

THE PASNI FISHERIES HARBOUR AUTHORITY ORDINANCE,
1983

(Baln Ordinance VIII of 1983)

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'THE PASNI FISHERIES HARBOUR AUTHORITY
ORDINANCE, 1983

+ This Ordinance was made by the Governor of Balochistan on 18" June, 1983; published in the Balochistan Gazette (Extraordinary No. 164, dated 25" June, 1983. Saved and validated by Article 270-A of the Constitution of the Islamic Republic of Pakistan, (1973).

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(Bal Ordinance VIII of 1983)

[25" June, 1983]

An Ordinance to provide for the establishment of the
Pasni Fisheries Harbour Authority.

Preamble. WHEREAS it is expedient to provide for the establishment of an Authority for making all arrangements for the planning, construction, operation, management and maintenance of Pasni Fisheries Harbour for exploiting fisheries resources and providing services related 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 exercise of the powers conferred by Article 128 of the Constitution, read with Article 2 of the Provisional Constitution Order, 1981 (C.M.L.A. Order No. 1 of 1981), 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 Pasni and Fisheries Harbour Authority Ordinance, 1983.

commencemen oo,

t. (2) It extends to the whole of the Pasni Fisheries Harbour.

(3) It shall come into force at once.

Definitions. 2. In this Ordinance, unless there is anything repugnant in

the subject or context:—

(a) "Agency" means any department or organization of the Provincial Government and includes a Corporation or other body set up or controlled by such Government;

(b) "Authority" means the Pasni Fisheries Harbour Authority established under section 4;

(c) "Board" means the Board of Directors constitute

1 Spelling of the word "Baluchistan", wherever it appears in this Ordinance, is corrected by insertion of letter "o" instead of "u", Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

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under sub-section (1) of section 6;

“Building” includes any factory, industrial or business establishment, shop, godown, warehouse, house, outhouse, hut, hutment, shed, garrage, stable, well or platform and any other structure, whether meant for residential or business purpose for not made of masonry, bricks, wood, mud, thatch, metal, or any other material, but does not include a temporary structure made for purpose connected with agriculture;

“Chairman” means the Chairman of the Board;

“Fish” means any species of fish or a quatio animal including whales, seals, porpoises, turtles, shell-fish, oystor, crustaceans, ascidians and spawn and eggs of such animals;

“Government” means the Government of Balochistan;

“Harbour area” means the area falling within the limits of Pasni Fisheries Harbour as may be defined for purposes of this Ordinance;

“Land” includes building and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth and the foreshore and the bed of sea;

“Local Body” means a local council or council

constituted under section 10 of the Balochistan Local Government Ordinance, 1980!;

“Member” means a member of the Board;

“Regulation” means regulations made under this Ordinance;

“Rules” means rules made under this Ordinance; and

“Vessel” includes any fishing boat and fishing craft of whatever size and in whatever way propelled which is for the time being employed in fishing.

+ Now the Balochistan Local Government Act, 2010 (Act V of 2010), published in Baln. Gazette (Extraordinary) No. 48, dated 2010; which succeeded the earlier Balochistan Local Government Ordinance, 2001 (Ord. XVIII of 2001).

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Declaration of
Harbour area.

Establishment of
the Authority.

Management.

Constitution of the
Board.

3. () The Government may, by notification in the official Gazette, define its limits? for the purposes of this Ordinance; and may, from time to time, by a like notification, alter such limits.

(2) The limits defined under sub-section (1) may include any wharves, buildings and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the Harbour.

CHAPTER II ESTABLISHMENT OF THE AUTHORITY

4. qd) There shall be established an Authority to be known as the Pasni Fisheries Harbour Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire and hold property, both movable and immovable, and shall by its name sue and be sued.

5. qd) The general direction and administration of the Authority and its affairs shall vest in the Board which may exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Board in discharging its functions shall act on sound principles of fisheries harbour planning, construction, operation, management and maintenance and shall be guided on questions of policy by such directions as the Government may, from time to time, give.

