

THE BALOCHISTAN EDUCATION FOUNDATION ACT, 1994

(Baln Act VII of 1994)

CONTENTS

SECTIONS

Preamble.

CHAPTER-I PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER-II ESTABLISHMENT OF THE FOUNDATION

3. Establishment of the Foundation.
4. Management.
5. Constitution of the Board.
6. Duties and functions of Chairman and members.

CHAPTER-III ESTABLISHMENT

7. Appointment and functions of the Managing Director.
8. Recruitment conditions of services of officers, officials etc.
9. Members and officers to be public servant.
10. Indemnity.
11. Members, officers, officials not personally liable.
12. Delegation of powers to Chairman etc.

CHAPTER-IV POWERS AND DUTIES OF THE FOUNDATION

13. Function of the Foundation.

CHAPTER-V FINANCE

14. Balochistan Education Foundation Fund.
15. Budget.
16. Audit and Accounts.
17. Accounts.

CHAPTER-VI PENALTY AND PROCEDURE

18. Penalty.
19. Cognizance of offences.

CHAPTER-VII MISCELLANEOUS

20. Submission of yearly report and returns.
21. Board not responsible for certain acts of its officers & officials.
22. Power to dispose of land.
23. Power of Foundation to make rules and regulations.
24. Control of Government over acts and proceedings of the Board.
25. Dissolution of Foundation and transfer of its assets and liabilities.
26. Removal of difficulties.
27. Repeal.

¹THE BALOCHISTAN EDUCATION FOUNDATION ACT, 1994

(Baln Act VII of 1994)

¹ For statement of objects and reasons see Balochistan Gazette (Extraordinary) No. 53, dated 29th June, 1994. This Act was passed by the Balochistan Assembly on 3rd July, 1994; assented to by the Governor of Balochistan; published in the Balochistan Gazette (Extraordinary) No. 84, dated 8th September, 1994. Initially it was promulgated by an Ordinance made on 8th July, 1993 by the Governor Balochistan i.e. Ordinance I of 1993, published in Balochistan Gazette (Extraordinary) No. 15 dated 18th July, 1993; and later re-promulgated by Baln. Ordinance X of 1993 on 23rd November, 1993, and Balochistan Ord. IV of 1994 on 9th May, 1994 with retrospective effect i.e. from 8th October, 1993 and 8th January, 1994, respectively.

[8th September, 1994]

An Act to provide for the Establishment of the Balochistan Education Foundation.

Preamble.

WHEREAS it is expedient to establish the Balochistan Education Foundation to promote and finance the development of Education in the Province of Balochistan and matters ancillary, incidental and supplemental thereto;

It is hereby enacted as follows:—

CHAPTER-I
PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Balochistan Education Foundation Act, 1994.
- (2) It extends to the whole of the Province of Balochistan except Tribal Areas.
- (3) It shall come into force at once.

Definitions.

2. In this Act 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 and controlled by the Government;
 - (b) “Board” means the Board of Directions of the Foundation constituted under sub Section (1) of section 5;
 - (c) “Chairman” means the Chairman of the Board;
 - (d) “Committee” means a Committee constituted under sub section (6) of section 6;
 - (e) “Director” means a member of the Board of Directors of the Foundation;
 - (f) “Fund” means a fund constituted under sub section (1) of section 14;
 - (g) “Foundation” means the Balochistan Education Foundation established under sub section(1) of section 3;
 - (h) “Government” means Government of

Balochistan;

- ¹(ha) “Governor” means the Governor of Balochistan;
- (i) “Grant” means a sum of non-refundable amount advanced to an educational institution or organization from the Foundation fund;
- (j) “Loan” means a refundable sum of money advanced by the Foundation to an educational institution or organization;
- (k) “Land” includes building and benefits arising out of land and things attached to the earth or permanently attached to earth;
- (l) “Managing Director” means the Managing Director of the foundation appointed under sub section (1) of section 7;
- (m) “Member” means a member of the Board;
- (n) “Non-Government Organization” means an organization set up with private finance for advancement of education and is registered under the voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961;
- (o) “Prescribed” means prescribed by the rules and regulation under this Act;
- (p) “Rules” means the rules framed under this Act;
- (q) “Regulations” means the regulations framed under this Act.

CHAPTER-II

ESTABLISHMENT OF THE FOUNDATION

Establishment of the Foundation. 3. (1) There shall be established a Foundation to be known as Balochistan Education Foundation for carrying out the purpose of this Act.

