

THE SEA CUSTOMS (AMENDMENT) ACT, 1957

¹ACT No. XXXIV OF 1957

[10th September, 1957]

An Act further to amend the Sea Customs Act, 1878

WHEREAS it is expedient further to amend the Sea Customs Act, 1878, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

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mencement.1.—(1) This Act may be called the Sea Customs (Amend-
ment) Act, 1957.

(2) It shall come into force at once.

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Indemnity.2. [Amendments in Act VIII of 1878.] Rep. by the Repealing
and Amending Ordinance, 1961 (I of 1961), s. 2 and 1st Sch.3.—(1) Anything done in pursuance of item 8 or item 81
of the schedule to section 167 of the said Act on or after the twenty-
third day of March, 1956, and before the commencement of this
Act shall be deemed to have been done in pursuance of those
items as amended by this Act.(2) No suit, prosecution or other legal proceeding shall lie
in any court against any Government servant or any other person
for or on account of or in respect of anything done, action taken,
order passed, direction issued, investigation or arrest made,
property seized or confiscated, loss or injury suffered, legal pro-
ceeding instituted, or penalty or punishment imposed, enforced or
continued, in pursuance or in virtue of either of the aforesaid
items or of the aforesaid section 187A.4. [Repeal.] Rep. by the Repealing and Amending Ordinance,
1961 (I of 1961), s. 2 and 1st Sch.

THE COTTON ACT, 1957

²ACT No. XXXVIII OF 1957

[10th September, 1957]

An Act to provide for measures for the promotion of international
trade in cotton.¹ For Statement of Objects and Reasons, see Gaz. of P. dated the
23rd August, 1957, Ext. p. 1797.² For Statement of Objects and Reasons, see Gaz. of P., dated the
24th August, 1957, Ext., p. 1813.WHEREAS
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WHEREAS it is expedient to provide for measures for the promotion of international trade in cotton ;

It is hereby enacted as follows :—

1.—(1) This Act may be called the Cotton Act, 1957.

(2) It extends to the [Karachi Division], and with the exception of section 6, to the rest of Pakistan.

(3) It shall come into force at once.

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

(a) "contract" means a contract for the purchase or sale of cotton, and includes a factory selection contract ;

(b) "cotton" means unginned cotton (*kapas*) or ginned cotton (*rui*) or pressed and baled cotton but does not include wool cotton or silk cotton ;

(c) "factory selection contract" means a contract for the sale of cotton entered into in Pakistan and providing for selection by the buyer at the factory and for delivery of the cotton selected in full pressed bales at Karachi within the period and at the price specified in the contract ;

(d) "notified order" means an order published in the official Gazette ;

(e) "pressing factory" means a place wherein steam, water or other mechanical power or electric power is used and where cotton is pressed into bales.

3. The Central Government may, for the promotion of international trade in cotton, constitute, by notification in the official Gazette, a Cotton Board with a Chairman and such other members, of whom one may be nominated by the Government of West Pakistan, as may be specified in the notification.

4. The Board shall have power to supervise and regulate all dealings in cotton, in so far as they are connected with the promotion of international trade therein, and shall perform such functions as the Central Government may, from time to time, direct for the purposes of this Act.

5. The Board shall be subject to the superintendence and control of the Central Government, and in the discharge of its

¹ Subs. by A. O., 1964, Art. 2 and Sch., for "Federal Territory of Karachi" which had been subs. by the Repealing and Amending Ordinance, 1961 (1 of 1961), s. 3 and 2nd Sch., for "Federal Capital".

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be in the interests of the trade and also of the public to do so, may, by a notified order and subject to such conditions, if any, as may be specified in the order, prohibit any specified kind or class of contracts, such as forward contracts or hedge contracts, unless such contracts are made through and under the control of, and in the manner prescribed by, an association recognised by the Central Government under sub-section (2).

(2) For the purposes of this section, the Central Government may, by a notified order, recognise any association, constituted for the purpose of regulating and controlling contracts, which applies for such recognition.

(3) A recognition under sub-section (2) may be granted subject to the condition that the association shall by such amendments of its articles of association, rules or bye-laws as may be necessary provide for the appointment by the Central Government of not more than four persons, representing interests not directly represented through membership of the association, as members of the governing body of the association.

(4) Every association, which is recognised under sub-section (2), shall furnish to the Central Government such information and such periodical returns relating to the affairs of the association as the Central Government may by order in writing require.

(5) The Central Government may, by order in writing, give such directions, as it considers necessary in the interests of the trade and the public, to an association recognised under sub-section (2) in respect of contracts to which this section applies.

(6) No articles, rules or bye-laws of an association recognised under sub-section (2) shall be altered save with the previous approval of the Central Government.

(7) Whenever the Central Government considers it expedient to do so, it may by order in writing, direct any association recognised under sub-section (2) to make, repeal or amend any articles, rules or bye-laws of the association in the manner and within a period specified in the order; and if the recognised association refuses, fails or neglects to comply with the direction within the specified period, the Central Government may, by a notified order, make, repeal or amend the articles, rules or bye-laws in the manner specified in the order giving the direction or with such modifications as the Central Government may think fit, and the making, repeal or amendment of the articles, rules or bye-laws shall be deemed to have been duly effected by the association.

