

# The sugarcane Act, 1934

[XV OF 1934]

[1st May, 1934]

## An Act to regulate the price of sugarcane intended for use in sugar factories

**Preamble.--** Whereas It is expedient, for the purpose of assuring to sugarcane growers a fair price for their produce, to regulate the price at which sugarcane intended to be used in the manufacture of sugar may be purchased by or for factories;

It is hereby enacted as follows;-

### COMMENTS

**Preamble.-**Both West Pakistan Sugar Factories Control Act, 1950 and Sugarcane Act, 1934 do not operate to exclude applicability of the Punjab Agricultural Produce Markets Ordinance, 1978.

1. Short title, extent and commencement.--(1) This Act may be called the Sugarcane Act, 1934:

(2) It extends to the whole of Pakistan.

(3) This section shall come into force at once; the remaining sections of this Act shall come into force in any Province on such date as the Provincial Government may, by notification in the Official Gazette; appoint in that behalf.

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

(1) "**controlled area**" means any area specified in a notification issued under sub-section (1) of section 3;

**Punjab Amendment:** After sub-section (1), following clauses shall be inserted namely:

(1-a) "**Cane Commissioner**" means any officer specially appointed by the Provincial Government to perform the functions of a Cane Commissioner under this Act and such other duties as may be prescribed;

-:2:-

(1-b) "**Cane grower**" means a person who cultivates cane either by himself or by members of his family or by tenants or by hired labour and who is not a Cane Growers' Co-operative Society;

(1-c) "**Cane Growers' Co-operative Society**" means a society registered under the Co-operative Societies Act, 1911, one of the objects of which is to sell cane grown by-its members;

(1-d) "**Collector**" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Provincial Government to perform the functions of a Collector" under this Act;

(1-e) "**crushing season**" means the period commencing on the fifteenth day of October in any year and ending on the thirteenth day of June of the next following year";

*Punjab Act, IX of 1943.*

(2) "**factory**" means any premises (including the precincts thereof) wherein twenty or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power; and

**Punjab Amendment:** In clause (2), the words "and" shall be omitted.

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**Punjab Amendment:** After clause (2), the following clauses shall be deemed to be inserted namely:-

(2-a) "**occupier of a factory**" means the person who has ultimate control over the affairs of a factory:

Provided that here the affairs of a factory are entrusted to a managing agent such agent shall be deemed to be the occupier of the factory;

(2-b) "**prescribed**" means prescribed by rules made under this Act;

(2-c) "**reserved area**"; means an area specified in order issued under section 3-B";

(3) "**sugar**" means any form of sugar containing more than ninety per cent of sucrose.

**Punjab Amendment:** After section 2 of the said Act, the following sections shall be deemed to be inserted, namely:

2-A. **Construction and extension of a factory:** No person shall commence the construction of any building intended to be used as a factory or any extension of the plant of an existing factory which is likely to increase its capacity for crushing cane unless he has been granted a licence by the Provincial Government on such terms and conditions as may be prescribed.

**2-B. Licences for crushing cane,** -- (1) After such date as the Provincial Government may by notification in the Official Gazette specify in this behalf, no cane shall be crushed in a factory unless the occupier thereof has obtained a licence authorizing him so to do.

(2) **Conditions of licences for crushing cane** - A licence granted under subsection (1) shall be subject to such terms and conditions as the Provincial Government may impose in respect of all or any of the following matters, namely:-

- (a) membership of organization of the sugar industry recognised by the Provincial Government the main object of which is to regulate the sale of sugar;
- (b) the price above or below which the terms and conditions on which and the persons to whom or the organizations for which or through whose agency, and variety, grade or quantity of sugar produced in the factory may be sold;
- (c) the manner in which sugar produced in the factory shall be graded, marked, packed or stored for sale;
- (d) the minimum quantity of the cane that shall be purchased during the crushing season; and
- (e) such other matters as may be prescribed, including conditions of labour.

**2-C. Appointment of manager.**-(1) No factory shall commence to crush cane unless the occupier sends to the Collector a notice in the prescribed form appointing a person to be the manager of the factory for purposes of this Act and the rules made there under.

(2) Any person so appointed shall deposit as security such amount not exceeding one thousand rupees as may be prescribed.

(3) Whenever another person is appointed as manager, the occupier shall send to the Collector a written notice of the change within fourteen days from the date on which the new manager assumes charge.

(4) If no person has been appointed manager of a factory under this section, or if the person appointed as manager does not manage the factory, or has not made the requisite deposit, found acting as manager, or, if no such person is found, the occupier himself shall be deemed to be the manager of the factory for purposes of this act and the rules made there under"

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**3. Declaration of controlled areas, and fixing of prices.**- (1) The Provincial Government may, by notification in the official Gazette, declare any area specified in the notification to be a controlled area for the purposes of this Act.

