

THE COTTON GINNING AND PRESSING ACT, 1957

(EAST PAKISTAN ACT NO. XIII OF 1957).

[7th May, 1957]

An Act to provide for powers to regulate charges for ginning and pressing of cotton, to requisition factories for storing of cotton and to enforce any agreement for the purchase and sale of cotton. 1

WHEREAS it is expedient to provide for powers to control the charges for ginning and pressing of cotton, requisition of factories for storage of cotton and other incidental matters;

It is hereby enacted as follows:-

Short title, extent and commencement

1. (1) This Act may be called the 2[* * *] Cotton Ginning and Pressing Act, 1957.

(2) It extends to the whole of 3[Bangladesh].

(3) This Act shall come into force at once.

Definitions

2. In this Act,-

(a) "Cotton" means unginning cotton (kapas) or ginned cotton (ru) or pressed and baled cotton, but does not include wool cotton or silk cotton;

(b) "Factory" means a place wherein steam, water or other mechanical power or electric power is used and where-

(i) cotton is ginned or where cotton fibre is separated from cotton seed, or

(ii) cotton is pressed into bales;

(c) "Factory Selection Contract" means a contract for the sale of cotton 4[* * *] and providing for selection by the buyer at the factory and for delivery of the cotton selected in full pressed bales at Chittagong within the period and at the price specified in the contract; and

(d) "Occupier" means an occupier of a factory as owner, allottee, lessee or manager.

Ginning and pressing charges

3. The Government may, by a notified order, regulate the charges to be made for the ginning and pressing of cotton and such order may regulate such charges uniformly in respect of all areas and factories or differentially in respect of particular areas or factories.

Requisition of factories, etc

4. (1) The Government may, by a general or special order, requisition any factory or any place, whether open or enclosed, and use the same for ginning, pressing or storing cotton and for purposes incidental to the purposes of this Act, whether such cotton has been purchased by or on behalf of the Government or not.

(2) If any such factory or place is requisitioned under this section, there shall be paid compensation which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say-

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Government shall appoint as arbitrator a person qualified for appointment as a Judge of 5[the High Court Division];

(c) the Government may, in any case, nominate a person having expert knowledge as to the nature of the factory or place requisitioned, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose;

(d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what, in their respective opinions, is a fair amount of compensation;

(e) the arbitrator in making his award shall have regard to the provisions of 6[sub-section (1) of section 8 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 (II of 1982)], so far as the same can be made applicable to an acquisition of a temporary character.

(3) The Government may prescribe the procedure to be followed in arbitration under sub-section (2).

Proprietors, etc, of ginning factories to buy cotton offered for sale

5. (1) Where cotton is offered for sale to the occupier of a ginning factory, he shall buy the same and pay a price for it not less than the minimum price fixed for such cotton under any law for the time being in force.

(2) If he fails to buy the cotton so offered to him or buys it at a price below the minimum price referred to in sub-section (1), then without prejudice to any punishment which may be imposed on him for having contravened a provision of this Act, the Government may order that the factory of which he is the occupier shall be confiscated to the Government and worked thereafter in such manner as it may see fit to direct.

(3) He shall be at liberty after having bought the said cotton to sell the same to any person or at his option to the Government in accordance with the terms of an agreement to be entered into between him and the Government.

(4) If after having entered into such agreement he contravenes or fails to comply with any provision of the same, he shall, without prejudice to any other action which the Government may take against him under this Act or under any other law for the time being in force, be deemed to have contravened a provision of this Act, and shall be punishable accordingly.

Penalty

6. (1) Any person who contravenes or fails to comply with an order made or a direction given under this Act shall be punishable as if he had contravened a provision of this Act.

(2) Any person who contravenes any provision of this Act shall be punishable with imprisonment for a term which may extend to 3 years or with fine or with both.

(3) Where any person as aforesaid is company or other body corporate, every member, director, manager, secretary or other officer and every agent and servant thereof shall be punishable as if he had contravened a provision of this Act.

(4) No person shall be prosecuted under this Act unless he has been given an opportunity by the Government to show cause within such time as the Government may specify why he should not be prosecuted, and if it is made to appear to the satisfaction of the Government at any time before the institution of the prosecution that he has used due diligence to enforce the observance of the provisions of this Act and that the offence has been committed without his knowledge or against his consent, the Government may forbear further proceedings against him:

Provided that nothing in this sub-section shall prevent the Government from proceeding against him further if it sees reason to do so, in which case he shall not be prosecuted unless he has been given a further opportunity as aforesaid.

Attempts and abetments

7. Any person who attempts to contravene, or abets a contravention of, any provision of this Act or any order made or direction given thereunder, shall be deemed to have contravened that provision, order or direction.

False statement

8. If any person-

(i) when required by an order under this Act to make any statement or furnish any information makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe to be true, or

(ii) makes any statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to 3 years or with fine or with both.

Cognizance of offence

9. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the 7[* * *] Penal Code.

Power to try offences summarily

10. Any Magistrate or Bench of Magistrate empowered for the time being to try in a summary way the offence specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 may, on application in this behalf being made by the prosecution, try in accordance with the provision contained in sections 260 and 265 of the said Code any offence punishable under this Act.

Special provision regarding fines

11. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Government in this behalf to pass a sentence of fine exceeding one thousand 8[taka] on any person convicted under this Act.

Presumption as to orders

12. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Evidence Act, 1872, presume that such order was so made by that authority.

Protection of action taken under this Act

13. No suit, prosecution or other legal proceeding shall lie in respect of anything which is, in good faith, done or intended to be done in pursuance of any order made under this Act.

1 Throughout this Act, the word “Government” was substituted for the words “Provincial Government” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

2 The words “East Pakistan” were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

3 The word “Bangladesh” was substituted for the words “East Pakistan” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

4 The words “entered into in East Pakistan” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

5 The words “the High Court Division” were substituted for the words “a High Court” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

6 The words, brackets, figures and comma “sub-section (1) of section 8 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 (II of 1982)” were substituted for the words, brackets, figures and comma “sub-section (1) of section 23 of the Land Acquisition Act, 1894” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

7 The word “Pakistan” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

8 The word “taka” was substituted for the word “rupees” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)