

**THE BALOCHISTAN WATER USERS' ASSOCIATION
ORDINANCE, 1981**

(Baln Ordinance V of 1981)

CONTENTS

SECTIONS

Preamble.

1. Short title, extent and commencement.
2. Definitions.
3. Ordinance to ride other laws.
4. Purpose.
5. Association to be bodies corporate.
6. Formation of Association.
7. Powers of Association.
8. Composition.
9. General meetings.
10. Special meeting.
11. Duties of General Body.
12. Voting.
13. Resolving disputes.
14. Composition.
15. Chairman and Officers.
16. Quorum.
17. Oath.
18. Duties of Board of Directors.
19. Duties of Chairman.
20. Duties of Secretary.

21. Duties of Treasurer.
22. Assistance to the Board.
23. Distributary Association
24. Canal/Karez (or any other sources of perennial water Association.
25. Duties and powers.
26. Capital Expenditure and Improvements.
27. Capital Expenditure and Improvements.
28. Evidence land ownership.
29. Transfer to memberships.
30. Assessment.
31. Credit.
32. Auditing of Accounts.
33. Fines for abuse.
34. Enforcement to fines and fees.
35. Acquisition lands.
36. Contract water and water rates.
37. Improvement distributary.
38. Preferential treatment.
39. Preparation of rules.
40. Power to make rules.

**¹[THE ²[BALOCHISTAN] WATER USERS' ASSOCIATION
ORDINANCE, 1981]**

(Baln Ord. V of 1981)

[30th April, 1981]

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

Preamble.

WHEREAS it is expedient to provide for the formation, operation and promotion of water users' associations in the Province of ⁴[Balochistan] and matters ancillary thereto in the manner hereinafter appearing;

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

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the Governor of ⁵[Balochistan] is pleased to make and promulgate the following Ordinance:—

CHAPTER- I

PRELIMINARY

Short title, extent and commencement. 1. (1) This Ordinance may be called the ⁶[Balochistan] Water Users' Association Ordinance, 1981.

(2) It extends to whole of the Province of ⁷[Balochistan].

¹ This Ordinance was promulgated by the Governor of Balochistan on 29th April, 1981; published in the Balochistan Gazette (Extraordinary) No.64 dated 30th April, 1981. Saved and, validated by Article 270-A of the Constitution of the Islamic Republic of Pakistan, 1973.

² Spelling corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/S&GAD-89, dated 18th June, 1989.

³ Inserted *ibid*.

⁴ Inserted *ibid*.

⁵ Inserted *ibid*.

⁶ Inserted *ibid*.

⁷ Spelling corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/S&GAD-89, dated 18th June, 1989.

(3) This section shall come into force at once and all or any of the remaining provisions of this Ordinance shall come into force in such area or areas and on such date or dates as Government may, by notification, direct.

Definitions.

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

- (a) “Association” means an Irrigation association (Anjuman e abpashi), organized and registered under section 6 of this Ordinance;
- (b) “Association in good standing” means an Association that is not in default of a bona-fide legal obligations;
- (c) “Association village” means that area of land irrigated from the source of water devolved or utilized by the association;
- (d) “Board of Directors” means the governing body of the representatives elected by the General Body;
- (e) “Bye-laws” means bye-laws of the Association;
- (f) “Canal Officer” means the Canal Officer as defined in the ¹[Balochistan] Canal and Drainage Ordinance, 1980 (XX of 1980);
- (g) “Collector” means the Collector as defined in the West Pakistan Land Revenue Act, 1967 (XVII of 1967);
- (h) “General Body” means the collective body of membership of the Association;
- (i) “Irrigator” means the operator of a separate farm, whether he is an owner of land, tenant or renter, and includes the representative chosen by the joint owners or joint operators of a jointly owned or operated farm;
- (j) “Member in good standing” means any member whose payment of assessment is not in arrears by more than one year, or who is not under conviction for a criminal offence, or is not a minor;
- (k) “Membership” means all the irrigations who are members of the Association and are entitled to

participate in the general assembly;

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

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

Ordinance to ride other laws.

