

**THE
ESSENTIAL COMMODITIES ACT, 1955**
[CENTRAL ACT No. 10 OF 1955]

(Duly amended till 2009)

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

[1 April, 1955]

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 ¹[x x x x].

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

²[(ia) **“Code”** means the Code of Criminal Procedure, 1973 (2 of 1974);] and

³ [⁴[(iia)] **“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;]

⁵[(a) x x x x x]

(b) **“Food-crops”** include crops of sugarcane;

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

⁶[(cc) **“Order”** includes a direction issued thereunder;]

⁷[(d) **“State Government”**, in relation to a Union territory, means the administrator thereof;]

⁸[(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.]

⁹[(f) Words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code.]

¹⁰**[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.

¹ The words 'except the State of Jammu and Kashmir' omitted by Act No. 25 of 1968, w.e.f. 15-8-1968

² Clause (i-a) inserted by Act No. 18 of 1981, w.e.f. 1-9-1982.

³ Inserted by Act No. 92 of 1976, w.e.f. 2-9-1976.

⁴ Clause (ia) re-numbered as clause (iia) by Act No. 18 of 1981, w.e.f. 1-9-1982.

⁵ Clause (a) omitted by Act No. 54 of 2006, w.e.f. 12-2-2007.

⁶ Clause (cc) inserted by Act No. 36 of 1967, w.e.f. 30-12-1967.

⁷ Clause (d) substituted by the Adaptation of Laws (No. 3) Order, 1956.

⁸ Clause (e) inserted by Act No. 36 of 1967, w.e.f. 30-12-1967.

⁹ Clause (f) inserted by Act No. 18 of 1981, w.e.f. 1-9-1982.

¹⁰ Inserted by Act No. 54 of 2006, w.e.f. 12-2-2007.

(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.]

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, ¹¹[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 a food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops;
- (c) for controlling the price at which any essential commodity may be bought or sold;
- (d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of, any essential commodity;
- (e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

¹²(f) for requiring any person holding in stock, (f) 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 foodgrains, 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 purpose 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 ¹³[x x x x x] which, in the opinion of the authority making the order, are, or, if unregulated, are likely to be, detrimental to the public interest;

¹¹ Inserted by Act No. 36 of 1967, w.e.f. 2-9-1976.

¹² Clause (f) substituted by Act No. 92 of 1976, w.e.f. 24.12.2006.

¹³ The words "or cotton textiles" omitted by Act No. 54 of 2006, w.e.f. 12-2-2007.

- (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;
- ¹⁴[(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];
- ¹⁵[(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;
- ¹⁶[(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 on 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.

¹⁷[(3-A) (i) If the Central Government is of opinion that it is necessary so to do for controlling the rise in prices, or preventing the hoarding, of any foodstuff in any locality, it may, by notification in the Official Gazette, direct that notwithstanding anything contained in sub-section (3), 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 thereof—
 - (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

¹⁴ Clause (ii) inserted by Act No. 17 of 1961.

¹⁵ Clause (j) substituted by Act No. 66 of 1971, w.e.f. 23-12-1971.

¹⁶ Clause (iii) substituted by Act No. 92 of 1976, w.e.f. 2-9-1976.

¹⁷ Sub-section (3-A) inserted by Act No. 13 of 1957, w.e.f. 4-6-1957.

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.]

¹⁸[(3-B) Where any person is required, by an order made with reference to clause 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 (3-A), 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.]

¹⁹[(3-C) Where any producer is required by an order made with reference to clause

(f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or a State Government or to 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 (3-A) or any such notification having been issued, has ceased to remain in force by efflux of time, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer an amount therefor which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to—

- (a) the minimum price, if any, fixed for 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 (means the return on net fixed assets plus working capital of a producer in relation to manufacturing of sugar including procurement of sugarcane at a fair and remunerative price determined under this section)*^ 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.

^{19a}**Explanation I**—For the purposes of this sub-section, 'producer' means a person carrying on the business of manufacturing sugar.]

^{19b}**Explanation II** – *'For the removal of doubts, it is hereby declared that the expressions "fair and remunerative price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital employed" referred to in clause (d), of this sub-section do not include the price paid or payable under any order or any enactment of any State Government and any price agreed to between the producer and the grower or a sugarcane growers' co-operative society.'*

¹⁸ Sub-section (3-B) as inserted by Act No. 25 of 1966 and substituted by Act No. 92 of 1976, w.e.f. 2-9-1976.

¹⁹ Sub-section (3-C) inserted by Act No. 36 of 1967, w.e.f. 30-12-1967.

