

Essential Commodities Act, 1955

Section 3 - POWERS TO CONTROL PRODUCTION, SUPPLY, DISTRIBUTION, ETC., OF ESSENTIAL COMMODITIES

1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, or for securing any essential commodity for the defence of India or the efficient conduct of military operations it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein. (2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide - (a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity; (b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops; (c) for controlling the price at which 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; (f) for requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any essential commodity, - (a) to sell the whole or a specified part of the quantity held in stock or produced or received by him, or (b) in the case of any such commodity which is likely to be produced or received by him, to sell the whole or a specified part of such commodity when produced or received by him, to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government or to such other person or class of persons and in such circumstances as may be specified in the order. (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; Powers to control production, supply, distribution, etc., of essential commodities 5/4/04 (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; (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; (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; (iii) of any books of accounts and documents which in the opinion of such person, may be useful for, or relevant to, any proceeding under this Act and the person from whose custody such books of accounts or documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of an officer having the custody of such books of accounts or documents.] (3) Where any person sells any essential commodity in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to him the price therefor as hereinafter provided :- (a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed

price; (b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any; (c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale. (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 Powers to control production, supply, distribution, etc., of essential commodities Page 3 of 5 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 there for - (a) where the price can, consistently with the controlled price of the food- stuff, 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 an officer authorised by the Central Government in this behalf, with reference to the prevailing market rates for which published figures are available in respect of that locality or of a neighbouring locality; and the average market rate so determined shall be final and shall not be called in question in any court. 7[(3B) Where any person is required, by an order made with reference to clause (f) of sub-section (2), to sell to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government, any grade or variety of food grains, edible oilseeds or edible oils in relation to which no notification has been issued under sub-section (3A), or such notification having been issued, has ceased to be in force, there shall be paid to the person concerned, notwithstanding anything to the contrary contained in sub-section (3), an amount equal to the procurement price of such food grains, edible oilseeds or edible oils, as the case may be, specified by the State Government, with the previous approval of the Central Government having regard to - (a) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of food grains, edible oilseeds or edible oils; (b) the general crop prospects; (c) the need for making such grade or variety of food grains, edible oilseeds or edible oils available at reasonable prices to the consumers, particularly the vulnerable sections of the consumers; and (d) the recommendations, if any, of the Agricultural Prices Commission with regard to the price of the concerned grade or variety of food grains, edible oilseeds or edible oils.] (3C) Where any producer is required by an order made with reference to clause (f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or a State Government or to an officer or agent of such Government or to any other person or class of persons) and either no notification in respect of such sugar has- Powers to control production, supply, distribution, etc., of essential commodities been issued under sub-section (3A) or any such notification, having been issued, has ceased to remain in force by efflux of time, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer an amount there for which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to (a) the minimum price, if any, fixed for sugarcane by the Central Government under this section; (b) the manufacturing cost of sugar; (c) the duty or tax, if any, paid or payable thereon; and (d) the securing of a reasonable return on the capital employed in the business of manufacturing sugar, and different prices may be determined, from time to time, for different areas or for different factories or for different kinds of sugar. (4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorize any person (hereinafter referred to as an authorized controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part thereof,- (a) the authorized controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument

determining the functions of the persons in charge of the management of the undertaking, except in so far as may be specifically provided by the order; and (b) the undertaking or part shall be carried on in accordance with any directions given by the 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. (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. Powers to control production, supply, distribution, etc., of essential commodities

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com