

United Provinces Cotton Ginning And Pressing Factories Act, 1949

9 of 1949

[31 May 1949]

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Whereas it is expedient to consolidate and amend the law relating to cotton ginning and pressing factories and other matters connected therewith in the United Provinces. It is hereby enacted as follows :- 1. Received the assent of the Governor-General on May 31, 1949, under Section 76 of the Government of India Act,

1935, as adapted by the Indian (Provisional Constitution) Order, 1947, and was published in the United Provinces Government Gazette, Part VII-A, dated June 18, 1949.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the United Provinces Cotton Ginning and Pressing Factories Act, 1949. (2) It extends to the whole of [Uttar Pradesh]¹. (3) This section shall come into force at once and the remaining sections on such date and in such areas as the [State Government]² may, by notification in the Official Gazette, appoint in this behalf. 1. Substituted by the A.O. 1950. 2. Substituted by the *ibid*.

2. Repeal :-

The Cotton Ginning and Pressing Factories Act, 1925, the Cotton Ginning and Pressing Factories (Amendment) Act, 1939, in their application to the United Provinces, and the Cotton Ginning and Pressing Factories (United Provinces Amendment) Act, 1941, as re-enacted by the United Provinces Expiring Laws Continuance Act, 1948, are hereby repealed.

3. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-- (a) "admixture of cotton" means a prescribed mixture of different varieties of cotton; (b) "bale" means any pressed package of cotton of whatever size or density ; (c) "cotton" means ginned or unginned cotton, or cotton waste ; (d) "cotton ginning factory" means any place where cotton is ginned or where cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or of electrical power; (e) "cotton pressing factory" means any factory as defined in the Factories Act, 1934 in which 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) "Indian Central Cotton Committee" means the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923, and includes any sub-committee appointed by it to perform any function of the Indian Central Cotton Committee under this Act; (h) "licence" means a licence granted under Section 4; (j) "occupier" includes a managing agent or other person authorized to represent the occupier; (j) "prescribed" means prescribed by rules made under this Act, and (k) "season" means such period as may,

from time to time, be prescribed.

4. Licence For Working Cotton Ginning Or Cotton Pressing Factory :-

(1) No cotton ginning factory or cotton pressing factory shall be worked without a licence granted to the owner thereof by such authority, in such form, subject to such conditions and on payment of such fee, as may be prescribed. (2) (i) 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 in charge of the cotton ginning or cotton pressing factory, in respect of which a licence is applied for has been convicted of an offence punishable under this Act. (ii) A licence shall be liable to be suspended, withdrawn or cancelled only on the ground that the owner or the person in charge of the cotton ginning or cotton pressing factory in respect of which a licence was granted has been convicted of an offence punishable under this Act: Provided that no licence shall be suspended, withdrawn or cancelled under this clause until after the expiration of the season in which the said owner or person has been so convicted. (3) Any person who 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, shall be punishable (i) on a first conviction with fine which may extend to five hundred rupees and, if the offence has continued for more than one day, with a further fine which may extend to one hundred rupees for every day subsequent to the first day during which the offence has continued, and (ii) on every subsequent conviction with fine which may extend to fifteen hundred rupees, and if the offence has continued for more than one day, with a further fine which may extend to two hundred rupees for every day subsequent to the first day during which the offence has continued.

5. Maintenance Of Registers :-

(1) The owner of every cotton ginning or pressing factory, shall, respectively, cause to be maintained at the factory in such form as may be prescribed-- (a) a ginning register containing a record of all cotton ginned in the factory and the names of the persons for whom and the dates on which the cotton has been ginned and of the quantity ginned for each person, or (b) a press register containing 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 any other prescribed particular. (2) The owner or the person in charge of a cotton ginning or cotton

