

# Punjab State Aid to Industries Act, 1935

PUNJAB

India

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### Act 5 of 1935

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Punjab State Aid to Industries Act, 1935 Punjab Act No. 5 of 1935 State of Objects and Reasons. - "For some time there has been a consistent demand both inside and outside the Council for the adoption by Government of a liberal policy for the development of industry in the Province. Government had been in entire sympathy with it, and this Bill is being introduced to meet that demand. The existing provisions of State aid to industry are contained in the Punjab Industrial Loans Act of 1923, which provides for assistance in the form of loans only. This Bill provides for much more extended aid to industry and is designed to give Government power to grant aid under certain conditions to any approved industry in suitable forms, some of which have been expressly mentioned in the Bill. Government hopes that the new provisions will give a strong impetus to industrial development in the province by releasing shy and idle capital for industrial enterprise. The main part of the Bill is divided into five Chapters. Chapter II provides for the formation and functions of a Board of Industries with a view to supply Government with expert advice on questions arising out of the Act. Chapter III shows the various forms of aid which may be given and the types of industry eligible for receipt of State aid how applications for aid are to be made. Chapter IV deals with the granting of loans and methods of recovery, etc. The clauses dealing with loans follow in the main the existing Punjab Industrial Loans Act which will be repealed with the passage of this Bill. Chapter V relates to the supply of machinery on the hire purchase system. Chapter VI is supplemental and confers on Government the power to make rules". Received the assent of His Excellency the Governor on the 7th December, 1935, and of His Excellency the Viceroy and the Governor-General on the 19th January, 1936, and was first published in the Punjab Gazette, (Extraordinary), of the 25th January, 1936. An Act to Encourage the Development of Industries in [Punjab] [Substituted for the words 'East Punjab' by the Adaptation of Laws (Third Amendment) Order, 1951.] by the Grant of State Aid. Preamble. - Whereas it is expedient further to improve and regulate the giving of State aid for Industrial purposes; And Whereas the previous sanction of the Governor-General required under sub-section (3) of section 80-A of the Government of India Act and the previous sanction of the Governor required under section 80-C of the said Act have been obtained; It is hereby enacted as follows :-

# Chapter 1

## Preliminary

### 1. Short title, extent and commencement.

(1) This Act may be called the Punjab State Aid to Industries Act, 1935. (2) It extends to [Punjab] [Substituted for the words 'East Punjab' - which had been inserted for the word 'Punjab' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948 - by the Adaptation of Laws Order, 1950.]. (3) It shall come into force on such [date as the [State] [The Act came into force on the 7th March, 1936, - vide Punjab Government notification No. 1921-I & L 1936/7815, dated the 6th March, 1936.] Government may, by notification, appoint in this behalf.

### 2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context - (1) "Board" means the Board of Industries constituted under section 3 of this Act. (2) "Borrower" means an individual, company or association or body of individuals, whether incorporated or not, to whom or to which State aid has been granted under this Act. (3) "Company" means a company as defined in the Indian Companies Act, 1913. (4) "Director" means the Director of Industries, [Punjab] [Substituted for the words 'East Punjab' - which had been inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of 1948 - by the Adaptation of Laws Orders, 1950.] [and includes any officer authorised by the State Government to perform all or any of the functions of the Director under this Act.] [Added by Punjab Act, 12 of 1959, section 2.]. (5) "Industry" means any industrial business or enterprise conducted or undertaken either by an individual or by a company, association or body of individuals, whether incorporated or not. (6) [ "Cottage Industry" means any industry carried on by a worker in his home and includes dairy farming, bee-keeping, lac-making and keeping a poultry farm.] [Inserted by Punjab Act 3 of 1940, section 2(i).] (7) "Village Industry" means any industry which forms the normal occupation, whether whole-time or part-time, of any class of the rural population of the [State] [Substituted for the word 'Province' by Adaptation of Laws Order, 1950.]. (8) [ "Machinery" includes plant, apparatus, tools and other appliances required for the purpose of carrying on any industrial operation or process.] [Existing clauses (6) and (7) renumbered respectively as (8) and (9) by Punjab Act 3 of 1940, section 2(2)] (9) [ "Prescribed" means prescribed by rules made under this Act.] [Existing clauses (6) and (7) renumbered respectively as (8) and (9) by Punjab Act 3 of 1940, section 2(2).]

