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PART II—Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 31st August, 1969/Bhadra 9, 1891 (Saka)

The following President's Act is published for general information:—

**THE BIHAR SUGARCANE (REGULATION OF SUPPLY AND
PURCHASE) ACT, 1969**

No. 8 of 1969

Enacted by the President in the Twentieth Year of the
Republic of India.

An Act to regulate the production, supply and distribution of
sugarcane intended for use in sugar factories and Khandasari
Sugar Manufacturing Units and taxation of sugarcane and
matters incidental thereto

In exercise of the powers conferred by section 3 of the Bihar
32 of 1969. State Legislature (Delegation of Powers) Act, 1969, the President is pleased
to enact as follows:—

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Bihar Sugarcane (Regulation of
Supply and Purchase) Act, 1969.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Board" means the Sugarcane Board established under
section 3;

(b) "cane" means sugarcane intended for use in a factory or
unit;

(c) "Cane Commissioner" means the officer appointed to be the Cane Commissioner under section 12;

(d) "cane-grower" means a person who cultivates cane in a reserved area either by himself or by members of his family or by hired labour and who is not a member of any co-operative society in the village concerned;

(e) "Cane Officer" means the Cane Officer appointed under section 13 and includes the Additional Cane Officer;

(f) "Collector" means the Collector of a district and includes any officer not below the rank of a Deputy Collector appointed by the State Government to discharge all or any of the functions of a Collector under this Act;

(g) "co-operative society" means a society registered under the Bihar and Orissa Co-operative Societies Act, 1935, one of the objects of which is to sell cane grown by its members and includes a union of such societies registered under that Act, namely, a Co-operative Development and Cane Marketing Union or a Vyapar Mandal Co-operative Society;

B. & O.
Act VI
of 1935.

(h) "council" means a Zonal Development Council established under section 7;

(i) "crushing year" means the year commencing on the 1st day of July in any year and ending on the 30th June in the year next following;

(j) "factory" means any premises, including the precincts thereof in any part of which sugar is manufactured by means of vacuum-pan process;

(k) "manager" means the manager appointed under section 25;

(l) "occupier of a factory" means a person carrying on the business of manufacturing sugar by vacuum-pan process in a factory and having the ultimate control over the affairs of the factory;

(m) "prescribed" means prescribed by rules;

(n) "requisition slip" means a slip issued by or on behalf of the occupier of a factory under which a cane-grower or a co-operative society is required to bring cane grown in a reserved area on a date and place specified therein for purchase by or on behalf of the person issuing the slip;

(o) "reserved area" means any area, wherein sugarcane is grown or is likely to be grown and which is reserved for a factory under section 31;

(p) "rules" means rules made under this Act;

(q) "State Government" means the Government of the State of Bihar;

(r) "sugar" means any form of sugar containing more than ninety *per centum* of sucrose including sugarcandy or khandsari sugar (sugar produced by open pan process) or *bura* sugar or crushed sugar or any sugar in crystalline or powdered form or sugar in process in a factory or raw sugar produced therein;

(s) "unit" means a manufacturing unit engaged or ordinarily engaged in the manufacture or production of khandsari sugar, in a reserved area, from cane juice or *rab*.

CHAPTER II

ADMINISTRATIVE MACHINERY

3. (1) With effect from such date as the State Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act a Board, to be called the Sugarcane Board, for the State of Bihar. Establishment of Sugarcane Board.

(2) The Board shall consist of the following members, namely:—

(a) Minister-in-charge of sugarcane who shall be the Chairman;

(b) five members to represent the Bihar State Legislature, of whom four members shall be elected from amongst themselves by the members of the Bihar Legislative Assembly and one member shall be elected from amongst themselves by the members of the Bihar Legislative Council, on the principle of proportional representation by means of a single transferable vote;

(c) seventeen members to be appointed by the State Government in prescribed manner and in the following proportion to represent:—

(i) factories		4
(ii) units		1
(iii) cane-growers and co-operative societies	..	5
(iv) persons possessing technical knowledge in sugarcane or otherwise interested in development of sugarcane and its products	..	5
(v) labour	..	1
(vi) Khadi and Village Industries Commission	..	1;

(d) the Director of Agriculture Bihar, Director of Sugarcane Research Institute, Chief Engineers of Electricity, Road Construction, Irrigation, Minor Irrigation, Chairman of the Bihar State Co-operative Marketing Union and the Cane Commissioner who shall be *ex officio* members; and

(e) the Secretary to the State Government in Co-operation and Sugarcane Department or such other officer as may be nominated by the State Government, who shall be *ex officio* Secretary of the Board:

Provided that during the period of operation of any Proclamation issued under article 356 of the Constitution, in relation to the State of Bihar, such persons as may be nominated by the State Government in this behalf shall be the Chairman and members respectively in place of the Minister-in-charge of sugarcane and members representing, under clause (b) of this sub-section, the Bihar Legislative Assembly dissolved under the said Proclamation:

Provided further that before the appointment of representatives of co-operative societies under clause (c) of this sub-section, recommendations of the apex society of such societies shall be called for.

(3) The Chairman, or in his absence, any person from amongst the members elected under clause (b) of sub-section (2), to be nominated by the Chairman, shall preside over the meetings of the Board:

Provided that during the period of operation of the Proclamation referred to in sub-section (2), the Chairman of the Board shall have the power to nominate any member to preside, in his absence, over the meetings of the Board.

(4) The Board shall be constituted initially for a period of three years and shall thereafter be reconstituted for periods of like duration. The term of office of the Chairman, Secretary and members of the Board shall be co-terminus with the period of constitution or reconstitution of the Board, as the case may be:

Provided that the State Government may, if it thinks expedient at any time, accept the resignation of any member of the Board and fill up the vacancy subject to the provisions of sub-section (2).

(5) The Board, its executive committee or sub-committee shall discharge its functions and conduct its business in such manner, and shall meet at such times and places and shall observe such rules and procedure in regard to the transaction of business at its meetings as may be prescribed.

Functions
of the
Board.

4. (1) The Board shall advise the State Government on the following matters, namely:—

(a) planning of development schemes connected with production, research, transport and sale of sugarcane;

(b) matters pertaining to regulation of supply, purchase and weighing of cane;

(c) the varieties of sugarcane, tested by the Sugarcane Research Institute in the State, which are suitable or unsuitable for use in a factory;

(d) recommendations in respect of the price of cane to be supplied to factories;

(e) determination of the price of cane payable by owners of units;

(f) maintenance of healthy relations between the occupiers and managers of factories on the one hand and the cane-growers and co-operative societies on the other; and

(g) such other matters as may be prescribed.

(2) In addition to the functions specified in sub-section (1), the Board may, through the medium of its executive committee,—

(a) inspect, supervise, review and co-ordinate the activities of the councils and make arrangements for concurrent audit of their accounts;

(b) give general or special direction, for carrying out the functions specified in clause (a), which shall be complied with by the councils; and

(c) recover, wholly or partly, the cost of the concurrent audit, referred to in clause (a) as public demand.

(3) In the event of any council failing to comply with any direction of the Board under clause (b) of sub-section (2), the Board shall send a report to the State Government specifying therein the details of such failure for such action including suspension, wholly or partly, of payments specified in section 9, as may be considered necessary by the State Government.

5. (1) There shall be an executive committee of the Board consisting of seven members including the Chairman of whom at least four members shall be non-officials.

Executive committee and sub-committee of the Board.

(2) The Chairman and members of the executive committee shall be appointed by the Board from amongst its own members in such manner as may be prescribed.

(3) The Chairman of the executive committee shall be such person as may render whole-time service.

(4) The Board may constitute a sub-committee consisting of not more than five of its members for carrying out any of its function under sub-section (1) of section 4, and the sub-committee so constituted may appoint one of its members to be the convener.

(5) A sub-committee shall have power to co-opt any official or non-official expert qualified to advise it on any matter entrusted to it:

Provided that any person so co-opted shall not be entitled to vote.

6. (1) The Board shall administer the following funds:—

Funds of the Board.

(i) the sum received as grant under section 49;

(ii) the sum transferred under section 9; and

(iii) the sum received from any other source.

