



THE COTTON GINNING CONTROL AND DEVELOPMENT (REPEAL) ORDINANCE, 1977



CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Return of establishments
4. Continuance in service of the employees
5. Prohibition of the operation of an establishment
6. Compensation
7. Debtor
8. General effect of return of establishment
9. Ordinance to override other laws
10. Bar of jurisdiction
11. Penalties
12. Power to make rules
13. Removal of difficulties
14. Repeal

THE PAKISTAN CODE

THE COTTON GINNING CONTROL AND DEVELOPMENT (REPEAL) ORDINANCE, 1977

ORDINANCE No. XXXI OF 1977

[12th September, 1977]

An Ordinance to repeal the Cotton Ginning Control and Development Act, 1976 (LIX of 1976)

WHEREAS, it is expedient to repeal the Cotton Ginning Control and Development Act, 1976 (LIX of 1976), and to provide for matters connected therewith or incidental thereto;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 (CMLA Order No. 1 of 1977), read with the Laws (Continuance in Force), Order, 1977 and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Cotton Ginning Control and Development (Repeal) Ordinance, 1977.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context,—

- (a) “Present Value” means the Net Worth Value out of which shall be deducted the value of any Fixed Tangible Assets and Current Assets as shown in the Balance Sheet which are not handed over and to which shall be added (i) the value of the Fixed Tangible Assets and Current Assets which do not appear in the Balance Sheet but the possession of which is handed over at cost and (ii) the decrease in the outstanding liabilities as shown in the Balance Sheet, out of which shall be deducted the value of any new liabilities handed over;
- (b) “repealed Act” means the Cotton Ginning Control and Development Act, 1976 (LIX of 1976.); and
- (c) other words and expressions shall have the same meaning as in the repealed Act.

3. Return of establishments.—(1) Within one month of the commencement of this Ordinance, or such longer period not exceeding twelve months as the Federal Government may by notification in the official Gazette specify in this behalf, the Corporation shall deliver possession of

an establishment the ownership and management of which has been acquired under section 5 of the repealed Act to the previous management thereof:

Provided that, in any case in which any amount is recoverable by the Corporation from the previous owner of the establishment under sub-section (3) or sub-section (4) of section 6, the Corporation may not so deliver possession of the establishment until such amount has been recovered.

- (2) On the delivery of the possession of an establishment, in pursuance of sub-section (1),—
- (a) the Corporation shall stand divested of the ownership and management of the establishment; and
 - (b) the ownership and management of the establishment, along with its assets and liabilities as on the day on which its possession is delivered, shall stand transferred to the persons in whom these vested immediately before the making of an order under section 5 of repealed Act in respect of the establishment.

(3) No claim, suit, prosecution or other legal proceedings arising out of the acquisition or return of an establishment shall lie against the Federal Government or the Corporation or any officer or employee of the Federal Government or the Corporation.

(4) Where the Federal Government is satisfied that the previous management of an establishment has refused or wilfully failed to receive possession of the establishment, it may pass such order in respect of the establishment as it may deem fit.

(5) In the case of an establishment, for the purpose of computing the period of limitation prescribed in the Limitation Act, 1908 (IX of 1908) for the institution of a suit for the recovery of money, the period commencing on the day on which an order under section 5 of the repealed Act was made in respect of the establishment and ending on the day on which possession thereof is delivered to its previous management shall be excluded.

(6) In the case of any dispute between the previous management of an establishment and the Corporation regarding the assets or liabilities of the establishment, the matter shall be referred to the Federal Government whose decision shall be final.

4. Continuance in service of the employees. Every whole-time employee of an establishment on the date of making of an order under section 5 of the repealed Act in respect of the establishment, and every whole-time employee who has worked continuously in an establishment since before the first day of July, 1977, shall continue in his office on the same terms and conditions as are applicable to his appointment:

Provided that this section shall not apply to employees who had resigned or been removed by the Corporation from its service.

5. Prohibition of the operation of an establishment. The Federal Government may, if it considers it necessary in the public interest to do so, by notification in the official Gazette, prohibit the cotton ginning and pressing operations of an establishment which has been returned to the previous management thereof under section 3:

Provided that such prohibition shall not extend beyond the thirty-first day of August, 1978.

6. Compensation.—(1) The Corporation shall pay compensation in respect of an establishment at the rate of eleven per cent per annum of the amount determined as payable in accordance with paragraphs 1 and 2 of the Schedule to the repealed Act for the period the ownership and management of the establishment remained with the Corporation.

(2) In a case in which the Net Worth Value is higher than the Present Value, the Corporation shall pay the difference between the Net Worth Value and the Present Value of the assets and liabilities transferred to the previous owners, both such difference and the Present Value to be determined by the Corporation.

(3) Where the Present Value is higher than the Net Worth Value, the Corporation may recover from the previous owners, in accordance with the provisions of section 7 or in any other manner it may deem fit, the amount representing the difference between the Net Worth Value and the Present Value.

(4) Where a previous owner has received payment of compensation assessed in accordance with paragraphs 1 and 2 of the Schedule to the repealed Act, such compensation shall be recovered from him in the same manner as is provided in subsection (3):

Provided that any interest which has accrued on any compensation bonds given to such previous owner shall not be withheld or, as the case may be, recovered and shall be deemed to be the compensation payable under sub-section (1).

7. Debtor. —(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation the amount of money due from him to the Corporation within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of effecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

8. General effect of return of establishment.—(1) Where the management of an establishment has been transferred to the previous management under section 3, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of transfer, to which such establishment was a party or which were in respect of such establishment, shall be of as full force and effect against or in favour of the previous management, and may be enforced or acted upon as fully and effectively as if, instead of the Corporation, the previous management had been a party thereto, or as if they had been entered into, or issued in respect of, the previous management.

(2) If, on the date of transfer of an establishment to the previous management, any suit, appeal or legal proceeding of whatever nature is pending by or against the Corporation in respect of such establishment, it shall not abate or be in any way prejudicially affected by reason of such

transfer or anything done under this Ordinance or the repealed Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the previous management-

9. Ordinance to override other laws. The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force or any agreement, contract, memorandum or articles of association of a company.

10. Bar of jurisdiction.—(1) No Court shall call into question or permit to be called in question any provision of this Ordinance or of any rule or order made, or anything done or any action taken thereunder.

(2) No Court shall give any injunction or make any order, nor shall any Court entertain any proceedings, in relation to anything done or intended to be done under this Ordinance.

11. Penalties. Whoever—

- (a) obstructs or resists or hinders any person in the discharge of his duties under this Ordinance; or
- (b) contravenes any notification under section 5; shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine, or with both:

Provided that no Court shall take cognizance of an offence under this Ordinance unless a complaint in this behalf is made by the Federal Government or the Corporation or a person authorised by the Federal Government or the Corporation for the purpose.

12. Power to make rules. The Federal Government may make rules for carrying out the purposes of this Ordinance.

13. Removal of difficulties. If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

14. Repeal. The Cotton Ginning Control and Development Act, 1976 (LIX of 1976) is hereby repealed.