

THE BALOCHISTAN WATER USERS' ASSOCIATION
ORDINANCE, 1981

(Baln Ordinance V of 1981)

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THE [BALOCHISTAN] WATER USERS' ASSOCIATION
ORDINANCE, 1981]

(Baln Ord. V of 1981)

[30" April, 1981]

An Ordinance to provide for the formation, operation and promotion of water users, association in the Province of 3[Balochistan].

Preamble. WHEREAS it is expedient to provide for the formation, operation and promotion of water users' associations in the Province of *[Balochistan] and matters ancillary thereto in the manner hereinafter appearing;

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

NOW, THEREFORE, in pursuance of the Proclamation

of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the Governor of *[Balochistan] is pleased to make and promulgate the following Ordinance:—

CHAPTER- I

PRELIMINARY

Short title, extent 1. () This Ordinance may be called the °[Balochistan] and commencement. Water Users' Association Ordinance, 1981.

(2) It extends to whole of the Province of [Balochistan].

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This Ordinance was promulgated by the Governor of Balochistan on 29" April, 1981; published in the Balochistan Gazette (Extraordinary) No.64 dated 30" April. 1981. Saved and, validated by Article 270-A of the Constitution of the Islamic Republic of 1973.

Spelling corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (S&GAD-89, dated 18" June, 1989.

Inserted ibid.

Inserted ibid.

Inserted ibid.

Inserted ibid.

Spelling corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (S&GAD-89, dated 18" June, 1989.

Definitions.

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Inserted ibid.

(3)

This section shall come into force at once and all

or any of the remaining provisions of this Ordinance shall come into force in such area or areas and on such date or dates as Government may, by notification, direct.

2. In this Ordinance, unless there is any thing repugnant in the subject or context:

(a)

(b)

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(d)

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(f)

(g)

(h)

(i)

G)

(k)

“Association” means an Irrigation association (Anjuman e abpashi), organized and registered under section 6 of this Ordinance;

“Association in good standing” means an Association that is not in default of a bona-fide legal obligations;

“Association village” means that area of land irrigated from the source of water devolved or utilized by the association;

“Board of Directors” means the governing body of the representatives elected by the General Body;

“Bye-laws” means bye-laws of the Association;

“Canal Officer” means the Canal Officer as defined in the [Balochistan] Canal and Drainage Ordinance, 1980 (XX of 1980);

“Collector” means the Collector as defined in the West Pakistan Land Revenue Act, 1967 (XVII of 1967);

“General Body” means the collective body of membership of the Association;

“Trrigator” means the operator of a separate farm, whether he is an owner of land, tenant or renter, and includes the representative chosen by the joint owners or joint operators of a jointly owned or operated farm;

“Member in good standing” means any member whose payment of assessment is not in arrears by more than one year, or who is not under conviction for a criminal offence, or is not a minor;

“Membership” means all the irrigations who are members of the Association and are entitled to

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other laws.

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Association to be
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participate in the general assembly;

(J) "Outlet/tubewell village" means that portion of land irrigated from a particular canal outlet or Government tube-well; and

(m) "Water-course" means the main channel from the canal outlet (mogha) and laterals.

3. The provisions of this Ordinance and the rules made there under shall have effect notwithstanding any thing to the contrary contained in any other law for the time being in force;

CHAPTER- 2

PURPOSE, POWERS AND FORMATION

4. qd) The primary purpose of the Association shall be:-

(i) the operation, maintenance, improvement and rehabilitation of — the Watercourse;

(ii) the improvement of water supply from surface or ground water; and

(ii) the Improvement of Water Management.

On-Form

(2) The secondary purpose of the Association shall be to perform such other functions as relate to the obtaining of other agricultural inputs and economic and social well being of the membership.

5. An Association shall be a body corporate by the name under which it is registered, having perpetual succession with power to hold property, both movable and immovable, and shall by the said name sue and be sued.

6. qd) Whenever at least fifty-one percent of the irrigators on a water course who are above the age of eighteen years agree to the formation and operation of an irrigator's

Association (Anjuman-e- Abpashi), they shall make an application to the Director, Agriculture (Extension)/Project Director, On-Farm Water Management, through his Field Officer.

(2) Upon receipt of application, the Field Officer shall review the application and convene a meeting for all

irrigators in the watercourse command area.

