

THE BALOCHISTAN ENVIRONMENT PROTECTION

ACT 2012

(Act No. VIII of 2012)

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¹THE BALOCHISTAN ENVIRONMENT PROTECTION

ACT, 2012

(Balochistan Act No. VIII of 2012)

¹ This Act was passed by the Provincial Assembly of Balochistan on 24th December, 2012; assented to by the Governor Balochistan on 9th January, 2013; and published in the Balochistan Gazette (Extraordinary) No. 7, dated 18th January, 2013.

[18th January, 2013]

An Act to provide for the protection, conservation, rehabilitation and improvement of the environment, for the prevention and control of pollution, and promotion of sustainable development.

Preamble.

Whereas, it is expedient to provide for the protection, conservation, rehabilitation and improvement of the environment, prevention and control of pollution, promotion of sustainable development, and for matters connected therewith and incidental thereto;

It is enacted as follows:—

Short title, extent and commencement.

1. (1) This Act shall be called the Balochistan Environmental Protection Act, 2012.

(2) It extends to the whole 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) "adverse environmental effect" means impairment of, or damage to, the environment and includes—

(i) human health and property or biodiversity, coast, beaches and ecosystem;

(ii) pollution; *and*

(iii) any adverse environmental effect on Land, Air and Water;

(b) "Agricultural waste" means waste from farm and agricultural Activities including poultry, cattle farming, animal husbandry residues from the use of fertilizers, pesticides and other farm chemicals;

(c) "Air pollutant" means any substance that causes pollution of air and includes soot, smoke, dust particles, odour, light, electro-magnetic, radiation, heat, fumes, combustion exhaust, exhaust gases, noxious gases, hazardous substances and radioactive substances;

(d) "Alien species" means a species that does not occur naturally in Balochistan.

(e) "Balochistan coastline or coastal zone" means the territorial jurisdiction of the coastline of the Province of Balochistan.

- (f) “Best practicable environmental option” means the best method for preventing or minimizing adverse effects on the environment, having regard to, among other things:
 - (i) the nature of the discharge and the sensitivity of the receiving environment to adverse effects;
 - (ii) the financial implications, and the effect on the environment, of that option when compared with other options; *and*
 - (iii) the current state of technical knowledge and the likelihood that the option can be successfully applied.
- (g) "Biodiversity" or "biological diversity" means the variability among living organisms from all sources, inter alia terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species and of ecosystems;
- (h) “Clinical waste” means any waste produced by hospitals, clinics, nursing homes, doctors offices, medical laboratories, medical research facilities and veterinarians which is infectious or potentially infectious.
- (i) "Council" means the Balochistan Environmental Protection Council established under section 3;
- (j) "Discharge" includes spilling, leaking, pumping, depositing, seeping, releasing, flowing out, pouring, emitting, emptying or dumping;
- (k) "Ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non- living environment interacting as a functional unit;
- (l) "Effluent" means any material in solid, liquid or gaseous form or combination thereof being discharged from industrial Activity or any other source and includes a slurry, suspension or vapor;
- (m) “Electronic waste” means discarded computers, office electronic equipment, entertainment device electronics, mobile phones, television sets, Cathode ray tubes (CRT) and refrigerator, VCRs, stereos, copiers, and fax machines. It also includes used electronics which are destined for reuse, resale,

salvage, recycling, or disposal and electronic products nearing the end of their "useful life".

- (n) "Emission standards" means the permissible standards established by the Provincial Agency for emission of air pollutants and noise and for discharge of effluent and waste;
- (o) "Endemic and indigenous species" means a species which occurs naturally in the wild only in Balochistan, or a species which only breeds in the wild in Balochistan.
- (p) "Environment" means—
 - (i) air, water and land;
 - (ii) all layers of the atmosphere;
 - (iii) all organic and inorganic matter and living organisms;
 - (iv) the ecosystem and ecological relationships;
 - (v) buildings, structures, roads, facilities and works;
 - (vi) all social and economic conditions affecting community life; *and*
 - (vii) the inter-relationships between any of the factors specified in sub-clauses (i) to (vi);
- (q) "Environmental Impact Assessment" means an environmental study comprising collection of data, prediction of qualitative and quantitative impacts, comparison of alternatives, evaluation of preventive, mitigation and compensatory measures, formulation of environmental management and training plans and monitoring arrangements, and framing of recommendations and such other components as may be prescribed;
- (r) "Environmental Magistrate" means the Magistrate of the First Class appointed under Section 32;
- (s) "Environmental Tribunal" means the Balochistan Environmental Protection Tribunal constituted under section 28;
- (t) "Exclusive Economic Zone" shall have the same meaning as in the Territorial Waters and Maritime Zones Act, 1976¹ (LXXXII of 1976);

¹ This Act was passed by the Parliament of Pakistan; assented by President on 31st December, 1976 and published in the Gazette of Pakistan (Extraordinary), Part I, dated 4th January, 1977.

- (u) "Factory" means any premises in which industrial Activity is being undertaken;
- (v) "Genetic Resource" means any material of plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.
- (w) "Government" means the Government of Balochistan;
- (x) "Government Agency" includes—
 - (i) a department, attached department, bureau, section, commission, board, office or unit of the Provincial Government;
 - (ii) a developmental or a local authority, company or corporation established or controlled by the Provincial Government;
 - (iii) the Balochistan Environmental Protection Agency; *and*
 - (iv) any other body defined and listed in the Rules of Business¹ of the Provincial Government.
- (y) "Handling", in relation to any substance, means the manufacture, processing, treatment, package, storage, transportation, collection, destruction, conversion, offering for sale, transfer or the like of such substance;
- (z) "Hazardous substance" means—
 - (i) a substance or mixture of substances, other than a pesticide as defined in the Agricultural Pesticides Ordinance, 1971² (II of 1971), which, by reason of its chemical activity or toxic, explosive, flammable, corrosive, radioactive or other characteristics, causes, or is likely to cause, directly or in combination with other matters an adverse environmental effect; *and*
 - (ii) any substance which may be prescribed as a hazardous substance;
- (aa) "Hazardous waste" means waste which is or which contains a hazardous substance or which may be

¹ The Balochistan Government Rules of Business, 2012 issued by Services and General Administration Department vide its Notification No. S.O. (R-1)3(2)/2012-S&GAD/3096-3245 dated 14th December, 2012; published in the Balochistan Gazette (Extraordinary) No. 115, dated 14th December, 2012. Which repealed the earlier Balochistan Government Rules of Business, 1976, rule 49.

² This Ordinance was made by President of Pakistan on 22nd January, 1971; published in the Gazette of Pakistan (Extraordinary) dated 25th January, 1971; and validated under Article 269 of the Constitution of the Islamic Republic of Pakistan, 1973.

prescribed as hazardous waste and includes hospital waste and nuclear waste;

- (bb) "Historic waters" means such limits of the waters adjacent to the land territory of Pakistan as may be specified by notification under section 7 of the Territorial Waters and Maritime Zones Act, 1976³ (LXXXII of 1976);
- (cc) "Hospital waste" includes waste medical supplies and materials of all kinds, and waste blood, tissue, organs and other parts of the human and animal bodies, from hospitals, clinics and laboratories;
- (dd) "Industrial activity" means any operation or process for manufacturing, making, formulating, synthesizing, altering, repairing, ornamenting, finishing, packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal, or for mining, for oil and gas exploration and development, or for pumping water or sewage, or for generating, transforming or transmitting power or for any other industrial or commercial purpose;
- (ee) "Industrial waste" means waste resulting from an industrial activity;
- (ff) "Initial Environmental Examination" means a preliminary environmental review of the reasonably foreseeable qualitative and quantitative impacts on the environment of a proposed project to determine whether it is likely to cause an adverse environmental effect for requiring preparation of an environmental impact assessment;
- (gg) "Integrated pollution control" means the holistic system aimed at pollution prevention and minimization at source, managing the impact of pollution and waste on the receiving environment and remediation of damaged and polluted environments.
- (hh) "Living modified organism" means any living organism that possesses a novel combination of genetic material obtained through the use of modern technology.
- (ii) "local authority" means regional or district set up of EPA or any Agency designated by the Provincial Government, by notification in the official Gazette, to

³ This Act was passed by the Parliament of Pakistan; assented by President on 31st December, 1976 and published in the Gazette of Pakistan (Extraordinary), Part I, dated 4th January, 1977.