# Chapter II

### 3. Establishment of a Board of Industries.

(1) For carrying out the purposes of this Act, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall, as soon as possible after the commencement of this Act, establish a Board to be called the "Board of Industries" consisting of the following

members, namely :-(a)Minister-in-charge of Industries, [Punjab] [Substituted for the words 'East Punjab' - which had been inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of 1948 - by the Adaptation of Laws Orders, 1950.];(b)the Director of Industries, [Punjab] [Substituted for the words 'East Punjab' - which had been inserted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of 1948 - by the Adaptation of Laws Orders, 1950.];(c)[three] [Substituted for the word 'four' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of 1948 (G.G.O. 40).] members to be appointed by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government one of whom shall be a banking expert;(d)[ three] [Substituted for the old clause (d) by Government of India (Adaptation of Indian Laws) Order, 1937.] members to be elected by the Punjab Legislative Assembly from among their members, election being in accordance with the principle of proportional representation by means of the single transferable vote.](e)[ \* \* \* ] [Omitted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of 1948 (G.G.O. 40).].(f)one member to be elected by the Punjab Chamber of Commerce; and(g)one member to be elected by the Indian Chamber of Commerce :Provided that the Board shall have power to invite for consultation on any particular question before it, not more than three persons, specially qualified to advise on the matter in question or having special knowledge of local conditions in the area where the industry in question is situate.And provided further, that at any meeting of the Board the Minister shall have power to invite any person for consultation on any particular question.Any person so invited whether by the Board or by the Minister shall not have the right to vote.(2)The Minister-in-charge of Industries shall be ex officio Chairman and the Director shall be ex officio Secretary of the Board.(3)[Four] [Substituted for the word 'five' by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order of 1948 (G.G.O. 40).] members of the Board shall form a quorum.

#### **4. Procedure in default of election of members.**

- If by such date as may be fixed by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, any of the bodies referred to in clauses (d), (e), (f) and (g) of sub-section (1) of section 3 does not elect a member to be elected by it under the provisions of that section, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall appoint a suitable person from among these bodies to be such member, and any person so appointed shall be deemed to be a member, as if he had been duly elected by the body failing to elect a member under the said provisions.

#### **5. Vice-Chairman.**

- The Board may from time to time elect, for such period as it thinks fit, one of its members to be Vice-Chairman.

#### **6. Elections and appointments to be notified in official Gazette.**

- The names of the Vice-Chairman and of the appointed and elected members of the Board shall be published by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in the [Official Gazette] [Substituted for the words 'Punjab Gazette' by the

Government of India (Adaptation of Indian Laws) Order, 1937.].

## 7. Term of office.

(1)The Vice-Chairman or any other appointed or elected member may resign his office by giving notice in writing to the Chairman.(2)(a)Subject to the provisions of this Act an appointed member shall hold office for [five] [Substituted for the word 'three' by Punjab Act 6 of 1938, Section 2.] years unless the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government otherwise directs, and an elected member shall hold office for [five] [Substituted for the word 'three' by Punjab Act 6 of 1938, Section 2.] years or until such time as he ceases to be a member of the body electing him, whichever is shorter.[Provided that in the case of members elected under the provisions of section 3 by bodies other than the Punjab Legislative Assembly, the term of membership shall, in any case, terminate automatically on the dissolution of the Punjab Legislative Assembly] [Proviso Added by Punjab Act 6 of 1938, section 2.].(b)An outgoing member may, if otherwise qualified, be re-elected or re-appointed.(3)Notwithstanding the expiration of the term mentioned in sub-section (2), an appointed or elected member shall continue to hold office until the vacancy caused by the expiration of the said term has been filled, provided that no vacancy shall be allowed to remain unfilled for more than six months.[8. Removal of members. - (1) The State Government may, by notification, remove the Vice- Chairman or any member of the Board, if he, -(a)refuses to act or becomes incapable of acting as a member of the Board;(b)is declared insolvent;(c)is convicted of any such offence or is subjected by a criminal court to any such order as in the opinion of the State Government implies a defect of character which unfits him to continue to be a Vice-Chairman or member of the Board;(d)without excuse, sufficient in the opinion of the State Government, is absent, without consent of the Board, from more than four consecutive meetings of the Board;(e)has, in the opinion of the State Government, been guilty of misconduct in the discharge of his duties;(f)is such a person whose continuance as Vice-Chairman or member of the Board is, in the opinion of the State Government, undesirable in the interests of the public :Provided that before the State Government notifies the removal of a Vice-Chairman or member under this sub-section, the reasons for his proposed removal shall be communicated to the Vice-Chairman or member, as the case may be, and he shall be given an opportunity of tendering an explanation in writing.(2)The State Government may fix a period during which any person so removed under clauses (b), (c), (e) or (f) of sub-section (1) of this section shall not be eligible for re-appointment or re-election] [Section 8 Substituted by Punjab Act 14 of 1969, section 2.].