(2) The Board may utilise its funds to meet the expenditure incurred in connection with its duties and functions and may, subject to the previous approval of the State Government, sanction by its resolution payment of appropriate remuneration and allowances to the Chairman of the executive committee and travelling allowances and sitting fees to the non-official members including the persons co-opted under sub-section (5) of section 5 for attending the meetings of the Board, the executive committee or a sub-committee, as the case may be:

Provided that nothing in excess of 5 *per centum* of the amount received under section 49 shall, without the approval of the State Government, be spent as administrative expenses:

Provided further that the amount transferred under section 9 shall be spent only in the interest of the council concerned.

(3) In making use of the funds the policy of spending maximum amounts in the interest of the areas of the financially weak councils and factories that have not completed the fifth crushing year since establishment and commissioning (hereinafter referred to as new factories) shall be adopted and the minimum proportion of the total expenditure therefor by the Board or under its authority, in respect of any crushing year, shall be such as may be prescribed.

Establishment of Zonal Development Council.

7. (1) With effect from such date as the State Government may, by notification in the Official Gazette, specify in this behalf, there shall be established a Zonal Development Council for each reserved area consisting of—

(a) the Collector of the district or the Sub-divisional Officer or the District Development Officer, who shall be the Chairman;

(b) the District Agriculture Officer or the Assistant Director of Agriculture (Sugarcane) or the Sub-divisional Agriculture Officer;

(c) a nominee of the Cane Commissioner who shall be the Secretary;

(d) the District Engineer;

(e) four representatives of local cane-growers and co-operative societies who shall be nominated by the State Government and of whom not less than two shall be representatives of the co-operative societies and shall be such persons as are recommended by the co-operative society referred to in section 62; and

(f) one representative of the occupier of the factory to be nominated by the State Government on the recommendation of the occupier:

Provided that where the reserved area is so constituted as to spread over more than one sub-division or district, the Chairman shall be appointed and membership of the council augmented in such manner as may be prescribed to provide for representation of all parts of the reserved area

(2) The council shall initially be constituted for a period of three years and shall subsequently be reconstituted for periods of like duration.

(3) The term of office of the Chairman, Secretary and members of the council shall be co-terminus with the period of constitution or reconstitution of the council, as the case may be, and shall include any further period which may elapse between the expiration of the period of the constitution or reconstitution, as the case may be, and the succeeding reconstitution of the council:

Provided that the State Government may, if it thinks expedient at any time, accept the resignation of any member of the council and fill up the vacancy subject to the provisions of sub-section (1).

(4) The council shall have power to co-opt, for the discussion of any particular matter before it, any officer of the State Government or any expert qualified to give advice on the matter:

Provided that any person so co-opted shall not be entitled to vote.

(5) The council shall perform its functions and conduct its business in such manner, and shall meet at such times and places and shall observe such rules and procedure in regard to the transaction of business at its meetings as may be prescribed.

(6) Joint meetings of all councils of the district may be held to consider such matter and in such manner as may be prescribed.

(7) The Collector of the district shall preside over such meetings and anyone from amongst Secretaries of the councils nominated by the Cane Commissioner shall be the convener of the meeting.

8. The functions of the council shall be as follows:—

Functions
of the
council.

(a) to consider and prepare the programme for the development of communications, irrigation, soil analysis and other agricultural facilities relating to sugarcane;

(b) to devise ways and means for executing development plan in all its essentials including improvement and development of communications, cane varieties, supply of good quality seeds, fertilisers and manures, plant protection and prevention and control of diseases and pests;

(c) to render all possible help in agricultural extension work of cane;

(d) to assist in arrangements for the training of cultivators in improved methods of sugarcane cultivation; and

(e) to perform such other functions pertaining and conducive to the general development of the reserved area as may be prescribed.

9. (1) The council may administer—

Funds of
the coun-
cil.

(i) any sum placed at its disposal by the State Government in form of grant under section 48 or 49 or otherwise;

(ii) any sum contributed by the factories, cane-growers and co-operative societies;

(iii) any other sum which the State Government may, from time to time, require to be credited to the fund of the council; and

(iv) the amount received from any other source.

(2) The council shall utilise its funds to meet the charges in connection with the discharge of its duties and performance of its functions under this Act and may pay to its non-official members including persons co-opted under sub-section (4) of section 7, allowances and sitting fees, for attending its meetings or the joint meetings under sub-section (6) of section 7, at such rates as may be approved by the State Government in consultation with the Board.

(3) The council shall utilise its funds for administrative expenses within the limits prescribed.

(4) In the event of the failure of the council to commence implementation of any development work relating to a crushing year within two years of its inclusion in the programme of improvement, the amount concerned shall be transferred to the Board and the Board shall have the power to spend it and the council shall comply with the order of the Board in respect of such amount.

Incorporation, saving of acts and proceedings and audit of accounts of the Board and the councils.

10. (1) The Board and every council shall be bodies corporate by the names under which they are established, each having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by their names sue and be sued.

(2) No act or proceeding of the Board or any council shall be invalidated merely by reason of—

(a) any vacancy or any defect in its constitution; or

(b) any defect in the appointment of a person acting as its member; or

(c) any irregularity in its proceedings not affecting the merits of the case.

(3) The accounts of the Board and every council shall be subject to audit by an auditor appointed by the State Government in this behalf:

Provided that instead of appointing any auditor under this section, the State Government may, by notification in the Official Gazette, direct that the accounts of the Board or a council shall be subject to audit under the Bihar and Orissa Local Fund Audit Act, 1925, and the Board or the council shall be deemed to be a local authority and its fund shall be deemed to be a local fund for the purposes of the said Act.

B. & O.
Act II
of 1925.

(4) The auditor shall submit his report to the Board or the council, as the case may be, and forward a copy of it to the State Government which may, after giving the Board or the council an opportunity

to offer explanation in respect thereof, issue such directions thereon as it may deem fit and the Board or the council shall carry them out.

B. & O.
Act II
of 1925.

(5) The auditor, other than an auditor appointed under the Bihar and Orissa Local Fund Audit Act, 1925, shall be paid from the fund of the Board or the council, as the case may be, such remuneration as may be prescribed.

11. (1) If, in the opinion of the State Government, any council is persistently negligent in the performance of its duties and functions, under this Act or the rules, or commits any act which is prejudicial to its interest or wilfully disobeys any direction of the Board under clause (b) of sub-section (2) of section 4 or is otherwise not functioning properly, the State Government may, by notification in the Official Gazette, direct, at any time, after giving the council a reasonable opportunity of being heard, that the council shall be dissolved on such date and for such period as may be specified in the notification. Dissolution
of the
council.

(2) When the council is dissolved under sub-section (1), all members of the council, including the Chairman and the Secretary shall, from the date of dissolution, be deemed to have vacated their offices, but without prejudice to their eligibility for re-appointment or re-nomination and all powers and duties of the council shall, during the period of dissolution, be exercised and performed by such person or persons as the State Government may appoint in this behalf.

(3) Within six months of dissolution, the council shall be reconstituted in accordance with the provisions of section 7.

12. (1) The State Government may, by notification in the Official Gazette, appoint any person to be the Cane Commissioner for the State of Bihar and to exercise the powers and perform the duties conferred and imposed on the Cane Commissioner by or under this Act. Appoint-
ment
of Cane
Commis-
sioner.

(2) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be the Additional Cane Commissioner, Joint Cane Commissioner, Deputy Cane Commissioner and Assistant Cane Commissioner to assist the Cane Commissioner within such local limits as may be assigned to them and confer and impose upon them all or any of the powers and duties of the Cane Commissioner within their respective jurisdiction.

13. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Cane Officers for the purposes of this Act within such local limits as may be assigned to them. Appoint-
ment
of Cane
Officers.

(2) The Cane Commissioner, every person appointed under sub-section (2) of section 12 to assist the Cane Commissioner, every District Magistrate and every Sub-divisional Magistrate shall be an *ex officio* Cane Officer within his jurisdiction.

(3) The State Government may also, by notification in the Official Gazette, appoint such officers as it thinks fit to be Additional Cane Officers for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(4) In any area where there are more Cane Officers than one, the State Government may, by notification in the Official Gazette, declare the functions which each Cane Officer shall perform.

