

THE ¹[KHYBER PAKHTUNKHWA] SUGAR FACTORIES CONTROL ACT, 1950.
(Act NO. XXII OF 1950).

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¹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

² Inserted vide W.P Ord. XLV of 1963, s. 2.

³ Substituted vide Khyber Pakhtunkhwa Ord.No.VII of 1976 and Act No. VIII of 1976, s.7.

⁴ Inserted vide Khyber Pakhtunkhwa Act. No. XVII of 1978 s. 2.

⁵ Inserted vide Khyber Pakhtunkhwa Act. No. V of 2021.

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**THE ¹[KHYBER PAKHTUNKHWA] SUGAR FACTORIES
CONTROL ACT, 1950.**

(Act NO. XXII OF 1950).

*(Received the assent of the Governor, ²[Khyber Pakhtunkhwa], on the 5th
April, 1950).*

**AN
ACT**

*to provide for the regulated supply of sugarcane [and sugar beet]
to the Sugar Factories.*

WHEREAS it is expedient to provide for regulating the supply of ³sugarcane [and sugar beet] 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: Preamble.

It is hereby enacted as follows :-

⁴[1. (1) This Act may be called the ⁵[Khyber Pakhtunkhwa] Sugar Factories Control Act, 1950. Short title and extent.

(2) It extend to the whole of the Province of the ⁶[Khyber Pakhtunkhwa] except the Tribal Areas].

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

(a) "assigned area" means an area assigned to a factory under sub-section (1) of Section 14;

⁷[(b)"Board" means the sugarcane and sugar beet Control Board established under Section 3;

(c) "Cane" means sugarcane intended for use in a factory and includes the sugar-beet;]

(d) "Cane Commissioner" means the officer appointed to be cane Commissioner under Section 6;

¹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

² Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

³ Inserted by Khyber Pakhtunkhwa Ord. No. VII of 1976.

⁴ Section-1, substituted, by Khyber Pakhtunkhwa Adapt, of Laws Order, 1975

⁵ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁶ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁷ In section-2, in clauses (b) and (c) substituted by Khyber Pakhtunkhwa Ord. No. VII of 1976 and Act No. VIII of 76, s.3. (iii).

- (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 society registered under the Co-operative Societies Act, 1912, (Act II of 1912), ¹[or the Sindh Co-operative Societies Act, 1925) one of the objects of which is to sell cane grown by its members;
- ²[(ff) "Cane Purchase Receipt" means receipt of Cane, purchased by an occupier of a Factory, mentioning weight and price for Cane purchased, from a Cane-grower;]
- (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 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 in-charge, such managing agent, Managing Director or Director in-charge 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;

¹ Ins. by the W. P. Ord. III of 1961, s. 3.

² Inserted vide Khyber Pakhtunkhwa Act No. V of 2021.

(o) "Rule" means a rule made under this Act;

¹[(p) "Slicing season" means the period beginning on the 15th April, in any year and ending on the 31st July, next following].

3. The Provincial Government may, by notification establish a Sugar-cane ²[and Sugar-beet] Control Board for the Province. Sugar-cane control Board.
4. The Board shall consist of a ³[Cane] 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. Constitution the Board.
5. 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. Powers and duties of the Board.
6. (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. Appointment of Cane Commissioner.
- (2) The Cane-Commissioner shall be deemed to have powers of a Collector under the ⁴[West Pakistan Land Revenue Act, 1967] and the ⁵[Khyber Pakhtunkhwa] Tenancy Act, 1950] ⁶[or any other enactment relating to land revenue and tenancy in force in any part of the Province].
- ⁷[6-A. The Provincial Government may, by notification, appoint the Collector 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. Appointment of Additional Cane Commissioner.
7. (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. Appointment of Inspectors.
- (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

¹ Clause(p), inserted by Khyber Pakhtunkhwa Ord. No.VII of 1976, s. 3 (iii) and Act No. VIII of 1976. s. 3 (iii).

² In section-3, after the words "Sugar-cane", the words "and sugar-beet", ins. by Khyber Pakhtunkhwa Ord. No. VII of 1976, s.4. and Khyber Pakhtunkhwa Act No. VIII o 1976, s.4.

³ In section-4, for the word "Sugar-Cane", the word "Cane", subs, Khyber Pakhtunkhwa Ord. No. VII of 1976, s.4. and Khyber Pakhtunkhwa Act No. VIII o 1976.

⁴ In section-6, in sub-section (2), for the words and figures "Punjab Land Revenue Act, 1887" and "Punjab Tenancy Act, 1887", the words and figures "West Pakistan. Land Revenue Act, 1967" and "Khyber Pakhtunkhwa Tenancy Act, 1950" respectively subs. ibid

⁵ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

⁶ Subs, by the W. P. Ord. III of 1961.

⁷ Ins. by W. P. Ord. XLV of 1963, s. 2.

becomes directly or indirectly interested in a 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 a 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.

