

Bihar Sugarcane (Regulation of Supply and Purchase) (Amendment) Bill, 2007

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# **Bihar Sugarcane (Regulation of Supply and Purchase) (Amendment) Bill, 2007**

## A BILL

To Amend the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981.

PREAMBLE :- To remove the discrepancies which remained after the enactment of the Bihar Sugarcane (Regulation of Supply and Purchase) (Amendment) Act, 1993, for an effective regulation of the supply and purchase of sugarcane and in order to empower the State Government to determine the State Advised cane price in the public interest, it is necessary to amend the present Act.

Be it enacted by the Legislature of the State of Bihar in the Fifty Eighth year of the Republic of India as follows: -

1. Short title, Extent and Commencement- (1) This Act may be called the Bihar Sugarcane (Regulation of Supply and Purchase) (Amendment) Act, 2007.  
(2) It shall come into force at once.  
(3) It shall extend to the whole of the State of Bihar.
2. Amendment in Section 2 of Bihar Act 37 of 1982- In Section 2 of the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 (Bihar Act 37, 1982) (hereinafter referred to as the said Act)-
  - (i) Clause (g) shall be deleted.
  - (ii) Clause (g-1) shall be deleted.

- (iii) Clause (j) – at the end of the sentence after the word “process” the following shall be added “or any other sugar or sugarcane based products manufactured by any other technique or process based on sugarcane which includes Sugarcane based Ethanol plant, rectified spirit plant and Co-generation plant.”
- (iv) Clause (l) – after the word “process” in line 3 the following shall be inserted “or any other sugar or sugarcane based products manufactured by any other technique or process based on sugarcane which includes Sugarcane based Ethanol plant, rectified spirit plant and Co-generation plant.”
- (v) In clause (n) the words “or a Co-operative Society” in line 3 shall be deleted
- (vi) In clause (n) the words “or assigned” shall be inserted after the word “reserved” in line 4.
- (vii) After clause (o) a new clause (0-1) shall be inserted as follow: “(o-1) “Assigned area” means such area, wherein sugarcane is grown or is likely to be grown and which is not reserved for a factory.”

### 3. Amendment in Section 3 of Bihar Act 37 of 1982 – In Section 3 of the said Act-

- (i) In clause (c) (iii) of sub section (2) the words “and co-operative societies” after the word “cane grower” shall be deleted.
- (ii) In clause (c) (v) of sub-section (2) the figure “1” in the line of word “Labour” shall substituted by figure “2.”
- (iii) Clause (c) (vi) of sub-section (2) shall be deleted.

(iv) Clause (d) of sub-section (2) shall be substituted; namely-

“(d) The following shall be ex-officio members:

(i) Cane Commissioner, Bihar

(ii) Joint Cane Commissioner, Bihar

(iii) Director, Sugarcane Research Institute, Pusa, Samastipur

(iv) Engineer -in- Chief, Road Construction Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer,

(v) Engineer-in-Chief, Water Resources Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer,

(vi) Engineer-in-Chief Minor Irrigation Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer,

(vii) Engineer-in-Chief Energy Department, Bihar or his representative who shall not be below the rank of a Superintending Engineer.”

(viii) Engineer-in-Chief of R.E.O.

(v) In clause (e) of sub-section (2) after the word “Sugarcane” the words “Development Department” shall be inserted.

(vi) The second proviso of Clause (e) of sub-section (2) shall be deleted.

(vii) Sub-section (4) shall be substituted as follows :- The Board shall be constituted initially for a period of three years and shall thereafter be reconstituted for periods of like duration within six months of the expiry of duration. Till the new Board is reconstituted, the existing Board will continue to function. The term of office of the Chairman, Deputy Chairman, Secretary and of the Members of the

Board shall be co-terminus with the period of constitution or reconstitution of the Board, as the case may be.

4. Amendment in Section 4 of Bihar Act 37 of 1982- In Section 4 of the said Act-

(i) In clause (d) of sub-section (1) the words “determination of” shall be inserted after the words “in respect of the.”

(ii) The clause (f) of sub-section (1) shall be substituted as follows -

“(f) Maintenance of co-ordination among the occupier, managers, cane growers and other related parties; and”

5. Amendment in Section-7 of Bihar Act 37 of 1982- In Section 7 of the said Act-

(i) Clause (b) of sub-section (1) shall be deleted and the following shall be substituted-

“(b) Assistant Director, Sugarcane Development, who shall be member;”

(ii) Clause (e) of sub-section (1) shall be deleted and the following shall be substituted-

“(e) Five representatives of the local cane growers, who shall be nominated by the State Government.”

(iii) Proviso of sub-section (1) shall be deleted and the following shall be substituted-

“Provided that where the reserved area is so constituted to spread over more than one district the Chairman shall be the Collector of the district in which the factory is situated.”

