

BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT.

NOTIFICATION.

Dated Quetta, the 08th March, 2022.

No.PAB/Legis:V(04)/2022/7726. The Balochistan Fertilizer Control Bill 2022, (Bill No.04 of 2022), having been passed by the Provincial Assembly of Balochistan on 22nd February, 2022 and assented to by the Governor Balochistan, on 07th March, 2022 is hereby published as an Act of the Balochistan Provincial Assembly.

THE BALOCHISTAN FERTILIZER CONTROL ACT, 2022 ACT NO. III OF 2022.

**AN
ACT**

to regulate the manufacture, sale and distribution of fertilizers.

WHEREAS under the 18th Amendment in the Constitution of Pakistan Agriculture stands as provincial subject enabling the provincial government of Balochistan to promulgate new and amend existing laws pertaining to the agriculture sector in the public good and interest.

Preamble. **WHEREAS,** it is expedient to regulate the manufacture, sale and dumping of fertilizers and for matters ancillary thereto;

It is hereby enacted as follows:

CHAPTER -I

INTRODUCTORY

Short Title, Extent and Commencement.	1.	(1)	This Act may be called the Balochistan Fertilizers Control Act, 2022.
		(2)	It extends to the whole of the Balochistan Province.
		(3)	It shall come into force at once.

Application of other laws not barred.	2.	The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.
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Definition.

3. In this Act, unless there is anything repugnant in the subject, or context, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a) "Act" means the Balochistan Fertilizer Control Act, 2022.
- (b) "Adulterated" when used with reference to a fertilizer, means any fertilizer to which any other material, including fertilizer of other type, has been added which alters the characteristics of its professed standard of quality expressed on its label or marking under which it is sold as fertilizer;
 - i. Intentional adulterants are those substances that are added as a deliberate act on the part of the adulterer (manufacturer, dealer, and seller) with the intention to increase the margin of profit. e.g. sand, marble chips, stones, mud, chalk powder, water, dyes, or any material which may cause harmful effects on the plants, ecosystem and environment.
 - ii. Incidental adulterants are those substances found in fertilizer due to ignorance, negligence or lack of proper facilities. It is not a willful act on the part of the adulterer;
- (c) "Advertise" means to make known by publication or distribution of any advertisement, circular or other notice including the use of print and electronic media;
- (d) "Brand" means the trade name applied by any manufacturer or vendor to the fertilizer, manufactured or offered for sale by him;
- (e) "Committee" means the Fertilizer Registration Committee (FRC) constituted under section 12;
- (f) "Essential plant nutrient" includes carbon, hydrogen, oxygen, nitrogen, phosphorus, potassium, Sulphur, calcium, magnesium, boron, copper, iron, manganese, zinc, molybdenum, chlorine, etc.; including all plant growth regulators as well;

- (g) "Department" means department of Agriculture & Cooperatives Balochistan headed by Secretary Government of Balochistan.
- (h) "Fake fertilizer" means a fertilizer which does not contain the required ingredients according to its specifications both quantitatively and qualitatively;
- (i) "Fertilizer" means any materials organic, inorganic in nature applied into soil, or in any other form (foliar spray) as nutrient for the crop or for enhancing soil fertility level in any shape (i.e. solid, liquid, powder, granular etc.);
- (j) "Fertilizer laboratory" means a fertilizer testing laboratory or a research institute set up or nominated under section 13; and duly notified by the Government;
- (k) "Government" means the provincial Government of Balochistan;
- (l) "Government analyst" means an analyst appointed by Government under section 14;
- (m) "Grade" means the guaranteed analysis of a fertilizer containing one or more, of the essential plant nutrient elements expressed as percentage Nitrogen(N), available Phosphate (P₂O₅) and Potash as K₂O;
- (n) "Guarantee" means the statement including the nutrient strength, effectiveness and other qualities of a brand of a fertilizer which a manufacturer, vendor or person holding stock for sale of brand of fertilizer is required to submit under the rules at the time of applying for the registration of the brand;
- (o) "Gypsum" means Sulphate of calcium;
- (p) "ingredient" means any material present in a fertilizer;
- (q) "Inspector" means an Inspector appointed under section 15;
- (r) "Marking" means the written or graphic matter printed on or attached to a fertilizer container, bag or other retail package, if any;

- (s) "Maximum" Price means the Prices, which the Registrar may, by notification in the official gazette, fix the maximum price of fertilizer and no importer, producer or dealer shall sell it at a higher price than the price so fixed;
- (t) "Prescribed" means prescribed by rules made under this Act;
- (u) "Registrar" means Director Agriculture Soil Fertility Balochistan;
- (v) "Registered" means registered under this Act;
- (w) "Registration number" means a specific number assigned by the Registrar to each registered brand of fertilizer;
- (x) "Rules" mean rules made under this Act;
- (y) "Secretary" means Secretary to Government of Balochistan, Agriculture & Cooperatives Department.
- (z) "Section" means a section of this Act; and
- (aa) "worker" means an employee of fertilizer manufacturer, stock holder or seller

CHAPTER - II

MANUFACTURE, SALE, REGISTRATION AND DISTRIBUTION OF FERTILIZER.