(5) A Cane Officer may, within the local limits of his jurisdiction—

(a) enter any place which is or which he has reason to believe to be used as a factory or a unit or a godown or any place, where cane is weighed or payment is made therefor, and make such examination as he may think necessary of the weighbridge or scales or any other machine used for weighment and of any records, registers, accounts maintained in connection with the purchase of cane;

(b) cause cane carts or wagons including trucks and any other means of transport, or consignments of cane to be weighed or reweighed in his presence:

Provided that cane already loaded shall not ordinarily be required to be unloaded for the purposes of reweighment except under special circumstances to be intimated in writing to the manager of the factory and the Cane Commissioner;

(c) record the statement of any person whom he may deem necessary to examine for the proper discharge of his duties;

(d) call for from the occupier or manager of a factory or owner of a unit any information relating to the production, supply or crushing of cane, the manufacture of sugar and the quantity or the quality of sugar, *rab* or molasses produced, issued or in stock and payment of the price of cane;

(e) call for from a sugarcane-grower or a co-operative society any information relating to the production, cultivation and supply of sugarcane or cane and payment of the price therefor; and

(f) shall perform such other functions as may be prescribed or directed by the State Government.

(6) Where the Cane Officer has reasons to believe that the provisions of this Act and the rules or the terms or conditions of any licences granted thereunder have been, are being or are about to be contravened, he may—

(a) direct the owner of the unit to produce any book, accounts or other documents relating to such contraventions;

(b) inspect or break open and search in the presence of two witnesses any part of the unit or its premises or any place used for the purpose of the unit;

(c) take or cause to be taken extracts from or copies of documents showing transactions relating to such contraventions;

(d) search, seize and remove in the presence of two witnesses any vital part of any machinery of the unit, including any power crusher, so as to make it inoperative;

(e) for reasons to be recorded in writing, seize accounts, registers or documents of the factory or unit relating to purchase of cane or cane juice or payment of price of cane by or on behalf of the occupier

of the factory or the owner of the unit, as the case may be, and shall grant a receipt for the same, and such seized accounts, registers or documents shall be retained for so long as may be reasonably necessary for examination thereof or for a prosecution under section 52 or any proceeding under section 57 and shall thereafter be returned in the prescribed manner:

Provided that if the seized accounts, registers, or documents are retained by the Cane Officer for more than ninety days, the reasons for doing so shall be recorded in writing and the approval of the Cane Commissioner shall be obtained.

Explanation.—For the purpose of clause (d), the expression “power crusher” means a crusher working with the aid of diesel, electric or steam power engaged or ordinarily engaged in crushing cane and extracting juice therefrom for the manufacture of *rab* or *khandsari* sugar.

(7) A Cane Officer may call for information relating to—

(i) production, purchase, supply or survey of cane, the price of cane, the amount deducted from the price of cane and its deposit under section 44, or

(ii) the production or supply of cane juice and its price from the occupier of a factory, owner of a unit or secretary of a co-operative society, situated outside his jurisdiction if such occupier or owner or co-operative society purchases cane or juice of cane grown within his jurisdiction.

(8) The Cane Officer may issue such instructions for equitable purchase of cane as he deems necessary and such instructions shall be complied with immediately:

Provided that the prescribed authority may, either *suo motu* or on an application being made to it by any party concerned, suspend the operation of the instruction and, after giving reasonable opportunity of being heard to the parties concerned, revise the instruction and the order in revision shall be final.

(9) The occupier of a factory, the owner of a unit, persons acting on their behalf, every sugarcane-grower or cane-grower or other person or a co-operative society shall comply with any order, direction or instruction issued under this section.

14. No person, who is directly or indirectly interested in a factory or unit or in any process or business carried on therein or any patent or machinery connected therewith, shall be appointed to assist the Cane Commissioner or to be Cane Commissioner or Cane Officer and no person shall, after such appointment, hold such office, if he becomes so interested.

Disqualification for appointment as Cane Commissioner, etc.

CHAPTER III

LICENCES

15. (1) No cane shall be crushed in a factory unless the occupier thereof has obtained a licence, from the State Government, in the form prescribed, authorising crushing of such quantities of cane, in the relevant crushing year, as may be specified in the licence:

Licence for crushing cane in a factory.

Provided that the quantity specified in the licence shall not exceed the quantity published under section 27

(2) On an application being made to the State Government in the prescribed form and manner, the licence shall be granted:

Provided that the State Government may refuse to grant a licence in respect of a factory if—

(a) it has already cancelled or refused to renew a licence previously granted; or

(b) no application was made to renew, for the preceding crushing year, a licence previously granted.

(3) Except with the previous permission of the State Government, the quantity of cane crushed in the factory in the relevant crushing year shall not exceed the quantity specified in the licence.

Licence for
crushing
and
manu-
facture
in a unit.

16. (1) No cane shall be crushed or cane juice shall be purchased for manufacture of *rab* or khandsari sugar in a unit, in the relevant crushing year, except under and in accordance with the terms and conditions of a licence to be obtained by the owner of the unit from the Cane Commissioner by making an application to him and depositing with the prescribed authority, in the prescribed manner, such sum of money, if any, as may be prescribed, as security for the due performance of the conditions of the licence.

Provided that where only cane grown by the owner of the unit is crushed in the unit and no other cane nor cane juice is purchased for use in the unit, the owner of the unit shall not be required to obtain a licence.

(2) If, after giving an opportunity of being heard to the owner of the unit and the occupier of the factory concerned, the Cane Commissioner is satisfied that the unit unduly impairs production of sugar by such occupier, he may refuse to grant a licence.

(3) The licence granted under this section shall be non-transferable.

(4) The security deposited under sub-section (1) shall be maintained, forfeited and replenished in the prescribed manner and during any period in which the deposit is depleted or extinguished by forfeiture and is not replenished the licence shall be deemed to have been cancelled.

Conditions
of
licences
granted to
occupiers
of
factories or
owners of
units.

17. (1) A licence granted under section 15 shall be subject to such conditions as the State Government may impose in respect of the following matters, namely:—

(a) the quantity of cane to be crushed during the crushing year;

(b) the dates of starting and closing the factory for the purpose of crushing cane; and

(c) such other incidental matters as may be prescribed.

(2) A licence granted under section 16 shall be subject to such conditions as the Cane Commissioner may, in conformity with general principles

laid down by the Board in this behalf, impose in respect of all or any of the following matters, namely:—

(a) the maximum quantity of cane or cane juice to be purchased in the relevant crushing year;

(b) purchase of cane or cane juice partly or wholly through a co-operative society existing in the area and payment of commission to such co-operative society at such rate not exceeding the rate payable to a co-operative society in the same area under section 48, as the Cane Commissioner may specify;

(c) the period and hours of working of the unit;

(d) prohibition of use of the unit for any purposes other than those for which the licence has been granted;

(e) prohibition of extension, addition or alteration to the unit or change of its location without previous permission;

(f) intimation to be given in the event of the transfer or sale of the unit or any part thereof;

(g) maintenance of the accounts of the cane crushed, cane juice used, *rab* or khandsari sugar produced, kept in storage or despatched and production of the records thereof on demand for inspection and examination;

(h) immediate access to the premises of the unit to be allowed to the Cane Officer; and

(i) such other matters as may be prescribed including price and payment thereof, packing, disposal, delivery or distribution of cane purchased or khandsari sugar produced.

18. Where the licensee of a licence granted under section 15 or 16 commits any breach of the conditions of the licence or contravenes any of the provisions of this Act or the rules, the State Government or the Cane Commissioner, as the case may be, may (without prejudice to any other action that may be taken against the licensee) cancel or suspend the licence by an order in writing after giving the licensee an opportunity of being heard.

Power to
cancel or
suspend
the
licence of
a factory
or unit.

19. (1) Where the Cane Commissioner is satisfied that a unit unduly impairs the production of sugar by the factory concerned he may, by an order in writing issued in this behalf, require the owner of the unit to shift the unit to such a place outside the reserved area as may be specified in the order:

Power to
shift a unit.

Provided that no such order of shifting shall be issued unless the occupier of the factory concerned undertakes to pay the cost of shifting determined by the Cane Commissioner on the basis of an agreement between the parties, or, if there be no such agreement, on a fair and reasonable basis after affording the parties an opportunity to make representation in writing as to the cost involved and the basis of calculation thereof:

Provided further that where only sugarcane grown by the owner of the unit is crushed in the unit and no other cane nor cane juice is purchased for use in the unit, the owner of the unit, shall not be required to shift it.

(2) Upon the Cane Commissioner issuing the order under sub-section (1) the owner of the unit shall suspend the operation of the unit forthwith and shall produce the licence before the Cane Commissioner for entry of the changed site.

