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PART-I

GOVERNMENT OF SINDH
SINDH ENVIRONMENTAL PROTECTION
AGENCY

Karachi dated the 16th December, 2014.

NOTIFICATION

NO.EPA/TECH/739/2014:- In exercise of the powers conferred by section 36 of the Sindh Environment Protection Act, 2014, the Environmental Protection Agency, with the approval of Government of Sindh, is pleased to make the following rules:-

1. **Short title and commencement.** - (1) These rules may be called the Sindh Environmental Protection (Composition of Offences and Payment of Administrative Penalty) 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) "accused" means the person against whom a complaint has been filed;
- (b) "Act" means the Sindh Environmental Protection Act, 2014;
- (c) "administrative penalty" means a penalty imposed by the Director General;
- (d) "authorized Officer" means an officer of the authorized by the Director General;

- (e) "Agency" means Sindh Environment Protection Agency;
- (f) "complainant" means the Agency, Government Agency, or local council which or the aggrieved person who has filed the complaint;
- (g) "complaint" means a complaint to the Environmental Protection Tribunal or Court under section 25;
- (h) "Director General" means the Director General of the Agency;
- (i) "offence" means an offence made under the Act; and
- (j) "Schedule" means Schedule to these rules;
- (k) "section" means a section of the Act.

(2) The words and expressions used but not defined in these rules shall have the same meanings as are respectively assigned to them in the Act.

3. Application to Director General to compound an offence. (1) An application by an accused to the Director General to compound an offence under sub-section (6) of section 22, shall be in Form A of Schedule-I.

(2) Where the complainant is other than the Agency to whom the application is addressed, the application shall be signed by the complainant in token of acceptance of the offer of compensation contained therein and agreement to the proposed composition of the offence.

(3) The application shall be accompanied by an affidavit of the accused in Form-B of Schedule-I in respect of the contents of the application.

(4) Relevant details of the application shall be entered in the Register maintained by the Director General under rule 9, and acknowledgement receipt thereof issued to the accused in Form C of Schedule-I.

4. Application to Environmental Protection Tribunal or Court. (1) Subject to sub-rule (2), where the Director General is of the opinion that the offence may be compounded, he or an officer generally or specially authorized by him in this behalf, shall submit an application in Form D of Schedule-I, to the Environmental Protection Tribunal or Court for permission to compound the offence.

(2) An application under sub-rule (1) shall not be submitted by the Director General unless –

- (a) the application to compound an offence is filed by the accused in Form A of Schedule-I with the Director General, complete in all respects, within thirty days of filing of the complaint with the Environmental Protection Tribunal or Court;
- (b) offer of the accused for payment of a sum of money by way of compensation for injury or loss or damage caused by commission of the offence is acceptable to –

- (i) the Agency, keeping in view also the extent and duration of the contravention of, or failure to comply with, the provisions of the Act which constitutes the offence, and the attendant circumstances; and
- (ii) the complainant, if other than the Agency;

Provided that the accused's offer shall not be less than twenty five percent of the maximum fine stipulated for the offence.

5. **Withdrawal of complaint.** (1) If the Environmental Protection Tribunal or Court accepts the application filed under rule 4 and grants permission to compound the offence, the accused shall be directed to make payment to the complainant of the sum offered by way of compensation and all costs in respect of the complaint by a specified date, upon which the offence shall stand compounded and complaint withdrawn.

(2) Composition of the offence and withdrawal of the complaint in accordance with the provisions of sub-section (6) of section 22 and these rules shall have the effect of acquittal of the accused.

(3) If payment is not made by the specified date, permission to compound the offence shall stand withdrawn and the Environmental Protection Tribunal or Court shall proceed with the trial of the accused in accordance with law.

6. **Show cause notice for payment of administrative penalty.** (1) Subject to sub-rule (2), where the Director-General is of the opinion that a person has contravened any provision of the Act, he may issue such person a notice, in Form A of Schedule-II, to show cause as to why he should not pay to the Agency, an administrative penalty in the amount set out in the notice in accumulative form based on the calculation made for each day against which the contravention continues as provided under sub-section (7) of section 22.

(2) A show cause notice for payment of administrative penalty shall not be issued by the Director General under sub-rule (1) relating to a contravention -

- (i) in respect of which a complaint has already been filed; or
- (ii) which has resulted an adverse environmental effect of a particularly serious or prolonged nature;
- (iii) which is contumacious or willful or deliberate, after due notice or knowledge of the contravention and is likely consequences; or
- (iv) by a person who has previously been convicted of an offence under the Act or who has compound an offence under the Act or who has paid an administrative penalty in respect of any provision of the Act.

7. **Notice for Payment of administrative penalty.** (1) Where the Director General, after considering the written reply of the person to whom show cause notice has been issued, having granted an opportunity of personal hearing and having satisfied himself, by obtaining affidavit of the accused or otherwise does not fall within the purview of sub-rule (2) of rule 6, comes to the conclusion that the reply is liable to be rejected, he shall issue him a notice, in Form B of Schedule-II to pay, by a specified date, an administrative penalty in an amount determined under rule 8.

