

PART I

LEGISLATIVE DEPARTMENT

Notification

The 28th December, 1993

No. Leg. 17/93.—The following Act of the Legislature of the State of Haryana received the assent of the President of India on the 19th October, 1993, and is hereby published for General information :—

Haryana Act No. 16 of 1993

THE HARYANA COTTON GINNING AND PRESSING
FACTORIES ACT, 1992

AN

ACT

to provide for the regulation of cotton ginning and pressing factories

BE it enacted by the Legislature of the State of Haryana in the Forty-third Year of the Republic of India as follows:—

1. This Act may be called the Haryana Cotton Ginning and Pressing Factories Act, 1992. Short title.

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

Definitions.

- (a) "admixture of cotton" means mixture of different varieties of cotton in contravention of rules made under this Act;
- (b) "bale" means any pressed package of cotton of such weight and packing as may be prescribed;
- (c) "cotton" means ginned or unginned cotton or cotton waste;
- (d) "cotton ginning factory" means any premises, including the precincts thereof, where cotton is ginned or cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or electrical power;
- (e) "cotton pressing factory" means any premises, including precincts thereof, where cotton is pressed into bales;
- (f) "cotton waste" means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste;
- (g) "Government" means Government of the State of Haryana;

- (h) "licence" means a licence granted under section 3 of the Act;
- (i) "owner" includes a person incharge of a factory;
- (j) "prescribed" means prescribed by or under rules made under this Act;
- (k) "season" means such period as may from time to time be notified as such by the State Government.

Grant of
Licence

3. (1) No cotton ginning factory or cotton pressing factory shall be worked without a licence granted to the owner thereof by such licensing authority, in such form, subject to such conditions and on payment of such fee, as may be prescribed:

Provided that a licence for which the prescribed fee has been paid shall be liable to be refused only on the ground that the owner or person incharge of a cotton ginning or a cotton pressing factory in respect of which a licence is applied for has been convicted of an offence punishable under this Act or has not complied with the conditions prescribed for grant of a licence.

(2) If any person works a cotton ginning or cotton pressing factory in respect of which a licence has not been granted or has been suspended, withdrawn or cancelled, such person shall be punishable,—

- (a) on first conviction, with fine which may extend to one thousand rupees and if the offence is continued for more than one day, with an additional fine which may extend to two hundred rupees for every day subsequent to the first day for which the offence has continued ; and
- (b) on every subsequent conviction, with fine which may extend to three thousand rupees and, if the offence has continued for more than one day, an additional fine which may extend to four hundred rupees for every day subsequent to the first day during which the offence has continued.

(3) The licensing authority shall pass an order on the application for the grant of licence within a period of ninety days from the date of receipt of the application. In case the grant of licence is refused, the reasons for such refusal shall also be communicated in writing to the applicant within the said period failing which the licence shall be deemed to have been granted.

(4) An appeal against the order of refusal to grant licence under subsection (3) shall lie to the State Government within a period of thirty days from the date of communication of such order.

(5) A licence shall be liable to be suspended, withdrawn or cancelled on the ground that the owner has been convicted of an offence under this Act or has not complied with an order passed by the competent authority under this Act or rules made thereunder:

Provided that before taking such action the owner shall be served with a notice to show cause within a period of thirty days from the date of the receipt of notice.

(6) An appeal against the order passed under sub-section (5) shall lie to the State Government within a period of thirty days from the date of communication of such order.

4. (1) The owner of every cotton ginning factory shall maintain at the factory a ginning register in the form and manner prescribed, setting forth a daily record of all cotton ginned in the factory, the names of the persons for whom and the dates on which the cotton has been ginned, the quantity for each person and such other particulars as may be prescribed.

Maintenance of Register.

(2) The owner of every cotton pressing factory shall maintain at the factory a press register in the form and manner prescribed, setting forth a daily record of the number of bales pressed in the factory, the serial number of each bale, the name of the person for whom it has been pressed and such other particulars as may be prescribed.

