

THE SUGAR FACTORIES CONTROL ACT, 1950
(N.W.F.P. Act XXII of 1950)

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^{1[1]}**THE SUGAR FACTORIES CONTROL ACT, 1950**
(N.W.F.P. Act XXII of 1950)

[11 April 1950]

*An Act to provide for the regulated supply
of sugarcane to the sugar factories*

Preamble.— WHEREAS it is expedient to provide for regulating the supply of sugarcane intended for use in such factories and the price at which it may be purchased and for such other matters as may be incidental thereto;

It is here by enacted as follows:-

^{2[2]}**1. Short title and extent.**— (1) This Act may be called the Sugar Factories Control Act, 1950.

^{1[1]}This Act, having been passed by the N.W.F.P. Legislative Assembly, was assented to by the Governor of that province on 5th April, 1950: and, published in the N.W.F.P. Gazette (Extraordinary), dated: 11th April, 1950. It was adopted for West Pakistan by the North-West Frontier Province Sugar Factories Control (Amendment) Ordinance, 1961 (III of 1961).

(2) It extends to the whole of the Province of West Pakistan, except the ^{3[3]}[Tribal Areas].]

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

- (a) “assigned area” means an area assigned to a factory under sub-section (1) of section 14;
- (b) “Board” means the Sugarcane Control Board established under section 3;
- (c) “Cane” means sugarcane intended for use in a factory;
- (d) “Cane Commissioner” means the officer appointed to be Cane Commissioner under section 6;
- (e) “Cane grower” means a person who cultivates cane either by himself or by members of his family or by hired labour and who is not a member of a Cane Growers’ Co-operative society;
- (f) “Cane Growers Co-operative Society” means a society registered under the Co-operative Societies Act, 1912^{4[4]} ^{5[5]}[or the Sind Co-operative Societies Act, 1925], one of the objects of which is to sell cane grown by its members;
- (g) “Collector” in any provision of this Act includes any officer whom the governor may, by notification, appoint to exercise and perform the powers and duties of a collector under that provision;
- (h) “Crushing season” means the period beginning on the 1st October in any year and ending on the 30th June, next following;
- (i) “Factory” means any premises, including the precincts thereof, wherein twenty or more workers are working or were working on any one day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar by means of vacuum pans is being carried on or is ordinarily carried on, with the aid of power;
- (j) “Inspector” means an Inspector appointed under section 7 of the Act and includes an *ex-officio* or additional Inspector;
- (k) “Occupier of a factory” means the person who has ultimate control over the affairs of a factory; provided that where the affairs of a factory are entrusted to a managing agent, or a Managing Director or a Director incharge, such managing agent, Managing Director or Director incharge shall be deemed to be the occupier of the factory;
- (l) “Prescribed” means prescribed by rules;
- (m) “Purchasing agent” means a person licensed under this Act to act as a purchasing agent;
- (n) “Reserved area” means an area specified in an order issued under section 10; and
- (o) “Rule” means a rule under this Act.

3. Sugarcane Control Board.— The Provincial Government may, by notification, establish a Sugarcane Control Board of the Province.

4. Constitution of the Board.— The Board shall consist of a Sugarcane Commissioner, who shall be the Chairman of the Board and such and so many members from the cane growers, factory owners and servants of the State, as may be prescribed.

5. Powers and duties of the Board.— The Board shall exercise and perform such powers and duties as may be prescribed, and its business shall be conducted in such manner and in accordance with such procedure as may be prescribed.

^{2[2]}Section 1, substituted by the North-West Frontier Province Sugar Factories Control (Amendment) Ordinance, 1961 (III of 1961).

^{3[3]}Substituted by the West Pakistan Laws (Extension to Karachi) Ordinance, 1964 (VII of 1964) for the words “Federal Capital and special Areas”.

^{4[4]}Act II of 1912.

^{5[5]}Inserted by the North-West Frontier Province Sugar Factories Control (Amendment) Ordinance, 1961 (III of 1961).

6. Appointment of Cane Commissioner.— (1) The Provincial government may, by notification appoint any officer, not below the status of a Collector, to be the Cane Commissioner to exercise and perform, in addition to the powers and duties conferred and imposed on him by this Act such powers and duties as may be prescribed from time to time.

(2) The Cane Commissioner shall be deemed to have powers of a Collector under the ^{6[6]}Punjab Land Revenue Act, 1887, and the Punjab Tenancy Act, 1887 ^{7[7]}[or any other enactment relating to land revenue and tenancy in force in any part of the Province.]