¹[8. The occupier of a Factory shall send a notice to the Cane Commissioner in a prescribed form intimating him of his intention to Start Crushing or Slicing one clear month before the crushing or, as the case may be, Slicing Starts:

Notice of
Crushing or
Slicing.

Provided that the occupier shall start crushing by a date not later than 30th November, and Slicing by a date not later than 15th May, each year].

9. (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 ²[or Slicing Season as the case may be] as may be specified in the order.

Estimate of
quantity of
Cane required
by Factory.

(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 under sub-section (2) at any time without consulting the Board.

10. (1) The Cane Commissioner may, after consulting the Board, issue an order declaring any area to be a reserved* area for the purposes of the supply of cane to a particular factory during a particular crushing season ³[or Slicing Season] of seasons, and may likewise, at any time, cancel such order or alter the boundaries of an area so reserved.

Declaration of
Reserved Area.

(2) An appeal shall lie against the order of the Cane Commissioner under sub-section (1) to the ⁴[Commissioner of the Division].

11. (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.

Survey of
Reserved Area.

¹ Section 8 substituted vide Khyber Pakhtunkhwa Ord. No. VII of 1976 and Act No. VIII of 1976, s.7.

² Inserted vide Khyber Pakhtunkhwa Ord. VII of 1976.

³ Inserted vide Khyber Pakhtunkhwa Ord. No. VII of 1976.

* The correct word is "a reserved", however, the same is reflected in Gazette as "aeserved".

⁴ Substituted for the words "Provincial Government" by W.P. Ord. III of 1961, s. 6.

(2) Every survey mentioned in sub-section (1) shall be made by an officer appointed by the Provincial Government for this 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 making 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. 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. Maintenance of Register.

13. (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 by the members of such Cane-Grower's Co-operative Society, as the case may be as is generally prescribed for, or specially directed by the Cane Commissioner, for such cane grower or Cane-Grower's Co-operative Society. Purchase of Cane in Reserved Area.

¹[(2) The occupier of a Factory shall purchase Cane from the Cane-grower or Cane-growers Co-operative Society, as the case may be, against Cane Purchase Receipt at the rate notified under section 16 of this Act, and shall make payment through a bank directly into the bank account of the Cane-grower or the Cane-growers Co-operative Society, as the case may be:

Provided that the occupier of a Factory shall not 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-Grower's Cooperative Society may deliver cane intended for a factory through another cane-grower of that area, or through a carrier.

¹ Substituted vide Khyber Pakhtunkhwa Act No. V of 2021.

(5) ¹[***]

²[13-A. Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, the Provincial Government may, where it considers necessary by notification in the official Gazette, direct that the total supply of Cane or a specified percentage thereof to a factory from its assigned or reserved, area or any part thereof shall be made through a Cane-Grower's Co-operative Society only. On any such direction the occupier of the factory shall not, to the extent of the quantity or the percentage specified in the notification, purchase or enter into an agreement to purchase cane from any source other than a Cane-Grower's Co-operative Society.]

Restriction on supply of Cane.

³[13-B. **Powers of the Cane Commissioner to determine liability of occupier of Factory.**---(1) The Cane Commissioner shall determine liability of the occupier of a Factory for payment of Cane price to a Cane-grower or Cane-growers Co-operative Society, as the case may be, where a Cane-grower or Cane-growers Co-operative Society applies for the same.

(2) When the Cane Commissioner makes a determination under sub-section (1) and the amount so determined is not paid within the stipulated time period, the amount shall be recoverable as arrears of land revenue under the West Pakistan Land Revenue Act, 1967 (W.P Act No. XVII of 1967).

(3) An amount recoverable as arrears of land revenue under sub-section (2), shall be recovered by the Additional Cane Commissioner of the concerned District, from the occupier of a Factory and the recovered amount shall be paid to the Cane-grower or Cane-growers Co-operative Society, as the case may be.

(4) The powers granted under sub-sections (1), (2) and (3) shall be deemed to have always been vested in the Cane Commissioner and the Additional Cane Commissioner, as the case may be.]

14. (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.

Declaration of Assigned areas and Purchase of Cane therein.

⁴[(ii) The occupier of a Factory shall purchase Cane from a Cane-grower or a Cane-growers Co-operative Society or Purchasing agent, duly authorized by the Cane Commissioner and shall issue Cane Purchase Receipt to the Cane-grower or the Cane growers Co-operative Society or Purchasing agent, as the case may be:

¹ Deleted vide Khyber Pakhtunkhwa Act No. V of 2021.

² Section 13-A. ins. by Khyber Pakhtunkhwa Ord. No. XII of 1978 s. 2.

³ Inserted vide Khyber Pakhtunkhwa Act No. V of 2021.

⁴ Substituted vide Khyber Pakhtunkhwa Act No. V of 2021.

Provided that the Purchasing Agent nominated by the occupier of a Factory shall also issue Cane Purchase Receipt of the sugar factory for purchase of Cane from the Cane-grower in the manner as may be prescribed.]

