

THE COTTON CESS ACT, 1923

¹ACT No. XIV of 1923

[16th March, 1923]

An Act to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton. ^{2*} *.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the growing, marketing and manufacture of cotton ^{2*} * ; It is hereby enacted as follows :-

1. Short title and extent.-(1) This Act may be called the ^{3*} Cotton Cess Act, 1923.

⁴[(2) It extends to the whole of Pakistan.]

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

(a) “Collector” means, in reference to cotton consumed in a mill in ⁵[Pakistan], the Collector of the district in which the mill is situated ⁶[or any other officer appointed by the ⁷[Federal Government] to perform the duties of a collector under this Act];

(b) “the Committee” means the ⁸[Pakistan Central Cotton Committee] constituted under this Act ;

(c) “cotton” means raw cotton, whether baled or loose, which has been ginned ;

⁹[(d) “Collector of Customs” means an officer appointed as such under section 3 of the Customs Act, 1969 (IV of 1969);

(dd) “Customs airport” and “customs-port” mean, respectively, a customs-air-port and customs port as defined in section 2 of the Customs Act, 1969 (IV of 1969);]

¹For Statement of Objects and Reasons, *see* Gaz. of India, 1923, Pt. V, p. 59; and for Report of Joint Committee, *see ibid*, 1923, Pt. V, p. 97. This Act has been extended to the Leased Areas of Baluchistan, *see* the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950) ; and applied in the Federated Areas of Baluchistan, *see* Gazette of India, 1937, Pt. I, p. 1499.

The Act has also been extended to the Baluchistan States Union, *see* the Baluchistan States Union (Federal Laws) (Extension) Order, 1953 (G.G.O. 4 of 1953), as amended.

The Act has been and shall be deemed to have been brought into force in Gwadur with effect from the 8th September, 1958 by the Gwadur (Application of Central Laws) Ordinance, 1960 (37 of 1960), s. 2.

² The words “in India” rep. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and II Sch.

³ The word “Indian” omitted by A.O., 1949.

⁴ Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (*with effect from the 14th October, 1955*), for sub-section (2), as amended by A.O., 1937, A.O., 1949 and Act 26 of 1951.

⁵ Subs. by Ordinance 21 of 1960, s. 3 and 2nd Sch. (*with effect from the 14th October, 1955*), for “the Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, for “British India”.

⁶ Ins. by the Indian Cotton Cess (Amdt.) Act, 1924 (1 of 1924), s. 2.

⁷ Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government” which was previously amended by A.O., 1937, for “L.G.”.

⁸ Subs. by the Cotton Cess (Amdt.) Act, 1948 (30 of 1948), s. 2, for “Indian Central Cotton Committee” (*with effect from the 11th January, 1949*).

⁹ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II, for clause (d).

(e) “mill” means any place which is a factory as defined in section 2 of the ¹[Factories Act, 1934], and in which cotton is converted into yarn or thread either for sale as such or for conversion into cotton goods ²[which includes all tissues and other articles (except yarn and thread) woven, knitted or otherwise manufactured, wholly or partly from cotton yarn]; ³*

(f) “prescribed” means prescribed by rules made under this Act.

⁴* * * * *

3. Imposition of Cotton Case.⁵**[(1)** There shall be levied and collected on all cotton either exported from the Provinces of Pakistan to any place outside Pakistan or consumed in any mill in the Provinces of Pakistan a cess at such rate as the ⁶[Federal Government] may fix by notification, ⁷ in the official Gazette.

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⁹**[4. Constitution of Pakistan Central Cotton Committee.-(1)** As soon as may be after the commencement of this Act the ⁷[Federal Government] shall set up the Committee.

(2) The Committee shall consist of such members as the ⁷[Federal Government] may, by notification in the official Gazette, appoint to be members, and the ⁷[Federal Government] shall appoint from among them one to be the President and another to be the Vice-President.

(3) The Committee shall be a body corporate by the name of the Pakistan Central Cotton Committee, having perpetual succession and a common seal with powers to acquire and hold property both movable and immovable, and to contract, and shall by the said name sue and be sued.]

¹¹[(4) Nothing contained in the Industrial Relations Ordinance, 1969, (XXIII of 1969) shall apply to or in relation to the Committee or any of the officers, advisers and employees appointed by it.]

5. [Incorporation of the Committee.] Omitted by the Cotton Cess (Amendment) Act, 1948 (XXX of 1948), s. 5.

6. Delivery of monthly returns.-(1) The owner of every mill shall furnish to the Collector, on or before the seventh day of each month, a return stating the total amount of cotton consumed or brought under process in the mill during the preceding month, together with such further information in regard thereto as may be prescribed;

Provided that no return shall be required in regard to cotton consumed or brought under process before the commencement of this Act.

¹ Subs. by Act 30 of 1948, s. 2, for “Indian Factories Act, 1911”. (with effect from the 11th January, 1949).

