

APPENDIX C

THE ESSENTIAL COMMODITIES ACT (X OF 1955)

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An Act to provide, in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain commodities.

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows :

1. (1) This Act may be called the Essential Commodities Act, 1955.
(2) It extends to the whole of India except the State of Jammu and Kashmir.
2. In this Act, unless the context otherwise requires :
 - (a) 'essential commodities' means any of the following classes of commodities :
 - (i) cattle fodder, including oilcakes and other concentrates;
 - (ii) coal, including coke and other derivatives;
 - (iii) component parts and accessories of automobiles;

- (iv) cotton and woollen textiles;
 - (v) foodstuffs, including edible oilseeds and oils;
 - (vi) iron and steel, including manufactured products of iron and steel;
 - (vii) paper, including newsprint, paperboard and straw board;
 - (viii) petroleum and petroleum products;
 - (ix) raw cotton, whether ginned or unginned, and cotton seed;
 - (x) raw jute;
 - (xi) any other class or commodity which the Central Government may, by notified order, declare to be an essential commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution;
- (b) 'food-crops' include crops of sugarcane;
- (c) 'notified order' means an order notified in the Official Gazette;
- (d) 'State Government', in relation to a Union territory, means the Administrator thereof.
3. (1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability may, by order, provide for regulating or prohibiting the production, at fair prices, its supply and distribution thereof and trade and commerce therein.
- (2) Without prejudice to the generality of the powers conferred by subsection (1), an order made thereunder may provide—
- (a) for regulating by licences permits or otherwise the production of manufacture of any essential commodity;
 - (b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops;
 - (c) for controlling the price at which any essential commodity may be bought or sold;
 - (d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of, any essential commodity;
 - (e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;
 - (f) for requiring any person holding in stock any essential commodity to sell the whole or a specified part of the stock to the Central Government or State Government or to an officer or agent of such Government or to such other person or class of persons and in such circumstances as may be specified in the order;

- (g) For regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs or cotton textiles which, in the opinion of the authority making the order, are, or, if unregulated, are likely to be, detrimental to the public interest;
- (h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;
- (i) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;
- (ii) for the grant or issue of licences, permits or other documents, the charging of fees therefor, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;
- (j) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, vessels and aircraft and seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being, or is about to be committed.
- (3) Where any person sells any essential commodity in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to him the price therefor as hereinafter provided :
- (a) where the price can, consistently with the controlled price, if any, fixed under this section be agreed upon, the agreed price;
- (b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;
- (c) where neither clause (a), nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.
- (3-A) (i) If the Central Government is of opinion that it is necessary so to do for controlling the rise in prices, or preventing the hoarding, of any foodstuff in any locality, it may by notification in the Official Gazette, direct that notwithstanding anything contained in sub-section (3), the price at which the foodstuff shall be sold in the locality in compliance with an order made with reference to clause (f) of sub-section (2) shall be regulated in accordance with the provisions of this sub-section.
- (ii) Any notification issued under this sub-section shall remain in force, for such period not exceeding three months as may be specified in the notification.

- (iii) where, after the issue of a notification under this sub-section, any person sells foodstuffs of the kind specified therein and in the locality so specified, in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to the seller as the price therefor—
- (a) where the price can, consistently with the controlled price of the foodstuff, if any, fixed under this section, be agreed upon, the agreed price;
- (b) where no such agreement can be reached, the price, calculated with reference to the controlled price, if any;
- (c) where neither clause (a) nor clause (b) applies, the price, calculated with reference to the average market rate prevailing in the locality during the period of three months immediately preceding the date of the notification.
- (iv) For the purposes of sub-clause (c) of clause (iii), the average market rate prevailing in the locality shall be determined by an officer authorised by the Central Government in this behalf, with reference to the prevailing market rates for which published figures are available in respect of that locality or of a neighbouring locality; and the average market rate so determined shall be final and shall not be called in question in any Court.
- (4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part thereof—
- (a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in charge of the management of the undertaking, except in so far as may be specifically provided by the order; and
- (b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.
- (5) An order made under this section shall,—
- (a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and
- (b) in the case of an order directed to a specified individual be served on such individual—

- (i) by delivering or tendering it to that individual, or
 - (ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report thereof shall be prepared and witnessed by two persons living in the neighbourhood.
- (6) Every order made under this section by the Central Government or by any officer or authority of the Central Government shall be laid before both Houses of Parliament, as soon as may be, after it is made.
4. An order made under section 3 may confer powers and impose duties upon the Central Government or the State Government or officers, and authorities of the Central Government or State Government, and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties.
5. The Central Government may by notified Order direct that the power to make orders under section 3 shall in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—
- (a) such officer or authority subordinate to the Central Government, or
 - (b) such State Government or such officer or authority subordinate to a State Government, as may be specified in the direction.
6. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.
7. (1) If any person contravenes any order made under section 3—
- (a) he shall be punishable—
 - (i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine, and
 - (ii) in the case of any other order, with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that if the Court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded refrain from imposing a sentence of imprisonment; and

- (b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government:

Provided that if the Court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

(2) If any person to whom a direction is given under clause (b) of sub-section (4) of section 3 fails to comply with the direction he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

8. Any person who attempts to contravene, or abets a contravention of any order made under section 3 shall be deemed to have contravened that order.

9. If any person—

(i) when required by any order made under section 3 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 document which he is required by any such order to maintain or furnish,

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

10. (1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly—

Explanation : For the purposes of this section,—

(a) 'company' means any body corporate, and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

11. 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 Indian Penal Code.

12. 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 State Government in this behalf and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening any order made under section 3.

13. 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 presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872.

14. Where a person is prosecuted for contravening any order under section 3 which prohibits him from doing any act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

15. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

16. (1) The following laws are hereby repealed:—

(a) the Essential Commodities Ordinance, 1955;

(b) any other law in force in any State immediately before the commencement of this Act in so far as such law controls or authorises the control of the production, supply and distribution of, and trade and commerce in, any essential commodity.

(2) Notwithstanding such repeal, any order made or deemed to be made by any authority whatsoever, under any law repealed hereby and in force immediately before the commencement of this Act, shall, in so far as such order may be made under this Act, be deemed to be made under this Act and continue in force, and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force until and unless it is superseded by any appointment made, licence or permit granted or direction issued under this Act.

(3) The provision of sub-section (2) shall be without prejudice to the provisions contained in section 6 of the General Clauses Act, 1897, which shall also apply to the repeal of the Ordinance or other law referred to in sub-section (1) as if such Ordinance or other law had been an enactment.