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Act No. XL - XLIX

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## PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

*Islamabad, the 29th June, 1973*

The following Acts of the National Assembly received the assent of the President on the 27th June, 1973, and are hereby published for general information :—

ACT No. XLI OF 1973

*An Act to provide for the levy and collection of a development surcharge on chemical fertilizers and for matters connected therewith.*

**WHEREAS** it is expedient to provide for the levy and collection of a development surcharge on chemical fertilizers and for matters connected therewith ;

It is hereby enacted as follows :—

**1. Short title, extent and commencement.**—(1) This Act may be called the Chemical Fertilizers (Development Surcharge) Act, 1973.

(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) “company” means any company engaged in the business of manufacturing chemical fertilizers;
- (b) “development surcharge” means the surcharge payable under section 3;
- (c) “differential margin”, in relation to a chemical fertilizer, means the amount by which the maximum sale price of that fertilizer exceeds its maximum retail selling price as in force immediately before the commencement of the Chemical Fertilizers (Development Surcharge) Ordinance, 1973 (VI of 1973), hereinafter referred to as the said Ordinance, or, as the case may be, the amount by which its maximum sale price exceeds the aggregate of its *ex-factory* price and the incidental charges;
- (d) “*ex-factory* price”, in relation to a chemical fertilizer produced by a factory, means such *ex-factory* price of that fertilizer as the Federal Government may, by notification in the official Gazette, declare to be the *ex-factory* price having regard to the cost of production of such factory;
- (e) “incidental charges” means the aggregate of the freight by rail or road and such distribution costs as the Federal Government may, by notification in the official Gazette, fix;
- (f) “landed cost”, in relation to any chemical fertilizer, means the aggregate of *c.i.f.* value, duties, taxes, fees and other charges payable on or after the import of that fertilizer into Pakistan;
- (g) “maximum sale price”, in relation to a chemical fertilizer, means such retail price of that fertilizer, not exceeding 125 per cent. of its landed cost, as the Federal Government may, by notification in the official Gazette, declare to be the maximum sale price.

3. **Levy of development surcharge.**—(1) Subject to the provisions of this Act, every company shall pay to the Federal Government a development surcharge equal to the differential margin in respect of a chemical fertilizer produced by it, including a chemical fertilizer so produced and held in stock immediately before the commencement of the said Act.

(2) Subject as aforesaid, every stockist shall pay to the Federal Government a development surcharge equal to the differential margin in respect of a chemical fertilizer held by him in stock immediately before commencement of the said Ordinance.

4. **Power to grant exemption from payment, authorise refund and procedure for collection and refund of surcharge.**—(1) Subject to such conditions, limitations or restrictions as it may think fit to impose, the Federal Government may, in such general cases as it may prescribe by rules or in particular cases by special order, exempt a company from the payment of the development surcharge in respect of all or any of the fertilizers or authorise the refund in whole or in part of the development surcharge paid by a company.

(2) Subject to any rules made under this Act, the development surcharge shall be collected in the same manner as a duty of excise leviable under the Central Excises and Salt Act, 1944 (*I of 1944*), is collected.

**5. Maximum sale price.**—(1) Notwithstanding anything contained in any other law, no company or stockist shall sell any chemical fertilizer at a price higher than the maximum sale price.

(2) A contravention of sub-section (1) shall be deemed to be a contravention of an order made under the Essential Commodities Act, 1957 (*III of 1957*), and all the provisions of that Act shall have effect accordingly.

**6. Allowance to be made for development surcharge for purposes of income-tax.**—Notwithstanding anything contained in any other law, the amount of the development surcharge paid by a company or stockist under section 3 shall be an expenditure for which allowance is to be made in computing profits or gains under sub-section (2) of section 10 of the Income-tax Act, 1922 (*XI of 1922*).

**7. Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**8. Delegation of powers.**—The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act or the rules made thereunder shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised also by an officer or authority subordinate to the Federal Government.

**9. Repeal.**—The Chemical Fertilizers (Development Surcharge) Ordinance, 1973 (*VI of 1973*), is hereby repealed.