Appeal
against
Cane Com-
missioner's
order.

20. Any person aggrieved by any order of the Cane Commissioner under section 16, 18 or 19 may appeal to the prescribed authority within fifteen days of the receipt of such order.

Continu-
ance of the
subsisting
licences.

21. (1) Notwithstanding anything contained in this Chapter, a licence held by the occupier of a factory or the owner of a unit under the Essential Commodities Act, 1955, at the commencement of this Act shall continue to be valid for the remainder of the crushing year as if it were a licence granted under this Act.

10 of 1955.

(2) The subsisting licence, referred to in sub-section (1), shall be replaced by a fresh licence under this Act on an application being made for it within the period prescribed for grant of a licence under section 15 or 16, as the case may be, and on payment of the prescribed fee.

Licence fee.

22. (1) Such fees shall be paid for licences granted under this Chapter as may be prescribed.

(2) Different scales of fees may be prescribed for different classes of factories or units.

Exemption
from the
provisions
of this
Chapter.

23. Where regard being had to the special facts and circumstances of any class of persons, the State Government is satisfied that application of any or all provisions of this Chapter to such class of persons shall be inequitable or involve any hardship, it may, by notification in the Official Gazette, exempt such class of persons from the operation of such provisions.

Employee's
licence.

24. (1) Where the State Government after giving a reasonable opportunity of being heard to the occupier of the factory concerned, is satisfied that for adequately protecting interests of the cane-growers and co-operative societies it is expedient to control, by licensing, the activities of employees of the factory operating in any area in connection with purchase of cane and payment of price thereof, it may, by notification in the Official Gazette, direct that in such area no person or class of persons to whom licence has not been granted in the prescribed manner shall be employed by the occupier of the factory or the manager in connection with any transaction for the purchase of cane or payment of price of cane.

(2) No person shall be granted licence under sub-section (1) unless such person has deposited the prescribed sum of money, in the prescribed manner, as security.

(3) Where the security is forfeited in whole or in part under sub-section (2) of section 57 and the licensee fails to replenish it within fifteen days of such forfeiture, the licence shall be deemed to have been cancelled.

CHAPTER IV

PURCHASE AND SUPPLY OF CANE

25. (1) Within thirty days of the commencement of this Act and thereafter within the same period before the commencement of every crushing year the occupier of a factory shall send to the Collector a notice of appointment of any person as manager for the purposes of this Act or the rules:

Appoint-
ment of
manager

Provided that until the first notice of appointment of manager under this Act is sent, the person appointed or deemed to be appointed as manager under the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1969, shall be deemed to be a manager under this Act.

Bihar
Ordinance
VI of 1969.

(2) No person shall be deemed to have been appointed as manager until a sum of two thousand and five hundred rupees is deposited by him or on his behalf as security, with the Collector concerned in the prescribed manner.

(3) Whenever a new manager is appointed, the occupier of the factory shall send to the Collector a written notice of the change within fifteen days of the date on which the new manager assumes charge of his work.

(4) During any period for which provisions of sub-sections (1) and (2) are not complied with or the person appointed as manager does not manage the factory, or his security money is not replenished to the extent of its forfeiture under sub-section (2) of section 57, the occupier of the factory himself shall be deemed to be the manager of the factory for the purposes of this Act and the rules.

26. (1) An occupier of a factory or manager may carry out operations relating to weighment or purchase of cane or payment of price of cane with the aid of paid employees.

Prohibi-
tion of ap-
pointment
of purchas-
ing agents.

(2) Subject to the provisions of sub-section (1), the occupier of the factory or manager shall not appoint any person as purchasing agent for the purposes specified in that sub-section nor shall he utilise services of any person as purchasing agent directly or indirectly for any such purpose.

27. (1) The occupier of every factory shall submit to the Cane Commissioner, on or before the prescribed date, in every crushing year, an estimate, in the prescribed manner, of the quantity of cane which may be required in the factory during such crushing year.

Estimate of
quantity
of cane re-
quired by
factory.

(2) The Cane Commissioner shall examine every estimate submitted under sub-section (1) and where the occupier of a factory has failed to submit an estimate under sub-section (1), he shall draw up an estimate by himself in the prescribed manner and shall publish the same in such manner as may be prescribed with such modifications, if any, as he may think fit, after consultation with the council concerned.

(3) The prescribed authority may, either *suo motu* or on an application made to it by the occupier of the factory, within thirty days of the publication of the estimate under sub-section (2), revise the estimate, published under that sub-section and that authority shall cause the estimate so revised to be published in the prescribed manner.

Conditions precedent to commencement of purchase of cane.

28. (1) The occupier of a factory or any person acting on his behalf shall not commence the purchase of cane unless adequate arrangements, as may be prescribed, have been made in respect of the following matters, namely:—

- (a) weighment of cane to be purchased;
- (b) payment of the price of cane purchased;
- (c) parking of cane-carts;
- (d) approach roads to the place of weighment; and
- (e) distribution of requisition slips.

(2) Where survey has not been made under section 34, the occupier of the factory shall, before the commencement of purchase of cane, have the survey of the standing cane-crop made in the prescribed manner.

Establishment of purchasing centres.

29. (1) The occupier of a factory, or the secretary of a co-operative society may establish a purchasing centre after giving a notice in writing to the Collector at least thirty days before the commencement of purchase of cane and copies of such notice shall be sent by the occupier of the factory or the secretary of the society forthwith to the Cane Officer concerned and the Cane Commissioner:

Provided that in urgent circumstances, a purchasing centre may be established at shorter notice, with the previous approval of the Collector:

Provided further that establishment of a purchasing centre at any railway station or at any place within eight kilometres of the purchasing centre already established for supply of cane to another factory shall require previous sanction of the Cane Commissioner.

(2) The Collector may, subject to sub-section (1), after consulting the council concerned and giving the occupier of the factory or the secretary of the co-operative society, an opportunity of being heard, order in writing that such occupier or secretary shall—

(a) shift the location of any purchasing centre to another place in accordance with the order;

(b) establish a new purchasing centre at a place specified in such order; and

(c) suspend the operation of a purchasing centre already established.

(3) The prescribed authority may, either *suo motu* or on an application made to it by the occupier of the factory or the secretary of the co-operative society, within fifteen days of the receipt of Collector's order under sub-section (2), revise such order.

(4) Subject to other provisions of this Act, any order or direction of the Cane Commissioner in respect of purchase of cane or its movement from any area including its despatch by rail may be revised by the prescribed authority which shall have the power to initiate proceedings in revision either *suo motu* or on an application made to it by any aggrieved person within fifteen days of the receipt by him of such order or direction.

30. The State Government or any officer authorised by it in this behalf may, by general or special order, prohibit in any area weighingment of cane by the occupier of a factory or any person acting on his behalf between sunset and sunrise. Prohibition of weighingment of cane at night.

31. (1) The Cane Commissioner may, having regard to the crushing capacity of the factory, the availability of sugarcane in such area and the need for production of sugar and after consulting the council concerned and the occupier of the factory or the occupiers of other affected factories and after considering any objection that may be raised, issue an order, by notification in the Official Gazette, declaring any area to be the reserved area for the purpose of supply of cane to the factory during a particular crushing year or years and may likewise cancel any such order or alter the extent of the area so reserved: Declaration of reserved area.

Provided that, in the case of a factory situated outside the State of Bihar, such declaration may be made only on receipt, by the Cane Commissioner, of an application in the prescribed form from the occupier of such factory requesting that an area in Bihar may be reserved for the supply of cane to such factory and on condition that such occupier establishes a branch office in the State of Bihar and deposits a security of five thousand rupees with a Collector in the State of Bihar and gives an undertaking in the prescribed form to purchase cane grown in the reserved area solely through a co-operative society of such area.

(2) Any person aggrieved by an order of the Cane Commissioner under sub-section (1) may, within thirty days of the receipt of such order or within the same period from its publication in the Official Gazette, appeal to the prescribed authority.

32. (1) The Cane Commissioner may, by order notified in the Official Gazette, fix with respect to any specified sugarcane-grower or sugarcane-growers generally the quantity or proportion of sugarcane grown in the reserved area by the sugarcane-grower or sugarcane-growers concerned, as the case may be, which each sugarcane-grower by himself, or if he is a member of a co-operative society of the reserved area, through such society, shall supply to the factory concerned. Purchase of cane grown in a reserved area.

