PREFACE

The Compendium of the Essential Commodities Act, 1955 and Statutory Orders relating to Foodstuffs, Sugar, Kerosene, Cement, etc., issued thereunder alongwith the Defence and Internal Security of India Act and Rules, 1971, was last published in 1976. Since 1976, numerous amendments have been made in some orders, some orders rescinded and some new orders issued under the Essential Commodities Act, 1955, therefore a new edition of the Compendium has now become necessary. This publication brought together in one volume, the Essential Commodities Act, the Weights and Measures Act and the Consumer Protection Act and various orders/rules issued thereunder by the Food, Civil Supplies and Consumer Protection Department also by the corresponding Departments of the Government of India. However, only those Acts/Orders/Rules included which are at present operative.

2. The publication of this Compendium is on the background of delicensing and liberalisation of economic policy, minimum storage control on essential commodities like pulses, edible oil-seeds, edible oils, etc. and concentration of the public distribution system for downtrodden community. Therefore, some orders like Foodgrains Export Control, Wheat and Wheat Products Price Control, Cement Licensing and Control, etc.,deleted from the Compendium. An effort has been made to bring an up-to-date edition of the Compendium by including also in it the basic Act and certain relevant orders of the Central Government.

3. It is hoped that the publication of this Compendium would prove useful to all concerned Government officials, legal profession and public in general.

4. Every possible effort has been made to ensure correctness in the reproduction of the various Acts, Orders, Notifications, etc., as amended up-to-date. However, in case of any doubt and for purposes of legal authority reference should be made to the original Act, Order or the Notification, etc., as published in the Government Gazette.

The errors and omissions, if any, to this Compendium may kindly be brought to the notice of Government in this Department which will be useful while bringing out the next edition of the Compendium.

5. The work of compilation of this Compendium was entrusted to Shri B. M. Gayatri, Section Officer in the Food, Civil Supplies and Consumer Protection Department whose special efforts were mainly responsible in bringing out this publication.

G. C. TRIPATHY,
Secretary,
Food, Civil Supplies and
Consumer Protection Department.

The 3rd August 1995.

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Essential Commodities Act

AND

Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act.

THE ESSENTIAL COMMODITIES ACT, 1955
(No. 10 OF 1955).

(Corrected up to 31-3-1995)

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

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

1. *Short Title and Extent.—(1)* This Act may be called the Essential Commodities Act, 1955.

(2) It extends to the whole of India.

2. *Definitions.*—In this Act, unless the context otherwise requires—

**(ia)* " Code " means the Code of Criminal Procedure, 1973 (2 of 1974). *

†(iia) " Collector " in Greater Bombay means Controller of Rationing and includes any Deputy and Assistant Controller of Rationing and elsewhere means the Collector of the District and includes any Assistant or Deputy Collector or District Supply Officer within his respective jurisdiction. †

(a) " Essential Commodity " means any of the following classes of commodities—

(i) cattle fodder, including oil cakes and other concentrates ;

(ii) coal, including coke and other derivatives ;

(iii) component parts and accessories of automobiles ;

(iv) cotton and woolen textiles ;

‡(iv-a) drugs;

Explanation—In this sub-clause, " drug " has the meaning assigned to it in clause *(b)* of section 3 of the drugs and Cosmetics Act, 1940 (XXIII of 1940) ; ‡

— Clause *(ia)* having definition of term " Collector " introuced *vide* amendment *vide* 92 of 1976 and the original clause *(ia)* renumbered as clause *(iia)* and before that clause, additional clause *(ia)* giving the definition of " Code " inserted *vide* Essential Commodities (Special Provisions) Act, 1981 (Act 18 of 1981).

†—† Inserted *vide* Essential Commodities (Maharashtra Amendment) Act, 1975 (Act 2 of 1976).

‡—‡ Inserted *vide* Act 30 of 1974.

(v) foodstuffs, including edible oil-seeds and oils ;

(vi) iron and steel, including manufactured, products of iron and steel ;

(vii) paper including newsprint, paper board 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 of 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 sugar-cane ;

**(ba)* 'holder' in relation to any agricultural land, means the person in actual possession of such land, and includes a company or other body corporate, firm, association, joint family or body of individuals in joint possession of such land ; *

* *(bb)* 'holding' means the aggregate of all lands in possession of a holder ; *

(c) 'notified order' means an order notified in the Official Gazette ;

† *(cc)* 'Order' includes a direction issued thereunder ; †

(d) State Government in relation to Union Territory means the Administration thereof ;

(*e*) 'Sugar' means.—

(i) any form of sugar containing more than ninety per cent of sucrose, including sugar candy ;

(ii) Khandsari sugar or bura Sugar or crushed sugar or any sugar in crystalin or powered form ;

OR

(iii) sugar in process in vacuum pan sugar factor or raw sugar produced therein.

— Inserted *vide* Essential Commodities (Maharashtra Amendment) Act, 1975 (Act I of 1976).

†—† Inserted *vide* Act 36 of 1967.

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* *(f)* words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code. *

3. *Powers to control production, Supply, distribution, etc., of essential commodities:—(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 at Fair Prices † or for securing any essential commodity for the defence of India or the efficient conduct of military operations †, it may, by order provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section *(1)*, an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity ;

(b) for bringing under cultivation any waste or arable land, whether appertenant 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 brought 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, or likely to hold in stock or engaged in the manufacture or production or processing of or in the business of buying or selling, any essential commodity, to sell the whole or a specified part of the quantity of the essential

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— Clause *(f)* inserted *vide* Essential Commodities (Special Provision) Act 1981 (Act 18 of 1981).

†—† Inserted *vide* Act 36 of 1967.

‡—‡ Substituted *vide* Essential Commodities (Maharashtra Amendment) Act, 1975 (Act I of 1976).

commodity held in stock or a likely to be held in stock by him or manufactured or produced or processed or likely to be manufactured or produced or processed by him or received or likely to be received by him in his business of buying or selling, to the Central Government or the State Government or to an officer or agent of any Government or to such other person or class of person and in such circumstances as may be specified in the order ;

Explanation.—An order made under this clause in respect of food-grains may fix or provide for fixation of the quantity to be sold by a producers with reference to the nature and extent of his holding or the land revenue payable by him with certain weightages which may be prescribed for certain crops or lands enjoying irrigation or other facilities and also fix or provide for fixation of the quantity to be sold on a graded basis having regard to the size of the holdings of different producers. ‡

(g) for regulating or prohibiting any class of commercial or financial transactions relating to food-stuffs 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 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 documents, 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 entry, search or examination of premises, aircraft,

— Inserted *vide* Act 17 of 1961.

†—† Substituted *vide* Act 66 of 1971.

vessels, vehicles or other conveyances and animals and the seizure by a person authorised to make such entry, search or examination,—

(i) 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 and any packages, coverings or receptacles in which such articles are found ;

(ii) of any aircraft, vessel, vehicles or other conveyance or animal used in carrying such articles, if such person has reason to believe that such aircraft, vessel, vehicle or other conveyance or animal is liable to be forfeited under the provision of this Act ; †

**(iii)* of any books of accounts and documents which in the opinion of such person, may be useful for, or relevant to any proceedings under this Act and the person from whose custody such books of accounts or documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of an officer having the custody of such books of accounts or documents ; *

(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, in case of food-grains, the amount, if any, specified in or calculated in accordance with the order, made under clause *(f)* of *sub-section* (2) read with sub-section *(3-B)* and in the case of any other essential commodity, 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

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— Substituted *vide* Act 92 of 1976.

@—@ Substituted *vide* Essential Commodities (Maharashtra Amendment) Act, 1975 (Act 1 of 1976).

‡—‡ Inserted *vide* Act 13 of 1957.

