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PART II

Statutory Notifications containing Rules and Orders issued by all Ministries and Divisions of the Government of Pakistan and their Attached and Subordinate Offices and the Supreme Court of Pakistan

GOVERNMENT OF PAKISTAN

MINISTRY OF CLIMATE CHANGE

NOTIFICATION

Islamabad, the 7th October, 2015

S.R.O. 103(KE)/2015 :

In exercise of the powers conferred by section 31 of the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997), the Federal Government is pleased to make the following rules, namely :—

1. Short title and commencement.- (1) These rules may be called the Compounding of offences and Payment of Administrative Penalty Rules, 2015.

(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 or organization against whom a complaint has been filed in Environmental Tribunal or before the Environmental Magistrate,

(991)

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- (b) "Act" means the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997);
 - (c) "clean fund" means environment fund established under the Act;
 - (d) "complainant" means the Pakistan Environmental Protection Agency or Government Agency or Local Council or an aggrieved person who has filed the complaint under the Act;
 - (e) "loss assessment report" means an inspection and assessment report of loss caused to the environment;
 - (f) "loss" means any damage occurred to environment and persons due to adverse environmental effects;
 - (g) "Committee" means the committee for environmental damages assessment and confirmation committee constituted under rule 4;
 - (h) "complaint" means a complaint filed in Environmental Tribunal under sub-section (3) of section 21 of the Act or before the Environmental Magistrate under sub-section (3) of section 24 of the Act, as case may be;
 - (i) "Director General" means the Director General of the Federal Agency appointed under sub-section (2) of section 5 of the Act;
 - (j) "offence" means any violation of provisions of the Act and rules and regulations made thereunder; and
 - (k) "Schedule" means a Schedule to these rules.
- (2) All words and expressions used but not defined herein shall have the same meanings as are assigned to them in the Act;

3. Application to Director General for compounding of offence.- (1) An accused may file an application to the Director General for compounding of offence in accordance with the Form-A in Schedule-I. The application under Sub-rule(1) shall be accompanied by duly signed and verified affidavit on a stamp paper of fifty rupees in accordance with Form-B of Schedule-I.

- (2) Relevant details of the application under sub-rule(1) shall be entered in the register maintained by the Director-General or an officer designated by him and acknowledgment of receipt thereof shall be issued to the accused in accordance with Form-C of Schedule-I.

4. Establishment of environmental damages assessment and confirmation committee.- (1) For the purpose of inspection and assessing environmental

damages, the Director General, shall constitute an environmental damages assessment and confirmation committee comprising :—

- (a) Director (Lab/NEQS), Pakistan Environmental Chairperson; Protection Agency;
 - (b) Deputy Director (R&I), Pakistan Environmental Secretary; Protection Agency;
 - (c) Assistant Director (Legal / Enforcement), Pakistan Member, Environmental Protection Agency; and
 - (d) Representative of Islamabad Capital Territory, Member; Islamabad.
- (2) The committee shall be responsible to visit the site and carryout inspection, assess damages according to the Act and submit its report to the Director General clearly stipulating the amount of damages for the role of rehabilitation of these damage caused.

5. Approval of compounding of offence.- (1) On the receipt of the report under sub-rule (2) of rule 4, the Director General may approve compounding of the offence subject to the permission of the Environmental Protection Tribunal or Environmental Magistrate, as the case may be.

- (2) If the Director General disagrees with report under sub-rule (2) of rule 4, he may, after recording reason, refer the case back to the committee for re-consideration.
- (3) The committee shall re-consider the case and again submit report to the Director-General within seven days and thereafter the Director General shall approve the same.
- (4) After approval of the Director General the case shall be sent to Environmental Protection Tribunal or Environmental Magistrate, as the case may be, within one week for permission by the Environmental Protection Tribunal or Environmental Magistrate. After the permission is granted, the case shall stand compounded.

6. Show cause notice for payment of administrative penalty.- (1) Subject to sub-rule (2) where the Director General or any other officer of the Agency authorized by him on the basis of information received from authentic sources or investigation made by authorized officer of the Agency is of the opinion that a person has contravened any provision of the Act, he or the authorized officer may serve upon such person a show cause notice in accordance with Form-A of Schedule-II, to show cause why he should not be required to pay to the Agency an administrative penalty in the amount set out in the notice for each day the contravention continues, as provided in sub-section (7) of section 17.

7. Imposition of administrative penalty.- (1) In case of contravention of the provisions of the Act, the Director General may refer the case to the committee for verifying the contravention and assessment of the damage for according administrative penalty.

- (2) On the receipt of report, Director General shall issue notice for payment of administrative penalty within thirty days in case of failure, the case shall be referred to Environmental Protection Tribunal or Environmental Magistrate, as the case may be.

