

(To be introduced in the Gilgit-Baltistan Legislative Assembly)

A

BILL

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

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 hereby enacted as follows:

**PART I
PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the Gilgit-Baltistan Environmental Protection Act, 2014.

(2) It shall extend to the whole of Gilgit-Baltistan.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

(i) "adverse environmental effect" means impairment of, or damage to, the environment and includes-

(a) impairment of, or damage to, human health and safety or to biodiversity or property;

(b) pollution; and

(c) any adverse environmental effect as may be specified in the rules or regulations;

(ii) "Agency" means the Gilgit-Baltistan Environment Protection Agency established under section 5 or any Government Agency, local council or local authority exercising powers and functions of the Gilgit-Baltistan Environment Protection Agency;

(iii) "agricultural waste" includes waste from farm and agricultural activities including poultry and cattle farming, animal husbandry, residues from the use of fertilizers, pesticides and other farm chemicals;

(iv) "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;

(v) "biodiversity" or "biological diversity" means the variability among living organisms from all sources, including *inter alia* terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and includes diversity within species, between species and of ecosystems;

(vi) "bio safety" means the mechanisms developed through policy and procedure to ensure human health and the environmentally safe application of biotechnology;

(vii) "Council" means the Gilgit-Baltistan Environmental Protection Council established

under section 3;

- (viii) “discharge” includes spilling, leaking, pumping, depositing, seeping, releasing, flowing out, pouring, emitting, emptying or dumping;
- (ix) “ecosystem” means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;
- (x) “effluent” includes 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 vapour;
- (xi) “emission standards” means the permissible standards established by the Agency for emission of air pollutants and noise and the discharge of effluents and waste;
- (xii) “environment” means—
 - (a) air, water and land;
 - (b) all layers of the atmosphere;
 - (c) all organic and inorganic matter and living organisms;
 - (d) ecosystems and ecological relationships;
 - (e) buildings, structures, roads, facilities and works;
 - (f) all social and economic conditions affecting community life; and
 - (g) the inter-relationships between any of the factors in sub-clauses (a) to (f);
- (xi) “environmental impact assessment” means an environmental study comprising collection of data, prediction of qualitative and quantitative impacts, comparison of alternatives, evaluation of preventive, mediatory 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;
- (xii) “Environment Protection Order” means an order passed under section 20 of the Act;
- (xiii) “Environmental Court” means the Environmental Court constituted under section 24 of the Act;
- (xiv) “factory” means any premises in which industrial activity is being undertaken;
- (xv) “Federal Agency” means the Pakistan Environmental Protection Agency established under the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997) or any division, department, attached department, bureau, section, commission, board, office or unit of the Federal Government exercising the powers and functions of the Pakistan Environmental Protection Agency;
- (xvi) “genetically modified organism” means any organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology and which does not occur naturally through mating and/or recombination and includes both living and non-living modified organisms;
- (xvii) “Government” means the Government of Gilgit-Baltistan and the Federal Government as the case may be;
- (xviii) “Government Agency” includes—
 - (a) a department, attached department or any other office of the Government; and
 - (b) a development authority, local authority, company or body corporate established

or controlled by the Government;

- (xix) “Green Court” means—
- (a) the Court of the Senior Civil Judge-cum-Judicial Magistrate at District Headquarters;
 - (b) the Court of the Civil Judge-I-cum-Judicial Magistrate at Sub-Divisions;
 - (c) the Court of the District and Sessions Judge at District Headquarters;
 - (d) the Green Division Bench at the Principal Seat and at the Benches of the Gilgit-Baltistan Chief Court; and
 - (e) any other court designated as a Green Court by the Gilgit-Baltistan Chief Court for hearing of cases under this Act.
- (xx) “hazardous substance” means—
- (a) a substance or mixture of substances, other than a pesticide as defined in the Agricultural Pesticides Ordinance, 1971 (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
 - (b) any substance which may be prescribed as a hazardous substance;
- (xxi) “hazardous waste” means waste which is or which contains a hazardous substance or which may be prescribed as hazardous waste and includes hospital waste and nuclear waste;
- (xxii) “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 and veterinary facilities;
- (xxiii) “industrial activity” means any operation or process for manufacturing, making, formulating, synthesising, 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 purposes;
- (xxiv) “industrial waste” means waste resulting from an industrial activity;
- (xxv) “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;
- (xxvi) “local authority” means any agency set up or designated by the Government, by notification in the official Gazette, to be a local authority for the purposes of this Act;
- (xxvii) “local council” means a local council constituted or established under a law relating to local Government;
- (xxviii) “motor vehicle” means any mechanically propelled vehicle adapted for use on 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;
- (xxix) “municipal waste” includes sewage, refuse, garbage, waste from abattoirs, sludge and human excreta and the like;

