

THE ESSENTIAL COMMODITIES ACT, 1955¹

[Act, No. 10 of 1955]

[1st April, 1955]

PREAMBLE

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

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

1. Extended to Goa, Daman and Diu with modification by Regulation 12 of 1962, section 3 and Schedule, to Dadra and Nagar Haweli by Regulation 6 of 1963, section 2 and Schedule I and to Lakshadweep and Amindivi Islands by Regulation 8 of 1965, section 3 and Schedule, to the State of Sikkim (w.e.f. 7-1-1976) vide S.O. 28(E), dated 7th January, 1976.

This Act has been amended in Maharashtra by Maharashtra Act 71 of 1976, in Orissa by Orissa Act, 8 of 1976, in Uttar Pradesh by Uttar Pradesh Acts 9 of 1974, 18 of 1975, 39 of 1975 and 16 of 1978.

Section 1 - Short title and extent

(1) This Act may be called the Essential Commodities Act, 1955 .

(2) It extends to the whole of India ¹[***].

1. The words "except the State of Jammu and Kashmir" omitted by Act 25 of 1968, section 2 and Schedule (w.e.f. 15-8-1968).

Section 2 - Definitions

In this Act, unless the context otherwise requires,-

¹[***]

¹[²(ia) "Collector" includes an Additional Collector and such other officer, not below the rank of Sub-Divisional Officer, as may be authorised by the Collector to perform the functions and exercise the powers of the Collector under this Act;]

⁹[***]

(b) "food-crops" include crops of sugarcane;

(c) "notified order" means an order notified in the Official Gazette; [(cc) "order" includes a direction issued thereunder;]

⁴(cc) "order" includes a direction issued thereunder;]

⁵[(d) "State Government," in relation to a Union territory, means the administrator thereof;]

⁴(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 crystalline or powdered form, or

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

⁶[***]

[STATE AMENDMENTS

⁷[Himachal Pradesh

In section 2, in clause (a), after sub-clause (vi), insert the following sub-clause, namely:--

"(via) packing cases made wholly or partly of wood, card-board or straw,

⁸[Maharashtra

In section 2,--

(a) after the words "the context otherwise requires/" and before clause (a), insert the following clause, namely:--

"(ai) 'Collector' in Greater Bombay means the Controller of Rationing and includes any Deputy or 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;"

(b) after clause (b), insert the following clauses, namely:--

"(ba) 'holder', in relation to any agricultural land, means the person 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;"]

¹⁰[In Section 2

(a) after the words "the context otherwise requires, -" and before clause (a), the following clause shall be inserted, namely :-

"(ai) 'Collector' in Greater Bombay means the Controller of Rationing and includes any Deputy or 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;"

(b) after clause (b), the following clauses shall be inserted, namely :-

"(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;".]

¹¹[In Section 2

(a) for clause (ia), the following clause shall be substituted, namely :-

"(ia) "Collector" in any Rationing Area means the Controller of Rationing designated for that area and includes the Deputy or Assistant Controller of Rationing; and elsewhere, the Collector of the District and includes Additional, Deputy or Assistant Collector, Sub-Divisional Officer and District Supply Officer within his respective jurisdiction;";

(b) clause (ai) shall be deleted.]

[Uttar Pradesh

¹²[In Section 2

Before clause (a), the following clause shall be inserted, namely,--

"(aa) 'Collector' includes -such officer not below the rank of an Assistant Collector of the first class as may be authorised by the Collector to exercise the powers conferred on him by or under the provisions of this Act."]

¹³[In Section 2

clause (aa) as inserted by the Essential Commodities (Uttar Pradesh Amendment) Act, 1975 (hereinafter referred to as the Uttar Pradesh Amendment), shall stand omitted with effect from September 2, 1976, the date of the commencement of the Essential Commodities (Amendment) Act, 1976, hereinafter referred to as the Central Amendment.]]]

1. Clause (ia) renumbered as clause (iia) and before clause (iia) so renumbered clause (ia) inserted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stands ceased to have effect after the expire of fifteen years. See Appendix -- Section 3(a) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

2. Inserted by Act 92 of 1976 section 2 (w.e.f. 2-9-1976).

3. Inserted by Act 30 of 1974, section 2 (w.e.f. 22-6-1974).

4. Inserted by Act 36 of 1967, section 2 (w.e.f. 30-12-1974).

5. Substituted by the Adaptation of Laws (No. 3) Order, 1956, for the clause (d).

6. Clause (f) inserted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years, which now stands ceased to have effect after the expire of fifteen years. See Appendix-- Section 3(b) of the Essential Commodities (Special Provisions) Act, 1981.

7. Vide Himachal Pradesh Act 1 of 1992, section 2 (w.e.f. 29-2-1992).

8. Vide Maharashtra Act 1 of 1976, section 2 (w.r.e.f. 12-11-1975).

9. Omitted by The Essential Commodities(Amendment) Act,2006, w.e.f. 12.02.2007. Before omission the provision read as:-

"(a) "essential commodity" means any of the following classes of commodities:-

- (i) cattle fodder, including oilcakes and other concentrates;
- (ii) coal including coke and other derivatives;
- (iii) component parts and accessories of automobiles;
- (iv) cotton and woollen textiles;
- ³ [(iva) drugs;

Explanation.-In this sub-clause, "drugs" has the meaning assigned to it in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940).]

- (v) foodstuffs, including edible oilseeds and oils;
- (vi) iron and steel, including manufactured products of iron and steel;
- (vii) paper, including newsprint, paperboard and straw board;
- (viii) petroleum and petroleum products;
- (ix) raw cotton, whether ginned or unginned, and cotton seed;
- (x) raw jute;
- (xi) any other class 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 3 in List III in the Seventh Schedule to the Constitution;"

10. Inserted by Essential Commodities (Maharashtra Amendment) Act, 1975.

11. Clause (ia) shall be Substituted and Clause (ai) shall be Omitted by Essential Commodities (Maharashtra Amendment) Act, 2002.

12. Inserted Essential Commodities (Uttar Pradesh Amendment) Act, 1975.

13. Omitted by Essential Commodities (Uttar Pradesh Amendment) Act, 1978.

Section 2A - Essential commodities declaration etc.

¹[2A. Essential commodities declaration etc.--

(1) For the purposes of this Act, "essential commodity" means a commodity specified in the Schedule.

(2) Subject to the provisions of sub-section (4), the Central Government may, if it is satisfied that it is necessary so to do in the public interest and for reasons to be specified in the notification published in the Official Gazette, amend the Schedule so as to--

- (a) add a commodity to the said Schedule;
- (b) remove any commodity from the said Schedule.

(3) Any notification issued under sub-section (2) may also direct that an entry shall be made against such commodity in the said Schedule declaring that such commodity shall be deemed to be an essential commodity for such period not exceeding six months to be specified in the notification:

Provided that the Central Government may, in the public interest and for reasons to be specified, by notification in the Official Gazette, extend such period beyond the said six months.

(4) The Central Government may exercise its powers under sub-section (2) in respect of the commodity to which Parliament has power to make laws by virtue of Entry 33 List III in the Seventh Schedule to the Constitution.

(5) Every notification issued under sub-section (2) shall be laid, as soon as may be after it is issued, before both Houses of Parliament.]

1. Inserted by the Essential Commodities (Amendment) Act, 2005, dated 29.12.2006.

Section 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, ¹[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 appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops.

(c) for controlling the price at which essential commodity may be bought or sold;

(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition use or consumption of, any essential commodity;

(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

²[(f) for requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any essential commodity,-

(a) to sell the whole or a specified part of the quantity held in stock or produced or received by him or,

(b) in the case of any such commodity which is likely to be produced or received by him, to sell the whole or a specified part of such commodity when produced or received by him,

(c) to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government or to such other person or class of persons and in such circumstances as may be specified in the order.

Explanation 1-An order made under this clause in relation to food-grains, edible oilseeds or edible oils, may, having regard to the estimated production, in the concerned area, of such food grains, edible oilseeds and edible oils, fix the quantity to be sold by the producers in such area and may also fix, or provide for the fixation of, such quantity on a graded basis, having regard to the aggregate of the area held by, or under the cultivation of, the producers.

Explanation 2-For the purposes of this clause, "production" with its grammatical variations and cognate expressions includes manufacture of edible oils and sugar;]

(g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs ¹⁵[***] 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;

³[(ii) for the grant or issue of licences, permits or other documents, the charging of fees therefore, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;]

⁴[(j) for any incidental and supplementary matters, including, in particular, the entry, search or examination of premises, aircraft, vessels, vehicles or other conveyances and animals, and the seizure by a person authorised to make such entry, search or examination.]

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;

of any aircraft, vessel, vehicle or other conveyance or animal used in carrying such article, if such person has reason to believe that such aircraft, vessel, vehicle or other conveyance or animal is liable to be forfeited under the provisions of this Act:

⁵[(iii) of any books of accounts and documents which in the opinion of such person, may be useful for, or relevant to, any proceeding 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 therefore as hereinafter provided:

- (a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;
- (b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;
- (c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

⁶[(3A) (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 food-stuff in any locality, it may, by notification in the Official Gazette, direct that notwithstanding anything contained in sub-section (3), the price at which the food-stuff shall be sold in the locality in compliance with an order made with reference to clause (f) of subsection (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 (20), there shall be paid to the seller as the price therefore-

- (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 average market rate prevailing in the locality during the period of three months immediately preceding the date of the notification.

(iv) For the purposes of sub-clause (c) of clause (iii), the average market rate prevailing in the locality shall be determined by an officer authorised by the Central Government in this behalf, with reference to the prevailing market rates for which published figures are available in respect of that locality or of a neighbouring locality; and the average market rate so determined shall be final and shall not be called in question in any court.]