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

CHAPTER- 2

PURPOSE, POWERS AND FORMATION

Purpose.

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

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

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

(iii) the Improvement of On-Farm Water Management.

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

Association to be bodies corporate.

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

Formation of Association.

6. (1) Whenever at least fifty-one percent of the irrigators on a water course who are above the age of eighteen years agree to the formation and operation of an irrigator's Association (Anjuman-e- Abpashi), they shall make an application to the Director, Agriculture (Extension)/Project Director, On-Farm Water Management, through his Field Officer.

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

irrigators in the watercourse command area.

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

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

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

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

(7) Any person aggrieved by the decision of the Field Officer may file an appeal to the Collector, whose decision thereon shall be final ¹:

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

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

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

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

¹ Full-stop subs. by a colon and proviso added by Act II of 1986; effective from 1st December, 1984.

² Subs. for the figure with full-stop "10." by Act II of 1986; effective from 1st December, 1984.

Powers of
Association

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

- (i) to improve, rehabilitate, operate and maintain the watercourses;
- (ii) to improve the water supply from surface or sub-surface sources;
- (iii) to locate, own, operate and maintain tubewells and liftpumps in the name of the Association;
- (iv) to sanctioned upgrading and maintenance of farm ditches and field outlets;
- (v) to encourage adoption of improved on-farm water use and management practices and other improved land and agricultural in put practices;
- (vi) to participate in programs to improve water courses, land levelling and agronomic practices, and to lease, own, operate and maintain equipment, structures and other matters associated with improvement efforts;
- (vii) to establish water delivery schedules and supervise water allocation and distribution in the Association village in such a manner so as not to interfere with canal water delivery;
- (viii) to set and collect general and special assessments;
- (ix) to conscript labour for emergency repair of watercourse;
- (x) to locate, install and maintain drainage facilities for fields;
- (xi) to remove obstructions in watercourse during realignment, operation and maintenance;
- (xii) to enter into contracts for obtaining loans and grants and setting a repayment schedule;
- (xiii) to insure that all members rights under

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

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

CHAPTER- 3

GENERAL BODY

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| Composition. | 8. The irrigators of an Association shall constitute the General Body. |
| General meetings. | 9. Every Association shall call an annual general meeting of the membership and not less than one other general meeting per year. |
| Special meeting. | 10. On request of not less than one-fifth of the members of the Association or at the request of the Board of Directors, the Chairman shall call a special meeting of the membership. |
| Duties of General Body. | 11. The General Body shall elect the Board of Directors, make or approve organizational policies, and plan of operation, approve and amend by-laws approve assessment and budget, approve selection of ditch tenders and assessment collectors, approve adoption of improvement programs and leasing, purchasing or otherwise obtaining equipment, pumps, seeds, fertilizer, chemical and other like products and do all other things necessary to carry out the purposes of this Ordinance and the Association's bye-laws. |
| Voting. | 12. (1) All irrigators shall be entitled to vote on issues requiring voting in carrying out the duties of the General Body.

(2) Each decision by the General Body shall require two third majorities of votes. |
| Resolving disputes. | 13. (1) The General Body may either elect a special body to, or delegate to the Board of Directors the authority to, hear and decide disputes between members of the Association.

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

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

CHAPTER- 4 BOARD OF DIRECTORS

- Composition. 14. (1) There shall be elected by the General Body, using secret ballot, a Board of Directors consisting of not less than five members in good standing.
- (2) The General Body shall decide and include in the Association bye-laws whether the representatives to the Board of Directors are to be elected from geographic portions of the watercourses (head, middle and tail) or by special group or at large.
- (3) No member elected to the Board of Directors shall enjoy any benefits greater than other member by virtue of his elected position.
- (4) Members of the Board of Directors shall be elected for two years term, except in the first election after organization when one-half or thereabouts shall be elected for one year. Thereafter half or thereabouts shall be elected annually. A person shall not serve for more than two consecutive terms on the Board of Directors.
- Chairman and Officers. 15. The members of the Board of Directors shall annually choose a Chairman, Secretary and Treasurer. If the bye-laws so specify, the Chairman may be by rotation and Vice-Chairman also appointed.
- Quorum. 16. Action by the Board of Directors shall require two third vote of the total members of the Board.
- Oath. 17. Members of the Board of Directors shall make an oath to uphold the purpose and duties of the Association and if they be muslims, to also uphold the tenets of Islam.
- Duties of Board of Directors. 18. The Board of Directors shall be responsible for carrying out the purposes of this Ordinance, the Association bye-laws and more particularly shall;
- (i) manage the Association activities in delivery of water;