(3) If seventy-five percent of the irrigators, who are above the age eighteen years, consent to formation of the Association, membership of the non-consenting irrigators or those who are not capable of so consenting under any law for the time being in force shall be deemed to have consented to be the members of the Association.

(4) Upon receipt of complete membership list and after ascertaining the facts as mentioned in sub-section (1) or, as the case may be, sub-section (3), the Field Officer shall, approve the application, register the Association by entering the name and particulars of the Association in a register to be kept for the purpose, send one copy of the list to the Director, Agriculture (Extension)/Project Director, On-Farm Water Management, and provide the Association with a certificate of formation as evidence of legal existence.

(5) The membership list shall be kept current by the Association.

(6) The Field Officer shall examine and approve the membership list, and shall determine that each member is a bona-fide land owner or an operator or tenant.

(7) Any person aggrieved by the decision of the Field Officer may file an appeal to the Collector, whose decision thereon shall be final ![:

Provided that no order in appeal shall be made against any person unless he has been given an opportunity of being heard.]

(8) The list of Associations and names of Officers of Association shall be sent to the Irrigation, Agriculture, Revenue and other requesting Departments.

(9) The Association shall, within 30 days of the approval of the membership list, convene a meeting of the General Body, elect the Board of Directors, adopt bye- laws and open a bank account.

71(10)] The level of formation of an_ irrigators' Association shall be at the outlet village or tubewell village. The Association may increase its irrigated area by tubewells, and Associations sharing a common Government of Private tubewell may make provisions in by-laws for operation and maintenance of the same.

Full-stop subs. by a colon and proviso added by Act II of 1986; effective from 1 December, 1984.
Subs. for the figure with full-stop "10." by Act II of? 1986; effective from 1 December, 1984.

Powers of 7.

Association

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(i)

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(xiii)

In carrying out the functions under the Ordinance the Association shall generally have the powers.

to improve, rehabilitate, operate and maintain the watercourses;

to improve the water supply from surface or sub-surface sources;

to locate, own, operate and maintain tubewells and liftpumps in the name of the Association;

to sanctioned upgrading and maintenance of farm ditches and field outlets;

to encourage adoption of improved on-farm water use and management practices and other improved land and agricultural input practices;

to participate in programs to improve water courses, land levelling and

agronomic practices, and to lease, own, operate and = maintain equipment, structures and other matters associated with improvement efforts;

to establish water delivery schedules and supervise water allocation and distribution in the Association village in such a manner so as not to interfere with canal water delivery;

to set and collect general and special assessments;

to conscript labour for emergency repair of watercourse;

to locate, install and maintain drainage facilities for fields;

to remove obstructions in watercourse during realignment, operation and maintenance;

to enter into contracts for obtaining loans and grants and setting a repayment schedule;

to insure that all members rights under

Composition.

General meetings.

Special meeting.

Duties of General Body.

Voting.

Resolving disputes.

the laws are respected, and that each member gets his fair share of water in a timely fashion; and

(xiv) to insure that all members of the Association contribute their fair share of labour, money and other services for improvement, maintenance and operation of the watercourse.

CHAPTER- 3 GENERAL BODY

8. The irrigators of an Association shall constitute the General Body.

9. Every Association shall call an annual general meeting

of the membership and not less than one other general meeting per year.

10. On request of not less than one-fifth of the members of the Association or at the request of the Board of Directors, the Chairman shall call a special meeting of the membership.

11. The General Body shall elect the Board of Directors, make or approve organizational policies, and plan of operation, approve and amend by-laws approve assessment and budget, approve selection of ditch tenders and assessment collectors, approve adoption of improvement programs and _ leasing, purchasing or otherwise obtaining equipment, pumps, seeds, fertilizer, chemical and other like products and do all other things necessary to carry out the purposes of this Ordinance and the Association's bye-laws.

12. qd) All irrigators shall be entitled to vote on issues requiring voting in carrying out the duties of the General Body.

(2) Each decision by the General Body shall require two third majorities of votes.

13. () The General Body may either elect a special

body to, or delegate to the Board of Directors the authority to, hear and decide disputes between members of the Association.

(2) Violation of the decision of the Board or the

Composition.

Chairman and
Officers.

Quorum.

Oath.

Duties of Board of
Directors.