(8) If the Central Government is of the opinion that the interests of the trade and the public require that the recognition

contracts
through
recognised
associations.



accorded to an association under sub-section (2) should be terminated, the Central Government may, after giving the association a reasonable opportunity of being heard in the matter, by a notified order, terminate the recognition on and from the date of such order or any specified date subsequent thereto, and the association shall cease to be an association recognised under sub-section (2) from the date of such termination :

Provided that such termination shall not affect the validity of any contract entered into or made before the date of such termination.

Delegation
of powers.

11. The Central Government may, by a notified¹ order, direct that any power conferred upon it by or under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable by the Cotton Board.

Penalty,
etc.

12.—(1) Any person who contravenes or fails to comply with an order made or direction given under this Act shall be punishable as if he had contravened a provision of this Act.

(2) Any person who contravenes any provision of this Act shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) Where any person as aforesaid is a company or a body corporate, every director, manager, secretary or other officer, and every agent and servant thereof, and in the case of an unlimited company or a company limited by guarantee, also any of its members, shall, subject to the provisions of the next succeeding sub-section, be punishable as if he had contravened the provisions of this Act.

(4) No such director, manager, secretary or other officer and no such agent, servant or member as is referred to in sub-section (3) shall be prosecuted under this Act unless he has been given an opportunity by the Central Government to show cause, within such time as the Central Government may specify, why he should not be prosecuted, and if it is made to appear to the satisfaction of the Central Government at any time before the institution of the prosecution that he has used due diligence to enforce the observance of the provisions of this Act and the orders and directions issued thereunder and that the offence has been committed without his knowledge or against his consent, the Central Government may forbear further proceedings against him :

Provided that nothing in this sub-section shall prevent the

¹ For notification directing that the powers conferred upon the Central Government by or under this Act shall, in relation to certain matters, be exercised by the Cotton Board, see Gaz. of P., 1958, Ext., p. 377.

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13. If any person—

- (i) when required by an order under this Act to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other documents which he is required by any such order to maintain or furnish,

False
Statements.

he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

14.—(1) The Central Government may, by notification in the official Gazette, makes rules for carrying out the purposes of this Act.

Power to
make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the procedure for determining, whether by means of arbitration or otherwise, the loss that may be sustained by Government in securing the fulfilment of any contract on which an exporter has defaulted, and the manner in which the liability of the defaulter for such loss may be discharged by him.

(3) Rules made under this section shall be laid before the National Assembly at its meeting held next after the publication of the notification under sub-section (1).

15. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Pakistan Penal Code.

Cognizance
of offences.

16. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf to pass a sentence of fine exceeding one thousand rupees on any person convicted under this Act.

Special pro-
vision re-
garding fines.

17. Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a court shall, within the meaning of the Evidence Act, 1872, presume that such order was so made by that authority.

Presumption
as to orders.

18. [Repeal.] *Rep. by the Repealing and Amending Ordinance, 1965 (X of 1965), s. 2 and 1st Sch.*

THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ACT, 1957.

[ACT No. XL of 1957]

[10th September, 1957]

An Act further to amend the Foreign Exchange Regulation Act, 1947

WHEREAS certain amendments were made in the Foreign Exchange Regulation Act, 1947, by the Foreign Exchange Regulation (Amendment) Ordinance, 1955, subsequently repealed and re-enacted as the Foreign Exchange Regulation (Amendment) Act, 1956 ;

AND WHEREAS the Supreme Court in Criminal Appeals Nos. 11, 12, 13 and 14 of 1956, has held that the Amending Act, which enables the Central Government or the State Bank to divest the ordinary courts of the jurisdiction to try offences under the special law in accordance with the provisions of the Code of Criminal Procedure, 1898, and to effectuate the jurisdiction of the special Tribunals or Adjudication Officers offends against Article 5 of the Constitution, and is, for that reason, void ;

AND WHEREAS it is expedient further to amend the Foreign Exchange Regulation Act, 1947, in the manner and for the purposes hereinafter appearing :

It is hereby enacted as follows :—

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mencement.

1.—(1) This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1957.

(2) It shall come into force at once.

2—7. *Rep. by the Repealing and Amending Ordinance, 1961 (I of 1961), s. 2 and 1st Sch.*

Transfer of
cases.

8.—(1) All the cases triable by a Tribunal under section 23 of the said Act as amended by this Act and pending in any court immediately before the commencement of this Act, shall, on such commencement, stand transferred to the Tribunal having jurisdiction over such cases.

¹ For Statement of Objects and Reasons, see Gaz. of P., dated the 26th August, 1957, Ex. p. 1829.

(2) In respect of section (1), such person shall be bound to record in the case before the court recorded by or before the transferee.

9. No suit or application in any court shall be made for or on account of any action taken, no arrest made, no legal proceeding enforced or continued of the Foreign

10. [Repealed] *Rep. by the Repealing and Amending Ordinance, 1961 (I of 1961), s. 2 and 1st Sch.*

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