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THE COTTON CESS ACT, 1923

ACT 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.*

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;

It is hereby enacted as follows:-

1. (1) This Act may be called the Cotton Cess Act, 1923. Short title and extent

(2) It extends to the whole of Bangladesh.

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

- (a) "Collector" means, in reference to cotton consumed in a mill in Bangladesh, the Collector of the district in which the mill is situated or any other officer appointed by the Government to perform the duties of a collector under this Act;
- (b) "the Committee" means the ¹[Bangladesh Cotton Committee] constituted under this Act;
- (c) "Cotton" means raw cotton, whether baled or loose, which has been ginned;

* Throughout this Act, except otherwise provided, the words "Bangladesh" and "Government" were substituted, for the words "Pakistan" and "Central Government" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The words "Bangladesh Cotton Committee" were substituted, for the words "Pakistan Central Cotton Committee" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- ¹[(d) "Collector of Customs" means a Collector of customs appointed under section 3 of the Customs Act, 1969 ;
- (dd) "Customs-station" means a Customs-station as defined in section 2 of the Customs Act, 1969;]
- (e) "mill" means any place which is a factory as defined in section 2 of the ²[Factories Act, 1965], and in which cotton is converted into yarn or thread either for sale as such or for conversion into cotton goods ³[* * *];
- (f) "prescribed" means prescribed by rules made under this Act.

Imposition of
Cotton Cess

3. (1) There shall be levied and collected on all cotton either exported from ⁴[* * *] Bangladesh or consumed in any mill in ⁵[Bangladesh] a cess at such rate as the Government may fix by notification in the official Gazette.

(2) [Omitted by the Cotton Cess (Amendment) Act, 1948 (Act No. XXX of 1948), section 3.]

¹ Clauses (d) and (dd) were substituted, for clause (d) by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, comma and figure "Factories Act, 1965" were substituted, for the words, comma and figure "Factories Act, 1934" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words, figures and comma "as defined in section 3 of the Cotton Duties Act, 1896" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁴ The words "the Provinces of Pakistan to any place outside" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

⁵ The word "Bangladesh" was substituted, for the words "the Provinces of Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

4. (1) As soon as may be after the commencement of this Act the Government shall set up the Committee.

Constitution of
Bangladesh
Cotton
Committee

(2) The Committee shall consist of such members as the Government may, by notification in the official Gazette, appoint to be members, and the 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 ¹[Bangladesh 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.

5. [Omitted by the Cotton Cess (Amendment) Act, 1948 (Act No. XXX of 1948), section 5.]

6. (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:

Delivery of
monthly returns

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

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

7. (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.

Collection of
cess by
Collector

¹ The words "Bangladesh Cotton Committee" were substituted, for the words "Pakistan Central Cotton Committee" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(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 it to the owner or his agent at the mill.

Collection of
cess on
exported cotton

8. (1) In respect of cotton exported by ¹[sea or land], the cess shall be assessed and levied by the ²[Collector of Custom at the Customs-station] 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 ³[Customs Act, 1969], be deemed to be a duty of customs.

(2) [*Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.*]

¹ The words "sea or land" were substituted, for the word "sea" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "Collector of Custom at the Customs-station" were substituted, for the words "Customs-collector at the customs-port" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words, comma and figure "Customs Act, 1969" were substituted, for the words, comma and figure "Sea Customs Act, 1878" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(3) The ¹[National Board of Revenue] constituted under the ¹[National Board of Revenue Order, 1972] may, make rules providing, on such conditions as may be specified in the rules, for—

- (a) the refund of the case levied where cotton is exported by land and subsequently imported into Bangladesh;

²[* * *]

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

Finality of assessment and recovery of unpaid cess

(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 Government for the cancellation or modification of the assessment and, on such application, the 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.

10. (1) The Collector or any officer empowered by general or special order of the 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.

Power to inspect mills and take copies of records and accounts

(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

¹ The words "National Board of Revenue" and the words, comma and figure "National Board of Revenue Order, 1972," were substituted, for the words "Central Board of Revenue" and for the words, commas and figure "Central Board of Revenue Act, 1924," respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Clause (b) was omitted by section 6(d) of the Cotton Cess (Amendment) Act, 1948 (Act No. XXX of 1948).

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 formulae 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.

Information
acquired to be
confidential

11. (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 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.

Application of
proceeds of cess

12. (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 moneys 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 Government, decide to undertake for promoting agricultural and technological research in the interests of the cotton industry in Bangladesh.

12A. [Omitted by the Cotton Cess (Amendment) Act, 1948 (Act XXX of 1948), section 8.]

13. 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 any of its sub-committees.

Validation

14. The Government may, by notification in the 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 in the Government and this Act shall be deemed to have been repealed.

Dissolution of Committee

15. (1) The Government may make rules for the purpose of carrying into effect all or any of the provisions of this Act.

Power of the Government 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:-

- (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 Government;
- (f) for the definition of the powers of the Committee and 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 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 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, its sub-committees, 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 re-appropriation for such expenditure, and in regard to the re-appropriation 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 ¹[* * *] 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 or by land; and
- (s) any other matter which is to be or may be prescribed.

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

Power to the Committee to make rules

- (a) for the appointment of 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 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 sub-committees, and for regulating the procedure to be observed at such meetings;

¹ The words "Provincial Departments of Agriculture or" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (d) for determining the circumstance 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 officers of the Committee.

Publication of
rules

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