

Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981

BIHAR

India

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Rule

BIHAR-SUGARCANE-REGULATION-OF-SUPPLY-AND-PURCHASE-ACT of 1981

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Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981Last Updated 19th December, 2019[Assent by the President on 23rd January 1982 and published in Bihar Gazette Extraordinary, dated 25th January 1982]An Act to regulate the production, supply distribution and purchase of sugarcane intended for use in sugar factories and khandsari sugar manufacturing units and taxation of sugarcane and matters incidental thereto.Be it enacted by the Legislature of the State of Bihar in the 32nd year of the Republic of India, as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981.(2)It extends to the whole of the State of Bihar.(3)It shall come into force at once.

2. Definitions.

- In this Act. unless the context otherwise requires,-(a)"Board" means the Sugarcane Board established under section 3;(b)"cane" means sugarcane intended for use in a factory on unit;(c)"Cane Commissioner" means the officer appointed to be the Cane Commissioner under section 12;(d)"Cane-grower" means a person who grows cane either by himself or by members of his family or by hired labours;(e)"Cane Office" means the Cane Officer appointed under section 13 and includes the Additional Cane Officer;(f)"Collector" means the Collector of a district and includes any

officer not below the rank of a Deputy Collector appointed by the State Government to discharge all or any of the functions of a Collector under this Act;(g)Deleted;(g-1) Deleted;(h)"Council" means a Zonal Development Council established under section7;(i)"Crushing year" means the year commencing on the 1st day of July in any year and ending on the 30th June in the year next following;(j)"Factory" means any premises, including the precincts thereof in any part of which sugar is manufactured by the means of vacuum-pan process; or any other sugar or sugarcane based products manufactured by any other technique or process based on sugarcane which includes sugarcane based Ethanol plant, Rectified Sprit plant and Co-generation plant;(k)"Manager" means the manager appointed under section 25;(l)"Occupier of a factory" means a person carrying on business of manufacturing sugar by vacuum-pan process or any other sugar or sugarcane based products manufactured by any other technique or process based on sugarcane which includes sugarcane based Ethanol plant, Rectified Sprit plant and Co-generation plant; in a factory and having the ultimate control over the affairs of the factory;(m)"Prescribed" means prescribed by rules;(n)"requisition slip" means a slip issued by or on behalf of the occupier of a factory under which a cane-grower is required to bring cane grow in reserved or assigned area on a date and place specified therein for purchase by or on behalf of the person issuing the slip,(o)"reserved area" means any area, wherein sugarcane is grown or is likely to be grown and which is reserved for a factory under section 31;(o-1) "Assigned area" means such area, wherein sugarcane is grown or is likely to be grown and which is not reserved for a factory;(p)"rules" means rules made under this Act;(q)"State Government" means the Government of the State of Bihar;(r)"Sugar" means any form of sugar containing more than ninety per centum of sucrose including sugarcandy or khandsari sugar (sugar produced by open pan process) or bura sugar or crushed sugar or any sugar in crystalline or powdered form or sugar in process in a factory or raw sugar produced therein;(s)"Unit" means a manufacturing unit engaged or ordinarily engaged in the manufacture or production of Khandsari sugar, gur, shakkar, gul, jagari or rab from cane juice by juice by power crusher;(t)"power crusher" means a crusher working with the aid of diesel, electrical or steam power and engaged or ordinarily engaged in crushing sugarcane and extracting juice therefrom for the manufacture of gur, shakkar, gul, jagari, rab or khandsari sugar.

Chapter II

Administrative Machinery

3. Establishment of Sugarcane Board.

(1)With effect from such date as the State Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Ordinance a Board, to be called the Sugarcane Board, for the State of Bihar.(2)The Board shall consist of the following members, namely:-(a)Minister incharge and State Minister incharge of Sugarcane who shall be the Chairman and Deputy Chairman respectively;(b)Five members to represent the Bihar Legislature, of whom four members shall be elected from amongst themselves by the members of the Bihar Legislative Assembly and one member shall be elected from amongst themselves by the members of the Bihar Legislative Council, on the principle of proportional representation by means of a single transferable rate;(c)Seventeen members to be appointed by the State Government in the following

proportion to represent-

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|--|---|
| (i) Factories | 4 |
| (ii) units | 1 |
| (iii) Cane-grower | 5 |
| (iv) persons possessing technical knowledge in sugarcane or otherwise interested in development of sugarcane and its products. | 5 |
| (v) Labour | 2 |

(d) The following shall be ex-officio members :- (i) Cane Commissioner, Bihar (ii) Joint Cane Commissioner/ Assistant Cane Commissioner, Bihar (iii) Director, Sugarcane Research Institute, Pusa, Samastipur (iv) Engineer-in-Chief, Road Construction Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer, (v) Engineer-in-Chief, Water Resources Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer, (vi) Engineer-in-Chief Minor Irrigation Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer, (vii) Engineer-in-Chief Energy Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer." (viii) Engineer-in-Chief of R.E.O. and (e) the Secretary to the State Government of Sugarcane Development Department or such other officer as may be nominated by the State Government, who shall be ex-officio Secretary of the Board; Provided that during the period of operation of any proclamation issued under Article 356 of the Constitution, in relation to the State of Bihar, such persons as may be nominated by the State Government in this behalf shall be the Chairman and members respectively in place of the Minister-in-charge of sugarcane and members representing under clause (b) of this sub-section the Bihar Legislative Assembly dissolved under the said proclamation: (3) During the period of operation of the proclamation referred to in the first proviso to subsection (2) the Chairman of the Board shall have the power to nominate any member to preside in his absence over the meeting of the Board. (4) The Board shall be constituted initially for a period of three years and shall thereafter be reconstituted for periods of like duration within six months of the expiry of duration. Till the new board is reconstituted, the existing Board will continue to function. The term of office of the Chairman, Deputy Chairman, Secretary and of the members of the Board shall be co-terminus with the period of constitution or reconstitution of the Board, as the case may be: Provided that the State Government may, if it thinks expedient at any time, accept the resignation of any member of the Board and fill up the vacancy subject to the provisions of sub-section (2). (5) The Board, its executive committee or sub-committee shall discharge its functions and conduct its business in such manner, and shall meet at such times and places and shall observe such rules and procedures in regard to the transaction of business at its meetings as may be prescribed.

4. Function of the Board.

(1) The Board shall advise the State Government on the following matters, namely:- (a) Planning of development schemes connected with production, research, transport and sale of sugarcane; (b) matters pertaining to regulation of supply, purchase and weightment of cane; (c) the varieties of sugarcane, tested by the Sugarcane Research Institute in the State, which are suitable or

unsuitable for use in a factory:(d)recommendations in respect of the determination of price of cane to be supplied to factories;(e)determination of the price of cane payable by owners of units;(f)maintenance of coordination among the occupier, managers, cane growers and other related parties, and(g)such other matters as may be prescribed.(2)In addition to the function specified in sub-section (i) the Board may-(a)inspect, supervise, review and co-ordinate the activities of the councils and make arrangements for concurrent audit of their accounts;(b)give general or special direction, for carrying out the functions specified in clause (a) which shall be implied with by the councils; and(c)recover, wholly or partly, cost of the concurrent audit, referred to in clause (a) as public demand.(3)In the event of any council failing to comply with any direction of the Board under clause (b) of sub-section (2), the Board shall send a report to the State Government specifying therein the details of such failure for such action including sub-pension, wholly or partly, of payments specified in section 9, as may be considered necessary by the State Government.

5. Sub-committee of the Board.

(1)The Board may constitute a sub-committee consisting of not more than five of its members for carrying out any of its functions under sub-section (1) of section 4 and the sub-committee so constituted may appoint one of its members to be the convener.(2)A sub-committee shall have power to co-opt any official or non-official expert qualified to advise it on any matter entrusted to it.

6. Funds of the Board.

(1)The Board shall administer the following funds:-(i)the sum received as grant under section 49;(ii)the sum transferred under section 9: and(iii)the sum received from any other source.(2)The Board may utilise its funds to meet the expenditure incurred in connections with its duties and functions and may, subjects to the previous approval of the State Government, sanction by its resolution travelling allowances and sitting fees to the non-official members including the persons co-opted under sub-section (2) of section 5 for attending the meeting of the Board, or a subcommittee, as the case may be;Provided that nothing in excess of 5 per centum of the amount received under section 49 shall without the approval of the State Government, be spent as administrative expenses:Provided further that the amount transferred under section 9 shall be spent only in the interest of the council concerned.(3)In marking use of the funds of policy of spending maximum amounts in the interest of the areas of the financially weak councils and factories that have not completed the fifth rushing year since establishment and commissioning (hereinafter referred to as new factories) shall be adopted and the minimum proportion of the total expenditure therefor by the Board or under its authority, in respect of any crushing year shall be such as may be prescribed.