pressing factory shall produce any ginning register or press register maintained under this section when required to do so by any person appointed by the [State Government]¹ in this behalf, and the owner or person in charge of any cotton pressing factory shall furnish to the Indian Central Cotton Committee, if so required by it in writing, a true copy certified as correct by the owner or person in charge of the factory, of the entry in any press register maintained at the factory, relating to any specified bale. (3) 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. (4) If-- (i) 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 prescribed for the purpose, or (ii) any entry in any such register is proved to be false in any material particular; or (iii) any such register is destroyed before the expiration of the period referred to in sub-section (3), the owner of the factory shall be punishable with fine which may extend to fifty rupees, and if he has previously been convicted of any offence under this sub-section, with fine which may extend to five hundred rupees. (5) If the owner or the person in charge of any factory fails to produce any register or to furnish a certified copy of any entry, when required to do so under sub-section (2), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punishable with fine which may extend to fifty rupees, and if he has previously been convicted of any offence under this sub-section, with fine which may extend to five hundred rupees. 1. Substituted by the A.O. 1950.

6. Prohibition Against Watering, Etc., Of Cotton :-

(1) The [State Government]¹ may, by notification in the Official Gazette, declare that in any specified area no cotton which is ginned or pressed in a cotton ginning or cotton pressing factory shall contain any admixture of cotton. (2) Any owner of a cotton ginning or cotton pressing factory or any person in charge of such factory-- (i) who knowing 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 such cotton in such factory, or (ii) who in any area specified in the notification under sub-section (1), gins or presses or allows to be ginned or pressed any cotton which he knows or has reasons to believe to contain any admixture of cotton, shall be punishable with fine which may extend to five hundred rupees.

Explanation.--For the purpose of this section cotton shall not be deemed to be watered, unless it contains moisture in excess of the normal quantity. The normal quantity of moisture in any given quantity of cotton is the amount of moisture that such cotton is reasonably expected to contain, regard being had to the place at or to which, and the time of the year in which, such cotton has been plucked, collected, conveyed, left, ginned or pressed. A certificate by the prescribed authority as to the normal quantity of moisture that a given quantity of such cotton should contain and the quantity of moisture that it contains shall be evidence of such fact until the contrary is proved, and if the latter quantity exceeds the former it shall be evidence, until the contrary is proved, that the cotton is watered. 1. Substituted by the A.O. 1950.

7. Penalty For Making Cotton Wet :-

Any owner of cotton who knowingly makes or causes to be made any cotton which is ginned and which is being or is intended to be pressed in a cotton pressing factory, wets or mixes or causes to be mixed seed, foreign substance or cotton waste with such cotton or in any area specified in sub-section (1) of Section 6, makes any admixture of cotton, abets or knowingly allows or connives at any such act, shall be punishable with fine which may extend to five thousand rupees.

8. Examination Of Cotton Packages Or Bales :-

(1) The [State Government]¹ or any gazetted officer authorized by it in this behalf, may, on its or his own motion or on receipt of a complaint that there has been a contravention of the provisions of Section 6 or 7 in respect of any cotton package or of any bale and in the case of complaint on payment of the prescribed fee by the complainant, cause such cotton or the contents of such package or bale to be examined by the prescribed person or body. (2) A certificate given by such person or body after examination of the contents of any bale under sub-section (1) shall be admissible in evidence and be presumed to be true until the contrary is proved. 1. Substituted by the A.O. 1950.

9. Entry And Inspection :-

(1) The [State Government]¹ may authorize any gazetted officer to enter into and inspect at all reasonable times any cotton ginning or cotton pressing factory for the purpose of ascertaining whether any of the provisions of this Act or of any rule made thereunder, or of any of the conditions subject to which a licence has been granted in

respect of such factory is being or has been contravened and to seize all things in respect of which an offence punishable under this Act appears to have been committed. (2) The owner or person in charge 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 or the person in charge of such factory shall, in every instance, be permitted to be present during the inspection and the things seized during such inspection shall be sealed in the prescribed manner. 1. Substituted by the A.O. 1950.