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special body shall only be punishable with a fine and not suspension of water delivery unless approved by the General Body.

CHAPTER- 4 BOARD OF DIRECTORS

14. qd) There shall be elected by the General Body, using secret ballot, a Board of Directors consisting of not less than five members in good standing.

(2) The General Body shall decide and include in the Association bye-laws whether the representatives to the Board of Directors are to be elected from geographic portions of the watercourses (head, middle and tail) or by special group or at large.

(3) No member elected to the Board of Directors shall enjoy any benefits greater than other member by virtue of his elected position.

(4) Members of the Board of Directors shall be elected for two years term, except in the first election after organization when one-half or thereabouts shall be elected for one year. Thereafter half or thereabouts shall be elected annually. A person shall not serve for more than two consecutive terms on the Board of Directors.

15. The members of the Board of Directors shall annually choose a Chairman, Secretary and Treasurer. If the bye-laws so specify, the Chairman may be by rotation and Vice-Chairman also appointed.

16. Action by the Board of Directors shall require two third vote of the total members of the Board.

17. Members of the Board of Directors shall make an oath to uphold the purpose and duties of the Association and if they be muslims, to also uphold the tenets of Islam.

18. The Board of Directors shall be responsible for carrying

out the purposes of this Ordinance, the Association bye-laws and more particularly shall;

(i) manage the Association activities in delivery of water;

Duties of Chairman.

Duties of Secretary.

Duties of Treasurer.

(ii) develop a plan of operation, maintenance, improvement and rehabilitation of the watercourse;

(iii) supervise the construction and maintenance of the water course and other improvement activities;

(iv) employ and discharge ditch tenders, collectors and construction personnel;

(v) exercise emergency powers to repair water course breakage;

(vi) negotiate and contract with government agencies and other institution for improvement programmes acceptable to the General Body;

(vii) serve as the communication link between government agencies in dissemination of information and all matters representing the views and requests of the Irrigators Associations;

(viii) maintain the financial and organizational records of the Association; and

(ix) call special meeting of the General Body for any matters involving original expenditure and other important issues involving the general membership.

19. The Chairman shall be responsible to call and conduct meeting of the Board of Directors and General Body and to otherwise act on behalf of the Association in all other matters. The Chairman may designate a temporary Chairman in case he is unable to perform his duties; provided that if there is a Vice-Chairman, he shall act as the Chairman. The Chairman and the Secretary shall sign all contracts and other obligations of the Association.

20. The Secretary shall keep a record of minutes of the Association.

21. The Treasurer shall keep and maintain financial records

of the Association. The Treasurer may make deposits in the

Assistance to the
Board.

Distributary
Associations.

Canal/Karez (or any
other source of
perennial water
Association).

Association's account, but all withdrawals shall require the
signatures of both the Chairman and Treasurer.

22. The Board of Directors may appoint a person competent
to perform the duties of Secretary or Treasurer to assist the
Secretary or Treasurer in the performance of their duties.

CHAPTER- 5 FEDERATION OF ASSOCIATIONS

23. qd) The irrigators' Associations on each distributary
may form a Federation of Associations (hereinafter called the
Distributary Association). Such an Association, when formed,
shall be called by the name of the distributary concerned.

(2) When more than half of the watercourses on a
distributary are organized into irrigators' Associations, they
may form a Distributary Association. Any other Association
formed thereafter on any other watercourse on the same
distributary shall immediately become constituent member of
the Distributary Association.

(3) Each Irrigators' Association shall send one
representative to the Distributary Association.

(4) The Chairman of the Irrigators' Association shall
act as the representative of his Association to the Distributary
Association.

(5) The members of the Distributary Association
shall select a Chairman and other officers as needed.

24. () On each major Canal/or any other source of
perennial water all the Distributary Association may form a
Federation of Association (hereinafter called the Canal/or any
other source of perennial water Association). Such an
Association, when formed, shall be called by the name of the
canal/or any other source of perennial water concerned.

(2) When more then half of the distributaries on a
major canal/or any other source of perennial water are
organized into Distributary Association, they may form a canal

Association. Any other Distributary Association formed thereafter on the remaining distributary shall immediately become constituents member of the Canal Association.

(3) Each Canal Association shall have a Board of Directors and the Chairman of each Distributary Association

Registry of
Distributary and
Canal Association.

