

The following Act of Parliament received assent of the President on the 1st April 1955 and is hereby published for general information.

THE ESSENTIAL COMMODITIES ACT, 1955

(No. 10 of 1955)
(1st April 1955)

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

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

1. *Short title and extent:* (1) This Act may be called the Essential Commodities Act, 1955.
(2) It extends to the whole of India.
2. *Definitions:* In this Act, unless the context otherwise requires:
 - (a) "essential commodity" means any of the following classes of commodities:
 - (i) cattle fodder, including oil-cakes and other concentrates;
 - (ii) coal, including coke and other derivatives;
 - (iii) component parts and accessories of automobiles;
 - (iv) cotton and woollen textiles;
 - (iva) Drugs explanation—In this sub-clause "drugs" has the meaning assigned to it in clause (b) of Section 3 of the Drugs and Cosmetics Act, 1940;
 - (v) foodstuffs, including edible oil-seeds 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;
 - (b) "food-crops" include crops of sugarcane;
 - (c) 'notified order' means an order notified in the official Gazette;
 - (cc) 'order' includes a direction issued thereunder;
 - (d) 'State Government' in relation to a Union Territory, means the administrator thereof;
 - (e) 'sugar' means—
 - (i) any form of sugar containing more than ninety per cent of sucrose, including sugarcandy;

- (ii) khandasari sugar or bura or crushed sugar or any sugar in crystalline or powdered form;
- (iii) sugar in process in vacuum pan sugar factory or raw sugar produced therein.

Note: Ghee (AIR 1952 Nag. 10), Paddy (AIR 1953 Cal. 54), Tumeric (AIR 1952 S.C. 335), Milk (AIR 1951 Bom. 203), Barely (AIR 1968 Delhi 196), Linseed Oil (AIR 1951 All. 595), Chuni and Tur (AIR 1951 Nag. 228), (1955) (Nuc. 169), Sugar (AIR 1960 All. 650), Gram (AIR 1959 Raj. 206), Wheat & Wheat Products, (AIR 1964 Cal. 279), Shurbat and Rooh Afza Hamdard Dawakhana Product (AIR 1965 S.C. 1167), are held to be foodstuffs.

3. *Powers to control production, supply, distribution, etc. of essential commodities:*

(1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, or for securing any essential commodity for the defence of India or the efficient conduct of military operations, it may by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein;

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

- (a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;
- (b) for bringing under cultivation only waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops, generally, or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops;
- (c) for controlling the price at which any essential commodity may be brought or sold;
- (d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use of consumption of any essential commodities;
- (e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;
- (f) for requiring any persons holding in stock any essential commodity to sell the whole or specified part of the stock to the Central Government or a State Government or to an officer or agent or such Government or to such other person or class of persons and in such circumstances as may be specified in the order;
- (g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs or cotton textiles which, in the opinion of the authority making the order, are, or, if unregulated, are likely to be, detrimental to the public interest;
- (h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

- (i) for requiring persons engaged in the production, supply or distribution of, trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;
 - (ii) for the grant or issue of licences, permit 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 a such forfeiture by such authority as may be specified in the order;
 - (j) for, any incidental and supplementary matters, including in particular, the entry, search or examination of premises, aircraft, 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 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;
 - (iii) of any books of accounts and documents which in the opinion of such person would be useful for, or relevant to, any proceedings under this Act and the return of such books of accounts and documents to the person from whom they were seized after copies or extract there-from, as certified by that person in the manner specified in the order, have been taken.
- (3) Where any person sells any essential commodity in compliance with the order made with reference to clause (f) of sub-section (2), there shall be paid to him the price therefore as hereinafter provided:
- (a) Where the price can, consistently with the controlled price, if any fixed under this section, be agreed upon, the agreed price;
 - (b) where no such agreement can be reached, the price calculated with reference to the control 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.
- (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 foodstuff in any locality, it may, by notification in the Official Gazette, direct that notwithstanding anything contained in sub-section (3), the price at which the foodstuff shall be sold in the locality in compliance with an order made with reference to clause (f) of sub-section (2), shall be regulated in accordance with the provisions of this sub-section.