10. Marking Of Bales :-

(1) The owner of every cotton pressing factory shall cause every bale pressed 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 prescribed for the factory. (2) If any bale is removed from the press-house of any cotton pressing factory without having been marked as required by sub-section (1), the owner of the factory shall be punishable with fine which may extend to fifty rupees.

11. Returns :-

(1) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, [weekly]1 returns showing the quantity of cotton ginned in the factory during the preceding [week]1 and from the commencement of the "season to the end of that [week]1. (2) The [State Government]2 shall compile from the [weekly]1 returns submitted under sub-section (1) and publish in such manner as it thinks fit, a statement showing the total quantity of cotton ginned in the [State]1 during the [week]1 and from the commencement of the season to the end of the [week]1 to which the returns relate: Provided that the quantity of cotton ginned in any individual factory shall not be published. (3) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed, 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 that week, and the approximate average net weight of the bales pressed in that week. (4) The [State Government]2 shall compile from the weekly returns submitted under sub-section (3) and publish in such manner as it thinks fit, a statement showing the total number of bales pressed in the [State]1 during the week and

from the commencement of the season to the end of the week to which the return relates : Provided that the number of bales pressed in any individual factory shall not be published. (5) If default is made in submitting any return as required by sub-section (1) or subsection (3) the owner of the factory shall be punishable with fine which may extend to fifty rupees. (6) Where the owner of a cotton ginning or cotton pressing factory has notified to the prescribed authority that the work of ginning cotton or pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under subsection (1) or sub-section (3) until such work has been resumed. 1. Substituted by U.P. Act XXVI of 1956. 2. Substituted by the A.O. 1950.

12. Liability Of Lessee As Owner :-

(1) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less than one month in the case of a cotton ginning factory, or three months in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority the lessee 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, for the purposes of Sections 5, 6, 7, 8, 9, 10 and 11. (2) On the termination of the lease, the lessee shall handover to the lessor the registers, maintained under Section 5, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of Section 5. (3) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punishable with fine which may extend to fifty rupees.

13. Liability On Transfer Of Ownership :-

(1) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under Section 5, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of Section 5. (2) If default is made in handing over any register or making any report as required by sub-section (1), the transferor or the transferee, as the case may be, shall be punishable with fine

which may extend to fifty rupees.

14. Structural Requirement For Factories :-

(1) In the case of cotton ginning factories, the construction of which is commenced after the commencement of this Act-- (i) gin-houses shall be provided with separate entrance and exits for the bringing in of unginmed and the taking out of ginned cotton, respectively, and (ii) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority : Provided that nothing in this sub-section shall apply to any factory in which only roller gins are used and where the number of such gins is not more than four. (2) In any cotton ginning factory, whether created before or after the commencement of this Act-- (i) no structural alterations or additions, the construction of which commenced after the 27th day of February, 1939, shall be made so as to minimize the degree of compliance of the factory as a whole with the requirements set forth in clauses (i) and (ii) of sub-section(1), and (ii) no structural addition (whether actually attached to any existing structure in the factory or not), the construction of which commenced after the 27th day of February, 1939, shall be made except in accordance with plans and specifications approved by the prescribed authority : Provided that nothing in this sub-section shall apply to any factory in which, after any alteration or addition has been made, only roller gins are used and where the number of such gins is not more than four. (3) Within such period after this section comes into force, as may be prescribed, 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) An owner of a cotton ginning or cotton pressing factory who fails to comply with any of the provisions of this section which is applicable to the factory, shall be punishable with fine may extend to one hundred rupees. (5) (i) Where the owner of a cotton ginning or cotton pressing factory has been convicted under sub-section (4), the prescribed authority may serve on the owner of the factory an order in writing directing that such alterations shall be made in the factory, before a specified date, as in the opinion of the said authority are necessary to secure compliance with the provisions of sub-section (1), sub-section (2) or sub-section (3), as the case may be. (ii) Where the alterations are not made in accordance with the order served under clause (i) of this sub-section, the prescribed authority may serve on the

owner and the occupier, if any, of the factory 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 order served under clause (i), and the owner and the occupier, if any, shall be jointly and severally liable to a fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause.