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 foodstuff 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 purpose 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 Govenrment 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. ‡

†**(3-B)** Whereby an order made with reference to clause *(f)* of sub-section *(2)*, any person is required to sell any grade or variety of foodgrains, edible oil-seeds or edible oils to the Central Government or a State Government or an officer or agent of such Government or a corporation owned or controlled by such Government or to a person or Class of persons specified in the order, and either no notification in

†—† Substituted *vide* Essential Commodities (Maharashtra Amendment) Act, 1975 (Act I of 1976).

respect of such foodgrains, edible oil seeds or edible oils has been issued under sub-section *(3A)* or any such notification having been issued, has ceased to remain in force by efflux of time then, notwithstanding anything contained in sub-section *(3)*, there shall be paid to the person concerned an amount determined by the Central Government or the State Government, as the case may be,

(a) having regard to the controlled price, if any, fixed under this section or by or under any law for the time being inforce for such grade or variety of foodgrains, edible oil-seeds or edible oils, or

(b) having regard to the prices recommended by the Agricultural Prices Commission for the concerned essential commodity, where no controlled prices in relation to such commodity has been fixed by or under any law for the time being inforce. +

***(3-C)** Where any producer is required by an order made with reference to clause *(f)* of sub-section *(2)* to sell any kind of sugar (whether to the Central Government or a State Government or to any officer or agent of such Government or to any other person or class of persons) and either no notification in respect of such sugar has been issue under sub-section *(3-A)* or any such notification, having been issued, has ceased to remain in force by efflux of time, then notwithstanding anything contained in sub-section *(3)* there shall be paid to that producer an amount therefor which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to—

(a) the minimum price, if any, fixed for sugar-cane by the Central Government under this section ;

(b) the manufacturing cost of sugar ;

(c) the duty or tax, if any, paid or payable thereon ;

and

(d) the securing of a reasonable return on the capital employed in the business of manufacturing sugar, and different prices may be determined, form time to time, for different areas or for different factories or for different kinds of sugar.

Explanation.—For the purpose of this sub-section " producer " means a person carrying on the business of manufacturing sugar. *

— Inserted *vide* Act 36 of 1967.

(4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of a 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 function 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, 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*;

(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. *Imposition of duties on State Government, etc.*—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. *Delegation of powers.*—The Central Government may, by notified order direct that *the power to make orders or issue notifications 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 directions.

6. *Effect of orders, inconsistent with other enactments.*—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.

†**6-A.** *Confiscation of seized Commodities.*—*(1)* Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, a report to that effect shall, without any unreasonable delay, be sent to the Collector within whose jurisdiction the seizure is made, and the Collector may, if he thinks it expedient so to do, inspect or cause to be inspected such essential commodity, and whether or not a prosecution is instituted for the contravention of such order, the Collector, if satisfied that there has been contravention of the order, may order confiscation of—

(a) the essential commodity so seized ;

(b) any package, covering or receptacle in which such essential commodity is found ; and

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— Substituted *vide* Act 66 of 1971.

†—† Substituted *vide* Essential Commodities (Multiple Amendment) Act, 1975 (Act I of 1976).

(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity :

Provided that, without prejudice to any action that may be taken under any other provision of this Act, no foodgrains or edible oil seeds seized in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized foodgrains or edible oil seeds, have been produced by him be confiscated under this section :

Provided further that, where any animal, vehicle, vessel or other conveyance is used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay in lieu of its confiscation a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried.

(2) Where the Collector on receiving a report of seizure or on inspection of any essential commodity under sub-section *(1)* is of the opinion that such essential commodity is subject to speedy and natural decay or that it is otherwise expedient in the public interest so to do, he may order the same to be sold at the controlled price, if any, fixed under any law for the time being in force, or where no such price is fixed by auction :

Provided that in the case of foodgrains where there is no controlled price, the Collector may order the foodgrains seized to be sold through fair price shops at the price fixed by the Central Government or the State Government, as the case may be, for the sale of such foodgrains to the public through these shops :

Provided further that, whenever it is practicable so to do, having regard to the nature of the essential commodity, he shall take and preserve sample of the same before its sale or auction.

(3) Where any essential commodity is sold as aforesaid, the sale proceeds thereof, after deduction of the expenses of the sale or auction, as the case may be, shall,—

(a) where no order of confiscation is ultimately passed by the Collector ; or

(b) where an order passed an appeal under sub-clause *(1)* of section 6-C so requires ; or

(c) in case of a prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under this section, where the person concerned is acquitted,—

be paid to the owner thereof or the person from whom it is seized :

Provided that, in the case of foodgrains sold through fair price shops in accordance with the first proviso to sub-section *(2)*, the owner shall be paid for the foodgrains so sold the price fixed by the State Government, for retail sale of such foodgrains through such shops, less all expenses of sale or auction under sub-section *(2)*. †

* **6-B.** *Issue of show cause notice before confiscation of foodgrains, etc.*—†*(1)* † No order of consfication of any ‡ essential commodity package, covering, receptacle, animal, vehicle, vessel or other conveyance ‡ shall be made under section 6-A unless the owner of such ‡ essential commodity, package, covering receptacle, animal, vehicle, vessel or other conveyance ‡ or the person from whom ¶ it is seized ¶ —

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the ‡essential commodity, package, covering, receptacle, animal, vessel or other conveyance ; and ‡

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in notice against the grounds of confiscation ;

(c) is given a reasonable opportunity of being heard in the matter.*

(2) Without prejudice to the provisions of sub-section *(1)*, no order confiscating any animal, vehicle, vessel or other conveyance shall be made under section 6-A if the owner of the animal, vehicle, vessel or other conveyance proves to the satisfaction of the Collector that it was used in carrying the essential commodity without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the animal, vehicle, vessel or other conveyance and that each

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— Inserted *vide* Amendment Act 25 of 1966 and 36 of 1967.

†—† Clause 6-B renumbered as sub-clause *(1)* *vide* Act 30 of 1974.

‡—‡ Substituted *vide* Act 30 of 1974.

¶—¶ Substituted *vide* Act 36 of 1967.

#—# Inserted *vide* 30 of 1974.

of them had taken all reasonable necessary precautions against such use. #

and

*(3) No order confiscating any essential commodity, package, covering, receptacle, animal, vehicle, vessel of other conveyance shall be invalid merely by reason of any defect or irregularity in the notice given under clause (*a*) of sub-section (1), if, in giving such notice, the provisions of that clause have been substantially complied with.*

**6-C. *Appeal.*—(*1*) any person aggrieved by an order of confiscation under section 6-A may, within one month from the date of the communication to him of such order appeal to ‡ the State Government concerned and the State Government shall ‡ after giving an opportunity to the appellant to be heard, pass such order as it may think fit confirming, modifying or annulling the order appealed against.

(2) Where an order under section 6-A is modified for annulled by ‡ the State Government ‡ or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under section 6-A, the person concerned is acquitted and in either case it is not possible for any reason to $ return the essential commodity seized $ †such person shall except as provided by sub-section (3) of section 6-A, be paid$ the price therefor §†as if the essential commodity† has been sold to the Government with reasonable interest calculated from the day of the seizure of † the essential commodity † and such price shall be determined—

(*i*) in the case of the foodgrains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (*3-B*) of section 3 ;

(*ii*) in the case of sugar, in accordance with the provisions of sub-section (*3-C*) of section 3 ; and

(*iii*) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.

— Inserted *vide* Act 92 of 1976.

— Inserted *vide* Act 25 of 1966.

‡ Substituted *vide* Essential Commodities (Special provisions) Act 1981 (18 of 1981)

† Substituted *vide* Act 36 of 1967.

§ Substituted *vide* Essential Commodities (Maharashtra amendment) of 1975 (Act 1 of 1976).

6-D. *Award of confiscation not to interfere with other punishments.*—The award of any confiscation under this Act by the Collector shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act. **

† **6-E.** *Bar of jurisdiction in Certain cases.*—Whenever any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, or any package, covering or receptacle in which such essential commodity is found, or any animal, vehicle, vessel or other conveyance used in carrying such essential commodity is seized pending confiscation under section 6-A, the Collector, or, as the case may be, the State Government concerned under section 6-C shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force, any Court, Tribunal or other authority shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance. †

7. *Penalties.*—‡*(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 shall not be less than three months but which may extend to seven years and shall also be liable to fine. *—*

(b) any property in respect of which the order has been contravened shall be forfeited to the Government.

(c) any packing, covering or receptacle in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property shall, if the Court so orders, be forfeited to the Government.

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†—† Substituted *vide* Act 92 of 1986.

‡—‡ Substituted *vide* Act 30 of 1974.

— Proviso to sub-clause *(ii)* of clause *(a)*, proviso to sub-section (2), proviso to sub-section (2-*A*) and sub-section (2-*B*) omitted *vide* Essential Commodities (Special Provision) Act, 1981 (18 of 1981).