- (xxx) "Gilgit-Baltistan Environmental Quality Standards" means standards established by the Agency 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;
- (xxxi) "noise" means the intensity, duration and character of sounds from all sources, and includes vibration;
- (xxxii) "nuclear waste" means waste from any nuclear reactor or nuclear plant or other nuclear energy system, whether or not such waste is radioactive;
- (xxxiii) "person" means any natural person or legal entity and includes an individual, firm, association, partnership, society, group, company, corporation, co-operative society, Federal Agency, 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;
- (xxxiv) "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 unfavourably the chemical, physical, biological, radiational, thermal, 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;
- (xxxv) "prescribed" means prescribed by rules or regulations;
- (xxxvi) "project" means any activity, plan, scheme, proposal or undertaking involving any change in the environment and includes—
- (a) construction or use of buildings or other works;
 - (b) construction or use of roads or other transport systems;
 - (c) construction or operation of factories or other installations;
 - (d) mineral prospecting, mining, quarrying, stone-crushing, drilling and the like;
 - (e) any change of land use or water use; and
 - (f) alteration, expansion, repair, decommissioning or abandonment of existing buildings or other works, roads or other transport systems, factories or other installations;
- (xxxvii) "proponent" means the person who proposes or intends to undertake a project;
- (xxxviii) "regulations" mean regulations made under this Act;
- (xxxix) "rules" mean rules made under this Act;
- (xl) "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;
- (xli) "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 Gilgit-Baltistan Environmental Quality Standards,

emission standards and other standards established under this Act and the rules and regulations;

- (xlii) “strategic environmental assessment” means an analysis of a proposed policy, legislation, plan or programme to determine whether the principles of sustainable development have been integrated therein and to identify its likely environmental effects and such components as require an initial environmental examination or environmental impact assessment;
- (xliii) “sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs;
- (xliv) “vessel” includes anything made for the conveyance by water of human beings or of goods; and
- (xlv) “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 from the incineration of all types of waste.

PART II THE GILGIT-BALTISTAN ENVIRONMENTAL PROTECTION COUNCIL

3. Establishment of the Gilgit-Baltistan Environmental Protection Council.- (1) The Government shall, by notification in the Official Gazette, establish a council to be known as the Gilgit-Baltistan Environmental Protection Council consisting of—

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|-------|---|------------------------------------|
| (i) | The Chief Minister or such other person as the Chief Minister may nominate in this behalf..... | Chairperson |
| (ii) | The Minister in charge of the Environment Department | Vice
Chairperson |
| (iii) | Chief Secretary | Ex-officio
member |
| (iv) | The Secretaries of
Planning and Development Department
Forest, Wildlife and Environment Department
Agriculture, Fisheries and Livestock Department
Water and Power Department
Works Department
Local Government and Rural Development Department
Industries and Mineral Development Department | Ex-officio
members |
| (v) | President Gilgit-Baltistan Chamber of Commerce and Industry
One representative of NGOs | Non-official
members |
| (vi) | Director Environment Protection Agency | Ex-officio
member/
Secretary |

(2) The members of the Council, other than ex-officio members, shall be appointed in accordance with the prescribed procedure.

(3) A non-official member, unless he sooner resigns or is removed, shall hold office for a term of three years and shall be eligible for re-appointment but shall not hold office for more than two terms.

(4) The Council shall frame its own rules of procedure.

(5) The Council shall hold meetings as and when necessary but not less than four meetings shall be held in a year.

(6) 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.