(iv) In sub-Section-2 after the last word, the following words shall be added :- “Within six months of the expiry of duration, till the new Zonal Development Council is reconstituted, the existing Zonal Development Council will continue to function.”

6. Amendment in Section 9 of Bihar Act 37 of 1982- In Section 9 of the said Act-

(i) In clause (ii) of sub-section (1) the word “co-operative societies” shall substituted by the words “others.”

(ii) In Sub-section (2) after the first paragraph the following words will be added :-  
“and also contribute to the Sugarcane Board at rates advised by the Board with the approval of the State Government.”

7. Amendment in Section 13 of Bihar Act 37 of 1982- In Section 13 of the said Act-

(i) In clause (e) of sub-section (5) the words “or a co-operative society” in the first line shall be deleted.

(ii) In clause (ii) of sub-section (7) the words “secretary of a co-operative society” in third line and the words “co-operative society” in line 4-5 shall be deleted.

(iii) In second line of sub-section (9) the words “or grower” and in third line the words “or a co-operative society” shall be deleted.

(iv) A new sub-section (10) shall be inserted as follows-

“(10) (i) – The occupier, manager and the weigh-ment clerk of a factory, a person responsible for weigh-ment of sugarcane in a unit shall be responsible for the correctness of weighbridge and weigh-ment of sugarcane thereof. If a cane officer, during his inspection of the weigh-bridge and the weigh-ment of sugarcane, finds any wrong weigh-ment or under weigh-ment he shall be able to impose a fine up to rupees ten thousand only.

(ii) If a requisition slip issued by an occupier/ manager of a factory is found to be in a false name and based on wrong measurement of sugarcane, the cane officer shall impose a fine as per clause (i) of this sub-section.

(iii) A person aggrieved by the orders passed under clause (i) & (ii) of this sub-section, shall appeal before the Assistant Cane Commissioner within a week and against the order of the Assistant Cane Commissioner he shall appeal before the Cane Commissioner within one month.

Provided that the aggrieved person shall be able to appeal only after he has deposited the amount of fine so imposed in the district treasury concerned.

9. Amendment in Section 24 of Bihar Act 37 of 1982- In Section 24 of the said Act-

- (i) In sub-section (1) the word "State Government" in the first line shall be substituted by the word "Cane Commissioner".
- (ii) The word "co-operative societies" in the fourth line shall be deleted.
- (iii) The word "notification in the official gazette" in line 7-8 shall be deleted.
- (iv) In fourth line of sub-section (1) the word "and Co-operative Societies" shall be deleted.
- (v) In sub-section (3) the figure "57" shall be substituted by the figure "55."

10. Amendment in Section 25 of Bihar Act 37 of 1982- In Section 25 of the said Act-

- (i) In sub-section (2) the words "two thousand and five hundred" in line two shall be substituted by the word "ten thousand."
- (ii) In fifth line of sub-section (4) the figure "57" shall be substituted by the figure "55."

11. Amendment in Section 26 of Bihar Act 37 of 1982- In Section 26 of the said Act-

(i) In Sub-Section 1 the following para shall be included “The paid employees of the factory, responsible for the weightment of cane shall possess a valid Identity Card.”

(ii) A new Sub-Section (3) shall be inserted as follow :-

26(3) “Failing to comply with the provisions of above Sub-Section (1) & (2) the occupier of the factory or Officers and Staffs of the management of a factory may be fined up to rupees twenty five thousand or legal action under Section-52 of this Act and under the provisions of Indian Penal Code shall be constituted.”

12. Amendment in Section 27 of Bihar Act 37 of 1982- In Sub-section (3) of Section 27 of the said Act in fifth line after the word “revised” the words “, which will be final” shall be inserted.

13. Amendment in Section 28 of Bihar Act 37 of 1982- In Section 28 Sub-section-(1) of the said Act after the word “made” in fourth line “and a certificate has not been obtained from the cane officer” shall be inserted.

(ii) In Sub-Section (1) the following shall be included

“(1)(f) –“Before the commencement of purchase of cane at centres the occupier/ manager of the factory shall display on the centres the name and designation of the staff working there the rate at which cane will be purchased, weigh-bridge verification report etc. as asked for from time to time.”

Failing in compliance of the provisions of the above section, the factory may be fined up to rupees twenty five thousand or legal action under Section-52 of this Act and under the provisions of Indian Penal Code shall be constituted.”



14. Amendment in Section 29 of Bihar Act 37 of 1982- Section 29 shall be deleted and subsequently replaced as following –

“Section 29 – (1) The occupier of a factory shall submit a proposal for establishing sugarcane road/ rail sugarcane purchase centres, at least fortyfive days before the start of the crushing operation in a particular crushing year, before the Cane Commissioner and will give a copy of that proposal to the concerned Cane Officer, Joint/ Assistant Cane Commissioner and the Collector of the District from which the cane is proposed to be purchased.

