



The Tamil Nadu Sugarcane (Regulation of Purchase Price) Act, 2018

Act 23 of 2018

Keyword(s):

Bagasse, Factory, Fair and Remunerative Price, Financial Year, Free will Area, molasses, Reserved Area, Sugarcane Grower

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 12th July 2018 and is hereby published for general information

ACT No. 23 OF 2018.

An Act to regulate the price of sugarcane purchased by the sugar factories from the farmers in the State of Tamil Nadu.

WHEREAS it is expedient to regulate the price of sugarcane purchased by sugar factories from the farmers in the State of Tamil Nadu, to offer better realization of price for the sugarcane sold by the farmers to the factory of the reserved area and to provide for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Tamil Nadu Sugarcane (Regulation of Purchase Price) Act, 2018.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

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

Definitions.

(a) "audit committee" means the committee appointed by the Board under section 13;

(b) "bagasse" means the final fibrous residue from a milling train or from the dewatering mills of diffusion plant;

(c) "Board" means the Sugarcane Control Board constituted under section 3;

(d) "Commissioner" means the Commissioner of Sugar and Cane Commissioner or any officer designated in this capacity by the Government;

(e) "factory" means any premises including the precincts thereof in any part of which sugar is manufactured by vacuum pan process and at its own option, ethanol either directly from sugarcane juice or from molasses, including B-Heavy molasses, or both, as the case may be, is manufactured;

(f) "Fair and Remunerative Price" means the minimum price fixed for sugarcane by Central Government under clause 3 of the Sugarcane (Control) Order, 1966 for the sugarcane year;

(g) "Financial Year" means the year commencing on the first day of April and ending with the thirty first day of March in the succeeding year;

(h) "free will area" means area not covered under the reserved area;

(i) "Government" means the State Government;

(j) "molasses" means mother liquid left over after recovery of sugar in the final stage of manufacturing by the vacuum pan process;

(k) "occupier of factory" means the person, who has control over all the affairs of a sugar factory and where the said affairs are entrusted to a director, partner or administrator, such director, partner or administrator, as the case may be;

(l) "person" includes individual, a co-operative society, Hindu Undivided Family, a company or firm or an association or a body of individuals, whether incorporated or not;

(m) "prescribed" means prescribed by rules;

(n) "reserved area" means, any area where sugarcane is grown and reserved for a factory under sub-clause (1) (a) of clause 6 of the Sugarcane (Control) Order, 1966;

(o) "revenue sharing based sugarcane price" means the price of sugarcane arrived at for each factory separately in accordance with section 9 of this Act and this price when realised shall be equal to or over and above the Fair and Remunerative Price for the respective season;

(p) "State" means the State of Tamil Nadu;

(q) "sugarcane" means sugarcane intended for use in a factory;

(r) "sugarcane grower" means a person who cultivates sugarcane intended for sale to a factory whether by himself or by his servants or by hired labour or by members of his family or his tenants, and includes a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act, 1983;

(2) Words and expressions used but not defined in this Act shall have meanings assigned to them in the Sugarcane (Control) Order, 1966.

3. (1) The Government shall, by notification, constitute a Board to be called as the Sugarcane Control Board to exercise such powers and to perform such functions assigned to it under this Act.

Constitution of
Sugarcane
Control Board.

(2) The Board shall have perpetual succession and have a common seal and shall, by the said name, sue and be sued.

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

- (a) Chief Secretary to Government, who shall be the Chairperson, *ex-officio*;
- (b) Secretary to Government, Finance department, *ex-officio*;
- (c) Secretary to Government, Industries department, *ex-officio*;
- (d) Agricultural Production Commissioner and Secretary to Government, Agriculture Department, *ex-officio*;
- (e) Director of Agriculture, *ex-officio*;
- (f) Director, Sugarcane Breeding Institute, Coimbatore, *ex-officio*;
- (g) Chief Accounts Officer, Tamil Nadu Sugar Corporation, *ex-officio*;
- (h) three representatives of the factories in the State to be nominated by the Government, out of which,—
 - (i) one member shall be from Tamil Nadu Co-operative Sugar Federation; and
 - (ii) two members from private sugar factories in the State;
- (i) four representatives of sugarcane growers cultivating sugarcane regularly in the State and supplying sugarcane to the factories, to be nominated by the Government, out of which,—
 - (i) two members shall be sugarcane growers supplying sugarcane to co-operative or public sector sugar factories; and
 - (ii) two members shall be growers supplying sugarcane to private sugar factories in the State;
- (j) Commissioner, Member Secretary, *ex-officio*;

(4) The headquarters of the Board shall be at Chennai.

