

# The Essential Commodities Act, 1955

February 11, 2013

## 1 SHORT TITLE AND EXTENT.

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

(2) It extends to the whole of India <sup>1</sup>[\*\*\*].

## 2 DEFINITIONS.

In this Act, unless the context otherwise requires, –

<sup>2</sup>[\*\*\*]

<sup>2</sup><sup>3</sup>[(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;]]

<sup>4</sup>[\*\*\*]

(b) “food-crops” include crops of sugarcane;

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

<sup>5</sup>[(cc) “order” includes a direction issued thereunder;]

<sup>6</sup>[(d) “State Government,” in relation to a Union territory, means the administrator thereof;]

<sup>7</sup>[(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.]

<sup>8</sup>[\*\*\*]

## STATE AMENDEMENTS

**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;”

[ Vide Himachal Pradesh Act 1 of 1992, sec. 2 (w.e.f. 29-2-1992).]

**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 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;"

[ Vide Maharashtra Act 1 of 1976, sec. 2 (w.r.e.f. 12-11-1975).]

## COMMENTS

Order made by the Central Government in respect of foodstuffs is intra vires the powers conferred by the provisions of section 2

Seeds of foodstuffs is an item which has direct bearing with the production of the foodstuffs and consequently it is competent for the Parliament as well as the States to make laws in relation to seeds of foodstuffs. Surely seeds of food-crops and seeds of fruits and vegetable relate to foodstuffs. An order in respect of foodstuffs made by the Central Government is intra vires the powers conferred by sub-clause (xi) of clause (a) of section 2 of the Act; *Rashu Seeds & Farms v. Union of India*, AIR 1994 SC 533.

Tea is not foodstuff

In common parlance 'food' is something that is eaten. In wider sense 'food' may include not only solid substances but also a drink. Still the fact remains that the substance called 'food' should possess the quality to maintain life and its growth; it must have nutritive or nourishing value so as to enable the growth, repair or maintenance of the body. Tea does not have any nutritive value. Therefore, tea is not a 'foodstuff'; *S. Samuel, M.D., Harrisons Malayalam v. Union of India*, AIR 2004 SC 218.

Word "oil" used in regard to foodstuff is edible oil

The word 'oil' was used in regard to foodstuff thus it pertains to only edible type of oils and not oils like kerosene; *Tulsidas Modi v. State of Orissa*, 1987 Cr LJ 664.

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**1. Extended to Goa, Daman and Diu with modifications by Regulation 12 of 1962, sec. 3 and Sch., to Dadra and Nagar Haweli by Regulation 6 of 1963, sec. 2 and Sch. I and to Lakshadweep and Amindivi Islands by Regulation 8 of 1965, sec. 3 and Sch., 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.

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

**3. Ins. by Act 92 of 1976, sec. 2 (w.e.f. 2-9-1976).**

**4. Clause (a) omitted by Act 54 of 2006, sec. 2 (w.e.f. 12-2-2007). Earlier clause (a) was amended by Act 30 of 1974, sec. 2 (w.r.e.f. 22-6-1974). Clause (a), before omission by Act 54 of 2006, stood as under:**

“(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;’

(iva) drugs.

**Explanation.**— In this sub-clause, “drug” has the meaning assigned to it in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (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 33 in List III in the Seventh Schedule to the Constitution;

**5. Ins. by Act 36 of 1967, sec. 2(a) (w.e.f. 30-12-1967).**

**6. Subs. by the A.O. (No. 3) Order, 1956, for clause (d).**

**7. Ins. by Act 36 of 1967, sec. 2(b) (w.e.f. 30-12-1967).**

**8. Clause (f) ins. by Act 18 of 1981, sec. 3(b) as amended by Act 34 of 1993, sec. 3 for a period of fifteen years, which now stands ceased to have effect after the expiry of fifteen years. See Appendix —Section 3(b) of the Essential Commodities (Special Provisions) Act, 1981.**



## 2A. Essential commodities declaration, etc.—

<sup>1</sup>[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, 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.]