(2) Every sugarcane-grower, co-operative society or occupier of the factory concerned shall be bound to supply or purchase, as the case may be, the quantity or proportion of sugarcane fixed under sub-section (1) by entering into agreement in the manner specified in sub-sections (3) and (4) and any wilful failure on the part of any such person to do so shall constitute a breach of the provisions of this Act:

Provided that where the default committed by any co-operative society is due to any failure on the part of any of its members, such co-operative society shall not be bound to make supplies of cane to the factory to the extent of such default.

(3) A cane-grower or a co-operative society in a reserved area may offer in the form and by the date prescribed, to supply to the occupier of the factory for which the area is reserved cane grown in such area by the cane-grower or by the members of co-operative society or societies, as the case may be.

(4) 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 the provision of sub-section (3):

Provided that —

(i) such occupier shall not purchase or enter into an agreement to purchase cane grown in a village by a member of the co-operative society of that village except from the co-operative society concerned;

(ii) the occupier shall not be required to purchase, or enter into an agreement to purchase, sugarcane of any variety, if the sugarcane of such variety has been declared by notification under section 36, to be unsuitable for use in such factory;

(iii) where in any village the number of cane-growing members of a co-operative society is one and a half times the number of cane-growers or more, the occupier shall not, if an order in this behalf is made by the Cane Commissioner in the prescribed manner, and is published in the Official Gazette, purchase or enter into an agreement to purchase, so long as such order is in force, cane grown by any cane-grower of the village except through the co-operative society concerned; and

(iv) where, in any special circumstances, the State Government, by notification in the Official Gazette so directs, the occupier of a factory or any person employed by him for the purpose of purchasing cane shall not purchase or enter into agreement to purchase cane grown in any reserved area or part thereof, except through a co-operative society.

(5) An appeal against any order of the Cane Commissioner under sub-section (1) or sub-section (4) may be preferred to the prescribed authority within fifteen days of the publication of the notification in the Official Gazette and subject to the result of such appeal, if any, such order shall be final.

(6) Except with the permission of the State Government, cane grown in a reserved area shall not be sold to or purchased by—

(i) the occupier of any factory other than the factory for which the area is reserved, or

(ii) any person for the purpose of supply to any factory, other than the factory for which the area is reserved; or

(iii) the owner of a unit to whom a licence has not been granted under section 16.

(7) Cane grown in a reserved area shall not be sold by any person other than a cane-grower or a co-operative society:

Provided that a cane-grower or a co-operative society may deliver cane through another cane-grower or through a carrier.

(8) During the crushing year, the State Government may, by order, direct that sugarcane grown outside the reserved area shall not be purchased by the occupier of a factory or any person on his behalf until the occupier of the factory enters into an agreement to purchase all the sugarcane in the reserved area offered to him within the time to be specified in the order:

Provided that such prohibition shall not apply in respect of cane grown outside the reserved area for the supply of which any agreement in writing has been entered into before such direction is issued.

(9) Subject to the provisions of sub-section (1), the State Government may prohibit or restrict or otherwise regulate the movement of sugarcane from any reserved area except under and in accordance with a permit issued by it in this behalf.

33. Cane grown in any area other than reserved area and intended to be supplied to the occupier of a factory shall not be purchased by any person except—

Purchase of cane grown outside reserved area.

(a) the occupier of the factory or a person employed by him for the purpose of making such purchase, or

(b) a co-operative society intending to supply such cane to such occupier:

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

34. (1) The State Government when it considers it expedient may, by notification in the Official Gazette, order a survey to be made of sugarcane grown in any area and of any area fit for cultivation of sugarcane and recover the cost of such survey from the factory or factories to which the cane of such area is supplied.

Survey of sugarcane areas.

(2) Every such survey shall be made by an officer appointed by the State Government in this behalf.

(3) After issue of the notification under sub-section (1), it shall be lawful for an officer appointed under sub-section (2) and for persons required by him to assist him in the discharge of his duties—

(i) to enter upon and survey and take levels of any land in such locality and to do all things and make all inquiries necessary for effecting the survey and demarcation of the boundaries thereof;

(ii) to dig or bore into the sub-soil;

(iii) to make levels, boundaries, and lines by placing marks and cutting trenches; and

(iv) where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle.

(4) A person appointed under sub-section (2) of section 12, to assist the Cane Commissioner, or a Cane Officer, may exercise all or any of the powers enumerated in sub-section (3) within such local limits as may be notified in the Official Gazette.

(5) An officer appointed under sub-section (2) or referred to under sub-section (4) shall pay or tender payment for any damage done to any property in course of making the survey, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Collector who may, after giving the parties reasonable opportunity of being heard and after such inquiry as he may consider necessary, pass such order as he thinks fit.

(6) The order of the Collector under sub-section (5) and, subject to such order, the order of the officer appointed under sub-section (2) or referred to in sub-section (4) shall be final.

(7) Every person owning or occupying land in any area in respect of which a survey is being made under sub-section (1) shall render to the officer making such survey, such assistance and offer him such facilities as may be prescribed.

(8) Any amount due from the factory or factories under sub-section (1) shall be recoverable as a public demand or as an arrear of land revenue.

(9) The records of any survey under this section shall not be admissible as evidence in any proceeding in a civil or revenue court.

Mainten-
ance of
register.

35. (1) The occupier of a factory shall maintain, in the prescribed form, a register of all cane-growers, suppliers of cane and co-operative societies in each of the following areas, namely:—

(a) the area reserved for the factory under section 31; and

(b) any other area from which the factory may purchase cane.

(2) The owner of a unit shall maintain in the prescribed form a register in respect of the cane or cane juice crushed or purchased by him or on his behalf.

(3) The State Government may, by rules, provide for—

(a) the correction of entries and the addition of new entries in such registers;

(b) the payment of costs in connection with such entries or addition and the manner in which such costs shall be realised; and

(c) the supply, on payment of the prescribed fee, of copies of entries in the registers.

36. The State Government may, after consulting the Board by notification in the Official Gazette, declare that—

Power to declare varieties of sugarcane to be unsuitable for use in factories.

(a) sugarcane of any variety grown in any area specified in such notification is unsuitable for use in all or any factory situated in the said area; and

(b) sugarcane-seed of any variety is unsuitable for distribution to cultivators in any area specified in such notification.

37. (1) The occupier of a factory or any other person acting on his behalf shall not distribute sugarcane-seed of any variety to any person to be used by cane-growers or the members of the co-operative societies in any area if sugarcane-seed of that variety has been declared under section 36 to be unsuitable for distribution to cultivators in that area.

Prohibition of distribution of unsuitable seed.

(2) The occupier of a factory or any other person acting on his behalf shall not grow sugarcane of any variety if such variety of sugarcane has been declared under section 36 to be unsuitable for use in such factory.

38. The occupier of a factory shall maintain a prescribed nursery of sugarcane-seed in the prescribed manner over such area of land as the Cane Commissioner may, after consulting the Board and giving the occupier of the factory a reasonable opportunity of being heard and after taking into account the crushing capacity and requirement of cane of the factory, determine.

Occupier of factory to maintain seed-nursery.

39. (1) The occupier of every factory, the owner of every unit, secretary of every co-operative society and every person in charge of weighments shall maintain, subject to such limits of error as is prescribed by the State Government under the law relating to weights and measures, for the time being in force, a record of the correct weight of cane purchased at the place of weighment.

Recording of correct weight of cane.

(2) No cane shall be purchased without being weighed.

40. The occupier of a factory or a co-operative society purchasing cane at any purchasing centre shall make such provisions for the following and keep them in such repairs as may be prescribed, namely:—

Provision for approach roads, etc., at the purchasing centres.

(a) approach road and parking space for animal-driven carts;

(b) sheds for animals and cart-drivers;

(c) drinking water for persons using the purchasing centre; and

(d) drinking water and water-trough for animals.

41. (1) The occupier of a factory or a person acting on behalf of a co-operative society or any other person purchasing cane at any purchasing centre shall not detain an animal-driven cart at such centre for a period exceeding six hours.

Payment of compensation for the detention of an animal-driven cart.

(2) Where an animal-driven cart is detained at such purchasing centre for a period exceeding six hours, the occupier of the factory, the co-operative society or such other person, as the case may be, shall be

liable to pay compensation in the prescribed manner to the supplier of cane for such detention at the rate of twenty-five *paise* per hour.