(2) If the person to whom the notice has been issued under sub-rule (2), fails to pay the administrative penalty by the specified date, the Director General shall initiate appropriate proceedings against such person in respect of the contravention in accordance with law.

8. Amount of administrative penalty. (1) The amount of administrative penalty required to be paid under a notice issued under rule 7 shall be determined, keeping in view the extent and duration of the contravention and the attendant circumstances, but shall not -

- (a) in the case of a contravention punishable under sub-section (1) of section 22, be less than one hundred thousand rupees for every day the contravention continues; and
- (b) in the case of a contravention punishable under sub-section (2) of section 22, be less than ten thousand rupees for every day the contravention continues:

Provided that the amount of administrative penalty, mentioned in the notice under rule 7, shall not exceed the amount mentioned in the show cause notice under rule 6.

9. Maintenance of Registers. - (1) The Director-General shall maintain -

- (a) a register, in Form A of Schedule-III, containing relevant details of all applications to compound offence received under rule 3;
- (b) a register, in Form B of Schedule-III, containing relevant details of notices for payment of administrative penalties under rule 7.

(2) The register mentioned in Sub-Rule (1) shall be open to inspection by the public during office hours.

10. (1) The provisions of the Provincial Sustainable Development Fund Board (Procedure) Rules, 2001 and Provincial Sustainable Development Fund (Utilization) 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.

**DIRECTOR GENERAL
SINDH ENVIRONMENTAL PROTECTION AGENCY**

SCHEDULE I

Form A

[See Rule 3(1)]

Application to Director General to compound an offence

The Director General,
Sindh Environmental Protection Agency,
Karachi.

Dear Sir,

APPLICATION TO COMPOUND OFFENCE

I, _____ son/daughter/wife of _____ resident of _____, holding CNIC # _____, the proponent/person of M/s. _____ hereby request you to compound the offence under sub-section(6) of section 22 of the Sindh Environmental Protection Act, 2014 (the Act) in respect of which complaint No. _____ was filed on _____ against me before the Environmental Protection Tribunal/Court, _____ (place).

For this purpose, I would like to pay, by way of compensation, a sum of Rs. _____ to you/the complainant for the injury/loss/damage caused by commission of the offence. I am also willing to pay all your/the complainant's in respect of the complaint, including costs of investigations, if any.

Acceptance/agreement of complainant is appended below. (Delete, if complainant is Agency).

I declare that I have never previously been convicted under the Act, or compounded an offence under the Act, or paid an administrative penalty in respect of a contravention of any provision of the Act. My affidavit is attached.

Permission of the Environmental Protection Tribunal/Court for composition of the offence may please be obtained as provided under section 22(6) of the Act and Sindh Environmental Protection Agency (Composition of Offences and Payment of Administrative Penalty) Rules, 2014.

Your's faithfully,

Dated:-

(Signature of accused)

I hereby accept the above-mentioned offer of compensation and agree to the proposed composition of the offence.

(Complainant)

Dated: _____ (Delete, if complainant is Agency)

SCHEDULE I

Form B

(See Rule 3(3))

Affidavit of accused

I, _____ son/daughter/wife of _____, resident of _____, holding CNIC # _____, the proponent/person of M/s do solemnly affirm and declare as follows:-

1. That I have requested the Director General, Sindh Environmental Protection Agency, Karachi, to compound the offence under sub-section (6) of section 22 of the Environmental Protection Act, 2014 (the Act) in respect of which complaint No. _____ was filed on (date) _____ against me before the Environmental Protection Tribunal/ Court.
2. That for this purpose, I would like to pay, by way of compensation, a sum of Rs. _____ to you/the complainant for the injury/loss/damage caused by commission of the offence. I am also willing to pay all your/the complainant's costs in respect of the complaint, including costs of investigations, if any.
3. I declare that I have never previously been convicted under the Act, or compounded an offence under the Act, or paid an administrative penalty in respect of a contravention of any provision of the Act.

Deponent

Verified on oath at _____ that the contents of the above Affidavit are true and correct to the best of my information, knowledge and belief.

Deponent

SCHEDULE I

Form C

(See Rule 3(4))

Acknowledgement of Receipt

Sindh Environmental Protection Agency

Acknowledgement of Receipt

Receipt is hereby acknowledged of application filed by (name) _____
son/daughter/wife of (name), resident of (address) _____, proponent/person
of M/s _____, containing offer of compensation of
Rs. _____ to compound the offence under section 22 of the Sindh
Environmental Protection Act, 2014 in respect of which complaint No. _____
was filed on _____ before the Environmental Protection
Tribunal/Court (place) _____

No:

(of Acknowledgment of Receipt)

Date: _____
(of receipt of application)

Director General

Serial no. of Register _____

SCHEDULE I

Form D

(See Rule 4(1))

Application to Environmental Protection Agency or Court for permission to compound
an offence