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**1. Ins. by Act 54 of 2006, sec. 3.**

## 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, <sup>2</sup>[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;

<sup>3</sup>[(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, 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 foodgrains, 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 <sup>4</sup>\*\*\*] 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;

<sup>5</sup>[(ii) for the grant or issue of licences, permits or other documents, the charging of fees therefor, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;]

<sup>6</sup>[(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,—

(i) of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being, or is about to be, committed and any packages, coverings or receptacles in which such articles are found;

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



<sup>7</sup>[(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 therefor as hereinafter provided—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

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

<sup>8</sup>[(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 sub-section (2) shall be regulated in accordance with the provisions of this sub-section.

(ii) Any notification issued under this sub-section shall remain in force for such period not exceeding three months as may be specified in the notification.

(iii) Where, after the issue of a notification under this sub-section, any person sells foodstuff of the kind specified therein and in the locality so specified, in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to the seller as the price therefor—

(a) where the price can, consistently with the controlled price of the foodstuff, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated with reference to 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.]

<sup>9</sup>[(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 foodgrains, 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 sub-section (3), an amount equal to the procurement price of such foodgrains, 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 foodgrains, edible oilseeds or edible oils;

(b) the general crop prospects;

(c) the need for making such grade or variety of foodgrains, 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 foodgrains, edible oilseeds or edible oils.]

<sup>10</sup>[(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 therefor which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to—

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

(b) the manufacturing cost of sugar;

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

(d) the securing of a reasonable return on the capital employed in the business of manufacturing sugar,

and different prices may be determined from time to time for different areas or for different factories or for different kinds of sugar.

**Explanation.** —For the purposes of this sub-section, “producer” means a person carrying on the business of manufacturing sugar.]

<sup>11</sup>[(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, weighment, 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, authorise 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.

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

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

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

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

(ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report thereof shall be prepared and witnessed by two persons living in the neighbourhood.

(6) Every order made under this section by the Central Government or by any officer or authority of the Central Government shall be laid before both Houses of Parliament, as soon as may be, after it is made.

## STATE AMENDMENTS

**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 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 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 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 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.”

(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 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”

[ Vide Bihar Act 9 of 1978, sec. 3 (w.e.f. 6-9-1978).]

**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 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), 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 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 (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 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 (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 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.”

[ Vide Maharashtra Act 1 of 1976, sec. 3(c) (w.r.e.f. 12-11-1975).]

**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 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), substitute the following clauses which 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 (i), insert the following clause which shall be deemed always to have been inserted, namely:—

"(ia) 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"

[ Vide Orissa Act 8 of 1976, sec. 2 (w.e.f. 29-3-1976).]

**Uttar Pradesh.** —In section 3,—

(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."

[ Vide Uttar Pradesh Act 16 of 1978, sec. 3 (2).]

(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 foodgrains, 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."

[ Vide Uttar Pradesh Act 18 of 1975, sec. 3 (b).]

(iii) in clause (f) as substituted by the Central Amendment (Act 92 of 1976), after Explanation 1 , insert the following Explanation , namely:—

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



[ Vide Uttar Pradesh Act 16 of 1978 (w.e.f. 27-4-1978).]

## COMMENTS

### Award of Gas Agency in the defence category

The purpose of obtaining the eligibility certificate from the Director-General of Resettlement in defence services is obviously with a view to identify suitable candidates in the defence category for being considered for selection and appointment for award of gas agency. The candidate who has been certified to be covered in the defence category and fulfilling the required income limit cannot lose his eligibility merely because certificate was not obtained pursuant to a particular advertisement and for a particular location; *Sunil Dutt v. Chief Regional Manager, HPC Ltd ., AIR 2004 SC 157.*

### Ban on manufacture of skimmed milk powder is illogical

The ban imposed on manufacture of skimmed milk powder from skimmed milk during the season when milk is available in abundance and when there is no ban on manufacture of ghee, khoya, paneer, was held wholly illogical, irrational and arbitrary on the point that it is not logical on the face of it and further more skimmed milk powder can be reconverted to milk unlike the other by-products such as paneer, khoya, etc.; *Daily Foods v. Union of India , AIR 1993 Del 278.*

### Kerosene dealership

In the case of wholesale kerosene dealership the parties to the agreement are the dealer and the petrol company and the State Government and any of its officials are complete strangers to that agreement. Further as in case of a dealership under the public distribution system a wholesale dealer of kerosene oil must obtain a wholesale kerosene dealer's licence under the unification order and on the basis of that licence alone he can carry on the wholesale business in kerosene. The grant and revocation of licence is regulated by the provisions of the unification order and a licence issued under the unification order can by no means be cancelled by directions contained in executive instructions; *Veena Devi v. State of Bihar , AIR 2004 Pat 113.*