be a local authority for the purposes of this Act;

- (jj) "Local council" means a local council constituted or established under a law relating to local Government;
- (kk) "Motor vehicle" means any mechanically propelled vehicle adapted for use upon land whether its power of propulsion is transmitted thereto from an external or internal source, and includes a chassis to which a body has not been attached, and a trailer, but does not include a vehicle running upon fixed rails;
- (ll) "Municipal waste" includes sewage, refuse, garbage, waste from abattoirs, sludge and human excreta and the like;
- (mm) "Environmental Quality Standards" means standards established by the Federal/Provincial Agencies under clause (e) of sub-section (1) of section 6 and approved by the Council under clause (c) of sub-section (1) of section 4;
- (nn) "Noise" means the intensity, duration and character of sounds from all sources, and includes vibration;
- (oo) "Nuclear waste" means waste from any nuclear reactor or nuclear plant or other nuclear energy system, whether or not such waste is radioactive;
- (pp) "Person" means any natural person or legal entity and includes an individual, firm, association, partnership, society, group, company, corporation, co-operative society, Government Agency, non-governmental organization, community-based organization, village organization, local council or local authority and, in the case of a vessel, the master or other person having for the time being the charge or control of the vessel;
- (qq) "Pollution" means the contamination of air, land or water by the discharge or emission of effluent or wastes or air pollutants or noise or other matter which either directly or indirectly or in combination with other discharges or substances alters unfavorably the chemical, physical, biological, radiation, thermal or radiological or aesthetic properties of the air, land or water or which may, or is likely to make the air, land or water unclean, noxious or impure or injurious, disagreeable or detrimental to the health, safety, welfare or property of persons or harmful to biodiversity;
- (rr) "Prescribed" means prescribed by rules made under

this Act;

- (ss) "Project" means any activity, plan, scheme, proposal or undertaking involving any change in the environment and includes—
 - (i) construction or use of buildings or other works;
 - (ii) construction or use of roads or other transport systems;
 - (ii) construction or operation of factories or other installations;
 - (iv) mineral prospecting, mining, quarrying, stone-crushing, drilling and the like;
 - (v) any change of land use or water use; *and*
 - (vi) alteration, expansion, repair, decommissioning or abandonment of existing buildings or other works, roads or other transport systems, factories or other installations;
- (tt) "Protection of environment" means the qualitative and quantitative improvement of the different components of the environment and prevention of the deterioration of qualitative and quantitative standards;
- (uu) "Proponent" means the person who proposes or intends to undertake a project;
- (vv) "Provincial Agency" means the Balochistan Environmental Protection Agency established under section 5, or any Government Agency, local council or local authority exercising the powers and functions of the Provincial Agency;
- (ww) "Rules & Regulations" means rules and regulation made under this Act;
- (xx) "Sewage" means liquid or semi-solid wastes and sludge from sanitary conveniences, kitchens, laundries, washing and similar activities and from any sewerage system or sewage disposal works;
- (yy) "Ship breaking" means breaking up of various types of ship for recycling.
- (zz) "Standards" means qualitative and quantitative standards for discharge of effluent and wastes and for emission of air pollutants and noise either for general applicability or for a particular area, or from a

particular production process, or for a particular product, and includes the Environmental Quality Standards, emission standards and other standards established under this Act and the rules and regulations;

- (aaa) "Strategic Environmental Assessment" Strategic environmental assessment (SEA) is a system of incorporating environmental considerations into policies, plans, programmes and strategies. It is sometimes referred to as strategic environmental impact assessment.
- (bbb) "Sustainable Development" means development that meets the needs of the present generation, without compromising the ability of future generations to meet their needs;
- (ccc) "Sustainable Management" means management of the use of natural resources to provide for the health, safety and social, cultural and economic well being of people and communities taking into account the following:
 - (i) safeguarding the life supporting capacity of natural resources and ecosystems;
 - (ii) ensuring the maintenance of the life supporting capacity and quality of natural resources and ecosystems to meet the reasonably foreseeable needs of future generations;
 - (iii) avoiding the creation of adverse effects and, where adverse effects cannot be avoided, mitigates and remedies adverse effects.
- (ddd) "Territorial waters" shall have the same meaning as in the Territorial Waters and Maritime Zones Act, 1976¹ (LXXXII of 1976);
- (eee) "Vessel" includes anything made for the conveyance by water of human beings or of goods; *and*
- (fff) "Waste" means any substance or object which has been, is being or is intended to be, discarded or disposed of, and includes liquid waste, solid waste, waste gases, suspended waste, industrial waste, agricultural waste, nuclear waste, municipal waste, hospital waste, used polyethylene bags and residues

¹ This Act was passed by the Parliament of Pakistan; assented by President on 31st December, 1976 and published in the Gazette of Pakistan (Extraordinary), Part I, dated 4th January, 1977.

from the incineration of all types of waste.

(ggg) “Water resource” includes surface water, an aquifer or ground water, a river or spring, a natural channel in which water flows regularly or intermittently, and a wetland, lake or dam into which, or from which, water flows.

Establishment of the
Balochistan
Environmental
Protection
Council.

3. (1) The Provincial Government shall, by notification in the official Gazette, establish a Council to be known as the Balochistan Environmental Protection Council consisting of—

- | | | |
|-----|---|----------------------|
| (a) | Chief Minister or such other person as the Chief Minister may nominate in this behalf. | Chairperson |
| (b) | Minister for Environment | Vice chairperson |
| (c) | Chief Secretary Balochistan | Member |
| (d) | Secretary Environment | Member/
Secretary |
| (e) | Secretary Finance | Member |
| (f) | Secretary Industries | Member |
| (g) | Secretary Agriculture | Member |
| (h) | Secretary Forest | Member |
| (i) | Secretary P&D | Member |
| (j) | Secretary S&GAD | Member |
| (k) | Director General EPA | Member |
| (l) | Such other persons not exceeding six (6) as the Provincial Government may appoint, with the following representation: | Members |
- One from the Balochistan Chamber of Commerce & Industries and one from the Balochistan Chamber of Agriculture, Two Environment experts/Scientist, One Educationist and One from Non Governmental Organization.

(2) The Members of the Council, other than ex-officio

members, shall be appointed in accordance with the prescribed procedure and shall hold office for a term of two years.

(3) The Council may constitute committees of its members and entrust them with such functions as it may deem fit, and the recommendations of the committees shall be submitted to the Council for approval. The council or any of such committee may seek assistance from any Government Department or expert in the relevant environmental field in performance of its functions.

Functions and powers
of the Council.

4. (1) The Council shall:—

- (a) co-ordinate and supervise enforcement of the provisions of this Act;
- (b) approve comprehensive environmental policies and ensure their implementation within the framework of a National /Balochistan conservation strategy as may be approved by the Federal/Provincial Government from time to time;
- (c) approve the Environmental Quality Standards;
- (d) provide guidelines for the protection and conservation of species, habitats, and biodiversity in general, and for the conservation of renewable and non-renewable resources.
- (e) co-ordinate integration of the principles and concerns of sustainable development into development plans and policies;
- (f) The Council shall frame its own rules of procedure.
- (g) The Council shall hold meetings, as and when necessary, but not less than two meetings, shall be held in a year.

(2) The Council may direct the Provincial Agency or any Government Agency to prepare, submit or implement projects for the protection, conservation, rehabilitation and improvement of the environment and the sustainable development of resources or to undertake research in any aspect of environment.

Establishment of the
Balochistan
Environmental
Protection
Agency.

5. (1) The Government of Balochistan shall by a notification in the official Gazette establish Balochistan Environmental Protection Agency to exercise the powers and perform the functions assigned to it under this Act and the rules and regulations made there under.

(2) The Balochistan Environmental Protection Agency shall be headed by a Director-General who shall be appointed by the Government of Balochistan on such terms and conditions as it may determine.

(3) The Balochistan Environmental Protection Agency shall have such administrative, technical and legal staff, as the Government of Balochistan may specify, to be appointed in accordance with Balochistan Civil Servant Act 1974¹.

(4) The powers and functions of the Balochistan Environmental Protection Agency shall be exercised and performed by the Director-General.

(5) The Director-General may, by general or special order, delegate any of the powers and functions to staff appointed under sub-section (3).