7[(3B) Where any person is required, by an order made with reference to clause (f) of sub-section (2), to sell to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government, any grade or variety of food grains, edible oilseeds or edible oils in relation to which no notification has been issued under sub-section (3A), or such notification having been issued, has ceased to be in force, there shall be paid to the person concerned, notwithstanding anything to the contrary contained in subsection (3), an amount equal to the procurement price of such food grains, edible oilseeds or edible oils, as the case may be, specified by the State Government, with the previous approval of the Central Government having regard to -

- (a) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of food grains, edible oilseeds or edible oils;
- (b) the general crop prospects;
- (c) the need for making such grade or variety of food grains, edible oilseeds or edible oils available at reasonable prices to the consumers, particularly the vulnerable sections of the consumers; and
- (d) the recommendations, if any, of the Agricultural Prices Commission with regard to the price of the concerned grade or variety of food grains, edible oilseeds or edible oils.]

¹⁸[(3C) 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 to a State Government or to an officer or agent of such Government or to any other person or class of persons) whether a notification was issued under sub-section (3A) or otherwise, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer only such amount as the Central Government may, by order, determine, having regard to—

- (a) the fair and remunerative price, if any, determined by the Central Government as the price of sugarcane to be taken into account under this section;
- (b) the manufacturing cost of sugar;
- (c) the duty or tax, if any, paid or payable thereon; and
- (d) a reasonable return on the capital employed in the business of manufacturing of sugar:

Provided that the Central Government may determine different prices, from time to time, for different areas or factories or varieties of sugar:

Provided further that where any provisional determination of price of levy sugar has been done in respect of sugar produced up to the sugar season 2008-2009, the final determination of price may be undertaken in accordance with the provisions of this sub-section as it stood immediately before the 1st day of October, 2009.

Explanation ¹⁹[I].— For the purposes of this sub-section,—

- (a) "fair and remunerative price" means the price of sugarcane determined by the Central Government under this section;

(b) "manufacturing cost of sugar" means the net cost incurred on conversion of sugarcane into sugar including net cost of transportation of sugarcane from the purchase center to the factory gate, to the extent it is borne by the producer;

(c) "producer" means a person carrying on the business of manufacturing sugar;

(d) "reasonable return on the capital employed" means the return on net fixed assets plus working capital of a producer in relation to manufacturing of sugar including procurement of sugarcane at a fair and remunerative price determined under this section.]

²⁰[Explanation II.--For the removal of doubts, it is hereby declared that the expressions "fair and remunerative price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital employed" referred to in clause (d), of this sub-section do not include the price paid or payable under any order or any enactment of any State Government and any price agreed to between the producer and the grower or a sugarcane growers' co-operative society.]

⁸[(3D) The Central Government may direct that no producer, importer or exporter shall sell or otherwise dispose of or deliver any kind of sugar or remove any kind of sugar from the bonded godowns of the factory in which it is produced, whether such godowns are situated within the premises of the factory or outside or from the warehouses of the importers or exporters, as the case may be except under and in accordance with the direction issued by the Government:

Provided that this sub-section shall not affect the pledging of such sugar by any producer or importer in favour of any scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), so, however, that no such bank shall sell the sugar pledged to it except under and in accordance with a direction issued by the Central Government.

(3E) The Central Government may, from time to time, by general or special order, direct any producer or importer or exporter or recognised dealer or any class of producers or recognised dealers, to take action regarding production, maintenance of stocks, storage, sale, grading, packing, marking, weightment, disposal, delivery and distribution of any kind of sugar in the manner specified in the direction.

Explanation.--For the purposes of sub-section (3D) and this sub-section,--

(a) "producer" means a person carrying on the business of manufacturing sugar;

(b) "recognised dealer" means a person carrying on the business of purchasing, selling or distributing sugar;

(c) "sugar" includes plantation white sugar, raw sugar and refined sugar, whether indigenously produced or imported.'].]

(4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorize any person (hereinafter referred to as an authorized 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 authorized controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in-charge of the management of the undertaking, except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

(5) An order made under this section shall,-

(a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

(b) in the case of an order directed to a specified individual be served on such individual-

(i) by delivering or tendering it to that individual, or

(ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report there of 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.

[STATE AMENDMENTS

⁹[Bihar

In section 3,--

(i) in sub-section (2), for clause (f), substitute the following clause which shall be deemed always to have been substituted, namely:--

"(f) for requiring any person holding in stock, or engaged in the manufacture or production of, or in the business of buying or selling any essential commodity to sell the whole or a specified part of the quantity held in stock or produced or caused to be produced or likely to be manufactured or produced or caused to be produced by him or received or likely to be received by him in the course of the said business, to the Central Government or a State Government or to such other person or class of persons and in such circumstances as may be specified in the order.

Explanation.--An order relating to food grains made with reference to this clause,--

(i) may specify the prices, fixed by the Central/State Government in this behalf, after taking into account the recommendations, if any of the Agricultural Prices Commission and with the prior concurrence of the Central Government as the amount which shall be paid for the food grain required to be sold under the order,

(ii) may fix or provide for the fixation of the quantity to be sold by a producer with reference to the area under cultivation and the availability of irrigation for production of the particular food grain which the order relates, and also fix or provide for the fixation of such quantities on a graded basis having regard to the aggregate area held by or under the cultivation of different producers."

(ii) in sub-section (3), for clause (c), substitute the following clauses which shall be deemed always to have been substituted, namely:--

"(c) in the case of food grains, where neither clause (a) nor clause (b) applies, the price, if any specified in the said order;

(d) where neither clause (a), nor clause (b), nor clause (c) applies, the price calculated at the market rate prevailing in the locality at the date of sale."

(iii) in sub-section (3B), after clause (a), insert the following clause which shall be deemed always to have been inserted, namely:--

"(aa) in the case of food grains, where no controlled price is fixed by an order made with reference to clause (c) of sub-section (2), the amount specified in the said order made with reference to clause (f) of sub-section (2) for such grade or variety of food grains; or"

²¹[In Section 3

the amendments specified During the period of operation of this Act, the Essential Commodities Act, 1955 (Act 10 of 1955) in its application to the State of Bihar (hereinafter referred to as the said Act) shall have effect subject.]

¹⁰ **Maharashtra**

In section 3,--

(a) in sub-section (2), for clause (f), substitute the following clause which shall be deemed always to have been substituted, namely:--

"(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 commodity held in stock or 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 persons 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 producer 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."

(b) In sub-section (3), for clause (c), substitute the following clause which shall be deemed always to have been substituted, namely:--

"(c) where neither clause (a) nor clause (b) applies, in the 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 (3B), 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."

(c) for sub-section (3B), substitute the following sub-section which shall be deemed always to have been substituted, namely:--

"(3B) where, by an order made with reference to clause (f) of sub-section (2), any person is required to sell any grade or variety or food grains, edible oilseeds 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 respect of such food grains, edible oilseeds 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 in force for such grade or variety of food grains, edible oilseeds or edible oils, or

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

²⁴[In Section 3

(a) in sub-section (2), for clause (f), the following clause shall be substituted, and shall be deemed always to have been substituted, namely :-

"(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 commodity held in stock or likely to be held in stock by him or manufactured or produced; or]

¹¹[Orissa

In section 3,--

(a) in sub-section (2), for clause (f), substitute the following clause which shall be deemed always to have been substituted, namely:--

"(f) for requiring any person holding in stock or engaged in the manufacture or production of, or in the business of buying or selling, any essential commodity to sell the whole or a specified part of the quantity held in stock or manufactured or produced or caused to be produced or likely to be manufactured or produced or caused to be produced by him or received or likely to be received by him in the course of the said business, to the Central Government or a State Government or to an officer or agent of such Government or to such other person or class of persons and in such circumstances as may be specified in the order.

Explanation.--An order relating to food grains made with reference to this clause,--

(i) may specify the prices, fixed by the State Government in this behalf, after taking into account the recommendations, if any, of the Agricultural Prices Commission and with the prior concurrence of the Central Government, as the amount which shall be paid for the food grain required to be sold under the order,

(ii) may fix or provide for the fixation of the quantity to be sold by a producer with reference to the area under cultivation and the availability of irrigation for production of the particular food grain to which the order relates, and also fix or provide for the fixation of such quantities on a graded basis having regard to the aggregate area held by or under the cultivation of different producers."

(b) in sub-section (3), for clause (c), substitute the following clauses which shall be deemed always to have been substituted, namely:--

"(c) in the case of food grains, where neither clause (a) nor clause (b) applies, the price, if any, specified in the said order;

(d) where neither clause (a) nor (b), nor (c) applies, the price calculated at the market rate prevailing in the locality at the date of sale."

(c) in sub-section (3B), after clause (i), insert the following clause which shall be deemed always to have been inserted, namely:--

"(ia) in the case of food grains, where no controlled price is fixed by an order made with reference to clause (c) of sub-section (2), the amount specified in the said Order made with reference to clause (f) of sub-section (2) for such grade or variety of food grains; or"

Uttar Pradesh

In section 3,--

¹²[(i) in sub-section (2), in clause (f), for Explanation 1, substitute the following Explanation, namely:--

"Explanation 1.--An order made under this clause in relation to rice, having regard to the milling capacity of a rice mill, fix the quantity to be sold by the licensed miller and may also fix or provide for the fixation of such quantity on a graded basis."]

¹³[(ii) in sub-section (2), after clause (f), insert the following clause, namely:--

"(ff) for preventing the hoarding of any essential commodity;"]

¹⁴[(iii) in sub-section (3), for clause (c), substitute the following clauses which shall be deemed always to have been substituted, namely:--

"(c) in the case of food grains, where neither clause (a) nor clause (b) applies, the amount, if any, specified in the said order made with reference to clause (f) of sub-section (2);

(d) where neither clause (a), nor clause (b), nor clause (c) applies, the price calculated, at the market rate prevailing in the locality at the date of sale."]