(7) The Council, or any of its committees, may invite any technical expert or representative of any Government Agency or non-governmental organization or other person possessing specialized knowledge of any subject for assistance in performance of its functions.

4. Functions and powers of the Council.- (1) The Council shall—

- (a) coordinate and supervise the enforcement of the provisions of this Act and other laws relating to the environment in the province;
- (b) approve comprehensive provincial environmental and sustainable development policies and ensure their implementation within the framework of a conservation strategy and sustainable development plan as may be approved by the Government from time to time;
- (c) approve the Gilgit-Baltistan 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 and new emerging environmental challenges like Climate Change and its mitigation;
- (e) coordinate integration of the principles and concerns of sustainable development into socio-economic and development policies, plans and programmes at the provincial, district and local levels;
- (f) consider the annual Gilgit-Baltistan Environment Report and give appropriate directions thereon and cause it to be laid before the Provincial Assembly;
- (g) deal with inter-provincial and federal-provincial issues, and liaise and coordinate with other Provinces through appropriate inter-provincial forums regarding formulation and implementation of standards and policies relating to environmental matters with an inter-provincial impact; and
- (h) provide guidelines for bio safety and for the use of genetically modified organisms;

PART III
THE GILGIT-BALTISTAN ENVIRONMENTAL PROTECTION AGENCY

5. Establishment of the Gilgit-Baltistan Environmental Protection Agency.- (1) The Government shall, by notification in the Official Gazette, establish the Gilgit-Baltistan

Environmental Protection Agency, to exercise the powers and perform the functions assigned to it under the provisions of this Act and the rules and regulations.

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

(3) The Agency shall have such administrative, technical and legal staff as the Government may specify, to be appointed in accordance with such procedure as may be prescribed.

(4) The powers and functions of the Agency shall be exercised and performed by the Director.

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

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

6. Functions of the Agency.- (1) The Agency shall—

- (a) administer and implement the provisions of this Act and the rules and regulations;
- (b) prepare, in co-ordination with the appropriate Government Agency or local council and, in consultation with the concerned sectoral Advisory Committees where established, environmental policies for the approval of the Council;
- (c) take all necessary measures for the implementation of the environmental policies approved by the Council;
- (d) prepare and publish an annual Gilgit-Baltistan Environment Report on the state of the environment in the province;
- (e) prepare or revise and establish the Gilgit-Baltistan Environmental Quality Standards with approval of the Council;

Provided that before seeking approval of the Council, the Agency shall publish the proposed Gilgit-Baltistan Environmental Quality Standards for public opinion in accordance with the prescribed procedure;

- (f) ensure enforcement of the Gilgit-Baltistan Environmental Quality Standards;
- (g) where the quality of ambient air, water, land or noise so requires, the Agency may, by notification in the Official Gazette:
 - (i) establish different standards for discharge or emission from different sources and for different areas and conditions as may be necessary:

Provided that where these standards are less stringent than the Gilgit-Baltistan Environmental Quality Standards; prior approval of the Council shall be obtained;
 - (ii) list areas, with the approval of the Council, in which any class of activities or projects shall not be carried out or shall only be carried out subject to certain specified safeguards;
- (h) establish systems and procedures for surveys, surveillance, 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 prevention of pollution, the protection of the environment, and sustainable development;
- (j) issue licences for the consignment, handling, transport, treatment, disposal of, storage, handling or otherwise dealing with hazardous substances;
- (k) certify 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;
- (l) identify the needs for and initiate legislation in various sectors of the environment;
- (m) provide assistance to relevant Federal and Provincial Government Agencies in the management of environment accidents and natural and environmental disasters;
- (n) 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 specified in Part XI (Access to Information);

