

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD

Dated: 24th December, 2020

No. LD/Legis-Act/598-612/2020. The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 4th day of December, 2020 and received the assent of the President on the 17th day of December, 2020, is hereby published for general information.

[ACT XXXVIII OF 2020]

An

Act

to provide for the prevention of hoarding in respect of various articles, in the wake of an emergent situation resulting from the outbreak of the Corona virus pandemic (COVID-19)

WHEREAS it is expedient to provide for the prevention of hoarding in respect of various articles mentioned in schedule to this Act, in an emergent situation resulting from the outbreak of the Corona virus pandemic (COVID-19) and for matters connected therewith and ancillary thereto;

WHEREAS the World Health Organization has declared the Corona virus (COVID-19) to be a pandemic requiring multifaceted responses;

It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act shall be called the Azad Jammu and Kashmir COVID-19 (Prevention of Hoarding) Act, 2020.

(2) It shall extend to the whole of Azad Jammu and Kashmir.

(3) It shall come into force at once and shall be deemed to have taken effect from 19.08.2020.

(4) This Act shall stand repealed on and from such date, the Government declares that the Corona pandemic is over.

Definitions.— In this Act, unless there is anything repugnant

in the subject or context:—

(a)

(b)

(c)

(d)

(e)

(f)

"Dealer" means any person, trader, partnership, firm, whether registered or unregistered, an association or body of persons or individuals, or a company, or their agents carrying on the business of purchasing, selling or stocking of any scheduled article and includes a manufacturer, producer, packager, importer, exporter, wholesaler or retailer of such article;

"Government" means the Azad Government of the

State of Jammu and Kashmir;

"Hoard" or "Hoarding":

(i) means stocking or storing anything in excess of the maximum quantity of scheduled articles allowed to be held in stock or storage, in the manner as may be prescribed; or

(ii) where no maximum quantity of a scheduled article is prescribed under sub-clause (i), "hoard" or "hoarding" shall mean stocking or accumulation of scheduled articles without offering such articles for sale, despite there being a demand by consumers;

"Officer" means the Deputy Commissioner of a district and such other officer as may be authorized by him in this behalf;

"Prescribed" means prescribed by rules made under this Act;

"Scheduled article" means any of the articles

specified in the schedule to this Act;

Offence of Hoarding.— (1) Any Dealer who is found to Hoard any Scheduled article shall be guilty of an offence

punishable with simple imprisonment which may extend to three years and fine equivalent to fifty percent of the value of the Scheduled articles involved in the case.

(2) The value of Scheduled articles for purposes of sub-section (1) shall be determined in the manner as may be

prescribed.

Power to search for and seizure of scheduled _article.—

(1) When an Officer has reasonable grounds to suspect, either upon information from any source or on its own, that there has been a contravention of any of the provisions of this Act, the officer may, after recording in writing the grounds of his suspicion, enter and search, without any warrant, any place where a dealer keeps, or is for the time being keeping, any Scheduled article, accounts, registers or any other related items or things.

(2) Upon entry in and search of a premises under sub-section (1), if Scheduled articles are found at such premises in contravention of this Act, the officer shall immediately seize the same and prepare a detailed report of the scheduled articles and other relevant material found during the search.

(3) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) shall not be applicable on search and seizure under this Act.

Power _to auction seized _ scheduled articles. (1)

Notwithstanding anything contained in any other law for the time being in force and in addition to the prosecution under this Act, the Officer may sell the Scheduled articles seized under Section 4 by auction, in the manner as may be prescribed.

(2) The proceeds collected under sub-section (1) shall be deposited in a profit bearing bank account in the National Bank, and if: -

(a) the accused person whose Scheduled articles are auctioned is acquitted of an offence under Section 3, the deposited amount

alongwith the profit shall be released to the said accused; or

(b) the accused person whose Scheduled articles are auctioned is convicted of an offence under Section 3, the deposited amount alongwith the profit shall be released into the government exchequer.

Cognizance of offence and arrest _without_warrant.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), all offences punishable under this Act shall be cognizable and non bailable.

(2) The Special Magistrate under section 8 shall take cognizance of an offence under this Act, upon written information by the Officer.

(3) An Officer may arrest any person without warrant against whom there is credible information that he has committed an offence under this Act.

Offences by corporations etc. If an offence under this Act is committed by a company or body corporate or a partnership or other association or body of persons or individuals, every director, manager, secretary, member or other officer, the principal, primary or beneficial owner or agents thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention and shall be liable to punishment under this Act.

