

THE BALOCHISTAN PERSONS WITH DISABILITIES

ACT, 2017

(Baln Act II of 2017)

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'THE BALOCHISTAN PERSONS WITH DISABILITIES

Preamble.

Short title, extent
and Commencement.

Definitions.

ACT, 2017

(Balochistan Act II of 2017)

[8% June, 2017]

An Act to promote and ensure full and effective inclusion of Persons with Disabilities in the community in line with the Islamic teachings and international best practices to protect their rights

WHEREAS it is expedient to put in place legal and institutional framework to protect the rights of the Persons with Disabilities;

It is hereby enacted as follows: —

CHAPTER- I PRELIMINARY

1. (1) This Act may be called the Balochistan Persons with Disabilities Act, 2017.

(2) It shall extend to the whole of Balochistan except Tribal Areas.

(3) It shall come into force at once.

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

(a) "Act" means the Balochistan Persons with Disabilities) Act, 2017;

(b) "Access" means meaningful and effective access to various physical and intangible means made suitable to fulfill the special needs of the Persons with Disabilities;

(c) "Barrier" means the physical, psychological, illegal or attitudinal hurdles in the way to access to infrastructure and services;

(d) "Constitution" means the Constitution of

1 This Act was passed by the Provincial Assembly of Balochistan, on 20" May, 2017; assented to by the Governor of Balochis on 7" June, 2017; and published in the Balochistan Gazette (Extraordinary) No. , dated 8" June, 2017.

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Islamic Republic of Pakistan 1973';

(e) "Council" means the Provincial Council on Rights of Persons with Disabilities set up under section 21;

(f) "Disability" means a physical or mental condition that limits a person's movements, senses, or activities and shall include physical, mental, intellectual or sensory impairments while interacting with various other physical and psychological barriers and hinder performance of persons suffering from such conditions to participate fully and effectively in day to day performance and interaction with others on an equal basis;

(g) "Equality before law" means rights guaranteed by the Constitution of Pakistan¹ and also includes principles of equality on equitable basis that Persons with Disability shall have in line with the constitutional and international covenants in which Pakistan is a signatory;

(h) "Freedom of movement" means shall have the same meaning as expressed in Article 15 of the Constitution¹;

(i) "Fund" means the Rehabilitation of Persons with Disabilities Fund established under section 24 of this Act.

(G) "Government" means the Government of Balochistan.

(k) "Independent living" means living with freedom, self-control, choice and self-determination in day to day life;

(J) = "Mobility" means the possible independence for Persons with Disabilities in access to quality mobility aiding them devices, assistive technologies and forms of assistance and intermediaries, making them available at affordable cost;

(m) "Reasonable accommodation" means necessary

¹ That is the Constitution of Islamic Republic of Pakistan, 1973; published in the Gazette of Pakistan on 12 April, 1973; and came into force with effect from 14th August, 1973.

Rights of Persons
with
Disabilities.

and appropriate modification where needed in a particular case, to ensure that the Persons with Disabilities to enjoy or exercise on equal basis access with others of all human and fundamental rights of freedoms at home, workplace and in social life;

(n) "Prescribed" means prescribed by rules or regulations; and

(0) "Secretary" means the person to be appointed as Secretary of council by the government.

CHAPTER- II
RIGHTS OF PERSONS WITH DISABILITIES

3. (1) The government shall ensure that every Person with Disability shall have a right to be respected for his individual dignity and leading a decent life with equal opportunity to participate in educational, social, economic, cultural religious and all other activities in the society without any discrimination.

(2) No person or institution, whether public or private, shall be allowed to discriminate against Persons with Disabilities or violate their rights or restrict benefits in any manner.

(3) The government shall take all necessary legal and administrative steps, including appropriate changes in the existing laws, to ensure that Persons with Disabilities enjoy full rights inclusive the right of equality guaranteed under the Constitution and that such person's disability shall not be used by any person or institution to restrain or restrict him from enjoying his rights unless there is a reasonable cause that not to restrict such person may cause harm or letting him to perform something which may be out of his physical or mental capacity.

(4) In view of restricted access of the Persons with Disabilities to earn their livelihood independently, the government shall take extraordinary steps to ensure their effective inclusiveness in the society through — suitable education, skill development, training and placement against appropriate positions in the government departments and entities in the private sector according to the allocated quota.