^{19a} Reworded as Explanation I vide Act No. 35 of 2010 w.e.f. 1st October, 2009. 19b.

^{19b} Explanation II inserted vide Act No. 35 of 2010 w.e.f. 1st October, 2009.

*^ Explanation given vide Essential Commodities (Amendment and Validation) Act, 2009 No. 36 of 2009 dated 22nd December, 2009.

²⁰ [(3-D) 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.

(3-E) 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 (3-D) and this sub-section.—

- (a) **“Producer”** means a person carrying on the business of manufacturing sugar;
- (b) **“Recognised dealer”** means a person carrying on the business of purchasing selling or distributing sugar;
- (c) **“Sugar”** includes plantation white sugar raw sugar and refined sugar whether indigenously produced or imported.’

3. Validation of action taken under Clauses 4 and 5 of the Sugar (Control) Order 1966.— (1)

Notwithstanding anything contained in any judgment decree or order of any Court or other authority or any agreement any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any direction or order issued by the Central Government under Clause 4 or Clause 5 of the Sugar (Control) Order 1966 made under Section 3 of the Essential Commodities Act 1955 (10 of 1955) at any time during the period commencing on and from the 14th day of June 1999 till the day on which the Essential Commodities (Amendment) Bill 2003 receives the assent of the President shall be deemed to be and deemed always to have been for all purposes as validly and effectively taken or done or omitted to be done under sub-section (3-D) or sub-section (3-E) as the case may be of Section 3 of the Essential Commodities Act 1955 as if the said sub-sections had been in force at all material times.

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

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

- (a) **“Producer”** means a person carrying on the business of manufacturing sugar;
- (b) **“Recognised dealer”** means a person carrying on the business of purchasing selling or distributing sugar;
- (c) **“Sugar”** includes plantation white sugar, raw sugar and refined sugar, whether indigenously produced or imported.]

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

- (a) the authorized controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in-charge of the management of the undertaking,

²⁰ Inserted by Act No. 37 of 2003 and shall be and shall be deemed to have been inserted w..e.f. 14-6-1999

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 authorized 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.

²¹[(4-A). xxxxx]

²² [(4-B). xxxxx]

²³ [(4-C). xxxxx]

(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 neighborhood.

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

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

5. Delegation of powers.—The Central Government may, by notified order, direct that ²⁴[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.

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.

²⁵[**6-A. Confiscation of essential commodity.**—²⁶[(1) Where any ²⁷[essential commodity is seized] in pursuance of an order made under Section 3 in relation thereto, ²⁸[a report of such seizure shall, without unreasonable delay, be made to] the Collector of the district or the Presidency-town in which such ²⁹[essential commodity is seized] and whether or not a prosecution is instituted for the contravention of such order, the Collector ³⁰[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, ³¹[may order confiscation of.—

²¹ Inserted by Act No. 14 of 1967 but Section 2 of that Act ceased to have effect from 31-3-1968 vide Act No. 17 of 1967.

²² Inserted by Act No. 14 of 1967 but Section 2 of that Act ceased to have effect from 31-3-1968 vide Act No. 17 of 1967.

²³ Inserted by Act No. 14 of 1967 but Section 2 of that Act ceased to have effect from 31-3-1968 vide Act No. 17 of 1967.

²⁴ Substituted for the words and figure ,the power to make orders under Section 3' by Act No. 66 of 1971, w.e.f. 23-12-1971.

²⁵ Sections 6-A to 6-D inserted by Act No. 25 of 1966, w.e.f. 3-9-1966.

²⁶ Section 6-A re-numbered as sub-section (1) by Act No. 92 of 1976, w.e.f. 2-9-1976.

²⁷ Substituted for the words ,foodgrains, edible oil seeds or edible oils are seized' by Act No. 36 of 1967, w.e.f. 31-12-1967.

²⁸ Substituted for the words ,it may be produced without any unreasonable delay before' by Act No. 92 of 1976, w.e.f. 2-9-1976.

²⁹ Substituted for the words ,foodgrains, edible oil seeds or edible oils are seized' by Act No. 36 of 1967, w.e.f. 31-12-1967.

³⁰ Substituted for the words ,if satisfied' by Act No. 92 of 1976, w.e.f. 2-9-1976.

³¹ Substituted for the words ,may order confiscation of essential commodity so seized' by Act No. 30 of 1974, w.e.f. 22-6-1974.

- (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 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];

³²[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.]

³³[(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:

³⁴[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.]

