

The Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953

HARYANA

India

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Act 40 of 1953

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The Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953 Punjab Act No. 40 of 1953 Statement of Objects and Reasons - "With the promulgation of the Industries (Development and Regulation) Act, 1951, with effect from the 8th May, 1952, this regulation of sugarcane industry has become exclusively a Central subject. The State Government are now only concerned with the supply of sugarcane to sugar factories. Moreover in view of lean financial position of the State, the State Government are not in a position to provide adequate funds for extensive Cane Development work in the areas supplying cane to sugar factories with the result that the factories are not getting cane of good quality. The Bill is being introduced in order to provide for a rational distribution of sugar-cane to factories, for its development on organised scientific lines making adequate funds available after imposing a tax on sugar-cane purchases by factories, to protect the interests of cane growers and of the industry and to put the new Act permanently on the Statute Books". Published vide Punjab Government Gazette Extraordinary, dated the 9th October, 1953, page 1630. Received the assent of the Governor of Punjab on the 30th October, 1953, and was first published in the Punjab Government Gazette (Extraordinary) of the 2nd November, 1953. An Act to regulate the purchase and supply of sugarcane required for use in sugar factories. It is hereby enacted as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953. (2) It extends to the whole of the State of [Haryana] [Substituted by Haryana Adoption of Laws Order 1968.]. (3) It shall come into force at once [in the principle territories and on 15th May, 1958 in the transferred Territories] [See Haryana Adoption of Laws Order 1968.].

2. Definitions.

- In this Act unless the context otherwise requires, -(1)"assigned area" means an area assigned to a factory under this Act ;(2)"Board" means the Sugarcane Control Board;(3)"cane" means sugarcane intended for use in a factory;(4)"Cane Commissioner" means the officer appointed by the Government to perform the functions of Cane Commissioner;(5)"Cane grower" means a person including a tenant who cultivates cane either himself or through members of his family or through hired labour, and who is not a member of a Cane-growers' Co-operative Society;(6)"Cane-growers' Co-operative Society" means a society registered under Cooperative Societies Act, 1912, one of the objects of which is to sell cane grown by its members;(7)"Collector" means the Chief Revenue Authority of a district;(8)"crushing season" means the period commencing on the 15th day of October in any calendar year and ending on the 30th June of the following year;(9)"factory" means a sugar factory wherein 20 or more workers are working, or were working, on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power;(10)"Government" means the Government of the State of [Haryana];(11)"occupier of a factory" means the person who has control over the affairs of a factory, and where the affairs of a factory are entrusted to the managing agent, such agent;(12)"prescribed" means prescribed by rules made under this Act;(13)"State" means the State of Punjab.

3. Sugarcane Control Board.

(1)The Government shall establish and constitute a Sugarcane Control Board for the State and ascribe to it such duties and functions in pursuance of the provisions of this Act, as may be prescribed.(2)The Board shall consist of fifteen members.(3)The term of the Board shall be three years, provided that the Government may dissolve the Board before the expiry of its term if it is satisfied that it is necessary to do so.(4)No proceedings of the Board shall be rendered invalid for the mere fact that there was one or more unfilled vacancy in the Board at the time that such proceedings took place.

4. Appointment of Cane Commissioner.

- The Government may appoint any officer to be the Cane Commissioner and may also appoint such other staff, body or committee as may be necessary for the performance of any duty or function under this Act.

5. Determination of "occupier" for purposes of this Act.

- Where the occupier of a factory is a firm or a company or other association, any one of its partners, or directors, or member may be prosecuted and punished under this Act for any offence for which the occupier of the factory is punishable:Provided that such firm or company or association may give notice to the Cane Commissioner that it has nominated one of its partners or directors or members to be the occupier of the factory for the purposes of this Act and such individual shall be

deemed to be the occupier for the purposes of this Act until further notice cancelling his nomination is received by the Cane Commissioner.

6. Appointment of an agent.

(1) No cane shall be purchased for a sugar factory unless its occupier has, in the prescribed form sent a notice of such intention to the Cane Commissioner, nominating one or more person as agents for making such purchases, and no agent shall be changed without prior notice in writing to the Cane Commissioner. (2) Any person appointed as agent under sub-section (1) shall deposit as security a sum of rupees one thousand in cash or Government Promissory notes and no person shall be deemed to have been appointed as agent until such deposit is made, and he has been given a licence in the manner prescribed.

7. Licensing of Purchasing agent.

(1) No person shall act as purchasing agent under this Act, unless he has been licensed as such in the prescribed manner. (2) No person other than a purchasing agent shall be employed by an occupier of a factory to do any work in connection with any transaction for the purchase of cane within the State. (3) A licence shall not be granted to any person under sub-section (1) unless such person has paid the prescribed deposit or furnished the prescribed security and the Cane Commissioner may subject to rules made in this behalf, in case of any breach of the conditions of the licence, order that the deposit paid or security furnished in respect of such licence shall be forfeited to Government or shall not be returned before the prescribed period or that the whole or any portion of such deposit or security shall be paid to any person who has suffered any loss owing to any misconduct or default of such licensee.