## 9. Casual vacancies.

- When the place of any appointed or elected member of a Board becomes vacant by his removal, resignation or death, a new member shall be appointed or elected in the manner provided in section 3 :Provided that if the place of any member elected by the Punjab Legislative [Assembly] [Substituted for the word 'Council' by the Government of India (Adaptation of Indian Laws) Order, 1937.] becomes vacant the [State] [Substituted for the word 'Provincial' by Government of India (Adaptation of Indian Laws) Order, 1937.] Government may nominate another [\* \* \*] [ The word 'Non-official' was omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.] member of the Punjab Legislative [Assembly] [Substituted for the word 'Provincial' by Government

of India (Adaptation of Indian Laws) Order, 1937] in his place :Provided further, that any person so appointed, elected or nominated under this section shall be subject to retirement at the same time as if he had become a member of the Board on the day on which the member of the Board in whose place he is appointed, elected or nominated was last appointed, elected or nominated a member of the Board :Provided further, that no act of the Board or of its officers shall be deemed to be invalid by reason only that the number of members of the Board at the time of the performance of such act was less than the number provided by section 3.

## **10. Allowances and fees.**

- The members of the Board and the members of Committees, which may be appointed by the Board, when necessary, shall be paid travelling allowances of the prescribed amount and on the prescribed conditions for attending meetings of the Board, or for performing any duty assigned to them by the Board for the purposes of this Act.

## **11. President at meetings.**

(1)The Chairman or in his absence the Vice- Chairman shall preside at every meeting of the Board and shall have a second or casting vote in all cases of equality of votes.(2)In the absence of both the Chairman and the Vice-Chairman the members present at any meeting may elect one of their number to preside, who shall have a second or casting vote in all cases of equality of votes.

## **12. Interested members not to vote.**

- No member of the Board shall vote on any question coming before the Board for consideration in which otherwise than in its general application to all persons and properties within the [State] [Substituted for the word 'Provincial' by Government of India (Adaptation of Indian Laws) Order, 1937.] he had a pecuniary interest.Explanation. - In case of any question arising whether a member has or has not a pecuniary interest, the decision of the Chairman shall be final.

## **13. Power of Board to make regulations.**

(1)The Board may make regulations consistent with this Act and the rules thereunder for the carrying of all or any of its purposes.(2)In particular and without prejudice to the generality of the foregoing power, the Board may make regulations regulating or determining all or any of the following matters, namely -(i)the time and place of its meetings;(ii)the manner in which notice of meetings shall be given;(iii)the conduct of proceedings at meetings;(iv)the division of duties among the members of the Board; and(v)the appointment, duties and procedure of special committees consisting wholly of members of the Board or partly of such members and partly of other persons.

## **14. Supersession of Board.**

(1) If at any time appears to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government that the Board is not properly performing the duties imposed upon it by or under this Act, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, after considering any explanation offered by the Board, by an order in writing specifying the reasons for so doing, dissolve the Board and direct that the vacancies shall thereupon be filled by election in respect of elected members and by appointment in respect of appointed members in the manner indicated above. (2) From the date of an order under sub-section (1) until the vacancies are filled, all powers and duties of the Board shall be exercised and performed by such persons in such manner as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may direct.

## **15. Duty of Board.**

- It shall be the duty of the Board - (a) to report to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government after such enquiry, if any, as it deems necessary or as may be required by this Act, on applications for State aid that may be referred to it for advice to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government [or any officer authorised in this behalf by it.] [Added by the Punjab Act, 12 of 1959 section 3.]. (b) to advise the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government on any matters that may be referred to it: Provided that [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall not sanction State aid without reference to the Board except in the case of a loan the amount of which does not exceed [ten thousand rupees] [Substituted for 'Rs. 5,000' by Punjab Act 14 of 1969, section 3.].

## **16. Documents and reports to be furnished to the State Government.**

- If the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government so directs, the Secretary shall forward to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government any document and prepare and submit any report relating to the work of the Board.