(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 Section 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 thereof or the person from whom it is seized.]

6-B. Issue of show-cause notice before confiscation of essential commodity.—

³⁵[(1)] No order confiscating ³⁶[any ³⁷[essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance]] shall be made under Section 6-A unless the owner of such ³⁸[essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance] or the person from whom ³⁹[it is seized]—

- (a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the ⁴⁰[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.

⁴¹[(2) Without prejudice to the provisions of sub-section (1), no order confiscating any animal,

³² Proviso inserted by Act No. 92 of 1976, w.e.f. 2-9-1976.

³³ Sub-sections (2) & (3) inserted by Act No. 92 of 1976, w.e.f. 2-9-1976.

³⁴ Proviso substituted by Act No. 18 of 1981, w.e.f. 1-9-1982.

³⁵ Section 6-B re-numbered as sub-section (1) by Act No. 30 of 1974, w.e.f. 22-6-1974.

³⁶ Substituted by Act No. 36 of 1967.

³⁷ Substituted for the words 'essential commodity' by Act No. 30 of 1974, w.e.f. 22-6-1974.

³⁸ Substituted for the words 'essential commodity' by Act No. 30 of 1974, w.e.f. 22-6-1974.

³⁹ Substituted for the words 'they are seized' by Act No. 36 of 1967, w.e.f. 31-12-1967.

⁴⁰ Substituted for the words 'essential commodity' by Act No. 30 of 1974, w.e.f. 22-6-1974.

⁴¹ Sub-section (2) inserted by Act No. 30 of 1974, w.e.f. 22-6-1974.

vehicle, vessel or other conveyance shall be made under Section 6-A if the owner of the animal, vehicle, vessel or other conveyance proves to the satisfaction of the Collector that it was used in carrying the essential commodity without the knowledge or connivance of the owner himself, his agent, if any, and the person in-charge of the animal, vehicle, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use.]

⁴²[(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.]

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 ⁴³[the State Government concerned and the State Government] shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.

(2) Where an order under Section 6-A is modified or annulled by ⁴⁴[the State Government], or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to ⁴⁵[return the essential commodity seized], ⁴⁶[such person shall, except as provided by sub-section (3) of Section 6-A, be paid] the price therefor ⁴⁷[as if the essential commodity] had been sold to the Government with reasonable interest calculated from the day of the seizure of ⁴⁸[the essential commodity] ⁴⁹[and such price shall be determined—

- (iii) in the case of foodgrains, edible oilseeds or edible oils, in accordance with provisions of sub-section (3-B) of Section 3;
- (iv) in the case of sugar, in accordance with the provisions of sub-section (3-C) of Section 3; and
- (v) 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.]

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

7. Penalties.—⁵¹[(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

⁴² Sub-section (3) inserted by Act No. 92 of 1976, w.e.f. 2-9-1976.

⁴³ Substituted for the words ,any judicial authority appointed by the State Government and the judicial authority' by Act No. 18 of 1981, w.e.f. 1-9-1982.

⁴⁴ Substituted for the words ,such judicial authority' by Act No. 18 of 1981, w.e.f. 1-9-1982.

⁴⁵ Substituted for the words ,return the foodgrains, edible oil seeds or edible oil seized' by Act No. 36 of 1967, w.e.f. 31-12-1967.

⁴⁶ Substituted for the words ,such person shall be paid' by Act No. 92 of 1976, w.e.f. 2-9-1976.

⁴⁷ Substituted for certain words by Act No. 36 of 1967, w.e.f. 31-12-1967.

⁴⁸ Substituted for the word ,article' by Act No. 36 of 1967, w.e.f. 31-12-1967.

⁴⁹ Substituted for the words ,and such price shall be determined in accordance with the provisions of sub-section (3-B) of Section 3' by Act No. 36 of 1967, w.e.f. 31-12-1967.

⁵⁰ Section 6-E as added by Act No. 92 of 1976 and substituted by Act No. 42 of 1986, w.e.f. 8-9-1986.

⁵¹ Sub-sections (1), (2), (2-A) and (2-B) substituted for sub-sections (1) and (2) by Act No. 30 of 1974, w.e.f. 22-6-1974.

than three months but which may extend to seven years and shall also be liable to fine:

⁵²[x x x x x]

- (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 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:

⁵³[x x x x x]

(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;

⁵⁴[x x x x x.]

⁵⁵[(2-B) x x x x x.]

⁵⁶[(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.]