(2) The Foundation shall be body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and immovable, and shall by its name sue and be sued.

(3) The head office of the Foundation shall be at

¹ Inserted by Balochistan Act V of 2004, passed by the Provincial Assembly on 7th May, 2004; assented by the Governor Balochistan and published in the Balochistan Gazette (Extraordinary) No. 41, dated 13th May, 2004.

Quetta.

Management.

4. (1) The administration and the management of the Foundation and its affairs shall vest in the Board which may exercise the powers and do all acts and things which may be exercised or done by the Foundation.

(2) The affairs of the Foundation shall be conducted subject to the supervision and control of the Government.

(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.

Constitution of the Board.

5. ¹[(1) There shall be a Board of Directors of the Foundation consisting of sixteen members of which not more than four will be official members, as may be appointed by the Governor through a gazette notification. The Governor shall also be the Chairman of the Board.]

(2) The Chairman and members other than an ex-officio member, shall unless the ²[Governor] otherwise directs hold office for a period of three years but he may be re-appointed as such for another term of three years or for such shorter term as the ¹[Governor] may direct.

(3) The ¹[Governor] may remove a member on the ground of inefficiency, unsuitability or misconduct after giving him an opportunity of being heard.

(4) The Chairman and any member may, by writing under his hand addressed to the ¹[Governor] resign from his office:

Provided that his resignation shall not take effect until accepted by the ¹[Governor].

Duties and functions of Chairman and members.

6. (1) The Chairman and members shall discharge such duties and perform such functions, as assigned to them by or under this Act.

(2) Until the Board is duly constituted, the ³[Managing Director] shall, subject to such directions as the Government may from time to time give, exercise the powers, discharge the duties and perform functions of the Board.

¹ Subs. by Balochistan Act V of 2004, passed by the Provincial Assembly on 7th May, 2004; assented by the Governor Balochistan and published in the Balochistan Gazette (Extraordinary) No. 41, dated 13th May, 2004, for sub-section (1).

² Subs. by Balochistan Act V of 2004, passed by the Provincial Assembly on 7th May, 2004; assented by the Governor Balochistan and published in the Balochistan Gazette (Extraordinary) No. 41, dated 13th May, 2004, for the word "Government".

³ Subs. *ibid*, for the word "Chairman".

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy in, or any defect in the constitution of the Board.

(4) A simple majority of the members of the Board shall constitute the quorum of the Board.

(5) The meeting of the Board shall be held at such time and places and in such manner as the regulations may provide:

Provided that until regulations are made in this behalf the meeting of the Board shall be held as and when convened by the Chairman.

(6) The Board may constitute such financial, technical and advisory committee as may be desired necessary for carrying out the purposes of this Act.

CHAPTER-III ESTABLISHMENT

Appointment and
functions of the
Managing
Director.

7. (1) The ¹[Governor] shall appoint a whole time Managing Director of the Foundation whose qualifications, terms and conditions of service shall be such as may be determined by the regulations.

(2) Subject to sub section (4), the terms of office of the Managing Director shall be three years but the ¹[Governor] may extend the same for a period not exceeding one year at a time.

(3) The Managing Director shall be the Chief Executive of the Foundation, he shall have to serve as member of the Board also, and shall exercise effective control over and make all decisions necessary for the smooth functioning of the day to day affairs of the Foundation, under general supervision of the Board.

(4) The ¹[Governor] may remove the Managing Director on the ground of inefficiency, unsuitability or misconduct after giving him an opportunity of being heard.

(5) In particular and without prejudice to the generality of the foregoing powers the Managing Director shall have the power and responsibility to:-

(a) exercise administrative control over the

¹ Subs. by Balochistan Act V of 2004, passed by the Provincial Assembly on 7th May, 2004; assented by the Governor Balochistan and published in the Balochistan Gazette (Extraordinary) No. 41, dated 13th May, 2004, for the word "Government".

officers, officials of the Foundation;

- (b) exercise in respect of the Foundation such other management, administrative and financial powers as deemed appropriate by the Foundation;
- (c) submit the annual budget proposals of the Foundation to the Board;
- (d) maintain the accounts of the Foundation;
- (e) prepare the annual report of the Foundation for the Board and the ¹[Governor];
- (f) exercise such powers as the Board may delegate to him; and
- (g) act on behalf of the Foundation, 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.