Duties and powers.

shall be the representative to the Board of Directors of the
Canal Association.

(4) The members of the Canal Association shall
select Chairman and other officers as is needed.

25. The Distributary Association and the Canal Associations
shall be registered with the Director of On-Farm Water
Management Project. A copy of the registry and name of
Chairman shall be provided to all other concerned departments.

26. qd) The Distributary Association or Canal
Association shall:—

(i) represent its members in issues and
problems related to the distributary
or, as the case may _ be, more than one
distributary or the whole canal;

(ii) represent its respective constituent

members to the Department of
Irrigation, Agriculture and any other
Department;

(ili) serve as channel of | communication
between the Irrigation Department and
the constituent member of the
Association;

(iv) _ participate actively with the Irrigation
Department in the improvement,
maintenance and operation of the
distributaries and canals;

(v) maintain financial records and
minutes of meetings, levy
assessments upon member
Associations and exercise collection
authority on a voluntary basis or in case
of default by certifying the amount
for collection to the Collector; and

(vi) make by-laws and rules of operation.

(2) The Distributary Associations or Canal
Association may:-

(i) make recommendations and requests for distribution of water into a minor or

Capital Expenditure
and Improvements.

Evidence land
ownership.

Transfer to
memberships.

Assessment.

Credit.

Auditing of
Accounts.

Fines for abuse.

distributary on a demand or fixed

delivery basis.

(ii) make recommendations and requests to
the Irrigation Department for
construction of bridges, regulators,
drop _ structures, new minor canals, etc.
at Association cost or cost- sharing.

27. The Board of Directors of the Distributary or Canal
Association shall, before committing or making any major
capital expenditure of improvements, obtain the approval from
membership of their respective Irrigator's Association.

CHAPTER- 6 MISCELLANEOUS PROVISIONS

28. Membership in the Association as representative of joint
owners or as tenant does not imply relinquishment or *prima
facie* evidence of title to land.

29. In the event of any transfer of any type of an irrigators'
holding to another irrigator who previously was not a member
of the Irrigator's Association, the membership in the
Association shall also stand transferred.

30. () General Assessments shall be to carry out the
primary purposes of the Association.

(2) Special Assessments shall be to carry out the
secondary purpose of the Association.

(3) Assessments should be allocated in proportion to
cultivable lands in the Association village.

31. Credit may be extended to a legally constituted Association responsible for its debts and actions and being in good standing. The Association will have power to encumber the land in the command area with out unanimous consent of the land owners.

32. The Association shall have the financial accounts audited every year by an auditor selected from the government list of approved auditors.

33. The Association shall adopt a schedule of fines in the

bye-laws, which fines shall be either commensurate with the damage caused or, as the case may be, the benefit received, or may be levied in proportion to acreage irrigated on the water course.

Enforcement of fines 34. qd) The Board of Directors may certify to the

and fees. Collector the amount recoverable from a member as fines or fees, which the member refuses to pay on demand collectable as arrears of land revenue.

(2) The Collector shall recover the said amount so certified and reimburse this to the Association.

Acquisition lands. 35. The Association may acquire lands necessary for location or relocation of watercourses and installation of tubewells on a voluntary basis, with compensation to be paid accordingly for the land so acquired.

Contract waterand 36. The Association or Federation of Association at any

water rates. level may contract with the Irrigation Department for the supply of canal water on a contract basis at the outlet, or contract on volumetric rate basis at the minor or distributary canal, as provided in the canal rules, instead of the crop rate basis commonly used. In this case, the Association will collect and pay the agreed rate to Government.

Improvement 37. Any Association or Federation of Associations which

distributary desires to improve the distributary or participate in improvement process on the distributary or canal must first have the approval and supervision of the Canal Officer.

Preferential The Departments of Irrigation, Agriculture, Revenue and

treatment. Cooperatives and Credit Institutions shall give preferential treatment to Irrigators' Association organized and registered under this Ordinance to facilitate their efficient functioning.

Preparation of rules. 39. The Directorate, On-Farm Water Management, shall prepare necessary forms to expedite and facilitate formation of Irrigators' Associations and Federations of Associations.

Power to make rules. 40. The Government of [Balochistan] may make rules for carrying out the purposes of this Ordinance.

Spelling corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (S&GAD-89, dated 18" June, 1989.