(3) If any question arises as to whether any matter is a matter of policy or not, the decision of the Government shall be final.

6. qd) The Board shall consist of not less than six and not more than eleven members, including the Chairman, consisting of:—

(a) the Chairman, to be appointed by the Government;

(b) the Managing Director of the Authority;

2 For declaration of the limits of Pasni Fisheries Harbour, see Baln. Gazette (Extraordinary) No. 185, dated 4" July, 1984.

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Duties and
functions of
Chairman and
Members.

Headquarters of the
Authority and
meetings of the
Board.

(c) the Director Fisheries Department,
Government of Balochistan;

(d) a nominee of the Fish Processor's
Association;

(e) a nominee of local fishermen's
association; and

(f) such other members as the Government
may appoint.

(2) The Chairman and members, other than ex-
officio members, shall, unless the Government otherwise
directs, hold office for a period of three years.

(3) Any person ceasing to be Chairman or a member
of the Board by reason of the expiry of the term of his office
shall be eligible for re-appointment for another term of three
years or for such shorter term as the Government may decide.

(4) No act or proceeding of the Board shall be
invalid merely on the ground of the existence of any vacancy in,
or any defect in the constitution of the Board.

(5) The Chairman and any member may, by writing
under his hand addressed to the Government, resign his office:

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

7. () The Chairman and members shall discharge such
duties and perform such functions as are assigned to them by or
under this Ordinance.

(2) Until the Board is duly constituted, the Chairman
shall, subject to such directions as the Government may, from
time to time give, exercise the powers, discharge the duties and
perform the functions of the Board.

8. () Until the Authority establishes its headquarters

elsewhere within the Harbour area on the Balochistan coast, its headquarters shall be situated at Pasni.

(2) The meetings of the Board shall be held at such times and places and in such manner as the regulations may provide:

Provided that, until regulations are made in this behalf, the meetings of the Board shall be held as and when convened

Powers of the Authority.

by the Chairman.

CHAPTER III

POWERS AND DUTIES OF THE AUTHORITY

9. () Subject to the other provisions of this Ordinance, the Authority may take such measures and exercise such powers as may be necessary for the carrying out of the purposes of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by such-section (1), the Authority may:-

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incur any expenditure approved in the budget necessary for carrying out the purposes of this Ordinance;

acquire any land in the Harbour area;

hold, control and administer the property and funds of the Authority including funds for specific purposes;

enter into and perform all such contracts as it may consider necessary;

cause removal of any works obstructing the execution of any of its schemes;

seek and obtain advice and assistance for

the preparation of any planning scheme or for the execution of any schemes form any local body or agency and such local body or agency shall give the advice and assistance sough by the Authority to the best of its ability, knowledge and judgment, and additional expenditure, if any, involved in giving such advice or assistance shall be borne by _ the Authority;

undertaken the planning, detailed designing and supervision of the construction work required for the Harbour area;

select and engage consultants to assistance in the Planning, detailed

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designing and supervision of the construction work required for the Harbour area;

procure all goods and services necessary for construction of the Harbour area, and execute such construction work;

undertake the efficient operation of harbour facilities and carry out maintenance and repairs of Harbour structures, buildings, installations, internal roads and equipment and undertake periodic inspection of all facilities to ensure that they meet statutory standards of safety and hygiene;

ensure that essential utilities are provided and are maintained to a high standard;

regulate traffic within the Harbour area and make necessary security arrangements;

acquire, hold and dispose of property, both movable and immovable provided that the Board shall not be competent to acquire or dispose of any immovable property without the previous approval of the Government;

regulate, determine and administer
all matters concerning the Authority and
do all such acts and things as are
necessary for the purpose;

submit the budget of the Authority to the
Government for approval;

arrange for the Audit of the account of
the Authority;

with previous approval in writing of the
Government, raise funds and borrow
money on such terms as may be approved
by the Government; and

carry out any other important work not
specified in this section, if necessary and

appropriate for carrying out the purposes

of the Authority.

