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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 4th September, 1976

The following Acts of Parliament received the assent of the President on the 4th September, 1976, and are hereby published for general information:--

An Act to regulate the operation and development of cotton ginning

WHEREAS it is expedient to make provision to regulate the operation and development of cotton ginning and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS paragraph (b) of clause (1) of Article 253 of the Constitution provides that Parliament may by law declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government or by a corporation controlled by any such Government ;

It is hereby enacted as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the Cotton Ginning Control and Development Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “acquired establishment” means an establishment in respect of which an order has been made under section 5 ;

(b) “bank rate” means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956) ;

(c) “Corporation” means the Cotton Trading Corporation of Pakistan ;

(d) “creditor” means any person to whom an acquired establishment owes any amount of money ;

(e) “debtor” means a person who owes any amount of money to an acquired establishment ;

(f) “establishment” means any company, firm, concern, institution or enterprise the whole or any part of the undertaking of which pertains to the industry, and includes the business related to the industry, and any office, shop, building, factory, land, godown, yard, stocks, stores, vehicles and assets in any form, so related, wherever they may be ;

Explanation.—The Federal Government shall decide whether the business is related or not to the industry and the decision of the Federal Government shall be final ;

(g) “foreign investor” means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

(i) the Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income ; or

- (ii) the Federal Government has not given such assurance but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders, he will not be treated less favourably than an investor to whom such assurance had been given ;
- (h) "industry" means the cotton ginning industry, composed of one or more cotton ginning factories ;
- (i) "Manager" in relation to an establishment means the Manager appointed under section 7 ;
- (j) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority ;
- (k) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before an order has been made under section 5 in respect thereof ;
- (l) "shareholder" means a shareholder in the share capital of an establishment and includes a stockholder ; and
- (m) words and expressions used but not defined in this Act shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. Declaration.—It is hereby declared that the industry shall be carried on and owned by the Federal Government, or a Corporation controlled by the Federal Government, to the exclusion of all other persons, except a foreign investor.

4. Act to override other laws.—The provisions of this Act shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972 (P.O. No. 2 of 1972), or any other law for the time being in force, or any agreement, contract, memorandum or articles of association of a company.

5. Power to acquire ownership and management.—(1) The Federal Government may, by an order published in the official Gazette, acquire the ownership and management of any establishment.

(2) As from the date of such order,—

- (a) the previous management shall stand divested of such management ;
- (b) in the case of an establishment which is a company or an establishment owned by a company, the shares of the company or the proprietary interest of the company in the establishment shall, in the discretion of the Federal Government, vest in that Government ;
- (c) in the case of an establishment owned by a person, the proprietary interest of such person shall vest in the Federal Government :

Provided that nothing in sub-section (2) shall apply to the shares, or the proprietary interest, held by a foreign investor.

6. Transfer of ownership and management.—The Federal Government may, by notification in the official Gazette, transfer the ownership and management of an acquired establishment to the Corporation.

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7. Appointment of Managers.—(1) Where the Federal Government has made an order under section 6 in respect of an establishment, the Corporation may appoint a Manager in respect of such establishment.

(2) Upon the appointment of a Manager in respect of an acquired establishment, the administration and management of the affairs of such establishment shall vest in the Manager, subject to such directions as the Corporation may give from time to time in this behalf.

(3) The Manager shall hold office during the pleasure of the Corporation on such terms and conditions as may be specified by the Corporation.

8. Regulations.—The Corporation may, with the prior approval in writing of the Federal Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Act.

9. Delegation of powers, etc.—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, in such circumstances and subject to such conditions as may be specified in the notification, be exercisable also by the Corporation or any other person.

(2) The Federal Government may from time to time issue such directions to, and call for such information or reports from, the Corporation as the Federal Government may deem expedient.

10. Compensation.—Where the Federal Government acquires the shares and proprietary interests of an establishment under section 5, there shall be paid compensation the amount of which shall be determined and paid by the Federal Government on the basis of the principles set out in the Schedule.

11. Reorganisation.—Where the shares of a company are owned wholly by the Corporation, the assets and liabilities of such company may, with the prior approval in writing of the Federal Government, be acquired by the Corporation, whereafter the company shall stand wound up.

12. Prohibition to obstruct.—No person shall, unless so authorised by the Federal Government, or the Corporation, give any instruction to the Manager, nor shall any person in any manner obstruct him in the discharge of his duties or the performance of his functions.