Fertilizer to be registered.

4. No person shall manufacture, sell, offer for sale, hold in stock for sale or advertise in any manner, any brand of fertilizer which has not been registered in the manner hereinafter provided.

Brand of fertilizer.

5. (1) Any person intending to manufacture, sell, offer for sale, hold in stock for sale or advertise any brand of fertilizer may apply to Government for registration of the brand under such name as he may indicate in the application.

(2) Where the person making an application under sub-section (1), is not domiciled in Pakistan, the application shall be signed, besides such person, by his agent or representative in Pakistan.

(3) An application under sub-section (1) shall be in such form, be accompanied by such fee and contain such statements and information as may be prescribed.

(4) Upon receipt of an application under sub-section (1), Government shall register a brand of a fertilizer by the name indicated in

the application, if it is satisfied that the brand is not such as would tend to deceive or mislead the purchaser with respect to the guarantee relating to the fertilizer or its ingredients or the method of its preparation.

(5) When it registers a brand of a fertilizer on the application of any person, the registrar shall grant him a certificate of registration in such form as may be prescribed.

Effectiveness of registration.

6. The registration of a brand of a fertilizer shall be effective from the date of its registration and shall be valid until it is cancelled under section 7.

Cancellation of registration.

7. If, at any time, after the registration of a brand of a fertilizer, Government is of the opinion that the registration has been secured in violation of any of the provisions of this Act or the rules made there under or that the fertilizer is ineffective or does not achieve the desired end or is dangerous to human, plant or animal life, it may, after giving the person, on whose application it has been registered, an opportunity of being heard, cancel the registration.

Prohibition on manufacture, etc.

8. If any fertilizer is found to be adulterated or incorrectly or misleadingly tagged, labelled, marked or named, or its sale in any way contravenes any of the provisions of this Act, the registrar with prior approval of the department may, by notification, prohibit further manufacture or sale of such fertilizer and ban its use.

Brand or marking of fertilizer.

9. No person shall sell, offer or expose for sale, advertise or hold in stock for sale any fertilizer unless each package containing the fertilizer and tag or label durably attached thereto, is branded or legibly marked in printed character in such form and in such manner as may be prescribed.

Condition of sale

10. No person shall store or sell any fertilizer, save in accordance with the provision of this Act and the rules made thereunder.

Appointment of Registrar.

11. As soon as may be after the commencement of this Act, the Secretary shall notify the Director Agriculture Soil Fertility department of Agriculture Extension as Registrar.

Fertilizer Registration Committee.

12. (1) The Secretary shall, by notification in the official Gazette, constitute a Committee, to be called the Fertilizer Registration Committee (FRC), to advise Government on all matters arising out of the

implementation of this Act and to perform any other function assigned to it by or under this Act. The Committee shall have the right to have access to such data and information from any manufacturer, distributor and vendor as the Committee deem necessary for the effective implementation of this Act.

(2) The Committee shall consist of the Registrar and such number of other members, being officers of the Agriculture Extension and Research Services, the persons representing trade and industry engaged in fertilizer and gypsum business and representative of farmers as the department may deem fit to appoint.

(3) The Secretary shall appoint one of the members of the Committee, being an officer of the Agricultural Extension Department, to be the Secretary of the Committee.

(4) The non-official members of the Committee shall hold office for a term of three years and shall be eligible for re-appointment, on the basis of performance.

(5) A non-official member of the Committee may, at any time, resign by writing under his hand and address to the Registrar but the post of such member shall not be deemed to have fallen vacant unless the resignation has been accepted by the Registrar with the prior approval of Government.

(6) A person appointed to fill a vacancy, fell vacant by the resignation or death of a nonofficial member shall hold office for the residue of the term of his predecessor.

(7) The Committee shall perform its functions notwithstanding any vacancy in the membership thereof.