- (o) within ninety days of the end of the financial year, prepare and publish an Annual Report regarding activities of the Agency during that financial year, summary of which shall be appended with the Gilgit-Baltistan Environment Report mentioned in clause (d) above;
- (p) assist Government Agencies, local councils, local authorities and other persons to implement schemes for the proper disposal of wastes so as to ensure compliance with the Gilgit-Baltistan Environmental Quality Standards;
- (q) provide information and guidance to the public on environmental matters;
- (r) recommend environmental courses, topics, literature and books for incorporation in the curricula and syllabi of educational institutions;
- (s) promote public education and awareness of environmental issues through mass media and other means including seminars and workshops;
- (t) establish and maintain mechanisms, including its own website, to disseminate information, subject to the provisions of this Act, regarding policies, plans and decisions of the Government, the Council and the Agency, relating to the environment;
- (u) specify safeguards for the prevention of accidents and disasters which may cause pollution, collaborate with the concerned persons in the preparation of contingency plans for control of such accidents and disasters, and co-ordinate implementation of such plans;
- (v) review and approve mitigation plans and give guidance and directions, where

necessary, relating to clean up operations ordered under this Act;

- (w) encourage the formation and working of non-governmental organizations, community organizations and village organizations to prevent and control pollution and promote sustainable development;
 - (x) take or cause to be taken all necessary measures for the protection, conservation, rehabilitation and improvement of the environment, prevention and control of pollution and promotion of sustainable development; and
 - (y) Perform any function that the Council may assign to it.
- (2) The 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 Government and 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 and the Council, the adoption of financial and fiscal programmes, schemes or measures for achieving environmental objectives and goals and the purposes of this Act, including —
 - (i) taxes, duties, cesses and other levies; and
 - (ii) incentives, prizes, awards, rewards, subsidies, tax exemptions, rebates and depreciation allowances;
 - (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 the establishment of similar laboratories in the private sector; and
 - (f) arrange, in accordance with such procedure as may be prescribed, financial assistance for projects designed to facilitate the discharge of its functions.

7. Powers of the Agency.- Subject to the provisions of this Act, the Agency may—

- (a) appoint, with the approval of the Government and in accordance with such procedures as may be prescribed, such advisers, experts and consultants as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit;
- (b) 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;
- (c) enter and inspect and, under the authority of a search warrant issued by an Environmental Court or a Green Court, 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;

- (d) 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;
- (e) arrange for the testing and analysis of samples at a certified laboratory;
- (f) 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 powers under clauses (f), (g), (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 and regulations and under the direction of the Environmental Court or a Green Court; and

- (g) establish the [—] Environmental Co-ordination Committee comprising the Director-General as its Chairman and such other persons as the Government shall appoint as its members to exercise such powers and perform such functions as shall be delegated or assigned to it by the Government for carrying out the purposes of this Act and for ensuring coordination among Government Agencies in implementation of environmental policies.

PART IV GILGIT-BALTISTAN SUSTAINABLE DEVELOPMENT FUND

8. Establishment of the Gilgit-Baltistan Sustainable Development Fund.- (1) There shall be established a Gilgit-Baltistan Sustainable Development Fund.

(2) The Gilgit-Baltistan Sustainable Development Fund shall be derived from the following sources, namely—

- (a) allocations and grants made or loans advanced by the Federal Government or the 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 Gilgit-Baltistan Sustainable Development Fund shall be utilized, in accordance with such procedures as may be prescribed, for—

- (a) providing financial assistance to projects 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 specified aspect of the environment; and
- (b) any other purposes which, in the opinion of the Board, will help achieve environment objectives and the purposes of this Act.

9. Management of the Gilgit-Baltistan Sustainable Development Fund.- (1) The Gilgit-Baltistan Sustainable Development Fund shall be managed by a Board known as the Provincial Sustainable Development Fund Board consisting of—

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| (i) | Chief Secretary | Chairperson |
| (ii) | The Secretaries of
Planning and Development Department
Finance Department
Forest, Wildlife and Environment Department | Ex-officio
Members |
| (iii) | President Chamber of Commerce and Industry
One representative of NGOs | Non-official
Members |
| (iv) | Director of the Agency | Secretary/
Member/ |

(2) The members of the Board, other than ex-officio members, shall be appointed in accordance with the prescribed procedure.

(3) A non-official member of the Board, unless he sooner resigns or is removed, shall hold office for a term of three years and shall be eligible for re-nomination, but shall not hold office for more than two terms.

(4) The Board shall frame its own rules of procedure.