(6) For assisting the Balochistan Environmental Protection Agency in the discharge of its functions the Government of Balochistan shall establish Advisory Committees for various sectors and appoint as members thereof representatives of the relevant sector, educational institutions and non-governmental organizations.

Functions of the
Balochistan
Environmental
Protection
Agency.

6. (1) The Balochistan Environmental Protection Agency shall—
- (a) administer and implement this Act and the rules and regulations made thereunder;
 - (b) prepare, in co-ordination with the relevant Government Agency and in consultation with the concerned sectors Advisory Committees, environmental policies for approval by the Council;
 - (c) take all necessary measures for the implementation of the national environmental policies approved by the Council;
 - (d) prepare and publish an Annual Environment Report on the state of the environment;
 - (e) establish standards for the quality of the ambient air, water and land, by notification in the official Gazette in consultation with the other relevant Government Departments/Agencies.
 - (f) Revise the Environmental Quality Standards

¹ Balochistan Act IX of 1974; passed by the Balochistan Assembly on 19th June, 1974; assented to by the Governor of Balochistan; and published in the Balochistan Gazette (Extraordinary) No. 41, dated 20th July, 1974.

with approval of the Council:

Provided that

- (i) before seeking approval of the Council, the Balochistan Environmental Protection Agency shall publish the proposed Environmental Quality Standards for public opinion in accordance with the prescribed procedure;
- (ii) different standards for discharge or emission from different sources and for different areas and conditions may be specified; where standards are less stringent than the Environmental Quality Standards prior approval of the Council shall be obtained;
- (iii) certain areas, with the approval of the Council, may exclude from carrying out specific activities, projects from the application of such standards;
- (g) co-ordinate environmental policies and programmes;
- (h) establish systems and procedures for surveys, monitoring, measurement, examination, investigation, research, inspection and audit to prevent and control pollution, and to estimate the costs of cleaning up pollution and rehabilitating the environment in various sectors;
- (i) take measures to promote research and the development of science and technology which may contribute to the protection of the environment, and sustainable development;
- (j) certify one or more laboratories as approved laboratories for conducting tests and analysis and one or more research institutes as environmental research institutes for conducting research and investigation for the purposes of this Act;
- (k) initiate legislation in various sectors of the environment;

- (l) render advice and assistance in environmental matters including such information and data available with it as may be required for carrying out the purposes of this Act:

Provided that the disclosure of such information shall be subject to the restrictions contained in the proviso to subsection (3) of section 15;

- (m) assist the local councils, local authorities, Government Agencies and other persons to implement schemes for the proper disposal of wastes so as to ensure compliance with the standards established by it;
- (n) provide information and guidance to the public on environmental matters;
- (o) recommend environmental courses, topics, literature and books for incorporation in the curricula and syllabi of educational institutions;
- (p) promote public education and awareness of environmental issues through mass media and other means including seminars and workshops;
- (q) specify safeguards for the prevention of accidents and disasters which may cause pollution, collaborate with the concerned person in the preparation of contingency plans for control of such accidents and disasters, and co-ordinate implementation of such plans;
- (r) encourage the formation and working of non-governmental organizations, community organizations and village organizations to prevent and control pollution and promote sustainable development;
- (s) perform any function which the Council may assign to it.

(2) The Balochistan Environmental Protection Agency may

- (a) undertake inquiries or investigation into environmental issues, either of its own accord or upon complaint from any person or

organization;

- (b) request any person to furnish any information or data relevant to its functions;
- (c) initiate with the approval of the Provincial/ Federal Government, requests for foreign assistance in support of the purposes of this Act and enter into arrangements with foreign agencies or organizations for the exchange of material or information and participate in international seminars or meetings;
- (d) recommend to the Government of Balochistan the adoption of financial and fiscal programmes, schemes or measures for achieving environmental objectives and goals and the purposes of this Act, including—
 - (i) incentives, prizes awards, subsidies, tax exemptions, rebates and depreciation allowances; *and*
 - (ii) taxes, duties and other levies;
- (e) establish and maintain laboratories to help in the performance of its functions under this Act and to conduct research in various aspects of the environment and provide or arrange necessary assistance for establishment of similar laboratories in the private sector;
- (f) provide or arrange, in accordance with such procedure as may be prescribed, financial assistance for projects designed to facilitate the discharge of its functions.

Powers of the
Balochistan
Environmental
Protection
Agency.

7. Subject to the provisions of this Act, the Balochistan Environmental Protection Agency may

- (a) lease, purchase, acquire property both moveable and immovable;
- (b) fix and realize fees, rates and charges for rendering any service or providing any facility, information or data under this Act or the rules and regulations;
- (c) enter into contracts, execute instruments subject to approval of the Provincial Government, necessary for proper management and conduct of its business made thereunder;
- (d) subject to approval of the Provincial Government

appoint in accordance with prescribed procedures such experts and consultants as it considers necessary for the efficient performance of its functions on appropriate terms and conditions;

- (e) summon and enforce the attendance of any person and require him to supply any information or document needed for the conduct of any enquiry or investigation into any environmental issue;
- (f) The Director General Balochistan EPA or any other Regional officer specifically authorized in this behalf by the Director General shall have the power to impose fine/administrative penalty up to rupees one hundred thousand from case to case basis.
 - (i) the fine/administrative penalty shall be recovered as per land revenue Act¹.
 - (ii) the fine/administrative penalty initially or for an interim period shall be placed with the Balochistan EPA till the decision of the Environmental Tribunal or Magistrate; *and*
 - (iii) the fine/administrative penalty after the final decision shall be deposited in the public exchequer.
- (g) enter and inspect and under the authority of a search warrant issued by the Environmental Court or Environmental Magistrate, search at any reasonable time, any land, building, premises, vehicle or vessel or other place where or in which, there are reasonable grounds to believe that an offence under this Act has been, or is being, committed;
 - (i) Subject to the provisions of this Act, any person generally or specifically authorized in this behalf by the Director General shall be entitled to enter, at all reasonable times, with such assistance as he considers necessary, any building or place for the following purposes, namely:—
 - a) to perform duties conferred on him under this Act or rules;
 - b) to inspect any activity in such building or place in accordance with this Act, the rules or any notice,

¹ That is W.P. Act XVII of 1967, published in the W.P. Gazette (Extraordinary), dated 7th December, 1967, pages 3603-3656; adopted by Balochistan Laws (Adaptation) Order, 1975, with substitution of the word "Balochistan" for the words "West Pakistan".

- order or direction issued thereunder;
- c) to examine or test any equipment, industrial plant, record, register or any other important matter relating thereto;
 - d) to conduct a search of any building or place which the said person has reason to believe to have been the place of occurrence of any offence in contravention of any notice, order or direction issued under this Act or the rules;
 - e) to seize/close any equipment, industrial plant, record, register, document or other matter which may serve as evidence of the commission of any offence punishable under this Act or the rules.
- (ii) The provisions of the Code of Criminal Procedure¹ shall be applicable in respect of any search or seizure under this Act.
- (a) take samples of any materials, products, articles or substances or of the effluent, wastes or air pollutants being discharged or emitted or of air, water or land in the vicinity of the discharge or emission;
 - (b) arrange for test and analysis of the samples at a certified laboratory;
 - (i) Every person authorized in this behalf by the Director General may, in such manner as may be prescribed by rules, collect from any factory, premises or place samples of air, water, soil or of any other substance for the purpose of analysis.
 - (ii) The results of the analysis of samples collected under clause (i) shall not be admissible in evidence in any legal proceeding unless

¹ That is Act V of 1898.

the provisions of the clauses (iii) and (iv) have been complied with.

(iii) Subject to the provisions of sub-section (4), the officer collecting a sample under clause (i) shall—

- (a) serve notice on the owner or proponent or agent of the said place, in such manner as may be prescribed by rules, of his intention to collect such sample;
- (b) collect the sample in the presence of the said occupier or agent;
- (c) put the sample into a container and affix on it a seal bearing the signatures of himself and of the occupier or agent;
- (d) prepare a report of the sample collected and sign it himself and take the signature of the occupier or agent;
- (e) send without any delay, the said container to the laboratory specified by the Director General EPA.