² Subs. by Ord. 27 of 1981, s. 3 and Sch. II, for “as defined in section 3 of the (Cotton Duties Act, 1896)”. The words in crotchets were previously amended by the Indian Finance Act, 1926 (19 of 1926), s. 3.

³ The word “and” omitted by the Indian Cotton Cess (Amdt.) Act, 1939 (5 of 1939), s. 2.

⁴ Clause (g) which was added by Act 5 of 1939, s. 2, rep. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Sch. II.

⁵ The original section 3 was re-numbered by the Indian Cotton Cess (Amdt.) Act, 1924 (1 of 1924), s. 3, as sub-section (1) of that section, which has been subs. by Act 30 of 1948, s. 3 (a).

⁶ Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government”.

⁷ For such notifi., see Gaz. of P., 1957, Pt. I, p. 13.

⁸ The proviso to sub-section (1), and sub-section (2) omitted by Act 30 of 1948, s. 3 (b).

⁹ Subs. *ibid.*, s. 4, for section 4, as amended by A.O., 1937 and Acts 14 of 1929, s. 2, 5 of 1939, s.3 and 34 of 1939.

¹¹ Sub-section (4) added by the Cotton Cess (Amdt.) Ordinance, 1980 (13 of 1980)

(2) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

7. Collection of cess by Collector.-(1) On receiving any return made under section 6, the Collector shall assess the cotton cess, payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

(2) If the owner of any mill fails to furnish in due time return referred to in section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub-section (1) shall thereupon, apply as if such assessment had been made on the basis of a return furnished by the owner

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the cess at an amount higher than that at which it is assessable on the basis of the return without giving to the owner a reasonable opportunity of proving the correctness and completeness of the return.

(3) A notice under sub-section (1) may be served on the owner of a mill either by post or by delivering it or tendering to it the owner or his agent at the mill.

¹**[8. Collection of cess on exported cotton.-(1)** In respect of cotton exported by air, land or sea, cess shall be assessed and levied by the Collector of Customs at the customs-airport or customs-port of export, and, subject to the provisions of this Act and of any rules made thereunder, shall, for all or any of the purposes of the Customs Act, 1969, (IV of 1969) be deemed to be a duty of customs.

(2) The Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, (IV of 1924) may make rules providing, on such conditions as may be specified in the rules, for the refund of the cess levied where cotton is exported by land and subsequently imported into Pakistan.]

9. Finality of assessment and recovery of unpaid cess.-(1) An assessment made in accordance with the provisions of section 7 or section 8 shall not be questioned in any Court.

(2) Any owner of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to, in sub-section (1) of that section, apply to the ²[Federal Government] for the cancellation or modification of the assessment and, on such application, the ²[Federal Government] may cancel or modify the assessment and order the refund to such owner of the whole or Part, as the case may be, of any amount paid thereunder.

(3) Any sum recoverable under section 7 may be recovered as an arrear of land revenue.

¹ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II, for section 8, which was previously amended by various enactments.

² Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government" which was previously amended by A.O., 1937, for "L.G."

10. Power to inspect mills and take copies of records and accounts.-(1) The Collector or any officer empowered by general or special order of the ²[Federal Government] in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill.

(2) The Collector or any such officer may at any time, with or without notice to the owner, examine the working records, sale records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(3) Where any officer other than the Collector proposes to examine under sub-section (2) any record or account containing the description or formulate of any trade process, the owner of the mill may give to the said officer, for transmission to the Collector, a Written notice of objection and the officer shall thereupon seal up the record or account pending the orders of the Collector.

11. Information acquired to be confidential.-(1) All such copies and extracts and all information acquired by a Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential.

(2) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the Previous sanction of the ¹[Federal Government], he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine;

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act.

12. Application of proceeds of cess.-(1) On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the cess recovered during that month shall, after deduction of the expenses, if any, of collection and recovery, be paid to the Committee.

(2) Subject to such conditions as may be prescribed, the said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may, with the previous approval of the ²[Federal Government], decide to undertake for promoting agricultural and technological research in the interests of the cotton industry in ³[Pakistan].

12A. *[Payment to Government of Burma.] Omitted by the Cotton Cess (Amendment) Act, 1948 (XXX of 1948), s. 8.*

13. Validation. No Act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee or ⁴[any of its sub-committees].

¹ Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government" which was previously amended by A.O., 1937, for "L.G.".

² Subs. by F.A.O. 1975, Art. 2 and Table, for "Central Government" which has been Subs. by A.O., 1937, for "G.G. in C.,"

³ Subs. by the Cotton Cess (Amdt.) Act, 1948 (30 of 1948), s. 7, for "India".

⁴ Subs. *ibid.*, s. 9, for "the Standing Finance Sub-Committee, if any".

14. Dissolution of Committee. The ¹[Federal Government] may, by notification in the ²[official Gazette], declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest ³[in the ⁴[Federal Government] and] this Act shall be deemed to have been repealed.