(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 shall not be less than three months but which may extend to seven years and shall also be liable to fine ;

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(2-A) If any person convicted of an offence under sub-clause *(ii)* of clause *(a)* of sub-section *(1)* or under sub-section (2) is again convicted of an offence under the same provision, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine. ‡

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@*(3)* Where a person having been convicted of an offence under sub-section *(1)* is again convicted of an offence under that sub-section for contravention of an order in respect of an essential commodity, the Court by which such person is convicted shall, in addition to any penalty which may be imposed on him under that sub-section, by order, direct that person, shall not carry on any business in that essential commodity for such period, not being less than six months, as may be specified by the Court in the Order. @

† **7-A.** *Power of Central Government to recover certain amounts as arrears of land revenue ¶ or as a public demand ¶.*—*(1)* Where any person, liable to—

(a) pay any amount in pursuance of any order made under section 3, or

(b) deposit any amount to the credit of any Accounts or Fund constituted by or in pursuance of any order made under that section,

makes any default in paying or depositing the whole or any part of such amount, the amount in respect of which such default has been made shall [whether such order was made before or after the commencement of the Essential Commodities (Amendment)Act, 1984, and whether the liability of such person to pay or deposit such amount arose before or

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— Proviso to sub-clause *(ii)* of clause *(a)*, proviso to sub-section (2), proviso to sub-section *(2-A)* and sub-section *(2-B)* omitted *vide* Essential Commodities (Special Provision) Act, 1981 (180 of 1981).

@—@ Inserted *vide* Act 36 of 1967.

†—† Clause 7A (1) substituted *vide* 34 of 1984.

¶—¶ Inserted*vide* Act 42 of 1986.

after such commencement] be recoverable by Government together with simple interest due thereon computed at the rate of * 15 per cent. * per annum from the date of such default to the date of recovery of such amount, as an arrears of land revenue † or as a public demand †.

(2) The amount recovered under sub-section (*1*) shall be dealt with in accordance with the order under which the liability to pay or deposit such amount arose.

(3) Notwithstanding anything contained in any other law for the time being in force or any contract to the contrary, no court, tribunal or other authority shall grant any injunction or make any order prohibiting or restraining any Government from recovering any amount as an arrears of land revenue † or as a public demand† in pursuance of the provisions of sub-section (*1*).

(4) If any order, in pursuance of which any amount has been recovered by Government as an arrears of land revenue * or as a public demand * under sub-section (*1*) is declared by a competent Court, after giving to the Government a reasonable opportunity of being heard to be invalid, the Government shall refund the amount so recovered by it to the person from whom it was recovered, together with simple interest, due thereon, computed at the rate of * 15 per cent. *, per annum, from the date of recovery of such amount to the date on which such refund in made.

Explanation.—For the purpose of this section, " Government " means the Government by which the concerned order under section 3 was made or where such order was made by an officer or authority subordinate to any Government, that Government. †

8. *Attempts and Abetment.*—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 :

‡ Provided that where a person has abetted the contravention of any order for the purpose of procuring any essential commodity of the nature mentioned in sub-clause *(iv-A)* or sub-clause *(v)* of Clause *(a)* of section 2 for his own use or for use of any member of his family or for the use of any person dependent on him, and not for the purpose of carrying on any business or trade in such essential commodity, the

— Substituted *vide* Act 42 of 1986.

†—† Inserted *vide* Act 42 of 1986.

‡—‡ Added *vide* Essential Commodities (Special Provisions) Act, 1981 (Act 18 of 1981).

Court may, notwithstanding anything contained in section 7 and for reasons to be mentioned in the judgment, impose a sentence or fine only. ‡

9. *False Statements.*—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 *five years*, or with fine, or with both.

10. *Offences by Companies.*—*(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 incharge 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 deligence to present 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, it 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.

— Substituted *vide* Act 36 of 1967.

*10-A. *Offences to be cognizable † and Non-bailable.*—† Notwithstanding anything contained in ‡ the Code of Criminal Procedure, 1973 (2 of 1974) ‡ every offence publishable under this Act shall be cognizable † and non-bailable. †

§ **10-AA.** *Power to arrest.*—Notwithstanding anything contained in the code of Criminal Procedure, 1973, No officer below the rank of an officer incharge of a police station or any police officer authorised by him, in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act. §

*10-B. *Power of Court to publish name, place of business, etc., of companies convicted under the Act.*—(1) Where any company is convicted under this Act, it shall be competent for the Court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as the Court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspapers or in such other manner as the Court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the order of the Court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed off.

(3) The expenses of any publication under sub-section (1) shall be recoverable from the company as if it were a fine imposed by the Court.

Explanation.—For the purposes of this Section, " company " has the meaning assigned to it in clause (a) of the Explanation to section 10.

*10-C. *Presumption of culpable mental state.*—(1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the

— Section 10-A, 10-B, 10-C inserted *vide* Act 30 of 1974.

†—† Inserted *vide* Essential Commodities (Special Provisions) Act 1981 (Act 18 of 1881).

‡—‡ Substituted *vide* Act 30 of 1974.

§—§ Inserted *vide* 34 of 1993.

fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—In this section "culpable mental state" includes intention, motive, knowledge of a fact and belief in, or reason to believe a fact.

(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability. *

11. *Cognizance of offences.*—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 (45 of 1860), or any person aggrieved † or any recognised consumer association, whether such person is a member of that association or not. †

Explanation.—For the purpose of this section and section 12-AA, "recognised consumer association" means a voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force.

*** 12. ***

*** 12-A.** *Constitution of Special Courts.*—(*1*) The State Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the *Official Gazette*, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word "appoint" shall have the meaning given to it in the Explanation to section 9 of the Code.

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†—† Inserted *vide* Act 73 of 1986.

— Section 12 of the Act omitted and Section 12-A and 12-AA, 12-AB, 12-AC substituted *vide* Essential commodities (Special Provisions) Act, 1981 (18 of 1981).

(3) A person shall not be qualified for appointment as a judge of a Special Court unless,—

(*a*) he is qualified for appointment as a judge of a High Court, or

(*b*) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

*12-AA. *Offences triable by Special Court.*—(*1*) Notwithstanding anything contained in the Code,—

(*a*) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court ;

(*b*) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2*A*) of section 167 of the Code, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate :

Provided that where such Magistrate considers,—

(*i*) When such person is forwarded to him as aforesaid ; or

(*ii*) Upon or at any time before the expiry of the period of detention authorised by him,

that the detention of such person is unnecessary, he may, if he is satisfied that the case falls under the proviso to section 8, order the release of such person on bail and if he is not so satisfied, he shall order such person to be forwarded to the Special Court having jurisdiction;

(*c*) the Sepcial Court may, subject to the provisions of clause (*d*) of this sub-section, exercise, in relation to the person forwarded to it under clause (*b*), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code in relation to an accused person in such case who has been forwarded to him under that section;

(*d*) save as aforesaid no person accused of or suspected of the commission of an offence under this Act shall be released on bail by any Court other than a Special Court or the High Court :

— Section 12 of the Act omitted and Section 12-A and 12AA, 12AB, 12AC, Substituted*vide* Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

Provided that a Special Court shall not release any such person on bail,—

(*i*) without giving the prosecution an opportunity to oppose the application for such release unless the Special Court, for reasons to be recorded in writing, is of opinion that it is not practicable, to give such opportunity ; and

(*ii*) where the prosecution opposes the application if the Special Court is satisfied that there appear reasonable grounds for believing that he has been guilty of the offence concerned :

Provided further that the Special Court may direct that any such person may be released on bail if he is under the age of sixteen years or is a woman or is a sick or infirm person or if the Special Court is satisfied that it is just and proper so to do for any other special reason to be recorded in writing.

(*e*) A Special Court may, upon a perusal of police report of the facts constituting an offence under this Act *or upon a complaint made by an officer of the Central Government or a State Government authorised in this behalf by the Government concerned* ‡or any person aggrieved or any recognised consumer association whether such person is a member of that association or not ‡, take cognizance of that offence without the accused being committed to it for trial ;

(*f*) All offences under this Act shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the code, shall as far as may be, apply to such trial :

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) when trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the code, be charged at the same trial :

Provided that such other offence is, under any other law for the time being in force, triable in a summary way ;

— Inserted *vide* Act 42 of 1986.

‡—‡ Inserted *vide* Act 73 of 1986.

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law.