7. Establishment of Zonal Development Council.

(1)With effect from such date as the State Government may, by the notification in the Official Gazette, specify in this behalf, there shall be established a Zonal Development Council for each reserved area consisting of :-(a)the collector of the district or the Sub-divisional Officer or the District Development Officer, who shall be the Chairman;(b)Assistant Director, Sugarcane

Development, who shall be member(c)a nominee of the Cane Commissioner who shall be the Secretary:(d)the District Engineer;(e)five representatives of the local cane-growers, who shall be nominated by the State Government, and(f)one representative of the occupier of the factory to be nominated by the State Government on the recommendation of the occupier;Provided that where the reserved area is so constituted to spread over more than one district, the Chairman shall be the Collector of the district in which the factory is situated.(2)The council shall initially be constituted for a period of three years and shall subsequently be reconstituted for periods of like duration within six months of the expiry of duration, till the new Zonal Development Council is constituted, the existing Zonal Development Council will continue to function.(3)The term of office of the Chairman, Secretary and members of the council shall be co-terminus with the period of constitution or reconstitution of the council, as the case may be and shall include any further period which may elapse between and expiration of the period of the constitution or reconstitution, as the case may be, and the succeeding reconstitution of the council:Provided that the State Government may, if it thinks expedient at any time, accept the resignation of any member of the council and fill up the vacancy subject to be provisions of subsection (1).(4)The council shall have power to co-opt, for the discussion of any particular matter before it, any officer of the State Government or any expert qualified to give advice on the matter:Provided that any person so-opted shall not be entitled to vote.(5)The council shall perform its functions and conduct the business in such manner and shall meet at such times and places and shall observe such rules and procedure in regard to the transaction of business at its meetings as may be prescribed.(6)Joint meetings of all councils of the district may be held to consider such matter and in such manner as may be prescribed.(7)The Collector of the district shall preside over such meetings and any one from amongst Secretaries of the councils nominated by the Cane Commissioner shall be the convener of the meeting.

8. Functions of the Council.

- The functions of the Council shall be as follows:-(a)to consider the prepare the programme for the development of communications, irrigations, soil analysis and other agricultural facilities relating to sugarcane.(b)to devise ways and means for executing development plan in all its essential including improvement and development of communications, cane varieties, supply of good quality seeds, fertilizers and manures, plant protection and prevention and control of diseases and pests;(c)to render all possible help in agricultural extension work of cane;(d)to assist in arrangements for the training of cultivators in improved methods of sugarcane cultivation; and(e)to perform such other functions pertaining and conducive to the general development of the reserved area as may be prescribed.

9. Funds of the council.

(1)The council may administer-(i)any sum placed at its disposal by the State Government in form of grant, under section 48 to 49 or otherwise;(ii)any sum contributed by the factories, cane-growers and others :(iii)any other sum which the State Government may, from time to time, require to be credited to the fund of the council; and(iv)the amount received from any other source.(2)The council shall utilise its funds to meet the charges in connection with the discharge of its duties and performance of its functions under this Act and may pay to its nonofficial members including

persons co-opted under sub-section (4) of section 7, allowances and sitting fees, for attending its meetings or the joint meetings under sub-section (6) of section 7, at such rates as may be approved by the State Government in consultation with the Board and also contribute to the Sugarcane Board at rates advised by the Board with the approval of the State Government.(3)The council shall utilise its funds for administrative expenses within the limits prescribed.(4)In the event of the failure of the council to commence implementation of any development work relating to a crushing year within two years of its inclusion in the programme of improvement, the amount concerned shall be transferred to the Board and the Board shall have the power to spend it and the council shall comply with the order of the Board in respect of such amount.

10. Incorporation, saving of acts and proceedings and audit of accounts of the Board and the councils.

(1)The Board and every council shall be bodies corporate by the names under which they are established each having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by their names sue and be sued.(2)No act or proceeding of the Board or any council shall be invalidated merely by reason of-(a)any vacancy or defect in its constitution; or(b)any defect in the appointment of a person acting as its member, or(c)any irregularity in its proceedings not affecting the merits of the case.(3)The accounts of the Board and every council shall be subject to audit by an auditor appointed by the State Government in this behalf: Provided that instead of appointing any auditor under section, the State Government may, by notification in the Gazette, direct that the accounts of the Board or a council be subject to audit under the Bihar and Orissa Local Funds Act, 1925 (B. & O. Act II of 1925) and the Board or the council shall be deemed to be a local authority and its fund be deemed to be a local fund for the purposes of the said Act.(4)The auditor shall submit his report to the Board or council, as the case may be and forward a copy of it to the Government which may, after giving the Board or the Council an opportunity to offer explanation in respect thereof, issued directions thereon as it may deem fit and the Board or the Council shall carry them out.(5)The auditor, other than an auditor appointed under Bihar and Orissa Local Funds Act, 1925 (B. & O. Act 1925) shall be paid from the fund of the Board or the Council as the case may be such remunerations as may be prescribed.

11. Dissolution of the council.

(1)If, in the opinion of the State Government, any council is persistently negligent in performance of its duties and functions under this Act or rules, or commits any act which is prejudicial to its interest or wilfully disobeys any direction of the Board under clause sub-case (2) of section 4 or is otherwise not functioning properly, the State Government may, by notification in the Gazette, direct any time, after giving the council a reasonable opportunity of being heard, that the council shall be dissolved on such date and for such period as may be specified in notification.(2)When the council is dissolved under sub-section all members of the council, including the Chairman and Secretary shall from the date of dissolution, be deemed to have vacated their offices, but without prejudice to their liability for re-appointment or re-nomination and all powers and duties of the council, shall during the period of dissolution be exercised and performed by such person or persons as the Government may appoint in

this behalf.(3)Within six months of dissolution, the council shall be reconstituted in accordance with the provisions of section 7.

12. Appointment of Cane Commissioner.

(1)The State Government may, by notification in the official Gazette, appoint any person to be the Cane Commissioner for the State of Bihar and to exercise the powers and perform the duties conferred and imposed on the Cane Commissioner by or under this Act.(2)The State Government may, be notification in the official Gazette, appoint such persons as it thinks fit to be the Additional Cane Commissioner, Joint Can Commissioner, Deputy Cane Commissioner and Assistant Cane Commissioner to assist the Cane Commissioner within such local limits as may be assigned to them and confer and impose upon them all or any of the powers and duties of the Cane Commissioner within their respective jurisdiction.

13. Appointment of Cane Officer.

(1)The State Government may, by notification in the official Gazette, appoint such persons as it thinks fit to be Cane Officers for the purposes of this Act within such local limits as may be assigned to them.(2)The Cane Commissioner, every person appointed under sub-section (2) of section 12 to assist the Cane Commissioner, every District Magistrate and every Sub divisional Magistrate shall be an ex-officio Cane Officer within his jurisdiction.(3)The State Government may also, by notification in the official Gazette, appoint such officers as it thinks fit to be Additional Cane Officers for all or any of the purposes of this Act within such local limits as it may assign to them respectively.(4)In any area where there are more Cane Offices than one, the State Government may, by notification in the official Gazette, declare the functions which each Cane Officer shall perform.(5)A Cane Officer may, within the local limits of his jurisdiction,-(a)either any place which is or which he has reason to believe to be used as a factory or a unit or a godown or any place, where cane is weighed or payment is made therefore, and make such examination as he may think necessary of the weighbridge or scales or any other machine used for weighment and of any records, registers, accounts maintained in connection with the purchase of cane;(b)Cause cane-crafts or wagons including trucks and any other means of transport, or consignments of cane to be weighed or re-weighed in his presence:Provided that cane already loaded shall not ordinarily be required to be unloaded for the purposes of reweighment except under special circumstances to be intimated in writing to the manager of the factory and the Cane Commissioner;(c)record the statement of any person whom he may deem necessary to examine for the proper discharge of his duties;(d)call from the occupier or manager of a factory or owner of a unit any information relating to the production, supply or crushing of cane, the manufacture of sugar and the quantity or the quality of sugar, rab or molasses produced, issued or in stock any payment of the prices of cane;(e)call for from a sugarcane-grower any information relating to the production, cultivation and supply of sugarcane or cane and payment of the price thereof and any other relevant matter;(e-1) call for any book, account or other account relating to cash/ credit accounts;(f)shall perform such other functions as may be prescribed or directed by the State Government.(6)Where the Cane Officer has reasons to believe that the provisions of this Act. And the rules or the terms or conditions of any licences granted thereunder has been, are being or are about to be contravened, he may-(a)direct the owner of the unit to