Recruitment
conditions of
services of
officers,
officials etc.

8. The Foundation shall, by regulation made with the prior approval of the ¹[Governor], lay down the procedure for the appointment of its officers and officials and the terms and conditions of their services, and shall be competent to take disciplinary action against them, according to the prescribed rules.

Members and
officers to be
public servant.

9. The Chairman, members, officers and officials of the Foundation shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servant within the meaning of Section 21 of the Pakistan Penal Code (Act XLV of 1860).

Indemnity.

10. No suit, prosecution or other legal proceeding shall be against the Foundation, the Board, the Chairman or any member, officer or official of the Foundation in respect of anything done in good faith or intended to be done under this Act.

Members, officers,
officials not
personally

11. (1) The members, Directors, Advisers, Officers and officials of the Foundation shall be indemnified by the Foundation against all losses and expenses sustained or incurred

¹ Subs. by Balochistan Act V of 2004, passed by the Provincial Assembly on 7th May, 2004; assented by the Governor Balochistan and published in the Balochistan Gazette (Extraordinary) No. 41, dated 13th May, 2004, for the word "Government".

liable. by him in the discharge of his duties, save such losses and expenses as are sustained and incurred as a result of his own wilful act or default.

(2) The Managing Director shall not be personally responsible for the acts of any member, Director, adviser, officer or official of the Foundation which he could not have reasonably prevented by the due exercise of his powers and functions under this Act and the rules and regulations, made thereunder or for any loss or expense resulting to the Foundation by reason of the insufficiency or deficiency in value of , or title to any property or security acquired or taken on behalf of the Foundation by the wrongful act of any person under a liability to the Foundation or anything done by him, in good faith in execution of the duties of his office.

Delegation of powers to Chairman etc.

12. The Foundation or the Board may by general or special order, delegate to the Chairman or a member or any officer, official of the Foundation, any of its powers, duties or functions under this Act, subject to such conditions or limitations as may be specified in the order.

CHAPTER-IV POWERS AND DUTIES OF THE FOUNDATION

Function of the Foundation.

13. (1) Subject to the other provisions of this Act the Foundation may take all such measures and exercise such powers as may be necessary for the promotion, development and financing of Education and for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the functions mentioned in sub section (1) the Foundation shall:—

- (a) assist the private sector to establish educational institutions;
- (b) Give grants preferably to non-profit making private educational institutions for purchase of land, construction of building, purchase of furniture, equipment and educational material including books, stationery and other such material;
- (c) Give loans to the private sector institutions/organizations from the foundation fund or assist in getting loans

from scheduled Banks for the purposes mentioned in (2) (b);

- (d) sell or lease plots or assist the private sector in getting plots and land from Government, Development Authorities and housing agencies controlled by the Government for the establishment of educational institutions;
- (e) perform such foundations as:-
 - (i) preparing and submitting schemes to the Government for the development of educational programmes and projects including schemes for research and modernization of education;
 - (ii) giving effect to approved schemes mentioned in sub-clause (i) above;
 - (iii) improving teacher training and other institutions;
 - (iv) encouraging the formation of voluntary associations in furtherance of the purposes of this Act;
 - (v) taking appropriate measures for integration and consolidation of privately managed institutions and projects, regulation of fees in the privately managed institutions particularly those receiving assistance from the Government; and
- (f) perform such other functions as may be assigned to it by the Government.

CHAPTER-V FINANCE

Balochistan
Education
Foundation
Fund.

14. (1) There shall be formed a fund to be known as the Foundation Fund, which shall vest in the Foundation and shall be utilized by the Foundation to meet the charges in connection with its functions under this Act.

(2) To the credit of the Balochistan Education Foundation Fund, shall be placed:—

- (a) grants made by Government and the Federal Government;
- (b) income from investments made by the Foundation;
- (c) donations and endowments;
- (d) revolving funds placed by the Government at the disposal of the Foundation;
- (e) grant made by the Local Bodies;
- (f) all other sums received by the Foundation and incomes from other sources.

Budget.

15. (1) In the month of November each year, the Foundation shall submit to the Government for approval a statement of the estimated receipt and expenditure in rupees of the next financial year.

(2) In the manner prescribed by the Government, the Foundation 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 Foundation shall obtain specific sanction of the Government in respect of each individual scheme costing more than ten lacs rupees to be financed by the Foundation.