## **Chapter III**

General Provisions regarding the giving of State Aid

## **17. Forms of State aid.**

- The forms of the State aid which may be given may include the following, namely - (a) the grant, of a loan; (b) the grant, sale or lease of land, raw material, fire wood, water or any other property [vested] [Substituted for the words 'of the Local Government' by the Government of India (Adaptation of

Indian Laws) order, 1937.] in [Government] [Substituted for the words 'His Majesty' by the Adaptation of Laws Order, 1950.] for the purposes of the [State] [Substituted for the word 'Province' by the Adaptation of Laws Order, 1950.];(c)[ the payment of a subsidy, in the case of a cottage industry or village industry for any purpose; and in the case of any other industry for the conduct of research or the purchase of machinery.] [Substituted for the old clause by Punjab Act 3 of 1940 section 3.];(d)the supply of machinery on the hire-purchase system;(e)the guarantee of a minimum return on the whole or part of the capital of a joint stock company invested in an industry.

## **18. Industries to which several forms of State aid may be given.**

- State aid may be given to -(a)a new or nascent industry;(b)an industry to be newly established in an area where such industries are undeveloped;(c)a cottage industry [or village industry] [inserted by Punjab Act 3 of 1940 section 3-A.]; or(d)an industry which needs revival, or development by modern methods.

## **19. Application for State aid.**

- Applications for State aid shall be made to the Director in such form and shall contain such information, as may be prescribed.

# **Chapter IV**

Provisions Regulating the giving of State Aid otherwise than the supply of Machinery on the hire-purchase system

## **20. Power to grant loans.**

- Loans granted under this chapter shall be subject to the sanction of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government given after consultation with the Finance Department, provided that in regard to loans not exceeding a prescribed amount, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may make rules delegating their powers to such authority or officer as they deem fit.

## **21. Security for repayment.**

- [(1) (a) On the acceptance of an application for a loan the applicant shall executed a deed in the prescribed form, undertaking to apply the loan to the purpose for which, and to fulfil the conditions on which, the loan is granted, rendering himself and such property as may have been specified in the deed as security, including machinery purchased or any building constructed with the aid of the loan, and in the event of such property being found insufficient, rendering the whole of his property liable for repayment of the loan with interest and costs, if any, incurred by the State Government in making or recovering the loan.(b)No transfer, assignment or charge made or created after the execution of the deed, in relation to the property specified therein or machinery purchased or

building constructed with the aid of the loan, shall be valid against the State Government unless it has been made or created with the previous consent in writing of the authority sanctioning the loan.] [Substituted by Punjab Act 39 of 1953 section 2.](2)When the application has been made by a firm or company the deed shall be executed by a duly authorised representative thereof, and the deed shall thereupon be deemed binding on the said firm or company and the property of the said firm or company shall be liable for the repayment of the loan in the same manner as if the loan had been granted to an individual.

## **22. Loan how repayable.**

- The loan together with all interest due thereon, if any, shall be repayable either in a lump sum or by instalments as may be provided for in the deed executed by the borrower under section 21.

## **23. Notice to pay.**

(1)When any loan or instalment or interest thereon falls due and is not paid on or before the due date or when a loan has been declared immediately repayable under section 27, the officer empowered by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in this behalf may cause to be served on the borrower a notice in the prescribed manner calling upon him to pay the sums due within such time as may be fixed therein.(2)Such notice shall contain an intimation that in case of default the said officer will issue a declaration in the prescribed form showing the amount of the debt due and the property mentioned in the deed as liable to satisfy the same.

## **24. Effect of declaration.**

(1)If within the time so fixed the sums due are not paid, the officer empowered under section 23 may issue the declaration as described in sub-section (2) of the same section, and such declaration shall be published in the [Official Gazette] [Substituted for the word 'Gazette' by the Government of India (Adaptation of Indian Laws) Order, 1937.](2)Such declaration shall be conclusive evidence of its contents, and shall not be called into question in any court by the borrower, his heirs, legal representatives or assigns, [or by any member of his family if he belongs to a Joint Hindu Family] [Inserted by Punjab Act 3 of 1940 section, 4(a).] [nor shall any right, principle or rule arising from or under the personal or customary law applicable to the said persons or any of them, nor anything contained in the [Punjab Alienation of Land Act 1900, affect the validity or effectiveness of a mortgage executed or of a declaration published under this Act, or the procedure therein provided for enforcement thereof.] [Inserted by Punjab Act 3 of 1940, section 4(b).](3)Such declaration may be produced by the said officer, or by such other person as he may either generally or specially appoint in this behalf before the principal civil court of original jurisdiction, within the local limits of whose jurisdiction any of the property liable for the debt due is situate in the same manner as a decree of which execution is sought.