15. Power of the Federal Government to make rules.-(1) The ¹[Federal Government] may make rules⁵ for the purpose of carrying into effect all or any of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) for prescribing the time within which nominations shall be made under section 4 whether in the first instance or on the occurrence of vacancies ;
- (b) for prescribing the term of office of the members of the Committee ;
- (c) for prescribing the circumstances in which and the authority by which any member may be removed ;
- (d) for the holding of a minimum number of meetings of the Committee during any year ;
- (e) for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the ⁶[Federal Government];
- (f) for the definition of the powers of the Committee and ⁷[its officers] to enter into contracts which shall be binding on the Committee, and the manner in which such contracts shall be executed;
- (g) for the regulation of the travelling allowances of members of the Committee and of their remuneration, if any ;
- (h) for the definition of the powers of the Committee and ²[its officers] in respect of the appointment, promotion and dismissal of officers and servants of the Committee, and in respect of the creation and abolition of appointments of such officers or servants ;
- (i) for the regulation of the grant of pay and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;
- (j) for the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee;
- (k) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction

¹ Subs. by F.A.O.1975, Art.2 and Table, for "Central Government" which was been Subs. by A.O, 1937, for "L.G.".

² Subs. by A.O., 1937, for "Gazette of India".

³ The words "in His Majesty and" have successively been amended by A.O., 1937 and A.O., 1961, Art. 2 and Sch. (*with effect from the 23rd March, 1956*), to read as above.

⁴ Subs. by F.A.O. 1975 Art. 2 and Table for "Central Government".

⁵ For such rules, *see* Gen. R. & O.

⁶ Subs. F.A.O., 1975, Art. 2 and Table, for "Central Government" which was previously amended by A.O., 1937, for "G.G. in C.".

⁷ Subs. by the Cotton Cess (Amdt.) Act, 1948 (30 of 1948), s. 11 (a), for "of the Secretary".

³ Subs. *ibid.*, for "the Secretary".

of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee ;

- (l) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published ;
- (m) for defining the powers of the Committee, ¹[its subcommittees, if any, the President and its officers], in regard to the expenditure of the funds of the Committee, whether provision has or has not been made in the budget estimates or by reappropriation for such expenditure; and in regard to the reappropriation of estimated savings in the budget estimates of expenditure;
- (n) for prescribing the maintenance of accounts of the receipts and expenditure of the Committee and providing for the audit of such accounts ;
- (o) for prescribing the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Committee shall be signed ;
- (p) for determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus monies at the credit of the Committee may be deposited at interest, and the conditions on which such monies may be otherwise invested ;
- (q) for prescribing the preparation of a statement showing the sums allotted to Provincial Departments of Agriculture or institutions not under the direct control of the Committee for expenditure on research, the actual expenditure incurred, the outstanding liabilities, if any, and the disposal of unexpended balances at the end of the year ;
- (r) the assessment, levy, and payment of the cotton cess in respect of cotton exported by sea ²[or by land]; and
- (s) any other matter which is to be or may be prescribed.

16. Power of the Committee to make rules. The Committee may, with the previous sanction of the ³[Federal Government, make rules⁴ consistent with this Act and with any rules made under section 15 to provide for all or any of the following matters, namely :-

¹ Subs. by the Cotton Cess (Amdt.) Act, 1948 (30 of 1948), s. 11(d), for “the Standing Finance Sub-Committee, if any, the President and the Secretary, respectively.

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- (a) for the appointment of ¹[appropriate sub-committees] and the delegation thereto of any powers exercisable under this Act by the Committee ;
- (b) for prescribing the method of appointment, removal and replacement and the term of office of members of the ²[sub-committees], and for the filling of vacancies therein ;
- (c) for the appointment of the dates, times and places for meetings of the Committee and the ²[Sub-committees], and for regulating the procedure to be observed at such meetings ;
- (d) for determining the circumstances in which security may be demanded from officers and servants of the Committee, and the amount and nature of such security in each case
- (e) for determining the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability ;
- (f) for determining the contribution, if any, payable from the funds of the Committee to the provident fund ;
- (g) for regulating generally all matters incidental to the provident fund and the investment thereof ;
- (h) for defining the powers and duties of the ³[officers,] of the Committee.

17. Publications of rules. All rules made under section 15 or section 16 shall be published in the ⁴[official Gazette] and on such publication, shall have effect as if enacted in this Act.

¹ Subs. by the Cotton Cess (Amdt.) Act, 1948 (30 of 1948), s. 12 (a), for "a Standing Finance Sub-Committee".

² Subs. *ibid.*, s. 12(b), for "Standing Finance Sub-Committee".

³ Subs. *ibid.*, s. 12 (c), for "Secretary".

⁴ Subs. by A.O., 1937, for "Gazette of India".