¹[(iii) If the occupier of a Factory enters into an agreement with a Purchasing agent for purchase of Cane, the Purchasing agent shall issue Cane Purchase Receipt of the sugar factory for purchase of Cane from Cane-grower and shall be liable to pay to the Cane-grower for the Cane purchased from him through a bank in the manner as may be prescribed.]

(iv) ²[Deleted]

(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-sections (ii) and (iv) to the ³[Commissioner of the Division].

⁴[14-A. 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 ⁵[cane] declared by the Provincial Government under section 18 to be unsuitable for distribution]

Power of cane Commissioner to prohibit cultivation of unsuitable varieties of sugar-cane.

15. In any area, other than a reserved area, no person shall purchase cane except-

Purchase of cane outside Reserved Area.

(a) the occupier of a Factory or a person employed by him for the purpose of making such purchases;

(b) a purchasing agent or a person employed by him for the purpose of making such purchases; or

(c) a Cane-Growers' Co-operative, Society;

(d) A Cane grower for *bona-fide* seed purpose:

Provided that a person entitled to purchase cane, may take delivery thereof through a cane grower or through a carrier.

¹ Substituted vide Khyber Pakhtunkhwa Act No. V of 2021.

² Deleted vide Khyber Pakhtunkhwa Act No. V of 2021.

³ Subs. for the words "Provincial Government" by W. P. Ord. in of 1961, s.6.

⁴ Ins. *ibid.*

⁵ In section 14-A, for the words "Sugar-Cane", the Word "Cane", subs, by Khyber Pakhtunkhwa Ord. No. VII of 1976, s. 11.

16. (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. Power of Provincial Government to fix Minimum price.
- (ii) The Provincial Government may from time to time vary, by notification, the price fixed under sub-section (1).
- (iii) The occupier of a Factory or a purchasing agent shall not make any deduction from the amount due for 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.
- ¹[(v) The Provincial Government may direct the factories to pay to the Provincial Government or to growers a premium to be known as quality premium at the end of a crushing /slicing season at such rate as may be specified 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. 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. Licensing of Purchasing Agents.
18. (i) The occupier of a Factory or any other person acting on his behalf shall not distribute ²[seed] of any variety to any person to be used by ³[seed] growers or the members of Cane-Growers' Cooperative Societies if the Provincial Government after consulting the Board, has by an order published in the ⁴[Gazette], declared that such variety of ⁵[seed] is unsuitable for distribution to cultivators. Distribution of seed cane by Factories.

¹ Added vide Khyber Pakhtunkhwa Act No. VIII of 1988.

² Substituted by Khyber Pakhtunkhwa Ord. No. VII of 1976, s.12 and Act No. VIII of 1976 s.12.

³ Substituted by Khyber Pakhtunkhwa Ord. No. VII of 1976, s.12 and Act No. VIII of 1976 s.12.

⁴ Now refers to the Official Gazette of West Pakistan, see W. P. Act XVI of 157, s. 3 (4).

⁵ Substituted by Khyber Pakhtunkhwa Ord. No. VII of 1976, s.12 and Act No. VIII of 1976 s.12.

(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 ¹[seed] on such conditions and in such manner as it may prescribe in every case.

19. (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:

Determination of “occupier” for purposes of this Act.

Provided that the firm or association may give notice to the Collector that it has nominated one of its 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 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 shareholder, 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. 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.

Appointment and removal of Factory Staff.

21. ²[(a) 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 three years or with fine which may extend to five million rupees per day but shall not be less than one million rupees per day or with both:

Penalties.

Provided that the fine shall not be less than five million rupees per day in case of a repeated offence]

¹ Substituted by Khyber Pakhtunkhwa Ord. No. VII of 1976, s.12 and Act No. VIII of 1976 s.12.

² Substituted vide Khyber Pakhtunkhwa Act No. V of 2021.

¹[(b) Offences under this Act shall be cognizable and non-bailable.]

22. (i) ²[Deleted]

Institution of Proceedings.

(ii) ³[Deleted]

(iii) No court inferior to that of a ⁴[Magistrate appointed under section 30 of the Criminal Procedure Code, 1898 (V of 1898)] shall try any offence under this Act or any order or rule made thereunder.

(iv) (a) No suit, prosecution or other legal proceeding shall lie against the Provincial Government or any of its servants for any thing 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. (1) The Provincial Government may make rules to carry out the provisions of this Act. Power to make Rules.

(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 authorities by which any functions under this Act or the rules made there under 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 pacesl at which such estimates should be published.

¹ Substituted vide Khyber Pakhtunkhwa Act No. V of 2021.

² Deleted vide Khyber Pakhtunkhwa Act No. V of 2021.

³ Deleted vide Khyber Pakhtunkhwa Act No. V of 2021.

⁴ Substituted vide Khyber Pakhtunkhwa Act No. V of 2021.

(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 there in and the fees to be charged for the same.