- (ii) Any notification issued under this sub-section shall remain in force for such period not exceeding three months as may be specified in the notification.
 - (iii) Where, after the issue of a notification under this sub-section any person sells 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 therefore—
 - (a) Where the price can consistently with the controlled price of the foodstuff, if any, fixed under this section, be agreed upon, the agreed price;
 - (b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;
 - (c) where neither clause (a) nor clause (b) applies, the price calculated with reference to the average market rate prevailing in the locality during the period of three months immediately preceding the date of the notification.
 - (iv) For the purposes of sub-clause (c) of clause (iii) the average market rate prevailing in the locality shall be determined by any 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.
- (3B) Where any person is required by an order made with reference to clause (f) of sub-section (2) to sell any grade or variety of foodgrains, edible oilseeds or edible oils to the Central Government or a State Government or to the officer or agent of such Government 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 as the price for the foodgrains, edible oilseeds or edible oils—
- (i) 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
 - (ii) where no such price is fixed an amount calculated having regard to the price for such grade or variety of foodgrains, edible oilseeds or edible oils prevailing or likely to prevail during the post-harvest period in the area to which that order applies.
- Explanation:* For the purposes of this sub-section “post-harvest period” in relation to any area means a period of four months beginning from the last day of the fortnight during which harvesting operations normally commence.
- (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 any officer or agent of such Government or to any other person or class of persons) and either no notification in respect of such sugar has been issued under sub-section (3A) or any such notification, having been issued, has ceased to remain in force by efflux of time, 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 kind of sugar.

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

(4) If the Central Government is of the opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorise any person (hereinafter referred to as "an authorised controller") to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part therefore:

- (a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in charge of the management of the undertaking, except in so far as may be specifically provided by the order; and

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

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

- (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.

(5) 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 it may be, after it is made.

NOTES

Sec. 3 has been to be within the legislative competence of the Parliament and the subject matter is covered by Entry No. 33(b) of Concurrent List of the 7th Schedule to the Constitution.¹

Formation of opinion as contemplated by Sec. 3(1) of the Act is a condition precedent to making any order under this Section.²

An order made under the section comes into force, not from the date of its making, but from the date of its publication in the Official Gazette.³

The provisions of the section are held to be constitutionally valid.⁴

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

5. Delegation of powers: The Central Government, may by notified order, direct that the power to make orders or issue notifications under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by:

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

Note: On the basis of the principle laid down in 'Harishankar Baglas' Case,¹ the section cannot be held to be unconstitutional on the ground of excessive delegation of legislative authority to the executive. See also 1963 AIR Cal. 61.

6. Effect of orders inconsistent with other enactments: Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

6-A. Confiscation of foodgrains, edible oilseeds and edible oils: Where essential commodity is seized in pursuance of an order made under section 3 in relation thereto, it may be produced, without any unreasonable delay, before the Collector of the district or the Presidency-town in which such essential commodity is seized and whether or not a prosecution is instituted for the contravention of such order, the Collector, if satisfied that there has been a contravention of the order, may order confiscation of:

¹AIR 1960 SC. 430

²AIR 1965 SC. 1167

³AIR 1944 Pat. 119

⁴AIR 1968 Delhi. 196. 1969 Ker. 38 (56)

¹AIR 1954 SC 465 (item 5, Note)

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

Provided that without prejudice to any action which may be taken under any other provision of this Act, no foodgrain, 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.

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

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

6-B (2) Without prejudice to the provisions of sub-section 1: No order confiscating any animal vehicle, vessel or other conveyance shall be made under section 6-A if the owner of the animal, vehicle, vessel or other conveyance 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.

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

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

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

- (ii) in the case of sugar, in accordance with the provisions of sub-section (3-C) of section 3; and
- (iii) in the case of any other essential commodity in accordance with the provisions of sub-section (3) of section 3.