### Public Distribution System

It was found that most of the existing sub-wholesalers reside at far off places, i.e., 30 to 80 kms. away from the residential places and it has become difficult on their part to go to their depots at regular intervals. The Collector after taking into consideration all the various factors, recommended the appointment of opposite parties as sub-wholesalers. The State Government on due consideration accordingly appointed them as sub-wholesalers. Further, the petitioners have no inherent right to get a particular quota. The aim and purpose of Public Distribution System is that a common man should get the essential commodities easily and any inconvenience caused to him is against the system; *Manas Ranjan Das v. State of Orissa , AIR 2004 Ori 62.*

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**1. Extended to Goa, Daman and Diu with modifications by Regulation 12 of 1962, sec. 3 and Sch., to Dadra and Nagar Haweli by Regulation 6 of 1963, sec. 2 and Sch. I and to Lakshadweep and Amindivi Islands by Regulation 8 of 1965, sec. 3 and Sch., 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.

**2. Ins. by Act 36 of 1967, sec. 3(a) (w.e.f. 30-12-1967).**

**3. Subs. by Act 92 of 1976, sec. 3(a)(i), for clause (f) (w.e.f. 2-9-1976). Earlier clause (f) was substituted by Act 28 of 1957, sec. 2 (w.e.f. 17-9-1957).**

**4. The words "or cotton textiles" omitted by Act 54 of 2006, sec. 4 (w.e.f. 12-2-2007).**

**5. Ins. by Act 17 of 1961, sec. 2(a) (w.e.f. 10-5-1961).**

**6. Subs. by Act 66 of 1971, sec. 2(i), for clause (j) (w.e.f. 23-12-1971). Earlier clause (j) was amended by Act 17 of 1961, sec. 2(b) (w.e.f. 10-5-1961).**

**7. Subs. by Act 92 of 1976, sec. 3(a)(ii), for sub-clause (iii) (w.e.f. 2-9-1976).**

**8. Ins. by Act 13 of 1957, sec. 2 (w.e.f. 4-6-1957).**

**9. Subs. by Act 92 of 1976, sec. 3(b) (w.e.f. 2-9-1976). Earlier sub-section (3B) was inserted by Act 25 of 1966, sec. 2 (w.e.f. 3-9-1966) and was amended by Act 66 of 1971, sec. 2(ii) (w.e.f. 23-12-1971), by Act 30 of 1974, sec. 3 (w.r.e.f. 22-6-1974).**

**10. Ins. by Act 36 of 1967, sec. 3(c) (w.e.f. 30-12-1967).**

**11. Ins. by Act 37 of 2003, sec. 2 (w.r.e.f. 14-6-1999).**

**12. Sub-sections (4A), (4B) and (4C) as inserted by Act 14 of 1967, sec. 2 (w.e.f. 1-4-1967) ceased to have effect from 31st day of March, 1968, vide Act 14 of 1967, sec. 1(2).**



## 4 IMPOSITION OF DUTIES ON STATE GOVERNMENTS, ETC.

An order made under Sec. 3 may confer powers and impose duties upon the Central Government or the State Government or officers and authorities of the Central Government or State Government, and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties.

## 5 DELEGATION OF POWERS.

The Central Government may, by notified order, direct that <sup>1</sup>[the power to make orders or issue notification under Sec. 3 ] shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by, –

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to State Government; as may be specified in the direction.

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

## 6 EFFECT OF ORDERS INCONSISTENT WITH OTHER ENACTMENTS.

Any other made under Sec. 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

### 6-A CONFISCATION OF ESSENTIAL COMMODITY.

<sup>2</sup>[6A. Confiscation of essential commodity:- <sup>3</sup>[(1)] Where any <sup>4</sup>[essential commodity is seized] in pursuance of an order made under section 3 in relation thereto, <sup>5</sup>[a report of such seizure shall, without unreasonable delay, be made to] the Collector of the district or the Presidency town in which such <sup>4</sup>[essential commodity is seized] and whether or not a prosecution is instituted for the contravention of such order, the Collector <sup>6</sup>[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] that there has been a contravention of the order <sup>7</sup>[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 :  
27 ]

Provided that without prejudice to any action which may be taken under any other provision of this Act, no foodgrains or edible oilseeds in pursuance of an order made under Sec.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 :

<sup>8</sup>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 28 ] .