(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or better in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

(4) Nothing contained in this section shall be deemed to affect the Special powers of the High Court regarding bail under section 439 of the Code and the High Court may exercise such powers including the power under clause (*b*) of sub-section (*i*) of that section as if the reference to "Magistrate" in that section included also, a reference to a "Special Court" constituted under section 12-A.

***12-AB.** *Appeal and revision.*—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.

***12-AC.** *Application of code to proceedings before a Special Court.*—Save as otherwise provided in this Act the provisions of the code (including the provisions as to bail and bonds) shall apply to the proceeding before a Special Court and for the purposes, of the said provisions the Special Court shall be deemed to be a Court of sessions and the person conducting a prosecution before a Special Court shall be deemed to be a public prosecutor.*

†12-B. *Grant of Injunction, etc. by Civil Court.*—No Civil Court shall grant an injunction or make any order for any other relief against the Central Government or any State Government or a public officer in respect of any Act done or purporting to be done by such Government,

— Substituted *vide* Essential Commodities (Special Provisions) Act, 1981 (18 of 1981)

†—† Inserted *vide* Act 30 of 1974.

or such officer in his official capacity, under this Act, or any order made thereunder, until after notice of the application for such injunction or other relief has been given to such Government or officer †.

13. *Presumption as to orders.*—Where on 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 (I of 1872).

14. *Burden of Proof in certain cases.*—Where a person is prosecuted for contravening any order made 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. *Protection of action taken under Act.*—(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.

* **15-A.** *Prosecution of Public Servants.*—Where any person who is public servant is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his duty in pursuance of an order made under section 3, no court shall take cognizance of such offence except with the previous sanction :—

(*a*) of the Central Government, in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union ;

(*b*) of the State Government, in the case of person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the State. *

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†—† Inserted *vide* Act 30 of 1974.

— Inserted *vide* Act 92 of 1976.

16. *Repeals and Savings.*—(*1*) the following laws are hereby repealed :—

(*a*) The Essential Commodities Ordinance, 1955; (I of 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 authorizes 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 provisions of sub-section (2) shall be without prejudice to provisions contained in section 6 of the General Clauses Act, 1897, which shall also apply to the repeal of the repeal of the Ordinance or other law refer to sub-section (*1*) as if such Ordinance or other law had been an enactment.

N. B.—The Essential Commodities (Special Provisions) Act, 1981 (18 of 1981) which came into force with effect from 1-9-1982 was initially effective for a period of five years. Since extended upto 31-8-1997, by Essential Commodities (Special Provisions) Amendment Act, 1993. It is applicable to the all the States and Union Territories except in the Union Territories of the Andaman and Nicobar Islands, Arunachal Pradesh, Dadra and Nagar Haveli, Lakshadweep and Mizoram.

MINISTRY OF INDUSTRIES AND CIVIL SUPPLIES
(DEPARTMENT OF CIVIL, SUPPLIES AND CO-OPERATIONS)

New Delhi, the 30th November 1974

ORDERS

S. O. 681 (E).—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955) the Central Government hereby directs.—

(*a*) that the powers conferred on it by sub-section *(1)* of section 3 of the said Act to make orders to provide for the matter specified in clauses *(d)*, *(e)*, *(f)*, *(g)*, *(h)*, *(i)*, *(ii)* and *(j)* of sub-section *(2)* thereof shall, in relation to all essential commodities other than foodstuffs and fertilisers (whether inorganic, organic or mixed) be exercisable also by a State Government or, in relation to a Union territory, by the Administrator thereof, subject to the following conditions, namely :—

(i) that the delegation of powers under clause *(d)* shall not extend to inter State transport or distribution and the powers under that clause shall not be exercised so as to prejudicially affect such transport or distribution in pursuance of any Order issued by the Central Government ;

(ii) that all Orders, under clause *(f)* shall require the prior concurrence of the Central Government ;

(iii) that no order shall be issued in pursuance of the powers hereby delegated if it is inconsistent with any Order issued by the Central Government under the said Act ;

(iv) that in making an order relating to any of the matters specified in clause *(j)* the State Government or, as the case may be, the administrator of a Union territory shall authorise only an officer of Government ;

(b) that the Order of the Government of India in the Ministry of Commerce No. S. O. 1844, dated the 18th June 1966 issued under section 5 of the said Act shall stand rescinded :

Provided that, notwithstanding such rescission, an Order (hereinafter referred to as the said Order) made by a State Government or an administrator or any officer subordinate to that State Government or

administrator in pursuance of the Order so rescinded and in force immediately before the commencement of this Order, shall be deemed to have been made in pursuance of this order an under the relevant provisions of section 3 of the said Act, and shall continue in force according to its tenor and accordingly any action taken or thing done (including any appointment made, licence or permit granted or direction issued) under the said Order and in force immediately before such commencement shall continue in force according to its tenor until and unless, it is superseded by any action taken or anything done under any other Order made in pursuance of this Order and under the relevant provisions of section 3 of the said Act.

[26 (1)/74-CS-II]

S. O. 682 (E).—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (X of 1955), the Central Government hereby directs.—

(*a*) that the powers conferred on it by sub-section (*1*) of section 3 of the said act to make Orders to provide for the matters specified in clause (*c*) of sub-section (*2*) thereof shall in relation to all essential commodities other than foodstuffs and fertilisers (whether inorganic, organic or mixed), be exercisable also by a State Government or, in relation to a Union territory, by the administrator thereof subject to the following conditions, namely :—

(*i*) that where the price at which any essential commodity may be brought or sold is controlled by or under any other law for the time being in force, no Order shall be made in pursuance of the powers hereby delegated ;

(*ii*) that where the price is not so controlled, no Order shall be made in pursuance of the powers hereby delegated in respect of any essential commoditity :

(A) if the wholesale prices or retail prices or both of such commodity have been fixed by the manufacturers or producers thereof with the approval of Central Government, except on the basis of such prices;

(B) in any other case, except with the prior concurrence of the Central Government;

(*iii*) that no order shall be issued in pursuance of the powers hereby delegated if it is inconsistent with any Order issued by the Central Government under the said Act.

(*b*) that the Order of the Government of India in the Ministry of Commerce No. S. O. 2314, dated the 30th July 1966 issued under section 5 of the said Act shall stand rescinded :

Provided that, notwithstanding such rescission, any Order (hereinafter referred to as the said Order) made by a State Government or an administrator or any officer subordinate to that State Government or administrator in pursuance of the Order so rescinded and in force immediately before the commencement of this order shall be deemed to have been made in pursuance of this Order and under the relevant provisions of section 3 of the said Act, and shall continue in force according to its tenor and accordingly any action taken or thing done (including any appointment made, licence or permit granted or direction issued) under the said Order and in force immediately before such commencement shall continue in force according to its tenor until and unless, it is superseded by any action taken or anything done under any other Order made in pursuance of this Order and under the relevant provisions of section 3 of the said Act.

[File No. 26(1)/74-CS-II]

K. RAMANUJAM,
Joint Secretary.

GOVERNMENT OF INDIA
MINISTRY OF AGRICULTURE AND IRRIGATION
(DEPARTMENT OF FOOD)

New Delhi, the 9th June 1978

ORDER

G. S. R. 800.—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955) and in supersession of the Order of the Government of India in the late Ministry of Agriculture (Department of Food) No. G. S. R. 316 (E), dated the 20th June 1972, the Central Government hereby directs that the powers conferred on it by sub-section (*1*) of section 3 of the said Act to make orders to provide for the matters specified in clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*h*), (*i*), (*ii*) and

(*f*) of sub-section (2) thereof shall in relation to foodstuffs be exercisable also by a State Government subject to the conditions :—

(*1*) that such powers shall be exercised by a State Government subject to such directions, if any, as may be issued by the Central Government in this behalf ;

(2) that before making an order relating to any matter specified in the said clauses (*a*), (*c*) or (*f*) or in regard to distribution or disposal of foodstuffs to places outside the State or in regard to regulation of transport of any foodstuff, under the said clause (*d*), the State Government shall also obtain the prior concurrence of the Central Government; and

(3) that in making an order relating to any of the matter specified in the said clause (*f*) the State Goverment shall authorise only an officer of Government.

[No. 3 (Genl.) (1)/78-D & R (I)-59]

K. BALKRISHNAN,
Deputy Secretary to the Government of India.

By order and in the name of the
Governor of Maharashtra.