(3) The owner of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required so to do by any person appointed by the State Government in this behalf, and to furnish to him, if so required in writing, a copy certified by him as correct of the entry in any register maintained at the factory.

(4) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(5) If,—

- (a) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose; or
- (b) any entry in any such register is proved to be false in any material particular; or
- (c) any such register is destroyed before the expiration of the period referred to in sub-section (4),

the owner of the factory shall be punishable with fine which may extend to five hundred rupees or if he has previously been convicted of any offence under this sub-section, to fine which may extend to two thousand rupees.

(6) If the owner fails to produce any register or to furnish a certified copy of any entry when required so to do under sub-section (3), or furnishes a certified copy of any entry knowing or having reasons to believe such copy to be false, he shall be punishable with fine which may extend to five hundred rupees or, if he has previously been convicted of any offence under this sub-section, to fine which may extend to two thousand rupees.

5. (1) The State Government may, by notification in the Official Gazette, prohibit, in any area specified in the notification, any admixture of cotton which is ginned or pressed in a cotton ginning or cotton pressing factory.

Prohibition of admixture of cotton in specified areas and penalties therefor.

(2) In any area specified in the notification under sub-section (1), if—

(a) any owner of a cotton ginning or cotton pressing factory gins or presses or allows to be ginned or pressed any cotton which he knows or has reason to believe to contain an admixture of cotton; or

(b) any person makes any admixture of cotton, or abets or knowingly allows or connives at such admixture of cotton which is ginned and which is being, or is intended to be pressed in a cotton pressing factory;

he shall, on conviction, be punishable with imprisonment of either description which may be extended to six months or fine which may extend to five thousand rupees, or with both.

Penalty for watering etc.

6. (1) Any owner of a cotton ginning or cotton pressing factory who knowingly or having reason to believe that any cotton is watered or contains seed in excess of the prescribed proportion or contains any foreign substance or cotton waste, gins or presses or allows such cotton to be ginned or pressed in such factory shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(2) Any person who knowingly waters or wets any cotton or mixes seed or foreign substance or cotton waste with any cotton or abets or knowingly allows or connives at such watering, wetting or mixing of cotton, which is ginned and which is being or is intended to be pressed in a cotton pressing factory shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both.

Explanation—For the purposes of this section, cotton shall be deemed to be watered or wetted, if such cotton—

(a) is knowingly watered or wetted; or

(b) contains moisture in excess of the normal amount, the normal amount being the amount of moisture that such cotton may reasonably be expected to contain regard being had to the place or places at or to which and the time or times of the year in which such cotton has been picked, collected, stored, conveyed, ginned or pressed;

(c) is duly certified by the prescribed authority to contain caked material or patches due to deliberate watering.

(3) A certificate given by an officer authorised in this behalf by the State Government as to the normal amount of moisture that a given quantity of cotton may contain and the amount of moisture that is actually contains, shall be evidence of such matters, until the contrary is proved, and if the amount of moisture that cotton actually contains exceeds the normal amount, it shall be evidence, until the contrary is proved, that the cotton is watered.

7. (1) Every owner of a cotton ginning or cotton pressing factory, shall, before the commencement of work in the factory during a cotton season, destroy the cotton waste of the previous season and shall obtain a certificate to this effect from the authority prescribed in this behalf.

Destruction of cotton waste and penalty therefor.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with a fine which may extend to one thousand rupees.

8. (1) Any gazetted officer authorised by the State Government in this behalf may, of his own motion or on receipt of a complaint (together with the prescribed fee that there has been a contravention of the provisions of section 5 or section 6 in respect of any cotton, cotton package or bale, cause such cotton or the content of such package or bale to be examined by any officer authorised in this behalf, and for such purpose, he may take or cause to be taken a sample of such cotton.

Examination of cotton packages of bales.