<sup>9</sup>(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 such 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 :

<sup>10</sup> 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. 30 ]

(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 of confiscation is ultimately passed by the Collector,
- (b) where an order passed on appeal under sub-section (1) of Sec. 6-C 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. 29 ]

## STATE AMENDMENTS

**Bihar** . —For section 6A, substitute the following section, namely:—

“6A. Confiscation of foodgrains, 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 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 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 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 (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 sub- section (7)."

[ Vide Bihar Act 9 of 1978, sec. 4 (w.e.f. 6-9-1978).]

**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 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 so, he may order the same to be sold at the controlled price if any, fixed under any law for the time being in force; or where no such price is fixed by auction:

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

Provided further that, whenever it is practicable so to 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 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)."

[ Vide Maharashtra Act 1 of 1976, sec. 4 (w.r.e.f. 12-11-1975).]

## COMMENTS

Scope of expression "it is otherwise expedient in the public interest"

The expression, 'it is otherwise expedient in the public interest' in section 6A (2) has to be understood so as to advance the legislative objective of ensuring that the goods do not suffer either in quality or quantity, for instance, fertilizer may not be susceptible to speedy and natural decay but it is expedient in public interest to ensure that it is either sold to the agriculturist or disposed of at least before the next season; N. Nagendra Rao & Co. v. State of Andhra Pradesh, AIR 1994 SC 2663.

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**1. Extended to Goa, Daman and Diu with modifications by Regulation 12 of 1962, sec. 3 and Sch., to Dadra and Nagar Haweli by Regulation 6 of 1963, sec. 2 and Sch. I and to Lakshadweep and Amindivi Islands by Regulation 8 of 1965, sec. 3 and Sch., 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.

**2. Ins. by Act 25 of 1966, sec. 3 (w.e.f. 3-9-1966).**

**3. Section 6A renumbered as sub-section (1) thereof by Act 92 of 1976, sec. 4 (w.e.f. 2-9-1976). Earlier section 6A, before it was renumbered as sub-section (1), was amended by Act 30 of 1974, sec. 4 (w.r.e.f. 22-6-1974).**

**4. Subs. by Act 36 of 1967, sec. 4(a), for "foodgrains, edible oilseeds or edible oils are seized" (w.e.f. 30-12-1967).**

**5. Subs. by Act 92 of 1976, sec. 4(a)(i), for "it may be produced without any unreasonable delay, before" (w.e.f. 2-9-1976).**

**6. Subs. by Act 92 of 1976, sec. 4(a)(i), for "if satisfied" (w.e.f. 2-9-1976).**

**7. Subs. by Act 30 of 1974, sec. 4, for "may order confiscation of the essential commodity so seized" (w.r.e.f. 22-6-1974).**

**8. Ins. by Act 92 of 1976, sec. 4(a)(ii) (w.e.f. 2-9-1976).**

**9. Ins. by Act 92 of 1976, sec. 4(b) (w.e.f. 2-9-1976).**

**10. Proviso was substituted by Act 18 of 1981, sec. 4 as amended by Act 34 of 1993, sec. 3 for a period of fifteen years which now stands ceased to have effect after the expiry of fifteen years. The original proviso has been restored. See ppendix—Section 4 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).**

## **6-B ISSUE OF SHOW-CAUSE NOTICE BEFORE CONFISCATION OF ESSENTIAL COMMODITY.**

<sup>1</sup>[6B. Issue of show cause notice before confiscation of foodgrains, etc.— <sup>2</sup>[(1)] No order confiscating <sup>3</sup>[any <sup>4</sup>[essential commodity, package, covering or receptacle, animal, vehicle, vessel or other conveyance]] shall be made under section 6A unless the owner of such <sup>4</sup>[essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance] or the person from whom <sup>5</sup>[it is seized]—

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the <sup>6</sup>essential commodity <sup>37</sup> ], package, covering, receptacle. animal, vehicle, vessel or other conveyance <sup>36</sup> ];

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

(c) is given a reasonable opportunity of being heard in the matter. <sup>31</sup> ]

<sup>7</sup>(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 38 ].