produce any book, accounts or other documents relating to such contraventions.(b)inspect or break open and search in the presence of two witnesses any part of the unit or its premises or any place used for the purpose of the unit;(c)take or cause to be taken extracts from or copies of documents showing transactions relating to such contraventions;(d)search, seize and remove in the presence of two witnesses any vital part of any machinery of the unit including any power-crusher, so as to make it inoperative;(e)for reasons to be recorded in writing seize accounts, registers or documents of the factory or unit relating to purchase of cane or cane juice or payment of price of cane by or on behalf of the occupier of the factory or the owner of the unit, as the case may be and shall grant a receipt for the same and such seized accounts, registers or documents shall be retained for so long as may be reasonably necessary for examination thereof or for a prosecution under section 52 or any proceeding under section 57 and shall thereafter be returned in the prescribed manner:Provided that if the seized accounts, registers, or documents are retained by the Cane Officer for more than ninety days, the reasons for doing so shall be recorded in writing and the approval of the Cane Commissioner shall be obtained.Explanation. - For the purpose of clause (d) the expression power-crusher means a crusher working with the aid of diesel, electric or stream power engaged or ordinarily engaged in crushing cane and extracting juice therefrom for manufacture of rab or khandsari sugar.(7)A Cane Officer may call for information relating to-(i)production, purchase, supply or survey of cane, the price of cane, the amount deducted from the price of cane and its deposit under section 44; or(ii)the production or supply of cane juice and its price from the occupier of factory, owner of a unit situated outside his jurisdiction if such occupier or owner purchases cane or juice of cane grown within his jurisdiction.(8)The Cane Officer may issue such instruction for equitable purchase of cane as he deems necessary and such instructions shall be complied with immediately: Provided that the prescribed authority may, either suo motu or on an application being made to it by any party concerned, suspend the operation of the instruction and after giving reasonable opportunity of being heard to the parties concerned, revise the instruction and the order in revision shall be final.(9)The occupier of a factory, the owner of a unit, persons acting on their behalf, every suarcane-grower or cane-grower or other person or a co-operative society shall comply with any order, direction or instruction issued under this section.(10)(i)- The occupier, manager and the weigh-ment clerk of a factory, a person responsible for weigh-ment of sugarcane in a unit shall be responsible for the correctness of weighbridge and weigh-ment of sugarcane thereof. If a cane officer, during his inspection of the weigh-bridge and the weigh-ment of sugarcane, finds any wrong weighment or under weigh-ment he shall be able to impose a fine up to rupees ten thousand only.(ii)If a requisition slip issued by an occupier/ manager of a factory is found to be in a false name and based on wrong measurement of sugarcane, the cane officer shall impose a fine as per clause (i) of this sub-section.(iii)A person aggrieved by the orders passed under clause (i) & (ii) of this sub-section, shall appeal before the Assistant Cane Commissioner within a week and against the order of the Assistant Cane Commissioner he shall appeal before the Cane Commissioner within one month.Provided that the aggrieved person shall be able to appeal only after he has deposited the amount of fine so imposed in the district treasury concerned.

14. Disqualification for appointment as Cane Commissioner, etc.

- No person, who is directly or indirectly interested in a factory or unit or in any process or business carried on therein or any patent or machinery connected therewith shall be appointed to assist the

Cane Commissioner or to be Cane Commissioner or Cane Officer and no person shall, after such appointment, hold such office, if he becomes so Interested.

Chapter III

Licences.

15. Licence for crushing cane in a factory.

(1)No cane shall be crushed in a factory unless the occupier thereof has obtained a licence, from the State Government in the form prescribed, authorizing, crushing of such quantities of cane, in the relevant crushing year, as may be specified in the licence:Provided that the quantity specified in the licence may be enhanced with the availability of the cane during the relevant crushing year.(2)On an application being made to the State Government in the prescribed form and manner, the licence shall be granted:Provided that the State Government may refuse to grant licence in respect of a factory if-(a)it has already cancelled or refused to renew a licence previously granted; or(b)no application was made to renew, for the preceding crushing year a licence previously granted.(3)Except with the previous permission of the State Government, the quantity of cane crushed in the factory in the relevant crushing year shall not exceed the quantity specified in the licence.

16. Licence for crushing and manufacture in a unit.

(1)No cane shall be crushed or cane juice shall be purchased for manufacture of rab and khandsari sugar or gur, shakkar, gur or jaigari in a unit, in the relevant crushing year except under and in accordance with the terms and conditions of a licence to be obtained by the owner of the unit from the Cane Commissioner by making an application to him and deposition with the prescribed authority, in the prescribed manner such sum of money, if any, as may be prescribed as security for the due performance of the conditions of the licence:Provided that where only cane grown by the owner of the units is crushed in the unit and no other cane nor cane juice is purchased for use in the unit, the owner of the unit shall not be required to obtain a licence.(2)If, after giving an opportunity of being heard to the owner of the unit and the occupier of the factory concerned, the Cane Commissioner is satisfied that the unit unduly impairs production of sugar by such occupier, he may refuse to grant a licence.(3)The licence granted under this section shall be non-transferable.(4)The security deposited under sub-section (1) shall be maintained, forfeited and replenished in the prescribed manner and during any period in which the deposit is depleted or extinguished by forfeiture and is not replenished the licence shall be deemed to have been cancelled..

17. Conditions of licences granted to occupiers of factories or owners of units.

(1)A licence granted under section 15 shall be subject to such conditions as the State Government may impose in respect of the following matters, namely:-(a)the quantity of cane to be crushed

during the crushing year:(b)the dates of starting and closing the factory for the purpose of crushing cane; and(c)such other incidental matters as may be prescribed.(2)A licence granted under section 16 shall be subject to such conditions as the Cane Commissioner may, in conformity with general principle laid down by the Board in this behalf, impose in respect of all or any of the following matters; namely:-(a)the maximum quantity of cane or cane juice to be purchased in the relevant crushing year;(b)deleted(c)the period and hours of working of the unit;(d)prohibition of use of the unit for any purposes other than those for which the licence has been granted;(e)prohibition of extension, addition or alteration the unit of change of its location without previous permission;(f)intimation to be given in the event of the transfer of sale of the unit or any party thereof;(g)maintenance of the accounts of cane crushed, cane juice used, rab or khandsari sugar or gur, sakkar gur or jagari produced, kept in storage or dispatched and production of the records thereon of demand for inspection and examination.(h)Immediate access to the premises of the unit to be allowed to be Cane Officer; and(i)Such other matters as may be prescribed including price and payment thereof, packing disposal, delivery or distribution of cane purchased or khandsari sugar or gur, sakkar, gur or jagari rab produced.

18. Power to cancel or suspend the licence of a factory of unit.

- Where the licensee of licence granted under section 15 or 16 commits any breach of the conditions of the licence or contravenes any of the provisions of this Act, or the rules the State Government or the Cane Commissioner, as the case may be, may (without prejudice to any other action that may be taken against the licensee) cancel or suspend the licence by an order in writing after giving the licensee an opportunity of being heard.

19. Power to shift a unit.

(1)Where the Cane Commissioner is satisfied that unit pandely in paise the production of sugar by the factory concerned he may, by an order in writing issued in this behalf, require the owner of the unit to shift the unit to such a place outside the reserved area as may be specified in the order.Provided that no such order of shifting shall be issued unless the occupier of the factory concerned undertakes to pay the cost of shifting determined by the Cane Commissioner on the basis of in agreement between the parties or if there he no such agreement, on a fair and reasonable basis after affording the parties an opportunity to make representation in writing the parties an involved and the basis of calculation thereof:Provided further that where only sugarcane grown by the owner of the unit is crushed in the unit and no other cane nor cane juice is purchased for use in the unit the owner of the unit shall not be required to shift it.(2)Upon the Cane Commissioner issuing the order under sub-section (1) the owner of the unit shall suspend the operation of the unit forthwith and shall produce the licence before the Cane Commissioner for entry of the changed site.

20. Appeal against Cane Commissioner s order.

- Any person aggrieved by any order of the Cane Commissioner under section 16, 18 or 19 may appeal to the prescribed authority within fifteen days of the receipt of such order.

21. Countinuanace of the subsisting licences.

(1)Not with-standing anything contained in this Chapter, a licence, held by the occupier of a factory or the owner of a unit under the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1973 (Bihar Ordinance no. 47 of 1973) at the commencement of this Ordinance shall continue to be valid for the remainder of the crushing year as if it were a licence granted under this Ordinance.(2)The subsisting licence, referred to in sub-section (1) Shall be replaced by a fresh licence under this Act on an application being made for it within the period prescribed for grant of licence under section 15 to 16, as the case may be, and on payment of the prescribed fee.

22. Licence fee.

(1)Such fees shall be paid for licences granted under this Chapter as may be prescribed.(2)Different scales of fees may be prescribed for different classes of factories of units.