²²[In Section 3

(a) In sub-section (2), for clause (f), the following clause shall be and shall be deemed always to have been substituted, namely :-

"(i) for requiring any person holding in stock, or engaged in the manufacture or production of, or in the business of buying or selling any essential commodity to sell the whole or a specified part of the quantity held in stock or manufactured or produced or caused to be produced or likely to be manufactured or produced or caused to be produced by him or received or likely to be received by him in the course of the said business, to the Central Government or a State Government or to such other person or class of persons and in such circumstances-as may be specified in the order:

Explanation.-An order relating to foodgrains made with reference to this clause-

(i) may specify the prices, fixed by the Central/State Government in this behalf, after taking into account the recommendations, if any, of the Agricultural Prices Commission and with the prior concurrence of the Central Government, as the amount which shall be paid for the foodgrains required to be sold under the order;

(ii) may fix or provide for the fixation of the quantity to be sold by a producer with reference to the area under cultivation and the availability of irrigation for production of the particular foodgrain to which the order relates, and also fix or provide for the fixation of such quantities on a graded basis having regard to the aggregate area held by or under the cultivation of different producers;"

(b) in sub-section (3) for clause (c), the following clauses shall be and shall be deemed always to have been substituted, namely:-

"(c) in the case of foodgrains, where neither clause (a) nor clause (b) applies, the price, if any, specified in the said order";

(d) where neither clause (a), nor clause (b), nor clause (c) applies the price calculated at the market rate prevailing in the locality at the date of sale";

(c) in sub-section (3B), after clause (a), the following clause shall be and shall be deemed always to have been inserted, namely:-

"(a-a) in the case of foodgrains, where no controlled price is fixed by an order made with reference to clause (c) of sub-section (2), the amount specified in the said order made with reference to clause (f) of sub-section (2) for such grade or variety of foodgrains or".]

²⁷[In Section 3

In sub-section (2), in clause (f), as substituted by the Essential Commodities (Uttar Pradesh Amendment) Act, 1975, in the Explanation thereof, for sub-clause (II) the following sub-clause shall be substituted, and be deemed always to have been substituted, namely,--

"(II) may fix or provide for the fixation of the quantity to be sold by a producer with reference to the area under cultivation for production of the particular (foodgrains to which the order relates, and also fix or provide for the fixation of such quantities on a graded basis having regard to the aggregate area held by or under the cultivation of different producers."]

[Jharkhand

²³[After Section 2A

(a) in sub-section (2), for clause (f), the following clause shall be and shall be deemed always to have been substituted, namely:-

"(f) for requiring any person holding in stock, or engaged in the manufacture or production of, or in the business of buying or selling any essential commodity to sell the whole or a specified part of the quantity held in stock or manufactured or produced or caused to be produced or likely to be manufactured or produced or caused to be produced by him or received or likely to be received by him in the course of the said business, to the Central Government or a State Government or to such other person or class of persons and in such circumstances as may be specified in the order;

Explanation.-An order relating to food grains made with reference to this clause-

(i) may specify the prices, fixed by the Central/State Government in this behalf, after taking into account the recommendations, if any, of the Agricultural Prices Commission and with the prior concurrence of the Central Government, as the amount which shall be paid for the food grain required to be sold under the order;

(ii) may fix or provide for the fixation of the quantity to be sold by a producer with reference to the area under cultivation and the availability of irrigation for production of the particular food grain to which the order relates, and also or provide for the fixation of such quantities on a graded basis having regard to the aggregate area held by or under the cultivation of different producers.";

(b) in sub-section (3), for clause (c), the following clauses shall be and shall be deemed always to have been substituted, namely :-

"(c) in the case of food grains, where neither clause (a) nor clause (b) applies, the price, if any, specified in the said order;

(d) where neither clause (a), nor clause (b), nor clause (c) applies, the price calculated at the market rate prevailing in the locality at the date of sale";

(c) in sub-section (3-B), after clause (a), the following clause shall be and shall be deemed always to have been inserted, namely:-

"(aa) in the case of food grains, where no controlled price is fixed by an order made with reference to clause (c) of sub-section (2), the amount specified in the said order made with reference to clause (f) of sub-section (2) for such grade or variety of food grains or".]

[Orissa

In Section 3

²⁵[(a) in Sub-section (2), for Clause (f), the following clause shall be and shall be deemed always to have been substituted, namely :

"(f) for requiring any person holding in stock, or engaged in the manufacture or production of, or in the business of buying or selling, any essential commodity to sell the whole or a specified part of the quantity held in stock or manufactured or produced or caused to be produced or likely to be manufactured or produced or caused to be produced by him or received or likely to be received by him in the course of the said business, to the Central Government or a State Government or to an officer or agent of such Government or to such other person or class of persons and in such circumstances as may be specified in the order;

Explanation- An order relating to foodgrains made with reference to this clause-

(i) may specify the prices, fixed by the State Government in this behalf, after taking into account the recommendations, if any, of the Agricultural Prices Commission and with the prior concurrence of the Central Government as the amount which shall be paid for the foodgrain required to be sold under the order ;

(ii) may fix or provide for the fixation of the quantity to be sold by a producer with reference to the area under cultivation and the availability of irrigation for production of the particular foodgrain to which the order relates, and also fix or provide for the fixation of such quantities on a graded basis having regard to the aggregate area held by or under the cultivation of different producers".

(b) in Sub-section (3), for Clause (c), the following clauses shall be and shall be deemed always to have been substituted, namely:-

"(c) in the case of foodgrains, where neither Clause (a), nor Clause (v) applies, the price, if any, specified in the said order;

(d) where neither Clause (a), nor Clause (b), nor Clause (c) applies, the price calculated at the market rate prevailing in the locality at the date of sale".]

²⁶[(c) in Sub-section (3-6), after Clause (i) the following clause shall be and shall be deemed always to have been inserted, namely :

"(i-a) in the case of foodgrains, where no controlled price is fixed by an order made with reference to Clause (c) of Sub-section (2), the amount specified in the said order made with reference to Clause (f) of Sub-section (2) for such grade or variety of foodgrains; or".]]]

1. Inserted by Act 36 of 1967, section 3 (w.e.f. 30-12-1967).
2. Clause (f) as Substituted by Act 28 of 1957, section 2 (w.e.f. 17-9-1957) and again Substituted by Act 92 of 1976, section 3 (w.e.f. 2-9-1976).
3. Inserted by Act 17 of 1961, section 2 (w.e.f. 10-5-1961).
4. Substituted by Act 66 of 1971, section 2 for clause (j) (w.e.f. 23-12-1971).
5. Substituted by Act 92 of 1976, section 3, for sub-clause (iii) (w.e.f. 2-9-1976).
6. Inserted by Act 13 of 1957, section 2 (w.e.f. 4-6-1957).
7. sub-section (3B) inserted by Act 25 of 1966, section 2 (w.e.f. 3-9-1966) and Substituted by Act 92 of 1976, section 3 (w.e.f. 2-9-1976).
8. Inserted by Act 37 of 2003 section 2 (w.r.e.f. 14.06.1999).
9. Vide Bihar Act 9 of 1978, section 3 (w.e.f. 6-9-1978).
10. Vide Maharashtra Act 1 of 1976, section 3 (w.r.e.f. 12-11-1975).
11. Vide Orissa Act 8 of 1976, section 2 (w.e.f. 29-3-1976).
12. Vide Uttar Pradesh Act 16 of 1978, section 3 (2).
13. Vide Uttar Pradesh Act 9 of 1974, section 2.
14. Vide Uttar Pradesh Act 18 of 1975, section 3 (b).
15. Omitted the following "or cotton textiles" by the Essential Commodities (Amendment) Act, 2006, w.e.f. 12.02.2007.
16. Renumbered by the Essential Commodities (Amendment and Validation) Act, 2009 [Act No. 36 of 2009] w.e.f. 01st October, 1974 previous text was:- "Explanation"
17. Inserted by the Essential Commodities (Amendment and Validation) Act, 2009 [Act No. 36 of 2009] w.e.f. 01st October, 1974.
18. Substituted by the Essential Commodities (Amendment and Validation) Act, 2009 [Act No. 36 of 2009] to be effective from 01st October, 2009 previous text was:-

¹¹[(3C) 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 an 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 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 that producer an amount therefore 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 sugarcane by 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 from time to time for different areas or for different factories or for different kinds of sugar.

¹⁶[Explanation I].-For the purposes of this sub-section, "producer" means a person carrying on the business of manufacturing sugar.]

¹⁷[Explanation II.—For the removal of doubts, it is hereby declared that the expressions “minimum price” referred to in clause (a), “manufacturing cost of sugar” referred to in clause (b) and “reasonable return on the capital employed” referred to in clause (d) exclude the additional price of sugarcane paid or payable under clause 5A of the Sugarcane (Control) Order, 1966 and any price paid or payable under any order or enactment of any State Government and any price agreed to between the producer and the grower of sugarcane or a sugarcane growers’ co-operative society.]”

19. Renumbered by the Essential Commodities (Amendment) Act, 2010 (Act No. 35 of 2010) w.e.f. 01.10.2009.

20. Inserted by the Essential Commodities (Amendment) Act, 2010 (Act No. 35 of 2010) w.e.f. 01.10.2009.

21. Inserted by Court Fees (Bihar Amendment) Act, 1977.

22. sub-section (2), for clause (f) and sub-section (3) for clause (c) shall be Substituted and sub-section (3B), after clause (a) shall be Inserted by Court Fees (Bihar Amendment) Act, 1977.