V. H. KARVE,
Desk Officer.

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) ACT, 1981

[No. 18 of 1981]

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(LEGISLATIVE DEPARTMENT)

New Delhi, the 2nd September 1981/Bhadra 11, 1903 (Saka)

The following Acts of Parliament received the assent of the President on the 2nd September 1981 and are hereby published for general information :—

An Act to make certain special provisions by way of amendments to the Essential Commodities Act, 1955, for a temporary period for dealing more effectively with persons indulging in hoarding and black-marketing of, and profiteering in essential commodities and with the evil of vicious inflationary prices and for matters connected therewith or incidental thereto.

WHEREAS for ensuring the availability of essential commodities at fair prices, it is necessary to curb the hoarding and black-marketing of, and profiteering in, such commodities ;

AND WHEREAS for dealing more effectively with persons indulging in such anti-social activities and the evil of vicious inflationary prices, it is necessary to make certain special provisions by way of amendments to the Essential Commodities Act, 1955 (10 of 1955), for a period of five years ;

Be it enacted by Parliament in the Thirty-second Year of the Republic of India as follows :—

1. *Short title, commencement and duration.*—(1) This Act may be called the Essential Commodities (Special Provisions) Act, 1981.

(2) It shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different States.

(3) It shall cease to have effect on the expiry of * five years * from the date of commencement of this Act except as respects things done or omitted to be done before such cesser of operation of this Act, and section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such cesser of operation of this Act as if it had then been repealed by a Central Act.

(4) References in this Act to the commencement of this Act and to the continuance in force of this Act shall be construed in relation to each State as references, respectively, to the coming into force of this Act in that State and to the continuance in force of this Act in that State.

2. *Act 10 of 1955 to have effect subject to certain special provisions for a temporary period.*—During the continuance in force of this Act, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3 to 11 :

Provided that the amendments specified in sections 7 to 11 shall not apply to, or in relation to, any offence under the principal Act committed before the commencement of this Act and the provisions of the principal Act shall apply to, and in relation to, such offence as if those amendments had not been made.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(*a*) clause (*ia*) shall be re-numbered as clause (*iia*), and before clause (*iia*) as so re-numbered, the following clause shall be inserted, namely :—

'(*ia*) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974) ;' and

(*b*) after clause (*e*), the following clause shall be inserted, namely :—

"(*f*) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code.".

— Words "fifteen years" substituted *vide* Act 34 of 1993.

4. *Amendment of section 6A.*—In section 6A of the principal Act, for the proviso to sub-section (2), the following proviso shall be substituted, namely :—

" Provided that in the case of any such essential commodity the retail sale price whereof has been fixed by the Central Government or a State Government under this Act or under any other law for the time being in force, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price so fixed. ".

5. *Amendment of section 6C.*—In section 6C of the principal Act,—

(*a*) in sub-section (*1*), for the words " any judicial authority appointed by the State Government concerned and the judicial authority ", the words " the State Government concerned and the State Government " shall be substituted ;

(*b*) in sub-section (2), for the words " such judicial authority ", the words " the State Government " shall be substituted.

6. *Amendment of section 6E.*—In section 6E of the principal Act,—

(*a*) for the words, figure and letter " the judicial authority appointed under section 6C ", the words, figure and letter " the State Government concerned under section 6C " shall be substituted ;

(*b*) for the words " any other court, tribunal or authority ", the words " any court, tribunal or other authority " shall be substituted.

7. *Amendment* of section 7.—In section 7 of the principal Act,—

(*a*) in sub-section (*1*), the proviso to sub-clause (*ii*) of clause (*a*) shall be omitted ;

(*b*) the proviso so sub-section (*2*) shall be omitted ;

(*c*) the proviso to sub-section (*2A*) shall be omitted ;

(*d*) sub-section (*2B*) shall be omitted.

8. *Amendment of section 8.*—To section 8 of the principal Act, the following proviso shall be added, namely :—

" Provided that where a person has abetted the contravention of any order for the purpose of procuring any essential commodity of the nature mentioned in sub-clause (*iv-a*) or sub-clause (*v*) of clause (*d*) of section 2 for his own use or for the use of any member of his family or for the use of any person dependent on him, and not for the purpose of carrying on any business or trade in such essential

commodity, the court may, notwithstanding anything contained in section 7 and for reasons to be mentioned in the judgment, impose a sentence of fine only. ".

9. *Amendment of section 10A.*—In section 10A of the principal Act, after the word " cognizable ", the words " and non-bailable " shall be inserted.

10. *Omission of section 12.*—Section 12 of the principal Act shall be omitted.

11. *Substitution of new sections for section 12A.*—For section 12A of the principal Act, the following sections shall be substituted, namely :—

' **12-A.** *Constitution of Special Courts.—(1)* The State Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the *Official Gazette*, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.—In this sub-section, the word " appoint " shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he is qualified for appointment as a judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

12-AA. *Offences triable by Special Court.—(1)* Notwithstanding anything contained in the Code,—

(a) all offences under this Act shall be triable only by the Special Court constituted for the areas in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court ;

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section *(2)* or sub-section *(2A)* of section 167 of the Code, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate :

Provided that where such Magistrate considers—

(i) when such person is forwarded to him as aforesaid ; or

(ii) upon or at any time before the expiry of the period of detention authorised by him ;

that the detention of such person is unnecessary, he may, if he is satisfied that the case falls under the proviso to section 8, order the release of such person on bail and if he is not so satisfied , he shall order such person to be forwarded to the Special Court having jurisdiction ;

(c) the Special Court may, subject to the provisions of clause *(d)* of this sub-section, exercise, in relation to the person forwarded to it under clause *(b)*, the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code in relation to an accused person in such case who has been forwarded to him under that section ;

(d) save as aforesaid no person accused of or suspected of the commission of an offence under this Act shall be released on bail by any court other than a Special Court or the High Court :

Provided that a Special Court shall not release any such person on bail—

(i) without giving the prosecution an opportunity to oppose the application for such release unless the Special Court, for reasons to be recorded in writing, is of opinion that it is not practicable to give such opportunity ; and

(ii) where the prosecution opposes the application, if the Special Court is satisfied that there appear reasonable grounds for believing that he has been guilty of the offence concerned :

Provided further that the Special Court may direct that any such person may be released on bail if he is under the age of

sixteen years or is a woman or is a sick or infirm person, or if the Special Court is satisfied that it is just and proper so to do for any other special reason to be recorded in writing ;

(e) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act take cognizance of that offence without the accused being committed to it for trial ;

(f) all offences under this Act shall be tried in a summary way and the provisions of sections 262 to 265 (both inclusive) of the Code shall, as far as may be, apply to such trial :

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) When trying an offence under this Act, a Special Court may also try an offence than an offence under this Act, with which the accused may, under the Code, be charged at the same trial :

Provided that such other offence is, under any other law for the time being in force, triable in a summary way :

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law.

(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to an offence under this Act, tender a pardon to such person on condition of his making a full any true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

(4) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code and the High Court may exercise such

powers including the power under clause (*b*) of sub-section (*1*) of that section as if the reference to " Magistrate " in that section included also a reference to a " Special Court " constituted under section 12A.

12-AB. *Appeal and revision.*—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.

12-AC. *Application of Code to proceedings before a Special Court.*—Save as otherwise provided in this Act, the provisions of the Code (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

R. V. S. PERI SASTRI,
Secretary to the Govt. of India.

GOVERNMENT OF INDIA
MINISTRY OF CIVIL SUPPLIES

New Delhi, the 31st August 1982.

NOTIFICATION

G. S. R. No. 553 (E).— In Exercise of the powers conferred by sub-section (2) of section 1 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981), the Central Government hereby appoints the 1st day of September 1982, as the date on which the said Act shal come into force in all the States and Union Territories except in the Union Territories of the Andaman and Nicobar Islands, Arunachal Pradesh, Dadra and Nagar Haveli, Lakshadweep and Mizoram.

[No. 26(14)/81-ECR.]

(Signed) I. M. SAHAI,
Joint Secretary.

J. K. GUPTE,
Deputy Secretary to Government.

MINISTRY OF LAW AND JUSTICE
(LEGISLATIVE DEPARTMENT)

New Delhi, the 28th August 1987/Bhadra 6, 1909 (Saka)

The following Act of Parliament received the assent of the President on the 28th August 1987, and is hereby published for general information :—

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) CONTINUANCE ACT, 1987 [No. 25 OF 1987].