(3) The Authority shall frame:-

(a) a scale of charge to be levied for the use of utility services, for registration of fishermen, producers, buyers,

retailers, processor, — ship-chandlers, exporters of fish and fish products, users of all types of vehicles and transport and hotel management, hawkers, shipkeepers, who may use the premises of the Harbour area, and also such other charges which the Board may deem fit and necessary to generate funds for the operation, repairs, maintenance up-keep and effective management and control of the Harbour area;

(b) rules for appropriate arrangements for a wholesale auction of fish on the premises of the Harbour area and cause the auction fees to be received there from to be credited to the account of the Authority, for the purpose of funding of the operation, maintenance, repair and upkeep of the Harbour area; and

(c) regulations for the recovery of charges, fees or levies which may be due to the Authority for the use of its facilities and services.

Managing Director. 10. () The Government shall select and appoint a whole-time Managing Director to serve as a member of the Board, and to exercise effective control over, and make all decisions necessary for the smooth functioning of the day to day affairs of the Authority, under the general supervision of the Board.

(2) In particular and without prejudice to the generality of the foregoing power, the Management Director shall:—

(a) be responsible for, and have the authority necessary for overseeing and

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implementing in an expeditious and efficient manner, the construction of the Harbour area;

have effective control of the Harbour area as a wholesale fish market and all other water front installations and establishment to be built by the Authority;

subject to the concurrence of the Government and the Board, have the power to frame rules and regulations for the effective planning, construction, operation, management and maintenance of the Harbour area;

subject to the rules, allot or lease suitable plots of land to private individuals or firms for the establishment of boat building yards, fish processing industries, ice plants, cold storage facilities and related ancillary activities;

have the power and responsibility to:—

(i) exercise administrative control over the personal of the Authority;

(ii) exercise, in respect of the Authority, such other management, administrative and financial powers as deemed appropriate by the Authority;

(iii) submit the annual budget proposals of the authority to the Board;

(iv) maintain the accounts of the Authority;

(v) prepare the annual report of the Authority for the Board and the Government;

(vi) exercise such powers as the Board may delegate to him; and

Appointment and
functions of
Directors etc.

Recruitment
conditions of
service for
officers
officials etc.

Members and
Officers to be

public servant.

(vii) act on behalf of the Authority, in
any emergency, subject to the
obligation to report such
action to the Board at its next
meeting and to seek the Board's
ratification of any action so taken.

CHAPTER IV ESTABLISHMENT

11. qd) The Board shall appoint a Director of
Administration, a Director of Operations, a Harbour Master and
an Engineer having such qualifications and on such terms and
conditions as may be prescribed by regulations.

(2) The Director of Administration shall supervise
the personnel, accounts, public relations and general
administration and shall also keep records and statistics.

(3) The Director of Operations shall supervise
management of market, control maintenance of onshore
transport within the Harbour area and be responsible for general
harbour management, including docking and quaywall
activities, maintenance of navigational aids, operation of stores
within the Harbour and supervision of the Harbour.

(4) The Harbour Master shall supervise the security
services for onshore facilities and shall assist the Director of
Operations in the supervision of the Harbour.

(5) The Engineer shall assist the Managing Director
during period of construction work in the Harbour area in
overseeing and monitoring the planning, designing and
construction of the Harbour facilities.

12. The Authority shall, by regulations made with the prior

approval of the Government, lay down the procedure for the appointment of its officers and officials and the terms and conditions of their service, including the constitution and management of a provident fund for them and shall be competent to take disciplinary action against them.

13. The Chairman, member, officers and officials of the authority shall, when acting or purporting to act in pursuance of any of the provision of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

Indemnity.

Delegation of
powers to

Chairman etc.

Balochistan
Fisheries
Harbour
Authority
Fund.

Budget.

14. No suit, prosecution or other legal proceedings shall lie against the Authority, the Board, the Chairman or any member, officer or officials of the Authority in respect of anything in good faith done or intended to be done under this Ordinance.