23. Exemption from the provision of the chapter.

- Where regard being had to the special facts and circumstances of any class of persons, the State Government is satisfied that application of any or all provisions of this Chapter to such class of persons shall be inequitable or involve any hardship, it may be notification in the official Gazette, exempt such class of persons from the operation of such provisions.

24. Employee s licence.

(1)Where the State Government after giving a reasonable opportunity of being heard to be occupier of the factory concerned, is satisfied that for adequately protecting interests of the cane-growers it is expedient to control, by licencing, the activities of employees of the factory operating in any area in connection with purchase of cane and payment of price thereof, it may direct that in such area no person or class of persons to whom licence has not been granted in the prescribed manner shall be employed by the occupier of the factory of the manager in connection with any transaction for the purchase of cane or payment of price of cane.(2)No person shall be granted licence under sub-section (1) unless such person has deposited the prescribed sum of money, in the prescribed manner, as security.(3)Where security is forfeited in whole or in part under sub-section (2) of section 55 and the licensee fails to replenish it within fifteen days of such forfeiture, the licence shall be deemed to have been cancelled.

Chapter IV

Purchase and Supply of Cane

25. Appointment of manager.

(1) Within thirty days of the commencement of this Act and thereafter the same period before the commencement of every crushing year the occupier of a factory shall send to the Collector a notice of appointment of any person as manager for the purposes of this Act or the rules: Provided that until the first notice of appointment or deemed to be appointed as manager under the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1973 (Bihar Ordinance 47 of 1973) shall be deemed to be a manager under this Act. (2) No person shall be deemed to have been appointed as manager until a sum of ten thousand rupees is deposited by him or on his behalf as security, with the Collector concerned in the prescribed manner. (3) Whenever a new manager is appointed, the occupier of the factory shall send to the Collector a written notice of the change within fifteen days of the date on which the new manager assumes charge of his work. (4) During any period for which provisions of sub-section (1) and (2) are not complied with or the person appointed as manager does not manage the factory, or his security money is not managed by the factory, or his security money is not replenished to the extent of its forfeiture under sub-section (2) of section 55, the occupier of the factory himself shall be deemed to be the manager of the factory for the purposes of this Act and the rules.

26. Prohibition of appointment of purchasing agents.

(1) An occupier of a factory or manager may carry out operations relating to weighing or purchase of cane or payment of price of cane with the aid of paid employees. The paid employee of the factory responsible for the weighing of cane shall possess a valid Identity Card. (2) Subject to the provisions of sub-section (1), the occupier of the factory or manager shall not appoint any person as purchasing agent for the purposes specified in that sub-section nor shall he utilize services of any person as purchasing agent directly or indirectly for any such purpose. (3) Failing to comply with the provisions of above Sub-Section (1) & (2) the occupier of the factory or Officers and Staffs of the management of a factory may be fined up to rupees twenty five thousand or legal action under Section-52 of this Act and under the provisions of Indian Penal Code shall be constituted.

27. Estimate of quantity of cane required by factory.

(1) The occupier of every factory shall submit to the Cane Commissioner, on or before the prescribed date, in every crushing year, an estimate, in the prescribed manner, of the quantity of cane which may be required in the factory during such crushing year. (2) The Cane Commissioner shall examine every estimate submitted under sub-section (1) and where the occupier of a factory has failed to submit an estimate under sub-section (1), he shall draw up an estimate by himself in the prescribed manner and shall publish the same in such manner as may be prescribed with such modifications, if any, as he may think fit, after consultation with the council concerned. (3) The prescribed authority may, either suo motu or on an application made to it by the occupier of the factory, within thirty days of the publication of the estimate under sub-section (2) revise the estimate, published under that sub-section and that authority shall cause the estimate so revised which will be final to be published in the prescribed manner.

28. Conditions preoedent to commencement of purchase of cane.

(1)The occupier of a factory or any person action or his behalf shall not commence the purchase of cane unless adequate arrangements, as may be prescribed, have been made and a certificate has not been obtain from the Cane Officer in respect of the following matters, namely:-(a)weighment of cane to be purchased;(b)payment of the price of cane purchased;(c)parking of cane-carts;(d)approach roads to the place of weighment; and(e)distribution of requisition slips.(f)before the commencement of purchase of cane at centres the occupier/ manager of the factory shall display on the centres the name and designation of the staff working there the rate at which cane will be purchased, weigh-bridge verification report etc. as asked for from time to time. failing in compliance of the provisions of the above section, the factory may be fined up to rupees twenty five thousand or legal action under Section-52 of this Act and under the provisions of Indian Penal Code shall be constituted.(2)Where survey has not been made under section 34, the occupier of the factory shall, before the commencement of purchase of cane, have the survey of the standing cane crop made as the prescribed manner.

29. Establishment of purchasing centers.

(1)The occupier of a factory shall submit a proposal for establishing sugarcane road/ rail sugarcane purchase centres, at least forty-five days before the start of the crushing operation in a particular crushing year, before the Cane Commissioner and will give a copy of that proposal to the concerned Cane Officer, Joint/ Assistant Cane Commissioner and the Collector of the District from which the cane is proposed to be purchased.(2)The Cane Officer shall examine the proposal and submit his recommendations before the Cane Commissioner within fifteen days of the receipt of the said proposal with a copy to the concerned Joint/ Assistant Cane Commissioner and the Collector of the District.(3)The Cane Officer shall take in to consideration the following factors in his recommendations -(i)No purchase centre shall be established within three kilo metres of linear distance from the reserved/ assigned area of a sugar factory.(ii)The minimum linear distance between two purchase centres shall be at least four kilo metres.(iii)There must be an availability of at least 7500 tonnes of sugarcane in the area of operation of the purchase centre.(iv)In free areas these distance restrictions for establishment of purchase centres shall not apply.(4)The Cane Officer shall give a copy of his recommendation to the Assistant/ Joint Cane Commissioner concerned who will submit his report to the Cane Commissioner within seven days of the receipt of the recommendation.(5)The Cane Commissioner shall, after considering the recommendations of the Cane Officers and reports of Assistant/ Joint Cane Commissioner concerned and hearing the parties concerned, pass final orders, for establishment of road/ rail purchase centres of a particular factory.(6)Subject to other provisions of this act any order of direction of the Cane Commissioner in respect of purchase of cane or its movement from any area including its dispatch by rail may be revised by the government which shall have the power to initiate proceedings in revision either suo moto or on an application made to it by any aggrieved person within fifteen days of the receipt by him of such order or direction.(7)Only after the orders of the Cane Commissioner or revised orders or directions of the government the operation of any purchase centre shall start.

30. Prohibition of weighment of cane at night.

- The State Government or any officer authorized by it in this behalf may, by general or special order, prohibit in any area weighment of cane by the occupier of a factory or any person acting on his behalf between sunset and sunrise.

31. Declarations of reserved area.

- The Cane Commissioner may, having regard to the crushing capacity of the factory, the availability of sugarcane in such area and the need for production sugar and after consulting the council concerned and the occupier of the factory or the occupiers of other affected factories and after considering any objection that may be raised, issue an order, by notification in the official Gazette, declaring any area to be the reserved area for the purpose of supply of cane to the factory during a particular crushing year or year and may likewise cancel any such order or alter the extent of the area so reserved: Provided that, in the case of a factory situated outside the state of Bihar, such declaration may be made only on receipt, by the Cane Commissioner of an application in the prescribed form from the occupier of such factory requesting that an area in Bihar may be reserved for the supply of cane to such factory and on condition that such occupier establishes a branch officer in the state of Bihar and deposits a security of ten thousand rupees with a Collector in the State of Bihar and gives an undertaking in the prescribed form to purchase cane grown in the reserved area solely through a co-operative society of such area. (2) Any person aggrieved by an order of the Cane Commissioner under sub-section (1) may, within thirty days of the receipt of such order or within the same period from its publication in the official Gazette, appeal to the prescribed authority. (3) But when Cane Commissioner & Secretary is one and the same person, the aggrieved party shall be able to appeal before the Member, Board of Revenue.

