

THE BALOCHISTAN ENVIRONMENTAL SAMPLES RULES, 2020

1. Short title and commencement.

- (1) These rules may be called the Balochistan Environmental Samples Rules, 2014.
- (2) They shall come into force at once.

2. Definitions.

- (1) In these Rules, unless there is anything repugnant in the subject or context. –
 - (a) “Act” means the Balochistan Environmental Protection Act, 2012;
 - (b) “Agency” means the Sindh Environmental Protection Agency established under the Act;
 - (c) “authorized person” means a person authorized by the Director General under rule 3;
 - (d) “Chief Analyst” means the Chief Analyst of an environmental laboratory, and includes an Analyst who is performing the functions of the Chief Analyst in the environmental laboratory;
 - (e) “Director-General” means the Director General of the Agency;
 - (f) “Environmental Laboratory” means a laboratory to which certification has been granted under the Balochistan Environmental Protection Agency (Certification of Environmental Laboratories) Regulations, 2020; and
 - (g) “section” means a section of the Act;
- (2) All other words and expressions used but not defined in these rules shall have the same meanings as assigned to them in the Act.

3. Authorization.

- (1) Functions and powers specified in these rules including powers under clauses (g), (h), (i) and (j) of section 7, may be performed and exercised by any person duly authorized by the Director General in this behalf, under sub-section (5) of section 5 of the Act.
- (2) In performing such functions and exercising such powers under sub-rule (1), an authorized person may apply to Director General for acquiring of police assistance of the respective jurisdiction.

4. Entry and inspection.

- (1) An authorized person shall, before entering any place, record in writing the reasonable grounds leading him to believe that an offence under the Act has been or is being committed therein
- (2) For the purpose of determining whether, and if so in what manner, an offence under the Act has been, or is being committed, in any place an authorized person may –
 - (a) enter and inspect such place, and examine any machinery or equipment while in operating condition, or any relevant document or other article found therein; and
 - (b) take into possession, against a signed receipt, any article which he has reason to believe has been or is involved in, or which may furnish evidence of, the commission of an offence:

Provided that where it is not practicable to take physical possession of any such article, the authorized person may, by order in writing in the form as set out in Form A, entrust the article to the custody of the owner or the person previously holding the article in his possession or charge, and direct him not to remove or otherwise deal with the article except with the prior written permission of the authorized person:

Provided further that where the owner or person previously holding the article in his possession or charge is not known or cannot be found within reasonable time, the authorized person after publication a notice in one English and one Urdu daily newspapers calling upon such person to show cause as why the article should not be confiscated.
- (3) The owner or person in charge of the place in which entry is sought by an authorized person shall, on being informed of his purpose and shown his authorization, allow him unimpeded access to such place and provide all reasonable facilities for his inspection.

5. Search.

- (1) Where an authorized person is denied or refused to provide access to perform the functions as provided in the sub-rule (2) of rule 4, he may apply to the Environmental Protection Tribunal or Court having jurisdiction for a search-warrant, specifying in his application, to the extent possible, the article for which search is to be made.
- (2) The Environmental Protection Tribunal or Court may, on an application of an authorized person under sub-rule (1), for reasons to be recorded in writing, issue a search warrant specifying the place to be searched in performing its function.
- (3) If despite stating his purpose and showing his search warrant, an authorized person cannot obtain entry into such place, he may break or open any lock, door, gate or window of such place:

Provided that if the place into which entry is sought is in the actual occupancy of a woman who, according to custom, does not appear in public, the authorized person shall give notice to such woman to withdraw and shall afford her every reasonable opportunity of withdrawing, before breaking or opening and entering such place.
- (4) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall mutatis mutandis, apply to searches made under this rule

6. Issue of Environmental protection order.

Where on entry, inspection or search of any place, an authorized person is satisfied that the circumstances in such place require issue of an Environmental Protection Order in respect thereof, he shall immediately inform the Director General in writing, for initiation of necessary action in accordance with the provisions of section 21.

7. Procedure for taking samples.

- (1) An authorized person shall take samples as per functions provided under clause (h) of section 7 of the Act, in the presence of the person from whom the sample is taken.
- (2) All such samples shall be labeled, and then effectively sealed and suitably marked and signed by the authorized person and the person from whom the sample is taken.
- (3) Where the person from whom the sample is taken is not available, or willfully absents himself or is unknown at the relevant time, or declines to add his seal or mark or signatures, the authorized person shall obtain, if possible, signatures on the Performa of one or more independent witnesses in whose presence the sample has been taken.
- (4) The label and the sealed sample shall contain a distinguishing number, a brief description of the sample, and the place, date and time of taking the sample.

8. Dispatch of samples.

The sample duly sealed and marked as provided in rule 7 shall be handed over to the person from whom the sample is taken, along with a notice in the form as set out in Form B, directing the person from whom the sample is taken to ensure its delivery within 48 hours and analysis from a Certified Laboratory as per direction of authorized person along with forwarding letter in the form as set out in Form C.

9. Test and analysis of samples.

- (1) On receipt of sealed sample for test and analysis, the Chief Analyst shall inform in writing to authorized person within three days of receipt of the sample, and shall note the condition of the sample seal thereon.
- (2) Amongst other tests or analyses, the Chief Analyst shall particularly test or analyze the sample to determine whether it confirms to the Sindh Environmental Quality Standards (SEQS).
- (3) After the test or analysis, the Chief Analyst, on receipt of fees payable in respect thereof, from the person to whom the sample is collected shall send to the authorized person a certificate in the form as set out in Form D, in triplicate, declaring the results within fifteen days of such test or analysis along with specific remarks indicating compliance status of SEQS parameters.

