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BALOCHISTAN _PROVINCI SEMBLY RETARIAT.

: NOTIFICATION.

Dated Quetta, the 22TM June, 2022.

No. PAB/Legis:V(23)/2022/8436. The Balochistan Worker's Welfare Fund Bill 2022 (Bill No.23 of 2022), having been passed by the Provincial Assembly of Balochistan on 10th June, 2022 and assented to by the Governor Balochistan, on 22nd June, 2022 is hereby published as an Act of the Balochistan Provincial Assembly.

THE BALOCHISTAN WORKER'S WELFARE FUND ACT, 2022
ACT NO. XXI 2022.

(first published after having received the assent of the Governor of Balochistan in the Balochistan Gazette(Extra-ordinary) dated 22nd June, 2022.

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ACT

Act to provide for the establishment of Balochistan Worker's Welfare Fund
www.ezqanoon.caand execution of worker's welfare schemes.

Preamble.

Short title,
extent and
commencement.

Definitions.

CHAPTER I
PRELIMINARY

WHEREAS is necessary to provide for the establishment of
the Worker's Welfare Fund in the Province of Balochistan for
worker's welfare, and for ancillary matters.

It is hereby enacted as follows;-

- (1)
- (2)
- (3)

This Act may be called "the Balochistan Worker's
Welfare Fund Act, 2022".

It extends to whole of Balochistan.

It shall come into force at once.

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

- (a)
- (b)
- (c)

"Act" means the Balochistan Worker's Welfare Fund
Act 2022;

"Authority" means the Balochistan Revenue Authority
established under the Balochistan Revenue Authority
Act 2015 (Act No Vil of 2015);

"employer" shall have the same meanings as
assigned to it in section 2 of the Balochistan Industrial

Relations Act 2010 (Act No. XIV of 2010) "Employer" and in relation to an industrial establishment means any person or body of persons, whether incorporated or not, who or which employs worker in the industrial establishment under a contract of employment or is worker as defined in clause (n) and includes the fisherman and the following —

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* an heir, successor or assign, as the case may be, of such person or body as aforesaid;

* any person responsible for the management, supervision and control of the establishment; and

« in relation to any other establishment, the proprietor of such establishment and every director, manager, secretary, agent or other officer of person, concerned with the management of the affairs thereof.

“establishment” shall have the same meanings as assigned to it in section 2 of the Balochistan Industrial Relations Act, 2010 (Act No. XIV of 2010);

“Fund” means the Worker’s Welfare Fund constituted under section 3 of the Act;

“Governing Body” means the Governing Body constituted under section 8 of the Act;

“Government” means Government of Balochistan;
“industrial establishment” means —

(i) any concern owning or managing a factory, workshop or other establishment in which articles are produced, adapted or manufactured with the aid of electrical, mechanical, thermal, nuclear or any other form of energy transmitted mechanically and not generated by human or animal agency;

(ii) any concern working in mine or quarry or natural gas or oilfield or power stations or ports;

(iii) any concern engaged in the carriage of worker and goods by inland mechanically propelled vessels;

{iv)any concern engaged in the growing of tea,

coffee;

(v) any concern engaged in the Banking or financial Institution except State Bank of Pakistan;

(vi) any concern engaged in telecommunication and power generation;

(vii) any other concern or establishment which Government, may by notification in the official Gazette, declare to be an industrial establishment for the purposes of this Act but does not include any concern or establishment which is owned by

Government or by a corporation established by Government or where majority of its shares are owned by Government.

(i) "Income Tax Ordinance" means the Income-tax Ordinance, 2001 (XLIX of 2001);

(j) "prescribed" means prescribed by the rules made under the Act;

(k) "Secretary" means the Secretary of the Fund;

(l) "Taxation officer or Officer of Inland Revenue" means any person appointed as such under the Income Tax Ordinance, 2001, Balochistan Sales Tax on Services Act, 2015 and the Federal Excise Act, 2005;

(m) "total income" means:

(i) where return of income is required to be filed under the Income Tax Ordinance, 2001, the profit before taxation or provision for taxation as per accounts or the declared income as per the return of income, whichever is higher; and

(ii) where return of income is not required to be filed under the Income Tax Ordinance, 2001, the profit before taxation or provision for taxation as per accounts or four percent of the receipt as per the statement filed under section 115 of the Income Tax Ordinance, 2001, whichever is higher;

(iii) where both return and statement are filed under sub-clauses (i) and (ii), both the incomes would be clubbed to form the total income;

(iv) income tax and other taxes deducted at source or paid with income tax return should be considered as tax paid on taxable income.

