

BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT

NOTIFICATION.

Dated Quetta, the 22nd June, 2022.

No.PAB/Legis:V(24)/2022/8437. The Balochistan Sugarcane (Sale, Purchase and Usage in Factories) Bill 2022 (Bill No.24 of 2022), having been passed by the Provincial Assembly of Balochistan on 10th June, 2022 and assented to by the Governor Balochistan, on 22nd June, 2022 is hereby published as an Act of the Balochistan Provincial Assembly.

**THE BALOCHISTAN SUGARCANE (SALE, PURCHASE AND USAGE
IN FACTORIES) ACT, 2022 ACT NO. XXII OF 2022.**

**AN
ACT**

to regulate the price of sugarcane, its sale and purchase intended for use in sugar factories and granting license to such factories and other matters connected therewith.

Preamble. Whereas, it is expedient, for the purpose of assuring the cane growers of the beneficial cost of their produce; and to regulate the price at which manufacture of sugar may be sold by growers at a fair price for sugarcane intended to be used in the factories; and to regulate the purchase of sugar cane by the factory owners in the province;

It is hereby enacted as follows: -

- 1. Short title, extent and commencement (1)** This Act may be called The Balochistan Sugarcane (Sale, Purchase and Usage in Factories) Act, 2022;
 - (2)** It shall extend to the whole of Balochistan;
 - (3)** It shall come into force at once;
- 2. Definitions. (1)** In this Act, unless there is anything repugnant in the subject or context:
 - (a) “ACT”** means The Balochistan Sugarcane (Sale, Purchase and Usage in Factories) Act 2022;

- (b) **"Controlled area"** means any area specified in a notification issued under section 6;
- (c) **"Cane Commissioner"** means any officer specially appointed by the Industries & Commerce Department with the approval of Hon' able Chief Minister, Balochistan to perform the functions of a Cane Commissioner under this Act and such other duties as may be prescribed;
- (d) **"Cane grower"** means a person who cultivates cane either by himself or by members of his family or by tenants or by hired labour and who is not a Cane Growers' Co-operative Society;
- (e) **"Cane Growers' Co-operative Society"** means a society registered under the Co-operative Societies Act, 1925 (Act VII of 1925), one of the objectives of which is to sell cane grown by-its members;
- (f) **"Collector"** means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Provincial Government to perform the functions of a Collector" under this Act;
- (g) **"Department"** means The Industries and Commerce Department, Government of Balochistan;
- (h) **"Crushing season"** means the period commencing on the fifteenth day of October in any year and ending on the thirteenth day of June of the next following year";
- (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 is being carried on or is ordinarily carried on with the aid of power;
- (j) **"Occupier of a factory"** means the person who has ultimate control over the affairs of a factory:

Provided that in case of the affairs of a factory being entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

- (k) **"Prescribed"** means prescribed by rules made under this Act;
- (l) **"Reserved area"** means an area specified in the order issued;

- (m) **"Sugar"** means any form of sugar containing more than ninety percent of sucrose.
- (2) All other terms are said to be the same as in common parlance.
3. **Construction and extension of a factory:** No person shall commence the construction of any building intended to be used as a factory or any extension of the plant of an existing factory which is likely to increase its capacity for crushing cane unless he has been granted a license by the department with the approval of Honourable Chief Minister on such terms and conditions as may be prescribed.
4. **Licences for crushing cane:** After such date as the department with the approval of Honourable Chief Minister may by notification in the Official Gazette specify in this behalf, no cane shall be crushed in a factory unless the occupier thereof has obtained a licence authorizing him so to do.
5. **Conditions of licenses for crushing cane** A license granted under Section 4, shall be subject to such terms and conditions as the department with the approval of Honourable Chief Minister may impose in respect of all or any of the following matters, namely:
- (a) membership of organization of the sugar industry recognized by the Provincial Government the main object of which is to regulate the sale of sugar;
 - (b) the price above or below which the terms and conditions on which and the persons to whom or the organizations for which or through whose agency, and variety, grade or quantity of sugar produced in the factory may be sold;
 - (c) the manner in which sugar produced in the factory shall be graded, marked, packed or stored for sale;
 - (d) the minimum quantity of the cane that shall be purchased during the crushing season; and
 - (e) such other matters as may be prescribed, including conditions of labour.
6. **Appointment of manager. (1)** No factory shall commence to crush cane unless the occupier sends to the Collector a notice in the prescribed Form appointing a person to be the manager of the factory for purposes of this Act and the rules made there under.

- (2) Any person so appointed shall deposit as security such amount not exceeding one hundred thousand rupees as may be prescribed.
- (3) Whenever another person is appointed as manager, the occupier shall send to the Collector a written notice of the change within fourteen days from the date on which the new manager assumes charge.
- (4) If no person has been appointed manager of a factory under this section, or if the person appointed as manager does not manage the factory, or has not made the requisite deposit, found acting as manager, or, if no such person is found, the occupier himself shall be deemed to be the manager of the factory for purposes of this act and the rules made there under.