(2) The Cane Officer shall examine the proposal and submit his recommendations before the Cane Commissioner within fifteen days of the receipt of the said proposal with a copy to the concerned Joint/ Assistant Cane Commissioner and the Collector of the District.

(3) The Cane Officer shall take in to consideration the following factors in his recommendations –

- (i) No purchase centre shall be established within three kilo metres of linear distance from the reserved/ assigned area of a sugar factory.
- (ii) The minimum linear distance between two purchase centres shall be at least four kilo metres.
- (iii) There must be an availability of at least 7500 tonnes of sugarcane in the area of operation of the purchase centre.
- (iv) In free areas these distance restrictions for establishment of purchase centres shall not apply.

(4) The Cane Officer shall give a copy of his recommendation to the Assistant/ Joint Cane Commissioner concerned who will submit his report to the Cane Commissioner within seven days of the receipt of the recommendation.

(5) The Cane Commissioner shall, after considering the recommendations of the Cane Officers and reports of Assistant/ Joint Cane Commissioner concerned and hearing the parties concerned, pass final orders, for establishment of road/ rail purchase centres of a particular factory.

(6) Subject to other provisions of this act any order of direction of the Cane Commissioner in respect of purchase of cane or its movement from any area including its dispatch by rail may be revised by the government which shall have the power to initiate proceedings in revision either suo moto or on an application made to it by any aggrieved person within fifteen days of the receipt by him of such order or direction.

(7) Only after the orders of the Cane Commissioner or revised orders or directions of the government the operation of any purchase centre shall start.”

15. Amendment in Section 31 of Bihar Act 37 of 1982- In Section 31 of the said Act-

(i) In the proviso of sub-section (1) the word “five” shall be substituted by word “ten.”

(ii) After sub-section (2) a new sub-section (3) shall be added as follows-

“(2) But when Cane Commissioner & Secretary is one and the same person, the aggrieved party shall be able to appeal before the Member, Board of Revenue.

(iii) After the Sub-section-(3) a new Sub-section-(4) shall be added as follows :-

(a) The State Government, in public can frame policies and issue guide lines from time to time on the reservation of areas to sugar factories.

(b) The State Government may alter the period and reserved area in public interest.

16. Amendment in Section 32 of Bihar Act 37 of 1982- In Section 32 of the said Act-

(i) A second proviso shall be inserted after sub-section (8) as follows-

“Provided that such prohibition shall not apply in respect of Cane grown outside the reserved area for the supply of which the Cane Commissioner shall issue orders.”

17. Amendment in Section 33 of Bihar Act 37 of 1982- In Section 33 of the said Act- Section 33 shall be substituted as the following-

“33. Purchase of cane grown outside reserved area- Cane grown in any area other than reserved area and intended to be supplied to the occupier of a factory shall not be purchased by any person except the occupier of the factory or a person employed by him for the purpose of making such purchase.”

18. Inclusion of a new Section 33 A in the Bihar Act 37 of 1982 –

“33 A – Regulation of supply and purchase of cane grown in and outside the reserve area- The State Government, in order to maintain the supply of sugarcane, regulate the following by order in the official gazette-

(i) Distribution, sale or purchase of cane grown in the reserved area,

(ii) Distribution, sale or purchase of cane grown outside the reserved area.

19. Amendment in Section 35 of Bihar Act 37 of 1982- In Section 35 of the said Act-

(i) In the third line of sub-section (1) in between the words “growers, suppliers”, the word “and” shall be inserted and the letters “or cane growers who are members of the co-operative society” shall be deleted.

20. Amendment in Section 37 of Bihar Act 37 of 1982- In Section 37 of the said Act in sub-section (1) the words “or the members of the co-operative societies” shall be deleted.

21. Amendment in Section 42 of Bihar Act 37 of 1982- In Section 42 of the said Act-

(i) In first line of Section 42 in the heading after the word “Unit,” the words “and a factory” and before the words “The State Government,” the figure “(1)” as subsection (1) shall be inserted. In the fifth line “or Co-operative Societies” shall be deleted.

(ii) A new sub-section (2) shall be inserted as the following-

“(2) The State Government may before the beginning of the crushing season, taking in to consideration the interest of the cane growers and the likely realisation from the sugarcane products determine by notification in the official gazette, the price of cane payable by the occupiers of the factories to the cane growers for cane supplied to them in the crushing year concerned.

Provided that this price of cane so determined shall not be less than that of the minimum statutory price determined by the Government of India under the Sugarcane (Control) Order, 1966.

Provided further that the State Government shall not determine the payable cane price, less than that highest minimum statutory price of any of the factories within the State of Bihar under the Sugarcane (Control) Order 1966.