8. Duties of an agent.

(1) The agent or agents of a sugar factory shall maintain an office in one or more places within the State as may be required by the Cane Commissioner, and shall maintain such accounts and submit such returns and statements as may be prescribed. (2) If an occupier or an agent, -(a) intentionally fails to maintain correctly any document or register, or (b) intentionally commits any breach of any condition or duty imposed under this Act, he shall be punishable with fine which may extend to two thousand rupees for every such failure or breach.

9. Penalty for contraventions not otherwise provided for.

- Any person contravening any of the provisions of Act or of any rule made thereunder, for which no penalty is otherwise provided, shall be punishable with fine which may extend to two thousand rupees.

10. Estimate of quantity of cane required by factory.

(1)The Cane Commissioner may order the occupier of any factory to submit to him on or before any specified date, an estimate of the quantity of cane intended to be purchased for his factory during any particular crushing seasons.(2)On receipt of an estimate, the Cane Commissioner shall cause the same to be submitted to the Sugarcane Control Board for their approval. The Sugarcane Control Board shall be competent to confirm, modify or reject the estimate, and in case of its not being rejected, to assign the area from which the cane may be purchased, on such terms and conditions as it may deem fit.(3)If the Sugarcane Control Board is of the opinion that a survey of any area is necessary for the purpose of assigning it to a factory, the Cane Commissioner shall cause such survey to be made and report the result to the Sugarcane Control Board. The cost of such survey shall be payable by the occupier of such factory.

11. Survey of area.

(1)Every survey mentioned hereinbefore shall be made by an officer authorised by the Cane Commissioner in the manner prescribed.(2)Every person owning or occupying land in any area in respect of which a survey is being made shall afford to the officer making the said survey such assistance and facilities for making the said survey as may be necessary.(3)Any amount due from the occupier of a factory in respect of a survey shall be recoverable from such occupier as an arrear of land revenue.

12. Powers to declare varieties of cane to be unsuitable for use in factories.

- The Government may, on the recommendation of the Sugarcane Control Board, declare unsuitable for all or any factory cane of any variety grown in any area specified in such notification, and no agent shall be competent to purchase any cane declared unsuitable for his factory.

13. Prohibition of distribution of certain kinds of seedcane.

(1)The occupier of a factory or any other person acting on his behalf shall not distribute seedcane of any variety to any person to be used by cane-growers or the members of Cane-growers' Co-operative Societies in any area if the same has been declared under this Act, to be unsuitable for the factory.(2)The occupier of a factory or any other person acting on his behalf shall not plant cane of any variety declared under this Act, to be unsuitable for the factory.

14. Regulation of purchase, supply and price of cane in assigned area.

(1)The Government may, for maintaining supplies by order, regulate -(a)the distribution, sale or purchase of any cane in any assigned area;(b)purchase of cane in any area other than an assigned area; and(c)the price of cane in assigned area.(2)The agent of factory shall enter into an agreement with a cane-grower or with a Cane-growers' Co-operative Society, as the case may be, for the purpose of purchasing the cane. No person other than an agent of a factory shall purchase cane

except in accordance with such an agreement.(3)Without prejudice to the generality of the foregoing powers such order may provide for-(a)the quantity of cane to be supplied by each cane-grower or Cane-growers' Co-operative Society in such area to the factory for which the area has so been assigned;(b)the manner in which cane grown in the assigned area, shall be purchased by the factory for which the area has been so assigned and the circumstances under which the cane grown by a cane-grower shall not be purchased except through a Cane-growers' Co-operative Society;(c)the form and the terms and conditions of the agreement to be executed by the agent of the factory for which an area is assigned for the purchase of cane offered for sale;(d)the circumstances under which permission may be granted -(i)for the purchase of cane grown in assigned area by a Gur, Rab or Khandsari Manufacturing Unit or any person or factory other than the factory for which area has been assigned; and(ii)for the sale of cane grown in an assigned area to a Gur, Rab or Khandsari Manufacturing Unit or any person or factory other than the factory for which the area is assigned;(e)such incidental and consequential matters as may appear to be necessary or desirable for this purpose."

15. Purchase of cane outside the assigned area.

- If the cane-growers or Cane-growers' Co-operative Society or Societies in the assigned area are not willing to enter into agreement to supply, or fail to supply the requisite quantity of cane, the agent may, after giving the prescribed notice to the Cane Commissioner, purchase the balance of the cane required by him from outside the assigned area.

15A. [Payment. [Added vide Haryana Act No. 43 of 1973.]

(1)The occupier of a factory shall make such arrangement for the payment of price of cane as a may be prescribed.]