[28th August 1987]

An Act to continue the Essential Commodities (Special Provisions) Act, 1981 for a further period.

Be it enacted by Parliament in the Thirty-eight Year of the Republic of India as follow :—

1. *Short title.*—This Act may be called the Essential Commodities *(Special Provisions)* Continuance Act, 1987.

2. *Amendment of preamble.*— In paragraph 2 of the preamble to the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981) (hereinafter referred to as " the principal Act "), for the words " five years ", the words " ten years " shall be substituted.

3. *Amendment of section 1.*— In section 1 of the principal Act, in sub-section (3) for the words " five years ", the words " ten years " shall be substituted.

(Signed) S. RAMAIAH,
Secretary to the Government of India.

By order and in the name of the Governor of Maharashtra,

S. W. MOPKAR,
Deputy Secretary to Government.

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT ACT, 1993 [No. 34 of 1993].

[3rd April 1993]

An Act further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provisions by way of amendment to the Essential Commodities Act, 1955.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :—

1. *Short title and commencement.*— (1) This Act may be called the Essential Commodities (Special Provisions) Amendment Act, 1993.

(2) It shall be deemed to have come into force on the 27th day of August, 1992.

2. *Amendment of preamble.*— In paragraph 2 of the preamble to the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981) (hereinafter referred to as the principal Act), for the words " ten years ", the words " fifteen years " shall be substituted.

3. *Amendment of section 1.*— In section 1 of the principal Act, in sub-section (3), for the words " ten years ", the words " fifteen years " shall be substituted.

4. *Insertion of new section 9A.*— After section 9 of the principal Act, the following section shall be inserted, namely :—

'*9A. Insertion of new section 10AA.*— In the Essential Commodities Act, 1955 (10 of 1955), after section 10A, the following section shall be inserted, namely :—

"*10AA. Power to arrest.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no officer below the rank of an officer in charge of a police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act."

5. *Repeal and saving.*— (1) The Essential Commodities (Special Provisions) Amendment Ordinance, 1993 (Ord. 1 of 1993) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

(Signed) B. R. ATRE,
Joint Secretary to the Government of India.

By order and in the name of the Governor of Maharashtra,

D. N. CHAUDHARI,
Principal Secretary to Government.

LIST OF COMMODITIES DECLARED ESSENTIAL UNDER THE ESSENTIAL COMMODITIES ACT, 1955

Declared under Clause (a) of Section 2 of the Act.

1. Cattle Fodder, including oilcakes and other concentrates.
2. Coal, including coke and other derivatives.
3. Component parts and accessories of automobiles.
4. Cotton and woolen textiles.
5. Drugs.
6. Foodstuffs, including edible oilseeds and oils.
7. Iron and Steel, inluding manufactured products of Iron and Steel.
8. Paper, including newsprint, paperboard and straw board.
9. Petroleum and Petroleum products.
10. Raw Cotton, whether ginned or unginned and cotton seeds.
11. Raw Jute.

Declared under sub-clause (xi) of clause (a) of Section 2 of the Act

12. Jute textiles (S. R. O. 325, dated 15-2-1956).
13. Fertilers, whether inorganic, organic or mixed (S. R. O. 1048, dated 29-3-1957).
14. Cement (S. O. 3594, dated 24-11-1962).
15. Cinema Carbon.

16. Textile machinery :—

(i) Blow room machinery.

(ii) Carding engines.

(iii) Draw frames.

(iv) Speed frames.

(v) Ring frames.

(vi) Winding machines.

(vii) Doubling machines.

(viii) Reeling machines.

(ix) Bundling machines.

(x) Power looms.

(xi) Railing machines.

(xii) Side frames of power looms

(xiii) Spare parts of power looms and ring frames.

(xiv) Wool combing machinery.

(S. O. 3218, dated 19-10-62).

(xv) Woolen :—

(i) rag washing machines.

(ii) rag tearing machines.

(iii) rag cutting machine and

(iv) garnoting machine.

(S. O. 689, dated 16-3-63).

(xvi) Warp knitting machines including Raschel knitting machines worked by power.

(xvii) embroidery machines, other than sewing type embrodiary machines worked by power and used for decorating the textile fabrics with designs formed with any type of thread by the help of needles ;

(S. O. 3395, dated 29-11-63).

(xviii) lase making machines worked by power and used for production of fabrics of open mesh or not formed by crossing and intertwisting thread ; and

(xix) machines worked by power and used for printing cloth by means of engraved rollers or screens.

(S. O. 3395, dated 29-11-63).

17. Textiles made from silk.

18. Textiles made wholly or in part from man-made cellulosic and non-cellulosic spun fibre.

19. Textile made wholly or in part from cellulosic and cellulosic filament yarns.

(S. O. 2114, dated 21-9-59).

20. Ferro-silicon

21. Silico-manganese.

22. Ferro-chrome.

23. Ferro-molybdenum.

24. Ferro-tungsten.

25. Ferro-manganese.

26. Ferro-vanadium.

27. Ferro-phosphorous

28. Ferro titanium.

29. Ferrous scrap containing more than—

(i) 0.50 Per cent Nickel or

(ii) 0.20 Per cent Molybdenum, or

(iii) 1.00 Per cent Tungsten, or

(iv) 0.20 Per cent Vanadium, or

(v) 1.00 Per cent Cobalt.

(S. O. 1931, dated 21-6-66).

30. General Lighting Service Lamps. (S. O. 2135, dated 15-7-66).

31. Household appliances such as electric irons, heater and the like. (S. O. 76, dated 4-1-67).

32. Coconut husk (Raw or retted). (S. O. 2615, dated 22-7-68).

33. Electric Cables and wires.

34. Man-made cellulosic and non-cellulosic staple fibre.

35. Crude Oil.

36. Yarn made wholly or in part from any of the following materials, *namely* :—

(i) Cotton, (ii) Wool, (iii) man-made cellusolic spun fibre, (iv) man-made non cellusolic spun fibre, (v) Silk.

37. (i) Man-made cellulosic and Non-cellusolic filament yarn, (ii) Nylon Tyre/Cord/Fabric.

38. Exercise books [S. O. 604 (E), dated 2-8-1977].

39. Coir fibre extracted from coconut from coconut husks.

40. Insecticides, fungicides, weedicides and the like (S. O. 632 (E), dated 25-8-1977).

41. Tea (S. O. 87 (E), dated 10-2-1978)

42. To be used for sowing or planting (including seedlings and tubers, bulbs, rhizomes, roots, cuttings and all types of grafts and other vegetatively propagated material of food crops or cattle fodder).
(i) Seeds of food crops and seeds of fruits and vegetables,
(ii) Seeds of cattle fodder and
(iii) Jute Seeds.
(S. O. 140 (E), dated 24-2-83).

43. Natural Gas. (S. O. 554 (E), dated 1-7-87).

44. Hydraulic Brake Fluid. (S. O. 211 (E), dated 20-3-89).

45. (i) Switches for domestic and similar purposes. (ii) 2-AMP Switches, (iii) 3-Pin plugs and Socket outlets.

46. Non-pressure Kerosene wick stove [Inserted *vide* S. O. No. 482 (E), dated 2-7-1993].

THE PREVENTION OF BLACKMARKETING AND MAINTENANCE OF SUPPLIES OF ESSENTIAL COMMODITIES ACT, 1980

(No. 7 of 1980)

[Corrected up to 31.3.1995]

An Act to provide for detention in certain cases for the purpose of prevention of blackmarketing and maintenance of supplies of essential commodities to the community and for matters connected therewith.

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

1. *Short title, extent and commencement.—(1)* This Act may be called the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(i) It shall be deemed to have come into force on the 5th day of October 1979.

2. *Definition.*—In this Act, unless the context otherwise requires,—

(a) " appropriate Government " means, as respects a detention order made by the Central Government or by an Officer of the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or by an Officer of a State Government or as respects a person detained under such order, the State Government ;

(b) " detention order " means an order made under section 3 ;

(c) " State Government " in relation to a Union Territory, means the administrator thereof.

3. *Power to make orders detaining certain persons.— (1)* The Central Government or a State Government or any officer of the Central Government, not below the rank of a Joint Secretary to that Government specially empowered for the purpose of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government specially empowered for the purposes of this

section by that Government may, if satisfied, with respect to any person that with a view to preventing him from acting in any manner prejudicial in the maintenance of supplies of commodities essential to the community it is necessary so to do, make an order directing that such person be detained.