(iv) Where a sample is collected under clause (i) and a notice is served by the collecting officer under sub clause a) of clause (iii), the collecting officer shall, if the occupier or agent willfully absents himself at the time of the collection of the sample or, though being present, refuses to sign the sample or report, in the presence of two witnesses, give his signature and attest and seal it and shall send it without any delay to the laboratory specified by the Director General, mentioning that the occupier or agent had not been present or, as the case may be, refused to give his signature.

(i) confiscate any article used in the commission of the offence where the offender is not known or cannot be found within a reasonable time:

Provided that the power under clauses (f), (h), (I) and (j) shall be exercised in accordance with the provisions of the Code of Criminal Procedure, 1898

(Act V of 1898), or the rules made under this Act and under the direction of the Environmental Tribunal or Environmental Magistrate; *and*

- (j) establish an Environmental Co-ordination Committee comprising the Director- General as its chairman and the heads of relevant Government Agencies and such other persons as the Government of Balochistan may appoint as its members to exercise such powers and perform such functions as may be delegated or assigned to it by the Government of Balochistan for carrying out the purposes of this Act and for ensuring inter departmental co-ordination in environmental policies.

Establishment,
powers and
functions of the
Regional or
District
Environmental
Protection
Agencies.

8. (1) Government of Balochistan shall, by notification in the official Gazette, establish the Regional or District Environmental Protection Agency, to exercise such powers and perform such functions as may be delegated to it by the Government of Balochistan under sub-section (2) of section 34.

(2) The Regional or District Environmental Protection Agency shall be headed by an officer at least of the rank of regional Director or Deputy Director who shall be appointed by the Provincial Government on such terms and conditions as prescribed in the Balochistan Civil Servant Act 1974¹.

(3) The Regional or District Environmental Protection Agency shall have such administrative, technical and legal staff as the Government of Balochistan may specify, to be appointed in accordance with the Balochistan Civil Servants Appointment, Promotion and Transfers Rules 2009² such procedure as may be prescribed.

(4) The powers and functions of the Regional or District Environmental Protection Agency shall be exercised and performed by an Officer of the rank of regional Director or Deputy Director appointed as head.

(5) The Director General may, by general or special order, delegate any of the powers and functions to staff appointed under sub-section (3).

Establishment of the
Balochistan
Sustainable
Development
Funds.

9. (1) There shall be established in the Province a Balochistan Sustainable Development Fund.

(2) The Balochistan Sustainable Development Fund shall be derived from the following sources, namely:—

¹ Balochistan Act IX of 1974; passed by the Balochistan Assembly on 19th June, 1974; assented to by the Governor of Balochistan; and published in the Balochistan Gazette (Extraordinary) No. 41 dated 20th July, 1974.

² Rules issued by the Services and General Administration Department, Government of Balochistan; and published in the Balochistan Gazette (Extraordinary) No. 165, dated 27th October, 2009.

- (a) grants made or loans advanced by the Federal Government or the Provincial Government;
- (b) aid and assistance, grants, advances, donations and other non-obligatory funds received from foreign governments, national or international agencies, and non-governmental organizations; *and*
- (c) contributions from private organizations and other persons.

(3) The Balochistan Sustainable Development Fund shall be utilized in accordance with such procedure as may be prescribed for—

- (a) providing financial assistance to the projects in the public/private sector designed for the protection, conservation, rehabilitation and improvement of the environment, the prevention and control of pollution, the sustainable development of resources and for research in any aspect of environment; *and*
- (b) any other purpose which in the opinion of the Board shall help to achieve environmental objectives and the purposes of this Act.

Management of the Balochistan Sustainable Development Fund.

10. (1) The Balochistan Sustainable Development Fund shall be managed by a Board known as the Sustainable Development Fund Board consisting of:—

- | | | |
|-------|--|-------------|
| (i) | Secretary Environment Department | Chairperson |
| (ii) | Secretary Industries Department | Member |
| (iii) | Secretary Social Welfare Department | Member |
| (iv) | Secretary Finance Department | Member |
| (v) | Secretary Forest Department | Member |
| (vi) | Secretary Agriculture Department | Member |
| (vii) | such non-official persons not exceeding six (6) as the Members Government of Balochistan may appoint including two (2) | Members |

representatives of the Balochistan Chamber of Commerce and Industry, two (2) representatives of the Balochistan Chamber of Agriculture and two (2) representative of leading non-governmental organizations/ donors.

(viii) Director General, Member/
Balochistan Environmental Secretary
Protection Agency

(2) the Board shall have the power to—

- (a) sanction financial assistance for eligible projects; as specified in section 9(3) of this Act
- (b) invest moneys held in the Balochistan Sustainable Development Fund in such profit- bearing Government bonds, savings schemes and securities as it may deem suitable; *and*

(3) The Board shall constitute committees of its members to undertake regular monitoring of projects financed from the Balochistan Sustainable Development Fund and to submit progress reports to the Board which shall publish an Annual Report incorporating its annual audited accounts and performance evaluation based on the progress reports.

(4) Audit of the fund shall be conducted on annual basis.

Inter-Provincial
Environmental
issues.

11. (1) The project falling within the geographical jurisdiction of two or more Provinces, the IEE or EIA may be submitted by the proponent to each Provincial Environmental Agencies for review and approval.

(2) In case of any dispute or concerns the matter shall be settled through mutual consultation of the Provinces to avoid any inconveniences or future litigation.

(3) The concerned Provinces may constitute a joint technical or review committee including a representative of the concerned Federal Ministry dealing with Environment and coordination.

Multilateral
Environmental
Agreements.

12. (1) The obligation of the International Conventions, Treaties and Protocols shall be observed as before devolution of the subject of Environment to the Province on Environment or climate change. In case of any international/ bilateral cooperation, the matter

shall be proceeded with consultation with the concerned Federal Ministries.

(2) The Government of Balochistan/ Environmental Protection Agency shall extend support to those obligation of the International Conventions, Treaties and Protocols where adequate assistance provided by the Federal Government.

Strategic
Environment
Assessment
(SEA).

13. (1) This section regulates the conditions, methods and procedure according to which the assessment of impact of certain plans and programmes on the environment (hereinafter referred to as: strategic assessment) shall be carried out in order to provide for the environmental protection and improvement of sustainable development through integration of basic principles of environmental protection into the procedure of preparation and adoption of plans and programmes.

(2) The Government at all levels of administration and in every sector shall incorporate environmental considerations into policies, plans, programmes and strategies.

Prohibition of certain
discharges or
emissions and
potential
harmful items or
materials.

14. (1) Subject to the provisions of this Act and the rules and regulations no person shall discharge or emit or allow the discharge or emission of any effluent or waste or air pollutant or noise in an amount, concentration or level or is likely to cause, a significant adverse effect on the environment or human health which is in excess of the Environmental Quality Standards or, where applicable, the standards established under sub-clause (ii) of clause (f) of section 6.

(2) The Government of Balochistan shall not allow any imported or locally made commodities or items or materials or equipment or instruments or automobile or pesticides etc, into its provincial jurisdiction which may have any potential of causing Environmental problems.

(3) No person or company related to public and private sector shall introduce any of the imported or locally made items or materials or equipment or instruments or automobile or pesticides etc as per sub-section (2) for any purpose unless it has filed an application to the Balochistan Environmental Protection Agency, as the case may be, and has obtained approval from the Government Agency in respect thereof.

(4) The Government of Balochistan may levy a pollution charge on any person who contravenes or fails to comply with the provisions of sub-section (1), to be calculated at such rate, and collected in accordance with such procedure as may be prescribed.

(5) Any person who pays the pollution charge levied under sub-section (2) shall not be charged with an offence with respect to that contravention or failure.

(6) The approved license in terms of section 15 of this Act does not affect the applicant's duty to obtain any other authorization required in order to undertake the Activity or implement the project concerned, whether in terms of this Act or any other legislation.

(7) A person/ firm causing discharge of pollutants shall take all reasonable measures to ensure that the best practicable environmental option is adopted in relation to the discharge of emission and conservation of the environment.

Initial Environmental Examination and Environmental Impact Assessment.

15. (1) No proponent of a project of public and private sector shall commence construction or operation unless he has filed an Initial Environmental Examination with the Government Agency designated by Balochistan Environmental Protection Agency, as the case may be, or, where the project is likely to cause an adverse environmental effects an environmental impact assessment, and has obtained from the Government Agency approval in respect thereof.