Constitution of
the Fund.

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“worker” shall have the same meanings as assigned to it in section 2 of the Balochistan Industrial Relations Act 2010 (Act No. XIV of 2010) and includes any person not falling within the definition of employer who is employed in an industrial establishment or industry for hire or reward either directly or through a contractor whether the terms of employment be expressed or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay-off, or removal has led to that dispute and shall include the family viz. spouse, unmarried sons, daughters and dependent parents but does not include any person—

who is employed mainly in a managerial or administrative capacity; or

any person responsible for direction, administration, management and control of the industrial establishment,

“prescribed” means prescribed by the rules made under the Act;

There shall be constituted, for purposes of the Act, a Fund to be called the Balochistan Worker's Welfare Fund;

The Fund shall consist of:

(a) an initial contribution to be made by the Government as and when deemed appropriate or required;

(b) the share of all assets and funds received from the Worker's Welfare Fund as transferred by the Federal Government:

Mode of payment (1)

by, and recovery

from

establishments.

(c) such money as may, from time to time, be paid by the establishments under section 4 and 5 of the Act;

(d) the amount transferred to the Fund from time to time under proviso 1 and proviso 2 to clause (d) of paragraph 4 of the scheme set out in the Schedule to the Balochistan Companies Profits (Workers Participation) Act, 2022 or clause (d) of paragraph 4 of the scheme set out in the Schedule to the Companies Profits (Workers Participation) Act, 1968 (Act No. XII of 1968);

(e) voluntary contributions in the shape of money or building, land or other assets made to it from time to time by Federal Government, Provincial Government, local body or corporation established under law, or by any person, charitable institutions or philanthropists;

(f) income from the investments made and properties and assets acquired from out of the Fund; and

(g) proceeds of loans raised by the Governing Body with the approval of the Government.

(h) all assets transferred and devolved by the Federal Government.

Every establishment or industrial establishment or part thereof located in the Province of Balochistan and the total income of which in any year of account commencing on or after the date of closing of accounts on 30th of June or after 31st December, 2021 as the case may be, is not less than five hundred thousand rupees, shall pay to the Fund in respect of that year a sum equal to two percent of so much of its total income declared and the difference based on the assessed total income, if any, made at the higher or lower side of such total income at the time the difference in tax is paid, or total income which would have been assessable but for the exemption under the Income Tax

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Ordinance based on the return of income or statement in respect of total income or before the date of filing of Return and the additional amount on assessment of income by the Taxation Officer or Officer of Inland Revenue. All available or left over amounts, on or before the aforementioned dates, shall also be deposited and transferred into the Government of Balochistan head of account mentioned in sub section (2) of Section 4 of this Act.

Every establishment or industrial establishment liable under the Act shall pay the amount due from it by depositing in, the Head of Account as notified by the Finance Department, Government of Balochistan within thirty days from the closing of accounts which shall further be released to the Fund through the Finance Department.

The establishment or industrial establishment shall on or before the specified date for filing of returns of income or a statement under the Income Tax Ordinance, 2001 shall pay the amount due and shall furnish the proof of payment along with a copy of income tax return to the Authority.

The officer authorized by the Authority shall, by order in writing, determine the amount due from an establishment or industrial establishment under the Act, if any, after taking into account the amount paid by the establishment or industrial establishment in respect of that year and the establishment or industrial establishment shall pay the amount so determined or any difference in respect thereof on or before the date specified in the order.

Any change by way of enhancement or reduction in the total income shall be given effect by adjustment of the amount due under this section.

Any amount paid by an establishment or industrial establishment under this section, on the basis of an

order in an appeal under the Act, to have been paid in excess shall be refunded to the establishment or industrial establishment or shall be adjusted against the

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liability under the laws of Balochistan Revenue Authority, in the succeeding year of account on the request of the employer.

The payment made by an establishment or industrial establishment for the Fund under this section shall be treated as expenditure for purposes of assessment of income tax.

Where assessment of income under the Act for any year is not finally made on or before the specified date, the establishment or industrial establishment shall pay the amount as required under this section for that year on the basis of average of income assessed during the preceding two years.

Difference of an amount paid under this section shall be adjusted on the finalization of assessment of income for a particular year.

