
**Essential Commodities (Maharashtra Amendment) Act,
1975****01 of 1976****[03 January 1976]****CONTENTS**

1. Short Title And Commencement
2. Amendment Of Section 2 Of Act X Of 1955
3. Amendment Of Section 3 Of Act X Of 1955
4. Substitution Of Section 6-A Of Act X Of 1955
5. Amendment Of Section 6-C Of Act X Of 1955
6. Validation
7. Repeal Of Mah. Ord. Xix Of 1975 And Saving

**Essential Commodities (Maharashtra Amendment) Act,
1975****01 of 1976****[03 January 1976]**

An Act to amend the Essential Commodities Act, 1955, in its application to the State of Maharashtra. WHEREAS both Houses of the Legislature of the State were not in Session; AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action for amending the Essential Commodities Act, 1955, in its application to the State of Maharashtra, for the purposes hereinafter appearing; and, therefore, promulgated the Essential Commodities (Maharashtra Amendment) Ordinance, 1975, on the 12th day of November, 1975; AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Twenty-sixth Year of the Republic of India as follows :-

NOTES Object.-With a view to evolve a rational and equitable system of foodgrains levy, it was necessary to relate the assessment of levy to the total land holding of a person. The levy would be calculated in terms of land revenue with which is the indicator of the quality of land and its productive capacity and it would further take into consideration irrigation and other facilities

available. This would ensure sufficient procurement of foodgrains so as to meet, to a large extent, the requirements of the public distribution system. In order to achieve these objectives and to overcome the difficulties in implementation of various provisions of the Essential Commodities Act, 1955, the State Government decided to take specific powers by suitably amending the Essential Commodities Act, 1955, in its application to the State of Maharashtra, which would enable it to impose a levy in terms of foodgrains, which were in short supply, on every holder of agricultural lands on the basis of his total land holding and land revenue payable on it, with certain weightages for certain crops and classes of lands. As the procurement season had already commenced and as it was necessary to take immediate action for amending the Act in its application to the State of Maharashtra for the purposes aforesaid and as the State Legislature was not in session, the Governor of Maharashtra promulgated the Essential Commodities (Maharashtra Amendment) Ordinance, 1975, on the 12th day of November, 1975. The Act is intended to convert the Ordinance into an Act of the State Legislature.- Vide Statement of Objects and Reasons. 1. For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1975, Pt. V, p. 705.

1. Short Title And Commencement :-

(1) This Act may be called the Essential Commodities (Maharashtra Amendment) Act, 1975.

(2) It shall be deemed to have come into force on the 12th day of November, 1975.

2. Amendment Of Section 2 Of Act X Of 1955 :-

In section 2 of the Essential Commodities Act, 1955, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"),-

(a) after the words "the context otherwise requires, -" and before clause (a), the following clause shall be inserted, namely :-

"(ai) Collector in Greater Bombay means the Controller of Rationing and includes any Deputy or Assistant Controller of Rationing, and elsewhere means the Collector of the District and includes any Assistant or Deputy Collector or District Supply Officer within his respective jurisdiction;"

(b) after clause (b), the following clauses shall be inserted, namely :-

"(ba) holder, in relation to any agricultural land, means the person in actual possession of such land, and includes a company or other body corporate, firm, association, joint family or body of individuals in joint possession of such land;

(bb) holding means the aggregate of all lands in possession of a holder;"

NOTES

Section 2 inserts new clause (ai), (ba) and (bb) in section 2 of the Essential Commodities Act, 1955, in its application to the State of Maharashtra i.e., principal Act so as to define the terms "Collector", "holder" and "holding" respectively.

For definition of the term Collector see section 7 of the Maharashtra Land Revenue Code, 1966.

3. Amendment Of Section 3 Of Act X Of 1955 :-

In section 3 of the principal Act,-

(a) in sub-section (2), for clause (f), the following clause shall be substituted, and shall be deemed always to have been substituted, namely :-

"(f) for requiring any person holding in stock or likely to hold in stock, or engaged in the manufacture or production or processing of, or in the business of buying or selling, any essential commodity, to sell, the whole or a specified part of the quantity of the essential commodity held in stock or likely to be held in stock by him or manufactured or produced; or

NOTES

It substitutes clause (f) of sub-section (2) of section 3 of the principal Act so as to empower the State Government to make it compulsory for persons by issue of order, to sell, the whole or a specified part of the quantity of the essential commodity to the Central Government or the State Government etc. It also empowers the State Government to impose a levy in terms of foodgrains, which are in short supply, on every holder of agricultural lands on the basis of his total land holding and land revenue payable on it, with certain weightages for certain crops and classes of lands.

It also substitutes section 3, (3)(c) and section 3(3-B) which enumerates the new procedure of payment of price for the essential commodities sold to Government.