<sup>8</sup>(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 39 ].

### State Amendment

**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.”

[Vide Uttar Pradesh Act 18 of 1975, sec. 6 (w.e.f. 31-3-1975).]



### Comments

Reasonable opportunity of being heard is required to be given Under section 6B of the Act, a reasonable opportunity of being heard is required to be given before making any order confiscating any essential commodity under section 6A of the Act; Kiran Oil Industries v. District Collector, AIR 1997 Guj 153.

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**1. Ins. by Act 25 of 1966, sec. 3 (w.e.f. 3-9-1966).**

**2. Section 6B re-numbered as sub-section (1) thereof by Act 30 of 1974, sec. 5 (w.e.f. 22-6-1974).**

**3. Subs. by Act 36 of 1967, sec. 5, for “any foodgrains, edible oilseeds or edible oils” (w.e.f. 30-12-1967).**

**4. Subs. by Act 30 of 1974, sec. 5, for “essential commodity” (w.e.f. 22-6-1974).**

**5. Subs. by Act 36 of 1967, sec. 5, for “they are seized”.**

**6. Subs. by Act 36 of 1967, sec. 5, for “any foodgrains, edible oilseeds or edible oils” (w.e.f. 30-12-1967).**

**7. Ins. by Act 30 of 1974, sec. 5 (w.e.f. 22-6-1974).**

**8. Ins. by Act 92 of 1976, sec. 5 (w.e.f. 2-9-1976).****6-C APPEAL.**

<sup>2</sup>[ 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 <sup>3</sup>[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 <sup>4</sup>[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 <sup>5</sup>[return the essential commodity seized],

<sup>6</sup>[such persons shall, except as provided by sub-section (3) of section 6A, be paid] the price therefor <sup>7</sup>[as if the essential commodity,] had been sold to the Government with reasonable interest calculated from the day of the seizure of <sup>6</sup> [the essential commodity] <sup>8</sup>[and such price shall be determined—

(i) in the case of foodgrains, 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.]]

State Amendment

**Bihar.** —For section 6C, substitute the following section, namely:—

“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 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 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 foodgrains, 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.”

[ Vide Bihar Act 9 of 1978, sec. 5 (w.e.f. 6-9-1978).]

**COMMENTS**

Order passed under section 6A (2) does not attract section 6C

There is a difference in orders of confiscation passed by the Collector under section 6A(1) and section 6A(2) of the Act. Thus, an order passed under section 6A(2) of the Act does not attract section 6C and hence no appeal lies. Section 6C is clear in its words that an appeal is provided only for orders issued for confiscation under section 6A(1) of the Act; *State of U.P. v. Ram Avtar Jaiswal*, 1983 All LJ 1197.

Scope of expression "for any reason"

The expression, 'for any reason' used in section 6C (2) of the Act should be understood in broader and larger sense as it appears from the context in which it has been used; *N. Nagendra Rao & Co. v. State of Andhra Pradesh*, AIR 1994 SC 2663.

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1. Extended to Goa, Daman and Diu with modifications by Regulation 12 of 1962, sec. 3 and Sch., to Dadra and Nagar Haweli by Regulation 6 of 1963, sec. 2 and Sch. I and to Lakshadweep and Amindivi Islands by Regulation 8 of 1965, sec. 3 and Sch., 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.

2. Ins. by Act 25 of 1966, sec. 3 (w.e.f. 3-9-1966).

3. The words "the State Government concerned and the State Government" subs. by Act 18 of 1981, sec. 5(a) as amended by Act 34 of 1993, sec. 3, 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).