15. The Authority may by general or special order, delegate to the Chairman or a member or an officer of the Authority any of its powers, duties or functions under this Ordinance, subject to such conditions or limitations as may be specified in the

order.

CHAPTER V

FINANCE

16. qd) There shall be formed a fund to be known as the

Pasni Fisheries Harbour Authority Fund which shall vest in the Authority and shall be utilized by the Authority to meet the charges in connection with its functions under this Ordinance.

(2) To the credit of the Pasni Fisheries Harbour Authority Fund shall be placed;

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

(d) sale proceeds of movable and immovable property and receipts for rendered;

services

(e) loans obtained by the Authority with the special or general sanction of the Govt;

(f) foreign aid and loans obtained from any

source outside Pakistan with the sanction
of, and on such terms as may be
approved by the Federal Government and
Govt. of Balochistan;

(g) proceeds of all charges and recoveries
made under this Ordinance; and

(h) all other
Authority.

sums receivable by the

17. ()
Authority shall submit to the Government for approval a

In the month of November each year, the

statement of the estimated receipt and expenditure in rupees in

Audit and
Accounts.

respect of the next financial year.

(2) In the manner prescribed by the Government, the Authority shall also submit to the Government for approval a statement of the estimated receipts and expenditure in foreign exchange in respect of the next financial year.

(3) The Authority shall obtain specific sanction of the Government in respect of each individual scheme costing two million and five hundred thousand rupees non-recurring or five hundred thousand rupees recurring of more to be financed out of the Pasni Fisheries Harbour Authority fund.

18. qd) The Authority shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including balance sheet in accordance with such general directions as may be issued, and in such form as may be specified, by Government.

(2) The accounts of the Authority shall be audited by two auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the Authority with the approval of Government, on such remuneration, to be paid by the Authority as the Government may fix.

(3) Notwithstanding the provision of sub-section (2), the Comptroller Balochistan, may, either of his own motion or upon request received in this behalf from the Government, undertake such audit of the account books and connected documents at such place or places as the Comptroller Balochistan may fix, and furnish such explanations and information as the Comptroller Balochistan or an officer authorized by him in this behalf may ask for.

(4) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance sheet of the Authority, and shall examine it together with the accounts and vouchers relating thereto and shall have a list delivered to him of all books kept by the Authority; and shall at all reasonable times have access to the books accounts and other documents of the Authority, and may in relation to such accounts examine any officers of the authority.

(5) The auditors shall report to the Government upon the annual balance sheet and accounts and in their report state whether in their opinion the balance sheet is a full and fair

Accounts.

Penalty.

Penalty for evading
rates etc.

Compensation for
damage to
property of
Board.

balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Authority's affairs and, in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(6) The Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Authority for the protection of the interest of the Government and of the creditors of the Authority or upon the sufficiency of their procedure in auditing the accounts of the Authority, and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditors if in its opinion the public interest so requires.

(7) The Authority shall comply with every direction issued by the Government for the rectification of matters objected to in audit.

19. The Authority shall, with the prior approval of the Government, open an account in any scheduled Bank in

Pakistan.

CHAPTER VI

PENALTY AND PROCEDURE

20. Whoever contravenes any provision of this Ordinance

or any rule or regulation made or scheme sanctioned thereunder shall, if no other penalty is provided for such contravention, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

21. Any person who removes or attempts to remove, or abets within the meaning of the Pakistan Penal Code (Act XLV of 1860), the removal of goods vessels, animal or vehicle with the intention of evading payment of tolls, dues, rates or charges lawfully payable in respect thereof shall be punishable with fine which may extend to two thousand rupees.

22. qd) In case damage or mischief is done to any wharf, dock, quay, jetty, pier or work constructed or acquitted by the Authority under this Ordinance by any vessel fishing craft through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the Authority, any Magistrate of the first class having

Cognizance of
offences.

Recovery of dues as
arrears Land
Revenue.