7. Declaration of controlled areas, and fixing of prices (1) The Provincial Government may by notification in the official Gazette, declare any area specified in the notification to be a controlled area for the purposes of this Act.

- (2) The Provincial Government may by notification in the official Gazette, fix a minimum price or minimum prices for the purchase in any controlled area of sugarcane intended for use in any factory.
- (3) The Provincial Government may by notification in the official Gazette, prohibit in any controlled area the purchase of sugarcane intended for use in any factory otherwise than from the grower of sugarcane or from a person licensed by the Provincial Government to act as a purchasing agent.

8. Estimates of quantity of cane required by factory (1) The department may by order require the occupier of any factory to submit to the Cane Commissioner, on or before the prescribed date, an estimate in the prescribed form of the quantity of cane which will be required in the factory 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/she may deem fit.
- (3) An estimate published under sub-section (2) may be revised by the department with the approval of Honourable Chief Minister.

9. Declaration of reserved area: (1) The Cane Commissioner, may after consulting the occupier of the factory and after considering any objections that may be raised, issue an order declaring any area to be a reserved area for the supply of cane to a particular factory during the crushing season, and may likewise at any time cancel such order or alter the boundaries of an area so reserved:

Provided that unless the parties concerned consent no portion of an area reserved for one factory shall, so long as the agreements entered into by occupier of such factory with the cane growers in such area for the supply of cane remain in force, be included within reserved area of another factory.

(2) Any person aggrieved by an order of the Cane Commissioner under sub section (1) may appeal to the department.

10. Survey of reserved area (1) The department may order a survey to be made of the area reserved for a factory under section 8 sub section (1) and may recover the cost of such survey from the occupier of the such factory.

(2) Every such survey shall be made by such officer as the department may, by general or special order, appoint in this behalf.

(3) Every person owning, or occupying, land in any area in respect of which a survey is being made shall afford the officer making the survey such assistance for making the survey as may be prescribed.

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

11. Purchase of cane, in reserved area (1) A cane grower or a Cane Growers' Co-operative Society in a reserved area may offer to supply to the occupiers of the factory for which the area is reserved, cane grown by the cane grower or by the members of such Cane Grower's Co-operative Society, as the case may be, not exceeding the quantity, if any, prescribed for such grower or Cane Growers' Co-operative Society.

(2) The occupier or manager of a factory for which an area is reserved shall enter into an agreement to purchase the cane offered in accordance with sub-section (1).

Provided that he shall not enter into an agreement to purchase cane from a person who is a member of Cane Growers' Co-operative Society.

- (3) Except with the permission of the department with the approval of Honourable Chief Minister, cane grown in a reserved area shall not be purchased in such area by a purchasing agent, or by any person other than the occupier of the factory for which such area has been reserved.
- (4) Cane grown in a reserved area shall not be sold by any person other than 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 use in factory through another cane grower or through a carrier.

- (5) If the department with the approval of Honourable Chief Minister 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 agreement, the department may, during the crushing season, direct that cane shall not be purchased outside the reserved area until the occupier of the factory enters into agreement to purchase all the cane offered to him in the reserved area.

Provided that such prohibition shall not apply in respect of cane for the supply of which agreements in writing have been entered into before such direction was issued.

12. Penalties. (1) If any person commences the construction of a new factory or if the occupier of a factory makes any extension of the plant of the factory, in contravention of the provisions of section 3 of this Act, a fine which may extend to one million shall be levied against such person.

- (2) If the occupier of a factory crushes cane without obtaining a licence under section 4, a fine which may extend to five hundred thousand for each day on which cane is crushed at the factory without such licence shall be levied against such person.
- (3) If the department is satisfied that there has been a breach of the conditions of a licence under section 4. The breach may be sent for advice to a Tribunal constituted in the prescribed manner, and on the advice of such Tribunal cancel the license and impose on the occupier of the factory concerned any one or more of the following penalties, that is to say;

- (a)** If the breach consists of a failure or to sell sugar in accordance with the conditions of the license, the penalty may extend to an amount calculated at fifty thousand rupees per maund of the sugar produced or sold in contravention of such condition;
 - (b)** If the breach consists of the wilful failure to purchase a minimum quantity of cane, the penalty may extend to an amount, calculated at a rate not exceeding seventy-five thousand per maund of cane which the person has failed to purchase; and
 - (c)** In any other case of a breach of a condition or conditions of the license, the penalty shall not exceed the sum of five hundred thousand rupees.
- (4)** A fine which may extend to five hundred thousand rupees shall be levied against the occupier or manager of a factory person, any one or all such contraventions individually, If;
 - (a)** intentionally fails to enter into agreement as required by section 10, sub-section (2) or;
 - (b)** intentionally fails to purchase cane in accordance with the terms of an agreement entered into section 10, sub-section (2) or;
 - (c)** purchases cane outside a reserved area in contravention of the provision of section 10 sub-section (5) or;
 - (d)** knowingly enters into an agreement with a cane grower, who is a member of a Cane Growers' Co-operative Society in contravention of the sub section (2) of section 10;
- (5)** If any person knowingly purchases or sells cane in a reserved area in contravention of the provisions of sub-section (3) or sub-section (4) of section 10, the person shall be punishable with imprisonment which may extend to six months or with fine which may extend to one hundred thousand rupees or with both.
- (6)** Any person contravening any of the provisions of this Act for which no penalty is otherwise provided shall be punishable with fine which may be extendable to one hundred thousand rupees.