23. Clause (f) and clause (c) shall be Substituted and Clause (a) shall be Inserted by Essential Commodities (Bihar Amendment) Act, 1977, (jharkhand).

24. Substituted by Essential Commodities (Maharashtra Amendment) Act, 1975.

25. Substituted by Court-Fees (Orissa Amendment) Act, 1983 (Act 12 of 1983).

26. Inserted by Court-Fees (Orissa Amendment) Act, 1983 (Act 12 of 1983).

27. Substituted by Essential Commodities (Uttar Pradesh Second Amendment) Act, 1975.

Section 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 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.

Section 5 - Delegation of powers

The Central Government may, by notified order, direct that¹[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 such authority subordinate to a State Government; as may be specified in the direction.

1. Substituted by Act 66 of 1971, section 3, for "the power to make orders under section 3" (w.e.f. 23-12-1971).

Section 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.

Section 6A - Confiscation of essential commodity

¹[6A . Confiscation of essential commodity.-- ² [(1)] Where any ³ [essential commodity is seized] in pursuance of an order made under section 3 in relation thereto, ⁴ [a report of such seizure shall, without unreasonable delay, be made to] the Collector of the district or the Presidency town in which such ³ [essential commodity is seized] and whether or not a prosecution is instituted for the contravention of such order, the Collector ⁵ [may, if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied] thFat there has been a contravention of the order ⁶[may order confiscation of-

- (a) the essential commodity so seized;
- (b) any package, covering or receptacle in which such essential commodity is found; and
- (c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity:]

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

⁷ [Provided further that in the case of any animal, vehicle, vessel or other conveyance 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 by such animal, vehicle, vessel or other conveyance.]

⁷ [(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 the essential commodity is subject to speedy and natural decay or it is otherwise expedient in the public interest so to do, he may-

(i) order the same to be sold at the controlled price, if any, fixed for essential commodity under this Act or under any other law for the time being in force; or

(ii) where no such price is fixed, order the same to be sold by public auction:

⁸ [***]

(3) where any essential commodity is sold, as aforesaid, the sale proceeds thereof, after deduction of the expenses of any such sale or auction or other incidental expenses relating thereto, shall-

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

(b) where an order passed on appeal under sub-section (1) of section 6C so requires, or

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

be paid to the owner or the person from whom it is seized.]

[STATE AMENDMENTS

⁹[Bihar

For section 6A, substitute the following section, namely:--

"6A. Confiscation of food grains, edible oilseeds, edible oils, etc.--(1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto it shall be reported without any reasonable delay to the Collector of the district in which such essential commodity is seized and the Collector may, if he thinks it expedient so to do, inspect or cause to be inspected such essential commodity, whether or not the prosecution is instituted for the contravention of such order and the Collector, if satisfied that there has been a contravention of the order, may order confiscation of--

(a) the essential commodities so seized;

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

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

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

(2) Where the Collector, on receiving a report of seizure or in 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.

(3) In the case of food grains, where there is no controlled price, the Collector, if he thinks fit, may order the food grains seized under sub-section (1) 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 food grains to the public through these shops or may order such food grains by public auction.

(4) The Collector shall whenever it is practicable so to do having regard to the nature of the essential commodity take and preserve sample of the same in the prescribed manner before its sale or distribution.

(5) Where any essential commodity is sold as aforesaid, the sale proceeds thereof, after deduction of all 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 on appeal under sub-clause (1) of section 6C so requires; or
- (c) in the case of prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under this section and where the person concerned is acquitted to paid to the owner thereof or the person from whom it is seized:

Provided that in the case of food grains sold through fair price shops in accordance with sub-sections (2) and (3) the owner shall be paid for the food grains so sold, the price fixed by the State Government, for retail sale of such food grains through such shops less all expenses of sale or auction under sub-sections (2) and (3).

(6) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974), when Collector or the appellate authority is seized with the matter under this section no court shall entertain any application in respect of essential commodities, any package covering, receptacle any animal, vehicle or other conveyance used in carrying such commodities as far as its release, distribution etc. is concerned and the jurisdiction of Collector or the appellate authority with regard to the disposal of the same shall be exclusive.

(7) The State Government may by notification in the Official Gazette, authorise any officer not below the rank of sub-divisional Magistrate, to discharge all or any of the functions of a Collector under this section.

(8) The Collector shall for the purposes of this Act have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when making enquiries under this section in respect of following matters, namely:--

- (a) receiving evidence on affidavits;
- (b) summoning and enforcing the attendance of any person and examining him on oath; and
- (c) compelling the production of documents.

(9) All enquiries and proceedings under this section before the Collector and the appellate authority shall be deemed to be judicial proceeding and while discharging functions under this section the Collector and the appellate authority shall be deemed to be a Court.

Explanation.-- For the purposes of this section the Collector shall include 'Additional Collector' and any officer specially authorized under subsection (7)".

¹¹[In Section 6-A

the following Section shall be substituted, namely:-

"6.A. Confiscation of foodgrains, edible oil-seeds, edible oils, etc.-

(1) Where any essential commodity is seized in pursuance of an order made under Section 3 in relation thereto it shall be reported without any unreasonable delay to the Collector of the district in which such essential commodity is seized and the Collector may, if he thinks it expedient so to do, inspect or cause to be inspected such essential commodity, whether or not the prosecution is instituted for the contravention of such order and the Collector, if satisfied that there has been a contravention of the order, may order confiscation of-

- (a) the essential commodities so seized;
- (b) any package, covering or receptacle in which such essential commodity, is found, and
- (c) any animal, vehicle, vessel, or other conveyance used in carrying such essential commodity:

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

(2) Where the Collector, on receiving a report of seizure or in 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.

(3) In the case of foodgrains where there is no controlled price, the Collector if he thinks fit, may order the foodgrains seized under sub-section (1) 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 or may order such foodgrains to be sold by public auction.

(4) The Collector shall whenever it is practicable so to do having regard to the nature of the essential commodity take and preserve sample of the same in the prescribed manner before its sale or distribution.

(5) Where any essential commodity is sold as aforesaid, the sale-proceeds thereof, after deduction of all 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 on appeal under sub-clause (1) of Section 6-C so requires; or

(c) in the case of prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under this Section and 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 sub-sections (2) and (3) 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-sections (2) and (3).

(6) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (Act II of 1974) when Collector or the appellate authority is seized with the matter under this Section no court shall entertain any application in respect of essential commodities, any package, covering, receptacle, any animal, vehicle or other conveyance used in carrying such commodities as far as its release, distribution, etc. is concerned and the jurisdiction of Collector or the appellate authority with regard to the disposal of the same shall be exclusive.

(7) The State Government may, by notification in the Official Gazette, authorise any officer not below the rank of Sub-Divisional Magistrate, to discharge all or any of the functions of a Collector under this Section.

(8) The Collector shall for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when making enquiries under this Section in respect of the following matters, namely:-

(a) receiving evidence on affidavits;

(b) summoning and enforcing the attendance of any person and examining him on oath; and

(c) compelling the production of documents;

(9) All enquiries and proceedings under this Section before the Collector and the Appellate Authority shall be deemed to be judicial proceeding and while discharging functions under this Section the Collector and the Appellate Authority shall be deemed to be a Court.

Explanation.-For the purposes of this Section the Collector shall include authorized 'Additional Collector' and any officer specially authorized under sub-section (7)."

¹⁰[Maharashtra

For section 6A, substitute the following section, namely;--

"6A 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

(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 food grains or edible oilseeds seized in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized food grains or edible oilseeds 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 food grains where there is no controlled price, the Collector may order the food grains 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 food grains to the public through these shops:

Provided further that, whenever it is practicable so to so, 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, on appeal under sub-clause (1) of section 6C so requires; or
- (c) in the case of a prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under be paid to the owner thereof or the person from whom it is seized:

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

¹³[In Section 6A

The following section shall be substituted, namely:-

"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; 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 to the State Government or to an officer or agent of any Government or to such other person or class of persons and in such circumstances as may be specified in the order :

Explanation.- An order made under this clause in respect of foodgrains may fix or provide for fixation of the quantity to be sold by a producer 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.";

(b) in sub-section (3), for clause (c), the following clause shall be substituted, and shall be deemed always to have been substituted, namely :-

"(c) where neither clause (a) nor clause (b) applies, in the case of foodgrains, 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."; (c) for sub-section (3-B), the following sub-section shall be substituted, and shall be deemed always to have been substituted namely :-

"(3-B) Where, by any order made with reference to clause (f) of sub-section (2), any person is required to sell any grade or variety of foodgrains, edible oilseeds 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 respect of such foodgrains, edible oilseeds or edible oils has been issued 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 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 in force for such grade or variety of foodgrains, edible oilseeds or edible oils, or (b) having regard to the prices recommended by the Agricultural Prices Commission for the concerned essential commodity, where no controlled price in relation to such commodity, has been fixed by or under any law for the time being in force."]

[Jharkhand

¹²[In Section 6-A

the following section shall be substituted, namely:-

"6-A. Confiscation of food grains, edible oil-seeds, edible oils, etc.- (1) Where any essential commodity is seized in pursuance of an order made under Section 3 in

relation there to it shall be reported without any unreasonable delay to the Collector of the district in which such essential commodity is seized and the Collector may, if he thinks it expedient so to do, inspect or cause to be inspected such essential commodity, whether or not the prosecution is instituted for the contravention of such order and the Collector, if satisfied that there has been a contravention of the order, may order confiscation of-

- (a) the essential commodities so seized ;
- (b) any package, covering or receptacle in which such essential commodity is found; and
- (c) any animal, vehicle, vessel, or other conveyance used in carrying such essential commodity:

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

(2) Where the Collector, on receiving a report of seizure or in 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.

