

GOVERNMENT OF THE KHYBER PAKHTUNKHWA
FOOD DEPARTMENT.

NOTIFICATION

Peshawar, Dated the 14th December, 2015.

No. SOF/Food Deptt/4-15/13-14/1598.- In exercise of the powers conferred by section 8 of the Khyber Pakhtunkhwa Finance Ordinance, 1982, (Khyber Pakhtunkhwa Ordinance No. V of 1982) and in supersession of any rules issued in this behalf, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

**THE KHYBER PAKHTUNKHWA SUGAR-CANE AND SUGAR-BEET
DEVELOPMENT CESS RULES, 2015.**

1. Short title and commencement.---(1)These rules may be called the Khyber Pakhtunkhwa Sugar-cane and Sugar-beet Development Cess Rules, 2015.

(2) It shall come to force at once.

2. Definitions.---In these rules, unless the context other-wise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say-

- (a) “cane” “Cane Commissioner”, “cane grower”, “crushing season” and “purchasing agent” purchasing centre, weight bridge and year shall have the same meaning as respectively assigned to them in the Sugar Factories Control Act, 1950;
- (b) “Cess” means the Sugar-cane and Sugar-beet Development Cess, levied under section 3 of the Khyber Pakhtunkhwa Finance Ordinance, 1982 (Khyber Pakhtunkhwa Ordinance No. VI of 1982);
- (c) “Committees” mean Committees constituted under rules 9, 10 and 11 of these rules respectively;
- (d) “Deputy Commissioner” means the Deputy Commissioner of a district concerned;
- (e) “Form” means Form appended to these rules;
- (f) “mills management” means a person or persons managing the affairs of a sugar mill, and shall include the Manager, General Manager, the Resident Director and the Managing Director of a sugar mill or any other person acting on behalf of any of these;
- (g) “sugar mill” means any premises including the precincts thereof, wherein twenty 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 by means of vacuum pans is being carried on, or is ordinarily carried on with the aid of power;
- (h) “occupier of sugar mill” means a person, who has ultimate control over the affairs of a sugar mill; and
- (i) “seller” means a person selling sugarcane or sugarbeet to a sugar mill and includes the authorized agent of such person.

3. Time and manner of payments.---(1) The Cess shall be deposited in the Government Treasury within five days of the close of each fortnight, that is, by the fifth and twentieth of each month.

(2) Each payment into the Government Treasury shall be for the full amount of the Cess as due to Government in respect of the preceding fortnight on the entire quantity of cane or beet purchased by the sugar mill or obtained by it from its own sugarcane or sugarbeet farms or sugarcane or sugarbeet farms of the occupier of sugar mill during that fortnight, irrespective of the payment of the price of cane or beet by the mill management or the recovery of the seller's share of the Cess.

(3) A copy of the receipted challan along with a return in Form-I shall be forwarded by the mill management to the Cane Commissioner within seven days from the date of deposit of the Cess in the Government Treasury.

4. Procedure in case of non-submission of returns.---(1) If the return referred to in sub-rule (3) of rule 3 is not submitted or if in the opinion of the Cane Commissioner the return is not correct or incomplete and the Cess has not been paid or has not been paid in full, the Cane Commissioner shall, after giving the mill management, a reasonable opportunity of being heard, determine the amount of the Cess, and order its payment accordingly.

(2) Government or an officer authorized by Government may call for and examine the relevant records and accounts and such other evidence as it may consider necessary for the purpose of determining the amount of the Cess payable under sub-rule (1).

(3) Any sugar mill aggrieved by the order passed under sub-rules (1) may, within thirty days of the order, prefer an appeal against such order to Government.

5. Penalty.---(1) If a sugar mill does not deposit the Cess due into the Government Treasury by the prescribed date, the Cane Commissioner shall impose on the mill management a penalty not exceeding the amount of the Cess provided that such penalty shall not be imposed without giving the mill management an opportunity of being heard.

(2) Any sugar mill aggrieved by an order passed under sub-rule (1) may, within thirty days of the order, prefer an appeal to Government.

(3) On expiry of thirty days from the order made under sub-rule (1), or after decision of the appeal under sub-rule (2), the mill management shall be required by the Cane Commissioner, by a notice in Form-II, to deposit the penalty imposed under this rule and the amount of the Cess which remains unpaid.

(4) In case of default, the amount of the Cess and the penalty or such part thereof as remains unpaid shall on a certificate to that effect by the Cane Commissioner, be recoverable as arrears of land revenue.

6. Keeping of books of accounts.---Each sugar mill shall keep a separate account containing the following particulars-

- (a) the amount of Cess recoverable from each seller;
- (b) the date of recovery of the amount of the Cess referred to in clause (a);
- (c) the quantity supplied by each seller in respect of which the Cess has been recovered;
- (d) the mill management share of the Cess in respect of the cane purchased;

- (e) the quantity of cane obtained from the sugar mill's own sugar farms or from the farms of the occupier of sugar mill;
- (f) the amount of Cess payable by the mill management in respect of the sugarcane referred to in clause (e); and
- (g) the amount and the date of the deposits made into the Government Treasury on account of the Cess.

7. Inspection of accounts.---The accounts of the sugar mills, both in respect of purchase of sugarcane and collection of Cess in respect thereof from sellers and credits by the sugar mills from their own funds and deposit in to the Government Treasury, shall be subject to inspection by the Cane Commissioner or his nominee.

8. Accounts and Audit.---(1) The Food Department shall intimate to the Finance Department mill-wise/district-wise collection of Cess in a year in the 1st month of the following year duly authenticated by the Accountant General Khyber Pakhtunkhwa. The Finance Department shall, after deducting two percent (2%) charges, release ninety eight percent (98%) of the proceeds of Cess to the Food Department to be deposited and credited under the Provincial heads "**C -03811 and C-03815**".