32. Purchase of cane grown in a reserved area.

(1) The Cane Commissioner may, by order notified in the official Gazette, fix with respect to any specified sugarcane-grower or sugarcane-growers concerned as the case may be which each sugarcane-grower by himself or if he is a member of a co-operative society of the reserved area, through such society, shall supply to the factory concerned. (2) Every sugarcane-grower, co-operative society or occupier of the factory concerned shall be bound to supply or purchase, as case may be, the quantity or proportion of sugarcane fixed under sub-section (1) by entering into agreement in the manner specified in sub-section (3) and (4) and any willful failure on the part of any such person to do so shall constitute a breach of the provisions of this Act: Provided that where the default committed by any co-operative society is due to any failure on the part of any of its members, such co-operative society shall not be bound to make supplies of cane to the factory to the extent of such default. (3) A cane-grower or a co-operative society in a reserved area may offer in the form and by the date prescribed to supply to the occupier of the factory for which the area is reserved cane grown in such area by the cane-grower or by the members of co-operative society or societies as the case may be. (4) The occupier of a factory for which an area is reserved shall enter into an agreement in such form, by such date and on such terms and conditions as may be prescribed, to purchase the cane offered in accordance with the provisions of sub-section (3). Provided that-(i) such occupier

shall not purchase or enter into an agreement to purchase cane grown in a village by a member of the co-operative society of that village except from the cooperative society concerned;(ii)the occupier shall not be required to purchase, or enter into an agreement, to purchase, sugarcane of any variety, if the sugarcane of such variety has been declared by notification under section 36, to be unsuitable for use in such factory;(iii)where in any village the number of cane-growing members of a co-operative society is one and a half times the number of cane-growers or more the occupier shall not, if an order in this behalf is made by the Cane Commissioner in the prescribed manner, and is published in the official Gazette purchase or enter into an agreement to purchase, so long as such order is in force, cane grown by any cane-grower of the village except through the co-operative society concerned; and(iv)where in any special circumstances, the State Government, by notification in the official Gazette so directs, the occupier of a factory or any person employed by him for the purpose of purchasing cane shall not purchase or enter into an agreement to purchase cane grown in any reserved area or part thereof, except through a co-operative society.(5)An appeal against any order of the Cane Commissioner under sub-section (1) or subsection(4)may be preferred to the prescribed authority within fifteen days of the publication of the notification in the official Gazette and subject to the result of such appeal, if any, such order shall be final.(6)Except with the permission of the State Government, cane grown in a reserved area shall not be sold to or purchased by-(i)the occupier of any factory other than the factory for which the area is reserved; or(ii)any person for the purpose of supply to any factory other than the factory for which the area is reserved; or(iii)the owner of a unit to whom a licence has not been granted under section 16.(7)Cane grown in a reserved area shall not be sold by any person other than a cane-grower or through a carrier.Provided that a cane-grower or a co-operative society may deliver cane through another canegrower or through a carrier.(8)During the crushing year, the State Government may, by order, direct that sugarcane grown outside the reserved area shall not be purchased by the occupier of a factory or any person on his behalf until the occupier of the factory enters into an agreement to purchase all the sugarcane in the reserved area offered to him within the time to be specified in the order:Provided that such prohibition shall not apply in respect of cane grown outside the reserved area for the supply of which the Cane Commissioner shall issue orders.(9)Subject to the provisions of sub-section (1), the State Government may prohibit or restrict or otherwise regulate the movement of sugarcane from any reserved area except under and in accordance with a permit issued by it in this behalf.

32A. Payment of compensation.

- If cane remains indisposed in reserved area, the order for payment of compensation to the cane growers concerned shall be made after the enquiry by the Cane Commissioner after giving an opportunity of being heard to both the parties concerned.

33. Purchase of cane grown outside reserved area.

- Purchase of cane grown outside reserved area- Cane grown in any area other than reserved area and intended to be supplied to the occupier of a factory shall not be purchased by any person except the occupier of the factory or a person employed by him for the purpose of making such purchase.

33A. [Regulation of supply and purchase of cane grown in and outside the reserve area. [Inclusion of a new Section 33A in the Bihar Act 37 of 1982.]

- The State Government, in order to maintain the supply of sugarcane, regulate the following by order in the official gazette-(i)Distribution, sale or purchase of cane grown in the reserved area,(ii)Distribution, sale or purchase of cane grown outside the reserved area.]

34. Survey of sugarcane area.

(1)The State Government when it considers it expedient may, by notification in the official Gazette, order a survey to be made of sugarcane grown in any area and of any area fit for cultivation of sugarcane and recover the cost of such survey from the factory or factories to which the cane of such area is supplied.(2)Every such survey shall be made by an officer appointed by the State Government in this behalf.(3)After issue of the notification under sub-section (1), it shall be lawful for an officer appointed under sub-section (2) and for persons required by him to assist, him in the discharge of his duties.-(i)to enter upon and survey and take levels of any land in such locality and to do all things and make all enquiries necessary for effecting the survey and demarcation of the boundaries thereof;(ii)to dig or bore into the sub-soil;(iii)to make levels boundaries, and lines by placing marks and cutting trenches; and(iv)Where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle.(4)A person appointed under sub-section (2) of section 12 to assist the Cane Commissioner, or a Cane Officer, may exercise all or any of the powers enumerated in sub-section (3) within such local limits as may be notified in the official Gazette.(5)An officer appointed under sub-section (2) or referred to under sub-section (4) shall pay or tender payment for any damage done to any property in course of making the survey and in case of dispute as to the sufficiency of the amount as paid or tendered, he shall at once refer the dispute to the Collector who may, after giving the parties reasonable opportunity of being heard and after such enquiry as he may consider necessary, pass such order as he thinks fit.(6)The order of the Collector under sub-section (5) and subject to such order, the order of the officer appointed under sub-section (2) or referred to in sub-section (4) shall be final.(7)Every person owing or occupying land in any area in respect of which a survey is being made under sub-section (1) shall render to the officer making such survey such assistance; and officer him such facilities as may be prescribed.(8)Any amount due from the factory or factories under sub-section (1) shall be recoverable as a public demand as an arrear of land revenue.(9)The records of any survey under this section shall not be admissible as evidence in any proceedings in a civil or revenue court.

35. Maintenance of register.

(1)The occupier of a factory shall maintain in the prescribed form a register of all cane-growers and suppliers of cane in each of the following areas, namely:-(a)the area reserved for the factory under section 31; and(b)any other area from which the factory may purchase cane.(2)The owner of a unit shall maintain in the prescribed form a register in respect of the cane or cane juice crushed or purchased by him or on his behalf.(3)The State Government may, by rules, provide for-(a)the

correction of entries and the addition of new entries in such registers;(b)the payment of costs in connection with such entries or addition and the manner in which such costs shall be realized; and(c)the supply, on payment of the prescribed fee, of copies of entries in the registers.

36. Power to declare varieties of sugarcane to be unsuitable for use in factories.

- The State Government may, after consulting the Board by notification in the official Gazette, declare that:-(a)sugarcane of any variety grown in any area specified in such notification is unsuitable for use in all or any factory situated in the said area; and(b)sugarcane-seed of any variety is unsuitable for distribution to cultivators in any area specified in such notification.

37. Prohibition of distribution of unsuitable seed.

(1)The occupier of a factory or any other person acting on his behalf shall not distribute sugarcane-seed of any variety to any person to be used by cane-growers in any area if sugarcane-seed of that variety has been declared under section 36, to be unsuitable for distribution of cultivators in that area.(2)The occupier of a factory or any other person acting on his behalf shall not grow sugarcane of any variety if such variety of sugarcane has been declared under section 36 to be unsuitable for use in such factory.

38. Occupier of factory to maintain seed-nursery.

- The occupier of a factory shall maintain a prescribed nursery of sugarcane-seed in the prescribed manner over such area of land as the Cane Commissioner may, after consulting the Board and giving the occupier of the factory a reasonable opportunity of being heard and after taking into account the crushing capacity and requirement of cane of the factory, determine.

39. Recording of correct weight of cane.

(1)The occupier of every factory, the owner of every unit and every person in charge of weighmen s shall maintain, subject to such limits of error as is prescribed by the State Government under the law relating to weights and measures, for the time being in force, a record of the correct weight of cane purchased at the place of weighment.(2)No cane shall be purchased without being weighed.

40. Provisions for approach roads, etc., at the purchasing centers.

- The occupier of a factory purchasing cane at any purchasing centre shall make such provisions for the following and keep them in such repairs as may be prescribed, namely:-(a)approach road and parking space for animal-drive carts;(b)sheds for animals and cart-drivers;(c)drinking water for persons using the purchasing centre; and(d)drinking water and water-trough for animals.

41. Payment of compensation for the detention of an animal-driven cart.

(1)The occupier of a factory or any other person purchasing cane at any purchasing centre shall not detain an animal driven cart at such centre for a period exceeding six hours.(2)Where an animal-driven cart is detained at such purchasing centre for a period exceeding six hours, the occupier of the factory or such other person, as the case may be, shall be liable to pay compensation in the prescribed manner to the supplier of cane for such detention at the rate specified by the State Government time to time.(3)The persons referred to in sub-section (1) shall make such arrangements for noting the time of the entry and exit of animals driven carts in the parking ground as may be prescribed and in the event of a strike or break down of machinery or any reason beyond their control such persons shall be exempted from the liability to pay compensation to such extent as may be prescribed.