**4. The words "the State Government" subs. by Act 18 of 1981, sec. 5(b) as amended by Act 34 of 1993, sec. 3, 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).**

**5. Subs. by Act 36 of 1967, sec. 6(a), for "return the foodgrains or edible oilseeds or edible oils seized" (w.e.f. 30-12-1967).**

**6. Subs. by Act 92 of 1976, sec. 6, for "such person shall be paid"**

**7. Subs. by Act 36 of 1967, sec. 6(b), for "as if the foodgrains, edible oilseeds or edible oils, as the case may be," (w.e.f. 30-12-1967).**

**8. Subs. by Act 36 of 1967, sec. 6(c), for "articles" (w.e.f. 30-12-1967).**

**9. Subs. by Act 36 of 1967, sec. 6(d), for certain words (w.e.f. 30-12-1967).**

## **6-D AWARD OF CONFISCATION NOT TO INTERFERE WITH OTHER PUNISHMENTS.**

The award of any confiscation under this Act by the Collector shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act. 21 ]

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**1. Ins. by Act 25 of 1966, sec. 3 (w.e.f. 3-9-1966).**

## 6E. Bar of jurisdiction in certain cases.

<sup>1</sup>[6E. Bar of jurisdiction in certain cases.—

Whenever any essential commodity is seized in pursuance of an order made under Sec. 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 Sec. 6-A, the Collector,

or, as the case may be,<sup>2</sup>[the judicial authority appointed under section 6C] shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force, <sup>3</sup>[any other court, tribunal or authority] , 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. 46 ]

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**1. Ins. by Act 92 of 1976, sec. 7 (w.e.f. 2-9-1976) and subs. by Act 42 of 1986, sec. 2 (w.e.f. 9-9-1986).**

**2. The words "the State Government concerned under section 6C" subs. 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).**

## 7 PENALTIES.

<sup>2</sup>PENALTIES. <sup>1</sup>(1) If any person contravenes any order made under Sec. 3, – (a) he shall be punishable, –

(i) in the case of an order made with reference to Cl.(h) or Cl.(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;

<sup>3</sup>[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 packing, covering or receptacle in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property shall, if the Court so orders, be forfeited to the Government.

(2) If any person to whom a direction is given under Cl. (b) of sub-section (4) of Sec. 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.

<sup>5</sup>[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.]

<sup>4</sup>(2-A) If any person convicted of an offence under sub-clause(ii) of Cl. (a) of sub-section (1) or under sub-section (2) is again convicted of an offence under the same provision, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine :

<sup>6</sup>[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.]

<sup>7</sup>[(2B) For the purposes of sub-sections (1), (2) and (2A), the fact that 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.]]

<sup>8</sup>(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. 52 ]

## STATE AMENDMENTS

**Punjab :** Haryana: Chandigarh. —After section 7, insert the following section, namely:—

“7A. Forfeiture of certain property used in the commission of the offence .—Whenever any offence relating to foodstuffs which is punishable under section 7 had 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.”

[ Vide Punjab Act 34 of 1959, sec. 2 (w.e.f. 27-8-1959).]

**Rajasthan.** —After section 7, insert the following section, namely:—

“ 7A. Same as in Punjab with following proviso:

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



[ Vide Rajasthan Act 32 of 1960, sec. 2 (w.e.f. 24-9-1960).]

**1. Extended to Goa, Daman and Diu with modifications by Regulation 12 of 1962, sec. 3 and Sch., to Dadra and Nagar Haweli by Regulation 6 of 1963, sec. 2 and Sch. I and to Lakshadweep and Amindivi Islands by Regulation 8 of 1965, sec. 3 and Sch., 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.

**2. Subs. by Act 30 of 1974, sec. 6, for sub-section (1) (w.r.e.f. 22-6-1974). Earlier sub-section (1) was amended by Act 25 of 1966, sec. 4 (w.e.f. 3-9-1966) and by Act 36 of 1967, sec. 7(a) (w.e.f. 30-12-1967).**

**3. Proviso was omitted by Act 18 of 1981, sec. 7(a) as amended by Act 34 of 1993, sec. 3 for a period of fifteen years which now stands restored after the expiry of fifteen years. See Appendix — Section 7(a) Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).**

**4. Subs. by Act 30 of 1974, sec. 6, for sub-section (2) (w.r.e.f. 22-6-1974). Earlier sub-section (2) was amended by Act 36 of 1967, sec. 8(b) (w.e.f. 30-12-1967).**

**5. Proviso was omitted by Act 18 of 1981, sec. 7(b) as amended by Act 34 of 1993, sec. 3 for a period of fifteen years which now stands restored after the expiry of fifteen years. See Appendix — Section 7(b) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).**

**6. Proviso was omitted by Act 18 of 1981, sec. 7(c) as amended by Act 34 of 1993, sec. 3 for a period of fifteen years which now stands restored after the expiry of fifteen years. See Appendix — Section 7(c) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).**