## **25. Execution of declaration.**

- When declaration has been received by a civil court under section 24, the court shall immediately attach the property mentioned in the declaration and shall pass an order directing that, unless the amount mentioned in the declaration is paid within such time, not exceeding two months, as the court may consider reasonable, it may be recovered by sale of the property mentioned in the declaration as if it were a decree for the payment of money passed by the said court in the exercise of its ordinary civil jurisdiction.

## **26. Inspection and returns.**

- In any case in which an application for a loan has been made under this Chapter the applicant, and at any time during the currency of a loan that has been granted the borrower, shall be bound -(a)to comply with any general or special order of the Director relating to the inspection of the premises, building, machinery and stock in- hand of the industry;(b)to permit the inspection of all accounts relative to the industry;(c)to furnish full returns of all products manufactured or sold, both as regards description and quantity;(d)to maintain such special accounts and to furnish such statements as the Director may from time to time require; and(e)to submit the accounts of the industry to such audit as the Director may prescribe.

## **27. Penalty for default in applying their loan.**

- If the Director, after any inspection provided for in section 26, is not satisfied that the money lent is being applied to the purpose or purposes for which the loan was granted or that the conditions on which the loan was granted are being duly fulfilled, he may declare, notwithstanding anything contained in the deed executed under section 21 that the loan is immediately repayable and shall give notice of such declaration to the borrower.

## **28. Power to adjust security during currency of loan.**

- If at any time during the currency of the loan, the value of the security falls below the outstanding balance of the loan, the Director may either proceed to recover in the manner laid down in sections 23, 24 and 25 so much of such balance as is not adequately covered by the then existing value of the security or accept such additional or collateral security as he may deem sufficient.

## **29. Power to recover loans.**

- If the borrower fails to comply with any order under clause (a) of section 26 or does not permit or obstructs the inspection of the accounts relative to the industry or makes default in respect of any of the particulars specified in clauses (c), (d) and (e) of the said section, or if the borrower disposes of any profits in contravention of the provisions of section 33, the Director may, after considering any representation the borrower may make within such time as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may allow in this behalf, proceed

to recover the loan in the manner laid down in sections 23, 24 and 25.

### **30. Appeal.**

- Within fifteen days of the receipt of a notice under sections 27, 28, or 29 the borrower may appeal against such order to the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government and the decision of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government thereon shall be final.

### **31. Government guarantee of a minimum return.**

- The conditions of a guarantee by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government of a minimum return on the whole or part of the capital of a joint stock company shall be -(a)that the industry shall be subject to the conditions of section 26 in respect of inspection, returns and accounts;(b)that a minimum portion of the authorized capital of the industry to be fixed according to the circumstances of each case has been subscribed and paid in cash;(c)that no such guarantee shall in any case extend beyond a period of 5 years;(d)that during the period to which the guarantee extends, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may impose on such persons as it considers to be directly concerned in the promotion of the company, a condition that if they transfer any of their shares without the consent of the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government, they shall be liable jointly and severally to refund the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government any sums paid to the company in fulfilment of the guarantee;(e)that the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall be entitled to recover the whole or any part of the sum paid by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government on account of such guarantee with interest at the rate in force on the date of the agreement for loans granted under the Land Improvement Loans Act, 1883, at any time after such period as may have been laid down in the agreement, provided that the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government is satisfied that the company is paying or is able to pay interest or a dividend upon the capital shown as paid in excess of such rate as may be fixed in the agreement and such recovery shall be made in the manner laid down in sections 23, 24 and 25 :Provided that the sum recoverable by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government in any one year shall not exceed a sum equal to half the net profits made by the company in the preceding year in excess of the sum required for the payment of interest or dividend at the rate fixed in agreement.

### **32. Subsidies.**

- [A subsidy to a cottage industry or a village industry for any purpose and a subsidy to any other industry for the conduct of research or for purchase of machinery may be granted by the [State] [Substituted for the old section by Punjab Act 3 of 1940, section 5.] Government on such conditions as may be prescribed in this behalf.].