Explanation.— For the purposes of this sub-section, the expression "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" means,—

(a) committing or instigating any person to commit any offence punishable under the Essential Commodities Act, 1955 (10 of 1955) or under any other law for the time being in force relating to the control of the production supply or distribution of, or trade and commerce in, any commodity essential to the community ; or

(b) dealing in any commodity,—

(i) which is an essential commodity as defined in the Essential Commodities Act, 1955 (10 of 1955), or

(ii) with respect to which provisions have been made in any such other law as is referred to in clause *(a)*,

with a view to making gain in any manner which may directly or indirectly defeat or tend to defeat the provisions of that Act or other law aforesaid.

(2) Any of the following officers, namely :—

(a) District Magistrates ;

(b) Commissioners of Police, wherever they have been appointed,

may also if satisfied as provided in sub-section *(1)* exercise the powers conferred by the said sub-section.

(3) When any order is made under this section by an officer mentioned in sub-section *(2)*, he shall forthwith report the fact to the State Government in which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in meantime it has been approved by the State Government ;

Provided that where under section 8 the grounds of detention are communicated by the authority making the order after five days but not later than ten days from the date of detention, the sub-section shall apply subject to the modification that for the words " twelve days " the words " fifteen days ", shall be substituted.

(4) When any order is made or approved by the State Government under this section or when any order is made under this section by an officer of the State Government not below the rank of Secretary to that Government specially empowered under sub-section *(i)*, the State Government shall within 7 days report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as, in the opinion of the State Government, have a bearing on the necessity for the order.

4. *Execution of detention orders.*—A detention order may be executed at any place in India in the matter provided for the execution of Warrants of Arrest under the Code of Criminal Procedure, 1973 (2 of 1974).

5. *Power to regulate place and condition of detention.*—Every person in respect of whom a detention order has been made shall be liable :—

(a) to be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify ; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State by Order of the appropriate Government :

Provided that no order shall be made by a State Government under clause *(b)* for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. *Detention orders not to be invalid or inoperative on certain grounds.*— No detention order shall be invalid or inoperative merely by reason,—

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order, or

(b) that the place of detention of such person is outside the said limits.

7. *Powers in relation to absconding person.—(1)* If appropriate Government* of an officer mentioned in sub-section *(2)* of section 3, as the case may be* has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed that Government** or officer** may,—

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Judicial Magistrate of the first class having juridiction in the place where the said person ordinarily resides ; and thereupon the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate ;

(b) by order notified in the official Gazette direct the said person to appear before such officer, at such place and within such period as may be specified in the order ; and if the said person fails to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence under clause *(b)* of sub-section *(1)* shall be congnizable.

8. *Grounds of order of detention to be disclosed to person affected by the order.—(1)* when a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.

— Substituted *vide* Act 27 of 1982.

— Inserted *vide* Act 27 of 1982.

(2) Nothing in sub-section *(1)* shall reqire the authority to disclose facts which it considers to be against the public interest to disclose.

9. *Constitution of Advisory Boards.—(1)* The Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

* *(2)* Every such Board shall consist of three person who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the appropriate Government. *

(3) The appropriate Government shall appoint one of the members of the Advisory Board who is, or has been, a Judge of a High Court to be its Chairman, and in the case of a Union Territory, the appointment to the Advisory Board of any person who is a Judge of the High Court of a State shall be with the pervious approval of the State Government concerned. *

10. *Reference to Advisory Boards.—* Save as otherwise expressly provided in this Act, in every case where a detention order has been made under this Act, the appropriate Government shall, within three weeks from the date or detention of a person under the order, place before the Advisory Board constituted by it under section 9 the grounds on which the order has been made and the representation, if any, made by the person affected by the order and in case where the order has been made by an officer referred to in sub-section *(2)* of section 3, also the report by each officer under sub-section *(3)* of that section.

11. *Procedure of Advisory Boards.—(1)* The Advisory Board shall, after considering the materials placed before it, and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

— Substituted *vide* Act 19 of 1981.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board, and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

12. *Action upon the report of Advisory Board.—(1)* In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

13. *Maximum period of detention.*—The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12, shall be six months from the date of detention :

Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.

14. *Revocation of detention orders.— (1)* Without prejudice to the provision of section 21 of the General Clause Act, 1897 (10 of 1897) a detention order may, at any time, be revoked or modified.—

(a) notwithstanding that order has been made by an officer of a State Government, by that State Government or by the Central Government ;

(b) notwithstanding that the order has been made by an officer of the Central Government or by a State Government, by the Central Government.

(2) The revocation or expiry of a detention order shall not for the making or a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or an officer, as the case may be, is satisfied that such an order should be made.

15. *Temporary release of persons detained.*— *(1)* The appropriate Government, may at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section *(1)*, the appropriate Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section *(1)* shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section *(3)*, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section *(1)* fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

16. *Prosecution of action taken in good faith.*— No suit or other legal proceedings shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceeding shall lie against any person for any thing to good faith done or intended to be done in pursuance of this Act.

17. *Repeal and Saving.*— *(1)* The Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance, 1979 (10 of 1979), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under ordinance so repeal shall be deemed to have been done or taken under the corresponding provisions of this Act.

(Signed) R. V. S. PERI SASTRI,
Secretary to Government of India.

By order and in the name of the Governor of Maharashtra,

(Signed) M. A. DHOTRE,
Secretary to Government.

RICE MILLING

THE RICE-MILLING INDUSTRY (REGULATION) ACT, 1958

No.21 of 1958 (18th May 1958)

(Corrected up to 31.3.1995)

GOVERNMENT OF INDIA,
MINISTRY OF FOOD AND AGRICULTURE

(DEPARTMENT OF FOOD)

An act to regulate the rice-milling industry in the interests of the general public.

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

1. *Short Title, extent and commencement.*— (1) This Act may be called the Rice-Milling Industry (Regulation) Act, 1958.

(2) It extends to the whole of India

(3) *It shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint :

Provided that it shall come into force in the State of Jammu and Kashmir on the date of commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1972 *.

2. *Declaration as to expediency of control by the Union.*— It is hereby declared that it is expedient in the public interest that the Union should take under its control the rice-milling industry.

†**2A.** *Rules of construction in relation to application of Act to Jammu and Kashmir.*— (1) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

— The Act came into force *w. e. f.* 22nd April 1959, see Gazette of India, 1959, Part II, 53(i), Extr. Page 225.

†—† Substituted *vide* Act No. 47 of 1972.

(2) Any reference in any provision of this Act (except section 3-A) to the commencement of this Act or the commencement of the Rice-Milling Industry (Regulation) Jammu and Kashmir, be construed as a reference to the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1972.

(3) Section 3-A shall have effect in relation to the State of Jammu and Kashmir subject to the omission of the portion beginning with the words "subject to the modification" and ending with the words, brackets and figures "the Rice-Milling Industry (Regulation) Amendment Act, 1968" †.

3. *Definition.*— In this Act, unless the context otherwise requires—

* (a) "defunct Rice Mill" means,—

(i) a rice mill in existence at the commencement of this Act but in which rice-milling operations have not been carried on for a continuous period of one year prior to such commencement ; and

(ii) a rice mill (whether established before or after such commencement) in which rice-milling operations are not carried on for a continuous period of one year at any time after the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1968 *.

(b) "existing rice mill" means a rice mill carrying on rice-milling operations at the commencement of this Act, and includes a rice mill in existence at such commencement which is not carrying on rice-milling operations but in which rice-milling operations have been carried on at any time within a period of one year prior to such commencement :

@ Provided that if in any such rice mill, rice-milling operations are not carried on for a continuous period of one year at any time after the commencement of the * Rice-Milling Industry (Regulation) Amendment Act, 1968, then, such mill shall, on the expiry of the said period of one year, cease to be an existing rice mill and be deemed to be a defunct rice mill @.

(c) "licensing officer" means an officer appointed as such under *section 4 ;

— Substituted *vide* Act 29 of 1968.

@—@ Proviso added *vide* Act 29 of 1968.