⁵⁷[7-A. Power of Central Government to recover certain amounts as arrears of land revenue.—(1) Where any person, liable to.—

- (a) pay any amount in pursuance of any order made under Section 3, or
- (b) deposit any amount to the credit of any Account or Fund constituted by or in pursuance of any order made under that section,

makes any default in paying or depositing the whole or any part of such amount, the amount in respect of which such default has been made shall (whether such order was made before or after the commencement of the Essential Commodities (Amendment) Act, 1984, 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 of ⁵⁸[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 ⁵⁹[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 ⁶⁰[or as a public demand] in pursuance of the provisions of sub-section (1).

(4) If any order, in pursuance of which any amount has been recovered by Government as an arrear of land revenue ⁶¹[or as a public demand] under sub-section (1) is declared by a competent Court, after giving to the Government a reasonable opportunity of being heard, to be invalid, the Government shall refund the amount so recovered by it to the person

⁵² Proviso omitted by Act No. 18 of 1981, w.e.f. 1-9-1982.

⁵³ Proviso omitted by Act No. 18 of 1981, w.e.f. 1-9-1982

⁵⁴ Proviso omitted by Act No. 18 of 1981, w.e.f. 1-9-1982

⁵⁵ Sub-section (2-B) omitted by Act No. 18 of 1981, w.e.f. 1-9-1982

⁵⁶ Sub-section (3) inserted by Act No. 36 of 1967, w.e.f. 31-12-1967

⁵⁷ Section 7-A inserted by Act No. 34 of 1984, w.e.f. 1-7-1984

⁵⁸ Substituted for the words 'six per cent' by Act No. 42 of 1986, w.e.f. 8-9-1986

⁵⁹ Inserted by Act No. 42 of 1986, w.e.f. 8-9-1986

⁶⁰ Inserted by Act No. 42 of 1986, w.e.f. 8-9-1986

⁶¹ Inserted by Act No. 42 of 1986, w.e.f. 8-9-1986

from whom it was recovered, together with simple interest due thereon, computed at the rate of ⁶²[fifteen per cent] per annum, from the date of recovery of such amount to the date on which such refund is made.

Explanation.—For the purposes of this section, ‘Government’ means the Government by which the concerned order under Section 3 was made or where such order was made by an officer or authority subordinate to any Government, that Government.]

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:

⁶³[Provided that where a person has abetted the contravention of any order for the purpose of procuring any essential commodity of the nature mentioned in sub-clause (iva) or sub-clause (v) of clause (a) of Section 2 for his own use or for the use of any member of his family or for the use of any person dependent on him, and not for the purpose of carrying on any business or trade in such essential commodity, the Court may, notwithstanding anything contained in Section 7 and for reasons to be mentioned in the judgment, impose a sentence of fine only.]

9. False statements.—If any person,—

- (i) when required by any order made under Section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to ⁶⁴[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 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.

⁶⁵**10-A. Offences to be cognizable** ⁶⁶[x x x x] ⁶⁷**[and non-bailable].**—Notwithstanding anything contained in ⁶⁸[the Criminal Procedure Code, 1973], every offence punishable under this Act shall be cognizable ⁶⁹[x x] ⁷⁰[and non-bailable].

⁷¹**10-AA. Power to arrest.**—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no officer below the rank of an officer-in-charge of a police station or any

⁶² Substituted for the words ‘six per cent’ by Act No. 42 of 1986, w.e.f. 8-9-1986

⁶³ Proviso added by Act No. 18 of 1981, w.e.f. 1-9-1982

⁶⁴ Substituted for the words ‘three years’ by Act No. 36 of 1967, w.e.f. 30-12-1967.

⁶⁵ Section 10-A inserted by Act No. 36 of 1967, w.e.f. 30-12-1967

⁶⁶ The words ‘and bailable’ omitted by Act No. 36 of 1974, w.e.f. 22-6-1974

⁶⁷ Inserted by Act No. 18 of 1981, w.e.f. 1-9-1982

⁶⁸ Substituted for the words and figures ‘the Code of Criminal Procedure 1898’ by Act No. 30 of 1974, w.e.f. 22-6-1974.

⁶⁹ Omitted by Act No. 30 of 1974, w.e.f. 22-6-1974

⁷⁰ Inserted by Act No. 18 of 1981, w.e.f. 1-9-1982

⁷¹ Section 10-AA inserted by Act No. 34 of 1993 and shall be deemed to have come into force w.e.f. 27-8-1992

police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act.]

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

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

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

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

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

11. Cognizance of offences.—No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in Section 21 of the Indian Penal Code (45 of 1860), ⁷³[or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not].