Chapter V

Payment of Price of Cane and Other Matters

42. Minimum price of cane supplied to a unit. and factor.

(1)The State Government may, after consulting the Board, determine by notification in the official Gazette, in respect of any area the minimum price of cane payable by the owners of units to the cane-growers for cane supplied to them in the crushing year concerned:Provided that the minimum price so determined shall not exceed the minimum price payable by the occupier of a factory under any law for the time being in force, in respect of the cane supplied from the same area.(2)The State Government may before the beginning of the crushing season, taking in to consideration the interest of the cane growers and the likely realisation from the sugarcane products determine by notification in the official gazette, the price of cane payable by the occupiers of the factories to the cane growers for cane supplied to them in the crushing year concerned.Provided that this price of cane so determined shall not be less than that of the minimum statutory price determined by the Government of India under the Sugarcane (Control) Order, 1966.Provided further that the State Government shall not determine the payable cane price, less than that highest minimum statutory price of any of the factories within the State of Bihar under the Sugarcane (Control) Order 1966.

43. Payment of price of cane.

(1)The occupier of a factory shall make such agreements for the payment of price of cane as may prescribed.(2)(i)As soon as cane is supplied to a factory, the occupier of such factory shall be liable to pay the price of cane as supplied.(ii)Where the occupier, liable under clause (i) makes default in payment of the price for a period exceeding fourteen days from the date of supply of cane to the factory, he shall be liable to pay interest thereon at rate specified in section 51 from the date of supply.(iii)The price of sugarcane payable to cane growers by the factory will be paid by Account Payee Cheques/ Electronic transfer only. The Government shall have powers to relax it for a limited period.(3)Deleted.(4)The owner of the unit shall make payment of the price of cane supplied to it immediately after the supply and on failing to do shall be liable to pay interest at the rate

prescribed.(5)Notwithstanding anything contained in sub-section (2), sub-section (3) or sub-section (4), the occupier of the factory or the Secretary or the Treasurer of the Co-operative Society or any other person in charge of payment on behalf of such society or the owner of the unit shall be punishable under section 52 for failure to make payment of the price in time.(6)Any arrears of the price of cane, with interest thereon, if any, shall be recoverable as public demand or arrears of land revenue.(7)Subject to any claim of the Central Government in respect of a tax or duty of excise, the price of cane shall be the first charge on the properties of the factory other than sugar.(8)Until the cane price payable as per the provisions in Section-42 and 43 of this Act, is paid to the cane growers concerned, the occupier of any factory or any person acting on his behalf or any other person shall not remove sugar or any other product made out of sugarcane from the factory.

44. Deduction.

(1)The occupier of a factory or any person on his behalf shall not make any other deductions from the price of cane except the deduction on account of any loan advanced by him, or on his guarantee or otherwise advanced by a bank or other institutions under section 50.Provided that no deduction from the cane price shall be made without prior and due voluntary agreement of the concerned cane-growers:Provided further that, in any case, such deduction shall be deemed to have been made on the fifteenth day of delivery of sugarcane by the cane-grower or on the date of deposit of the delivery receipt with the sugar factory, whichever is earlier, and from that day the concerned can-grower shall stand discharged from the liability to repay the loan and interest thereon to the extent of the deduction and it shall be the responsibility of the occupier of the Mill to ensure prompt and proper crediting to the concerned Bank and other institutions, if any, which extended the loan on his guarantee.(2)Deleted.(3)Notwithstanding anything contained in sub-section (1) where there is any contributory scheme under any national or State plan, the realization of the contribution of the cane-growers or suppliers of cane may be made, with their previous concurrence, by deduction from price of cane:Provided that the amount so deducted by the occupier of a factory shall be deposited in the funds of the council in the prescribed manner and in the event of his failure to do so, interest at the rate specified in section 51 shall be payable by the occupier of the factory and the principle amount together with interest shall be realizable as public demand or as arrears of land revenue.(4)The amount of deduction referred to in sub-section (3), made any time before commencement of this Act and remaining on the commencement of this Act with the occupier of a factory or any other person shall be deposited in the funds of the Board or the council concerned in accordance with the order, in this behalf of the State Government. On the failure of such occupier or other person to so deposit such amount, it shall be recoverable as public demand or as an arrest of land revenue and shall bear interest at rate specified in section 51.

45. Unclaimed amounts to be credited to the fund of the council.

(1)On the expiry of two years from the close of any crushing year the occupier of a factory situated inside or outside the State of Bihar shall deposit that price of cane together with interest there on, if any, which has not been paid to the cane growers or suppliers in the account of the concerned Zonal Development Council.(2)The Collector shall pay out of the amount deposited under sub-section (1) all claims considered payable by him and referred before him within three years of the date of the

application of the order of the State Government in the official Gazette.(3)The amount remaining with the Collector after-paying of the claims under sub-section (2) shall be credited, within six months, to (sic) fund of the council concerned.

46. Decision of certain disputes.

(1)If any dispute arises regarding the price of cane supplied to the occupier of a factory the person entitled to the price or the document on the basis of which the price is claimed, payment of the price shall be with held and the occupier of the factory to which the cane was supplied shall enter the dispute in a register in the prescribed form and refer it within the prescribed period to the prescribed authority who shall, after giving the parties a reasonable opportunity of being heard and after such inquiry as he may consider necessary, decide the dispute:Provided that whenever the payment of the price is whether held under this sub-section, the occupier of the factory shall deposit with the prescribed authority in the prescribed manner the amount in dispute, within one week of such reference.(2)Any other dispute touching an agreement for purchase of cane by the occupier of a factory or its supply to him and any dispute relating to purchase of cane or cane-juice by the owner of a unit and payment of price thereof shall be referred to the authority prescribed under sub-section (1) who shall decide it in the manner laid down in that sub-section.Explanation. - Where an offer has been made by a cane grower for supply of can to the occupier of a factory under the provisions of this Act and the occupier has failed to execute the agreement in accordance with the provisions of this Act a dispute relating to such un-executed agreement shall be a dispute within the meaning of this sub-section.(3)Any person aggrieved by a decision made under sub-section (1) or sub-section (2) may, within thirty days of the decision, prefer an appeal to the Collector who shall, after giving the parties a reasonable opportunity of being heard and after such inquiry as he may consider necessary, pass such order, as he thinks fit.(4)An order of the Collector under sub-section (3) and subject to such order, the decision of the prescribed authority under sub-section (1) or sub-section (2) shall be final.

47. Enforcement of final orders.

- Final decisions of orders made under section 46 shall, on application, be enforced by a civil court of competent jurisdiction in the same manner as a decree of such court;Provided that where the final decision or order is in respect of price of cane, such price together with interest, if any, shall be recoverable as a public demand or as arrears of land revenue.

48. Payment of commission on purchase of cane.

(1)The State Government may, be notification in the official Gazette determine the amount of commission payable by the occupier of the factory on the purchase of sugarcane by such occupier or on his behalf and may, by a like notification exempt the occupier of any new factory to be specified in the notification, from the payment the amount of such commission for prescribed period.(2)The commission payable under sub-section (1) shall be collected in the prescribed manner and it shall be the fund of the Council under Section 9 (1) (i).(3)The commission payable under sub-section (1) shall be paid in the prescribed manner by the occupier of the factory to the concerned Council. This

payment shall be made within the next fortnight of the month of purchase of cane, otherwise an interest shall be payable at the rate prescribed under Section-51 from the first day of that fortnight which shall be recoverable along with principal amount as a public demand or as an arrear of land revenue.

49. Tax on Sugarcane.

(1)The State Government may by notification in official gazette impose a tax on the basis of per quintal weight on, purchase of cane for consumption or use of or sale to a factory, or cane used from own farm or seed nursery for production of sugar by or on behalf of the occupier of a factory.(2)Notwithstanding anything contained in sub-section (1) the State Government may, by notification in the official Gazette.-(a)reduce or remit, in whole or in part, such tax in respect of cane used in any such factory for the purposes of research, seen-distribution, crushing of diseased cane or intake of excessive crop:(b)exempt for prescribed period from such tax any new factory or a factory unable to run without state aid.(3)The cane purchase tax payable under sub-section (1) shall be paid by the occupier of the factory to the Collector of the district concerned in the prescribed manner. This payment shall be made within the next fortnight of the month of purchase of cane, otherwise interest shall be payable at the rate prescribed under Section-51 from the first day of that fortnight and which shall be recoverable along with principal amount as a public demand or as an arrear of land revenue.(4)There shall be levied and collected in such manner as may be prescribed, a tax on the purchase of sugarcane by the owner of a unit at such rate, as may be notified in the official Gazette:Provided that the tax under this sub-section shall be payable on the quantity of sugarcane actually purchased or, at option of the owner of the unit, on the quantity of sugarcane assumed in the manner prescribed, but in no case less than rupees ten thousand per annum.(5)The owner of the unit shall make payment of the as payable under sub-section (4) to the Collector in the prescribed manner and interest at the rate of 7 1/2 per. Centum per annum shall be charged on the amount of arrears. The amount of arrears shall be realizable together with interest as a public demand or arrears of land revenue.(6)Subject to the claim of the Central Government in respect of any tax of duty of excise, the claim to the State Government in respect of the tax imposed under sub-section (1) shall be the first charge on the sugar produced in the crushing year concerned.(7)Until the tax imposed under sub-section (1) is paid at the rate per quintal of sugar, notified in the official Gazette, by the State Government and the certificate of payment is obtained from the Cane Officer concerned, the occupier of any factory or any person acting on his behalf or any other person shall not remove sugar from the factory.(8)There shall be paid to the Board and the council as grant, in the manner prescribed, such proportions of the amount realized under sub-sections (3) and (5) in respect of every crushing year as the State Government may, from time to time, determine in this behalf to enable the Board and the council to meet the cost of such schemes of development as may be undertaken by them with the approval of the State Government:Provided that one-fifth of the amount payable under this sub-section shall be paid to the Board and the rest to the council in proportions to the quantities of the cane crushed by the factories concerned.