(5) No Person with Disability shall be subject to any

research without his willingness or consent or any pressure and such research shall be through using accessible modern modes, means and formats of communication.

Equality before 4. (1) The government shall ensure that Persons with law. Disabilities to be treated at par with persons without such disabilities and they are not discriminated in exercise of their rights.

(2) It shall be ensured that such persons have legal capacity to enjoy their rights and such support is provided to them free of cost.

Right to privacy. 5. (1) Persons with Disabilities shall have right to privacy as provided under law regardless of living in a private home, rehabilitation centers, hostels, or in any private or public living facility.

(2) No Persons with Disabilities regardless of place of residence or living arrangements shall be subjected to arbitrary or unlawful interference with his privacy of person, family, home and communication or correspondence. Such persons shall have right to be protected under law against any illegal interference and attack against their person, family, property and reputation.

Women, children 6. (1) In view of the vulnerability of women, children and elderly and senior citizens with disabilities, the government shall take people with special measures to ensure that such women, children and disabilities. elderly people are given full protection under law in enjoying their rights.

(2) The government shall also take necessary measures to ensure development, advancement and empowerment of women, children and senior citizens with disabilities.

Ease of access and 7. (1) The government shall take necessary measures mobility. allowing ease of access to the Persons with Disabilities in

public and private buildings, places, hospitals, public transport, streets and roads. The old buildings and vehicles shall also be appropriately modified and new buildings and vehicles shall be built conforming to the appropriate standards to meet the requirement of Persons with Disabilities.

(2) The council shall develop a guideline for removing barriers and obstacles to access in buildings, roads,

modes of transportation, housing, hospitals, schools, workplaces, communication and information related services and get them implemented by the concerned authorities and persons both in public and private sectors.

(3) The council shall develop a set of minimum standards of access and related signage that each department, authority, entity, and private sector shall put in place to ensure necessary access of Persons with Disabilities.

(4) The government shall implement procedures and programs to promote the personal mobility of Persons with Disabilities at concessional cost.

(5) The government shall ensure special seats in all means of transport for persons with disabilities and to allot parking space exclusively for the persons with disabilities at all public places free of cost. These spaces shall be nearest to that particular public place.

(6) The council shall develop and enforce guidelines allowing Persons with Disabilities to have full and appropriate access to all forms of mass communication including information technology to enjoy freedom of information without any charge.

Protection from 8. (1) The government shall take all possible steps to abusive, protect Persons with Disabilities, from all forms of abuse, violent and violence and exploitation by any person, institution or authority. intolerant (2) Whenever an act of abuse, violence and

behavior. intolerant behavior is committed against person with disability

and information of such act is communicated to council or any law enforcement agency, as the case may be, the concerned agency or Council on receipt of such information, shall immediately take necessary action to curb such act and to take appropriate measures under law. No cost shall be recovered from such affected person for lodging in safe place in such situation.

(3) Notwithstanding the provisions of any other law for the time being in force, an act of physical violence against a person with disability shall be treated in accordance with the provisions of Pakistan Penal Code, 1860¹. Other situation of aggravated abuse and violence shall also be deemed to have more gravity than in case of a person without disabilities.

1 That is Act XLV of 1 860; assented to by the Governor General on 6" October, 1860.

Equity in education.

(4) In case of need for legal aid such aid shall be made available to such affected person at public expense.

9. (1) The government shall take all necessary measures to ensure that Persons with Disabilities are afforded equal rights to access in private and public educational institutions and shall be provided with adequate facilities for their education without any discrimination.

(2) The government shall provide free education to Persons with Disabilities in pursuance of article 25 A of the Constitution of Pakistan¹ or higher education in all educational institutions whether Public or Private shall give 50% fee relaxation. They shall also be entitled to a special quota seats in institutions as per notification issued by the government from time to time.

(3) The council shall take necessary measures to establish special education institutions for the Persons with Disabilities to cater their special needs in addition to making other institutions reasonably equipped and staffed to provide adequate facilities for inclusive education to such persons in those general educational institutions.

(4) No Persons with Disabilities shall be denied admission into any educational institution, whether state owned or private, on ground of his disabilities.