13. Debtor.—(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation or to the acquired establishment specified in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of affecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

14. Creditor.—(1) A creditor of an acquired establishment may apply to the Corporation for payment of the amount due to him from the establishment.

(2) The Corporation may, on receipt of an application under sub-section (1) and after such enquiry as it may deem fit, either reject such application or, if

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satisfied, direct the acquired establishment to pay the amount due to the creditor in such instalments and within such period as may be specified in the directions.

15. Power to revoke contract, etc.—If any contract or agreement entered into, or any obligation undertaken, by any previous management of an acquired establishment is declared by the Federal Government to be against the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation :

Provided that a declaration under this section shall be made after such enquiry as the Federal Government may deem fit and after giving an opportunity to the person or persons with whom such contract or agreement was entered into, or to whom such obligation was undertaken, to show cause why such declaration shall not be made :

Provided further that this section shall not be construed as preventing any party to the contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

16. Continuance in service of the employees.—(1) Every wholetime employee who was employed by an acquired establishment immediately before the date of acquisition shall, on and from the date of such acquisition, become an employee of the Corporation, and shall continue to hold his office on the same terms and conditions as were applicable to him immediately before such acquisition, until his employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation :

Provided that, if a question arises whether a person was a wholetime employee of an establishment or not, the decision of the Corporation shall be final.

(2) Where any employee of the acquired establishment has under the provisions of sub-section (1) become an employee of the Corporation, the Corporation may alter the terms and conditions of service of such employee as it thinks fit, and, if the alteration is not acceptable to the employee, the Corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months, or, if his contract of service provides for a shorter notice for termination of employment, for the period so provided.

Explanation.—The compensation payable to an employee under sub-section (2) shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) The Corporation may in its discretion transfer an employee from an acquired establishment to any other such establishment under its control or to any office of the Corporation.

(4) The transfer of the services of an employee of an establishment to the Corporation shall not, except as provided in this section, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

17. General effect of vesting of establishment.—(1) All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of the acquisition, to which any acquired establishment was a

party or which were in respect of such establishment, shall, subject to the provisions of section 15, be of as full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the establishment, the Corporation had been a party thereto, or as if they had been entered into or issued in respect of the Corporation.

(2) If on the date of the acquisition of the management of an establishment, any suit, appeal or legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, discontinue or be in any way prejudicially affected by reason of such acquisition or anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

18. Duty to deliver possession of property.—(1) Every person who has in his possession, custody or control any property of an acquired establishment shall forthwith deliver the property to the Corporation.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been transferred to, and vested in, it under this Act.

Explanation.—In this section, “property” means property of any kind including books, documents and papers and also includes any right or interest in such property.

19. Provident, superannuation and other like funds.—(1) Where an establishment, which has been transferred to the Corporation under section 6, has established a provident or superannuation fund or any other like fund for the benefit of its employees, and has constituted a trust in respect thereof, hereinafter referred to as an existing trust, the moneys standing to the credit of any such fund on the appointed date, together with any other assets pertaining to such fund, shall, subject to the provisions of sub-section (2), vest in the Corporation from the date of such transfer.

(2) Where all the employees of any such establishment do not become the employees of the Corporation under section 16, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the Corporation in such manner as may be prescribed by rules, and in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(3) The Corporation shall, as soon as may be after an establishment is transferred to it under section 6, constitute in respect of the moneys and other assets which are vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstance may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are vested in the Corporation under this section, the person responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except in respect of things done or omitted to be done before the date of the transfer of the establishment.

20. Bar of jurisdiction.—(1) No court shall call in question or permit to be called in question any provision of this Act, or of any rule or order made, or anything done or any action taken thereunder.

(2) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done or intended to be done under this Act.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, the Corporation, a Manager or any other person for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

22. **Assistance to the Corporation.**—The Federal Government, or a Provincial Government, shall provide such assistance as may be needed by the Corporation for carrying out the purposes of this Act.

23. **Penalties.**—Whoever—

(1) obstructs or resists or hinders any person in the discharge of his duties under this Act ; or

(2) destroys, tampers with, alters or defaces any property or document belonging, or pertaining, to an acquired establishment ; or

(3) refuses or fails to deliver possession of any property or document belonging or pertaining to an acquired establishment ; or

(4) contravenes any of the provisions of section 3, section 12 or section 18 shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine or with both :

Provided that no court shall take cognisance of an offence under this Act unless a complaint in this behalf is made by the Corporation.