50. Advance of loan by occupier of factory.

(1)The occupier of a factory or any person working on his behalf or any bank may advance loan to a cane-grower for such purposes connected with cultivation or supply of cane to the extent of the amount and in the manner as may be prescribed. [1](2)Interest at the rate specified in section 51 shall be payable on the loan advanced under sub-section (1) and the loan and the interest shall be realizable in the prescribed manner.

51. Rate of interest in respect of certain dues.

(1)The rate of interest realizable from the occupier of a factory under rate of interest realizable from the occupier of a factory under section 43, 44, 48 or 49 or from any other person under section 44 shall be eleven per centum per annum. Provided that the rate of interest specified in this sub-section shall be deemed to have been increased or decreased by the margin of increase or decrease in the existing bank rate (standard rate) referred to in section 49 of the Reserve Bank of India Act, 1934 (2 of 1934)(2)The rate of interest payable to the occupier of a factory under section 50 shall be the rate of interest paid by such occupier to any bank for advances on the pledge of sugar or otherwise. Provided that where the occupier of a factory is paying interest to one or more banks at different rates, the rate payable to him under this sub-section shall be the lowest of such rates.(3)Where the State Government is satisfied that the occupier of a factory is spending the funds of the factory for a purpose other than the purpose of the factory, it may, by notification in the official Gazette and after giving an opportunity of being heard to such occupier, enhance the rate of interest payable, by the occupier of the factory under sub-section (1).

Chapter VI

Miscellaneous

52. Penalty for offences.

- If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or the rules or of any order made or direction given thereunder or the terms and condition of any licence, he shall be punishable with imprisonment which may extend to two years or with fine which may extend to ten thousand rupees or with both and in the case of a continuing contravention, with an additional fine which any extend to five thousand rupees for every day during which such contravention continues after conviction for the first contravention: Provided that where the offender has been acting on behalf of the occupier of the factory or the manager such occupier or manager, as the case may be, shall be similarly liable in addition or alternatively to the actual offender unless the proves that he had used all the due diligence to enforce the observance of this Act or the rules or of the order made or direction given thereunder or the terms and conditions of any licence and that the offence was committed without his knowledge or consent.

53. Institution of proceedings.

- No prosecution under this Act shall be instituted except upon a complaint made in writing by an officer authorized in this behalf by the State Government.

53A. Requisitioning Officer for realisation as public demand of dues.

- The Cane Officer/ Special Cane Officer shall be the requisitioning officer for realisation as public demand of dues under Sections- 4, 34, 43, 44, 45, 46, 47, 48 and 49 of this Act.

54. Power to compound offences.

- On the application of a person accused of an offence under this Act, the Cane Commissioner may, at any stage before conviction, compound the offence in lieu of such amount, not exceeding the maximum amount of fine which may be imposed under this Act for the offence as the Cane Commissioner may fix; and such amount shall be recoverable from the said person as if it were a fine imposed by the court: Provided that an offence in respect of weighment of cane or payment of price of cane shall not be compounded.

55. Forfeiture of securities.

(1) Where a person has deposited any security under section 16, 24, or 31 the Collector may, in the event of such person contravening the provisions of this Act or the rules or any order made or direction given thereunder or the condition of a licence, call upon him to show cause why such security shall not be forfeited to the State Government, or the whole or any portion of such security shall not be paid to a person or persons who have suffered any loss owing to the misconduct of the person or any person acting on his behalf. (2) The Collector may, after considering the cause shown, if any, under sub-section (1), forfeit the whole amount of the security or any part thereof and may order that the whole or any part of the forfeited amount shall be paid to the person or persons who have suffered any loss referred to in subsection (1): (3) Where any action is taken under sub-section (2) against any person, such person shall not be liable to prosecutions under section 52 for the same contravention.

56. Indemnity.

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules or any order made thereunder. (2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or the rules or any order made thereunder.

57. Cane Commissioner and other persons to be public servants.

- The Cane Commissioner, every Cane Officer and every person appointed to assist the Cane Commissioner shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1870).

58. Power to summon and enforce attendance of witnesses and production of documents.

- For the purposes of enquiries under this Act the Cane Commissioner or any person exercising the powers of the Cane Commissioner or a Cane Officer or an Officer appointed under section 34 shall have same powers to summon and enforce the attendance of witnesses and parties and to examine them on oath and to compel the production of document as a civil under the Code of Civil Procedure, 1908 (5 of 1908):Provided that the purpose of any penalty under the provision of the said Code upon any defaulter a reference shall be made to the civil court of competent jurisdiction for appropriate action.

59. Determination of occupier of factory.

(1)Where the occupier of a factory is a firm or other association of individuals, any of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which the occupier of the factory is punishable.Provided that the firm or association may give notice to the Cane Commissioner that it has nominated one of its partners or members to be the occupier of the factory for the purposes of this Act and such individual shall be deemed to be occupied for the purposes of this Act until further notice cancelling his nomination is received by the Cane Commissioner or until he ceases to be a partner or member of the firm or association.(2)Where the occupier of a factory is a company, any of the Directors thereof, or in the case of a private company any one of the shareholders thereof, may be prosecuted and punished under this Act for any offence for which the occupier of the factory is punishable.Provided that the company may give notice to the Cane Commissioner that it has nominated a Director, or in the case of a private company, a shareholder, to be the occupier of the factory for the purposes of this Act and such director or shareholder shall be deemed to be the occupier of the factory for the purposes of this Act until further notice cancelling his nomination is received by the Cane Commissioner or until he ceases to be a Director or shareholder.

60. Power to give orders with retrospective effect.

- The State Government by notification in the official gazette, give any order with retrospective effect to implement the provisions of this Act..

61. Delegation of power.

- The State Government may by notification in the official Gazette, direct that any power exercisable under this Act by it may be exercised, in such cases and subject to such conditions, if any, such officer or authority as may be specified in the direction.

62. Power to exempt co-operative factories or units from provisions of the Act.

- The State Government may, by an order published in the official Gazette, exempt any factory or unit owned by a co-operative society established under the Bihar and Orissa Co-operative Societies Act, 1935 (B and O Act VI of 1935), from any of the provisions of this Act or direct that the provisions of this Act shall apply in relation to any such factory or unit with such modifications as may be specified in the order. Provided that any modification in the provision of this Act affecting interest of any such factory or unit concerned adversely shall not be made without giving a reasonable opportunity of being heard to that factory or unit.