**7. Sub-section (2B) was omitted by Act 18 of 1981, sec.7(d) as amended by Act 34 of 1993, sec. 3 for a period of fifteen years which now stands restored after the expiry of fifteen years. See Appendix —Section 7(d) of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).**

**8. Ins. by Act 36 of 1967, sec. 7(c) (w.e.f. 30-12-1967).**

## **Section 7-A POWER OF CENTRAL GOVERNMENT TO RECOVER CERTAIN AMOUNTS AS ARREARS OF LAND REVENUE.**

<sup>1</sup>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 Sec. 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, 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 <sup>2</sup>[fifteen per cent.] per annum from the date of such default to the date of recovery of such amount, as an arrear of land revenue <sup>3</sup>[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 revenue [ 56 or as a public demand 56 ] 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 [ 57 or as a public demand 57 ] under sub-section (1) is declared by a competent Court, after giving to the Government a reasonable opportunity of being heard, to be invalid, the Government shall refund the amount so recovered by it to the person from whom it was recovered, together with simple interest due thereon, computed at the rate of <sup>4</sup>[ 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 Sec. 3 was made or where such order was made by an officer or authority subordinate to any Government, that Government. 53 ]



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**1. Ins. by Act 34 of 1984, sec. 2 (w.e.f. 1-7-1984).**

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

**3. Ins. by Act 42 of 1986, sec. 3 (w.e.f. 8-9-1986).**

**4. Subs. by Act 42 of 1986, sec. 3, for "six per cent." (w.e.f. 8-9-1986).**

## **8 . ATTEMPTS AND ABETMENT.**

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

<sup>1</sup>[\*\*\*]

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**1. Proviso was ins. 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).**

## 9 FALSE STATEMENT.

If any person. –

(i) when required by any order made under Sec. 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to <sup>1</sup>[ five years,] or with fine, or with both.

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

## 10 OFFENCES BY COMPANIES.

(1) If the person contravening an order made under Sec. 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 10-A

<sup>1</sup>[10A. Offences to be cognizable <sup>2</sup>[<sup>3</sup>\*\*\*]]—Notwithstanding anything contained in <sup>4</sup>[the Code of Criminal Procedure, 1973 (2 of 1974)] every offence punishable under this Act shall be \*cognizable <sup>2</sup>[<sup>3</sup>\*\*\*]].

<sup>5</sup>[\*\*\*]



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**1. Ins. by Act 36 of 1967, sec. 9 (w.e.f. 30-12-1967).**

**2. The words "and bailable" omitted by Act 30 of 1974, sec. 7 (w.r.e.f. 22-6-1974).**

**3. After the word "cognizable" the words "and non-bailable" were ins. 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. Subs. by Act 30 of 1974, sec. 7, for "the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 22-6-1974).**

**5. Section 10AA was ins. 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).**

## Section 10-B

<sup>1</sup> POWER OF COURT TO PUBLISH NAME, PLACE OF BUSINESS, ETC., OF COMPANIES CONVICTED UNDER THE ACT.

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

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the order of the Court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed 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 Cl.(a) of the explanation to Sec. 10.

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**1. Ins. by Act 30 of 1974, sec.8 (w.r.e.f. 22-6-1974).**

## 10-C PRESUMPTION OF CULPABLE MENTAL STATE.

<sup>1</sup> 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. 67 ]

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**1. Ins. by Act 30 of 1974, sec. 8 (w.r.e.f. 22-6-1974).**

## 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 Sec. 21 of the Indian Penal Code (45 of 1860) [ 68 or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not 68 ].

**<sup>1</sup> Explanation :**

For the purposes of this section and Sec. 12-AA. 70

"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 amendment**

**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."

[Vide Uttar Pradesh Act 9 of 1974, sec. 7 (w.e.f. 24-4-1974).]

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**1. Ins. by Act 73 of 1986, sec. 2 (w.e.f. 1-5-1987).**

## Section 12. Special provision regarding fine.

<sup>1</sup>[<sup>2</sup>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.]]