(5) A Quota of 5% with age relaxation minimum 5 years if needed shall be dedicated for admission to all educational institutions whether State owned or private for persons with Disabilities.

(6) The Government shall ensure inclusive education at all levels focusing on personality development, creativity and strengthening of physical and mental capabilities of Persons with Disabilities.

(7) Reasonable and appropriate accommodation shall be provided to Persons with Disabilities in all institutions including hostels.

(8) The government shall also establish adequate dedicated and general facilities for teacher training with a view to train adequate number of specially trained teachers equipped

¹ That is the Constitution of Islamic Republic of Pakistan, 1973; published in the Gazette of Pakistan on 12 April, 1973; and came into force with effect from 14th August, 1973.

Equity in employment.

with skills to teach students with various disabilities.

(9) The government shall ensure that all Persons with Disabilities are given full access to all modes and means of education including but not limited to vocational training, online education, distance learning and adult education.

10. (1) No person, institutions, organization or entity, whether public or private, shall discriminate a person on the ground of disability in respect of employment, promotion, career development and enjoying fruits of his employment.

(2) The employer shall ensure the provision of reasonable accommodation including necessary aid and equipment which a Person with Disabilities would reasonably require to perform his duties.

(3) The government shall reserve a quota of five percent at various levels for the Persons with Disabilities in the government departments, institutions, entities, and corporate entities owned and managed by the government. The government shall also impress upon the provincial legislature and local bodies to include such measures in their laws and practices.

(4) The government shall encourage private enterprises to employ Persons with Disabilities through incentives for which the government shall prepare long term inclusion plans and allocate necessary resources.

(5) The terms and conditions of employment shall not be less favorable for Persons with Disabilities as compared with those offered to other persons appointed against same or similar positions.

(6) An establishment Public and Private both which does not employ Persons with Disabilities as required by section 4 (sub-section 4) of this section shall pay twice in to the funds each month the sum of money it would have paid as salary or minimum wages notified by the Government to a Person with Disability had he been employed and the relevant entities / administrative head shall be responsible for enforcement and implementation.

(7) Minimum wages to be fixed as notified by the government from time to time under Minimum Wages Act.

Equity in health and rehabilitation services.

Right to live independently in community.

(8) The provision of rules made for the employees of provincial government in respect of accommodation shall also apply to persons with disabilities.

11. (1) The government shall ensure barrier free access to necessary public health services in private and public institutions and infrastructure to Persons with Disabilities without any discrimination and without any cost borne by such persons.

(2) The council shall devise plans to provide special health insurance to Persons with Disabilities and free medical coverage. The government shall earmark necessary funds for financing such health insurance scheme and medical coverage.

(3) The private sector health services providers shall provide quality services to Persons with Disabilities at 50% concessional rates.

(4) Special health service for early identification and intervention of disabilities and medical services especially designed to prevent disability shall be implemented.

(5) The government shall initiate, with the help of the medical and scientific community, research to identify causes of various disabilities and make efforts to create awareness in public to adopt practices that help to prevent such disabilities.

(6) The Government shall undertake initiatives to promote, support and implement community _ based rehabilitation and research initiatives at all level.

12. (1) The Persons with Disabilities shall have equal right to live independently in the community.

(2) Such persons shall be provided all necessary facilities by the Government without discrimination to enable them to live independently.

(3) The government shall take necessary preventive measures to ensure that Persons with Disabilities are not

excluded or segregated from the community on basis of their disability.

(4) The government shall also take necessary

Right of
accommodation.

measures to enable the Persons with Disabilities to have access in the house, residential and other community support services, including personal assistance service necessary to support living and the cost of which shall be borne by the government.

(5) The government shall provide Persons with disabilities appropriate aid and equipment, assistive technology on free or subsidized rate. A special training is provided at all levels from time to time in order to train persons with disabilities in mobility skills.

(6) Entities that produce such equipment's are provided with all the facilities they require at a subsidized rate.

(7) Tax exemption on import of specialized accessories, wheel chairs, electrical wheel chairs, Vans/Buses/Automobiles and other assistive devices to cater the special requirements for persons with disabilities.

13. (1) Every person with disability shall have right to a decent place of living of his choice as contemplated by Article 23 of the Constitution of Pakistan! and no person shall discriminate against a person with disability by way of refusing to rent him or sell to a place of living because of him being a person with disability.