(2) A certificate given by the authorised officer after examination of any cotton or the contents of any package or bale under sub-section (1), shall be admissible in evidence and be presumptive proof of the facts mentioned therein until the contrary is proved.

9. (1) The State Government may authorise any gazetted officer to enter and inspect, at any reasonable time, any cotton ginning or cotton pressing factory for the purpose of ascertaining whether there is any contravention of any of the provisions of this Act or of any rules made thereunder or of any of the conditions subject to which such factory has worked or has been permitted to work and to seize all things in respect of which offence punishable under this Act appears to have been committed.

Entry and inspection.

(2) The owner of every cotton ginning or cotton pressing factory shall give every reasonable assistance to the Inspecting Officer in the performance of his duties under sub-section (1).

(3) The owner of such factory shall, in every instance, be permitted to be present during the inspection, and any thing seized during such inspection shall be sealed in the prescribed manner.

(4) The Inspecting Officer, while performing the duties under sub-section (1), may seek police assistance by making requisition in writing in this behalf to the officer in charge of the police station within whose jurisdiction the cotton, ginning or cotton pressing factory to be inspected is located.

10. (1) The owner of every cotton pressing factory shall cause every bale processed in the factory to be marked in such manner as may be prescribed, before it is removed from the press house, with a serial number and with the mark allotted to the factory. The mass (weight) of a bale shall be as under:—

Marking and mass/weight of bales.

July to September :

170 kgs. \pm 5 kgs.

March to June :

170 kgs. \pm 7 kgs.

(2) Every such bale which contains cotton from the crop relating to the current season mixed with cotton from the crop relating to any previous

season, shall be clearly marked in such manner as may be prescribed to distinguish it from bales containing exclusively cotton from the crop relating to the current season.

(3) If any bale is removed from the press house or any cotton pressing factory within having been marked as required by sub-section (1), the owner or person incharge of the factory shall be punishable with fine which may extend to five hundred rupees and if any bale to which the provisions of sub-section (2) are applicable is so removed without being marked as required by that sub-section, the owner of the cotton pressing factory, if he was cognisant of the mixture, shall be punishable with fine which may extend to five hundred rupees.

Returns.

11. (1) The owner or person incharge of every cotton ginning factory shall submit to the prescribed authority, in the prescribed manner and in the prescribed form, monthly returns showing the quantity of cotton ginned in the factory during the preceding month and from the commencement of the season to the end of that month.

(2) The owner or person incharge of every cotton pressing factory shall submit to the prescribed authority, in the prescribed manner and in the prescribed form, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of the week, and the approximate average net weight of the bales pressed in that week.

(3) If default is made in submitting any return as required by sub-section (1) or sub-section (2) the owner or person incharge of the factory shall be punishable with the fine which may extend to five hundred rupees.

(4) Where the owner or person incharge of a cotton ginning or cotton pressing factory has notified to the prescribed authority that the work of ginning cotton or bales in the factory has been suspended, it shall not be necessary for him to submit returns under sub-section (1) or sub-section (2) until such work has been resumed.

Fire prevention protection including fire-fighting arrangements.

12. (1) The owner of a cotton, ginning or cotton pressing factory shall provide for fire prevention, protection including such fire fighting arrangement in his factory as recommended by the Indian Standard Institution in IS 2726-1964 as minimum measures.

(2) Overhead transmission lines over the ginning factory shall be totally avoided.

Fix (ion) of g/ning and pressing charges.

13. The Government may, by notification in the Official Gazette and after hearing objections, if any, of persons interested, fix charges which may be charged by a factory for pressing, or ginning or both. Such notification may apply to the whole of State or to any part thereof.

Liability of lessee or mortgagee as owner.