(5) In accordance with such procedures and such criteria as may be prescribed, the Board shall have the power to —

- (a) sanction financial assistance for eligible projects;
- (b) invest moneys held in the Gilgit-Baltistan Sustainable Development Fund in such profit-bearing Government bonds, saving schemes and securities as it may deem suitable; and
- (c) take such measures and exercise such powers as may be necessary for utilization of the Gilgit-Baltistan Sustainable Development Fund for the purposes specified in subsection (3) of section 8.

(6) The Board shall constitute committees of its members to undertake regular monitoring of projects financed from the Gilgit-Baltistan 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.

10. Accounts.- (1) The Agency shall maintain proper accounts of the G Gilgit-Baltistan Development Fund and other relevant records and prepare annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Gilgit-Baltistan Sustainable Development Fund shall be audited annually by the Auditor General of Gilgit-Baltistan.

PART V PROHIBITIONS AND ENFORCEMENT

11. Prohibition of certain discharges or emissions.-

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 which is in excess of the Gilgit-Baltistan Environmental Quality Standards or, where applicable, the standards established under sub-clause (i) of clause (g) of sub-section (1) of section 6.

12. Pollution charge.- (1) The Government may levy a pollution charge on any person who contravenes or fails to comply with the provisions of section 11, to be calculated at such rate, and collected in accordance with such procedure as prescribed in the rules.

(2) Any person who pays the pollution charge levied under sub-section (1) shall not be charged with an offence with respect to that contravention or failure;

(3) The provisions of sub-section (1) shall not be applicable on any person against whom a pollution charge has been earlier levied.

13. Handling of hazardous substances.- Subject to the provisions of this Act, no person shall generate, collect, consign, transport, treat, dispose of, store, handle or otherwise use or deal with any hazardous substance except—

(a) under a licence issued by the Agency and in such manner as may be prescribed; or

(b) in accordance with the provisions of any other law, rule, regulation or notification 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

14. Prohibition of import of hazardous waste.- No person shall import hazardous waste into Gilgit-Baltistan.

15. Regulation of motor vehicles.- (1) Subject to the provisions of this Act, and its 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 Gilgit-Baltistan Environmental Quality Standards or, where applicable, the standards established under sub-clause (i) of clause (g) of sub-section (1) of section 6.

(2) For ensuring compliance with the standards mentioned in sub-section (1), the 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 Agency under subsection (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.

PART VI ENVIRONMENTAL EXAMINATIONS AND ASSESSMENTS

16. Initial environmental examination and environmental impact assessment.- (1)

No proponent of a project shall commence construction or operation unless he has filed with the Agency an initial environmental examination or environmental impact assessment, and has obtained from the Agency approval in respect thereof.

(2) The Agency shall –

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

(3) Every review of an environment impact assessment shall be carried out with public participation and, subject to the provisions of this Act, after full disclosure of the particulars of the project.

(4) The Agency shall communicate its approval or otherwise within a period of four months from the date that the initial environmental examination or environmental impact assessment is filed complete in all respects in accordance with the regulations, 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:

Provided that the Government may in a particular case and for reasons to be communicated to the Agency in writing, extend the aforementioned period of four months if the nature of the project so warrants.

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

Provided that no examination or assessment of a project shall be carried out by a person with a financial interest in the project.

(6) The 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 provisions of this Act.

17. Strategic environmental assessment.- (1) All Government Agencies, local councils and local authorities responsible for formulating policies, legislation, plans, programmes and donor driven initiatives by NGO's and also plans and programmes of private sector shall, before submitting the same to the competent authority for approval, forward to the provincial Environment Protection Department a strategic environment assessment containing —

- (a) description of the objectives and features of the proposed policy, legislation, plan or programme that are in consonance with the principles of sustainable development;
- (b) assessment of the adverse environmental effects, if any, likely to be caused during implementation of the policy, legislation, plan or programme along with proposed preventive, mediatory and compensatory measures;
- (c) analysis of possible alternatives: and
- (d) identification of those components of the policy, legislation, plan or programme, if

any, in respect of which separate environmental impact assessment will be carried out in due course.