⁷⁴[**Explanation.**—For the purposes of this section and Section 12-AA, 'recognised consumer association' means a voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force.]

⁷⁵[**12. Special provision regarding fine.**— x x x x x.]

⁷⁶[⁷⁷[**12A. Power to try summarily.**—(1) If the Central Government is of opinion that a situation has arisen where, in the interests of production, supply or distribution of ⁷⁸[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:

⁷⁹[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;

⁷² Sections 10-B and 10-C inserted by Act No. 30 of 1974, w.e.f. 22-6-1974

⁷³ Inserted by Act No. 73 of 1986, w.e.f. 1-5-1987

⁷⁴ Explanation inserted by Act No. 73 of 1986, w.e.f. 1-5-1987

⁷⁵ Section 12 omitted by Act No. 18 of 1981, w.e.f. 1-9-1982

⁷⁶ Section 12A inserted by Act No. 47 of 1964, w.e.f. 5-11-1964

⁷⁷ Section 12A was substituted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stands ceased to have effect after the expiry of fifteen years. The original Section 12A as inserted by Act 47 of 1964 and amended by Act 66 of 1971 and Act 30 of 1974 stands restored. See Appendix - Section 11 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981)

⁷⁸ Substituted for the words "any essential commodity" by Act No. 30 of 1974, w.r.e.f. 22-6-1974.

⁷⁹ Added by Act No. 66 of 1971, w.e.f. 23-12-1971

- (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.]

⁸⁰[(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

⁸¹ [(i) x x x x x x]

- (ii) food stuffs, 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-thal, 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 ⁸²[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, ⁸³[and of fine not exceeding two thousand rupees] whether or not any order of forfeiture of property or an order under ⁸⁴[Section 452] of the said Code is made in addition to such sentences, but an appeal shall lie where any sentence ⁸⁵[x x x x x x] in excess of the aforesaid limits is passed by the Magistrate.

⁸⁶[(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.]

⁸⁷[x x x x x x]

⁸⁸[12-B. Grant of injunction, etc., by civil Courts.—No civil Court shall grant an injunction or

⁸⁰ Substituted by Act No. 30 of 1974, w.e.f. 22-6-1974

⁸¹ Sub-clause (i) omitted by Act No. 54 of 2006, w.e.f. 12-2-2007

⁸² Substituted for the words "the Code of Criminal Procedure, 1898 (5 of 1898)" by Act No. 30 of 1974, w.e.f. 22-6-1974.

⁸³ Substituted for the words "or of fine not exceeding two thousand rupees or both" by Act No. 30 of 1974, w.e.f. 22-6-1974

⁸⁴ Substituted for the words and figures "Section 517" by Act No. 30 of 1974, w.r.e.f. 22-6-1974.

⁸⁵ The words "of imprisonment or fine" omitted by Act No. 30 of 1974, w.r.e.f. 22-6-1974

⁸⁶ Substituted by Act No. 30 of 1974, w.r.e.f. 22-6-1974

⁸⁷ Sections 12AA, 12AB, 12AC were inserted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stand ceased to have effect after the expiry of fifteen years. See Appendix - Section 11 of the Essential Commodities (Special Provisions) Act, 1981

⁸⁸ Section 12-B inserted by Act No. 30 of 1974, w.e.f. 22-6-1974

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.]

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 Section 3 which prohibits him from doing any act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

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

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

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

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

16. Repeal and savings.—(1) The following laws are hereby repealed—

- (a) the Essential Commodities Ordinance, 1955 (Ordinance 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, any trade and commerce in, any essential commodity.

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

(3) The provisions of sub-section (2) shall be without prejudice to the provisions 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.

⁸⁹ Section 15-A inserted by Act No. 92 of 1976, w.e.f. 2-9-1976

⁹⁰THE SCHEDULE

(See Section 2A)

ESSENTIAL COMMODITIES

1. Drugs.

Explanation.—For the purposes of this Schedule, "drugs" has the meaning assigned to it in clause (b) of Section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940);

2. fertilizer, whether inorganic, organic or mixed
3. foodstuffs, including edible oilseeds and oils;
4. hank yarn made wholly from cotton;
5. petroleum and petroleum products;
6. raw jute and jute textiles;
7. (i) seeds of food-crops and seeds of fruits and vegetables;
(ii) seeds of cattle fodder; and
(iii) jute seeds.]

⁹⁰ Schedule inserted by Act No. 54 of 2006, w.e.f. 12-2-2007