

56 1974, S. 2. & Sch. I.

THE ESSENTIAL COMMODITIES (SECOND AMENDMENT) ACT, 1967

No. 36 OF 1967

[30th December, 1967]

An Act further to amend the Essential Commodities Act, 1955, and to continue the Essential Commodities (Amendment) Act, 1964, for a further period.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Essential Commodities (Second Amendment) Act, 1967.

Amendment of section 2

2. In section 2 of the Essential Commodities Act, 1955 (herein- 10 of 1955. after referred to as the principal Act),—

(a) after clause (c), the following clause shall be inserted, namely:—

‘(cc) “order” includes a direction issued thereunder;’

(b) after clause (d), the following clause shall be inserted, namely:—

‘(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.’

3. In section 3 of the principal Act,—

(a) in sub-section (1), after the words "at fair prices", the words "or for securing any essential commodity for the defence of India or the efficient conduct of military operations" shall be inserted;

(b) in sub-section (2), in clause (j), the following shall be inserted at the end, namely:—

"and of any books of accounts and documents which in his opinion 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 thereof or extracts therefrom as certified by that person in the manner specified in the order have been taken.";

(c) after sub-section (3B), the following sub-section shall be inserted, namely:—

(3C) Where any producer is required by an order made with reference to clause (f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or a State Government or to an officer or agent of such Government or to any other person or class of persons) and either no notification in respect of such sugar has been issued under sub-section (3A) or any such notification, having been issued, has ceased to remain in force by efflux of time, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer an amount therefor which shall be calculated with reference to such price of sugar as the Central Government may, by order, determine, having regard to—

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

(b) the manufacturing cost of sugar;

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

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

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

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

Amend-  
ment of  
section  
6A.

4. In section 6A of the principal Act,—

(a) for the words “foodgrains, edible oilseeds or edible oils are seized”, in both the places where they occur, the words “essential commodity is seized” shall be substituted;

(b) for the words “they may”, the words “it may” shall be substituted;

(c) for the words “may order confiscation of the foodgrains, edible oilseeds or edible oils:”, the words “may order confiscation of the essential commodity so seized:” shall be substituted.

Amend-  
ment of  
section  
6B.

5. In section 6B of the principal Act,—

(a) for the words “any foodgrains, edible oilseeds or edible oils”, the words “any essential commodity” shall be substituted;

(b) for the word “articles” in both the places where it occurs, the words “essential commodity” shall be substituted;

(c) for the words “they are seized”, the words “it is seized” shall be substituted.

Amend-  
ment of  
section  
6C.

6. In section 6C of the principal Act, in sub-section (2),—

(a) for the words “return the foodgrains or edible oilseeds or edible oils seized”, the words “return the essential commodity seized” shall be substituted;

(b) for the words “as if the foodgrains, edible oilseeds or edible oils, as the case may be,” the words “as if the essential commodity” shall be substituted;

(c) for the word “articles”, the words “the essential commodity” shall be substituted;

REPELLED

(d) for the words, brackets, figures and letter "and such price shall be determined in accordance with the provisions of sub-section (3B) of section 3", the following shall be substituted, namely:—

"and such price shall be determined—

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

(ii) in the case of sugar, in accordance with the provisions of sub-section (3C) of section 3; and

(iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3."

7. In section 7 of the principal Act,—

(a) in sub-section (1) —

(i) for the words and figure "If any person contravenes any order made under section 3", the words and figure "If any person contravenes, whether knowingly, intentionally or otherwise, any order made under section 3" shall be substituted;

Amend-  
ment of  
section 7.

(ii) in sub-clause (ii) of clause (a), for the words "three years", the words "five years" shall be substituted;

(iii) for the proviso to clause (a), the following proviso shall be substituted, namely:—

"Provided that in the case of a first offence, if the Court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded refrain from imposing a sentence of imprisonment and in the case of a second or subsequent offence, the Court shall impose a sentence of imprisonment and such imprisonment shall not be less than one month; and";

(iv) for clause (b) (excluding the proviso), the following shall be substituted, namely:—

"(b) any property in respect of which the order has been contravened or such part thereof as to the Court may seem fit including any packages, coverings or receptacles in which the property is found and any animal,

vehicle, vessel or other conveyance used in carrying the property, shall be forfeited to the Government.”;

(b) in sub-section (2), for the words “three years”, the words “five years” shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(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 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.”.

Amend-  
ment of  
section 9.

8. In section 9 of the principal Act, for the words “three years”, the words “five years” shall be substituted.

Insertion  
of new  
section  
10A.

9. After section 10 of the principal Act, the following section shall be inserted, namely:—

Offences  
to be cog-  
nizable  
and bail-  
able.

“10A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence punishable under this 5 of 1898. Act shall be cognizable and bailable.”;

Conti-  
nuance  
of Act 47  
of 1964.

10. The duration of the Essential Commodities (Amendment) Act, 1964, is further extended for the period up to and including the 31st day of December, 1969, and accordingly that Act shall have effect subject to the modification that in section 1 of that Act, in sub-section (3), for the words, figures and letters “the 31st day of December, 1967”, the words, figures and letters “the 31st day of December, 1969” shall be substituted.

Repeal and  
saving.

11. (1) The Essential Commodities (Amendment) Ordinance, 1967, 6 of 1967. and the Essential Commodities (Second Amendment) Ordinance, 1967, are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action 8 of 1967. taken under the principal Act as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act as amended by this Act as if—

(a) clause (b) of section 2 and clause (c) of section 3 of this Act had come into force on the 21st day of October, 1967;  
and

REPEALED

of 1967] *Essential Commodities (Second Amendment)*

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(b) the rest of this Act [except clause (a) of section 3 and this section] had come into force on the 16th day of September, 1967:

Provided that during the period commencing on the 16th day of September, 1967, and ending with the 20th day of October, 1967, clause (d) of section 6 of this Act shall have effect subject to the modification that the brackets, figures and letter "(ii) in the case of sugar, in accordance with the provisions or sub-section (3C) of section 3;" had been omitted therefrom.