(2) The Government Agency shall subject to standards fixed by the Balochistan Environmental Protection Agency—

- (a) review the initial environmental examination and accord its approval, or require submission of an environmental impact assessment by the proponent; or
- (b) review the environmental impact assessment or accord its approval subject to such conditions as it may deem fit to impose, require that the environmental impact assessment be re-submitted after such modification as may be stipulated or reject the project as being contra to environmental objectives.

(3) Every review of an environmental impact assessment shall be carried out with public participation and no information will be disclosed during the course of such public participation which relates to—

- (i) trade, manufacturing or business Activities, processes or techniques of a proprietary nature, or financial, commercial, scientific or technical matters which the proponent has requested should remain confidential, unless for reasons to be recorded in writing, the Director General of the Balochistan Environmental Protection Agency is of the opinion that the request for confidentiality is not well-founded or the public interest in the

disclosure outweighs the possible prejudice to the competitive position of the project or its proponent; *or*

- (ii) international relations, national security or maintenance of law and order, except with the consent of the Government of Balochistan; *or*
- (iii) matters covered by legal professional privilege.

(4) The Government Agency shall communicate its approval or otherwise within a period of four months from the date the initial environmental examination or environmental impact assessment is filed complete in all respects in accordance with the prescribed procedure, failing which the initial environmental examination or, as the case may be, the environmental impact assessment shall be deemed to have been approved, to the extent to which it does not contravene the provisions of this Act and the rules and regulations.

(5) Subject to sub-section (4) the appropriate Government may in a particular case extend the aforementioned period of four months if the nature of the project so warrants.

(6) The provisions of sub-sections (1), (2), (3), (4) and (5) shall apply to such categories of projects and in such manner as may be prescribed.

(7) The Government Agency shall maintain separate registers for initial environmental examination and environmental impact assessment projects, which shall contain brief particulars of each project and a summary of decisions taken thereon, and which shall be open to inspection by the public at all reasonable hours and the disclosure of information in such registers shall be subject to the restrictions specified in sub-section (3).

(8) No concession areas for any developmental activities shall be awarded to any International/National groups or firms without consultation and concurrence of the Government of Balochistan/ Environmental Protection Agency.

(9) The prospect licenses for mining, quarrying, crushing etc. shall only be awarded/ granted in compliance with the sub section (1), (2), (3), (4) and (5).

(10) The cellular companies shall obtain environmental approval from the Balochistan EPA before installing Base Transceivers Station (BTS).

(11) BTS Stations should be required to undergo routine evaluation for Compliance. Whenever an application is submitted to

the Balochistan EPA for construction or modification of a transmitting facility. EPA shall have the authority to take action if a cellular base station antenna does not comply with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) Guidelines and recommendations of the report titled 'Environmental and Health Related Effects of the Cellular Base Station Antennas' carried out by IT and Telecom Division, Ministry of Information Technology.

(12) No person or company related to public and private sector shall commence construction or operation unless the concerned building authority accord approval under the provisions of the in vogue Building Code.

(13) After fulfilling the sub section (12) an action plan shall be submitted to the concerned municipal/town/union council to carry out the activities for a specific time period as to provide the general public or road users an alternative corridor.

(14) The waste generated during the construction or maintenance or repair of any building shall be appropriately disposed of or transported or collected to a designated place allocated for the purpose like any land fill site to avoid public nuisance.

(15) The construction or repair activities especially in the main city area shall be carried out in a manner to minimize the road congestion or blockage.

(16) The proponent of the project shall remit fifty thousand rupees as review fee of an Initial Environmental Examination (IEE) and one hundred thousand as review fee for Environmental Impact Assessment (EIA).

(17) The person or company in public or private sector intend to commence any scheme or project do not falling under schedule I and II of regulation to this Act shall remit twenty five thousand rupees as an Environmental approval fee to the Balochistan Environmental Protection Agency.

Prohibition of import of hazardous waste.

16. No person shall import hazardous waste into Balochistan and its jurisdiction limits.

Handling of hazardous substances and License.

17. (1) Subject to the provisions of this Act, no person shall generate, collect, consign, transport, treat, dispose of, store, handle or import any hazardous substance except—

(a) under a license issued by the Government of Balochistan and in such manner as may be prescribed; *or*

(b) in accordance with the provisions of any other law for the time being in force, or of

any international treaty, convention, protocol, code, standard, agreement or other instrument to which Pakistan is a party.

(2) Every owner or proponent of any land or premises on which hazardous waste is kept, treated or disposed of shall make a written application to the Balochistan Environmental Protection Agency for a hazardous waste management license, which shall at least include details of:

- (a) the chemical composition, nature and volume of the waste which is being, or will be, produced;
- (b) the industrial process, trade or activity giving rise to the waste;
- (c) the way in which the applicant proposes to keep, treat or dispose of the hazardous waste, including storage and handling procedures;
- (d) the precautions which will be taken to avoid any adverse effects on the environment being caused by the hazardous waste.

(3) The Balochistan Environmental Protection Agency shall evaluate each application for a license under this Article in the following manner:

- (a) grant a hazardous waste management license, with or without conditions, if satisfied that the proposed method of keeping, treating and disposing of the hazardous waste will not cause any adverse effects; *or*
- (b) refuse to grant a license giving reasons for the refusal in writing to the applicant.

(4) The Balochistan Environmental Protection Agency would take a decision in regard to sub-section (2) within thirty (30) days of the date of lodging of the application for a license.

(5) The license shall be granted for a reasonable period not exceeding five years. On expiry of the license for renewal same procedure shall be followed.

Electronic Wastes.

18. (1) Every producer, distributor, collection centre, refurbisher, dismantler or recyclers shall store the electronic waste for a period not exceeding six months and shall maintain a record of collection, sale, transfer, storage and segregation of wastes and make these records available for inspection:

Provided that the Balochistan Environmental Protection Agency may extend the said period in following cases,

namely:

- (a) Dismantlers and Recyclers up to six months of their annual storage capacity of the owner;
or
- (b) Collection centers who do not have access to any registered dismantling or recycling facility; *or*
- (c) the waste which needs to be specifically stored for development of a process for its recycling, reuse.

(2) Every producer, distributor, collection centre, refurbisher, dismantler or recyclers shall make arrangements for the environmentally sound management and disposal of electronic waste.

(3) The 'environmentally sound management of electronic waste' as "taking all steps required to ensure that electronic waste are managed in a manner which shall protect health and environment against any adverse effects, which may result from hazardous substance contained in such wastes".

(4) The provisions of this section shall apply to every producer, consumer and bulk consumer involved in manufacture, sale, purchase and processing of electronic equipment or components.

(5) Information dissemination on electronic waste and the environmentally sound management of electronic waste is also mandated from producers.

(6) To regulate the provisions of this section all the relevant international conventions, protocols and treaties collectively called as multilateral environmental agreements (MEAs) shall be applicable where Pakistan is signatory or ratified the MEAs.

(7) Any person or company or unit who contravenes or fails to comply with the provisions of the above sub-sections shall be imposed penalty under section 25 of this Act.

General Prohibition
in relation to
Solid and
Hospital Waste
management and
Waste
Management
License.

19. (1) No person may collect, transport, sort, recover, store, dispose of or otherwise manage waste in a manner that results in a significant adverse effect.

(2) Every person who imports, produces, collects, recovers, transports, keeps, treats or disposes of waste shall take all reasonable measures to prevent a significant adverse effect on the environment from occurring.

(3) The owner or proponent of every premises upon which solid and hazardous hospital waste is produced shall ensure that all hazardous waste whether solid or hospital waste is separated from other waste, and is stored in separate containers pending

disposal, in accordance with the requirements of the Balochistan Environmental Protection Agency as set out in regulations, published guidelines or license conditions.

(4) A person shall not dispose of solid and hazardous hospital waste in such a manner that it becomes litter or is likely to become litter.

(5) Unless in possession of a valid waste management license issued by the Balochistan Environmental Protection Agency, no person may construct, own or operate a landfill site, incinerator or other facility at which waste is permanently disposed of or is stored indefinitely.

(6) The Balochistan Environmental Protection Agency shall evaluate each application for a license and shall do the following:

- a) grant a license if the Balochistan Environmental Protection Agency is satisfied that the applicant has sufficient expertise to undertake the activity in question in accordance with the law and in a manner that will not have significant adverse effects; *or*
- b) refuse to grant a license giving reasons for the refusal in writing to the applicant.