4. Substitution Of Section 6-A Of Act X Of 1955 :-

For section 6-A of the principal Act, the following section shall be

substituted, namely :

"6-A. Confiscation of seized commodities.-

(1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, a report to that effect shall, without any unreasonable delay, be sent to the Collector within whose jurisdiction the seizure is made, and the Collector may, if he thinks it expedient so to do, inspect or cause to be inspected such essential commodity, and whether or not a prosecution is instituted for the contravention of such order, the Collector, if satisfied that there has been contravention of the order, may order confiscation of -

(a) the essential commodity so seized; processed or likely to be manufactured or produced or processed by him or received or likely to be received by him in his business of buying or selling, to the Central Government or to the State Government or to an officer or agent of any Government or to such other person or class of persons and in such circumstances as may be specified in the order :

Explanation.- An order made under this clause in respect of foodgrains may fix or provide for fixation of the quantity to be sold by a producer with reference to the nature and extent of his holding or the land revenue payable by him with certain weightages which may be prescribed for certain crops or lands enjoying irrigation or other facilities and also fix or provide for fixation of the quantity to be sold on a graded basis having regard to the size of the holdings of different producers.";

(b) in sub-section (3), for clause (c), the following clause shall be substituted, and shall be deemed always to have been substituted, namely :-

"(c) where neither clause (a) nor clause (b) applies, in the case of foodgrains, the amount, if any, specified in or calculated in accordance with the order made under clause (f) of sub-section (2) read with sub-section (3-B) and in the case of any other essential commodity, the price calculated at the market rate prevailing in the locality at the date of sale."; (c) for sub-section (3-B), the following sub-section shall be substituted, and shall be deemed always to have been substituted namely :-

"(3-B) Where, by any order made with reference to clause (f) of sub-section (2), any person is required to sell any grade or variety of foodgrains, edible oilseeds or edible oils to the Central Government or a State Government or an officer or agent of such Government or a Corporation owned or controlled by such

Government or to a person or class of persons specified in the order, and either no notification in respect of such foodgrains, edible oilseeds or edible oils 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 the person concerned an amount determined by the Central Government or the State Government, as the case may be, - (a) having regard to the controlled price, if any, fixed under this section or by or under any law for the time being in force for such grade or variety of foodgrains, edible oilseeds or edible oils, or (b) having regard to the prices recommended by the Agricultural Prices Commission for the concerned essential commodity, where no controlled price in relation to such commodity, has been fixed by or under any law for the time being in force."

NOTES

It substitutes new section 6-A for section 6-A of the principal Act which enumerates the procedure as regards to confiscation of seized commodities.

5. Amendment Of Section 6-C Of Act X Of 1955 :-

(a) In section 6-C of the principal Act, in sub-section (2), for the words "such person shall be paid" the words, brackets, figures and letter "such person shall, except as provided by sub-section (3) of section 6-A, be paid" shall be substituted.

(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 that 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 :

Provided further that, where any animal, vehicle, vessel or other conveyance is 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.

(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 such essential commodity is subject to speedy and natural decay or that it is otherwise expedient in the public interest so to do, he may order the same to be sold at the controlled price, if any, fixed under any for the time being in force, or where no such price is fixed, by auction :

Provided that, in the case of foodgrains where there is no controlled price, the Collector may order the foodgrains seized to be sold through fair price shops at the price fixed by the Central Government or the State Government, as the case may be, for the sale of such foodgrains to the public through these shops :

Provided further that, whenever it is practicable so to do, have regard to the nature of the essential commodity, he shall take and preserve sample of the same before its sale or auction.

(3) Where any essential commodity is sold as aforesaid, the sale proceeds thereof, after deduction of the expenses of the sale or auction, as the case may be, shall -

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

(b) where an order passed on appeal under sub-clause (1) of section 6-C so require; or

(c) in the case of a prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under this section, where the person concerned is acquitted, be paid to the owner thereof or the person from whom it is seized :

Provided that, in the case of foodgrains sold through fair price shops in accordance with the first proviso to sub-section (2), the owner shall be paid for the foodgrains so sold the price fixed by the State Government, for retail sale of such foodgrains through such shops, less all expenses of sale or auction under sub-section (2)."

NOTES

It was alleged that the Maharashtra Schedule Oil Seeds and Oils (Dealers and Millers) Licensing Order, 1973 issued under the Act was contravened. The petitioner was arrested and charged and Dy. Controller of Rationing had confiscated entire oil stock in his possession. When the petitioner filed an appeal before City Civil Court, it was dismissed stating that the appeal was time-barred.

When the Police Prosecutor stated in the Court, in the criminal case filed against the petitioner that there was no case against the petitioner as his contention is true, the petitioner was discharged.

It was held that, that the learned Principal Judge should have borne this fact in mind and ought to have condoned the delay. Therefore, impugned order was set-aside.-Ratanlal Thangraj v. The Dy. Controller of Rationing, (1982) 1 Bom. C. R. 475.

6. Validation :-

Notwithstanding anything contained in any judgment, decree or order of any Court, any order relating to foodgrains made by the State Government under section 3 of the principal Act, with reference to clause (f) of sub-section (2) of that section, before the commencement of this Act, shall be deemed to have been made under the said section 3 as amended by section 3 of this Act as if section 3 of this Act was always in operation and accordingly any such order shall be valid and shall always be deemed to be valid.

NOTES

It provides that notwithstanding anything contained in any judgment, decree or order of any Court, any order relating to foodgrains made by the State Government under section 3 of the principal Act, with reference to clause (f) of sub-section (2) of that section, before the commencement of this Act, shall be deemed to have been made under the said section 3 as amended by section 3 of this Act as if section 3 of this Act was always in operation and accordingly any such order shall be valid and shall always be deemed to be valid.

7. Repeal Of Mah. Ord. Xix Of 1975 And Saving :-

(1) The Essential Commodities (Maharashtra Amendment) Ordinance, 1975, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be, under the said Act as amended by this Act.