- (ii) develop a plan of operation, maintenance, improvement and rehabilitation of the watercourse;
- (iii) supervise the construction and maintenance of the water course and other improvement activities;
- (iv) employ and discharge ditch tenders, collectors and construction personnel;
- (v) exercise emergency powers to repair water course breakage;
- (vi) negotiate and contract with government agencies and other institution for improvement programmes acceptable to the General Body;
- (vii) serve as the communication link between government agencies in dissemination of information and all matters representing the views and requests of the Irrigators Associations;
- (viii) maintain the financial and organizational records of the Association; and
- (ix) call special meeting of the General Body for any matters involving original expenditure and other important issues involving the general membership.

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

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

Duties of Treasurer. 21. The Treasurer shall keep and maintain financial records of the Association. The Treasurer may make deposits in the

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

Assistance to the Board.

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

CHAPTER- 5

FEDERATION OF ASSOCIATIONS

Distributary Associations.

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

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

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

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

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

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

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

(2) When more then half of the distributaries on a major canal/or any other source of perennial water are organized into Distributary Association, they may form a canal Association. Any other Distributary Association formed thereafter on the remaining distributary shall immediately become constituents member of the Canal Association.

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

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

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

Registry of
Distributary and
Canal Association.

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

Duties and powers.

26. (1) The Distributary Association or Canal Association shall:—

- (i) represent its members in issues and problems related to the distributary or, as the case may be, more than one distributary or the whole canal;
- (ii) represent its respective constituent members to the Department of Irrigation, Agriculture and any other Department;
- (iii) serve as channel of communication between the Irrigation Department and the constituent member of the Association;
- (iv) participate actively with the Irrigation Department in the improvement, maintenance and operation of the distributaries and canals;
- (v) maintain financial records and minutes of meetings, levy assessments upon member Associations and exercise collection authority on a voluntary basis or in case of default by certifying the amount for collection to the Collector; and
- (vi) make by-laws and rules of operation.

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

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

distributary on a demand or fixed delivery basis.

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

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

CHAPTER- 6

MISCELLANEOUS PROVISIONS

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

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

Assessment. 30. (1) General Assessments shall be to carry out the primary purposes of the Association.
(2) Special Assessments shall be to carry out the secondary purpose of the Association.
(3) Assessments should be allocated in proportion to cultivable lands in the Association village.

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

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

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

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

Enforcement of fines and fees. 34. (1) The Board of Directors may certify to the Collector the amount recoverable from a member as fines or fees, which the member refuses to pay on demand collectable as arrears of land revenue.

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

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

Contract water and water rates. 36. The Association or Federation of Association at any level may contract with the Irrigation Department for the supply of canal water on a contract basis at the outlet, or contract on volumetric rate basis at the minor or distributary canal, as provided in the canal rules, instead of the crop rate basis commonly used. In this case, the Association will collect and pay the agreed rate to Government.

Improvement distributary 37. Any Association or Federation of Associations which desires to improve the distributary or participate in improvement process on the distributary or canal must first have the approval and supervision of the Canal Officer.

Preferential treatment. The Departments of Irrigation, Agriculture, Revenue and Cooperatives and Credit Institutions shall give preferential treatment to Irrigators' Association organized and registered under this Ordinance to facilitate their efficient functioning.

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

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

¹ Spelling corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/S&GAD-89, dated 18th June, 1989.