(3) The persons referred to in sub-section (1) shall make such arrangements for noting the time of the entry and exit of animal-driven carts in the parking ground as may be prescribed and in the event of a strike or breakdown of machinery or any reason beyond their control such persons shall be exempted from the liability to pay compensation to such extent as may be prescribed.

CHAPTER V

PAYMENT OF PRICE OF CANE AND OTHER MATTERS

Minimum
price of
cane sup-
plied to a
unit.

42. The State Government may, after consulting the Board, determine by notification in the Official Gazette, in respect of any area the minimum price of cane payable by the owners of units to the cane-growers or co-operative societies for cane supplied to them in the crushing year concerned:

Provided that the minimum price so determined shall not exceed the minimum price payable by the occupier of a factory under any law for the time being in force, in respect of the cane supplied from the same area.

Payment
of price of
cane.

43. (1) The occupier of a factory shall make such arrangement for the payment of price of cane as may be prescribed.

(2) (i) As soon as cane is supplied to a factory, the occupier of such factory shall be liable to pay the price of cane so supplied.

(ii) Where the occupier, liable under clause (i), makes default in payment of the price for a period exceeding fourteen days from the date of supply of cane to the factory, he shall be liable to pay interest thereon at the rate specified in section 51 from the date of supply.

(3) (i) Where a co-operative society has received the price of cane or interest thereon from the occupier of a factory, the secretary or the treasurer of the society or any other person in charge of payments on behalf of such society shall be liable to pay the same price together with interest, if any, to the cane-growers or members of such society, as the case may be, immediately on receipt thereof from the occupier of the factory.

(ii) Where the person liable under clause (i) makes default in payment of the price or interest thereon received from the factory, for a period exceeding fourteen days from the date of such receipt, he shall be liable to pay interest thereon, at the rate of seven and a half *per centum per annum* from such date.

(4) The owner of the unit shall make payment of the price of cane supplied to it immediately after the supply and on failing to do so shall be liable to pay interest at the rate prescribed.

(5) Notwithstanding anything contained in sub-section (2), sub-section (3) or sub-section (4), the occupier of the factory or the secretary

or the treasurer of the co-operative society or any other person in charge of payment on behalf of such society or the owner of the unit shall be punishable under section 52 for failure to make payment of the price in time.

(6) Any arrears of the price of cane, with interest thereon, if any, shall be recoverable as public demand or arrears of land revenue.

(7) Subject to any claim of the Central Government in respect of a tax or duty of excise, the price of cane shall be the first charge on the properties of the factory other than sugar.

44. (1) The occupier of a factory or any person on his behalf shall not make any deduction from the price of cane except on account of any loan advanced by him under section 50. **Deduction.**

(2) Any person in charge of payment of price of cane on behalf of a co-operative society shall not make any deduction from such price except on account of any loan advanced by the society to a member of such society or a cane-grower.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where there is any contributory scheme under any national or State plan, the realisation of the contribution of the cane-growers or suppliers of cane or co-operative societies or their members may be made, with their previous concurrence, by deduction from price of cane:

Provided that the amount so deducted by the occupier of a factory shall be deposited in the funds of the council in the prescribed manner and in the event of his failure to do so, interest at the rate specified in section 51 shall be payable by the occupier of the factory and the principal amount together with interest shall be realisable as public demand or as arrears of land revenue.

(4) The amount of deduction referred to in sub-section (3), made any time before commencement of this Act and remaining, on the commencement of this Act, with the occupier of a factory or any other person shall be deposited in the funds of the Board or the council concerned in accordance with the order, in this behalf, of the State Government. On the failure of such occupier or other person to so deposit such amount, it shall be recoverable as public demand or as an arrear of land revenue and shall bear interest at the rate specified in section 51.

45. (1) On the expiry of two years from the close of any crushing year the State Government may, by an order notified in the Official Gazette, require the occupier of a factory to deposit, within the time specified in the order, the price of cane together with interest thereon, if any, which have remained unpaid to cane-growers or suppliers of cane or the co-operative societies with the Collector of the district in which the factory **Unclaimed amounts to be credited to the fund of the council.**

is situated or, in the case of a factory situated outside the State of Bihar, with the Collector of the district from which the occupier has purchased cane.

(2) The Collector shall pay out of the amounts deposited under sub-section (1) all claims considered payable by him, and preferred before him within three years of the date of the publication of the order of the State Government in the Official Gazette.

(3) The amount remaining with the Collector after paying off the claims under sub-section (2) shall be credited, within six months, to the fund of the council concerned.

Decision of
certain dis-
putes.

46. (1) If any dispute arises regarding the price of cane supplied to the occupier of a factory, the person entitled to the price or the document on the basis of which the price is claimed, payment of the price shall be withheld and the occupier of the factory to which the cane was supplied shall enter the dispute in a register in the prescribed form and refer it within the prescribed period to the prescribed authority who shall, after giving the parties a reasonable opportunity of being heard and after such inquiry as he may consider necessary, decide the dispute:

Provided that whenever the payment of the price is withheld under this sub-section, the occupier of the factory shall deposit with the prescribed authority in the prescribed manner the amount in dispute, within one week of such reference.

(2) Any other dispute touching an agreement for purchase of cane by the occupier of a factory or its supply to him and any dispute relating to purchase of cane or cane juice by the owner of a unit and payment of price thereof shall be referred to the authority prescribed under sub-section (1) who shall decide it in the manner laid down in that sub-section.

Explanation.—Where an offer has been made by a cane-grower or a co-operative society for supply of cane to the occupier of a factory under the provisions of this Act and the occupier has failed to execute the agreement in accordance with the provisions of this Act, a dispute relating to such unexecuted agreement shall be a dispute within the meaning of this sub-section.

(3) Any person aggrieved by a decision made under sub-section (1) or sub-section (2) may, within thirty days of the decision, prefer an appeal to the Collector who shall, after giving the parties a reasonable opportunity of being heard and after such inquiry as he may consider necessary, pass such order as he thinks fit.

(4) An order of the Collector under sub-section (3) and subject to such order, the decision of the prescribed authority under sub-section (1) or sub-section (2) shall be final.

47. Final decisions or orders made under section 46 shall, on application, be enforced by a civil court of competent jurisdiction in the same manner as a decree of such court:

Enforcement of final orders.

Provided that where the final decision or order is in respect of price of cane, such price together with interest, if any, shall be recoverable as a public demand or as an arrear of land revenue.

48. (1) The State Government may, by notification in the Official Gazette, require the occupier of a factory to pay in the prescribed manner a commission not exceeding fifteen paise per quintal on the purchase of cane made by him or on his behalf and may, by a like notification, exempt the occupier of any new factory to be specified in the notification, from the payment of such commission for prescribed period.

Payment of commission on purchase of cane.

(2) The commission payable under sub-section (1) shall be collected in the prescribed manner and the amount so collected shall be paid to the co-operative society and the council in such proportion and in such manner as may be prescribed:

Provided that no amount in excess of the amount at the rate of seven paise per quintal on the cane supplied by a co-operative society shall be payable to it and the whole of the remaining amount shall be paid to the council concerned.

(3) The arrears of the commission payable under sub-section (1) shall bear interest at the rate specified in section 51 and shall be recoverable together with interest as a public demand or as an arrear of land revenue.

49. (1) The State Government may, by notification in the Official Gazette, impose—

Tax on sugarcane.

(a) a tax not exceeding 67 paise per quintal on entry of sugarcane into a local area specified in such notification, for consumption or use of, or sale to, a factory situated therein;

(b) a tax not exceeding 67 paise per quintal on the purchase of sugarcane by or on behalf of the occupier of a factory:

Provided that the tax under clause (b) shall not be payable by the occupier of a factory in respect of sugarcane for which a tax imposed under clause (a) is payable by him.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette,—

(a) reduce or remit, in whole or in part, such tax in respect of cane used in any such factory for the purposes of research, seed-distribution, crushing of diseased cane or intake of excessive crop,

(b) exempt for prescribed period from such tax any new factory or a factory unable to run without State aid,

(3) The tax payable under sub-section (1) shall be paid by the occupier of the factory to the Collector of the district concerned in such manner as may be prescribed and the amount of arrears of such tax shall bear interest at the rate specified in section 51 and shall, together with interest, be recoverable as a public demand or as an arrear of land revenue.