22. Amendment in Section-43 of Bihar Act 37 of 1982 - In Section 43 of the said Act -

(i) Following para shall be added in Sub-Section (2), as 2(iii) – The price of sugarcane payable to the cane growers by the factory will be paid by Account

Payee Cheques/ Electronic transfer only. The government shall have powers to relax it for a limited period.

(ii) Sub-Section-8 shall be included in the following manner –

Sub Section – 8 “Until the cane price payable as per the provisions in Section-42 and 43 of this Act, is paid to the cane growers concerned, the occupier of any factory or any person acting on his behalf or any other person shall not remove sugar or any other product made out of sugarcane from the factory.”

23. Amendment in Section 44 of Bihar Act 37 of 1982- In Section 44 of the said Act-

(i) Sub-section (2) shall be deleted.

(ii) In second line sub-section (3) the words “and (2)” and in fourth line the words “or Co-operative Societies or their members” shall be deleted.

24. Amendment in Section 45 of Bihar Act 37 of 1982- In Section 45 of the said Act-

(i) Sub-section (1) shall be deleted and a new sub-section (1) shall be substituted as follows-

“(1) On the expiry of two years from the close of any crushing year the occupier of a factory situated inside or outside the State of Bihar shall deposit that price of cane together with interest there on, if any, which has not been paid to the cane growers or suppliers in the account of the concerned Zonal Development Council.”

25. Amendment in Section 48 of Bihar Act 37 of 1982- In Section 48 of the said Act-

(i) In sub-section (2) the words “the State Government shall determine the share of Zonal Development Council and Co-operative Society” shall be deleted, and in

its place the words “it shall be the fund of the Council under Section 9 (1)(i)” shall be substituted.

(ii) Sub-section (3) shall be deleted and a new sub-section (3) shall be substituted as follows-

“(3) The commission payable under sub-section (1) shall be paid in the prescribed manner by the occupier of the factory to the concerned Council. This payment shall be made within the next fortnight of the month of purchase of cane, otherwise an interest shall be payable at the rate prescribed under Section-51 from the first day of that fortnight which shall be recoverable along with principal amount as a public demand or as an arrear of land revenue.”

26. Amendment in Section 49 of Bihar Act 37 of 1982- In Section 49 of the said Act-

(i) Sub-section (1) shall be deleted and the following shall be substituted-

“(1) The State Government may by notification in official gazette impose a tax on the basis of per quintal weight on, purchase of cane for consumption or use of or sale to a factory, or cane used from own farm or seed nursery for production of sugar by or on behalf of the occupier of a factory.”

(ii) Sub-section (3) shall be deleted and the following shall be substituted “(3) The cane purchase tax payable under sub-section (1) shall be paid by the occupier of the factory to the Collector of the district concerned in the prescribed manner. This payment shall be made within the next fortnight of the month of purchase of cane, otherwise interest shall be payable at the rate prescribed under Section-51 from the first day of that fortnight and which

shall be recoverable along with principal amount as a public demand or as an arrear of land revenue.”

(iii) In third line of sub-section (4) the words “not exceeding one rupee and seventy five paise” shall be deleted.

(iv) In last line of the proviso of sub-section (4) in place of the word “five” the word “ten” shall be substituted.

(v) In sub-section (5) in the last line the words “or as arrears of land revenue” shall be added.

27. Amendment in Section 50 of Bihar Act 37 of 1982- In Section 50 of the said Act-

(i) In the third line of sub-section (1) the words “or a member of a co-operative society” shall be deleted.

28. Amendment in Section 52 of Bihar Act 37 of 1982 – In section 52 of the said Act-

In sixth line the words “six months” shall be substituted by the words “two years” and in Seventh line the words “five” shall be substituted by words “twenty five” and in ninth line the word “one” shall be substituted by word five.”

29. A new Section 53 A shall be inserted as follows -

“Section 53 A – The Cane Officer/ Special Cane Officer shall be the requisitioning officer for realisation as public demand of dues under Sections- 4, 34, 43, 44, 45, 46, 47, 48 and 49 of this Act.”

30. Insertion of Section 60 in Bihar Act 37 of 1982- After Section 59 of the said Act- A new Section 60 shall be inserted as follows: -

“60- Power to give orders with retrospective effect-

The State Government by notification in the official gazette, give any order with retrospective effect to implement the provisions of this Act.”

31. Amendment in Section 65 of the Bihar Act 37 of 1982- In Section 65 of the said Act in sub-section (1) the words “Subject to the condition of previous publication” shall be deleted.

32. Amendment in Section 66 of the Bihar Act 37 of 1982, in the Hindi version of the Act- In Section 66 of the said Act-

- (i) In sub-section (2) of section 66 the word “ordinance” in the first line shall be substituted by the word “Act”.