(3) In the case of food grains, where there is no controlled price, the Collector if he thinks fit, may order the food grains seized under sub-section (1) 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 food grains to the public through these shops or may order such food grains to be sold by public auction.

(4) The Collector shall whenever it is practicable so to do having regard to the nature of the essential commodity take and preserve sample of the same in the prescribed manner before its sale or distribution.

(5) Where any essential commodity is sold as aforesaid, the sale-proceeds thereof, after deduction of all 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 on appeal under sub-clause (1) of Section 6-C so requires; or
- (c) in the case of prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under this section and 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 sub-sections (2) and (3) 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-sections (2) and (3).

(6) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (Act 11 of 1974), when Collector or the appellate authority is seized with the matter under this section no court shall entertain any application in respect of essential commodities, any package, covering, receptacle, any animal, vehicle or other conveyance used in carrying such commodities as far as its release, distribution, etc. is concerned and the jurisdiction of Collector or the appellate authority with regard to the disposal of the same shall be exclusive.

(7) The State Government may, by notification in the Official Gazette, authorize any officer not below the rank of Sub-divisional Magistrate, to discharge all or any of the functions of a Collector under this section.

(8) The Collector shall for the purposes of this Act have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when making enquiries under this section in respect of the following matters, namely :-

- (a) receiving evidence on affidavits;
- (b) summoning and enforcing the attendance of any person and examining him on oath ; and
- (c) compelling the production of documents.

(9) All enquiries and proceedings under this section before the Collector and the appellate authority shall be deemed to be judicial proceeding and while discharging functions under this section the Collector and the appellate authority shall be deemed to be a Court,

Explanation.-For the purposes of this section the Collector shall include 'Additional Collector' and any officer specially authorized under sub-section (7)."]

[Uttar Pradesh

¹⁴[In Section 6-A

The following section shall be substituted, namely,--

"6-A. Where any essential commodity, or any vehicle or other conveyance or animal is seized in pursuance of an order made under Section 3 in relation thereto, it may be produced, without any unreasonable delay, before the Collector of the district in which such essential commodity, vessel vehicle, conveyance or animal is seized whether or not a prosecution is instituted for the contravention of such order, the Collector,--

- (a) if satisfied that there has been a contravention of the order in respect of the essential commodity so seized, may order confiscation thereof;
- (b) if satisfied in respect of the vessel, vehicle, conveyance or animal so seized that it was used for purposes of smuggling any essential commodity in contravention of the order, may order confiscation of such vessel, vehicle, conveyance or animal :

Provided that, without prejudice to any action which 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 the producer shall, if the seized foodgrains or edible oil-seeds have been produced by him, be confiscated under this Section :

Provided further that a vessel, vehicle or other conveyance or animal shall not be liable to confiscation if the owner thereof proves that it was used for purposes of smuggling of the essential commodity without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the vessel, vehicle, conveyance or animal and that each of them had taken all such precautions against such use as may be expected of a man of ordinary prudence :

Provided also that where any such vessel, vehicle, conveyance or animal is used for the carriage of goods or passengers for hire, the owner of the vessel, vehicle, conveyance or animal 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 goods sought to be smuggled.

Explanation.--In this clause, the expression "smuggling" with its grammatical variations means any offence consisting of contravention of any restriction on the movement of an essential commodity contained in an order made under Section 3 with reference to clause (d) of sub-section (2) of that section.".]

¹⁵[In Section 6A

The following section shall be substituted, namely--

"6-A. (1) Where any essential commodity is seized in pursuance of an order made under Section 3 in relation thereto a report to this effect shall, without any unreasonable delay, be sent to the Collector of the district in which 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 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
- (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 provisions 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 interests 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 also 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 of 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 on appeal under sub-clause (1) of Section 6-C so requires; or

(c) in the 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)."]]]

1. Inserted by Act 25 of 1966, section 3 (w.e.f. 3-9-1966).

2. Section 6A renumbered as sub-section (1) thereof by Act 92 of 1976, section 4 (w.e.f. 2-9-1976).
3. Substituted by Act 36 of 1967, section 4, "food grains, edible oilseeds or edible oils are seized" (w.e.f. 30-12-1967).
4. Substituted by Act 92 of 1976, section 4, for "it may be produced without any unreasonable delay, before" (w.e.f. 2-9-1976).
5. Substituted by Act 92 of 1976, section 4, for "if satisfied" (w.e.f. 2-9-1976).
6. Substituted by Act 30 of 1974, section 4, for "may order confiscation of the essential commodity so seized" (w.r.e.f. 22-6-1974).
7. Inserted by Act, 92 of 1976, section 4, (w.e.f. 2-9-1976).
8. Proviso substituted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stands ceased to have effect after the expiry of fifteen years. See Appendix-- Section 4 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).
9. Vide Bihar Act 9 of 1978, section 4 (w.e.f. 6-9-1978).
10. Vide Maharashtra Act 1 of 1976, section 4 (w.r.e.f. 12-11-1975).
11. Substituted by Court Fees (Bihar Amendment) Act, 1977.
12. Substituted by Essential Commodities (Bihar Amendment) Act, 1977, (jharkhand).
13. Substituted by Essential Commodities (Maharashtra Amendment) Act, 1975.
14. Substituted by Essential Commodities (Uttar Pradesh Amendment) Act, 1974.
15. Substituted by Essential Commodities (Uttar Pradesh Amendment) Act, 1975.

Section 6B - Issue of show cause notice before confiscation of foodgrains, etc.

¹ [6B. Issue of show cause notice before confiscation of food grains, etc.

² [(1)] No order confiscating ³ [any ⁴ [essential commodity] package, covering, receptacle, animal, vehicle, vessel or other conveyance] shall be made under section 6A unless the owner of such ⁴ [essential commodity] package, covering, receptacle, animal, vehicle, vessel or other conveyance) or the person from whom ⁵ [it is seized]-

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the ³ [essential commodity] package, covering, receptacle, animal, vehicle, vessel or other conveyance];

(b) is given an opportunity of making a presentation in wiring within such reasonable time as may be specified in the notice against the ground of confiscation; and

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

⁶ [(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 6A 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 of them had taken all reasonable and necessary precautions against such use.]

⁷ [(3) No order confiscating any essential commodity package, covering, receptacle, animal, vehicle, vessel or 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.]

STATE AMENDMENT

⁸[Uttar Pradesh

After section 6B, insert the following section, namely:

"6BB. Review.--(1) Where the Collector is satisfied that an order of confiscation or an order refusing confiscation made under section 6A suffers from a mistake apparent on the face of the record (including any mistake of law) he may within one month of such order issue notice to the owner of the essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance, or, as the case may be, the person from whom it was seized, to show cause why that order should not be reviewed, and after giving him a reasonable opportunity of being heard, pass such order on review as he thinks fit.

(2) The provisions of sections 6C and 6D shall apply in relation to an order passed originally under section 6A."

⁹[In Section 6-B

After, the words "essential commodity", wherever they occur, the words "or any vessel, vehicle or other conveyance or animal" shall be inserted.]

-
1. Inserted by Act 25 of 1966, section 3 (w.e.f. 3-9-1966).
 2. Section 6B renumbered as sub-section (1) thereof by Act 30 of 1974, section 5 (w.e.f. 22-6-1974).
 3. Substituted by Act 36 of 1967, section 5, for "any food grain, edible oilseeds or edible oils" (w.e.f. 30-12-1967).
 4. Substituted by Act 30 of 1974, section 5, for the words "essential commodity" (w.e.f. 22-6-1974).
 5. Substituted by Act 36 of 1967, section 5, for "they are seized".
 6. Inserted by Act 30 of 1974, section 5 (w.e.f. 22-6-1974).
 7. Inserted by Act 92 of 1976, section 5 (w.e.f. 2-9-1976).
 8. Vide Uttar Pradesh Act 18 of 1975, section 6 (w.e.f. 31-3-1975).
 9. Inserted by Essential Commodities (Uttar Pradesh Amendment) Act, 1974.

Section 6C - Appeal

¹[6C.Appeal

(1) Any person aggrieved by an order of confiscation under section 6A may, within one month from the date of the communication to him of such order, appeal to any judicial authority by the State Government concerned and the judicial authority 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 6A is modified or annulled by ² [such judicial authority], 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 6A, the person concerned is acquitted, and in either case it is not possible for any reason to ³[return the essential commodity seized], ⁴ [such persons shall, except as provided by sub-section (3) of section 6A, be paid] the price therefore ⁵[as if the essential commodity,] had been sold to the Government with reasonable interest calculated from the day of the seizure of ⁶[the essential commodity] ⁷[and such price shall be determined-

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

(ii) in the case of sugar, in accordance with the provisions of subsection (3C) 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.]

[STATE AMENDMENT

[Bihar

⁸[For section 6C,

substitute the following section, namely:--

"6C.Appeal--

(1) Any person aggrieved by an order of confiscation under section 6A may, without one month from the date of the communication to him of such order, appeal to any judicial authority appointed by the State Government concerned and the judicial authority 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 6A is modified or annulled by such judicial authority, or where in a prosecution for the contravention of the order in respect of which an order of confiscation has been made under section 6A, 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, save as provided by sub-section (3) of section 6A, be paid the price thereof as if the essential commodity had 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 food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3B) of section 3;
- (ii) in the case of sugar in accordance with the provisions of sub-section (3C) 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."

⁹[In Section 6-A

the following Section shall be substituted, namely:-

"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 any judicial authority appointed by the State Government concerned and the judicial authority 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 modified or annulled by such judicial authority, 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 save as provided by sub-section (3) of Section 6-A, be paid the price therefor as if the essential commodity had 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 foodgrains, edible oil seeds or edible oils in accordance with the provisions of sub-section (3B) of Section 3;
- (ii) in the case of sugar, in accordance with the provisions of sub-section (3C) 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."]