(8) The Committee shall have the power to regulate, with the prior approval of Government, the procedure for the conduct of its business.

(9) The Committee may appoint a sub-committee consisting of specialists for the consideration of a particular matter for such period not exceeding three years, as it may consider necessary.

(10) The committee may co-opt a member from public or private sector on a particular matter.

**Fertilizer
analysis.**

13. (1) As soon as may be after the commencement of this Act, Government shall set up or nominate fertilizer testing laboratories suitably equipped to carry out the functions entrusted to it by or under this Act.

(2) The manner and mode of submission of samples for analysis in the laboratory shall be in such form as may be prescribed and the laboratories shall conduct the analysis accordingly.

(3) The secrecy of the formula of brands of fertilizers, samples of which are submitted to the fertilizer laboratory for analysis or test, shall be duly safeguarded in the manner to be prescribed by rules.

Appointment of Government analysts.

14. Where fertilizer laboratories are set up under this Act, Government may, by notification in the official Gazette, appoint as many persons as it deems fit to be Government analysts, and where it appoints more than one person it shall specify in the notification the local limits within which each one shall perform his functions as Government analyst.

Appointments of Inspectors.

15. The Secretary may by notification, appoint Inspectors from among the staff of Agriculture Extension Service (soil Fertility) for checking and reporting irregularities in fertilizers and gypsum business.

Power of Inspectors.

16. An Inspector may, within the local limits of his jurisdiction, enter upon any premises where fertilizer or gypsum is kept or stored, whether in bag or in bulk or in any other packing or container by or on behalf of the owner, including premises belonging to Bailee, such as railway, shipping company or any other carrier and may take samples therefrom for examination. No compensation shall be paid for the samples so taken.

Intimation of purpose.

17. (1) Where an Inspector takes a sample of fertilizer or gypsum for the purpose of test or analysis under section 16, he shall intimate such purpose, in writing in the prescribed form to the person from whose possession he takes it. The Inspector shall, in the presence of such person as may choose to be present, divide the sample into three portions and effectively seal and suitably mark it and permit such person to add his own seal and mark to all or any of the portions so sealed and marked.

(2) The Inspector shall restore one portion of the sample so divided to the person from whom it was taken and shall forthwith send one of the remaining two portions to the fertilizer laboratory for testing or analysis and the other portion to the Registrar.

Delivery of report.

18. (1) The fertilizer laboratory, to which a sample of any fertilizer has been forwarded by an Inspector under sub-section (2) of section 17, shall deliver within two weeks to the Inspector, a signed report of the result of the chemical test or analysis in the prescribed form in triplicate.

(2) The Inspector shall deliver one copy of the report received by him to the person from whose possession the sample was taken and shall send one copy to the Registrar while the third copy of the report shall be retained for his own record.

(3) Any document purporting to be a report signed by the fertilizer laboratory under this Chapter shall be conclusive evidence of the particulars stated therein, unless the person, to whom the report has been delivered under sub-section (2), disputes the correctness of the laboratory test report and, within thirty days of the delivery of the report to him, places before the Registrar evidence which in his opinion controverts the correctness of such report or analysis.

(4) Where the evidence placed before the Registrar under sub-section (3) is such as would, in his opinion, justify further investigation, he may cause the portion of the same sample, sent to him under section 17(2), to be analyzed at another fertilizer laboratory. The result should be received within a period not exceeding two weeks.

(5) After the sample forwarded by the Registrar under sub-section (4) has been analyzed by another fertilizer laboratory, it shall record the result of the analysis in a certificate of analysis and forward it to the Registrar. The result should be received within a period not exceeding two weeks.

(6) A certificate of analysis prepared under sub-section (5) shall be conclusive evidence of the facts stated therein.

Application for conducting test of fertilizer.

19. (1) Any person—who has purchased a registered brand of fertilizer which he claims to be adulterated, may apply to the Registrar for an order directing the fertilizer laboratory to conduct a test or analysis of the fertilizer.

(2) An application under sub-section (1) shall be made in such form and manner and be accompanied by such sample and fee as may be prescribed.

(3) The Registrar upon being satisfied, after such investigation as he deems fit, that the fertilizer has not been tampered with or adulterated after its manufacture, may refer the application and sample to the fertilizer laboratory.

(4) The fertilizer laboratory, to which a reference is made in accordance with subsection (3), shall conduct the analysis of the sample and issue to the applicant a report of the test or analysis.

(5) Registrar may take action pertaining to fertilizers quality as if come to his notice thorough media or other reliable source.