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**1. Subs. by Act 30 of 1974, sec. 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 12-A. Power to try summaril

<sup>2</sup>[<sup>3</sup>12A. Power to try summaril y.—(1) If the Central Government is of opinion that a situation has arisen where, in the interests of production, supply or distribution of <sup>4</sup>[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:

<sup>5</sup>[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.]

<sup>6</sup>[(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—

<sup>7</sup>[\*\*\*]

(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 <sup>8</sup>[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, <sup>9</sup>[and of fine not exceeding two thousand rupees] whether or not any order of forfeiture of property or an order under 10[section 452] of the said Code is made in addition to such sentences, but an appeal shall lie where any sentence <sup>11</sup>[\*\*\*] in excess of the aforesaid limits is passed by the Magistrate.

<sup>12</sup>[(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.]]]

## STATE AMENDMENTS

**Uttar Pradesh.** —In section 12,—

(i) after sub-section (1), insert the following sub-section, namely:—

“(1A) without prejudice to the powers of the Central Government under sub-section (i) 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 (1A)” 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 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)” the words, figure, letter and brackets “or under sub-section (1A)” shall be inserted.

[ Vide Uttar Pradesh Act 9 of 1974 (w.e.f. 27-9-1974).]

Ed. These amendments are prior to the amendments made by the Central Act 30 of 1974 (w.e.f. 22-6-1974).

<sup>13</sup>[\*\*\*]

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**1. Extended to Goa, Daman and Diu with modifications by Regulation 12 of 1962, sec. 3 and Sch., to Dadra and Nagar Haweli by Regulation 6 of 1963, sec. 2 and Sch. I and to Lakshadweep and Amindivi Islands by Regulation 8 of 1965, sec. 3 and Sch., 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.

**2. Ins. by Act 47 of 1964, sec. 2 (w.e.f. 5-11-1964).**

**3. Section 12A was substituted by Act 18 of 1981, sec. 11 as amended by Act 34 of 1993,**

sec. 3 for a period of fifteen years which now stands ceased to have effect after the expiry of fifteen years. The original section 12A as inserted by Act 47 of 1964, sec. 2 (w.e.f. 5-11-1964) and amended by Act 66 of 1971 and by Act 30 of 1974, sec. 10 (w.r.e.f. 22-6-1974) has been restored. See Appendix — Section 11 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

**4. Subs. by Act 30 of 1974, sec. 10, for "any essential commodity" (w.r.e.f. 22-6-1974).**

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

**6. Subs. by Act 30 of 1974, sec. 10, for sub-section (2) (w.r.e.f. 22-6-1974).**

**7. Sub-clause (i) omitted by Act 54 of 2006, sec. 5 (w.e.f. 12-2-2007). Sub-clause (i), before omission, stood as under: '(i) cotton or woollen textiles; or'.**

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

**9. Subs. by Act 30 of 1974, sec. 10, for "or of fine not exceeding two thousand rupees or both" (w.r.e.f. 22-6-1974).**

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

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

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

**13. Sections 12AA, 12AB, 12AC were substituted by Act 18 of 1981, sec. 11, for section 12 as amended by Act 34 of 1993, sec. 3 for a period of fifteen years which now stand ceased to have effect after the expiry of fifteen years. Earlier section 12AA was amended by Act 42 of 1986, sec. 4 (w.e.f. 8-9-1986) and by Act 73 of 1986, sec. 3 (w.e.f. 1-5-1987). See Appendix — Section 11 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).**

## Section 12-B GRANT OF INJUNCTION, ETC., BY CIVIL COURTS.

<sup>1</sup>GRANT OF INJUNCTION, ETC., BY CIVIL COURTS.



No Civil Court shall grant an injunction or make any order for any other relief, against the Central Government or any State Government or a public officer in respect of any act done or purporting to be done by such Government, 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.

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**1. Ins. by Act 30 of 1974, sec. 11 (w.r.e.f. 22-6-1974).**

## 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).

## 14 BURDEN OF PROOF IN CERTAIN CASES.

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

## 15 PROTECTION OF ACTION TAKEN UNDER ACT.

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

## Section 15-A. PROSECUTION OF PUBLIC SERVANT.

### **<sup>1</sup> PROSECUTION OF PUBLIC SERVANT.**

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 Sec. 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.

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**1. Ins. by Act 92 of 1976, sec. 8 (w.e.f. 2-9-1976).**





## 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.