14. (1) Where the owner of cotton ginning or pressing factory has leased or mortgaged with possession the factory for a period of not less than one month in the case of a cotton ginning factory, and three months in the case of a cotton pressing factory, and retains no interest in the management or profits of the factory, and has given

notice of the lease or mortgage to the prescribed authority, the owner shall hand over to the lessee or mortgagee all the registers maintained by him under section 4 before the commencement of the lease or mortgage. The lessee or the mortgagee, as the case may be, shall be deemed to be the owner of the factory from the date of the notice and for the period of the continuance of the lease or mortgage for the purposes of section 4 in respect of the registers maintained or to be maintained from that date and for that period, and for the purposes of sections 5, 9, 10, 11 and sub-sections (2) to (6) of section 16.

(2) On the termination of the lease or mortgage the lessee or the mortgagee shall hand over to the owner the registers maintained under section 4, and the owner shall forthwith report to the prescribed authority any default of the lessee or mortgagee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 4.

(3) Any person who fails to comply with any of the provisions of sub-sections (1) and (2) shall be punishable with fine which may extend to five hundred rupees.

15. (1) On transfer of the ownership of a cotton ginning or pressing factory the transferer shall hand over to the transferee the registers maintained under section 4 and the transferee shall forthwith report to the prescribed authority any default of the transferer in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 4.

Liability on transfer of ownership.

(2) If default is made in handing over any register or making any report as required by sub-section (1) the transferer or the transferee, as the case may be, shall be punishable with fine which may extend to five hundred rupees.

16. (1) In every cotton ginning factory the construction of which is commenced after the coming into force of this Act:—

Structural requirements for factories.

(a) gin-houses shall be provided with separate entrances and exits for the bringing in unginmed and the taking out ginned cotton, respectively; and

(b) construction shall be in accordance with the plan and specifications previously approved by the prescribed authority;

Provided that nothing in this sub section shall apply to any factory in which only single roller gins are used and where the number of such gins is not more than four.

(2) In any cotton ginning factory whether erected before or after the commencement of this Act,—

(a) no alterations or additions whether structural or in plant or in machinery shall be made so as to reduce the degree of compliance of the factory as a whole with requirements set forth in clauses (a) and (b) of sub section (1), and

(b) every alteration or addition, whether structural or in plant or in machinery, made after the commencement of this Act

shall be in accordance with the plan and specifications previously approved by the prescribed authority:

Provided that nothing in this subsection shall apply to any factory in which, after any alteration or addition has been made, only single roller gins are used and where the number of such gins is not more than four.

(3) The owner of every cotton pressing factory in which cotton is handled on the ground floor shall cause the press-house to be paved or provided with other suitable flooring to the satisfaction of the prescribed authority.

(4) If the owner of any factory fails to comply with any provisions of this section, he shall be punishable with fine which may extend to five hundred rupees.

(5) Where the owner of a factory has been convicted under subsection (4), the prescribed authority may serve on the owner of the factory an order in writing directing that such alteration shall be made in the factory, before a specified date, as are, in the opinion of the said authority, necessary to secure compliance with the provision of sub-section (2) or sub-section (3), as the case may be.

(6) Where the alterations are not made in accordance with the order served under sub-section (5) the prescribed authority may serve on the owner, an order in writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the said order, and the owner shall be punishable with fine which may extend to one hundred rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this subsection.

(7) For the purpose of this section the equivalent of other types of gins, such as double roller gins and saw gins, in terms of single roller gins, shall be laid down by the prescribed authority.

Restriction on closure of factories

17. The owner of a cotton ginning factory or cotton pressing factory, for which a licence has been granted for the season, shall not have the factory closed or cause it to be closed, before the end of the cotton ginning or cotton pressing season, without the previous sanction of licensing authority obtained in the manner prescribed, except when the factory is closed in accordance with the provisions of the Industrial Disputes Act, 1947 (No. XIV of 1947) or any other law for the time being in force, and in case of default, the owner shall, on conviction, be punishable with a fine which may extend to one thousand rupees for each day of closure without such sanction.

Liability of officer of a company.

18. Where the person guilty of an offence under this Act is a company, every Director, Manager, Secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the offence and liable to punishment.