### **33. Disposal of Profits when conditions on which State aid is given are not fulfilled.**

- No borrower shall pay any dividend or distribute or take any profits in excess of such percentage rate upon the amount of the capital of the industry as the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may from time to time fix, until the conditions on which the State aid has been granted are fulfilled.

### **34. Government control of aided industry.**

- Notwithstanding anything contained elsewhere in this Chapter, the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, by the appointment of its own directors or otherwise exercise such control over the conduct of the industry to which the State aid has been given as shall suffice in its opinion to safeguard its interests, provided that such right has been expressly reserved by agreement at the time the aid was granted.

### **35. Method of recovery of money due.**

- [Notwithstanding anything contained in sections 23, 24 and 25, any amount payable to the State Government under this Act or by virtue of any contract entered into under this Act including interest and costs, if any, may with the previous sanction of the State Government, be recoverable as arrears of land revenue.] [Section 35 substituted by Punjab Act 39 of 1953, section 5.].

## **Chapter V**

Supply of Machinery on Hire-purchase System

### **36. Percentage of cost to be deposited by hirer.**

- No machinery shall be supplied by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government on the hire-purchase system unless the applicant therefor deposits with the Director such percentage of the cost thereof as may be prescribed, and furnishes security for the unpaid portion of such cost in the same manner as for a loan granted under the provisions of Chapter IV.

### **37. Particulars to be specified in order when application is allowed.**

- When an application is allowed, the Director shall, subject to and in accordance with any rules that may be made under this Act, make an order specifying the following particulars, namely :-(a)the amount of each instalment of rent to be paid for the hire of the machinery and the number of such instalments to be paid before the machinery shall become the property of the hirer;(b)the amount of interest, if any, to be paid with each instalment of rent on the remaining unpaid instalment;(c)the dates on which and the manner in which the aforesaid payments shall be made; and(d)such other

particulars as may be prescribed.

### **38. Conditions of supply of machinery on hire-purchase system.**

- Until the hiring is terminated in the manner hereinafter provided, the following provisions shall apply, namely :-(a)The hirer shall pay punctually and without demand the instalments of rent and amount of interest specified in the order referred to in section 37.(b)The hirer shall retain the machinery in his own possession in good and serviceable order and condition and shall not, without the previous written consent of the Director, make any addition thereto or alteration therein, nor remove the machinery or any part thereof from the premises specified in the application for the supply thereof.(c)The machinery shall remain the sole and absolute [property of the [Government] [Substituted for the words 'Property of the Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937.]] and any transfer thereof or assignment of any right, title or interest therein or the creation of any mortgage encumbrance or any other charge thereon by the hirer shall be void as against the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government unless it has been made with the previous written consent of the Director.(d)The machinery shall not be liable to distraint, attachment or sale by any process under any law for the time being in force, otherwise than under this Act.(e)The machinery shall bear a metal plate in the prescribed form, and any person who wilfully removes or defaces such plate shall be liable to a fine not exceeding five hundred rupees. It shall be presumed until the contrary is proved that machinery bearing such metal plate is the [property of the [Government] [Substituted for the words 'Property of the Local Government' by the Government of India (Adaptation of Indian Laws) Order, 1937.]] hired out under this Chapter.(f)The hirer shall permit the Director or any person authorised by the Director in this behalf to inspect the machinery at all reasonable times, and the Director or such other person shall have all such powers of entry as may be necessary for the purpose of making an inspection.(g)In addition to the foregoing conditions the hirer shall be bound by such other conditions consistent therewith as may be prescribed by rules made under this Act, or may be imposed by the Director in any particular case.

### **39. Consequences of default by hirer.**

- If the hirer makes default in paying the rent of the machinery or any sum payable as interest or any other charges due from him under this Chapter or fails to comply with any of the conditions which are contained in, or may be imposed under section 38, the Director may, after giving him 10 days notice, terminate the hiring and he or any other officer authorised by him in this behalf may thereupon enter the premises in which the machinery is for the time being kept, whether such premises belong to the hirer or not and seize and take away the same.

### **40. Option of hirer to purchase machinery seized for default.**

(1)If the machinery is seized and taken away under section 39 the hirer shall have the option to be exercised within one month after such a seizure or such longer period as may be allowed by the Director in this behalf, of purchasing the same by payment to the Director of the unpaid balance of the cost thereof, together with such other amounts as may be due, and the cost of any expenses

incidental to such seizure and removal.(2)If within the period specified in sub-section (1) the hirer does not exercise the option of purchase, the Director shall proceed to dispose of the machinery.