^{8[8]}**6-A. Appointment of Additional Cane Commissioners.**— The Provincial Government may, by notification, appoint the ^{9[9]}[District Coordination Officer] to be an Additional Cane Commissioner to exercise such powers and perform such duties and functions of the Cane Commissioner, within the district or any part thereof as may be specified.]

7. Appointment of Inspectors.— (1) The Provincial Government may, by notification, appoint such persons as it thinks fit, to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) No person shall be appointed to be an Inspector under sub-section (1) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(3) Every Inspector, who shall be deemed to be public servant within the meaning of the Pakistan Penal Code, shall be officially subordinate to such authority as the Provincial Government may specify in this behalf, and shall exercise such powers and duties as may be prescribed from time to time.

8. Notice of crushing.— The occupier of a factory shall send a notice to the Cane Commissioner in the prescribed form intimating him of his intention to start crushing one clear month before the crushing starts ^{10[10]}[:]

^{11[11]}[Provided that the occupier shall start crushing by a date not later than 30th November each year.]

9. Estimate of quantity of cane required by factory.— (1) The Cane Commissioner may, by order, require the occupier of any factory to submit to him on or before a date to be fixed by him, an estimate in the prescribed form and manner of the quantity of the cane, which will be required during such crushing season, as may be specified in the order.

(2) The Cane Commissioner shall examine every such estimate and shall publish the same in the prescribed manner with such modifications, if any, as he may think fit to make therein after consultation with the Board.

(3) The Cane Commissioner may revise an estimate published under sub-section (2) at any time without consulting the Board.

10. Declaration of reserved area.— (1) The Cane Commissioner may, after consulting the Board, issue an order declaring any area to be reserved area for the purposes of the supply of cane to a particular factory during a particular crushing season or seasons, and may likewise, at any time, cancel such order or alter the boundaries of an area so reserved.

(2) An appeal shall lie against the order of the Cane Commissioner under sub-section (1) to the ^{12[12]}[Secretary to Government of the Punjab, Food Department].

^{6[6]}Repealed by the Punjab Land Revenue Act, 1967.

^{7[7]}Substituted by the North-West Frontier Province Sugar Factories Control (Amendment) Ordinance, 1961 (III of 1961).

^{8[8]}Inserted by the Sugar Factories Control (West Pakistan Amendment) Ordinance, 1963 (XLV of 1963).

^{9[9]}Substituted for the word “Collector” by the Sugar Factories Control (Amendment) Ordinance, 2001 (LVIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan

^{10[10]}Substituted for a full-stop, by the North-West Frontier Province Sugar Factories Control (Amendment) Ordinance, 1961 (III of 1961).

^{11[11]}Inserted *ibid*.

^{12[12]}Substituted for the words “Commissioner of the Division” by the Sugar Factories Control (Amendment) Ordinance, 2001 (LVIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4,

11. Survey of reserved area.— (1) The Provincial Government may order a survey to be made of the area proposed to be reserved for or assigned to a factory and may recover the cost of such survey from the occupier of such factory.

(2) Every survey mentioned in sub-section (1) shall be made by an officer appointed by the Provincial Government for the purpose, and the said officer shall exercise and perform such powers and duties in making such survey as may be prescribed, and the survey shall be made in accordance with the prescribed procedure.

(3) Every person owning or occupying land in any area in respect of which a survey is being made under sub-section (2) shall afford to the officer making the said survey such assistance and facilities for taking the said survey as may be prescribed.

(4) Any amount due from the occupier of a factory under sub-section (1) shall be recoverable from such occupier as an arrear of land revenue.

12. Maintenance of register.— The occupier of a factory for the purposes of which an area has been reserved, shall maintain a register in the prescribed form and manner of all cane growers and Cane Growers' Co-operative Societies in such area.

13. Purchase of cane in a reserved area.— (1) A cane grower or a Cane Growers' Co-operative society in a reserved area may, if required to do so by the Cane Commissioner shall, offer in the form and by the date prescribed, and supply to the occupier of the factory, for which the area is reserved, such quantity of cane grown by the cane grower or the members of such Cane Growers' Co-operative Society, as the case may, as is generally prescribed for, or specially directed by the Cane Commissioner, for such cane grower or Cane Growers' co-operative Society.

(2) 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 sub-section (1), provided that he shall not purchase or enter into an agreement to purchase cane from a person who is a member of a Cane Growers' Co-operative Society.

(3) Unless the Provincial Government otherwise directs, cane grown in a reserved area shall not be purchased by a purchasing agent or by any person other than the occupier of the factory for which such area has been reserved except by another grower for the *bona fide* purpose of seed.

(4) Cane grown in a reserved area shall not be sold by any person other than a cane grower or a Cane Growers' Co-operative Society; provided that a cane grower or a Cane Growers' Co-operative Society may deliver cane intended for a factory through another cane grower of that area, or through a carrier.