Terms and conditions of appointment of nominated members of the Board.

4. (1) A nominated member shall hold office for a period of two years from the date of his nomination and he is eligible for re-nomination:

Provided that a nominated member shall not be re-nominated to the Board, without completion of a cooling off period of two years between the two terms.

(2) A nominated member may, by writing under his hand addressed to the Government, resign his office, but he shall continue to hold office until his resignation is accepted by the Government.

(3) When the office of a nominated member becomes vacant by resignation, death, removal, disqualification or otherwise, the Government shall nominate within three months a new member to fill such vacancy.

(4) The Government may remove a nominated member from his office, if he incurs any one of the disqualifications specified below, namely:—

(a) becomes an un-discharged insolvent; or

(b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude; or

(c) becomes of unsound mind and stands so declared by a competent court.

(5) The nominated members shall be eligible to draw such rate of sitting fee and travelling allowance, as may be prescribed.

Meetings of the Board.

5. (1) The Board shall meet, as often as may be necessary, at such time and place and observe such rules of procedure as may be prescribed:

Provided that the Board shall meet at least twice in a year.

(2) The Chairperson shall preside over the meeting of the Board.

(3) In the absence of the Chairperson by reason of leave or illness or for any other reasons, the Chairperson may authorise any of the other members of the Board to function as Chairperson and he shall preside over the meeting.

(4) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy in, or any defect in the constitution of, the Board.

(5) Notice of the meetings of the Board, the place, quorum and procedures regarding transactions of the business of the Board shall be such as may be prescribed.

Functions of the Board.

6. The Board shall discharge the following functions, namely:—

(a) decide the revenue sharing based sugarcane price payable to the sugarcane growers, by the concerned sugar factories;

(b) offer advice on any matter referred by the Government, especially in respect of the regulation of the purchase of sugarcane;

(c) bring to the notice of the Commissioner, cases of breach of any of the provisions of the Act and the rules made thereunder, and to make suggestions for the prevention of the same;

(d) inquire into any matter in discharge of its functions including matters relating to revenue and expenditure, books of accounts of the factory, etc.,;

(e) consider the report of the audit committee on the revenue realisation for determination of revenue sharing based sugarcane price; and confer on it any powers as it deems fit;

(f) nominate any officer or committee to look into specific issues pertaining to the implementation of the provisions of the Act; and

(g) perform such other functions as may be prescribed.

Central Act V of
1908.

7. (1) The Board shall, for the purpose of any inquiry, have all the powers of a civil court while trying a civil suit under the Code of Civil Procedure, 1908 and, in particular, in respect of the following matters, namely:—

Powers of the
Board.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record, or copy thereof from any court or office or factory;

(e) issuing summons for the examination of witnesses and documents;

(f) to enquire into a complaint regarding fixation of revenue sharing based sugarcane price;

(g) any other matter as may be prescribed.

(2) Where the Board finds after enquiry that the allegation contained in any complaint is without any substance, it may, by an order, direct the complainant to pay to the opposite party an amount specified in the order by way of cost.

(3) Where the allegation contained in any complaint is about the loss to the sugarcane grower, the Board may, during enquiry, collect evidence, determine the loss and direct in its order, the amount to be realised from the person responsible.

(4) If the amount payable under sub-section (2) or sub-section (3) is not paid within the period specified in the order, the same shall be recovered as if it were an arrear of land revenue under the Tamil Nadu Revenue Recovery Act, 1864.

Tamil Nadu Act II
of 1864.

Powers of the Government to declare revenue sharing based sugarcane price.

8. On receipt of the recommendations of the Board, the Government may, by notification, declare the revenue sharing sugarcane price payable to the sugarcane growers by the concerned sugar factories.

Calculation of revenue sharing based sugarcane price and payment.