[Jharkhand

¹⁰[In Section 6-C

The following section shall be substituted, namely:-

"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 any judicial authority appointed by the State Government concerned and the judicial authority 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 modified or annulled by such judicial authority, 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 other case it is not possible for any reason to return the essential commodity seized, such person shall, save as provided by subsection (3) of Section 6-A, be paid the price therefore as if the essential commodity had 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 food grains, edible oil-seeds 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."]

[Maharashtra

¹¹[In Section 6C

(a) In section 6-C of the principal Act, in sub-section (2), for the words "such person shall be paid" the words, brackets, figures and letter "such person shall, except as provided by sub-section (3) of section 6-A, be paid" shall be substituted.

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

(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 oilseeds, seized in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized foodgrains, or edible oilseeds 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 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, have 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 on appeal under sub-clause (1) of section 6-C so require; or
- (c) in the 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)."]

[Uttar Pradesh

¹²[In Section 6C

In sub-section (2) for the words "such person shall be paid", the words "such person shall, except as provided by sub-section (3) of Section 6-A, be paid" shall be substituted.]]]

1. Inserted by Act 25 of 1966, section 3 (w.e.f. 3-9-1966).

2. The words "the State Government concerned and the State Government" subs, by Act 18 of 1981 as amended by Act 34 of 1993, for "any judicial authority appointed by the State Government and the judicial authority" for a period of fifteen years, now they stand ceased to have effect after the expiry of fifteen years. See Appendix -- Section 5(a) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

3. The words "the State Government" substituted by Act 18 of 1981 as amended by Act 34 of 1993, for "such judicial authority" for a period of fifteen years, now they stand ceased to have effect after the expiry of fifteen years, See Appendix -- Section 5(b) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

4. Substituted by Act 36 of 1967, section 6, for "return the food grains or edible oilseeds or edible oils seized" (w.e.f. 30-12-1967).

5. Substituted by Act 92 of 1976, section 6, for "such person shall be paid".
6. Substituted by Act 36 of 1967, section 6, for "as if the food grains, edible oilseeds or edible oils, as the case may be," (w.e.f. 30-12-1967).
7. Substituted by Act 36 of 1967, section 6, for "articles" (w.e.f.30-12-1967).
8. Substituted by Act 36 of 1967, section 6, for certain words (w.e.f. 30-12-1967).
9. Substituted by Court Fees (Bihar Amendment) Act, 1977.
10. Substituted by Essential Commodities (Bihar Amendment) Act, 1977, (jharkhand).
11. Substituted by Essential Commodities (Maharashtra Amendment) Act, 1975.
12. Substituted by Essential Commodities (Uttar Pradesh Amendment) Act, 1975.

Section 6D - Award of confiscation not to interfere with other punishments

¹[6D . 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.]

-
1. Inserted by Act, 25 of 1966, section 3 (w.e.f. 3-9-1966).

Section 6E - Bar of jurisdiction in certain cases

¹[6E . 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,²[the judicial authority appointed under section 6 C] shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force,³[any other 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].

-
1. Inserted by Act 92 of 1976, section 7 (w.e.f. 2-9-1976) and substituted by Act 42 of 1986, section 2 (w.e.f. 9-9-1986).

2. The words "the State Government concerned under section 6C" substituted by Act 18 of 1981 as amended by Act 34 of 1993, for "the judicial authority appointed under section 6C" for a period of fifteen years, now they stand ceased to have effect after the expiry of fifteen years. See Appendix -- Section 6(a) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

3. The words "any court, tribunal or other authority" subs, by Act 18 of 1981 as amended by Act 34 of 1993, for "any other court, tribunal or authority" for a period of fifteen years, now

they stand ceased to have effect after the expiry of fifteen years. See Appendix -- Section 6(b) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

Section 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:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;

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

(c) any package, 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.

(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:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months.

(2-A) If any person convicted of an offence under sub-clause (ii) of clause (a) of subsection (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.

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

(2-B) For the purposes of sub-sections (1), (2) and (2-A), the fact an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) has caused no substantial harm to the general public or to any individual shall be an adequate and special reason for awarding a sentence of imprisonment for a term of less than three months or six months, as the case may be.

(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.

Note: Offence under this section is held to involve moral turpitude, and is not only a technical offence.¹

Want of knowledge of notification publishing an order is no defence, since, mens rea is not essential to be established in cases under the section.²

Sec. 7(1)(b) does not apply to the sale proceeds of the property forfeited under this Act by the order of the court.³

The charge framed against the accused must mention the order made under Sec. 3 for the contravention of which he is to be tried.⁴

Non-compliance with an order made under the Act does not always amount to contravention of such order and mere non-compliance may not amount to be an offence.⁵

[STATE AMENDMENTS]

[Uttar Pradesh]

In Section 7

In sub-section (1), in clause (a),--

⁶[(i) in sub-clause (ii), for the words "for a term which may extend to five years and shall also be liable to fine" the words "for a term which in the case of an offence of smuggling shall not be less than two years, and in the case of any other offence, shall not be less than six months, but which may extend to seven years, and shall also be liable to fine which in the case of an offence of smuggling shall not be less than double the value of article smuggled or attempted to be smuggled," shall be substituted;]

⁷[(ii) the proviso thereto, shall be omitted;]

⁸[(iii) at the end, the following explanation shall be inserted, namely, --

Explanation.--In this clause, the expression offence of smuggling, with its grammatical variations, means any offence consisting of contravention of any restriction on the movement of an essential commodity contained in an order made under Section 3 with reference to clause (d) of sub-section (2) of that section.".]

1. AIR 1946 Sind, 62

2. AIR 1949 Cal. 195

3. 75 BLR. 262

4. (1972) 1 CWR, 733

5. 1972 Cr. LJ. 951
6. Substituted by Essential Commodities (Uttar Pradesh Amendment) Act, 1974.
7. Omitted by Essential Commodities (Uttar Pradesh Amendment) Act, 1974.
8. Inserted by Essential Commodities (Uttar Pradesh Amendment) Act, 1974.

Section 7A - Power of Central Government to recover certain amounts as arrears of land revenue

¹[7A. Power of Central Government to recover certain amounts as arrears of land revenue

(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 Account 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 (34 of 1984), and whether the liability of such person to pay or deposit such amount arose before or after such commencement be recoverable by Government together with simple interest due thereon computed at the rate of²[fifteen per cent.] per annum from the date of such default to the date of recovery of such amount, as an arrear of land revenue³[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 arrear of land revenue³[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 arrear of land revenue ¹[or as a public demand] under subsection (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 of²[fifteen per cent.] per annum, from the date of recovery of such amount to the date on which such refund is made.

Explanation.--For the purposes 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.]

[STATE AMENDMENTS

[Haryana

⁴[In Section 7-A

The following new section shall be inserted, namely:-

"7-A. Forfeiture of certain property used in the commission of the offence.--

Whenever any offence relating to foodstuffs which is punishable under section 7 has been committed, the court shall direct that all the packages, coverings or receptacles in which any property liable to be forfeited under the said section is found and all the animals, vehicles vessels, or other conveyances used in carrying the said property shall be forfeited to the Government".]

[Rajasthan

⁵[In Section 7A

The following new section shall be inserted, namely-

"7A. Forfeiture of certain property used in the commission of the offence.-

Wherever any offence relating to foodstuffs which is punishable under section 7 has been committed, the Court shad direct that all the packages, coverings or receptacles in which an property liable to be forfeited under the said section is found and a the animals, vehicles, vessels or other conveyances used in carrier the said property, shall be forfeited to the Government :

Provided that if the Court is of opinion that it is not necessary to direct forfeiture in respect of all such packages, coverings receptacles or such animals, vehicles, vessels or other conveyance or any of them, it may, for reasons to be recorded, refrain from doing So."]

[Punjab

⁶[In Section 7-A

The following new section shall be inserted, namely:-

"7-A. Forfeiture of certain property used in the commission of the offence.--

Whenever any offence relating to foodstuffs which is punishable under section 7 has been committed, the court shall direct that all the packages, coverings or receptacles in which any property liable to be forfeited under the said section is found and all the animals, vehicles vessels, or other conveyances used in carrying the said property shall be forfeited to the Government".]]]

1. Inserted by Act 34 of 1984, section 2 (w.e.f. 1-7-1984).

2. Substituted by Act 42 of 1986, section 3, for "six per cent." (w.e.f. 8-9-1986).

3. Inserted by Act 42 of 1986, section 2 (w.e.f. 8-9-1986).

4. Inserted by Essential Commodities (Punjab Amendment) Act, 1959 (Haryana).

5. Inserted by Essential Commodities (Rajasthan Amendment) Act, 1960.

6. Inserted by Essential Commodities (Punjab Amendment) Act, 1959 (Act 34 of 1959) (punjab).

Section 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.

¹[***]

1. Proviso was Inserted by Act 18 of 1981 as amended Act 34 of 1993 for a period of fifteen years. It now stands ceased to have effect after the expiry of fifteen years. See Appendix -- Section 8 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

Section 9 - False statement

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 to¹[five years,] or with fine, or with both.

1. Substituted by Act 36 of 1967, section 8, for "three years" (w.e.f. 30-12-1967).

Section 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 in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

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

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

officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purposes of this section,

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

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

Section 10A - Offences to be cognizable

¹ [10A. Offences to be cognizable ² [³ [*]]**

Notwithstanding anything contained in ⁴ [the Code of Criminal Procedure, 1973 (2 of 1974)] every offence punishable under this Act shall be "cognizable ² [³ [***]]].

⁵ [***]

[STATE AMENDMENTS

[Uttar Pradesh

⁶[In Section 10A

The word "bailable" the word "non-bailable" shall be substituted.]

