

THE KERALA EMERGENCY (CONTROL, SUPPLY AND DISTRIBUTION OF ESSENTIAL COMMODITIES) BILL

A bill to provide in the interest of general public for the control of supply and distribution, trade and commerce in certain essential commodities;

Preamble.—WHEREAS it is expedient, in public interest to control the supply, distribution, trade and commerce in certain essential commodities:

BE it enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. Short title and extent, commencement .—(1) This Act may be called The Kerala Emergency (Control, Supply and Distribution of Essential Commodities) Act——

(2) It extends to the whole of Kerala.

(3) It shall come into force at once and shall remain in force for a period of three years from the date of commencement of this Act unless repealed earlier by the Government.

(4) Upon the expiry of this Act, the provisions of Section 4 of the Interpretation of General Clauses Act, 1125 (Act VII of 1125) shall apply as if this Act had been repealed by an Act of the Kerala State Legislature.

*2. Definitions.—*In this Act, unless the context otherwise requires.—

(a) “Caterer” means the proprietor or other person in charge of a catering establishment and includes an agent or servant who act on behalf of such caterer.

(b) “Catering establishment” means a hotel, restaurant, eating house, cafe, tea shop, coffee house, free feeding centre, club, canteen or railway refreshment room and includes any other place of a like nature, open to the public, where food is prepared, supplied or consumed.

(c) “Dealer” means a person carrying on the business of purchase or sale of all or any of the essential commodities whether wholesale or retail and whether or not in conjunction with any other business and includes a manufacturer and a commission agent engaged in any such business.

(d) “Enforcement Inspector” means any person appointed by order of the State Government as Enforcement Inspector in respect of such area as may be specified in such order.

(e) “Essential commodity” means; all types of rice and rice products, wheat and wheat products, pulses, sugar, jaggery, edible oil, vegetables or any other articles notified by the Government.

(f) “notified order” means an order notified in the Gazette.

(g) “Ordinary Party” means any function other than a function in connection with marriage.

(h) “Retail dealer” means a dealer who sells any of the essential commodities to a person.

3. Power to control, supply, distribution etc., of essential commodity.— (1) If the Government is of opinion that it is necessary and expedient so to do to tide over the scarcity felt in the availability of essential commodities and to secure equitable distribution and availability at fair prices of any essential commodity on an urgent basis, it shall issue orders notified in the Gazette fixing the maximum prices at which the essential commodity shall be bought and sold in the State.

(2) If the price of any essential commodity increases by fifty per cent of the price of the said commodities as on 1st January 2007 Government shall issue notification under sub-section (1). If the Government fails to issue such a notification, any citizen have a right to access to the court to direct the Government to issue a notification under sub-section (1) or in the alternative to give direction to the Government to distribute the essential commodities through public distribution system at the price as on 1st January 2007.

(3) Every dealer and retail dealer shall exhibit the price notified by the Government under sub-section (1) in a conspicuous place in his business place.

4. Sale of essential commodity at notified price.—No dealer or retail dealer shall buy or sell any essential commodity notified by the Government under subsection (1) of Section 3 for a price higher than the notified price.

5. Restriction on conducting parties.—(1) No person or body of persons acting in concert either jointly or severally other than a caterer shall on any one day, either himself or themselves, prepare, serve, distribute or provide for consumption foodstuff to more than 100 persons (including the host or hosts) at ordinary parties or to more than 500 persons (including the host or hosts) at any party in connection with marriage.

(2) No caterer at the instance or for the benefit of himself or any person in connection with any party shall on any one day serve, distribute or provide for consumption or accept for service or distribution for consumption any foodstuff to more than 100 persons (including the host or hosts) at ordinary parties or to more than 500 persons (including the host or hosts) at any party in connection with marriage.

6. Power to exempt.—The District Collector may on application from any person exempt from the provisions of Section 5 for the reasons recorded in writing.

7. Enforcement Inspector.—(1) Government shall appoint such number of Enforcement Inspectors in respect of such areas as may be notified in the order for the effective implementation of this Act.

(2) Government shall give preference to retired Government employees, preferably having legal experience for appointment as Enforcement Inspectors.

(3) Government shall constitute a special police squad exclusively for the assistance of the Enforcement Inspectors.

8. Intimation to Enforcement Inspector.—Every person who intends to conduct any party shall intimate the Enforcement Inspector of the area regarding the nature of the party and the member of persons attending it.

9. Power of entry, search, seizure, etc.—(1) For the effective enforcement of the provisions of the Act, the Enforcement Inspector, may, when he has reason to believe that a contravention of the provisions of this Act has been, is being or is about to be committed, enter and search any premises interrogate any person and seize any article including their coverings or containers in respect of which he has reason to believe that the contravention has been, is being or is about to be committed.

(2) The provisions of Section 102 and 103 of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, apply to searches and seizures under this clause.

10. Offences.—(1) Any person who buys or sells any essential commodities for more than the price notified by the Government shall be liable to be punished with imprisonment for a period not exceeding two years and fine of Rs.10,000 (Rupees ten thousand only).

(2) Any person who conducts a party in violation of Section 5 shall be liable to be punished with a fine not exceeding Rs.10,000 (Rupees ten thousand only).

11. Special Court.—(1) Government shall establish special court for exercising the jurisdiction of the offences under this Act.

(2) Special Court shall be presided over by the retired judicial officers or retired Government employees having legal experience, appointed by the Government.

(3) The Special Court shall try the offences in the manner provided for summary trial in the Code of Criminal Procedure, 1973 (2 of 1974).

12. Power to make rules.—(1) The Government may by notification in the Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made under this section, shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be

comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

Statement of Objects and Reasons

It is the duty of the State to hold the price line, prevent hoarding and ensure equitable distribution of essential commodities. This is all the more so in times of crisis and scarcity caused by natural calamities and other unforeseen circumstances. Hoarding of essential commodities in times of acute shortage is a crime on society resulting in abnormal rise in prices. Therefore, strict measures are necessary to hold the price line and maintain a regular supply of essential commodities even in times of scarcity of food grains. Wastage of food grains through supply of food to large numbers of persons is also a common occurrence. Prevention of wastage of foodstuffs is one such measure that has become necessary in public interest. The Bill seeks to achieve the said purposes.