(2) The government shall evolve a policy of 5% quota with 50% concession on the total cost payable on easy installments toward housing schemes for Persons with Disabilities who do not own = any _ property" in Governmental/private housing schemes in government owned, sponsored, or assisted projects and also in the private housing schemes. The authorities approving establishment of new government or private housing schemes and plans shall ensure that adequate number of affordable housing units are included in each scheme or plan.

(3) The government shall set up and maintain decent housing facilities for the Persons with Disabilities who do not have a place to live and needs a decent temporary shelter. The council shall with the help from the provincial authorities; civil society organizations and society at large assist to arrange permanent shelter for such persons.

1 That is the Constitution of Islamic Republic of Pakistan, 1973; published in the Gazette of Pakistan on 12 April, 1973; and ca

Right to home and family.

Freedom of expression and information.

Right of political participation.

14. (1) No person with disability, especially a child/adult/senior citizen, shall be separated from his family on the grounds of disability unless a court of law requires him to be so separated in his best interest.

(2) Where the immediate family of a person is unable to cater a person, especially a child with disabilities, the Council shall make an effort to place such person at a setup suitable for his safe living. The Government shall establish institutions for the comfortable living for Persons with Disabilities.

(3) All Persons with Disabilities shall have the right to marry a person of their own choice and raise their family without any discrimination.

(4) No person with disability shall be subjected to any forced medical/surgical procedure leading to infertility and provided that in case of mental disability a person, forced sterilization may be conducted subject to consent of his legal heirs. Forced sterilization shall be a non-compoundable offence.

(5) The government shall provide free services regarding reproductive health especially to women with disabilities.

15. (1) The government shall ensure that Persons with Disabilities have freedom of speech, right to expression and information and effective measure are taken for their such rights to be protected in accordance with law.

(2) The council shall take necessary measures to get the voice of Persons with Disabilities and their organizations to the governments, society and international community.

16. (1) Persons with Disabilities shall have full right to participate in the political activities in the country including exercising right of vote and right to be elected in an elected body.

(2) Representation of Persons with Disabilities shall

be ensured by the government in all the elected bodies through special quota.

(3) The government shall make necessary arrangements to ensure that voice of the Persons with Disabilities is effectively heard in the elected houses at various levels.

Access to justice.

Right to own
property.

Participation in
sports, cultural
and

(4) The Election Commission of Pakistan shall ensure that each polling station is accessible to the Persons with Disabilities and necessary arrangements are made for them to cast their votes confidentially and without any difficulty. Any act by any person to cause hindrance on exercise of right to vote, by a person with disability shall be deemed as forceful obstruction that shall be adjudicated under the law by the Presiding Officer as an offence. The Commission shall ensure that effect of such forceful obstruction is rectified.

(5) The participation of disable persons as provided by the Notifications issued by the Federal/provincial government from time to time shall also apply to all the political parties.

17. (1) The Government shall ensure that the Persons with Disabilities have unhindered access to the justice system in the country including courts of law, tribunals, police and other law enforcement agencies.

(2) The cases involving Persons with Disabilities shall be decided off on priority basis.

(3) All judicial officers shall be adequately trained to understand the importance of dispensing justice particularly to the Persons with Disabilities and on matters relating to them.

(4) The government shall take necessary actions to ensure free and effective legal aid is provided to the Persons with Disabilities. In case of court proceedings it shall be the duty of the presiding judge that if such person is not represented by a lawyer a qualified lawyer is arranged, through free legal aid services, to such person without charging any fee from him.

18. (1) Each Person with Disabilities shall have full and discrimination-free right to own, maintain, purchase, and sell property on his own choice.

(2) The Persons with Disabilities shall not be denied right of inheritance to property.

(3) The courts shall decide matters relating to

property disputes involving Persons with Disabilities on priority basis.

19. (1) The government shall ensure that no person is discriminated against in participation of any sports, games, cultural and recreational activities on ground of his disability.

recreational
activities.

Protection of
Persons with
Disabilities in
risk and
disaster
situations.

Strengthening and
renaming of
the Provincial

Assistive devices, equipment and latest technology shall fully
be made available for their inclusion in sports, cultural,
recreational and leisure activities.