Where any establishment or industrial establishment fails to pay willfully or otherwise the amount due from it under the Act, it shall without prejudice to any other liability to which it may be subject under the Act or any other law for the time being in force, be liable to pay an amount equal to fifteen percent per annum of the amount due from it, in addition to the amount payable by such establishment or industrial establishment.

Where an establishment or industrial establishment is not found registered with the Federal Board of Revenue established under the Federal Board of Revenue Act, 2007 (IV of 2007), the Authority shall issue a notice and a form of statement for purposes of assessing, determining and requiring the establishment to make a payment under the Act.

In case of a trans-provincial establishment or industrial

establishment, the highest office with whatever name, of the establishment or industrial establishment within the premises, or in the Province shall be deemed as head office of that establishment or industrial

establishment for the purpose of this Act and shall be liable to deposit all the amounts due under the Act or as prescribed rules, into the head of account, as notified for the purpose, by the Finance Department, Government of Balochistan.

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(13) An establishment or industrial establishment, being aggrieved from the assessment, adjustment or refunds, may file an appeal under the laws of the Balochistan Revenue Authority;

(14) If an establishment or industrial establishment fails to make a payment under this section, the amount payable shall be recovered by the Authority in the manner prescribed under the Laws of the Balochistan Revenue Authority including but not limited to the Balochistan Sales Tax on Services and rules and regulations or procedures made thereunder and be deposited for the Fund in the Head of Account as notified by the Finance Department, Government of Balochistan, immediately after defraying all the expenses, to the Authority to the extent and in manner @5 may be prescribed by the Authority.

(15) Where an amount of Fund due from an establishment or industrial establishment under the Workers Welfare Fund Ordinance, 1971 (XXXVI of 1971), for a particular income or year of account, as the case may be, or any payable arrears, thereof, due to any dispute, stay, being subjudice etc. on or before the dates mentioned in section 4 or the commencement of this Act, shall be

paid to the Fund.

5 Payment of (1) Every establishment or industrial establishment referred additional to the subsection (1) of section 4 of the Act, shall, in amount. addition to the amount payable by it under that

subsection in respect of any year of account, pay such amount as the Government may determine on the recommendation of a Committee constituted under subsection (2) of Section-5 of the Act, thereafter in this section referred to as the Committee;

(2) For the purposes of subsection (1) of this Section, the Chief Minister may constitute one or more Committees,

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and where it constitutes more than one Committee, it shall specify the area or class of establishments or industrial establishment in relation to which each such Committee shall perform its functions;

A Committee constituted under subsection (2) of this Section shall consist of a Chairman, who shall be regular employee of the Government, and not more than three other members to be appointed by the Chief Minister, Balochistan, of whom:

(a) one shall be appointed from amongst the employers or, as the case may be, in the area or class of establishments or industrial establishments in relation to which the Committee is to perform its functions; and

(b) one shall be appointed from amongst the workers or, as the case may be, in the area or class of establishments in relation to which the Committee is to perform its functions.

The Committee shall examine the financial and other circumstances of an establishment or industrial establishment and make recommendations as to the amount, if any, to be paid by such establishment or industrial establishment in addition to the amount payable by the establishment or industrial establishment under subsection (1) of section 4 of the Act.

The Committee shall submit its recommendations to the Governing Body which shall forward the recommendations together with its own observations, if any, to the Chief Minister, Balochistan and the decision of the Chief Minister, Balochistan shall be final and binding for all concerned,

The Committee shall have the power to require any

establishment or industrial establishment to furnish such information as it may consider necessary for the performance of its functions and if an establishment or industrial establishment fails to furnish the required

6 Liability to be
discharged by

certain persons.

7 Purposes for
which the Fund

may be applied.

8 Constitution of
the Governing
. Body.

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information, the Committee shall make its
recommendations on the basis of such information as
may be available to the Committee;

The provisions of section 4 shall apply, mutatis
mutandis, to an amount payable under subsection (1) of
this section.

Any liability imposed on an establishment or industrial
establishment under the Act shall be deemed to be the
liability of the person who is an employer in relation to an
establishment or industrial establishment.

The Fund may be applied for:

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financing of projects connected with the
establishment of housing estates or construction of
residential accommodation and educational
institutions for the workers and their families;

financing of other measures including education,
training, skill development, apprenticeship, marriage
grants, death grants and talent scholarships for the

welfare of the workers and their families;

expenditures in respect of the cost of management and administration of the Fund;

repayment of loans raised by the Governing Body with the approval of the Government; and

investment in securities and other ventures for profit with the approval of the Government.