Provided that if for any reason the Chief Analyst is unable to carry out the test or analysis within the prescribed period, he shall inform the authorized person accordingly and send the same to another Environmental Laboratory for the purpose.
- (4) On receipt of the certificate in the form as set out in Form D, in triplicate, the authorized person shall
 - (a) send one original to the person from whom the sample is taken;
 - (b) submit the second original with the complaint, if any, filed with the Environmental Protection Tribunal or Court; and
 - (c) retain the third original in his record or in the record of the Agency for future use.

10. Invoking action against contravention.

On receipt of the certification on form D issued by Environmental Laboratory on indicating any contravention of SEQS parameters, the authorized person shall initiate proceedings under section 11, section 21 against the person, contravener, responsible for violations of the provisions of the Act.

11. Filing of complaint.

- (1) On failure to comply with any directions provided under the proceedings of rule 10, an authorized person shall file a complaint against the person or persons responsible for such contravention or failure, with the Environmental Protection Tribunal or Court having jurisdiction.
- (2) A complaint referred to in sub-rule (1) shall be accompanied by an original certificate in Form D, and attested copies of a notice in Form B, forwarding letter of sample in Form C and notice, if any, and record available under the proceedings of under rule 11.

12. Expenses of prosecution.

Along with the complaint, the authorized person may also file a statement indicating the expenses incurred in the prosecution, and may request the Environmental Protection Tribunal or Court having jurisdiction that in case of conviction the aforesaid expenses may be reimbursed to the complainant, in accordance with the provisions of section 545 of the Code of Criminal Procedure, 1898 (Act V of 1898).

13. Second test and analysis.

- (1) Where the Environmental Protection Tribunal or Court having jurisdiction is of the opinion, on the basis of evidence produced before it by the accused against whom the complaint has been filed, that further investigation is justified, it may, after recording the grounds for its opinion, direct that the second attempt for sampling by the authorized person for test and analysis to another environmental laboratory:
Provided that the costs of the second test and analysis shall be deposited by the accused, and if the accused is subsequently acquitted, the same shall be refunded to him.
- (2) The provisions of rules 10 and 11 shall apply to the second test and analysis under sub-rule (1) and the certificate in the form as set out in Form D in respect thereof shall be issued.

14. Repeal and Savings.

- (1) The provisions of the Environmental Samples Rules, 2001, to the extent of the Province of Sindh are hereby repealed.
- (2) All orders made, notification issued, actions taken under the repealed Rules shall remain in force until amended, altered or repealed by the provisions of these Rules

FORM A
See rule 4(2)(b)
CUSTODY ORDER

To

[Name and address of person to whom article is entrusted]

Dear Sir,

WHEREAS I have reason to believe that the following article has been/is involved/may furnish evidence of commission of an offence under the Pakistan Sindh Environmental Protection Act,2014, namely: -

(Description of article)

AND WHEREAS the said article has been taken into possession by me under rule 4(2)(b) of the Environmental Samples Rules, 2014,

NOW THEREFORE I hereby direct you, under rule 4(2)(b) of the aforesaid rules, to keep the above specified article in your safe custody and in proper storage and not to remove or otherwise deal with the article except with my prior written permission.

Place: Date Time

Authorized Person

Received:

(Signature of person to whom article is entrusted)

WITNESSES:

- 1.
- 2.

FORM B
See rule 8(1)
NOTICE

To

[Name and address of person from whom sample is taken]

Dear Sir,

I have this day taken from the premises of (name) situated at (address) the sample described below, for test and analysis at an environmental laboratory, under the provisions of the Sindh Environmental Protection Act -2014, and the Environmental Samples Rules-2014, namely: -

(Description of sample)

The sample, in sealed bearing number handed over/sent to you..... is being herewith along with Form C.

Place: Date: Time:

Authorized Person

Received:

(Signature of person from whom sample is taken)

WITNESSES:

(Name and address)

1.

2.

FORM C
See rule 8(2)
TEST AND ANALYSIS OF SAMPLE

To

The Chief Analyst
[Name and address of Environmental laboratory]

Dear Sir,

I hereby submit sealed sample bearing no. containing the following detail for test and analysis and report under clause (i) of section 7 of the Sindh Environmental Protection Act, 2014, read with rules 8(2) and 10 (3) of the Sindh Environmental Samples Rules, 2014, namely: -

(Description of sample)

The sample was obtained from the premises of [name] situated at [address] on [date] at [time]. The sealed sample has been affixed with seals and specimen impression of which is being sent to you separately.

Place: Date: Time:

Authorized Person

cc: [Name and address of person from whom sample is taken].

NOTE:- The person from whom the sample is taken, directed to ensure the delivery of this sample with in forty eight hours placing with ice in ice container to Certified Environmental Laboratory

FORM D
See rule 9 (3)
CERTIFICATE OF TEST OR ANALYSIS
(to be signed in triplicate)

I hereby certify that. -

- (1) This laboratory has been granted certification as an environmental laboratory under the Sindh Environmental Protection Agency (Certification of Environmental Laboratories) Regulations,2014.
- (2) A sample bearing no. said to containing a [description] was received in this laboratory on [date] at [time] dispatched by [name, and address of person] by courier/personal delivery.

- (3) The seals of the sample were compared with the seal impression received separately and were found to match/not match.
- (1) The seals on the parcel were intact/broken.
 - (2) The seals were opened in my presence and the sample was found fit/unfit for test/analysis.
 - (3) I have carried out the following test/analysis: -
- (4) I declare the results of the test/analysis as follows:

Pursuant to the above results, I am of the opinion that the sample does/does not conform to the Sindh Environmental Quality Standards; and that –

Place: Date:

(Chief Analyst)
[Name and address of environmental laboratory]