(2) The Environment Protection Department shall, in consultation with the Agency, the concerned Government Agencies and sectoral Advisory Committees where established, review the strategic environment assessment, within 40 days of its filing, and prepare a report containing its comments and recommendations in respect thereof which shall be forwarded to the initiating Government Agency, local council or local authority and duly considered by it and the competent authority before approval or otherwise of the proposed policy, legislation, plan or programme.

(3) The provisions of sub-sections (1), and (2) shall apply to such categories of policies, plans and programmes and in such manner as may be prescribed.

18. Environmental monitoring.- (1) The Agency shall carry out or arrange environmental monitoring of all projects in the province in respect of which it has approved an environmental impact assessment to determine whether the actual environmental impact exceeds the level predicted in the assessment or whether the conditions of the approval are being complied with.

(2) For purposes of sub-section (1), the Agency may require the person in charge of a project to furnish such information as it may specify pertaining to the environmental impact of the project, including data regarding:

- (a) discharge of effluents and waste and emissions of air pollutants and noise from the project on daily, weekly, monthly or annual basis;
- (b) ambient quality of the air, water and soil before, during and after construction, and during operation, of the project.

(3) On review of the data collected by it and information provided, the Agency may issue such directions to the person in charge as it may consider necessary to ensure compliance with the conditions of the approval.

19. Environmental audit.- (1) The Agency may from time to time require the person in charge of a project to furnish, within such period as may be specified, an environmental audit report containing a comprehensive review of the environmental impact of the project.

(2) The environmental audit report of a project shall include:

- (a) analysis of the predicted qualitative and quantitative impact of the project as compared to the actual impact;
- (b) evaluation of the efficacy of the preventive, mediatory and compensatory measures taken with respect to the project; and
- (c) recommendations for further minimizing or mitigating the adverse environmental impact of the project.

(3) Based on its review of the environmental audit report, the Agency may, after giving the person in charge of the project an opportunity of being heard, direct that specified mediatory and compensatory measures be adopted within a specified time period and may also, where necessary, modify the approval granted by it under section 16.

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

PART VII ENVIRONMENTAL PROTECTION ORDER

20. Environmental Protection Order.- (1) Where the 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 any provision of this Act, the rules or regulations or of the conditions of a licence, or is likely to cause, or is causing or has caused an adverse environmental effect, the 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 as the 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 Agency.

(3) Where the person, to whom directions under sub-section (1) are given, does not comply therewith, the Agency may, in addition to the proceedings initiated against him under this Act and its 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.

(4) Notwithstanding the provisions of sub-section (1), in an emergency situation where, for reasons to be recorded, the 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 and that circumstances of the case warrant immediate action in the public interest, it may pass an ad-interim order of the nature described in sub-sections (1) and (2) and provide the person affected an opportunity of hearing at the earliest practicable date.

PART VIII

OFFENCES AND PENALTIES

21. Penalties.- (1) Whoever contravenes or fails to comply with the provisions of sections 11,14, 16 and 20 or any order passed issued there under shall be punishable with a 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 thousand Rupees for every day during which such contravention or failure continues:

Provided that if the contravention of the provisions of section 11 also constitutes a contravention of the provisions of section 15, such contravention shall be punishable under sub-section (2).

(2) Whoever contravenes or fails to comply with the provisions of section 13 or 15 or any rule or regulation or conditions of any license, any order or direction, issued by the Council or by the Agency, shall be punishable with a fine which may extend to one hundred thousand rupees, and in case of continuing contravention or failure with an additional fine which may extend to five hundred rupees for every day during which such contravention continues.

(3) Where an accused has been convicted of an offence under sub-sections (1) and (2), the Environmental Court and Green Court 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-sections (1) and (2) 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-sections (1) and (2), further additional fine commensurate with the amount of the monetary benefits.

(5) Where an accused has been convicted of an offence under sub-section (1) or (2), the Environmental Court or Green Court, as the case may be, shall endorse a copy of the order of conviction to the concerned trade or industrial association, if any, or the Gilgit-Baltistan Chamber of Commerce and Industry or the Federation of Pakistan Chambers of Commerce and Industry.