9. (1) The revenue sharing based sugarcane price shall be the higher value among the following, namely:—

(i) the sugarcane price arrived at as a sum equal to seventy per cent of the ex-factory basic value of sugar and the primary by-products such as bagasse, molasses and press mud; or

(ii) the sugarcane price arrived at as a sum equal to seventy five per cent of the ex-factory basic value of sugar alone.

(2) Upon declaration of the revenue sharing based sugarcane price by the Government, the cane grower is eligible to receive the difference between the revenue sharing based sugarcane price and the Fair and Remunerative Price as additional price in addition to the full Fair and Remunerative Price for the cane purchased from the cane grower in the reserved area of the factory for the financial year under consideration.

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

10. The Government may, on the recommendation of the Board, declare any variety of sugarcane as an unsuitable variety, and no factory shall grow or purchase such sugarcane variety as so declared.

Prohibition of distribution of certain varieties of seeds.

11. The occupier of a factory or any other person acting on his behalf, shall not distribute to any sugarcane grower in any area or shall not plant sugarcane seed of any variety in his own factory area if the same has been declared by the Government as unsuitable under section 10.

Purchase of sugarcane in reserved area.

12. (1) A sugarcane grower shall sell sugarcane only to the factory to which the area has been reserved. The sugarcane grower in a free will area is at liberty to choose the factory of his choice, but if he has entered into an agreement with a factory, the sugarcane shall be sold to that factory only.

(2) The factory shall enter into an agreement with the sugarcane grower in such form, by such date on such terms and conditions as specified in clause 6 of the Sugarcane (Control) Order, 1966 for the purpose of purchasing the sugarcane offered in accordance with sub-clause (1) of clause 6 of the said Order.

(3) No person other than the factory aforementioned shall purchase or enter into an agreement to purchase sugarcane grown by the sugarcane grower except in accordance with the agreement made under sub-section (1).

13. (1) For ascertaining revenue realisation in a sugar factory and to advise the Board on the determination of revenue sharing based sugarcane price, there shall be an audit committee appointed by the Board consisting of,—

Audit committee for the calculation of revenue realisation.

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|--|---|-----------|
| (a) Commissioner | — | Chairman; |
| (b) Managing Director, Tamil Nadu Co-operative Sugar Federation | — | Convenor; |
| (c) Director, Co-operative Audit | — | Member; |
| (d) Chief Accounts Officer, Tamil Nadu Sugar Corporation | — | Member; |
| (e) Chief Sugar Chemist, Tamil Nadu Sugar Corporation | — | Member; |
| (f) An Independent Auditor (to be nominated by the Chairperson of the Board) | — | Member; |

The Board or the Chairman of the audit committee with the permission of the Board may appoint technical experts to the audit committee as and when required.

(2) The audit committee shall, after publication of annual report of each factory after closure of the financial year, have the power to inspect any sugar factory so as to ascertain the realisation of revenue in each sugar factory.

(3) The audit committee after inspection of the sugar factory shall submit a report to the Board.

14. The Board, while deciding revenue sharing based sugarcane price, shall take into consideration the following factors, namely:—

Factors to be taken into consideration by the Board for deciding revenue sharing based sugarcane price.

(a) The recorded weight of the sugarcane delivered by the sugarcane growers, actual revenue realized from production of sugar and by-products namely bagasse, molasses, press-mud; and accounting sugarcane juice or B-Heavy Molasses directly utilised for production of ethanol in terms of sugar.

Explanation.— For the purpose of this section, revenue realised from sugarcane crushed during the financial year shall include actual production of sugar and by-products, namely, bagasse, molasses, press-mud, and sugarcane juice or B-Heavy molasses directly utilised for production of any other produce, if any, which are suitably valued considering the sales, opening and the closing stock though they may not have been sold. The revenue realised through sale of white sugar or refined sugar and molasses produced from raw sugar purchased from outside sources and also from the white sugar or refined sugar and molasses produced from the raw sugar accounted for revenue sharing based sugarcane price calculated during the previous financial year shall not be included for calculation of the revenue sharing based cane price for the financial year under consideration.

(b) The report of the audit committee shall be taken into consideration for the determination of revenue sharing based sugarcane price.

Payment to
sugarcane
growers.

15. (1) As soon as the sugarcane is supplied to the occupier of factory, he shall be liable to pay the Fair and Remunerative Price fixed under the Sugarcane (Control) Order, 1966 within fourteen days from the date of receipt of sugarcane.