63. Power of the appellate authority to pass interlocutory orders and condone delays in filing appeal.

- Where an appeal is preferred under the provisions of this Act or the rules, to any authority for setting aside any decision or order, such appellate authority may, in order to prevent the ends of justice being defeated, make such interlocutory order pending the decision in appeal, as may appear to it to be just and convenient or such order as may be necessary for the ends of justice or to prevent the abuse of the process for the ends of justice or to prevent the abuse of the process of the appellate authority and may entertain the appeal even after the period laid down for filing it if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

64. Validation of imposition and collection of cess and taxes under certain laws during a certain period.

(1) Notwithstanding any decree or order of any court, toll, cases and taxes imposed, assessed or collected or purporting to have been imposed, assessed or collected under any State law before the commencement of this Act, shall be deemed to have been validly imposed, assessed or collected, in accordance with law as if this Act had been in force at all material times when such cess or tax was imposed, assessed or collected and accordingly-(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any cess or tax paid under any State law; (b) no court shall enforce a decree or order directing the refund of any cess or tax paid under any State law; (c) any cess or tax imposed or assessed under any State law before the commencement of this Act but not collected before that date may be recovered (after assessment of the cess or tax, where necessary) in the manner provided under that State law. (2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person-(a) from questioning in accordance with the provisions of this Act and the rules the assessment of any cess or tax for any

period, or(b)from claiming refund of any cess or tax paid by him in excess of amount due from him under any State law and the rules made thereunder.Explanation. - For the purposes of this section, State law means.-(a)the Bihar sugar Factories Control Act, 1937 (Bihar Act VII of 1937);(b)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1968 (Bihar Ordinance III of 1968);(c)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1968 (Bihar Ordinance VI of 1968);(d)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1968 (Bihar Ordinance XIII of 1968);(e)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1969 (Bihar Ordinance IV of 1969);(f)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1969 (Bihar Ordinance VI of 1969);(g)the Bihar Sugarcane (Regulation of Supply and Purchase) Act 1969 (President's Act 8 of 1969);(h)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1971 (Bihar Ordinance no 20 of 1971);(i)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1971 (Bihar Ordinance no 49 of 1971);(j)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1971 (Bihar Ordinance no 69 of 1971);(k)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1972 (Bihar Ordinance no. 61 of 1972);(l)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1972 (Bihar Ordinance no. 110 of 1972);(m)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1972 (Bihar Ordinance no 165 of 1972);(n)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1973 (Bihar Ordinance no 47 of 1973);(o)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1973 (Bihar Ordinance no. 113 of 1973);(p)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1974 (Bihar Ordinance no 15 of 1974);(q)the Bihar Sugarcane (Regulation of Supply and Purchase) Second 1974 (Bihar Ordinance no. 84 of 1974);(r)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1975 (Bihar Ordinance no. 115 of 1974);(s)the Bihar Sugarcane (Regulation of Supply and Purchase) (Amendment) Ordinance, 1974 (Bihar Ordinance no. 185 of 1974);(t)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1975 (Bihar Ordinance no. 36 of 1975);(u)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1975 (Bihar Ordinance no. 91 of 1975);(v)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1977 (Bihar Ordinance no. 135 of 1975);(w)the Bihar Sugarcane (Regulation of Supply and Purchase) Fourth Ordinance, 1975 (Bihar Ordinance no 183 of 1975);(x)the Bihar Sugarcane (Regulation of Supply and Purchase) (amendment) Ordinance, 1975 (Bihar Ordinance no 215 of 197);(y)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1976 (Bihar Ordinance no. 43 of 1976);(z)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1976 (Bihar Ordinance no. 118 of 1976);(aa)the Bihar Sugarcane (Regulation of Supply and Purchase) (Second Amendment) Ordinance. 1976 (Bihar Ordinance no. 119 of 1976);(bb)the Bihar Sugarcane (Regulation of Supply and Purchase) (Third Amendment), Ordinance, 1976 (Bihar Ordinance no. 195 of 1975);(cc)the Bihar Sugarcane (Regulation of Supply and Purchase) (Third Amendment), Ordinance, 1976 (Bihar Ordinance no. 196 of 1975);(dd)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1977 (Bihar Ordinance no. 49 of 1977);(ee)the Bihar Sugarcane (Regulation of Supply and Purchase) (amendment) ordinance, 1977 (Bihar Ordinance no. 48 of 1977);(ff)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1977 (Bihar Ordinance no. 93 of 1977);(gg)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1977 (Bihar Ordinance no. 150 of 1977);(hh)the Bihar Sugarcane (Regulation of Supply and Purchase) Fourt6h Ordinance, 1977 (Bihar Ordinance no 197 of 1977);(ii)the Bihar Sugarcane (Regulation of Supply and Purchase) Fifth Ordinance, 1977 (Bihar

Ordinance no. 262 of 1977);(jj)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1978 (Bihar Ordinance no. 20 of 1978);(kk)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1979 (Bihar Ordinance no. 104 of 1977);(ll)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1979 (Bihar Ordinance no. 33 of 1979);(mm)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance 1979 (Bihar Ordinance no. 76 of 1979);(nn)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1979 (Bihar Ordinance no. 127 of 1979);(oo)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1980 (Bihar Ordinance no. 47 of 1980);(pp)the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1980 (Bihar Ordinance no. 78 of 1980);(qq)the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1980 (Bihar Ordinance no. 127 of 1980);(rr)the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1981 (Bihar Ordinance no. 35 of 1981);(ss)the Bihar Sugarcane (Regulation of Supply and Purchase) (Amendment) Ordinance, 1981 (Bihar Ordinance no. 62 of 1981);(tt)the Bihar Sugarcane (Regulation of Supply and Purchase) (Second Amendment) ordinance, 1981 (Bihar Ordinance no. 76 of 1981); and(uu)the Bihar Sugarcane (Regulation of Supply and Purchase) (Second Amendment) Ordinance, 1981 (Bihar Ordinance no 125 of 1981).

65. Power to make rules.

(1)The State Government may make rules for arriving into effect the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-(i)the functions of the Board and the Councils and the manner in which the functions shall be performed;(ii)the manner in which the business of the Board and the Councils shall be conducted;(iii)the manner and form in which the funds placed at the disposal of the Board and Councils shall be maintained and the application of, and payment from, such funds;(iv)the audit of the accounts of the Board and the Councils and the matters incidental thereto;(v)remuneration to be paid to an auditor other than the auditor appointed under the Bihar and Orissa Local fund Audit Act, 1925 (B. and O. Act II of 1925);(vi)the function of the Cane Commissioner and of other authorities and officers by whom any functions under this Act or the rules are to be performed;(vii)licences under Chapter III;(viii)appointment of manager under section 25;(ix)date and manner of submission of estimate of cane required by a factory during a crushing year and the manner of publication of the estimate under section 27;(x)authority which may revise the estimate made under section 27;(xi)establishment and working of purchasing centres under section 29;(xii)form in which an application may be made by a factory situated outside the State of Bihar of reservation of area under section 31 for supply of cane to such factory;(xiii)authority to which an appeal against an order made by the Cane Commissioner under sub-section (1) of section 31 shall lie;(xiv)form, date, terms and conditions relating to agreement or purchase of cane in a reserved area by occupier of a factor;(xv)order to be made by the Cane Commissioner under section 32;(xvi)authority before which appeal against order of Cane Commissioner, made under clause (iii) of the proviso to sub-section (4) of section 32 shall lie;(xvii)the assistance to be rendered by owners and occupiers of lands to the officer making survey under section 34;(xviii)form of the register to be maintained under section 35, correction of entries and addition of new entries in the register, the payment of cost in connection with such correction or addition the manner of realisation of such costs, fee payable for the supply of copies of entries in the

register;(xix)seed-nursery and the manner of its maintenance, as required by section 38;(xx)arrangements for payment of price of cane, as required by section 43;(xxi)deduction from cane-price under section 44 and payment of the amount to the council concerned;(xxii)form of register in which dispute shall be entered, the period within which and the authority to which the reference shall be made under section 46;(xxiii)manner in which and the authority with which the price shall be deposited under section 46;(xxiv)manner of payment of commission as required by section 48;(xxv)the proportion and manner in which the commission shall be paid under subsection (2) of section 48;(xxvi)manner of collection of tax payable under section 49;(xxvii)manner in which and the extent to which loan may be advanced under section 50;(xxviii)the time within which applications and appeals may be presented under this Ordinance in cases for which no specific provision has been made;(xxix)the fees to be paid in respect of applications and appeals under this Ordinance and the manner of the payment of such fees;(xxx)the distribution of requisition slips by occupiers of factories, co-operative societies or other persons;(xxxi)the correct weight of cane, the provision of facilities for weighment, checking of weighment timing of weighments, class or type of heavy machines to be kept;(xxxii)the provisions for approach roads, parking space for carts bringing cane to the place of weighment, sheeds for animals and cart drivers, water troughs for animals and other connected matters; and(xxxiii)any other matter which is required by this Ordinance to be prescribed.

66. Repeal and saving.

(1)The Bihar Sugar Factories Control Act, 1937 (Bihar Act VII of 1937), the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1981 (Bihar Ordinance no 125 of 1981) and the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, Ordinance, 1981 (Bihar Ordinance no. 76 of 1981) are hereby repealed.(2)Anything done or any action taken (including any rule made or notification issued with prospective or retrospective effect, order passed, appointment made, proceeding commenced, dispute decided or referred to arbitration, right accrued or liability incurred) under the Bihar Sugar Factories Control Act, 1937 (Bihar Act VII of 1937) or Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1981 (Bihar Ordinance no. 125 of 1981) or the Bihar Sugarcane (Regulation of Supply and Purchase) (Second Amendment) Ordinance, 1981 (Bihar Ordinance no. 76 of 1981) or under section 64(2) of State Law before the commencement of this Act shall notwithstanding the repeal thereof be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times when such thing was done or action taken.