24. **Change of name of an acquired establishment.**—The Federal Government may, by notification in the official Gazette, specify a new name by which an acquired establishment shall be known from such date as may be specified in the notification.

25. **Composite enterprises and organisations.**—When an acquired establishment is engaged in a business not directly related to the industry, the Federal Government may take such action for the bifurcation of such business from business directly related to the industry as it may deem fit ; and the decision of the Federal Government as to such bifurcation shall be final.

26. **Power to make rules.**—(1) The Federal Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of foregoing powers, such rules may provide for, or may empower the Corporation to make orders providing for all or any of the following matters, namely :—

- (a) ensuring the safety of the properties of an acquired establishment ;
- (b) ensuring the due performance of their duties by the persons connected with an acquired establishment ;
- (c) prohibiting anything likely to interfere with the proper functioning of an acquired establishment ;
- (d) the administration, management and disposal, by way of transfer or otherwise, of any property relating to or held or managed by or on behalf of an acquired establishment ;
- (e) prohibiting the departure from any area of any person connected with the administration, control or functioning of an acquired establishment save with the leave of the Manager or any other person authorised in this behalf by the Corporation ;
- (f) the acquisition or control of any business, trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of the acquired establishment ;

- (g) the requisitioning of any property, movable or immovable, belonging to an acquired establishment ;
- (h) the requisitioning of any property, movable or immovable, the requisitioning of which is, in the opinion of the Federal Government, required for the proper functioning of an acquired establishment ;
- (i) preventing the entry of any person into any place, yard, factory, mill, shop, or office used for the purpose of an acquired establishment, or of any of its subsidiaries ;
- (j) the taking of any steps for collecting, controlling and disposing of the assets, movable or immovable, of any acquired establishment ;
- (k) preparation and audit of accounts of the Corporation and of the acquired establishments, and matters ancillary thereto ; and
- (l) control of the Federal Government over the accounts of the Corporation and of the acquired establishments.

27. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Act the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

28. **Repeal.**—The Cotton Ginning Control and Development Ordinance, 1976 (XXVI of 1976), is hereby repealed.

THE SCHEDULE

(See section 10)

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. The value of the compensation for the shares of establishments acquired by the Federal Government shall be assessed—

- (a) in the case of the shares not quoted on any of the stock exchanges, at the Break-up Value, and
- (b) in the case of the shares quoted on any of the stock exchanges, at the Break-up Value or the Market Value, whichever is more, provided that the Market Value will be taken into account only if the shares have been traded on the stock exchange for at least three years, and not less than 30% of the shares have been traded during the three years preceding the date of the acquisition of the shares.

2. Where the proprietary interests in such an establishment are acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the Net Worth of the proprietary interests of such establishments.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of fifteen years, and carrying, with effect from the date of acquisition, a rate of interest one per cent above the bank rate as notified by the State Bank of Pakistan from time to time. In the case of persons holding shares

of a total value less than Rs. 5,000, the Bonds will be redeemable within a period of two years. The Bonds shall be negotiable and shall be eligible as security for advances.

4. Definitions.—In this Schedule,—

- (a) “Break-up Value” shall mean the value of the shares of a company as determined by the Auditors appointed by the Federal Government on the basis of the Balance Sheet of the company, drawn up as on the date of acquisition, to be prepared and verified by such auditors in accordance with clause (c) of sub-rule (2) of rule 8 of the Wealth-tax Rules ;
- (b) “Market Value” shall mean the average value of the shares of a company as quoted on the stock exchange nearest to the Head Office of the company on closing on all working days within three years of the date of order of acquisition of such shares under this Act ;
- (c) “Net Worth Value” shall mean the value of the proprietary interests of a company or other person in an establishment which are acquired under this Act, as determined by the auditors appointed by the Federal Government, on the basis of the Balance Sheet of such establishment, drawn up as on the date of acquisition, to be prepared and verified by such auditors. The Net Worth Value shall be determined by valuing the Fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, *e.g.* stores, inventory, work in progress, advances and prepayments, cash and bank balances, at their cost or market value whichever is lower. From the sum total of the Fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

M. A. HAQ,
Secretary.