(6) Where a person convicted under sub-section (1) or sub-section (2) had been previously convicted for any contravention of this Act and its rules or regulations, the Environmental Court or Green Court, as the case may be, may, in addition to the punishment awarded thereunder —

- (a) sentence him to imprisonment for a term that may extend up to two years;
- (b) order the closure of the factory;
- (c) order confiscation of the facility, machinery and equipment, vehicle or substance, record, document or other object used or involved in contravention of the provisions of the Act;
- (d) order such person to restore the environment at his own cost, to conditions existing prior to the contravention or as close to such conditions as may be reasonable in the circumstances to the satisfaction of the Agency; and
- (e) order that compensation be paid to any person or persons for any loss, or damage to their health or property suffered by such contravention.

(7) The Director or an officer generally or specially authorised by him in this behalf may, on the application of the accused, compound an offence under this Act with the permission of the Environmental Court or Green Court in accordance with such procedure as may be prescribed.

(8) Where the Director is of the opinion that a person had contravened any provision of this Act, he may, subject to the rules, by notice in writing to that person require him to pay to the 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.

(9) 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 or who has paid an administrative penalty for a contravention of any provision of this Act.

22. Offences by bodies corporate.- 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, 1984 (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).

23. Offences by Government Agencies, local authorities or local councils.- 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.

PART IX ENVIRONMENTAL COURTS AND GREEN COURTS

24. Environmental Court.- (1) The Government may, by Notification in the Official Gazette, establish as many Environmental Courts as it considers necessary and, where it establishes more than one Environmental Court, it shall specify territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) An Environmental Court shall consist of a Chairperson who is, or has been, or is qualified for appointment as a Judge of the Session Court to be appointed after consultation with the Chief Justice of the Chief Court and two members to be appointed by the Government, of which at least one shall be a technical member with suitable professional

qualifications and experience in the environmental field as may be prescribed.

(3) For every sitting of the Environmental Court, the presence of the Chairperson and not less than one Member shall be necessary.

(4) A decision of an Environmental Court shall be expressed in terms of the opinion of the majority of its members, including the Chairperson, or if the case has been decided by the Chairperson and only one of the members and there is a difference of opinion between them, the decision of the Environmental Court shall be expressed in terms of the opinion of the Chairperson.

(5) An Environmental Court 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.

(6) An Environmental Court may hold its sittings at such places within its territorial jurisdiction as the Chairperson may decide.

(7) No act or proceeding of an Environmental Court shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution, of, the Environmental Court.

(8) The terms and conditions of service of the Chairperson and members of the Environmental Court shall be such as may be prescribed.

25. Jurisdiction and powers of Environmental Courts.- (1) An Environmental Court 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.

(2) All contraventions punishable under sub-section (1) of section 21 shall exclusively be triable by an Environmental Court.

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

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

(4) In exercise of its criminal jurisdiction, the Environmental Court 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 26 the Environmental Court 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 Environmental Court shall follow the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908).

(7) An Environmental Court may, on application filed by any officer duly authorised in this behalf by the Director, issue bailable warrant for the arrest of any person against

whom reasonable suspicion exists, of his having been involved in contravention punishable under sub-section (1) of Section 21:

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 Environmental Court 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 Environmental Court 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 an Environmental Court shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of an Environmental Court extends under this Act and the rules and regulations.

(10) Where the Environmental Court 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 one hundred thousand rupees.

26. Appeals to the Environmental Court.- (1) Any person aggrieved by any order or direction of the Agency under any provision of this Act or the rules or regulations may prefer an appeal with the Environmental Court within thirty days of the date of communication of the impugned order or direction to such person.

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

27. Appeals from orders of the Environmental Court.- (1) Any person aggrieved by any final order or by any sentence of the Environmental Court passed under this Act may, within thirty days of communication of such order or sentence, prefer an appeal to the Chief Court.

(2) An appeal under sub-section (1) shall be heard by the Green Division Bench of the Chief Court.

28. Jurisdiction of Green Courts.- (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 contraventions punishable under sub-section (2) of section 21 shall exclusively be triable by the Green Courts designated as such by the Chief Court.