15. Liability Of Officers Of A Company :-

If the person, contravening any provision of this Act or any rule made thereunder, or any order made under this Act or any rule made thereunder, is a company or other body corporate, every director, manager, secretary or other officer thereof or of the managing agents thereof shall, unless it appears that the contravention took place without his knowledge, or that he exercised all due care to prevent such contravention, be deemed to be guilty of such contravention.

16. Cognizance Of Offences :-

(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the district magistrate or a magistrate of the first class specially empowered in this behalf by the [State Government].¹ (2) No offence punishable under this Act shall be tried by any court inferior to that of a magistrate of the first class.
1. Substituted by the A.O. 1950.

17. Power Of The Magistrate To Pass Sentence :-

Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898,¹ a magistrate of the first class may pass any sentence provided for any offence punishable under this Act and provisions of the said Code shall be deemed to have been amended accordingly. 1 See now Cr.P.C. 1973.

18. Power Of State Government To Make Rules :-

(1) The [State Government]¹ may, by notification in the Official Gazette, make rules² consistent with this Act, to provide for all or any of the following matters namely: (i) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales; (ii) the manner in which bales shall be marked; (iii) the manner in which the returns referred to in Section 11 shall be published; (iv) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers; (v) what shall constitute an admixture of cotton; (v)

the period which shall, from time to time, constitute a season ; (vi) 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 sub-section (1) of Section 4; (viii) the particulars to be entered in the register maintained under sub-section (1) of Section 5; (ix) the proportion of seed which may be contained in the cotton; (x) the person authorized under Section 8 to give a certificate regarding the quantity of moisture contained in any cotton and other matter or to examine bales and packages thereof; (xi) the procedure of making complaint and causing the contents of a bale or package to be examined and the fee for examination of the contents thereof under sub-section (1) of Section 8; (xii) the manner in which the articles seized shall be sealed under Section 9; (xiii) the appointment of the authority to whom and the time within which the registers and returns required by Sections 5 and 11 shall be submitted ; (xiv) the appointment of authorities for the purposes of Sections 12, 13 and 14 ; (xv) the manner of service of orders made under Section 14 ;. (xvi) the power of entry and inspection which may be exercised by district magistrates or by any officer specially empowered in this behalf by the [State Government]¹; and (xvii) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act. (2) The rules to be made under sub-section (1) shall be subject to the conditions of previous publication. 1. Substituted by the A.O. 1950. 2. For rules vide Notification No. B-5184-A/XII-A--613-50, dated March 1, 1955, published in the Gazette, dated March 8, 1952. Part L, pp. 205-206.

19. Power To Reject Unmarked Bales In Fulfilment Of Contracts :-

(1) After the commencement of this Act, 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 prescribed under Section 10 for the factory in which they were pressed, shall be supplied in fulfilment of such contract, and if he does so require, no bale not so marked shall be tendered 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, 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.

20. Protection For Acts Done Under Act :-

No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

21. Penalty :-

Whoever contravenes any of the provisions of this Act or any rule made thereunder or any of the conditions subject to which a licence has been granted to him shall, if no other penalty is already 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 fifteen hundred rupees.

22. Compounding Offences, Etc. :-

(a) The district magistrate may accept from any person whose licence is liable to be suspended, withdrawn or cancelled under this Act, or who is reasonably suspected of having committed an offence under this Act, a sum of money in lieu of such suspension, withdrawal or cancellation or by way of composition for the offence which may have been committed, as the case may be. (b) On payment by such person of such sum to the district magistrate he shall, if in custody, be set at liberty and if the criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal.