other disputes; qualifications, powers and jurisdictions of such tribunals.

(f) establishment of Nahri panchayats, their

1 Section 32 renumbered as sub-section (1) by Balochistan Ordinance VII of 2000.

? 'Sub-section (2) added ibid.

www.ezqanoon.com

Functions and
powers of
Farmers

Organizations.

Submission of
yearly reports
and returns.

powers and jurisdictions, and

(g) to provide for the establishment of fund of
the Farmer's Organization, manner of
utilization of such fund; auditing of
accounts of the Farmer's Organization and
other matters relating to finances of the
Farmer's Organization.]

33. (1) To operate, manage and improve the irrigation
and drainage infrastructure comprising of minors, distributaries
and drains together with any structures thereon located within
the area relevant to the Farmer Organization concerned

(2) To obtain Irrigation water from the Authority or
Area Water Board concerned at the head of the minor or the
distributary and to supply the same to their members and other
water users, if any.

(3) To receive the drainage effluent from their water
users and to convey the same through field/collector drains to the
designated nodal points to the drainage system.

(4) To collect the agreed water charges, other dues, if
any, from its water users and to pay the agreed consideration for
supply of irrigation water and conveyance and/or disposal of
drainage effluent to the Authority or Area Water Board
concerned.

(5) To engage, hire or employ any consultants,
advisors and employees as may be deemed necessary or be
otherwise reasonably required for the due and _ effective
performance of various powers and functions on such terms and
conditions relevant to the conclusion or premature determination
of such engagement etc. of any consultants, advisors or
employees, as the case may be.

(6) Any other power and functions not being
inconsistent with the functions and powers given above which
may be vested in the Farmer Organizations under the Bye-Law
and Regulations framed by the Authority under section 32.

CHAPTER— VIII
REPORTS AND STATEMENTS

34. (1) The Farmer Organizations, Area Water Boards and the Authority shall submit to the Government as soon as possible after the end of every financial year but, before the

Transfer of rights
and liabilities.

Indemnity.

expiry of a period of seven months of such end of the financial year, a report on the conduct of their affairs for that years including audited financial statement for the year in questions.

(2) The Government may reasonably require the submission of following:

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

(b) a report on any such matter; or

(c) a copy of any document in the charge of such entity; and the entity concerned shall comply with every such requisition.

(3) The Authority and Area Water Board shall cause to be published their Annual Reports submitted under sub section (1) together with brief particulars of the projects proposed to be under- taken during the next financial year in English/Urdu/regional language newspaper.

CHAPTER— IX MISCELLANEOUS

35. (1) Upon coming into force of this Act all assets and liabilities and all rights and obligations of the Irrigation Wing of Provincial Irrigation and Power Department shall stand transferred to the Authority, on such terms and conditions particularly as regards to use and disposal of the said assets as may be prescribed by the Government.

(2) All contracts made by the Provincial Irrigation and Power Department relating to Irrigation, Drainage and Flood Control shall be deemed to be contracts made by the Authority. All decisions and instruments shall be signed for and on behalf of the Authority by the signatures of the Managing Director and any other employee of the Authority duly authorized by the Managing Director in this behalf.

36. (1) Nothing in this Act shall be construed as imposing upon the Authority either directly or indirectly any duty enforceable by proceedings before any court.

(2) No suit, prosecution or other legal proceedings

shall lie against the Authority, the Managing Director, or any other officer, servant, expert or consultant of the Authority in respect of any damage caused or likely to be caused or anything

Rules and regulations.

Removal of difficulties.

Provisions of this Act to override other laws.

Repeal.

1

done or intended to be done in good faith under this Act or the Regulations made thereunder.

37. For the purpose of carrying into effect the provision of this Act, the Authority may, with the approval of the Government make and notify in the official gazette such rules and regulation as it may consider necessary or expedient.

38. If any difficulty arises in giving effect to any of the Provisions of this Act, the Government may make such orders, not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing the difficulty.

39. In case of any conflict or inconsistency between any provision of this Act and any other Law, the provisions of this Act, to the extent of such conflict or inconsistency, as the case may be, shall prevail.

40. The Balochistan Irrigation and Drainage Authority Ordinance', (V of 1997) is hereby repealed.

That is Balochistan Ordinance V of 1997, made by Governor Balochistan on 21% April; and published in Balochistan Gazette (Extraordinary) No. 30, dated 3rd May, 1997, which by its section 40 repealed the earlier Ordinance I of 1997.