(2) Access to cultural materials, programs and
activities shall be provided in accessible and appropriate
formats to Persons with Disabilities.

(3) Barrier-free and discrimination-free access to
media programs, films mandatory requirement of captions and
sign/symbols for theatres, parks, stadiums, play grounds,
beaches and other places of leisure, recreation, sports and
cultural activities shall be provided to such persons.

(4) The government shall fully _ facilitate
participation of Persons with Disabilities in scouting, art
classes, outdoor camps, hunting, tourism and adventure
activities and shall also help to develop and utilize their artistic,
creative and intellectual capabilities.

20. (1) All Persons with Disabilities shall be given top
priority in providing suitable protection and safety in situations
of risk and natural disasters and they shall immediately be
removed from such areas and moved to a safe place on priority.

(2) In situations of armed conflict, the police, civil
defense and the armed forces shall take appropriate measures
on priority to ensure the safety, protection and removal of such
persons.

(3) All authorities engaged in reconstruction activity
subsequent to any situation of armed conflict, humanitarian
emergencies or natural disasters shall ensure that Persons with
Disabilities are accorded priority in reconstructing their
institutions, homes and other facilities and restoring services.

(4) The council shall keep a close coordination with

the disaster management authorities for protection and removal to safety and keep record of such persons caught in such situation and ensure early rehabilitation.

CHAPTER~ II ADMINISTRATION OF RIGHTS

21. (1) There shall be restructuring and renaming of the Provincial Council for the Rehabilitation of Disabled Persons to an autonomous body shall be called as Provincial Council for

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Council for the
Rehabilitation
of Disabled
Persons.

the Rights of Persons with Disabilities consisting the following:

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(vii)

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(xi)

(xii)

Provincial Minister for Social
Welfare Department;

Secretary Social Welfare
Department;

Representative of Civil Society
working on Disabilities;

Person with Disability (on yearly
rotation basis);

DG of provincial Health
Departments;

One representative each (not
below the level of Additional
Secretary) of the Planning and
Development Department, Law
Department, Finance, Manpower,

Home, Labour, Education, Sports

and Culture Department,
Industries, Services & General
Administration Department,

C&W, Women Development
Department

Divisional Director of Religious
Affairs & Interfaith Harmony.

Director Bait-ul-Mal

President or nominee of
Balochistan Chamber of
Commerce & Industries;

Four persons to be nominated by
the Provincial Council from
amongst the DPOs and _ persons
engaged in the empowerment of
Persons with Disabilities.

Two MPAs (one male and one
female) to be nominated by the
Speaker of Provincial Assembly.

DG Social Welfare and Special
Education Focal Person on

Chairperson

Vice Chairperson

Co-Chair

Deputy

Chairperson

Member

Members

Member

Member

Member

Members

Members

Member/
Secretary

Functions of the Council.

UNCRDP.

(2) The government functionaries represented on the council shall hold their offices ex-officio. The private appointees shall be appointed by the government for a period of three years and shall be eligible for reappointment for one additional term.

22. (1) The council shall have the responsibility of achieving objectives of this Act and to assist the government in developing legal and institutional framework.

(2) The Council shall be the executive authority to implement this Act to develop a legal and social environment and to help the Persons with Disabilities to have the protection of law in enjoying their fundamental rights.

(3) The council shall, with the help of other authorities and persons, take all possible measures to protect Persons with Disabilities from discrimination, exploitation, torture, inhuman or degrading treatment on the hands of any one including their families and caregivers.

(4) The council shall coordinate the implementation of the principles of the Convention at provincial and lower administrative levels through providing technical assistance to various organs of the provincial legislatures and governments in developing appropriate legal and institutional frameworks in their jurisdictions and making them efficiently and effectively achieve the objective of protection and enforcement of rights.

(5) The council shall evaluate the effectiveness of laws and policies and assess the implementation of the laws and policies at the Provincial level and recommend to the government about the changes required in the policies, laws and tules.

(6) The council shall conduct or cause to conduct research on the status of the Persons with Disabilities and matters related promoting and protecting their rights.