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 in accordance with the Tables A, B and C of Schedule-IV keeping in view of the extent and duration of the contravention and the prevailing circumstances, but shall not;

- (a) in the case of a continuing contravention punishable under sub-section (1) of section 17, be less than hundred thousand rupees for every day the contravention continues; and
- (b) in case of a continuing contravention punishable under sub-section (2) of section 17, 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. Deposition of the fine.- The amount recovered as fine shall be deposited in the Clean Fund after approval by the Director General,

10. Maintenance of registers.- (1) The Director-General shall be responsible to maintain.

- (a) a register, on the format as set out in Form-A of Schedule-III, containing relevant details of all applications to compound offences received under rule 3; and
- (b) a register, on the format as set out in Form-B of Schedule-III, containing relevant details of notices for payment of administrative penalties issued under rule 7.
- (2) The registers maintained under sub-rule (1) shall be open for inspection of the public during office hours.

SCHEDULE I

Form A

[see rule 3(1)]

The Director General,
Pakistan Environmental Protection Agency
Islamabad

Dear Sir,

Subject :- APPLICATION TO COMPOUND OFFENCE

I, [name] son/daughter/wife of [name], resident of [address] hereby request to compound the offence under section _____ of the Pakistan Environmental Protection Act, 1997 (the Act) in respect of which complaint No. _____ filed on [date] against me before the Environmental Tribunal/Environmental Magistrate, [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 cost in respect of the complaint, including costs of investigations, if any.

Acceptance / agreement of complainant is appended below. (delete, if complainant is Federal 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 Tribunal/Environmental Magistrate for composition of the offence may please be obtained as provided under the Act and the rules made thereunder.

Your faithfully,

[Signature of accused]

Dated : _____

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

[Complainant]

Dated _____

Form B

[See rule 3(1)]

Affidavit of accused.

I, [name] son/daughter/wife of [name], resident of [address], do hereby solemnly affirm and declare that-

- (1). I have requested the Director-General, Pakistan Environmental Protection to compound the offence under section _____ of the Pakistan Environmental Protection Act, 1997 the (Act) in respect of which complaint no. _____ was filed on [date] against me before the Environmental Tribunal/Environmental Magistrate, [place]
- (2). For this purpose, I would like to pay, by way of compensation, a sum of Rs. _____ to the Director General/the complainant for the injury/loss/damage caused by commission of the offence. I am also willing to pay all of the Director-General/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

Form C

[See rule 3 (2)]

Acknowledgement of receipt

Pakistan Environmental Protection Agency

Acknowledgement of receipt

Receipt is hereby acknowledged of application filed by [name] son/daughter/ wife of [name], resident of [address] containing offer of compensation of Rs. _____ to compound the offence under section _____ of the Pakistan Environmental Protection Act, 1997 in respect of which complaint no. _____ was filed on _____ before the Environmental Tribunal/Environmental Magistrate [place]

No:
(of acknowledgement of receipt)

Date: _____
(of receipt of application)

Director-General

Serial no. of Register _____

Form D

[See rule 5 (1)]

Application to Environmental Tribunal or Environmental Magistrate for permission to compound an offence.

Before the Environmental Tribunal [place]

or Environmental Magistrate [place]

Complaint no. _____ of _____

vs _____

[Name of complainant] [Name of accused]

APPLICATION UNDER SECTION 17(6) OF THE PAKISTAN ENVIRONMENTAL PROTECTION ACT, 1997 FOR PERMISSION TO COMPOUND THE OFFENCE

it is respectfully stated that:-

(1) The accused against whom the titled complaint under section _____ of the Pakistan Environmental Protection Act, 1997 has been filed has, *vide* application dated _____ attached herewith, requested for composition of the said offence.

(2) The application fulfils the requirements of the said Act and rules made thereunder 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, the offer is acceptable.

(i) the Pakistan Environmental Protection Agency keeping in view 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 inapplicable).

(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 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)
or Authorized Officer

Pakistan Environmental Protection Agency

Date: _____

SCHEDULE II

Form A

[See rule 7 (1)]

Show cause notice for payment of administrative penalty

Pakistan Environmental Protection Agency

To

SHOW CAUSE NOTICE

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 the Pakistan Environmental Protection Act, 1997 (the Act) 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 17 of the Act, require you to pay to the Pakistan Environmental Protection Agency administrative penalty to the amount of Rs. _____ for each day the contravention continues. Please note that if you pay the aforesaid 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.

SCHEDULE II

Form B

[See rule 8 (1)]

Notice for payment of administrative penalty
Pakistan Environmental Protection Agency

Dated : _____

To

Notice for payment of administrative penalty

Whereas on the basis of information received/investigation made I, have formed the opinion that you had *prima facie* contravened the provisions of section _____ of the Pakistan Environmental Protection Act, 1997 (the Act) 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:-

And Whereas after carefully considering you 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 the powers under sub-section (7) of section 17 of the Act, I hereby issue notice requiring you to pay to the Pakistan 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)
or Authorized Officer
Pakistan Environmental Protection Agency.