(4) There shall be levied and collected, in such manner as may be prescribed, a tax on the purchase of sugarcane by the owner of a unit at such rate not exceeding 50 paise per quintal of sugarcane, as may be notified in the Official Gazette:

Provided that the tax under this sub-section shall be payable on the quantity of sugarcane actually purchased or, at the option of the owner of the unit, on the quantity of sugarcane assumed in the manner prescribed.

(5) The owner of the unit shall make payment of the tax payable under sub-section (4) to the Collector in the prescribed manner and interest at the rate of $7\frac{1}{2}$ per centum per annum shall be charged on the amount of arrears. The amount of arrears shall be realisable together with interest as a public demand.

(6) Subject to the claim of the Central Government in respect of any tax or duty of excise, the claim of the State Government in respect of the tax imposed under sub-section (1) shall be the first charge on the sugar produced in the crushing year concerned.

(7) Until the tax imposed under sub-section (1) is paid at the rate per quintal of sugar, notified in the Official Gazette, by the State Government and the certificate of payment is obtained from the Cane Officer concerned, the occupier of any factory or any person acting on his behalf or any other person shall not remove sugar from the factory.

(8) There shall be paid to the Board and the councils as grant, in the manner prescribed, such proportions of the amount realised under sub-sections (3) and (5) in respect of every crushing year as the State Government may, from time to time, determine in this behalf to enable the Board and the councils to meet the cost of such schemes of development as may be undertaken by them with the approval of the State Government:

Provided that one-fifth of the amount payable under this sub-section shall be paid to the Board and the rest to the councils in proportion to the quantities of cane crushed by the factories concerned.

Advance
of loan by
occupier of
factory.

50. (1) The occupier of a factory or any person acting on his behalf may advance loan to a cane-grower or co-operative society for such purpose in connection with cultivation or supply of cane, in such manner and not exceeding such amount as may be prescribed;

Provided that where an order or direction is made under clause (iii) or (iv) of the proviso to sub-section (4) of section 32, no such loan shall be advanced to a cane-grower except through the co-operative society concerned.

(2) Interest at the rate specified in section 51 shall be payable on the loan advanced under sub-section (1) and the loan and the interest shall be realisable in the prescribed manner.

51. (1) The rate of interest realisable from the occupier of a factory under section 43, 44, 48 or 49 or from any other person under section 44 shall be eleven *per centum per annum*:

Rate of interest in respect of certain dues.

Provided that the rate of interest specified in this sub-section shall be deemed to have been increased or decreased by the margin of increase or decrease in the existing bank rate (standard rate) referred to in section 49 of the Reserve Bank of India Act, 1934.

2 of 1934.

(2) The rate of interest payable to the occupier of a factory under section 50 shall be the rate of interest paid by such occupier to any bank for advances on the pledge of sugar or otherwise:

Provided that where the occupier of a factory is paying interest to one or more banks at different rates, the rate payable to him under this sub-section shall be the lowest of such rates.

(3) Where the State Government is satisfied that the occupier of a factory is spending the funds of the factory for a purpose other than the purpose of the factory, it may, by notification in the Official Gazette, and after giving an opportunity of being heard to such occupier, enhance the rate of interest payable by the occupier of the factory under sub-section (2).

CHAPTER VI

MISCELLANEOUS

52. If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or the rules or of any order made or direction given thereunder or the terms and conditions of any licence, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both and, in the case of a continuing contravention with an additional fine which may extend to one thousand rupees for every day during which such contravention continues after conviction for the first contravention:

Penalty for offences.

Provided that where the offender has been acting on behalf of the occupier of the factory or the manager, such occupier or manager, as the case may be, shall be similarly liable in addition or alternatively to the actual offender, unless he proves that he had used all due diligence to enforce the observance of this Act or the rules or of the order made or direction given thereunder, or the terms and conditions of any licence and that the offence was committed without his knowledge or consent.

Institu-
tion of pro-
ceedings.

53. No prosecution under this Act shall be instituted except upon a complaint made in writing by an officer authorised in this behalf by the State Government.

Jurisdic-
tion of
courts.

54. No court inferior to that of a Magistrate of the second class shall try any offence punishable under this Act or the rules or any order made thereunder.

Special
powers of
Magistrate.

55. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, it shall be lawful for a Magistrate of the first class trying an offence under this Act to pass a sentence of fine not exceeding five thousand rupees on any person convicted for any offence under this Act. 5 of 1898.

Power to
compound
offences.

56. On the application of a person accused of an offence under this Act, the Cane Commissioner may, at any stage before conviction, compound the offence in lieu of such amount, not exceeding the maximum amount of fine which may be imposed under this Act for the offence, as the Cane Commissioner may fix, and such amount shall be recoverable from the said person as if it were a fine imposed by the Court:

Provided that an offence in respect of weighment of cane or payment of price of cane shall not be compounded.

Forfeiture
of securi-
ties.

57. (1) Where a person has deposited any security under section 16, 24, 25 or 31, the Collector may, in the event of such person contravening the provisions of this Act or the rules or any order made or direction given thereunder or the conditions of a licence, call upon him to show cause why such security shall not be forfeited to the State Government, or the whole or any portion of such security shall not be paid to a person or persons who have suffered any loss owing to the misconduct of the person or any person acting on his behalf.

(2) The Collector may, after considering the cause shown, if any, under sub-section (1), forfeit the whole amount of the security or any part thereof and may order that the whole or any part of the forfeited amount shall be paid to the person or persons who have suffered any loss referred to in sub-section (1):

Provided that the security of any person shall not be forfeited for the misconduct of any person acting on his behalf if such person proves to the satisfaction of the Collector that such other person misconducted in spite of all due diligence on his part.

(3) Where any action is taken under sub-section (2) against any person, such person shall not be liable to prosecution under section 52 for the same contravention.

Indemnity.

58. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or the rules or any order made thereunder.

45 of
1860.

59. The Cane Commissioner, every Cane Officer and every person appointed to assist the Cane Commissioner shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Cane Commissioner and other persons to be public servants.

5 of 1908.

60. For the purposes of enquiries under this Act, the Cane Commissioner or any person exercising the powers of the Cane Commissioner or a Cane Officer or an officer appointed under section 34 shall have the same powers to summon and enforce the attendance of witnesses and parties and to examine them on oath and to compel the production of documents as a civil court under the Code of Civil Procedure, 1908:

Power to summon and enforce attendance of witnesses and production of documents.

Provided that for the purpose of any penalty under the provisions of the said Code upon any defaulter, a reference shall be made to the civil court of competent jurisdiction for appropriate action.

61. (1) Where the occupier of a factory is a firm or other association of individuals, any 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 of factory.

Provided that the firm or association may give notice to the Cane Commissioner that it has nominated one of its partners or members to be the occupier of the factory for the purposes of this Act and such individual shall be deemed to be occupier for the purposes of this Act, until further notice cancelling his nomination is received by the Cane Commissioner or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company, any of the Directors thereof, or in the case of a private company any one of the shareholders 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 Cane Commissioner 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 shareholder 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 Cane Commissioner or until he ceases to be a Director or a shareholder.

62. Where village level co-operative societies, consisting of only individuals are affiliated to any Co-operative Development and Cane Marketing Union as its members, such union and where such village level societies are not affiliated to any Co-operative Development and Cane Marketing Union but are affiliated to any Vyapar Mandal Co-operative Society, such Vyapar Mandal shall be deemed to be the co-operative society concerned for the purpose of purchase, sale or supply of cane grown by members of any such village level co-operative society, and with regard to matters incidental thereto.

Determination of co-operative society.

Delegation of powers.

63. The State Government may, by notification in the Official Gazette, direct that any power exercisable under this Act by it may be exercised, in such cases and subject to such conditions, if any, by such officer or authority as may be specified in the direction.

Power to exempt co-operative factories or units from provisions of the Act.

64. The State Government may, by an order published in the Official Gazette, exempt any factory or unit owned by a co-operative society established under the Bihar and Orissa Co-operative Societies Act, 1935 from any of the provisions of this Act or direct that the provisions of this Act shall apply in relation to any such factory or unit with such modifications as may be specified in the order;

B.&O. Act VI of 1935.

Provided that any modification in the provision of this Act affecting the interests of any such factory or unit concerned adversely shall not be made without giving a reasonable opportunity of being heard to that factory or unit.