Before the Environmental Tribunal (place)

Or Court(place)

Complaint No. _____ of _____

_____ vs _____
(Name of complainant) (Name of accused)

APPLICATION UNDER SECTION 22(6) OF THE SINDH ENVIRONMENTAL PROTECTION ACT, 2014 FOR PERMISSION TO COMPOUND THE OFFENCE

1. The accused against whom the titled complaint under section _____ of the Sindh Environmental Protection Act, 2014 has been filed has, vide application dated _____ attached herewith, requested for composition of the said offence.
2. The applicant fulfills the requirements of the Sindh Environmental Protection Agency (Composition of Offences and Payment of Administrative Penalty) Rules, 2014 in that
 - (a) the application dated _____ has been filed in the prescribed form by the accused on (date) _____ within _____ days of the filing of the complaint on (date);
 - (b) the accused has offered to pay a sum of Rs. _____ by way of compensation for the injury/loss/damage caused by the commission of the offence, which offer is acceptable -
 - (i) the Sindh Environmental Protection Agency, keeping in view also the extent and duration of the contravention of, or failure to comply with, the provisions of section _____ constituting the offence, and the attendant circumstances; and
 - (ii) the complainant, as per his acknowledgement on the application of the accused (delete if incapable);
 - (c) the accused has also agreed to pay all costs in respect of the complaint, including costs of investigation, which have been calculated at Rs. _____

It is accordingly requested that permission to compound the offence in respect of which the titled complaint has been filed may be granted and the complaint ordered to be withdrawn on payment by the accused of the sums detailed in clauses (b) and (c) above, by a specified date.

Director General
Sindh Environmental Protection Agency

Dated: _____

SCHEDULE-II

Form A

(see rule 6(1))

Show Cause Notice for payment of Administrative Penalty

Sindh Environmental Protection Agency

To,

Dear Sir,

1. On the basis of information received/investigation made, I am of the opinion that you have prima facie contravened the provisions of section _____ of Environmental Protection Act, 2014 on [date] at [time] at [place].
2. In the circumstances, I hereby call upon you to show cause why I should not, in exercise of powers under sub-section (7) of Section 22 of the Act, require you to pay to the Sindh Environmental Protection Agency an administrative penalty in the amount of Rs. _____ for each day the contravention continues. Please note that if you pay the contravention aforesaid accumulated amount of administrative penalty, you will not be charged under the Act with an offence in respect of the contravention.
3. Your reply should reach the undersigned within seven days of receipt of this notice, failing which it shall be presumed that you do not wish to contest the matter, and I shall proceed to issue you notice to pay the aforesaid administrative penalty without further reference.

Director General, Sindh
Environmental Agency

Dated:

Form B
[See Rule 4(1)]

Notice for payment of Environmental Administrative Penalty
Sindh Environmental Protection Agency

Date: _____

NOTICE FOR PAYMENT OF ADMINISTRATIVE PENALTY

WHEREAS, on the basis of information received/investigation made I had formed the opinion that you have prima facie contravened the provisions of Section _____ of the Sindh Environmental Protection Act, 2014 on [date] at [time] at [place].

AND WHEREAS, in response to show-cause notice dated _____ issued by me, you have furnished reply dated _____ to the following effect _____ or have opted not to file a reply of the said notice.

AND WHEREAS, after carefully considering your written reply dated and having granted you an opportunity of personal hearing on _____, I have come to the conclusion that your reply is liable to be rejected for the following reasons.

NOW THEREFORE, in exercise of powers under sub-section (7) of section 22 of the Act, I hereby issue notice requiring you to pay to the Sindh Environmental Protection Agency within days of receipt hereof an administrative penalty in the amount of Rs. _____. Please note that if you pay the administrative penalty by the due date, you will not be charged under the Act for an offence in respect of the contravention. However, in case you fail to make payment, I shall initiate appropriate proceedings against you in respect of the contravention in accordance with law.

Director General, Sindh
Environmental Agency

Form A
 [See Rule 9(1)]
Register of applicants to compound offences

Sr. No.	Acknowledgment of receipt no. and date	Name, percentage and address of accused/ applicant	Amount offered as compensation	Complaint no. and date of filing	Section EPACT 2014 under which filed	Name, percentage and address of complainant	Costs in respect of complaint	Date of application to Environmental Tribunal/Court	Date of order of ET/Court	Date of payment by accused withdrawal of complaint

SCHEDULE III
Form B
 [See Rule 9(1)]
Register of notices for payment of Administrative Penalty

Sr. No.	Name, Parentage and address of person to whom show cause notice issued	Date of issue of show cause notice	Section of PEPA 1997 said to have been contravened	Amount of Administrative penalty mentioned in show cause notice	Date of reply	Date of issue of notice or acceptance of reply	Amount of Environmental Administrative Penalty mentioned in notice	Date specific for payment of Environmental Administrative penalty	Date Environmental administrative penalty paid or date of initiation of proceedings (specify nature)