-
1. Inserted by Act 36 of 1967, section 9 (w.e.f. 30-12-1967).
 2. The words "and bailable" omitted by Act 30 of 1974, section 7 (w.r.e.f. 22-6-1974).
 3. After the word "cognizable" the words "and non-bailable" were Inserted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years, now they stand ceased to have effect after the expiry of fifteen years. See Appendix -- Section 9 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).
 4. Substituted by Act 30 of 1974, section 7, for "the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 22-6-1974).
 5. Section 10AA was Inserted by Act 34 of 1993 for a period of fifteen years which now stands ceased to have effect after the expiry of fifteen years. See Appendix -- Section 9A of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).
 6. Substituted by Essential Commodities (Uttar Pradesh Amendment) Act, 1974.

Section 10B - Power of court to publish name, place of business, etc., of companies convicted under the Act

¹[10B. 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 orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(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 of section 10.]

1. Inserted by Act 30 of 1974, section 8 (w.r.e.f. 22-6-1974).

Section 10C - Presumption of culpable mental state

¹[10C. 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 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 the 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.]

1. Inserted by Act 30 of 1974, section 8 (w.r.e.f. 22-6-1974).

Section 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)¹[or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not].

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

[STATE AMENDMENTS

²[Uttar Pradesh

In section 11, for the words "by a person who is a public servant as defined in section 21 of the Indian Penal Code," substitute the words "by order of, or under authority from the District Magistrate or such other officer as may be empowered by the State Government by general or special order in this behalf."

1. Inserted by Act 73 of 1986, section 2 (w.e.f. 1-5-1987).

2. Vide Uttar Pradesh Act 9 of 1974, section 7 (w.e.f. 24-4-1974).

Section 12 - Special provision regarding fine

¹ [² 12. Special provision regarding fine

Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Metropolitan Magistrate, or any Judicial Magistrate of the first class specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding five thousand rupees on any person convicted of contravening any order made under section 3.]]

1. Substituted by Act 30 of 1974, section 9 (w.r.e.f. 22-6-1974).

2. Section 12 was omitted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stands restored after the expiry of fifteen years. See Appendix -- Section 10 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

Section 12A - Power to try summarily

¹ [² 12A. Power to try summarily

(1) If the Central Government is of opinion that a situation has arisen where, in the interests of production, supply or distribution of ³[any essential commodity not being an essential commodity referred to in clause (a) of sub-section (2)] or trade or commerce therein and other relevant considerations, it is necessary that the contravention of any order made under section 3 in relation to such essential commodity should be tried summarily, the Central Government may, by notification in the Official Gazette, specify such order to be a special order for purposes of summary trial under this section, and every such notification shall be laid, as soon as may be after it is issued, before both Houses of Parliament:

⁴[Provided that-

(a) every such notification issued after the commencement of the Essential Commodities (Amendment) Act, 1971, shall, unless sooner rescinded, cease to operate at the expiration of two years after the publication of such notification in the Official Gazette;

(b) every such notification in force immediately before such commencement shall, unless sooner rescinded, cease to operate at the expiration of two years after such commencement:

Provided further that nothing in the foregoing proviso shall affect any case relating to the contravention of a special order specified in any such notification if proceedings

by way of summary trial have commenced before that notification is rescinded or ceases to operate and the provisions of this section shall continue to apply to that case as if that notification had not been rescinded or had not ceased to operate.]

⁵[(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) all, offences relating to-

(a) the contravention of an order made under section 3 with respect to--

¹²[***]

(ii) foodstuffs, including edible oilseeds and oil; or (iii) drugs; and

(b) where any notification issued under sub-section (1) in relation to a special order is in force, the contravention of such special order,

shall be tried in a summary way by a Judicial Magistrate of the First Class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said 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 Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in the manner provided by the said Code.]

(3) Notwithstanding anything to the contrary contained in ⁶ [the Code of Criminal Procedure, 1973 (2 of 1974),] there shall be no appeal by a convicted person in any case tried summarily under this section in which the Magistrate passes a sentence of imprisonment not exceeding one month, ⁷ [and of fine not exceeding two thousand rupees] whether or not any order of forfeiture of property or an order under ⁸ [section 452] of the said Code is made in addition to such sentences, but an appeal shall lie where any sentence ⁹ [***] in excess of the aforesaid limits is passed by the Magistrate.

¹⁰[(4) All cases relating to the contravention of an order referred to in clause (a) of sub-section (2), not being a special order, and pending before a Magistrate immediately before the commencement of the Essential Commodities (Amendment) Act, 1974, and, where any notification is issued under sub-section (1) in relation to a special order, all cases relating to the contravention of such special order and pending before a Magistrate immediately before the date of the issue of such notification, shall, if no witnesses have been examined before such commencement or the said date, as the case may be, be tried in a summary way under this section, and if any such case is pending before a Magistrate who is not competent to try the same in a summary way under this section, it shall be forwarded to a Magistrate so competent.]

¹¹[***]

[STATE AMENDMENTS

[Uttar Pradesh

¹³[In Section 12-A

(i) after sub-section (1) the following sub-section shall be inserted, namely,--

"(1-A) Without prejudice to the powers of the Central Government under sub-section (1) if the State Government is of opinion that a situation has arisen where, in the interests of production, supply or distribution of any essential commodity, or trade or commerce therein, and other relevant considerations, it is necessary that the contravention of any order made under Section 3 in relation to such essential commodity should be tried summarily, the State Government may by notification in the official Gazette, specify such order to be a special order for purposes of summary trial under this Section, and every such notification shall be laid as soon as may be after it is issued, before both Houses of the State Legislature;"

(ii) in sub-section (2), after the words, figure and brackets "under sub-section (1)" the words, figure, letter and brackets "or under sub-section (1-A)" shall be inserted and for the words "a Magistrate of the first class specially empowered in this behalf by the State Government" the words "a Magistrate of the first class having experience as of such of not less than five years" shall be substituted.

(iii) in sub-section (4), after the words, figure and brackets, "under sub-section (1-A)", the words, figure letter and brackets "or under sub-section (1-A)", shall be inserted.]

1. Section 12A inserted by Act, 47 of 1964, section 2 (w.e.f. 5-11-1964).

2. Sections 12A was substituted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stand ceased to have effect after the expiry of fifteen years. The original section 12A as inserted by Act 47 of 1964 and amended by Act 66 of 1971 and Act 30 of 1974 stands resorted. See Appendix -- Section 11 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

3. Substituted by Act 30 of 1974, section 10, for "any essential commodity" (w.r.e.f. 22-6-1974).

4. Added by Act 66 of 1971, section 5 (w.e.f. 23-12-1971).

5. Substituted by Act 30 of 1974, section 10, for "sub-section (2) (w.r.e.f. 22-6-1974).

6. Substituted by Act 30 of 1974, section 10, for, "the Code of Criminal Procedure, 1898 (5 of 1898)" (w.r.e.f. 22-6-1974).

7. Substituted by Act 30 of 1974, section 10, for, "or of fine not exceeding two thousand rupees or both (w.r.e.f. 22-6-1974).

8. Substituted by Act 30 of 1974, section 10, for, "section 517" (w.r.e.f. 22-6-1974).

9. The words "of imprisonment or fine" omitted by Act 30 of 1974, section 10 (w.r.e.f. 22-6-1974).

10. Substituted by Act 30 of 1974, section 10, for, sub-section (4) (w.r.e.f. 22-6-1974).

11. Sections 12AA, 12AB, 12AC, were inserted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stand ceased to have effect after the expiry of fifteen years . See Appendix -- Section 11 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

12. Omitted by The Essential Commodities (Amendment) Act, 2006, dtd. 12.02.2007. Before omission the provision read as :-

"(i) cotton or woollen textiles; or"

13. Sub-section (1-A) and (iii) shall be Inserted and sub-section (ii) shall be Substituted by Essential Commodities (Uttar Pradesh Amendment) Act, 1974.

Section 12B - Grant of injunction, etc., by civil courts

¶12B. Grant of injunction, etc., by civil courts

No civil court shall grant 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, 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.]

1. Inserted by Act 30 of 1974, section 11 (w.r.e.f. 22-6-1974).

Section 13 - Presumption as to orders

Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872 (1 of 1872).

Section 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.

Section 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.

Section 15A - Prosecution of public servants

¹[15A. Prosecution of public servants

Where any person who is a 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 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 State.]

1. Inserted by Act 92 of 1976, section 8 (w.e.f. 2-9-1976).

Section 16 - Repeals and savings

(1) The following laws are hereby repealed:

(a) the Essential Commodities Ordinance, 1955 (1 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 authorises the control of the production, supply and distribution of, and trade and commerce in, any essential commodity.

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

(3) The provision of sub-section (2) shall be without prejudice to the provision contained in section 6 of the General Clauses Act, 1897 (10 of 1897), which shall also apply to the repeal of the Ordinance or other law referred to in sub-section (1) as if such Ordinance or other law had been an enactment.

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2003

[Act, No. 37 of 2003]

[1st June, 2003]

PREAMBLE

An Act further to amend the Essential Commodities Act, 1955.

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

1. Short title

This Act may be called the Essential Commodities (Amendment) Act, 2003.

2. Amendment of section 3 of Act 10 of 1955

In section 3 of the Essential Commodities Act, 1955, after sub-section (3C), the following shall be deemed to have been inserted, on and from the 14th day of June, 1999, namely:--

'(3D) The Central Government may direct that no producer, importer or exporter shall sell or otherwise dispose of or deliver any kind of sugar or remove any kind of sugar from the bonded godowns of the factory in which it is produced, whether such godowns are situated within the premises of the factory or outside or from the warehouses of the importers or exporters, as the case may be, except under and in accordance with the direction issued by the Government:

Provided that this sub-section shall not affect the pledging of such sugar by any producer or importer in favour of any scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934) or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), so, however, that no such bank shall sell the sugar pledged to it except under and in accordance with a direction issued by the Central Government.