*(d) " milling-rice ", with its grammatical variations, means—

(i) recovering rice or any product thereof from paddy ;

(ii) polishing rice, with the aid of power ; *

(e) " new rice mills " means a rice mill other than an existing rice mill or a defunct rice mill ;

(f) " notified order " means an order notified in the Official Gazette ;

(g) " owner ", in relation to a rice mill, means the person who, or the authority which has been ultimate control over the affairs of the rice mill, and where the said affairs are entrusted to a Manager, Managing Director or Managing Agent, such Manager, Managing Director or Managing Agent shall be deemed to be the owner of the rice mill ;

@(gg) " polishing " in relation to rice means the removal of bran from the kernel of rice ; @

(h) " prescribed " means prescribed by rules made under this Act ;

(i) " rice mill " means the plant and machinery with which, and the premises, including the precincts thereof, in which or in any part of which, rice-milling operation is carried on.

@ **3A.** *Application of the Act to rice-hullers.*— The provisions of this Act, shall apply to rice-hullers attached to, or maintained with, any flour, oil , dal or other mill, or pumping set as they apply to rice mills subject to the modification that any reference to the commencement of this Act in those provisions shall in their application to such rice-hullers, be construed as a reference to the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1968 @.

4. *Appointment of licensing officers.*— The Central Government may, by notified order,—

(a) appoint such persons, being gazetted officers of Government as it thinks fit to be licensing officers for the purposes of this Act ; and

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— Substituted *vide* Act 29 of 1968.
@—@ Inserted *vide* Act 29 of 1968.

(b) define the limits within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

5. *Grant of permits in respect of new or defunct rice mills.*—

(1) Any person or authority may make an application to the Central Government for the grant of a permit for the establishment of a new rice mill, and any owner of a defunct rice mill may make a like application for the grant of a permit for re-commencing rice-milling operation in such mill.

(2) Every application under sub-section *(1)* shall be made in the prescribed form and shall contain the particulars regarding the location of the rice mill, the size and type thereof and such other particulars as may be prescribed.

(3) If, on receipt of any such application for the grant of permit, the Central Government is of opinion that it is necessary so to do for ensuring adequate supply of rice, it may, subject to the provisions of sub-section *(4)* and sub-section *(5)*, grant the permit specifying therein the period within which the mill is to be established or, as the case may be the mill is to recommence rice-milling operation and * such other conditions (including such conditions as to improvements to existing machinery, replacement of existing machinery and use of improved methods, of rice-milling, as may be necessary to eliminate waste, obtain maximum production and improve quality) as it may think fit to impose, in accordance with the rules, if any, made in this behalf *.

(4) Before granting any permit under sub-section *(3)*, the Central Government shall cause a full and complete investigation to be made in the prescribed manner in respect of the application and shall have due regard to.—

(a) the number of rice mills operating in the locality ;

(b) the availability of paddy in the locality ;

(c) the availability of power and water-supply for the rice mill in respect of which a permit is applied for ;

(d) whether the rice mill in respect of which permit is applied for will be of the huller type, sheller type of combined sheller-huller type ;

— Substituted *vide* Act 29 of 1968.

(e) whether the functioning of the rice mill in respect of which a permit is applied for would cause substantial un-employment in the locality ;

(f) such other particulars as may be prescribed.

***5 (a)** In granting a permit under this *section (whether for the establishment of a new rice mill or for re-commencing rice-milling operation in a defunct rice mill), the Central Government shall give preference —

(i) to a Government company or a corporation owned or controlled by the Government over every other applicant,

(ii) to farmers' co-operative society over every other applicant, not being a Government or Company or a corporation owned or controlled by the Government.

Notwithstanding that such other applicant has applied for the grant of a permit for re-commencing rice-milling operation in a defunct ricemill.

(b) Subject to the provisions of clause *(a)*, in granting a permit under this section, the Central Government shall give preference to a defunct rice mill over a new rice mill.

Explanation :— In this sub-section :

(i) " Co-operative Society " means a society registered or deemed to the registered under the Co-operative Societies Act, 1912 or any other law relating to Co-operative Societies for the time being in force in any State and " farmers Co-operative Society " means a Co-operative Society the members whereof, include farmers and the voting rights in which are, according to its rules and bye-laws, restricted to the following classes of its members, namely,—

(a) farmers.

(b) State Governments.

(c) Primary agricultural credit societies as defined in clause (cii) of section 2 of the Reserve Bank of India Act, 1934 ;

(ii) " Government Company " has to same meaning as in the Companies Act, 1956.*

— Substituted *vide* Act 29 of 1968.

(6) A permit granted under this section * shall be valid* for the period specified therein or for such extended period as the Central Government may think fit to allow in any case:

* Provided that if in a mill in respect of which a permit has been granted under sub-section *(3)* rice-milling operation is not carried on for a continuous period of one year at any time after the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1968, then, such permit shall cease to be valid upon the expiry of the said period of one year and a fresh permit shall be necessary for recommencing rice-milling operation in that mill *.

6. *Grant of licences.*— (1) Any owner of an existing rice mill or of a rice mill in respect of †which a permit granted under section 5 is effective † may make an application to the licensing officer for the grant of a licence for carrying in rice-milling operation in that rice mill.

(2) Every application under sub-section *(1)* shall be made in the prescribed form and shall contain the particulars regarding the location of the rice mill, the size and type thereof and such other particulars as may be prescribed.

(3) On receipt of any such application for the grant of a licence, the licensing officer shall grant the licence on such condition † (including such conditions as to improvements to existing machinery, replacement of existing machinery and used of improved methods of rice-milling, as may be necessary to eliminate waste obtain maximum production and improve quality and conditions relating to the polishing of rice †, on payment of such fees and on the deposit of such sum, if any, as security for the due performance of the conditions as may be prescribed.

† (4) A licence granted under this section shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions (including such conditions as to improvements to existing machinery, replacement of existing machinery and use of improved methods of rice-milling, as may be necessary to eliminate waste, obtain maximum production and improve quity) as may be prescribed :

— Words substituted and proviso inserted *vide* Act 29 of 1968.

†—† Substituted *vide* Act 29 of 1968.

Provided that if in a mill in respect of which a licence has been granted under sub-section *(3)* rice-milling operations are not carried on for ; continuous period of one year at any time after the commencement of Rice-Milling Industry (Regulation) Amendment Act, 1968, then, such licence shall cease to be valid upon the expiry of the said period of one year and a fresh licence shall be necessary for carrying on rice-milling operations in that mill. +

7. *Revocation, suspension and amendment of licences.*— (1) if the Licensing Officer is satisfied, either on a reference made to him in this behalf or otherwise, that —

(a) a licence granted under section 6 has been obtained by disrepresentation as to an essential fact, or,

(b) the holder of a licence has without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder—

then without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence of forfeit the sum, if any, or any portion thereof deposited as security for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf the licensing officer may also vary or amend a licence granted under section 6.

8. *Certain restrictions on rice mills.*— (1) No persons or authority shall, after the commencement of this Act establish any new rice mill except under and in accordance with a permit granted under section 5.

(2) No owner of a rice mill shall, after the commencement of this Act, carry on rice milling operation except under and in accordance with a licence granted under section 6 :

Provided that nothing in this sub-section shall apply to an existing rice mill for such period as may be specified in this behalf by the Central Government by notified order.

(3) No owner of a rice mill,

(a) in respect of which a licence has been granted under section 6, shall carry on rice-milling operations in that mill * after the licence has ceased to the valid *.

(b) in respect of which the licence has been revoked or suspended under section 7, shall carry on rice-milling operation in that mill after the revocation or, as the case may be during the period for which the licence has been suspended ;

(c) shall, without the previous permission of the Central Government change the location of the whole or any part of the rice mill in respect of which has been granted under section 6.

(d) shall, after the commencement of this Act, effect any expansion of the rice mill except with the previous permission of the Central Government ;

* Provided that no such permission shall be necessary.—

(i) Where such expansion is in accordance with the terms and conditions of the permit or licence granted under this Act in respect of the rice mill, or

(ii) for the replacement merely of any parts of the machinery of the rice mill if such replacement does no result in an increase in the productive capacity of the rice mill. *

Explanation :— for the purposes of clause (a) of this sub-section, the period of the validity of a licence shall not be deemed to have expired if an application for its renewal is pending before the licensing officers.

9. *Power of inspection.*— for the purposes of ascertaining the position or examining the working of any rice mill or for any other purpose mentioned in this Act or the rules made thereunder, the licensing officer or any person authorised by the Central Government in this behalf shall have the right.—

(a) to enter and inspect any rice mill ;

— Substituted *vide* Act 29 of 1968.