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Essential Commodities Act, 1955

Section 12A - Power to Try Summarily

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[1] [[2] **[12A. Power to try summarily**

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

[4] [Provided that-

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notification issued after the commencement of the Essential Commodities (Amendment) Act, 1971, shall, unless sooner rescinded, cease to operate at the expiration of two years after the publication of such notification in the Official Gazette;

(b) every such notification in force immediately before such commencement shall, unless sooner rescinded, cease to operate at the expiration of two years after such commencement:

Provided further that nothing in the foregoing proviso shall affect any case relating to the contravention of a special order specified in any such notification if proceedings by way of summary trial have commenced before that notification is rescinded or ceases to operate and the provisions of this section shall continue to apply to that case as if that notification had not been rescinded or had not ceased to operate.]

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

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

[12] [***]

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

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

shall be tried in a summary way by a Judicial Magistrate of the First Class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that, in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

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

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

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

[11] [***]

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

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

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

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

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

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

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

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

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

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

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

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

"(i) cotton or woollen textiles; or"