(3E) The Central Government may, from time to time, by general or special order, direct any producer or importer or exporter or recognised dealer or any class of producers or recognised dealers, to take action regarding production, maintenance of stocks, storage, sale, grading, packing, marking, weightment, disposal, delivery and distribution of any kind of sugar in the manner specified in the direction.

Explanation.--For the purposes of sub-section (3D) and this sub-section,--

- (a) "producer" means a person carrying on the business of manufacturing sugar;
- (b) "recognised dealer" means a person carrying on the business of purchasing, selling or distributing sugar;
- (c) "sugar" includes plantation white sugar, raw sugar and refined sugar, whether indigenously produced or imported.'

3. Validation of action taken under clauses 4 and 5 of the Sugar (Control) Order, 1966

(1) Notwithstanding anything contained in any judgment decree or order of any court or other authority or any agreement, any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any direction or order issued by the Central Government under clause 4 or clause 5 of the Sugar (Control) Order, 1966, made under section 3 of the Essential Commodities Act, 1955 (10 of 1955), at any time during the period commencing on and from the 14th day of June, 1999 till the day on which the Essential Commodities (Amendment) Bill, 2003 receives the assent of the President, shall

be deemed to be, and deemed always to have been, for all purposes, as validly and effectively taken or done or omitted to be done under sub-section (3D) or sub-section (3E), as the case may be, of section 3 of the Essential Commodities Act, 1955 (10 of 1955), as if the said sub-sections had been in force at all material times.

(2) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would have not been so punishable if this Act had not come into force.

THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) ACT, 1981

[Act, No. 18 of 1981]

[26th September, 1981]

PREAMBLE

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 of¹[fifteen 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 such²[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 of³[fifteen 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 of 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 renumbered 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.".

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 to 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 (iva) or sub-clause (v) of clause (a) 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.

4[9A. Insertion of new section 10AA in Act 10 of 1955

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."

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:--

12A. 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.

12AA. Offences triable by Special Courts

(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 (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 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 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 is 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 Act⁵[or upon a complaint made by an Officer of the Central Government or a State Government authorised in this behalf by the Government concerned]⁶[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:

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 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.

12AB. 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.

12AC. 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'.

-
1. Substituted by Act 34 of 1993, section 2, for "ten years" (w.r.e.f. 27-8-1992).
 2. Came into force on 1-9-1982 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--Vide G.S.R. 553 (E), dated 31st August, 1982, published in the Gazette of India, Extra., 1982, Pt. II, Sec. 3,
 3. Substituted by Act 34 of 1993, section 3, for "ten years" (w.r.e.f. 27-8-1992).
 4. Inserted by Act 34 of 1993, section 4 (w.r.e.f. 27-8-1992).
 5. Inserted by Act 42 of 1986, section 4 (w.e.f. 9-9-1986).
 6. Inserted by Act 73 of 1986, section 3 (w.e.f. 1-5-1987).

THE PREVENTION OF BLACK MARKETING AND MAINTENANCE OF SUPPLIES OF ESSENTIAL COMMODITIES ACT, 1980

[Act No. 7 of 1980]

[12th February, 1980]

PREAMBLE

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

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

1. Short title, extent and commencement

- (1) This Act may be called the Prevention of Black marketing and Maintenance of Supplies of Essential Commodities Act, 1980.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 5th day of October, 1979.

2. Definitions

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 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 purposes 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 to the maintenance of supplies of the 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 to 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 the 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, this 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 (1) the State Government shall, within seven 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 manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (2 of 1974).

5. Power to regulate place and conditions 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 in-operative 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 persons

(1) If¹ [the appropriate Government or 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 Government² [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 jurisdiction 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 cognizable.

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.

(2) Nothing in sub-section (1) shall require 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.

³[2]Every such Board shall consist of three persons 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 previous 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 of 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) "f section 3, also the report by such 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 Advisory Board shall specify in 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.

(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 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

(1) 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 provisions of section 21 of the General Clauses Act, 1897 (10 of 1897), a detention order may, at any time, be revoked or modified

(a) notwithstanding that the order has been made by an officer of the 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 bar the making of 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 a State 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 the 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 fulfill 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. Protection of action taken in good faith

No suit or other legal proceeding 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 in good faith done or intended to be done in pursuance of this Act.

17. Repeal and saving

(1) The Prevention of Black-marketing 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 the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

1.Substituted by Act 27 of 1982, section 2, for "appropriate Government" (w.e.f. 5-8-1982).

2.Inserted by Act 27 of 1982, section 2 (w.e.f. 5-8-1982).

3.Substituted by Act 19 of 1981, section 2, for sub-sections (2) and (3) (w.e.f. 2-9-1981).

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2006

[Act No. 54 of 2006]

[24th December 2006.]

PREAMBLE

An Act further to amend the Essential Commodities Act, 1955.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:--

1. Short title

(1) This Act may be called the Essential Commodities (Amendment) Act, 2006.

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

2. Amendment of section 2

In the Essential Commodities Act, 1955 (10 of 1955) (hereinafter referred to as the principal Act), in section 2, clause (a) shall be omitted.

3. Insertion of new section 2A

After section 2 of the principal Act, the following section shall be inserted, namely:--

Essential commodities declaration, etc.

'2A. (1) For the purposes of this Act, "essential commodity" means a commodity specified in the Schedule.

(2) Subject to the provisions of sub-section (4), the Central Government may, if it is satisfied that it is necessary so to do in the public interest and for reasons to be specified in the notification published in the Official Gazette, amend the Schedule so as to--

(a) add a commodity to the said Schedule;

(b) remove any commodity from the said Schedule, in consultation with the State Governments.

(3) Any notification issued under sub-section (2) may also direct that an entry shall be made against such commodity in the said Schedule declaring that such commodity shall be deemed to be an essential commodity for such period not exceeding six months to be specified in the notification:

Provided that the Central Government may, in the public interest and for reasons to be specified, by notification in the Official Gazette, extend such period beyond the said six months.

(4) The Central Government may exercise its powers under sub-section (2) in respect of the commodity to which Parliament has power to make laws by virtue of Entry 33 in List III in the Seventh Schedule to the Constitution.

(5) Every notification issued under sub-section (2) shall be laid, as soon as may be after it is issued, before both Houses of Parliament.'

4. Amendment of section 3

In section 3 of the principal Act, in sub-section (2), in clause (g), the words "or cotton textiles" shall be omitted.

5. Amendment of section 12A

In section 12A of the principal Act, in sub-section (2), in clause (a), sub-clause (i) shall be omitted.

6. Savings of the orders issued under section 3

All notifications, orders, directions issued or any appointment made, licence or permit granted under section 3 of the principal Act before the commencement of this Act and are in force, in respect of the essential commodities specified in the Schedule, shall continue to remain in force until and unless it is superseded by any notification, order, appointment made, licence or permit granted or directions issued and it shall be deemed to have been issued under the corresponding provisions of this Act.

THE SCHEDULE

(See section 2A)

ESSENTIAL COMMODITIES

(1) drugs.

Explanation.--For the purposes of this Schedule, "drugs" has the meaning assigned to it in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940;

(2) fertilizer, whether inorganic, organic or mixed;

(3) foodstuffs, including edible oilseeds and oils;

(4) hank yarn made wholly from cotton;

(5) petroleum and petroleum products;

(6) raw jute and jute textiles;

(7) (i) seeds of food-crops and seeds of fruits and vegetables;

(ii) seeds of cattle fodder; and

(iii) jute seeds.

STATEMENT OF OBJECTS AND REASONS

Under article 369 of the Constitution, Parliament had power during a period of five years from the commencement thereof to make laws with respect to trade and commerce in, and the production, supply and distribution of, certain essential commodities. The life of the Essential Supplies (Temporary Powers) Act, 1946, was therefore limited to the 26th January, 1955. The essential commodities to which that Act applied fell into two broad categories, viz.,-

- (a) coal, textiles, iron and steel, paper, etc., which are products of industries under Union control; and
- (b) food-stuffs, cattle fodder, etc., which are , not products of such industries.

As public interest required that the Centre should continue to have even after the 26th January, 1955, the same legislative powers as it had under article 369 of the Constitution, a Bill providing for the necessary amendment of entry 33 of List III in the Seventh Schedule to the Constitution was passed by both Houses of Parliament in September last year. This amendment has now become law, having been ratified by the requisite number of States.

The Constitution (Third Amendment) Act, however, had not become law when the Essential Supplies (Temporary Powers) Act, 1946, expired, and therefore an Ordinance was promulgated to take effect on the 26th day of January, 1955, which provided for the regulation of trade and commerce in and the production, supply and distribution of commodities which fell within the first category referred to in the preceding paragraph. Under entry 42 of the Union List, Parliament has power to regulate inter-State trade and commerce in all commodities and the Ordinance also provided for such regulation in section 4 thereof, but the application of that section was limited in the first instance to wheat, raw cotton and sugar-cane.

Pending the passing of a Central law providing for control in respect of all essential commodities now falling within entry 33 of the Concurrent List, certain State Governments have promulgated Ordinances or taken other legal action open to them for continuing controls in respect of such commodities as could not be included, in the Central Ordinance.

The present Bill seeks to replace the Central Ordinance and at the same time includes within the definition of "essential commodities" those commodities which had to be left out by reason of lack of legislative power. To a very large extent, the Bill follows the provisions contained in the Essential Supplies (Temporary Powers) Act, 1946, but the penalty clause has been simplified and a few other provisions have been omitted as unnecessary.