(7) The Balochistan Environmental Protection Agency shall reach a decision in regard to sub-section (2) within thirty (30) days of the date of lodging of the application for a license with the Balochistan Environmental Protection Agency.

(8) If there are reasonable grounds to grant license, and those grounds are communicated to the license holder in writing, the Balochistan Environmental Protection Agency may amend, revoke or impose new conditions in an existing waste management license.

(9) The license granted under sub-section (6) shall be subject to review if condition of license granted are not fulfilled.

Management of
Water
Resources.

20. (1) All persons, for the purpose of protection, conservation, development, use, control and management of water resources, would take into account the following measures:

- a) protecting aquatic and associated ecosystems and their biological diversity;
- b) reducing and preventing pollution and degradation of water resources.

(2) When preparing water resource management plans, Departments and other relevant institutions shall at least take the following into account:

- (a) provisions for integrated watershed management;
- (b) regulation of sustainable abstraction of groundwater;
- (c) regulation of the use of ground or surface water for agricultural, industrial, mining, and urban purposes;
- (d) measures to protect human health and ecosystems;
- (e) measures to protect wetlands and their associated ecosystems;
- (f) any other provision necessary for the sustainable use and management of water resources.

(3) An owner of land or a person who uses the land on which any activity or process is performed or undertaken which causes or is likely to cause significant pollution of a water resource must take measures to prevent any such pollution.

Regulation of motor vehicles.

21. (1) Subject to the provisions of this Act, and the rules and regulations, no person shall operate a motor vehicle from which air pollutants or noise are being emitted in an amount, concentration or level which is in excess of the Environmental Quality Standards, or where applicable the standards established under clause (e) of section 6 (1).

(2) For ensuring compliance with the standards mentioned in sub-section (1), the Balochistan Environmental Protection Agency may direct that any motor vehicle or class of vehicles shall install such pollution control devices or other equipment or use such fuels or undergo such maintenance or testing as may be prescribed.

(3) Where a direction has been issued by the Government Agency under sub-section (2) in respect of any motor vehicles or class of motor vehicles, no person shall operate any such vehicle till such direction has been complied with.

(4) To regulate the provision of this Act a green squad comprising of representative of Traffic Police, Motor Vehicle Examiner, Excise & Taxation and EPA Balochistan shall be in place to monitor and inspect the automobiles running on the road as per the Environment Quality Standard.

(5) The inspection or monitoring shall be carried out at least once in a month wherein a mechanism be chalked out for issuance of warning tickets (red: Highly polluted, Blue: less polluted) on a prominent on the vehicle, as the case may be for specific period

of time not exceeding 30 days to maintain the vehicle in order.

(6) Whoever contravenes or fails to comply with the provision of sub-section (5) such vehicle should be made off road or punishable with fine at least twenty thousand rupees which may be extended to one hundred thousand rupees. In the case of continuing contravention or failure the vehicle shall be impounded.

Alien Species and
Living Modified
Organisms.

22. (1) The import into Balochistan of alien species and of living modified organisms is prohibited without a permit issued by the relevant authority under any law enforce in Balochistan. The Balochistan Environmental Protection Agency in consultation with the Departments of Agriculture, Livestock and Animal Husbandry and Food shall monitor the matter.

(2) No permit for the introduction of an alien species or of a living modified organism shall be issued unless the environmental impact indicates that there is a reasonable certainty that no harm to indigenous natural resources or human health will result from the proposed introduction.

(3) Sub-section 1 and 2 of this Section shall apply equally to introductions of alien species and living modified organisms into the Province of Balochistan and to introductions from one ecosystem to another within the province.

(4) The introduction of alien species and living modified organisms into protected areas shall not be allowed.

Coastal Zone.

23. (1) Subject to the provisions of this Act the activities or concentration or level of discharges of the following units established on onshore and offshore shall be monitored strictly to prevent the pollution and environmental degradation caused by the following multi-magnitude and multi disciplinary units.

- (a) Ports and shipping
- (b) Fisheries
- (c) Ship dismantling
- (d) Shipping Traffic (Oil Tankers & Vessels) & dredging.
- (e) Oil and gas mineral exploration.
- (f) Coastal power plants and Energy sector.
- (g) Oil refineries and Industries

(2) The ship breaking at Gaddani or anywhere else in the coastal belt/zone of this province shall be subject to fulfilling all the relevant obligations under the Basel Convention “on the Control of Trans-boundary Movements of Hazardous Waste and their Disposal”, Rotterdam Convention “on the prior Informed Consent (PIC)

Procedure for certain Hazardous Chemicals and Pesticides in International Trade” and other relevant Treaties/Protocols and provisions of this Act.

(3) During the process of ship breaking/ dismantling the waste, hazardous waste or sludge or Polychlorinated biphenyls or asbestos etc, shall be disposed of in a manner to ensure Protection of Terrestrial and Marine environment.

(4) The activities of ship breaking/ dismantling activities on shore or offshore within territorial limit of Balochistan shall be monitored at least biannually to ensure environmental protection and prevent degradation and pollution.

(5) The disposal of untreated sewage and domestic wastes and untreated disposal of industrial effluents into the sea is an offence any person or company or unit who contravenes or fails to comply with the provisions of this Act shall face to penalty under section 25.

Environmental
protection order.

24. (1) Where the Balochistan Environmental Protection Agency is satisfied that the discharge or emission of any effluent, waste, air pollutant or noise, or the disposal of waste, or the handling of hazardous substances, or any other act or omission is likely to occur, or is occurring, or has occurred, in violation of the provisions of this Act, rules or regulations or of the conditions of a license, and is likely to cause, or is causing or has caused an adverse environmental effect, the Balochistan Environmental Protection Agency may, after giving the person responsible for such discharge, emission, disposal, handling, Act or omission an opportunity of being heard, by order direct such person to take such measures that the Balochistan Environmental Protection Agency may consider necessary within such period as may be specified in the order.

(2) In particular and without prejudice to the generality of the foregoing power, such measures may include—

- (a) immediate stoppage, preventing, lessening or controlling the discharge, emission, disposal, handling, act or omission, or to minimize or remedy the adverse environmental effect;
- (b) installation, replacement or alteration of any equipment or thing to eliminate, control or abate on a permanent or temporary basis, such discharge, emission, disposal, handling, act or omission;
- (c) action to remove or otherwise dispose of the effluent, waste, air pollutant, noise, or hazardous substances; *and*

- (d) action to restore the environment to the condition existing prior to such discharge, disposal, handling, act or omission, or as close to such condition as may be reasonable in the circumstances, to the satisfaction of the Balochistan Environmental Protection Agency.

(3) Where the person, to whom directions under sub-section (1) are given, does not comply therewith, the Balochistan Environmental Protection Agency may, in addition to the proceedings initiated against him under this Act, the rules and regulations, itself take or cause to be taken such measures specified in the order as it may deem necessary and may recover the reasonable costs of taking such measures from such person as arrears of land revenue.

Penalties.

25. (1) Whoever contravenes or fails to comply with the provisions of sections 14, 15, 16, 18 or section 24 or any order issued there-under shall be punishable with fine which may extend to one million rupees, and in the case of a continuing contravention or failure, with an additional fine which may extend to one hundred thousand rupees for every day during which such contravention or failure continues:

Provided that if contravention of the provisions of section 14 also constitutes contravention of the provisions of section 21, such contravention shall be punishable under sub-section (2) only.

(2) Whoever contravenes or fails to comply with the provisions of section 17, 19, 21, 22 or 23 or any rule or regulation or conditions of any license, any order or direction, issued by the Council or the Balochistan Environmental Protection Agency, shall be punishable with fine which may extend to one hundred thousand rupees, and in case of continuing contravention or failure with an additional fine which extend to one thousand rupees for every day during which such contravention continues.

(3) Where an accused has been convicted of an offence under subsections (1) and (2), the Environmental Court and Environmental Magistrate, as the case may be, shall, in passing sentence, take into account the extent and duration of the contravention or failure constituting the offence and the attendant circumstances.

(4) Where an accused has been convicted of an offence under sub-section (1) and the Environmental Court is satisfied that as a result of the commission of the offence monetary benefits have accrued to the offender, the Environmental Court may order the offender to pay, in addition to the fines under sub-section (1), further additional fine commensurate with the amount of the monetary

benefits.