(7) The council shall put into place an institutional mechanism to regularly monitor performance of various departments and organizations in the government and issue a performance score card to each such entity and organization at least once in every three years. Similarly, the council shall devise and maintain score cards for private entities that seek such evaluation and assessment. Such performance audits shall

Governmental
authorities and
other persons
to assist the
council.

Funds for
rehabilitation.

be conducted by professionals and the council staff.

(8) The council also assesses its own performance in creating legal and social environment in the country and issue an annual status report within 3 months of end of every calendar year.

(9) The council shall be responsible to monitor the activities of the private and community based organizations to ensure that required standard of services are maintained and that funds generated by them in the name of Persons with Disabilities are appropriately used. The council may enforce an institutional mechanism for effective, efficacious and transparent functions of such organizations and may impose restrictions on organizations not meeting the objective criteria laid down by it.

(10) The council shall have the powers to frame and enforce regulations and guidelines for its own efficient and professional working and for effective achievements of objects of this law.

23. (1) All the functionaries of the government shall extend full and effective cooperation to the Council in ensuring the enforcement of this Act and other laws for protecting the rights of the Persons with Disabilities.

24. (1) The government shall establish non-endowment fund for sustainably financing the projects and activities related to ensuring effective rights protection and inclusion in society of Persons with Disabilities.

(2) The government shall establish non-endowment fund and other valuables.

(3) The funds established in sub-sections (1) and (2) shall be managed by the council.

(4) The funds shall be financed through:

(i) Grants from provincial governments;

(ii) Grants from international organizations,

governments and other such bodies;

(iii) | Imposition of taxes and other charges by
the government for rehabilitation of
disabled person;

Creating public awareness.

Rehabilitation.

Insurance cover.

(iv) _ Fines and penalties under this Act;

(v) Donations and bequests by private persons; and

(vi) | Any other source.

(5) The money from the funds mentioned sub-sections (1) and (2) shall be used only for the projects and activities directly related to rehabilitation of the Persons with Disabilities.

25. (1) The council shall take immediate, appropriate and result oriented measure to raise awareness amongst the society as a whole with regard to recognition and respect for the Persons with Disabilities and their rights.

(2) The council shall recommend to the provincial governments measures to include the topics on disability in educational curriculum to create awareness among young students about the Persons with Disabilities generating respect for such persons and their rights to become effective components of the communities, trade and commerce.

(3) The government shall include topics on addressing the problems of the Persons with Disabilities in the training programs of the institutions responsible for imparting trainings to the officers and officials of the government including judges and court officials.

26. (1) The government shall take all possible measures to ensure that Persons with Disabilities attain maximum independence and ability to participate in the activities of their life including getting education, doing business, getting employed and participating in sports and cultural activities.

(2) The government shall promote continuing skill development and training in existing and new skills and technologies to the Persons with Disabilities for maximum and effective participation and integration of such persons in the community.

(3) The government shall undertake initiatives to promote, support and implement community _ based

rehabilitation and research initiatives of provincial government and organizations outside the government spheres.

27. (1) The council shall devise and put in place comprehensive life medical and accidental insurance for the

Special disability
courts.

Power to make
rules and
regulation.

Removal of
difficulties.

Repeal and savings.

participating Persons with Disabilities and shall also facilitate such persons in getting affordable life and other forms of insurance.

(2) The council may set up a separate fund to pay premium for the Persons with Disabilities who cannot pay for the premium from their own sources.

28. (1) For speedy justice the government shall designate Special Disability Courts to hear cases under this law or other laws in which one or more parties are Persons with Disabilities.

(2) There shall be an effective institutionalized mechanism to monitor such cases by appropriate judicial forums.

CHAPTER- IV MISCELLANEOUS

29. (1) The government shall have power to make rules and regulations under this law for its efficacious and effective implementation and for carrying out the purposes of this Act.

(2) The council shall have power to make regulations for its internal organization and operation and also to lay down processes and procedures to implement this act and rules made under it.

30. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the government may make such order, not inconsistent with the provisions of this Act, as may appear to be necessary, for the purpose of removing the difficulty.

31. (1) The Disabled Persons (Employment and Rehabilitation) Ordinance XL of 1981 in its application to the Province of Balochistan is hereby repealed.

(2) All the acts done under the repealed law shall continue to remain in force and cases for the time being pending in courts and tribunals shall be decided according to that law.