(2) The payment shall be made on the basis of the recorded weight of the sugarcane at the factory. The price of the sugarcane to be payable shall be calculated to the nearest rupee.

(3) An occupier of factory shall be liable to make all payments due for the sugarcane purchased by him and if he fails to make payments, he shall be responsible for making such payment with interest as per clause 3 of the Sugarcane (Control) Order, 1966 from the date when such payment falls due.

(4) (a) The cost of transportation of sugarcane from the field to factory shall be paid by the occupier of factory over and above the Fair and Remunerative Price;

(b) The payment of cost of transportation by the occupier of factory over and above the Fair and Remunerative Price shall be reviewed after completion of every four years from the date of commencement of this Act.

(5) (a) After the payment of Fair and Remunerative Price, further price realised by revenue sharing as determined by the Board, shall be paid within fourteen days from the date of publication of yearly ex-mill revenue sharing based sugarcane prices and values. All other conditions for sugarcane purchase payment shall be as per the provisions of the Sugarcane (Control) Order, 1966.

(b) Every payment made by the occupier of factory under this Act shall be paid to sugarcane growers through bank account only and not in cash.

(c) For recovery of the dues with respect to Fair and Remunerative Price, the provisions of the Sugarcane (Control) Order, 1966 shall mutatis-mutandis be applicable for recovery of arrears of price realised by revenue sharing.

Offences and
penalties.

16. (1) Any person contravening any of the provisions of this Act shall be punishable with fine which may extend to fifty thousand rupees.

(2) Any occupier of factory who refuses to pay for any sugarcane purchased by him the price payable in accordance with this Act or makes any deduction from such price in contravention of this Act, shall be punishable with imprisonment which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

Offences by
companies.

17. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

18. No court shall take cognizance of any offence punishable under section 16, except upon a complaint made by an officer authorized by the Commissioner.

Cognizance of offence.

19. (1) Any offence punishable under section 16 may, either before or after the institution of the prosecution, be compounded by the Commissioner or such other officer as may be authorised in this behalf by the Commissioner, on payment, for credit to the State Government, of such sum as the Commissioner or such other officer may specify:

Compounding of offences.

Provided that such sum shall not, in any case, exceed the maximum amount of fine which may be imposed under this Act for the offence so compounded.

(2) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded and the offender, if in custody, shall be discharged forthwith.

20. The Commissioner, the members of the audit committee and every officer appointed under this Act shall, when acting or purporting to act in pursuance of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Commissioner and officers to be public servants.

Central Act XLV of 1860.

21. No suit, prosecution or other legal proceedings shall lie against the audit committee, Board, Government or its officer for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

Protection of action taken in good faith.

22. (1) The Government may, in the public interest, by order, direct the Board to make an enquiry into any case specified in the order, and the Board shall report to the Government the result of the enquiry made by it within such period as may be prescribed.

Power of Government to give direction.

(2) On receipt of the report from the Board, the Government shall give such direction as they deem fit and such direction shall be final and binding.

Power to make rules.

23. (1) The Government may, by notification in the *Tamil Nadu Government Gazette*, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for,—

(a) the allowances payable to the nominated members of the Board, the manner in which casual vacancies among them shall be filled and the procedure for the conduct of its business in discharging its functions under this Act;

(b) the correct weighment of sugarcane, the provision of facilities for weighment and for checking weighments and timings of weighments;

(c) the method of determining the percentage of recovery of sugar from sugarcane;

(d) the form of the records to be kept and of the returns to be made, and the information to be furnished by persons liable to pay the revenue based sugarcane price;

(e) the form in which any notice required shall be given;

(f) any other matter which is to be or may be prescribed under this Act.

(3) Except when the rules are made for the first time, all rules made under this Act shall be subject to the condition of previous publication.

(4) Every rule made or notification or order issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule or notification or order or the Legislative Assembly decides that the rule or notification or order should not be made or issued, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

Power to remove difficulties.

24. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the *Tamil Nadu Government Gazette*, make such provisions, not inconsistent with the provisions of this Act as appears to them to be necessary or expedient for removing the difficulty.

Provided that no order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(By Order of the Governor)

S.S. POOVALINGAM,
Secretary to Government,
Law Department.