As soon as may be after the commencement of the Act, the Chief Minister shall, by notification in the official Gazette, constitute a Governing Body to whom shall be entrusted the management and administration under the Act;

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The Governing Body shall be a body corporate by the name notified by the Chief Minister, having perpetual succession and a common seal with power, subject to the provisions of the Act, to contract, acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue or be sued;

The Secretariat of the Governing Body shall be in Quetta with its regional offices at Hub, Gwadar, Taftan, Deramurad Jamali and Loralai or any other area notified by the Government:

All decisions of the Governing Body shall be expressed in terms of the opinion of the majority of the members of the Governing Body present in a meeting and, in the event of an equality of votes, the Chairperson shall have a casting vote;

The Government may issue directions to the Governing Body regarding policy matters including the matters relating to workers welfare schemes.

A casual vacancy in the office of a member of the Governing Body shall be filled, as soon as may be, by nomination of another person and the person so nominated to fill such vacancy shall hold office for the unexpired term of his predecessor.

(a) The Governing Body shall consist of:

(i) Secretary to the Government, Chairperson;

Labour and Manpower Department.

(ii) Secretary, Government of Balochistan
Finance Department, Member

(iii) Commissioner, Provincial Employees' | Member

Social Security Institute;

{iv} Director General Labour Welfare, Member
Balochistan;

{v} Chairperson Balochistan
Revenue Authority; Member

(vi) Commissioner, Mines Labour Welfare; Member

(vii) Secretary Balochistan Worker's :
Welfare Fund; Member! Secretary

(viii) One representative each not below the rank of
Special Secretary or an Additional Secretary
(where there is no Special Secretary) from
Finance, Industries, Communication and Works
and School Education Departments of the
Government;

Members

(ix) three representatives of the employers, at
least one shall by woman;

Members

(x) three representatives of the workers, at least
one shall be woman; Members

(xi) any other member co-opted by the Chairperson.

(2) The Chairperson and the Secretary shall be entitled a

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fund allowance in addition and equal to his last pay
drawn where as the non official members shall be
entitled for the participation allowance as decided by the
Governing Body but shall not exceed rupees PKR-
50000/- per meeting.

The members mentioned under sub clause (x) and (xi)
of subsection (7) shall respectively be nominated by the
Chief Minister on the terms and conditions as may be
determined by the Chief Minister;

The members of the Governing Body other than the
official members shall hold office till the pleasure of the
Government; however the normal tenure of a member
or nominee shall be three years;

(10) No act or proceedings of the Governing Body shall be

invalid by reason only of the existence of a vacancy in,
or defect in the constitution of the Governing Body.

(11) The quorum for the meeting shall be at least one-third

ex officio members and one member each from the employers and the employees.

10 Appointment of the employees.

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There shall be a Secretary of Balochistan Worker's Welfare Fund to be appointed by way of Transfer by the Chief Minister from amongst the regular employees of the Government of Balochistan or the eligible employee of the Workers Welfare Fund, of BPS-19, of the Province.

The Secretary shall perform such functions and shall exercise such powers as may be prescribed or till such time as may be determined by the Chief Minister, Balochistan

The employees of the Balochistan Workers Welfare Board constituted under the Workers Welfare Fund Ordinance, 1971 (XXXVI of 1971) other than those who are on deputation from other departments and corporations, shall continue as employees under the Act on the existing terms and conditions until amended

subsequently by the Government;

The Governing Body may, with the prior approval of the Government, also appoint such other employees as it may consider necessary for the efficient performance and administration of the Fund;

The Governing Body shall determine the terms and conditions of service of the employees with the prior approval of the Chief Minister, Balochistan;

The Chairperson of the Governing Body shall be the appointing authority for the employees subject to the approval of the Chief Minister, Balochistan.

11. Governing Body As soon as may be after its constitution, the Governing to lay down Body shall, with the previous approval of the procedure etc. Government, lay down the policy for efficient and

effective administration of the Fund including the

procedure for:

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(a) making applications or utilizations for the Fund;

(b) information to be furnished in respect of applications of the Fund;

(c) the principles to be followed and priorities to be fixed in such applications;

(d) incurring expenditure in respect of cost of management and

administration of welfare schemes;

(e) getting accounts of the Funds

0 annually audited;

(regulating other matters necessary

for, connected with or incidental to the discharge of its functions under the Act; and

(g) extending and regulating workers welfare schemes including eligibility criteria and further administration of such schemes.