Power _to try offences summarily. — (1) Offences punishable under this Act shall be tried by a Special

Magistrate appointed under section 14-A of the Code of Criminal Procedure, 1898 (Act V of 1898), in a summary manner as provided in Sections 262 to 265 of the said Code.

Provided that sub-section (2) of Section 262 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall

not apply.

10.

11.

Volume XIV (2018-2020)

(2) If a Special Magistrate has reason to suspect that any offence punishable under this Act has been committed by any Dealer or owner of a godown or a storage place or its management or agent thereof, he may enter the place or premises where the offence has been committed and try the offence on the spot.

(3) The trial under this Act shall be concluded within thirty days.

Appeal.— (1) A person aggrieved by an order of conviction and sentence under of this Act may prefer an appeal before a District and Sessions Judge within thirty days of the said order.

(2) An appeal under sub-section (1) shall be disposed of within thirty days.

Reward for informers.—_ Anyone who provides an information to an Officer with regard to any act or acts of Hoarding, which results in a conviction and release of funds into the Government exchequer, shall be entitled to an award equivalent to ten percent of the amount released to the Government exchequer, in the manner as may be prescribed.

Information _and_ declarations.— (1) Every Dealer shall provide to an officer, such information regarding production, importation, exportation, purchase, stock, sale or distribution of any of the Scheduled articles as the Officer may, by an order in writing, require.

(2) The Officer may direct the owners or manufactures of Scheduled articles or owners and management of godowns or storage places or their agents to declare stocks of any particular item, owned or managed by them at their premises, at any point in time or at such periodical intervals as may be deemed fit.

(3) The declaration to be made under sub-section (2), shall, inter alia, include, the quantity of stock, its value, date of purchase, copies of procurement invoices in any given time frame, along with details of any sale or sale agreements.

12.

13.

14.

15.

16.

(4) The Officer may verify the stock as well as the books or documents in respect of the stock, purchase or sale, at any time, in respect of Scheduled articles.

(5) While carrying out the verification of stock in terms of sub-section (4) or upon receipt of any information from whatever source, the officer may require the dealer, owner or manager of a godown or storage place to furnish the details of persons, shops, firms or companies, etc. from whom the purchases have been made and to whom the sales have been or are to be made.

Offences in respect of false reporting and failure to disclose information. Any Dealer or owner of a godown

or a storage place or their management or agent, who fails to provide information or gives fake or false information with regard to any of the items or details under Section 11, or provides false or fake information of contracts, agreements or arrangements, or is otherwise found to be involved in speculative dealings or market manipulation, creating artificial, false or misleading appearance with respect to the price of, or market for, the Scheduled articles, shall be guilty of an offence punishable with simple imprisonment which may extend upto three years and fine equivalent to one million rupees.

Protection of action taken under the Act.— (1) No suit, prosecution or other legal proceedings shall lie against any person for anything done in good faith.

(2) Except as provided in this Act, no suit or other legal proceedings shall lie to challenge any proceedings under this Act on any ground.

Action in aid of an Officer In giving effect to the provisions of this Act, an Officer, where he deems fit, may seek the aid of law enforcement agencies.

Power to make rules.— The Government may, by notification in the official Gazette, make rules to carry out the purpose of this Act.

Act to override other laws. The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

Power to amend Schedule. The Government may, by notification in official Gazette, amend the Schedule so as to add to, or omit from it, any commodity or class of commodities.

Sd/-
(Gulfraz Ahmed Khan)
Section Officer (Legislation)

SCHEDULE

(see Section 2)

1 | Tea 17 | Spices & Vegetables
2 | Sugar 18 | Red Chilli
3 | Milk 19 | Drugs and Medicines
4 | Powdered Milk 20 | Kerosene oil
5 | Milk and food for infants 21 | Rice
6 | Edible oil, hydrogenated or 22 | Wheat, Flour all sorts
otherwise
7 | Aerated water, fruits juices and | 23 | Chemical fertilizers all sorts
squashes
8 | Salt 24 | Poultry food
9 | Potatoes 25 | Surgical gloves
0 | Onions 26 | Face masks
1 | Pulses all sorts 27 | N95 masks
2 | Fish all sorts 28 | Sanitizers
3 | Beef 29 | Surface cleaning products
4 | Mutton 30 | Pesticides
5 | Eggs 31 | Match sticks
6 | Gur 32 | Isopropyl Alcohol