#### **41. Liability of hirer on termination of hiring under sections 24 and 25.**

- If the Director terminates the hiring under section 39 and the hirer does not purchase the machinery under section 40, the hirer shall not be entitled to the refund of the sum deposited by him under section 36 or to the refund or remission of any payment made by or due from him during the hiring, and shall be liable to pay such amount, if any, as the Director may determine in respect of any loss caused by the disposal of the machinery under sub-section (2) of section 40.

#### **42. Termination of hiring on payment of cost of machinery.**

- When, after credit has been given for the amount deposited under section 36, has hirer has paid in full all the instalments of rent mentioned in clause (a) of section 37 and the amount of interest, costs and other charges payable by him under this Chapter, he shall become the owner of the machinery and shall thereupon remove from the same the metal plate mentioned in clause (e) of section 38 :Provided that if at any time during the hiring the hirer pays in advance the remaining instalments of rent the interest payable in respect thereof shall be remitted.

#### **43. Penalty for non-removal of metal plate from machinery.**

- If the hirer wilfully omits, after receiving due notice, to remove the metal plate from any machinery which has become his property under section 42, he shall be liable to a fine not exceeding fifty rupees.

#### **44. Sums due under this chapter recoverable as loans under chapter IV.**

- All sums payable under this Chapter shall be recoverable in the same way as loans under Chapter IV.

## **Chapter VI**

Supplemental

#### **45. Finality of decisions of State Government and bar of suits and proceedings in Civil & Criminal Courts.**

(1)The decision of the [Government] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] as to whether the conditions laid down in or under any of the provisions of this Act have been satisfied shall be final, and no suit shall be brought in any civil court to set aside or modify any order made thereunder.(2)No prosecution, suit or other proceeding shall lie against any Government officer or other authority vested with powers under this Act for anything in good faith

done or intended to be done thereunder.[45A. Loans under Pepsu Act II of 2007 to be deemed to be granted under this Act. - All loans granted under the Patiala and East Punjab State Union State Aid to Industries Act, 2007 (Act No. II of 2007 Bk.) shall be deemed to be granted under and in accordance with the provisions of this Act and shall be recoverable in the same manner in which loans granted under this Act are recoverable.] [Added by Punjab Act 23 of 1957.]

## 46. Power to make rules.

(1)The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government may, after previous publication, make [rules consistent with this Act for the carrying out of all or any of its purposes.] [For rules see Punjab Government notification No. 42-I&L 37/2766 dated 23rd January, 1937.](2)In particular and without prejudice to the generality of the foregoing power, the [Government] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] may make rules regulating or determining all or any of the following matters, namely :- (a)election of members of the Board under clauses (e), (f) and (g) of sub-section (1) of section 3;(b)regulating the travelling allowance under section 10;(c)the manner of making application for State aid under section 19;(d)the delegation of power to give loans under section 20;(e)the form of deed to be executed under section 21;(f)the nature and amount of the security to be taken under sections 21 and 36 for the due application and repayment of the State aid or rents together with all interests due thereon, if any, and the rate of interest at which and the conditions under which State aid may be granted :Provided that where the security consists wholly or in part of the premises, machinery, stock, stores or other property, present or future, movable or immovable of the industry concerned, then the whole of such property present and future, moveable and immoveable, may be made liable for the recovery of the loan and all interest due thereon, if any;(g)the inspection under section 26 of the premises, buildings, machinery and stock-in-hand and the mode of keeping and auditing the account and of furnishing returns of any industry in respect of which State aid has been given;(h)the manner in and the place at which notices or orders may be served on any borrower;(i)the form of the declaration to be used under section 24;(j)the fixing of the period for the repayment of loans;(k)the application under section 33 of profits in the case in which the conditions on which the State aid has been given, have not been fulfilled;(l)the appointment and functions of directors appointed by the [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government under section 34 and the prescribing of other methods of control of industries to which State aid has been given;(m)the percentage of the cost of machinery to be deposited under section 36;(n)the additional particular to be specified in the order referred to in section 37 and the conditions on which machinery may be supplied on the hire-purchase system;(o)the form of the metal plate referred to in clause (e) of section 38;(p)the form of notice under section 39;(q)the recovery of any sums payable under this Act; and(r)all other matters pertaining to the working of this Act.

## 47. Repeal.

- The Punjab Industrial Loans Act, 1923 (I of 1923), is hereby repealed.