(5) During the crushing season, the Provincial Government may, if it is satisfied that there is likely to be in the area reserved for a factory any quantity of cane available for sale to the occupier of the factory in excess of the quantity for which he is required to enter into an agreement, direct that cane shall not be purchased outside the reserved area until the occupier of the factory enters into agreements to purchase all the cane offered to him in the reserved area.

14. Declaration of assigned areas and purchase of cane therein.— (i) The Cane commissioner may, after consulting the Board, issue an order declaring an area to be an assigned area for the purposes of the supply of cane to a particular factory.

(ii) The occupier of a factory, for which an area has been assigned, shall enter into an agreement with cane growers in the assigned area or Cane Growers' Co-operative Society or purchasing agents for the propose in the assigned area of such quantity of cane by such date and in such form and on such terms and conditions as may be prescribed by the Cane Commissioner; provided that such agreement shall not be entered into with a person who is a member of Cane Growers' Co-operative Society.

(iii) If such an agreement is entered into with the purchasing agent, he shall enter into agreement with cane growers in the assigned area or Cane Growers' Societies in respect of all the cane which he has undertaken to supply.

(iv) If the cane growers or Cane Growers' Co-operative Societies in the assigned area are not willing to enter into agreement to supply, the Cane Commissioner may, by an order in writing, require them to do so on such terms and conditions as may be prescribed by him, which order shall be legally binding on the cane growers or the Cane Growers' Co-operative Societies, as the case may be.

(v) In the event of failure to supply the requisite quantity of cane, the occupier of the factory or the purchasing agent, may, after giving the prescribed notice to the Cane commissioner, purchase the balance of the cane required from outside the assigned area, unless otherwise directed by him.

(vi) An appeal shall lie against the order of the Cane Commissioner under sub-section (i) or sub-section (ii) and (iv) to the ¹³¹³[Secretary to Government of the Punjab, Food Department].

¹⁴¹⁴[**14-A. Power of Cane commissioner to prohibit cultivation of unsuitable varieties of sugarcane.**— The Cane Commissioner may, by an order in writing prohibit the cultivation, in any reserved area by cane growers or Cane Growers' Co-operative Societies of any variety of sugarcane declared by the Provincial Government under section 18 to be unsuitable for distribution.]

15. Purchase of cane outside reserved area.— In any area, other than a reserved area, no person shall purchase cane except (a) the occupier of a factory or a person employed by him for the propose of making such purchases; (b) a purchasing agent or a person employed by him for the purpose of making such purchases; (c) a Cane Growers' Co-operative Society; (d) cane grower for *bona fide* seed purpose: provided that a person entitled to purchase cane, may take delivery thereof through cane grower or through a carrier.

16. Power of Provincial Government to fix minimum price.— (i) The Provincial Government, after consultation with the Board, may by notification, determine in respect of any area the minimum price to be paid by occupiers of factories or purchasing agents for cane purchased in that area either generally or related to the sugar contents of the cane or direct that such minimum price shall be calculated in the manner prescribed.

(ii) The Provincial Government may, from time to time, vary, by notification, the price fixed under sub-section (i).

(iii) The occupier of a factory or a purchasing agent shall not make any deduction from the amount due for the cane sold to him by a cane grower or a Cane Growers' Co-operative Society, except such deductions as may be prescribed or as the Provincial Government may, by notification, from time to time allow.

(iv) The Provincial Government may, after consultation with the Board, by notification, direct that in addition to the minimum price to be paid for cane, the occupier of a factory shall pay for special varieties of cane to be specified in the notification and which the cane grower or Cane Growers' Co-operative Society has agreed to supply such additional price as the Provincial Government may direct.

¹⁵¹⁵[**16-A. Quality premium.**— The Provincial Government may direct the factories to pay quality premium at the end of the crushing season at such rate as may be specified by the Provincial Government in proportion to the sucrose recovery of each factory in excess of base level sucrose contents determined by the Provincial Government, from time to time.]

17. Licensing of purchasing agents.— No person or class of persons shall be employed by an occupier of a factory or by a purchasing agent to do any work or class of work in connection with any transaction for the purchase of cane, and no person shall exercise any of the powers conferred by or under this Act on a purchasing agent, unless he is licensed in the prescribed manner.