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.

7. Penalties: (1) If any person contravenes any order made under Section 3:

(a) he shall be punishable:

- (i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine, and
- (ii) in the case of any other order, with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

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

- (b) any property in respect of which the order has been contravened shall be forfeited to the Government;
- (c) any package, covering or receptacle in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property shall, if the court so orders be forfeited to the Government.

(2) If any person to whom a direction is given under clause (b) of sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

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

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

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

(2-B) For the purposes of sub-sections (1), (2) and (2-A), the fact an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) has caused no substantial harm

to the general public or to any individual shall be an adequate and special reason for awarding a sentence of imprisonment for a term of less than three months or six months, as the case may be.

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

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

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

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

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

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

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

9. *False statements:* If any person—

- (i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

10. *Offences by companies:* (1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was incharge of,

¹AIR 1946 Sind, 62

²AIR 1949 Cal, 195

³75BLR, 262

⁴(1972) 1 CWR, 733

⁵1972 Cr. LJ. 951

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 proved 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 purpose 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.

10-A. *Offences to be cognizable and bailable:* Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable.

10-B. (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 purpose of this section, “company” has the meaning assigned to it in clause (a) of the Explanation to Section 10.

10-C. (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, motives knowledge, of a fact and the belief in, or reason to believe, a fact.

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

11. *Cognizance of offences:* No court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (35 of 1860).

12. Notwithstanding anything contained in section 29 of the code of Criminal Procedure, 1973, 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.

12-A. *Power of Summarily:* (1) If the Central Government is of opinion that a situation has arisen where, in the interests of production, supply or distribution of 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.

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 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 provision of this section shall continue to apply to that case as if the notification had not been rescinded or had not ceased to operate.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences relating to—

- (a) the contravention of an order made under section 3 with respect to—
 - (i) cotton or woollen textiles; or

- (ii) foodstuffs, including edible oilseeds and oils; 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 and 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 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 witness 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 the Code of Criminal Procedure, 1973, 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 and of fine not exceeding two thousand rupees, whether or not any order of forfeiture of property on an order under section 452 of the said Code is made in addition to such sentence, but an appeal shall lie where any sentence in excess of the aforesaid limits is passed by the Magistrate.

(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) Ordinance, 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.

12-B. No civil court shall grant an injunction or make any order for any other relief against the Central 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.

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.

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

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

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

16. *Repeals and savings:* (1) The following laws are hereby repealed:

- (a) the Essential Commodities Ordinance 1955;
- (b) any other law in force in any State immediately before the commencement of this Act, in so far as such law controls or authorizes, the control of the production, supply and distribution of, and trade and commerce in any essential commodity.

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

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

ANNEXURE

Essential Commodities declared under sub-clause (xi) of clause (a) of section 2 of the Act.

1. Jute textile (S.R.O. 385 dated 15-2-56).
2. Drugs (S.R.O. 828, dated 9-4-57).
3. Fertilizers, whether inorganic, organic or mixed (S.R.O. 1048, dated 29-3-57).
4. Non-ferrous metals.
5. Organic heavy chemicals.
6. Inorganic heavy chemicals.
7. Cinema films (raw)—(S.R.O. 2175 dated 29-6-57).