12 Functions of the The functions of the Governing Body shall be to:

Governing

Body. (a) allocate the amounts of Fund to an Authority of

the Government and any body corporate for any of the purposes of the Act in the manner as may

be prescribed;

- (b) sanction expenditure in respect of the administration and management of the Fund;

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Money allocated
from the Fund.

16

(c) invest in the safe, securities and term deposits with the AAA rating commercial banks approved by the Government;

(d) dispose of the moveable and immoveable property of the Fund with the prior approval of the Government;

(e) raise loans and to take measures for discharging such loans with the prior approval of the Government;

(f) invest in other ventures of profit with prior approval of the Government;

(g) do or cause to be done all acts and things necessary or desirable for the proper administration of the Fund;

(h) do or cause to be done all things ancillary or incidental to any of the aforesaid functions; and

(i) give recommendation to the Government to review the investment policy or matters pertaining to workers welfare.

(j) of any other function as may be assigned by the Government.

Any money allocated under the Act shall be in the form as grant-in-aid and shall vest in the Government, an Authority or body corporate, to whom it is allocated, but it shall not be applied by the executing Authority to any purpose other than that for which it is allocated, or permitted by the Governing Body.

Maintenance of The Governing Body shall:

books of
account etc.

(a) cause to be maintained all such books of

account as may be required for efficient and transparent disposal of the official business or as may be prescribed from time to time;

(b) cause to be prepared in the prescribed manner an annual statement of account;

(c) cause the accounts of the Fund to be audited annually by the Director General Audit, Balochistan or an auditor who is a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961); and

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(d) submit to the Government, the statement referred to in clause (b) together with the

report of the auditor thereon.

15 Delegation of The Governing Body may direct in writing that all or any powers. of its powers and functions under section 12 may, subject

to such limitations, restrictions or conditions, if any, as may be imposed by it from time to time, be also exercised

F} or performed by the Secretary to the Fund.

16 Power to make (1) The Government may, by notification in the official - rules. Gazette, make rules for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:

(a) terms and conditions of appointment of the members of the Governing Body;

(b) manner in which the Governing Body shall conduct its business, including the number of members required to form a quorum at meetings thereof;

(c) books of account to be maintained by the ' Fund and the form of its statements of account;

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17 = Removal of difficulties.

18 Bar of suits, prosecution and other legal proceedings.

19 Exemption from taxes.

20 ~ = Act to override other laws.

18

(d) procedure to be followed for determination of utilization of funds; and

(e) formulation of investment policy, constitution of investment Committee and its terms of references.

The Government may pass such order for removing any difficulty or for bringing the provisions of the Act into effective operation as it may deem fit.

(1) No suit shall be brought in any Civil Court to set aside or modify any order passed, under the Act.

(2) No suit, prosecution or other legal proceeding shall lie against the Government or against any public servant in respect of any order passed in good faith under the Act.

(3) Notwithstanding anything contained in any other law for the time being in force, no investigation or inquiry shall be undertaken or initiated by any authority owned or controlled by the Government against any officer or official for anything done in his official capacity under the Act, except with the permission of the competent Authority.

(1) Notwithstanding anything contained in any other law for the time being in force, the Government may, by order in writing, exempt the Fund from any tax, duty, or rate leviable by the Government or by a local authority under the control of the Government.

(2) The Government may request the Federal Government to exempt the income of the Fund

including capital gains from the income tax under the provisions of the Income Tax Ordinance, 2001.

The provisions of this Act shall have over riding effect notwithstanding anything contained in any other law for the time being in force, or in any contract or the memorandum or articles of association of a company

21. ~+Repeal and (1) The provisions of Workers' Welfare Fund Ordinance, saving. 1971 (XXXVI of 1971), in its application to the province of Balochistan are hereby repealed.

(2) Notwithstanding the repeal of the provisions of the Workers' Welfare Fund Ordinance, 1971 (XXXV/ of 1971), all orders, rules or regulations made, notifications issued, actions and proceeding taken under the repealed Ordinance shall continue to remain in force until altered amended or repealed under the provisions of the Act.

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TAHIR SHAH KAKAR,
Secretary.

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