(5) Where a person convicted under sub-sections (1) or sub-section (2) had been previously convicted for any contravention under this Act, the Environmental Court or, as the case may be, Environmental Magistrate may, in addition to the punishment awarded thereunder—

- (a) endorse a copy of the order of conviction to the concerned trade or industrial association, if any, or the concerned Provincial Chamber of Commerce and Industry or the Federation of Pakistan Chambers of Commerce and Industry;
- (b) sentence him to imprisonment for a term which may extend to two years;
- (c) order the closure of the factory;
- (d) order confiscation of the factory, machinery, and equipment, vehicle, material or substance, record or document or other object used or involved in contravention of the provisions of the Act:

Provided that for a period of three years from the date of commencement of this Act the sentence of imprisonment shall be passed only in respect of persons who have been previously convicted for more than once for any contravention of sections 14, 16, 17, 18, 19 or 24 involving hazardous waste;

- (e) order such person to restore the environment at his own cost, to the conditions existing prior to such contravention or as close to such conditions as may be reasonable in the circumstances to the satisfaction of the Balochistan Environmental Protection Agency; *and*
- (f) order that such sum be paid to any person as compensation for any loss, bodily injury, damage to his health or property suffered by such contravention.

(6) The Director-General of the Balochistan Environmental Protection Agency or an officer generally or specially authorized by him in this behalf may, on the application of the accused compound an offence under this Act with the permission of the Environmental Tribunals or Environmental Magistrate in

accordance with such procedure as may be prescribed.

(7) Where the Director-General of the Balochistan Environmental Protection Agency is of the opinion that a person has contravened any provision of Act he may, subject to the rules, by notice in writing to that person require him to pay to the Balochistan Environmental Protection Agency an administrative penalty in the amount set out in the notice for each day the contravention continues; and a person who pays an administrative penalty for a contravention shall not be charged under this Act with an offence in respect of such contravention.

(8) The provisions of sub-sections (6) and (7) shall not apply to a person who has been previously convicted of offence or who has compounded an offence under this Act who has paid an administrative penalty for a contravention of any provision of this Act.

Offences by bodies
corporate.

26. Where any contravention of this Act has been committed by a body corporate, and it is proved that such offence has been committed with the consent or connivance of, or is attributed to any negligence on the part of, any director, partner, manager, secretary or other Officer of the body corporate, such director, partner, manager, secretary or other officer of the body corporate, shall be deemed guilty of such contravention along with the body corporate and shall be punished accordingly:

Provided that in the case of a company as defined under the Companies Ordinance, 1984¹ (XLVII of 1984), only the Chief Executive as defined in the said Ordinance shall be liable under this section.

Explanation.— For the purposes of this section, "body corporate" includes a firm, association of persons and a society registered under the Societies Registration Act, 1860 (XXI of 1860), or under the Co-operative Societies Act, 1925 (VII of 1925).

Offences by
Government
Agencies, local
authorities or
local councils.

27. Where any contravention of this Act has been committed by any Government Agency, local authority or local council, and it is proved that such contravention has been committed with the consent or connivance of, or is attributable to any negligence on the part of, the Head or any other officer of the Government Agency, local authority or local council, such Head or other officer shall also be deemed guilty of such contravention along with the Government Agency, local authority or local council and shall be liable to be proceeded against and punished accordingly.

Balochistan

28. (1) The Government of Balochistan may, by notification

¹ An Ordinance made by the President of Pakistan and published in the Gazette of Pakistan (Extraordinary), Part I, dated 8th October, 1984; saved and protected under Article 270A of the Constitution of Islamic Republic of Pakistan, 1973. Which repealed the earlier Act VII of 1913, S. 508, 7th Schedule.

Environmental
Tribunals.

in the official gazette establish Balochistan Environmental Protection Tribunals which shall exercise jurisdiction under this Act.

(2) The Balochistan Environmental Protection Tribunal shall consist of a Chairperson who is, or has been, or is qualified for appointment as, a judge of the High Court to be appointed after consultation with the Chief Justice of the High Court and two members to be appointed by the Government of Balochistan which at least one shall be a technical member with suitable professional qualifications and experience; in the environmental field as may be prescribed. For every sitting of the Balochistan Environmental Protection Tribunal the presence of the Chairperson and not less than one Member shall be necessary.

(3) A decision of Balochistan Environmental Protection Tribunal shall be expressed in terms of the opinion of the majority or if the case has been decided by the Chairperson and only one of the members and a there is a difference of opinion between them, the decision of the Balochistan Environmental Protection Tribunal shall be expressed in terms of the opinion of the Chairperson.

(4) Balochistan Environmental Protection Tribunal shall not, merely by reason of a change in its composition, or the absence of any member from any sitting, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already; recorded by, or produced, before it.

(5) Balochistan Environmental Protection Tribunal may hold its sittings at such places within its territorial jurisdiction as the Chairperson may decide.

(6) No act or proceeding of Balochistan Environmental Protection Tribunal shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution, of, the Balochistan Environmental Protection Tribunal.

(7) The terms and conditions of service of the Chairperson and members of the Balochistan Environmental Protection Tribunal shall be such as may be prescribed.

Jurisdiction and
powers of
Balochistan
Environmental
Tribunals.

29. (1) Balochistan Environmental Protection Tribunal shall exercise such powers and perform such functions as are, or may be, conferred upon or assigned to it by or under this Act or the rules and regulations made there under.

(2) All contravention punishable under sub-section (1) of section 25 shall exclusively be triable by Balochistan Environmental Protection Tribunal.

(3) Balochistan Environmental Protection Tribunal shall not take cognizance of any offence triable under sub-section (2) except on a complaint in writing by—

- (a) the Government Agency or local council;
and
- (b) any aggrieved person, who has given notice of not less than thirty days to the Provincial Agency concerned, of the alleged contravention and of his intention to make a complaint to the Environment Tribunal.

(4) In exercise of its criminal jurisdiction, the Balochistan Environmental Protection Tribunal shall have the same powers as are vested in Court of Session under the Code of Criminal Procedure, 1898 (Act V of 1898).

(5) In exercise of the appellate jurisdiction under section 22 the Balochistan Environmental Protection Tribunal shall have the same powers and shall follow the same procedure as an appellate court in the Code of Civil Procedure, 1908 (Act V of 1908).

(6) In all matters with respect to which no procedure has been provided for in this Act, the Balochistan Environmental Protection Tribunal shall follow the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908).

(7) Balochistan Environmental Protection Tribunal may, on application filed by any officer duly authorized in this behalf by the Director-General of the Balochistan Environmental Protection Agency, issue bail able warrant for the arrest of any person against whom reasonable suspicion exist, of his having been involved in contravention punishable under sub-section (1) of Section 25:

Provided that such warrant shall be applied for, issued, and executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898):

Provided further that if the person arrested executes a bond with sufficient sureties in accordance with the endorsement on the warrant he shall be released from custody, failing which he shall be taken or sent without delay to the officer in-charge of the nearest police station.

(8) All proceedings before the Balochistan Environmental Protection Tribunal shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and the Balochistan Environmental Protection Tribunal shall be deemed to be a court for the purpose of section 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(9) No court other than Balochistan Environmental Protection Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of Balochistan Environmental Protection Tribunal extends under this Act, the rules

and regulations made thereunder.

(10) Where the Balochistan Environmental Protection Tribunal is satisfied that a complaint made to it under sub-section (3) is false and vexatious to the knowledge of the complainant, it may, by an order, direct the complainant to pay to the person complained against such compensatory costs which may extend to five hundred thousand rupees.

Appeals to the
Environmental
Tribunal.

30. (1) Any person aggrieved by any order or direction of the Balochistan Environmental Protection Agency under any provision of this Act, and rules or regulations may prefer an appeal with the Balochistan Environmental Protection Tribunal within thirty days of the date of communication of the impugned order or direction to such person.

(2) An appeal to the Balochistan Environmental Protection Tribunal shall be in such form, contain such particulars and be accompanied by such fees as may be prescribed.

Appeals from orders
of the
Environmental
Tribunal

31. (1) Any person aggrieved by any final order or by any sentence of the Balochistan Environmental Protection Tribunal passed under this Act may, within thirty days of communication of such order or sentence, prefer an appeal to the High Court.