8. Press Mud. (GSR, dated 15-4-59 No. 15-1-59 SV by Dept. of Food).
9. Cinema Carbons (S.R.O. dated 13-9-60 (No. Chem. (1)-7 (5)/60(1) by Ministry of C&I).
10. Cement (No. 14-6/61-Cem, dated 24-11-62 (S.O. 3594).
11. Manufactures and semi-manufactures of non-ferrous-metals (No. S.O. 2896, dated 18-9-62) 4(5)-Met/60.
12. Soap (S.O. 581, dated 7-2-63) (No. 8(17) 62-CH-11).
13. Textile machinery.
 - (i) Blow Room machinery; (ii) Carding Engines; (iii) Draw frames; (iv) Speed frames; (v) Ring frames; (vi) Winding machines; (vii) Dobling machines; (viii) Reeling machines; (ix) Bundling machines; (x) Railing machines; (xi) Power looms; (xii) Side frames of power looms; (xiii) Spare parts of power looms and ring frames (S.O. 3213, dated 19-10-62) No. 22/34/62-Text (B); (xiv) Wool combing machinery; (xv) Woollen:
 - (i) Rag washing machine; (ii) Rag tearing machine; (iii) Rag cutting machine; and (iv) Garnetting machine (S.O. 689, dated 16-3-62), No. F.17(16) Tex (D) 62-I.
 - (xvi) Warp knitting machine including Reschael knitting machines worked by power;
 - (xvii) Embroidery machines, other than sewing type of embroidery machines worked by power and used for decorating the textile fabrics with designs formed with any type of thread by the help of needles; (xviii) Lace making machines worked by power and used for production of fabrics of open mesh or net formed by crossing and intertwisting threads; and (xix) machines worked by power and used for printing on cloth by means of engraved rollers or screens. (S.O. 3395, dated 29-11-63) No. F. 2(15) 61-Control-L.
14. Textiles made from silk.
15. Textiles made wholly or in part from man-made cellulosic and non-cellulosic spun fibres.
16. Textiles made wholly or in part from man-made cellulosic and non-cellulosic filament yarns. (S.O. 2114, dated 21-9-59 (No. 23(3) Text (D)/59, 5-1).
17. Matches (S.O. 1837, dated 16-6-66 (No. 26(11) Com-Genl/66)
18. Cycle tyres and tubes (including cycle rickshaw tyres and tubes).
19. Ferro-Silicon.
20. Silicon-Manganese, (S.O. No. 1837, dated 14-6-66 and S.O. No. 2511, dated 17-8-66).
21. Ferro-Chrome.
22. Ferro-Molybdenum.
23. Ferro-Tungsten.
24. Ferro-Manganese.
25. Ferro-Vanadium.
26. Ferro-Phosphorus.
27. Ferro-Titanium.
28. Ferrous scrap containing more than—
 - (i) 0.50 per cent Nickel, or
 - (ii) 0.20 per cent Molybdenum, or
 - (iii) 1.00 per cent Tungsten, or
 - (iv) 0.20 per cent Vanadium, or
 - (v) 1.00 per cent Cobalt.—(S.O. 1931, dated 21-6-66 No. 26(11) Com-Genl/66).
29. General Lighting Service Lamps.

30. Fluourescent Tubes. (S.O. No. 218, dated 15-7-66 No. 26(11) Com-Genl/66).
31. Soda ash.
32. Dry cells for torches.
33. Hurricane Lanterns. (S.O. 2381 dated 8-8-66 No. 26(11) Com-Genl/66).
34. Household appliances such as electric irons, heaters and the like (S.O. 76, dated 1-1-67 No. 26(11)-CS. II/66).
35. Synthetic Rubber.
36. Rayon Cord.
37. Carbon Block.
38. Polyvinyl Chloride (PVC) resins and compounds.
39. Polyethelene and polyetheylene moulding powder.
40. Polystrine and Polystrine moulding powder. (S.O. 84 dated 5-1-67 No. 1(55) 66/DEP. 1).
41. Tractors (S.O. No. 515 dated 9-2-67 (No. 26(11)/CS-II/66).
42. Tyres and Tubes of Scooters (including Scooters, Rickshaws and Auto-Rickshaws). (S.O. No. 218, dated 1-11-68 No. 26(27)-CS-II/67).
43. Tyres and Tubes of Buses, Jeeps, Vans, Trucks, Automobiles of and other category whatsoever, tractors and tractor-trollies. (Substituted by S.O. No. 85 No. 26(I) CS-II/68, dated 3-1-69).
44. Tyres and tubes of animal drawn vehicles. (S.O. 767, dated 13-2-70).