(2) The Provincial Government, may, by notification in the official Gazette, fix a minimum price or minimum prices for the purchase in any controlled area of sugarcane intended for use in any factory.

(3) The Provincial Government may, by notification in the official Gazette, prohibit in any controlled area the purchase of sugarcane intended for use in any factory otherwise than from the grower of sugarcane or from a person licensed by the Provincial Government to act as a purchasing agent.

**Punjab Amendment:** After section 3, the following sections shall be deemed to be inserted namely:-

**3-A. Estimates of quantity of cane required by factory--**(1) The Provincial Government may by order require the occupier of any factory to submit to the Cane Commissioner, on or before the prescribed date, an estimate in the prescribed form of the quantity of cane which will be required in the factory during such crushing season as may be specified in the order.

(2) The Cane Commissioner shall examine every such estimate and shall publish the same in the prescribed manner with such modifications, if any, as he may think fit.

(3) An estimate published under sub-section (2) may be revised by the prescribed authority.

**3-B. Declaration of reserved area.--**(1) The Cane Commissioner, may, after consulting the occupier of the factory and after considering any objections that may be raised, issue an order declaring any area to be a reserved area for the supply of cane to a particular factory during the ensuing crushing season, and may likewise at any time cancel such order or alter the boundaries of an area so reserved:

Provided that unless the parties concerned consent no portion of an area reserved for one factory shall, so long as the agreements entered into by occupier of such factory with the cane growers in such area for the supply of cane remain in force, be included within reserved area of another factory.

(2) Any person aggrieved by an order of the Cane Commissioner under sub-section (1) may appeal there from to the prescribed authority.

**3-C. Survey of reserved area.--**(1) The Provincial Government may order a survey to be made of the area reserved for a factory under section 3-B and may recover the cost of such survey from the occupier of the such factory.

(2) Every such survey shall be made by such officer as the Provincial Government may, by general or special order, appoint in this behalf.

(3) Every person owning, or occupying, land in any area in respect of which a survey is being made shall afford the officer making the survey such assistance for making the survey as may be prescribed.

(4) Any amount due from the occupier of a factory under sub-section (1) shall be recoverable from such officer as an arrear of land revenue.

**3-D. Purchase of cane, in reserved area.** -- (1) A cane grower or a Cane Growers' Co-operative Society in a reserved area may offer to supply to the occupiers of the factory for which the area is reserved, cane grown by the cane grower or by the members of such Cane Grower's Co-operative Society, as the case may be, not exceeding the quantity, if any, prescribed for such grower or Cane Growers' Co-operative Society.

(2) The occupier or manager of a factory for which an area is reserved shall enter into an agreement to purchase the cane offered in accordance with subsection (1):

Provided that he shall not enter into an agreement to purchase cane from a person who is a member of Cane Growers' Co-operative Society.

(3) Except with the permission of the Provincial Government, cane grown in a reserved area shall not be purchased in such area by a purchasing agent, or by any person other than the occupier of the factory for which such area has been reserved.

(4) Cane grown in a reserved area shall not be sold by any person other than cane grower or a Cane Growers' Co-operative Society:-

Provided that a cane grower or a Cane Growers' Co-operative Society may deliver cane intended for use in factory through another cane grower or through a carrier.

(5) If the Provincial Governments are satisfied that there is likely to be in the area reserved for a factory any quantity of cane available for sale to the occupier of the factory in excess of the quantity for which he is required to enter into agreement, the Provincial Government may, during the crushing season, direct that cane shall not be purchased outside the reserved area until the occupier of the factory enters into agreement to purchase all the cane offered to him in the reserved area:

Provided that such prohibition shall not apply in respect of cane for the supply of which agreements in writing have been entered into before such direction was issued.

**3-E. Penalties** --(1) If any person commences the construction of a new factory or if the occupier of a factory makes any extension of the plant of the factory, in contravention of the provisions of sub-section (1) of section 2-A, he shall be punishable with fine which may extend to five thousand rupees.

(2) If the occupier of a factory crushes cane without obtaining a licence under section 2-B he shall be punishable with fine which may extend to five hundred rupees for each day on which cane is crushed at the factory without such licence.

(3) if the Provincial Governments are satisfied that there has been a breach of the conditions of a licence under section 2-B, they may refer the same for advice to a Tribunal constituted in the prescribed manner, and on the advice of

such Tribunal, cancel the licence and impose on the occupier of the factory concerned any one or more of the following' penalties, that is to say:--

- (a) if the breach consists of a failure or to sell sugar in accordance with the conditions of the licence, the penalty may extend to an amount calculated at fifty paise per maund of the sugar produced or sold in contravention of such condition;
- (b) if the breach consists of the wilful failure to purchase a minimum quantity of cane, the penalty may extend to an amount, calculated at a rate not exceeding six paise per maund of cane which he has failed to purchase; and
- (c) in any other case of a breach of a condition or conditions of the licence, the penalty shall not exceed the sum of five thousand rupees.