18. Distribution of seed cane by factories.— (i) The occupier of a factory or any other person acting on his behalf shall not distribute cane of any variety to any person to be used by cane growers or the members of cane Growers' Co-operative Societies if the Provincial Government after consulting

¹³¹³Substituted for the words "Commissioner of the Division" by the Sugar Factories Control (Amendment) Ordinance, 2001 (LVIII of 2001), which will remain in force under the Provisional Constitution (Amendment) Order 1999 (9 of 1999), Article 4, notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

¹⁴¹⁴Added by the North-West Frontier Province Sugar Factories Control (Amendment) Ordinance, 1961 (III of 1961).

¹⁵¹⁵Added by the Sugar Factories Control (Punjab Amendment) Act, 1991 (II of 1991).

the Board, has by an order published in the ¹⁶[16]Gazette, declared that such variety of seed cane is unsuitable for distribution to cultivators.

(ii) The Provincial Government may, on the recommendations of the Board, require the occupier of a factory to distribute in an area reserved for the factory such variety of seed cane on such conditions and in such manner as it may prescribe in every case.

19. Determination of “occupier” for purposes of this Act.— (1) Where the occupier of a factory is a firm or other association of individuals, any one 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 Collector that it has nominated one of its members to be the occupier for the purpose of this Act until further notice cancelling his nomination is received by the Collector or until he ceases to be a partner or member of the firm or association.

(2) Where occupier of a factory is a company, any one of the directors thereof, or, in the case of a private company, any one of the share-holders 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 Collector that it has nominated a director, or, in the case of a private company, a share-holder, to be the occupier of the factory for the purposes of this Act and such director or share-holder 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 Collector or until he ceases to be a director or share-holder.

20. Appointment and removal of factory staff.— The occupier of a factory shall have to employ a Cane Superintendent and such staff as may be prescribed by the Provincial Government, on the recommendations of the Cane Commissioner to regulate, arrange and supervise the purchase of cane for the factory. The appointment and the award of punishment including removal from service of Cane Superintendent and other staff shall be subject to the approval of the Cane Commissioner.

21. Penalties.— ¹⁷[¹⁷(a) Subject to subsection (aa), any person contravening the provisions of this Act or any order or rule made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both.

(aa) Any person who fails to comply with the provisions of section 16 or 16-A, or any directions issued thereunder, shall be punished with imprisonment for a term which may extend to two years or with fine which may extend twice the price of the sugarcane or twice the amount of quality premium due, as the case may be.]

(b) Offences under the Act shall be bailable and non-cognizable.

22. Institution of proceedings.— (i) No prosecution shall be instituted under this Act except upon a complaint made by or under the authority from the Collector or Cane Commissioner:

¹⁸[¹⁸Provided that an aggrieved person may make a complaint to the court of competent jurisdiction if on an application made by him, the Collector or the Cane Commissioner fails to decide within sixty days whether or not the prosecution is to be instituted.]

(ii) On the application of a person accused of an offence under this Act, the Cane Commissioner or the Collector may, with the previous approval of the Provincial Government, compound such offence by levying a composition fine not exceeding two times the fine which could be imposed for such offence at any stage before conviction.

(iii) No Court inferior to that of a Magistrate of the 1st Class, shall try any offence under this Act or any order or rule made thereunder.

¹⁶[¹⁶Now refers to official Gazette, see the West Pakistan (Adaptation and Repeal of Laws) Act, 1957 (XVI of 1957), section 3(4)(iv).

¹⁷[¹⁷Substituted by the Sugar Factories Control (Punjab Amendment) Act, 1991 (II of 1991).

¹⁸[¹⁸Added by the Sugar Factories Control (Punjab Amendment) Act, 1994 (II of 1994).

- (iv) (a) No suit, prosecution or other legal proceeding shall lie against the Provincial Government or any of its servants for anything which is, in good faith, done or intended to be done under this Act, or the rules framed thereunder.
- (b) The exercise of any discretion or authority conferred on the Provincial Government or the Board or the Cane Commissioner by this Act shall not be questioned in any Civil Court.
- (c) The Provincial Government may delegate all or any of its powers under this Act to any officer not below the status of a Collector.

23. Power to make rules.— (1) The Provincial 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 the constitution, powers, duties and procedure of the appointment of the Cane Commissioner and Inspectors, and the powers and duties to be exercised and performed by them.

(3) The authority by which any functions under this Act or the rules made thereunder are to be performed.

(4) The form in which the notices required by sections 8 and 14 (v) should be given.

(5) The form, manner and date for the submission of estimates mentioned in section 9, and the manner in which and the places at which such estimates should be published.

(6) The procedure to be followed for making a survey under section 11, the powers to be exercised by Survey Officers, and the assistance to be afforded by owners and occupiers of land to the officers making such survey.

(7) Records, registers and accounts and the submission of returns, the supply of copies of entries therein and the fees to be charged for the same.