Submission of
yearly report
and returns.

jurisdiction in the Harbour area may, on the application of the Board and on declaration by it that payment for such damage or mischief has been refused or has not been made on demand, issue a summon to the master of owners of such vessel, requiring him to attend on a day and at an hour named in the summons to answer questions touching such damage or mischief.

(2) If, at the time appointed, in the summons, and whether the persons summoned appear or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two thousand rupees, the Magistrate may issue warrant of distress, under which a sufficient portion of the boats masts, ropes, cables, anchors or store of the vessel may be seize and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Authority out of the proceeds of the distress.

23. No court shall take cognizance of any offence punishable under this Ordinance except on a complaint in writing made by the Authority or an officer authorized for the purpose by the Authority.

24. All fees and sums due on account of property for the time being vested in the Authority and all arrears of tolls, charges, rates and dues imposed under this Ordinance or any rules or regulations may be recovered as arrears of land revenue, in addition to the other modes provided by this Ordinance.

CHAPTER VII MISCELLANEOUS

25. qd) The Authority shall submit to the Government, as soon as possible after the end of every financial year but before the last day of December next following, a report on the conduct of its affairs for that year.

(2) The Government may, after giving sufficient notice to the Authority, require it to furnish the Government with:—

(i) any return, statement, estimates, statistics, or other information regarding

Members not personally liable.

Limitation of suits etc.

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

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any matter under the control of the Authority; or

(ii) a report on any subject with which the Authority is concerned; or

(iii) a copy of any document in the charge of the Authority; and the Authority shall comply with every such requisition.

26. No member shall be liable for any contract made or expense incurred by or on behalf of the Board, but the funds from time to time in the hands of the Board shall be liable for and chargeable with all contracts made in the manner provided in this Ordinance.

27. () No suit shall be commenced against any member, officer or officials of the Authority for anything done or purporting to have been done in pursuance of this Ordinance without giving to such person one month's notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit [:]!

[Provided that if any such suit is filed without the service of notice as aforesaid or before the expiration of the said period of one month, the suit shall not be dismissed, but the plaintiff shall not be entitled to any costs.]

(2) In the case of a suit for damages, if tender of sufficient amount shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tenders.

28. The Board shall not be responsible for any disfeasance, malfeasance or non-feasance of any officer or official appointed

under this Ordinance or of any Assistance or Deputy of any such officer or of any person acting under the authority or direction of or in subordination to any officer Assistant or Deputy, nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Authority which may be used by such vessel.

Provided that nothing in this section shall protect the Board from a suit in respect of damages to or loss of goods

Full stop subs. by a colon and proviso added by Ord. X of 1985; shall be deemed to have taken effect on 1* December, 1984.

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Power to dispose of
land.

Power of Authority
to make rules
and regulation.

Control of
Government
over act and
proceedings of
Board.

Dissolution of
Authority and
transfer of its
assets and
liabilities.

landed or shipped by them or retained in their custody.

29. The Authority may retain, or may lease, sell, exchange, rent or otherwise dispose of any land vested in it.

30. The Authority may, with the prior sanction of the Government, make rules and regulations for carrying out the purposes of this Ordinance.

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

32. () The Government may, by notification in the official Gazette, declare that the Authority shall be dissolved on such date as may be specified in such notification, and the Authority shall stand dissolved accordingly.

(2) On and from the said date—

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

(ii) all properties, funds and dues exchanged derived form, or otherwise attributable to the properties, funds and dues referred to in sub-clause (1), which immediately before the said date, were held by or were realisable by the Authority, shall

vest in, and be realisable by the Government.

(b) all properties, funds, and dues, other than those referred to in clause (a), which immediately before the said date, the Authority shall vest in and be realisable by the Government may determine, and its decision thereon shall be final;

(c) all liabilities which immediately before the said date, were enforceable against the Authority shall be assumed by and be enforceable against the Government or

Removal of
difficulties.

such agency as the Government
determines under clause (b), as the case
may be;

(d) for the purpose of completing the
execution of any scheme which has not
been fully executed by the
authority and of realising properties,
funds and dues referred to in clauses (a)
and (b), as the case may be;

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

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