(4) If the occupier or manager of a factory:

- (a) intentionally fails to enter into agreement as required by sub-section (2) of section 4-D; or
- (b) intentionally fails to purchase cane in accordance with the terms of an agreement entered into sub-section (2) of section 3-D; or
- (c) purchases cane outside a reserved area in contravention of the provision of sub-section (5) of section 3-D; or
- (d) knowingly enters into an agreement with a cane grower, who is a member of a Cane Growers' Co-operative Society in contravention of the provisions to sub-section (2) of section 3-D, he shall be punishable with fine which may extend to two thousand rupees.

(5) If any person knowingly purchases or sells cane in a reserved area in contravention of the provisions of sub-section (3) or sub-section (4) of section 3-D, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(6) Any person contravening any of the provisions of this Act for which no penalty is otherwise provided shall be punishable with fine which may extend to two thousand rupees.

(7) Any penalty imposed on the occupier of a factory under sub-section (3) shall be recoverable from such occupier as an arrear of land revenue.

**3-F. Tax on sale of cane.--**(1) The Provincial Government may by notification in the official Gazette impose a tax on the sale of sugarcane at a rate not exceeding six paise per maund or at a rate not exceeding five per cent, of the sale price and may, by like notification, exempt from such tax sale in any area, or any class or classes of such sales to be specified therein.

(2) if any agreement for the sale of cane is entered into before the imposition of a tax under this section, the seller, will be entitled to recover from the buyer in addition to and as part of the contract price, the amount of such tax to which the seller may be liable.

(3) Any sum payable under this section shall be recoverable as an arrear of land revenue.

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**4. Previous publication of notifications under section 3.**--Not less than thirty days before the issue of any notification under sub-section (I) or sub-section (2) of section 3, the Provincial Government shall publish in the official Gazette and in such other manner (if any), as it thinks fit a draft of the proposed notification specifying a date on or after which the draft will be taken into consideration and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified.

**5. Penalty for purchase of sugarcane in contravention of notification under section 3.**-- Whoever in any controlled area purchases any sugarcane intended for use in a factory at a price less than the minimum price fixed therefor, by notification under sub-section (2) of section 3 or in contravention of any prohibition made under sub-section (3) of section 3 shall be punishable with fine which may extend to two thousand rupees.

**6. Sanction for prosecution under this Act.**---No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of, or under authority from, the, District Magistrate.

**7. Power of Provincial Government to make rules.**-(I) The Provincial Government may, by notification in the. official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for:--

- (a) the carrying out of inquiries preliminary to the exercise of the powers conferred by section 3;
- (b) establishing Advisory Committees for any purpose connected with procedure of such Committee;
- (c) the issue of licences to purchasing agents; the fees for such licences and the regulation of the purchase and sale of sugarcane by and to such agent;
- (d) the organization of growers of sugarcane into societies for the sale of sugarcane to factories;
- (e) the authorities by which any functions under this Act or the rules made there under are to be performed; and
- (f) the records, registers and accounts to be maintained for ensuring for the compliance with provisions of this Act;

**Punjab Amendment:** In section 7, in subsection (2) in clause (e) the word "and" shall be omitted.

After clause (f), the following clauses shall be deemed to be added, namely:

- (g) the issuing and renewal of licences, the forms and conditions of licences, the periods for which they are to be issued and the fee to be charged there-for;
- (h) the amount of deposit under sub-section (2) of section. 2-C;
- (i) the procedure to be followed in making a survey under section 3-C the manner of calculating the cost of such survey and the powers to be exercised and the duties to be performed by the officer making the survey;
- (j) the form in which and the date by which an offer under sub-section (1) of section 3-D, shall be made; and
- (k) the form in which, the date by which and the terms and conditions subject to which, an agreement under sub-section (2) of section 3-D shall be entered into;"

(3) In making any rule under sub-section (1) or under clause (c) or clause (f) of sub-section (2), the Provincial Government may provide that a breach of the rule shall, where no other penalty is provided by this Act be punishable with fine not exceeding two thousand rupees,

**Punjab Amendment :** In sub-section (3), the words, brackets and letters "under clause (c) or clause (f)" shall be deemed to be omitted.

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**8. Power as Provincial Government to make rules.--** The Provincial Government after previous publication may, by notification in the official Gazette, make rules providing for the exemption of factories or any class of factories from the provisions of this Act.

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