SCHEDULE III

Form B

[See rule 10(1)]

Register of notices for payment of administrative penalty

Sr. No.	Name, percentage and address of person to whom show cause notice issued.	Date of issue of show cause notice	Section of Pakistan Environmental Protection Act, 1997 said to have been contravened	Amount of Administrative penalty mentioned in show cause notice	Date of reply	Date of issue of notice of date of acceptance of reply	Amount of administrative penalty mentioned in notice	Date specified for payment of penalty	Date administrative penalty paid or date of initiation of proceedings (specify nature)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

SCHEDULE IV

[See rule]

TABLE - C

- A. ADMINISTRATIVE PENALTY ON VIOLATION OF NATIONAL ENVIRONMENTAL QUALITY STANDARDS (NEQS) FOR MUNICIPAL AND LIQUID INDUSTRIAL EFFLUENTS (MG/L UNLESS OTHERWISE DEFINED)
- B. ADMINISTRATIVE PENALTY ON VIOLATION OF NEQS RELATED TO MOTOR VEHICLE EXHAUST AND NOISE.

1. For each parameter, pollution load will be calculated in accordance with the following formula :—

$$\text{Pollution Load (PL)} = \frac{(C-S) \times R \times D}{U \times 1000000}$$

(for individual parameter)

Where :-

C = Pollution concentration (mg/m^3) in effluent/emission

S = NEQS for the pollutants (mg/m^3)

R = Flow rate (m^3/day)

D = Total number of operating days / year

U = Pollution unit (kgs) - obtain value from the following, tables :-

PL = Pollution load

Pollution Units (U) for Liquid Effluents :

S. No.	Parameter	Pollution Unit (U)
(1)	(2)	(3)
1.	Biochemical oxygen demand (BOD)	50 kg
2.	Chemical oxygen demand (COD)	50 kg
3.	Total suspended solids (TSS)	50 kg
4.	Total dissolved solids (TDS)	50 kg
5.	Grease and oil	3 kg
6.	Phenolic compounds	100 g
7.	Chloride (as Cl)	10 kg
8.	Fluoride (as F)	500 g
9.	Cyanide (as CN) total	20 g
10.	An-ionic detergents (as MB As)	100 g
11.	Sulphate (SO)	50 g
12.	Sulphide (s)	300 g
13.	Ammonia (NH)	500 g
14.	Pesticides	20 g
15.	Cadmium	100 g
16.	Chromium (trivalent and hexavalent)	500 g
17.	Copper	1000 g
18.	Lead	500 g
19.	Mercury	20g 500 g
20.	Selenium	500 g
21.	Nickel	1000 g
22.	Silver	1000 g
23.	Zinc	20 g
24.	Arsenic	1000 g
25.	Barium	1000 g
26.	Iron	1000 g
27.	Manganese	1000 g
28.	Boron	500 g
29.	Chlorine	

S. No.	Parameter	Pollution Unit (U)
(1)	(2)	(3)
1.	Particulate matter	250 Kg
	(a) Boilers and Furnaces :	150 kg
	(i) Oil Fired	250 kg
	(ii) Coal Fired	100 kg
	(iii) Cement Kiln; or	
	(b) Grinding, crushing, clinker coolers and related processes, metallurgical processes, converters, blast furnaces and cupolas.	250 kg
2.	Hydrogen chloride	200 kg
3.	Chlorine	50 kg
4.	Hydrogen fluoride	200 kg
5.	Hydrogen sulphide	200 kg
6.	Sulphur oxides	200 kg
7.	Carbon monoxide (CO)	400 kg
8.	Lead	100 kg
9.	Mercury	100 kg
10.	Cadmium	100 kg
11.	Arsenic	100 kg
12.	Copper	100 kg
13.	Antimony	100 kg
14.	Zinc	100 kg
15.	Oxides of nitrogen	200 kg

2. (i) Penalty rate : Rs. 50,000 (Liquid) per unit of Pollution Load (PL).
- (ii) Penalty rate : Rs. 25000 (Gaseous) per unity of Pollution Load (PL).

Penalty for individual NEQS = Pollution load X penalty rate per parameter.

3. Total penalty = Sum of penalty for individual NEQS parameter.
4. Penalty on violation of NEQS for motor vehicular exhaust and noise shall be upto Rs. 1000/-.

C. ADMINISTRATIVE PENALTY ON VIOLATION OF SECTION 12 OF THE ACT.

Penalty on violation of section 12 (Initial environmental examination and environmental impact assessment) of Pakistan Environmental Protection Act, 1997 shall be upto Rs. 1000,000/-

D. ADMINISTRATIVE PENALTY ON VIOLATION OF SECTION 14 OF THE ACT.

Penalty on violation of section 14 (Handling of hazardous substances) of Pakistan Environmental Protection Act, 1997 shall be upto Rs. 100,000/-

[No. F.1(6)2001-L/E].

ABDUL SHAKOOR,
Deputy Secretary (Admn.).