16. Maintenance of register.

(1)The agent of a factory for the purposes of which an area has been assigned shall maintain a register in the prescribed form and manner.(2)The Government may prescribe the procedure for -(a)the correction of entries in, and the addition of new entries to, such register;(b)the payment of costs in connection with such correction or addition, and the manner in which such costs shall be realized; and(c)the supply, on payment, of copies of entries in the register.

17. Tax on the purchase of cane.

(1)The State Government may, after consultation with the Sugarcane Control Board, impose a tax, not exceeding three annas per maund, on the purchase of cane by or on behalf of a sugar factory, and when a tax is so imposed it shall be notified in the official Gazette, and shall be charged, levied and collected in the manner prescribed;[-] [Proviso added by Punjab Act 19 of 1959, Section 2 omitted by Haryana Act No. 22 of 1970.](2)[If the tax levied under sub-section (1) is not paid on or before the due date, interest at the rate of twelve per centum per annum shall be charged on the

amount of tax from the said date till the date of payment.(3)All sum due as tax or interest, and not paid by the due date shall be recoverable as arrears of cane revenue] [Substituted vide Haryana Act No. 43 of 1973.].

17A. [Power to refund tax on cane utilized for manufacturing, sugar exported out of India. [Section 17A added by Punjab Act 7 of 1966, Section 2.]

- The Government, if satisfied that a factory has exported out of India any quantity of sugar manufactured by it, may refund to such factory, whether prospectively or retrospectively, the amount of tax imposed on, and paid by, it under Section 17 in respect of the cane purchased by it and utilized in manufacturing the quantity of sugar so exported.]

17B. [Power to exempt tax on the purchase of cane. [Section 17B added by Haryana Act 8 of 1971.]

- The government, if satisfied that it is necessary on account of law recovery of sugar from cane or with a view to encourage or regulate the supply of cane to or its purchase by sugar factories, may, from time to time, by notification in the Official Gazette, exempt or refund, in whole or in part, the tax payable or paid under Section 17.]

17C. [Levy of surcharge. [Added vide Haryana Act 5 of 1972.]

(1)In addition to the tax payable under Section 17, there shall be paid by or on behalf of a sugar factory a surcharge at the rate of two percentum on the amount of such tax.(2)The provision of this Act shall, so far as may be apply in relation to the surcharge payable under sub-section (1), as they apply to the tax payable under this Act.(3)The State Government may, by notification, discontinue the levy of the surcharge at any time.]

18. Institution of proceedings.

(1)No prosecution shall be instituted under this Act except upon a complaint made by a District Magistrate.(2)On the application of a person accused of an offence under this Act, the District Magistrate may compound such offence by levying a composition fine not exceeding two thousand rupees, at any stage before the judgment in the case has been announced.(3)No Court inferior to that of a [Judicial Magistrate] [Substituted for the word 'Magistrate' by Punjab Act 25 of 1964.] of the first class shall try any offence under this Act.

19. Bar of suit or other proceedings.

- No suit, prosecution or other legal proceeding shall lie against the Government or against any person for anything which is in good faith done or intended to be done under this Act or the rules framed thereunder.

20. Power to make rules.

(1)The Government may make rules to carry out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for -(a)the constitution, powers, duties and procedure of the Sugarcane Control Board;(b)the powers and duties of the Cane Commissioner;(c)the authorities by which any functions under this Act or the rules made thereunder are to be performed;(d)the form in which any notices required under this Act should be given;(e)the procedure to be followed in making a survey under this Act, the manner of calculating the cost of such survey, the amount to be deposited in connection therewith and occupiers of land to the officer making such survey;(f)the form of agreement to be entered into for the purchase of cane, the date by which such agreement should be made and the terms and conditions thereof;(g)the quantity of cane which may be purchased in an assigned area during any particular crushing season;(h)the posting of notices and the maintenance of records, registers and accounts and the submission of return the supply of copies of entries therein and the fees to be charged for the same;(i)[the method by which the price of cane is to be fixed under this Act;] [Substituted by Haryana Act No. 24 of 2004.](j)the form and manner in which applications for licences may be made, the terms and conditions of each licence, their renewal, suspension and cancellation and the fees to be charged for the same;(k)the correct weightment of cane, the provision of facilities for weightment and for checking weightments, and timings of weightments;(l)the payment of the price for cane; and(m)any other matter which is to be or may be prescribed under this Act.

21. Repeal of the Sugarcane Act, 1934, and the Sugarcane (Punjab Amendment Act, 1943) and saving.

- The Sugarcane Act, 1934 (Act XV of 1934), in so far as it is applicable to the State of Punjab, and the Sugarcane (Punjab Amendment) Act, 1943 (Punjab Act IX of 1943) are hereby repealed. Anything done or any action taken in exercise of powers conferred by, or under the repealed Acts, or purporting to have been done or taken under the Punjab Sugar Factories Control Act, 1950 (Punjab Act 1 of 1950) shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken under this Act, as if this Act were in force at the time when such thing was done or such action was taken.