(2) An appeal under sub-section (1) shall be heard by a Bench of not less than two Judges.

Jurisdiction of
Environmental
Magistrates.

32. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in force, but subject to the provisions of this Act, all contravention punishable under sub-section (2) of section 25 shall exclusively be trial-able by Environmental Magistrate especially empowered in this behalf under section 14 of the Code of Criminal Procedure, 1898 (Act No. V of 1898).

(2) An Environmental Magistrate shall be competent to impose any punishment specified in sub-sections (2) and (4) of section 25.

(3) An Environmental Magistrate shall not take cognizance of an offence trial able under sub-section (1) except on a complaint in writing by—

(a) the Balochistan Environmental Protection Agency, or Government Agency or a local council; *and*

(b) any aggrieved person.

Appeals from orders
of
Environmental

33. Any person convicted of any contravention of this Act or the rules or regulations by an Environmental Magistrate may, within thirty days from the date of his conviction, appeal to the Court of

Magistrates.	Sessions whose decision thereon shall be final.
Power to delegate.	<p>34. (1) The Government of Balochistan may, by notification in the official Gazette, delegate any of its or of the Balochistan Environmental Protection Agency powers and functions under this Act and the rules and regulations to any Government Agency, local council or local authority.</p> <p>(2) The Balochistan Environmental Protection Agency may also by notification in the official Gazette, delegate any of its powers or functions under this Act and the rules and regulations to EPA Regional or sub-offices. In case of nonexistence of its Regional/Sub-offices may delegate its powers or functions to any local council or local authority in the Province.</p>
Power to give directions.	35. In the performance of its functions the Provincial Agency shall be bound by the direction given to it in writing by the Government.
Indemnity.	36. No suit, prosecution or other legal proceedings shall lie against the Government, the Council, the Balochistan Environmental Protection Agency, the Director-Generals of the Balochistan Environmental Protection Agency, members, officers, employees, experts, advisers, committees or consultants of the Balochistan Environmental Protection Agency or the Environmental Tribunal or Environmental Magistrates or any other person for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.
Dues recoverable as arrears of land revenue.	37. Any dues recoverable by the Balochistan Environmental Protection Agency under this Act, or the rules or regulations shall be recoverable as arrears of land revenue.
Act to override other laws.	38. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.
Power to make rules	39. The Government of Balochistan may, by notification in the official Gazette, make rules for carrying out the purposes of this Act including rules for implementing the provisions of the international environmental Agreements, specified in the Schedule of this Act.
Power to amend the Schedule.	40. The Government of Balochistan may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.
Power to make regulations.	41. (1) For carrying out the purposes of this Act, the Balochistan Environmental Protection Agency may, by notification in the official Gazette and with the approval of the Government of Balochistan, make regulations not inconsistent with the provisions of

this Act or the rules made thereunder.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) submission of periodical reports, data or information by any Government agency, local authority or local council in respect of environmental matters;
- (b) preparation of emergency contingency plans for coping with environmental hazards and pollution caused by accidents, natural disasters and calamities;
- (c) appointment of officers, advisers, experts, consultants and employees;
- (d) levy of fees, rates and charges in respect of services rendered, actions taken and schemes implemented;
- (e) monitoring and measurement of discharges and emissions;
- (f) categorization of projects to which, and the manner in which, section 15 applies;
- (g) laying down of guidelines for preparation of initial environmental examination and environmental impact assessment and Development of procedures for their filing, review and approval;
- (h) providing procedures for handling hazardous substances; *and*
- (i) installation of devices in, use of fuels by, and maintenance and testing of motor vehicles for control of air and noise pollution.

Repeal, savings and succession.

42. (1) The provision of Pakistan Environmental Protection Act 1997¹ (Act No. XXXIV of 1997) applicable to the Province of Balochistan are hereby repealed.

(2) Notwithstanding the repeal of the Pakistan Environmental Protection Act 1997 hereinafter called the repealed Act, any rules or regulations or appointments made, orders passed, notifications issued, powers delegated, contracts entered into, proceedings commenced, rights acquired liabilities incurred, penalties, rates, fees or charges levied, things done or action taken under any provisions of the repealed Act shall, so far as they are not

¹ Act XXXIV of 1997; passed by Majlis-e-Shoora (Parliament) of Pakistan; assented to by the President on 3rd December, 1997; and published in the Gazette of Pakistan, Part-I, dated 6th December, 1997, pages 1681-1705; repealed to the extent of Balochistan by Balochistan Act VIII of 2012, S. 42.

inconsistent with the provisions of this Act be deemed to have been made, passed, issued, delegated, entered into, commenced, acquired, incurred, levied, done or taken under this Act, until they are repealed, rescind, withdrawn, repealed, replaced or modified in accordance with the provisions of this Act.

(3) On the establishment of the Balochistan Environmental Protection Agency under this Act, all properties, assets and liabilities pertaining to the Balochistan Environmental Protection Agency established under repealed Act shall vest in and be the properties, assets and liabilities, as the case may be, of the Balochistan Environmental Protection Agency established under this Act.

(4) The Balochistan Environmental Protection Agency constituted under the repealed Act and existing immediately before the commencement of this Act shall be deemed to have been constituted under section 5 and the Director General and other officers and employees appointed in the said Agency shall be deemed to be Director General, officers and employees appointed under the Balochistan Civil Servant Act 1974¹.

(5) Notwithstanding the repeal of the Pakistan Environmental Protection Act 1997² (Act No. XXXIV of 1997), all proceeding pending immediately before commencement of this Act, against any person under the repealed Act and rules, regulation or order made there under, or any other Law or rules shall continue under that Law and rules, in the manner proceeded thereunder.

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(See Schedule on next page)

¹ Balochistan Act IX of 1974; passed by the Balochistan Assembly on 19th June, 1974; assented to by the Governor of Balochistan; and published in the Balochistan Gazette (Extraordinary) No. 41 dated 20th July, 1974.

² See footnote under section 42 (1).

SCHEDULE
(See section 39)

1. International Plant Protection Convention, Rome, 1951.
2. Plant Protection Agreement for the South-East Asia and Pacific Region (as amended), Rome, 1956.
3. Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Eastern Region of its Distribution Area in South-West Asia (as amended), Rome, 1963.
4. Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Ramsar, 1971 and its amending Protocol, Paris, 1982.
5. London Convention on Ocean Dumping 1972.
6. Convention Concerning the Protection of World Cultural and Natural Heritage (World Heritage Convention), 1972.
7. MARPOL Convention on Prevention of Pollution from Ship, 1973/78.
8. Convention on International Trade in Endangered Species of Wild Funa and Flora (CITES), Washington, 1973.
9. Convention on the Conservation of Migratory Species of Wild Animals, Bonn, 1979.
10. Convention on the Law of the Sea, Montego Bay, 1982.
11. Vienna Convention for the Protection of the Ozone Layer, Vienna, 1985.
12. Montreal Protocol on Substances that Deplete the Ozone Layer, Montreal, 1987 and amendments thereto.
13. Agreement on the Network of Agriculture Centres in Asia and the Pacific, Bangkok, 1988.
14. Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal, Basel, 1989.
15. Convention on Biological Diversity, Rio de Janeiro, 1992.
16. United Nations Framework Convention on Climate Change, Rio De Janeiro, 1992.
17. Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 17 March 1992.
18. The Rio Declaration on Environment and Development, 13 June 1992.
19. London Amendment to Montreal Protocol on Substances that deplete the ozone layer, 10 Aug 1992.
20. United Nations Convention on the Law of the Sea, 16 Nov 1994

21. Washington Declaration on Land Based Marine Pollution 1995.
22. UN Convention on Non-Navigational Uses of International Watercourses, 1995.
23. Ban Amendment to the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, 22 Sept 1995.
24. The Kyoto Protocol, 11 Dec 1997.
25. The Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 11 Sept 1998.
26. The Beijing Amendment to the Montreal Protocol on Substances that deplete the ozone layer, 1 Jan 2000.
27. The Cartagena Protocol on Biosafety to the Convention on Biological Diversity, 29 Jan 2000.
28. Stockholm Convention on Persistent Organic Pollutants (POPs), 23 May 2001.
29. International Treaty on Plant Genetic Resources for Food and Agriculture, 3 Nov 2001.
30. Hong Kong International Convention for The Safe And Environmentally Sound Recycling Of Ships, 2009.