Audit and
Accounts.

16. (1) The Foundation shall maintain proper accounts and other relevant records and prepare annual statement of account, 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 Foundation 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 Foundation with the approval of Government, on such remuneration, to be paid by the Foundation as the Government may fix.

(3) Notwithstanding the provision of sub section (2) the Accountant General 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 concerned documents at such place or places as the Accountant General Balochistan may fix and furnish such explanations and information as the Accountant General 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 Foundation 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 Foundation and shall at all reasonable times have access to the books of accounts and other documents of the Foundation and may in relation to such accounts examine any officer of the Foundation.

(5) The auditor 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 balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Foundation'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 Foundation for the protection of the interest of the Government and of creditors of the Foundation or upon the sufficiency of their procedure in auditing the accounts of the foundation 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 Foundation shall comply with every direction issued by the Government for the rectification of matters objected to in audit.

Accounts.

17. The Foundation shall, with the prior approval of the Government, open an account in any scheduled Bank of Pakistan.

CHAPTER-VI PENALTY AND PROCEDURE

Penalty.

18. Whoever contravenes any provision of this Act 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.

Cognizance of offences.

19. No Court other than a Court of Magistrate 1st Class shall take cognizance of any offence punishable under this Act, on a complaint in writing made by the Foundation or an officer/official authorized for the purpose by the Foundation.

CHAPTER-VII MISCELLANEOUS

Submission of yearly report and returns.

20. (1) The Foundation 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 Foundation, require it to furnish the Government with,

- (i) any return, statement, estimates, statistics, or other information regarding any matter under the control of the Foundation; or
- (ii) a report on any subject with which the Foundation is concerned; or
- (iii) a copy of any document in the charge of Foundation and the Foundation shall comply with such requisition.

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

21. The Board shall not responsible for any disfeasance, malfeasance and non-feasance of any officer or official appointed under this Act or any person acting under the authority of direction of or in sub-ordination to any such officer or official.

Power to dispose of land.

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

Power of Foundation to make rules and

23. The Foundation may with the prior sanction of the ¹[Governor], make rules and regulations for carrying out the purpose of this Act.

¹ Subs. by Balochistan Act V of 2004, passed by the Provincial Assembly on 7th May, 2004; assented by the Governor Balochistan and published in the Balochistan Gazette (Extraordinary) No. 41, dated 13th May, 2004, for the word "Government".

regulations.

Control of
Government
over acts and
proceedings of
the Board.

24. All acts and proceeding of the Board shall be subject to the control of the ¹[Governor] and the ¹[Governor] may suspend or modify any such act or proceeding.

Dissolution of
Foundation and
transfer of its
assets and
liabilities.

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

(2) On and from the said date,

- (a) (i) all properties, funds and dues placed at the disposal of the Foundation by Government; and
- (ii) all properties, funds and dues exchanged derived from, or otherwise attributable to the properties, funds and dues referred to in sub-clause (i), which immediately before the said date were held by or were realisable by the Foundation, 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 Foundation 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 Foundation shall be assumed by and be enforceable against the Government or 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 Foundation and of realising properties, funds and

dues referred to in clause (a) and (b) as the case may be; and

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

Removal of difficulties.

26. If any difficulty arises in giving effect to any of the provisions of this Act especially in respect of the adjustment of the power, functions and jurisdiction of the Foundation under this Act, the ¹[Governor] may make such order as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

Repeal.

27. ²The Balochistan Education Foundation Ordinance, 1994 (IV of 1994), is hereby repealed.

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¹ Subs. by Balochistan Act V of 2004, passed by the Provincial Assembly on 7th May, 2004; assented by the Governor Balochistan and published in the Balochistan Gazette (Extraordinary) No. 41, dated 13th May, 2004, for the word "Government".

² The Balochistan Education Foundation Ordinance 1994 (Ord. IV of 1994), was promulgated by the Governor Balochistan on 9th May, 1994 and published in the Balochistan Gazette (Extraordinary) No. 44, dated 12th May, 1994, with retrospective effect from 8th January, 1994. Earlier it was promulgated through Balochistan Ord. I of 1993 on 8th July 1993 and Balochistan Ord. X of 1993 on 23rd November, 1993 by the Governor Balochistan, published in Balochistan Gazette (Extraordinary) No. 15, dated 8th July, 1993 and No. 32, dated 28th November, 1993, respectively, all repealed by the later ordinance.