(2) The proceeds of Cess allocated to the Food Department under the aforesaid Provincial heads shall be operated by the Cane Commissioner.

(3) The proceeds of Cess in a particular year shall be utilized in the following year or years.

(4) The Food Department shall, after deducting three percent (3%) charges, distribute the proceeds of Cess among the Committees with the ratio as follows:

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| (a) | District Committee concerned; | 70% |
| (b) | the Khyber Pakhtunkhwa Highway Authority Committee; and | 15% |
| (c) | Sugar Crop Research Institute Committee. | 10% |

(5) The accounts of the proceeds of Cess shall be audited by the Auditor General of Pakistan.

9. District Committee.---(1) There shall be a District Committee, in each sugar-cane or sugar-beet growing district, as the case may be, which shall consist of-

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| (a) | the Deputy Commissioner of the district concerned; | Chairman |
| (b) | representative of Director Food; | Member |
| (c) | the Executive Engineer, Irrigation Department of the district concerned; | Member |
| (d) | the Director Agriculture of the district concerned; | Member |
| (e) | two representative of the growers in each district nominated by the Cane Commissioner; and | Member |
| (f) | the Executive Engineer of Communication and Works Department of the district concerned. | Member-cum-Secretary |

- (2) The District Committee shall-
- (a) formulate and finalize new schemes and select roads and bridges for maintenance and repairs in the district or areas of jurisdiction and fixation of priorities;
 - (b) decide upon the executing agency to implement the works; and
 - (c) prepare rough cost estimates by the concerned executing agency in line with the priorities fixed by the committee;

(3) With the previous approval of District Committee, the proceeds of the Cess allocated to the Committee shall be withdrawn by the Chairman for utilization under these rules.

10. The Khyber Pakhtunkhwa Highway Authority Committee.---(1) There shall be Khyber Pakhtunkhwa Highway Authority Committee which shall consist of:

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| (a) | the Managing Director, Khyber Pakhtunkhwa Highway Authority; | Chairman |
| (b) | a representative of Cane Commissioner Khyber Pakhtunkhwa; | Member |
| (c) | the President, Chamber of Agriculture Khyber Pakhtunkhwa; | Member |
| (d) | one representative of the Growers Association Khyber Pakhtunkhwa; | Member |
| (e) | one representative of Sugar Mills Association Khyber Pakhtunkhwa; and | Member |
| (f) | Concerned Deputy Director of Khyber Pakhtunkhwa Highway Authority. | Member-cum-Secretary. |

(2) The Khyber Pakhtunkhwa Highway Authority Committee shall-

- (a) identify the roads, bridges fallings in the domain or jurisdiction of such committee for rehabilitation or re-construction and approve cost estimates; and
- (b) inspect and monitor the schemes or works executed or carried out from the farmers fund.

(3) With the previous approval of the Khyber Pakhtunkhwa Highway Authority Committee, the proceeds of the Cess allocated to the Committee shall be withdrawn by the Chairman for its utilization under these rules.

11. Sugar Crop Research Institute Committee.---(1) There shall be Sugar Crop Research Institute Committee which shall consist of:

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| (a) | the Director Sugar Crop Research Institute, Mardan; | Chairman |
| (b) | a representative of Cane Commissioner Khyber Pakhtunkhwa not below the rank of Deputy Director; | Member |
| (c) | two representative of growers to be | Member |

nominated by the Cane Commissioner; and

- (d) Deputy Director Sugar Crop Research Centre. Member-cum-Secretary.

(2) The Sugar Crop Research Institute Committee shall approve the plan of action for the expenditure to be incurred on new varieties of seeds and research during the financial years.

(3) With the previous approval of the Sugar Crop Research Institute Committee, the proceeds of the Cess allocated to the Committee shall be withdrawn by the Chairman for its utilization under these rules.

12. Meetings.---(1) The meetings of the Committees shall be held at such places and on such dates as the Chairman concerned may fix.

(2) Notice in writing of all meetings shall be circulated by the Secretary concerned after approval of the Committees.

(3) The meetings of the Committees shall be presided over by the Chairman concerned.

(4) The quorum, for the purpose of the meeting, shall be two third of the total members.

(5) The terms of office of the non-official members of the Committees shall be three years, unless Government otherwise directs.

(6) The Committees shall take decision with majority of votes.

13. Administrative approval, technical sanction and release of Funds.---After approval of a scheme by the Committees, administrative approval, technical sanction, when required, by the Chairman concerned, Cess shall be released to the executing agency concerned.

SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA
FOOD DEPARTMENT.

FORM-I
(see rule 3 (3))

Total quantity of sugar-cane or sugar-beet purchased by the sugar mill from sugar-cane or sugar-beet sellers	Quantity of sugar-cane or sugar-beet used from the sugar mills own farms, if any	Quantity supplied	Amount of Cess realized from the cane or beet growers	Total amount deposited into the Government Treasury (including sugar mills own share of the Cess)	Number and dates of treasury challans under which the Cess was deposited into the Government Treasury.
1	2	3	4	5	6

FORM-II
(see rule 5 (3))
No.

FORM

To,

As you have not paid or have not paid in full the Cess for the fortnight ending..... by the date prescribed in rule 3 of these rules or there is reason to believe that the returns furnished by you are not correct and complete, you are hereby assessed to a Cess amounting to Rs.....

2. You are required to pay the above mentioned amount and a further sum of Rs..... as penalty thereof within a period of fifteen days from the date of this notice.

3. If you do not pay the amount of the Cess and the penalty thereof within the aforesaid period, the same shall be recovered from you as arrears of land revenue.

Signature and Seal of the Officer,