Cognizance of offence.

19. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or the Magistrate of the first class specially empowered in this behalf by the State Government.

(2) No offence punishable under this Act shall be tried by any court inferior to that of a Judicial Magistrate of the first class.

(3) Withwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable and non-bailable.

(4) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—(a) In this sub-section "culpable mental state" includes intention, motive, knowledge of fact and the believe in, or reason to believe, a fact.

(b) For the purpose of this sub-section, a fact is said to be proved only when the court believe it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

20. (1) Any offence made punishable up to a fine of five hundred rupees under this Act, may, either before or after the institution of the proceedings, be compounded by the licensing authority or any other officer authorised by the State Government in this behalf.

Compounding
of offences.

(2) The amount recoverable by way of composition shall not be less than twenty per centum of the maximum fine provided for such offence and the same shall be in addition to the licence fee or other amount payable under this Act.

(3) Where an offence has been compounded, the owner, if in custody, shall be released and no further proceedings shall be taken against him.

21. (1) The Stae Government may, by notification in the official Gazette, make rules to carry out 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 :—

- (a) the mixture of different varieties of cotton premissible under this Act;
- (b) the proportion of seed that may be contained in the cotton;
- (c) the authorisation of officers to examine and certify as to the actual amount of moisture that a given quantity of cotton contains and the normal amount of moisture that such cotton should contain;
- (d) the authorisation of the officers to examine cotton, cotton package or bales under this Act;
- (e) the manner in which anything seized under this Act may be sealed;
- (f) levy of fee on complaints made under section 8;
- (g) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales pressed in the factory and the manner in which such bales shall be marked under section 10;

- (h) the appointment of authorities for the purpose of sections 11, 14, 15 and 16;
- (i) the manner of service of orders made under the Act;
- (j) the form in which registers, records and returns are to be maintained or submitted and the time for submission of the returns;
- (k) the period which shall from time to time constitute a season;
- (l) the manner in which objections against pressing and ginning charges proposed to be fixed by Government are to be heard and disposed of;
- (m) the authority by whom, the form in which, the conditions subject to which and the fee on payment of which a licence may be granted under section 3; and
- (n) any other matter which has to be, or may be, prescribed.

Power to reject unmarked bales in fulfilment of contract.

22. (1) Any person who has made a contract for the purchase of baled cotton may require that no bales other than bales marked with the mark allotted under section 10 for the factory in which they were pressed shall be supplied in fulfilment of such contract, and, if he so requires, no bales not so marked shall be tenderable in fulfilment of the contract.

(2) Any bale marked in accordance with the provisions of section 10 shall within the meaning of the Indian Evidence Act, 1872 (Act 1 of 1872), be presumed for all purposes as between the parties to a contract for the purchase of baled cotton, to have been so marked before leaving the factory in which it was pressed.

Protection for action taken.

23. No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done in pursuance of this Act or of the rules made thereunder.

Penalty for obstructing inspector etc.

24. Whoever wilfully obstructs any officer in the exercise of any power conferred upon him by this Act or the rules made thereunder or fails to produce on demand by such officer any register or other documents in his custody kept in pursuance of this Act or of any of the rules made thereunder, or conceals or prevents any worker in a factory from appearing before or being examined by such officer, shall be punishable with fine which may extend to five hundred rupees.

Penalty.

25. Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is otherwise provided in this Act for such contravention, be punishable with fine which may extend to five hundred rupees or, if he has previously been convicted of an offence under this Act or any rule made thereunder, with fine which may extend to one thousand and five hundred rupees.

Repeal.

26. The Punjab Cotton Ginning and Pressing Factories Act, 1953 (Act No. 2 of 1955), in its application to the State of Haryana is hereby repealed.

T. P. GARG,
Secretary to Government, Haryana,
Legislative Department.

7930 L. R. (H)—Govt. Press, U.T., Chd.