

## **KARNATAKA ESSENTIAL ARTICLES (CONTROL) ACT, 1992**

**42 of 1994**

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## **KARNATAKA ESSENTIAL ARTICLES (CONTROL) ACT, 1992**

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An Act to provide in the interest of the general public for the control of production, supply and distribution of trade and commerce in certain articles. Whereas, it is expedient to make provision in the interest of the general public for the control of production, supply and distribution of and trade and commerce in certain articles and the connected matters; Be it enacted by the Karnataka State Legislature in the Forty-third year of the Republic of India as follows:

### **1. Short title, commencement and duration :-**

(1) This Act may be called the Karnataka Essential Articles (Control) Act, 1992.

(2) It shall come into force at once and remain in force for a period of five years.

## **2. Definitions :-**

In this Act, unless the context otherwise requires.

(a) "Essential article" means such article not being an essential commodity as defined in the Essential Commodities Act, 1955 (Central Act 10 of 1955) which may be declared by the State Government, after consultation with the Central Government by notification to be an essential article;

(b) "Undertaking" means any undertaking by way of any trade or business and includes the occupation of handling loading or unloading goods in the course of transport.

## **3. Powers to control production, supply, distribution of essential articles :-**

(1) If the State Government is, of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential article or maintaining the quality of any such article or for securing their equitable distribution and availability at fair prices 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 subsection (1) an order made thereunder may provide.

(a) for regulating by licences permits or otherwise the production or manufacture of any essential article;

(b) for controlling the price at which any essential article may be bought or sold;

(c) for regulating by licences permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential article;

(d) for prohibiting the withholding from sale of any essential article ordinarily kept for sale;

(e) for requiring any person holding in stock or engaged in the production or in the business of buying or selling of any essential

article to sell the whole or a specified part of the quantity held in stock or produced or received by him to the Government or to an officer or agent of the Government or to such other person or class of persons and in such circumstances as may be specified in the order.

(f) for regulating or prohibiting any class of commercial or financial transactions relating to any essential article which in the opinion of the authority making the order are of if unregulated are likely to be detrimental to the public interest;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(h) for requiring persons engaged in the production, supply, or distribution of trade and commerce in any essential article to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto and may be specified in the order;

(i) for regulating the processing of any essential article;

(j) for exercising over the whole or any part of an existing undertaking such functions of control and subject to such conditions as may be specified in the order;

(k) for the grant or issue of licenses 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;

(l) for any incidental and supplementary matters including in particular, grading and packing of essential articles, the entry search or examination of premises, vehicles, vessels, aircraft or other conveyances and animals and the seizure by a person authorised to make such entry, search or examination of any article in respect of which such person has reason to believe that a contravention of the order has been or is being or is about to be committed and any packages, coverings or receptacles in which such articles are found.

(3) Where any person sells any essential article in compliance with

an order made with reference to clause (c) 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 at the market rate prevailing in locality on the date of sale.

#### **4. Delegation of powers :-**

The State Government may by notified order direct that the power to make orders or issue notification under Section 3 in relation to such matter and subject to such conditions if any, as may be specified in the direction be exercisable also by such officer or authority subordinate to the State Government as may be specified in the direction.

#### **5. Effect of orders inconsistent with other enactments :-**

Any order 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. Confiscation of essential article :-**

(1) Where any essential article is seized in pursuance of an order made under Section 3 in relation thereto a report of such seizure shall without unreasonable delay be made to the Deputy Commissioner of the district in which such essential article is seized and whether or not a prosecution is instituted for the contravention of such order, the Deputy Commissioner may if he thinks it expedient so to do, direct the essential article so seized to be produced for inspection before him and if he is satisfied that there has been a contravention of the order may direct confiscation of.

(a) the essential article so seized;

(b) any package covering or receptacle in which such essential article is found; and

(c) any animal, vehicles vessel or other conveyance used in carrying such essential article:

Provided that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire the owners of such animals, vehicle, vessel or other conveyance

shall be given an option to pay in lieu of its confiscation a fine not exceeding the market price on the date of seizure of the essential article sought to be carried by such animal, vehicle, vessel or other conveyance.

(2) Where the Deputy Commissioner on receiving a report of seizure or on inspection of any essential article under sub-section (1) is of the opinion that the essential article 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 article 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.

(3) Where any essential article is sold as aforesaid the sale proceeds thereof after deduction of the expenses of the sale or auction or other incidental expenses relating thereto shall.

(a) where no order of confiscation is ultimately passed by the Deputy Commissioner; or

(b) where an order passed on appeal under sub-section (1) of Section 8 so requires; or

(c) in the case of prosecution being instituted for 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.

## **7. Issue of show-cause notice before confiscation of essential article :-**

(1) No order confiscating any essential article, package covering, receptacle animal, vehicle, vessel or other conveyance shall be made under Section 6, unless the owner of such essential article, package, covering, receptacle, animal, vehicle, vessel or other conveyance or the person from whom is seized.

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the essential article, 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.

(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, if the owner of the animal, vehicle, vessel or other conveyance proves to the satisfaction of the Deputy Commissioner that it was used in carrying the essential article without the knowledge or connivance of the owner himself, his agent, of any, and the person incharge of the animal, vehicle, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use.

(3) No order confiscating any essential article, 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.

## **8. Appeal :-**

(1) Any person aggrieved by an order of confiscation under Section 6, may, within one month from the date of communication to him of such order, appeal to the State Government 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 is modified or annulled by the State Government or wherein a prosecution instituted or the contravention of the order in respect of which an order of confiscation has been made under Section 6 the person concerned is acquitted, and in either case it is not possible for any reason to return the essential article seized, such person shall except as provided by sub-section (3) of Section 6 be paid the price thereof as if the essential article had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential article and such price shall be determined in accordance with the provisions of sub-section (3) of Section 3.

## **9. Award of confiscation not to interfere with other punishments :-**

The award of any confiscation under this Act by the Deputy

Commissioner shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

**10. Bar of jurisdiction in certain cases :-**

Whenever an essential article is seized in pursuance of an order made under Section 3 in relation thereto the Deputy Commissioner or as the case may be the State Government under Section 8 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 or distribution of such property.

**11. Penalties :-**

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 (g) or clause (h) 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 may extend to three years and shall also be liable to fine: Provided that if the Court is of the 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

(b) any property in respect of which the order has been contravened or such part thereof as the Court may deem fit shall be forfeited to the State Government:

Provided that if the Court is of the opinion that it is not necessary to direct forfeiture in respect of the whole or as the case may be any part of the property, it may for reasons to be recorded refrain from doing so.

**12. Attempt 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.

**13. False statement :-**

If any person.

(i) when required by order made under Section 3 makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe it to be false or does not believe it 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 three years or with fine or with both.

#### **14. 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 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 shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(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.

#### **15. 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, 1860 (Central Act 45 of 1860).

#### **16. Presumption as to orders :-**



Where an order purports to have been made and signed by an authority in exercise of any powers 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 (Central Act 1 of 1872).

**17. Burden of proof :-**

Where any person is prosecuted for contravening any order made under Section 3 which prohibits him from doing any net 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 author! permit licence or other document shall be on him.

**18. Protection of action taken under this 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 done in good faith or intended to be done in pursuance of any order made under section 3.