Power of the appellate authority to pass interlocutory orders and condone delays in filing appeal.

65. Where an appeal is preferred under the provisions of this Act or the rules, to any authority for setting aside any decision or order, such appellate authority may, in order to prevent the ends of justice being defeated, make such interlocutory order, pending the decision in appeal, as may appear to it to be just and convenient or such order as may be necessary for the ends of justice or to prevent the abuse of the process of the appellate authority and may entertain the appeal even after the period laid down for filing it if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Validation of imposition and collection of cesses and taxes under certain laws during a certain period.

66. (1) Notwithstanding any judgment, decree or order of any court, all cesses and taxes imposed, assessed or collected or purporting to have been imposed, assessed or collected under any State law, before the commencement of this Act, shall be deemed to have been validly imposed, assessed or collected in accordance with law as if this Act had been in force at all material times when such cess or tax was imposed, assessed or collected and accordingly—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any cess or tax paid under any State law;

(b) no court shall enforce a decree or order directing the refund of any cess or tax paid under any State law; and

(c) any cess or tax imposed or assessed under any State law before the commencement of this Act but not collected before that date may be recovered (after assessment of the cess or tax, where necessary) in the manner provided under that State law.

(2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of this Act and the rules, the assessment of any cases or tax for any period, or

(b) from claiming refund of any cess or tax paid by him in excess of the amount due from him under any State law and the rules made thereunder.

Explanation.—For the purposes of this section, State law means—

Bihar Act
VII of 1937.

(a) the Bihar Sugar Factories Control Act, 1937;

Bihar Ordinance
III of 1968.

(b) the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1968;

Bihar Ordinance
VI of 1968.

(c) the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1968;

Bihar Ordinance
XIII of 1968.

(d) the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1968;

Bihar Ordinance
IV of 1969.

(e) the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1969; and

Bihar Ordinance
VI of 1969.

(f) the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance 1969.

67. (1) The State Government may, subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act. Power to make rules.

(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:—

(i) the functions of the Board and the councils and the manner in which the functions shall be performed;

(ii) the manner in which the business of the Board and the councils shall be conducted;

(iii) the manner and form in which the funds placed at the disposal of the Board and councils shall be maintained and the application of, and payment from, such funds;

(iv) the audit of the accounts of the Board and the councils and the matters incidental thereto;

B. & O. Act
II of 1925.

(v) remuneration to be paid to an auditor other than the auditor appointed under the Bihar and Orissa Local Fund Audit Act, 1925;

(vi) the functions of the Cane Commissioner and of other authorities and officers by whom any functions under this Act or the rules are to be performed;

(vii) licences under Chapter III;

(viii) appointment of manager under section 25;

(ix) date and manner of submission of estimate of cane required by a factory during a crushing year and the manner of publication of the estimate under section 27;

(x) authority which may revise the estimate made under section 27;

(xi) establishment of purchasing centres under section 29;

(xii) form in which an application may be made by a factory

situated outside the State of Bihar for reservation of area under section 31 for supply of cane to such factory;

(xiii) authority to which an appeal against an order made by the Cane Commissioner under sub-section (1) of section 31 shall lie;

(xiv) form, date, terms and conditions relating to agreement for purchase of cane in a reserved area by occupier of a factory;

(xv) order to be made by the Cane Commissioner under section 32;

(xvi) authority before which appeal against order of Cane Commissioner, made under clause (iii) of the proviso to sub-section (4) of section 32 shall lie;

(xvii) the assistance to be rendered by owners and occupiers of lands to the officer making survey under section 34;

(xviii) form of the register to be maintained under section 35, correction of entries and addition of new entries in the register, the payment of cost in connection with such correction or addition, the manner of realisation of such costs, fee payable for the supply of copies of entries in the register;

(xix) seed-nursery and the manner of its maintenance, as required by section 38;

(xx) arrangements for payment of price of cane, as required by section 43;

(xxi) deduction from cane-price under section 44 and payment of the amount to the council concerned;

(xxii) form of register in which dispute shall be entered, the period within which and the authority to which the reference shall be made, under section 46;

(xxiii) manner in which and the authority with which the price shall be deposited under section 46;

(xxiv) manner of payment of commission, as required by section 48;

(xxv) the proportion and manner in which the commission shall be paid under sub-section (2) of section 48;

(xxvi) manner of collection of tax payable under section 49;

(xxvii) manner in which and the extent to which loan may be advanced under section 50;

(xxviii) the time within which applications and appeals may be presented under this Act in cases for which no specific provision has been made;

(xxix) the fees to be paid in respect of applications and appeals under this Act and the manner of the payment of such fees;

(xxx) the distribution of requisition slips by occupiers of factories, co-operative societies or other persons;

(xxxi) the correct weight of cane, the provision of facilities for weighment, checking of weighments, timing of weighments, class or type of heavy machines to be kept;

(xxxii) the provision for approach roads, parking space for carts bringing cane to the place of weighment, sheds for animals and cart-drivers, water troughs for animals and other connected matters; and

(xxxiii) any other matter which is required by this Act to be prescribed.

Bihar Act
VII of 1937.
Bihar Ordinance VI
of 1969.

68. (1) The Bihar Sugar Factories Control Act, 1937 and the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1969 are hereby repealed.

Repeal and
saving.

Bihar Act
VII of 1937.
Bihar Ordinance
III of 1968.
Bihar Ordinance
VI of 1968.
Bihar Ordinance
XIII of 1968.
Bihar Ordinance IV of
1969.
Bihar Ordinance
VI of 1969.

(2) Anything done or any action taken (including any rule made or notification issued with prospective or retrospective effect, order passed, appointment made, proceeding commenced, dispute decided or referred to arbitration, right accrued or liability incurred) under the Bihar Sugar Factories Control Act, 1937 or the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1968 or the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1968 or the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1968 or the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1969 or the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1969 before the commencement of this Act shall, notwithstanding the repeal thereof, be deemed to have been done or taken under this Act as if the provisions of this Act (other than those contained in section 52) were in force at all material times when such thing was done or action was taken.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

Reasons for the enactment

The Bihar Sugar Factories Control Act, 1937 (Bihar Act VII of 1937) was initially of a temporary nature and in 1955 the operation of the Act was made permanent. The amending Bill, by which the Act was made permanent, as passed by the Bihar Legislature, was not reserved for the assent of the President and on that ground the provisions of the Act relating to production, supply and distribution of sugarcane were declared, in 1966, by the Patna High Court, to be inoperative.

2. To obviate the difficulties resulting from the judgment of the Patna High Court, the Governor of Bihar promulgated the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1968 (Bihar Ordinance III of 1968). The Ordinance could not be replaced by a regular Act of the State Legislature and the Governor of Bihar promulgated two other Ordinances on the same subject, namely, the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1968 (Bihar Ordinance VI of 1968) and the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1968 (Bihar Ordinance XIII of 1968). Though a Bill to replace the Bihar Sugarcane (Regulation of Supply and Purchase) Third Ordinance, 1968 was introduced in the Bihar State Legislature, it could not be passed into law due to the dissolution of the State Legislative Assembly consequent on the Presidential Proclamation, dated 29th June, 1968 under article 356 of the Constitution.

3. Subsequently, in view of the oncoming mid-term polls in the State of Bihar it was not considered then necessary to enact a President's Act for replacing the Bihar Ordinance XIII of 1968. Instead, to cover up the void, the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance, 1969 (Bihar Ordinance IV of 1969) was promulgated with retrospective effect on the 2nd May, 1969. Once again, before this Ordinance could be replaced by an Act of the State Legislature, the State Legislature was suspended by the Proclamation of the Vice-President acting as President, dated 4th July, 1969, under article 356 of the Constitution and, therefore, the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1969 (Bihar Ordinance VI of 1969) had to be promulgated on the 20th July, 1969.

4. The proposed measure seeks to replace the Bihar Sugarcane (Regulation of Supply and Purchase) Second Ordinance, 1969 (Bihar Ordinance VI of 1969).

5. As it is not practicable to refer the present legislation to the Consultative Committee of Parliament on Bihar legislation, it has been decided, in view of the urgency of the matter, to enact the present legislation without such reference.

A. L. DIAS,
Secy. to the Govt. of India,
Ministry of Food, Agriculture,
Community Development and Co-
operation (Department of Food).