CHAPTER – III

MISCELLANEOUS

Sale of Fake Fertilizer.

20. Any person who—(1) sells, offers or exposes for sale, holds in stock for sale or advertises registered brand of a fertilizer or gypsum which is not of nutritional strength and purity represented by the brand or mark on the package containing it or, as the case may be, on the tag or label attached thereto; or

(2) falsely represents a fertilizer or gypsum in an advertisement; or

(3) contravenes any of the provision of this Act or the rules, made under this for the contravention of which no other penalty is provided in this Act;

(4) shall be punished for the first offence with fine which shall not be less than twenty five thousand rupees or more than thirty thousand rupees and for every subsequent offence with fine which shall not be less than thirty five thousand rupees or more than fifty thousand rupees and in default of payment of any such fine, the offender may be punished with simple imprisonment for a term which may extend up to two years in the case of first offence and up to three years in the case of every subsequent offence.

False warranty.

21. Whoever gives false warranty to a dealer or purchaser in respect of a fertilizer or fertilizer material that it complies in all respects with the provisions of this Act shall, unless he proves that when he gave the warranty, he had good reasons to believe the warranty to be true, be punished with fine which may extend to twenty-five thousand rupees or in default of payment of fine with simple imprisonment which may extend up to two years.

Unlawful use of registration.

22. Any person who—(1) unlawfully uses any registration number assigned under this Act; or

(2) willfully alters the composition of a fertilizer or gypsum by mixing any other substance therewith after it has been placed in the market by the manufacturer, importer or vendor; or

(3) willfully obstructs, hinders, resists, or in any way opposes any Inspector in performing his duties under this Act; shall be punished with a fine which shall not be less than ten thousand rupees or more than thirty thousand rupees or with imprisonment for a term which may extend to two years.

Power to enter and search.

23. (1) If an Inspector has reasons to believe that an offence punishable under this Act or the rules made thereunder has been, is being or is about to be committed at any time or place, he may enter and search such place and seize any fertilizer, or fertilizers material, article or thing to which the offence relates.

(2) Any fertilizer, article or thing seized under subsection (1) shall be disposed-off in accordance with the decision of the court which tries the offender.

Forfeiture of fertilizer.

24. If any person is convicted of an offence, punishable under this Act, the Court convicting him may further direct that the fertilizer, article or thing be forfeited to Government.

Cognizance of offence.

25. No court inferior to the court of Magistrate First Class shall try an offence punishable under this Act.

Indemnity.

26. No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done, or intended to be done under this Act or the rules made there under.

Power to make rules.

27. (1) Government may, in consultation with the Committee and after publication in the official Gazette, make rules for carrying out the provisions of this Act.

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

- (a) the form in which an application for the registration of a brand of fertilizer or gypsum shall be furnished and the fee that shall accompany it;
- (b) the procedure for the grant of certificate of registration of brands of fertilizer or gypsum or fertilizer businesses and the form of such certificates;
- (c) the language of the tag or label or marking on the containers, bags and packages containing fertilizer or gypsum and character and location of the printing to be marked on such tag, labels, containers, bags and packages;

- (d) the functions of the fertilizer laboratory and the procedure to be followed by it in the performance of such functions, including—
 - (i) safeguarding of the secrecy of the formula of the brands of fertilizer disclosed to it;
 - (ii) collection of samples of fertilizer and gypsum for test or analysis;
 - (iii) the form in which its reports of tests or analysis shall be written;
- (e) the methods of chemical analysis and other testing to be followed, and the limit of variability to be allowed by the Registrar as between the information marked on the packages or on a label attached thereto or supplied to the purchaser or sold in bulk or retail and the results of the laboratory tests;
- (f) the qualification and duties of Government Analyst and the Inspector;
- (g) the form in which intimation of the purpose for which a sample is taken by an Inspector to be given by him to the person from whose possession the sample is taken, the instruments to be employed and the quantities to be taken by such an Inspector for laboratory test and the manner in which it should be preserved and sent to the Registrar and the fertilizer laboratory;
- (h) the requirements for the safe storage of fertilizer and gypsum; and
- (i) the quantities of different brands of fertilizer which a person may hold in stock at one time and the premises in which and the conditions subject to which the same may be held in stock.

Delegation of powers.

28. Government may, by notification in the official Gazette, direct that all or any of its power under this Act or rules framed thereunder shall in such circumstances, and under such conditions, if any, as may be specified in the direction, be exercised by any officer or authority subordinate to it.

(TAHIR SHAH KAKAR)

Secretary.