(2) A Green Court shall be competent to impose any punishment specified in sub-sections (2) and (4) of section 21.

(3) A Green Court shall not take cognizance of an offence triable under sub-section (1) except on a complaint in writing by—

- (a) the Agency or a Government Agency or local council; and
- (b) any aggrieved person.

29. Appeals from orders of the Green Courts.- Any person aggrieved by any final order or sentence passed by a Green Court under section 28 may, within thirty days from the date of the communication of such order or sentence, appeal to the Supreme Appellate Court, whose decision thereon shall be final.

PART X PUBLIC PARTICIPATION

30. Public participation.- (1) The Agency shall cause relevant details of any proposed project regarding which an Environmental Impact Assessment has been received to be published, along with an invitation to the public to furnish their comments thereon within a specified period.

(2) In accordance with such procedure as may be prescribed, the Agency shall hold public hearings to receive additional comments and hear oral submissions.

(3) All comments received under sub-sections (1) and (2) shall be duly considered by the Agency while reviewing the environmental impact assessment or strategic impact assessment, and decision or action taken thereon shall be communicated to the persons who have furnished the said comments.

(4) On direction of the Environment Protection Department, the Agency shall act in accordance with the provisions of subsections (1) and (2) in respect of any proposed policy, legislation, plan, or programme in respect of which a strategic environmental assessment has been received and shall forward all comments received in this regard to the Environment Protection Department, which shall duly consider the same before finalizing its report under section 17.

PART XI ACCESS TO INFORMATION

31. Access to information.- Every citizen shall have the right to obtain from any Government Agency any information pertaining to the environment in the possession of such Government Agency, including information regarding an initial environmental examination or environmental impact assessment filed by the proponent of a project, in accordance with such procedure as may be prescribed:

Provided that no information shall be disclosed by such Government Agency 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 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; or
- (iii) matters covered by legal professional privilege.

**PART XII
GENERAL**

32. Power to delegate.- The Government may, by notification in the official Gazette, delegate any of its or of the Agency's powers or functions under this Act and the rules and regulations to any Government Agency, local council or local authority in the Province:

Provided, however, that delegation under this section shall not prevent the concurrent performance or exercise by the Agency of the powers and functions so delegated.

33. Indemnity.- No suit, prosecution or other legal proceedings shall lie against the Government, the Council, the Agency, the Director-General of the Agency, members, officers, employees, experts, advisors, committees or consultants of the Agency or Environmental Court or Green Court or any other person for anything which is in good faith done or intended to be done under this Act or its rules or regulations.

34. Dues recoverable as arrears of land revenue.- Any dues recoverable by the Agency under this Act and its rules or regulations shall be recoverable as arrears of land revenue.

35. Act to override other laws.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

36. Power to make rules.- The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

37. Power to make regulations.- (1) For carrying out the purposes of this Act, the Agency may, by Notification in the Official Gazette and with the approval of the Government, make regulations not inconsistent with the provisions of this Act or the rules.

(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, advisors, 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, sections 16, 17 and 19 applies;
- (g) laying down of guidelines for preparation of Initial Environmental Examination, Environmental Impact Assessment and Strategic Environmental Assessment, and development of procedures for their filing, review and approval;
- (h) laying down standard operating procedures for environmental sampling,

examination of water, waste water, gaseous emissions, solid waste and noise;

(i) providing procedures for handling hazardous substances;

(i) installation of devices in, use of fuels by, and maintenance and testing of motor vehicles for control of air and noise pollution; and

(k) factors causing climate change and climate change mitigation measures.

38. Repeal, savings and succession.- (1) The Pakistan Environmental Protection Act 1997 (XXXIV of 1997), in so far it is applicable to Gilgit-Baltistan is hereby repealed.

(2) Notwithstanding the repeal of **The Pakistan Environmental Protection Act 1997 (XXXIV of 1997)** in its application to the Gilgit-Baltistan, 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 that Act shall, so far as they are not 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.

(3) On the establishment of the Agency under this Act, all properties, assets and liabilities pertaining to the Environment Protection Agency, [---] established under that Act shall vest in and be the properties, assets and liabilities, as the case may be, of the Agency established under this Act.