- (7) Any penalty imposed on the occupier of a factory under sub-section (4) shall be recoverable from such occupier as an arrear of land revenue.
- 13. Tax on sale of cane (1)** The Provincial Government may by notification in the official Gazette impose a tax on the sale of sugarcane at a rate not exceeding one hundred per maund or at a rate not exceeding five per cent, of the sale price and may, by like notification, exempt from such tax sale in any area, or any class or classes of such sales to be specified therein.
- (2) if any agreement for the sale of cane is entered into before the imposition of a tax under this section, the seller, will be entitled to recover from the buyer in addition to and as part of the contract price, the amount of such tax to which the seller may be liable.
- (3) Any sum payable under this section shall be recoverable as an arrear of land revenue.
- 14. Previous publication of notifications under section 6.** Not less than thirty days before the issue of any notification under sub-section (1) or sub-section (2) of section 6, the Provincial Government shall publish in the official Gazette and in such other manner (if any), as it thinks fit a draft of the proposed notification specifying a date on or after which the draft will be taken into consideration and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified.
- 15. Penalty for purchase of sugarcane in contravention of notification under section 6;** Whoever in any controlled area purchases any sugarcane intended for use in a factory at a price less than the minimum price fixed therefore, by notification under sub-section (2) of section 6 or in contravention of any prohibition made under sub-section (3) of section 6 shall be punishable with fine which may extend to one million rupees.
- 16. Sanction for prosecution under this Act:** No Court shall take cognizance of any offence punishable under section 11 except upon complaint made by order of, or under authority from, the, Deputy Commissioner
- 17. Power of Provincial Government to make rules:**
- (1) The Provincial Government, by notification in the official Gazette, shall make rules for the purpose of carrying into effect the objects of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for:

- (a) the carrying out of inquiries preliminary to the exercise of the powers conferred by section 6;
- (b) establishing Advisory Committees for any purpose connected with procedure of such Committee;
- (c) the issue of licences to purchasing agents; the fees for such licences and the regulation of the purchase and sale of sugarcane by and to such agent;
- (d) the organization of growers of sugarcane into societies for the sale of sugarcane to factories;
- (e) the authorities by which any functions under this Act or the rules made there under are to be performed; and
- (f) the records, registers and accounts to be maintained for ensuring for the compliance with provisions of this Act;
- (g) the issuing and renewal of licences, the forms and conditions of licences, the periods for which they are to be issued and the fee to be charged there-fore;
- (h) the amount of deposit under sub-section (2) of section 5.
- (i) the procedure to be followed in making a survey under section 9, the manner of calculating the cost of such survey and the powers to be exercised and the duties to be performed by the officer making the survey;
- (j) the form in which and the date by which an offer under sub- section (1) of section 10, shall be made;
- (k) the form in which, the date by which and the terms and conditions subject to which, an agreement under sub-section (2) of section 10 shall be entered into;

18. Power as Provincial Government to make rules: The Provincial Government after previous publication may, by notification in the official Gazette, make rules providing for the exemption of factories or any class of factories from the provisions of this Act.

19. Repeal: The Sugarcane Act 1934 in its application to the Balochistan Province, shall stand repealed.

(TAHIR SHAH KAKAR)
Secretary.

No.PAB/Legis:V(24)/2022/8437.

Dated Quetta, the 22nd June, 2022

A copy is forwarded to the Chief Controller, Government Printing Press, Balochistan Quetta for favour of publication in Extra-ordinary issue of Gazette of Balochistan. Before final printing, a copy thereof be sent to this Secretariat for Proof reading. Fifty copies of the Act may please be supplied to this Secretariat for record.

(ABDUL REHMAN)
Special Secretary (Legis:)

No.PAB/Legis:V(24)/2022/8437.

Dated Quetta, the 22nd June, 2022

A copy forwarded for information to: -

1. The Principal Secretary to Governor, Balochistan, Quetta.
2. The Principal Secretary to Chief Minister, Balochistan, Quetta.
3. The Secretary, Government of Balochistan Industries and Commerce Department, Quetta.
4. The Secretary, Government of Balochistan, Law & Parliamentary Affairs Department, Quetta.
5. The Director General, Public Relations, Balochistan, Quetta for favour of publication.
6. The System Analyst, Balochistan Provincial Assembly.
7. P.S. to Secretary, Balochistan Provincial Assembly.

Special Secretary (Legis:)