

THE KHYBER PAKHTUNKHWA, ESSENTIAL ARTICLES CONTROL
(TEMPORARY POWERS) ACT, 1947.

(ACT XV OF 1947).

CONTENTS.

PREAMBLE.

SECTIONS.

1.

2.

Short title, extent and commencement.

Definitions.

Powers to control production supply, distribution, transport and prices of essential articles.

Delegation of powers.

Continuance in force of existing orders.

Effect of order inconsistent with other enactments.

Mode of publication.

Penalties.

Abetment and Assistance in contravention.

Offences by corporations.

Cognizance of offences.

Burden of proof.

Bar against the issue of certain order by court.

Protection of action taken under the Act.

Power to make rules.

Saving.

SCHEDULE

THE [KHYBER PAKHTUNKHWA] ESSENTIAL ARTICLES
CONTROL (TEMPORARY POWERS) ACT, 1947.

(ACT XV OF 1947).

(Received the assent of the Governor on the 23rd April, 1947)

AN

ACT

to regulate the production, supply, distribution, transport and prices of essential articles and trade and commerce therein within the [Khyber Pakhtunkhwa].

WHEREAS circumstances exist which render it necessary for the Provincial Government to take immediate action to regulate the production, supply distribution, transport and, prices of essential articles and trade and commerce therein within the *[Khyber Pakhtunkhwa], it is hereby enacted as follows:—

1. (1) This Act may be called the “[Khyber Pakhtunkhwa] Essential Articles Control (Temporary Powers) Act 1947.

(2) It extends to the whole of the *[Province of the Khyber Pakhtunkhwa].

(3) It shall come into force immediately.

2. In this Act, unless there is anything repugnant in the subject or context:—

(a) "essential article" means any of the articles which is specified in the Schedule to this Act and any other article; which may be declared by the Provincial Government by notified order to be an essential article for the purposes of this Act:

(b) "notified order" means an order notified in the Official Gazette:

(c) "transport" means moving from one place to another within the [Khyber Pakhtunkhwa];

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

¹ Subs vide the Khyber Pakhtunkhwa Act, IV of 2011.

2. Subs vide the Khyber Pakhtunkhwa Act, IV of 2011.

3. Subs vide the Khyber Pakhtunkhwa Act, IV of 2011.

+ Subs vide the Khyber Pakhtunkhwa Act, IV of 2011.

5. Subs vide the Khyber Pakhtunkhwa Act, IV of 2011.

®, Subs vide the Khyber Pakhtunkhwa Act, IV of 2011.

Preamble.

Short title, extent

and
commencement.

Definition.

3. (1) The Provincial Government, so far appears to it to be necessary or expedient for maintaining, increasing or securing supplies of essential articles or for arranging for their equitable distribution and availability at fair prices or for directing, maintaining or increasing the production of any sectional article, may, by notified order, provide for regulating or prohibiting the production, supply, distribution and transport of essential articles and trade and commerce therein.

(2) Without prejudice to the generality of the power conferred by sub-section (1) an order made thereunder may provide—

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

(j)

(k)

for regulating by licenses, permits or otherwise the production or manufacture of any essential article;

for controlling the prices at which any essential article may be bought or sold;

for regulating or prohibiting by licenses, permits or otherwise the storage, distribution, transport, disposal, acquisition, use or consumption of any essential articles;

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

for requiring any person holding stocks of an essential article to sell them at fair prices to specified persons or class of persons or in specified circumstance;

for regulating or prohibiting any class of commercial or financial transactions relating to any essential article, which in the opinion of the Provincial Government are, or if unregulated are likely to be, detrimental to the public matters;

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

for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential article to declare their stocks of essential articles, to maintain and produce for inspection any books, accounts and records relating to their business, and to furnish any other information relating thereto;

for regulating the processing of any essential article;

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

for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles and vessels, the seizure by a person authorized to make the such

Powers to control
production, supply,
distribution,
transport and prices
of essential articles.

search of any article in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licenses, permits or other documents, and the charging of fees therefore.

4. (1) The Provincial Government may, by notified order, authorise any officer or authority subordinate to the Provincial Government, to exercise any one or more of the powers vested in them by or under this Act except the power mentioned in Section 15 in relation to such matter and subject to such restrictions and conditions, if any, as may be specified in the order.

(2) The exercise of the powers delegated under sub-section (1) shall be subject to the control and revision by the Provincial Government or by such person as may be empowered by it in that behalf. The Provincial Government shall also have the power to control and revise the acts for proceedings of any persons so empowered.

5. (1) Every order made by the Provincial Government or the Central Government or any other competent authority under any of the Provisions of the Defence of India Rule [being rules made under the Defence of India Act, 1939 or made or deemed to be made under the Essential Supplies (Temporary Powers) Ordinance, 1946, or under the Act of the same name, in respect of any of the matters specified in Section 3 which having been notified in the Official Gazette was in force immediately before the Commencement of this Act shall, in so far as it could validly have been made by the Provincial Government under this Act, continue in force as if made by the Provincial Government, under to provisions of this Act and shall remain valid until it is superseded or modified by the competent authority under the provisions of this Act, and all appointments made, licenses or permits issued, regulations made and directions given under any such order shall also continue in force until superseded or modified by the competent authority.

(2) The Provincial Government may, if it considers it expedient so to do, from time to time, modify or annul any order, appointment, license, permit, regulation or direction specified in sub-section (1).

6. Any order made under Section 3 or continued under Section 5 shall have effect notwithstanding any thing inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

7. (1) Every authority or officer who makes any order in writing in pursuance of any of the provisions of this Act shall in the case of an order of a general nature affecting a class of persons publish such order by a notification in such manner as may in the opinion of such authority or officer be best suited for informing the persons whom the order concerns. Where the order is not of a general nature the authority or officer may serve the order or cause it to be served on the person concerned;

Powers.

Continuance in
force of existing
orders.

Effect of order
inconsistent with
other enactments.

Mode of
publication.

(a) personally by delivering or tending him the order; or
(b) by sending him an authenticated copy of the order by post; or
(c) where the person cannot be found, by leaving an authenticated copy of the order with some adult male member of his family or by affixing it to any part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

(2) Where any provisions of this Act empowers an authority or officer to take action by notified order the provisions of sub-section (1) shall not apply in relation to such order.

8. (1) If any person contravenes any order made under Section 3 or continued under Section 5, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; and, if the order so provides, any court trying such contravention may direct that any property in respect of which Court is satisfied that the order has been contravened shall be forfeited to the Crown for the purposes of the Provincial Government:

Provided that where the contravention is of an order relating to an essential article which contains an express provision in this behalf, the Court shall make such direction unless for reasons to be recorded in writing, it is of opinion that the direction should not be made in respect of the whole or, as the case may be a part of the property.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any Magistrate, or class of Magistrate specially empowered in this behalf by the Provincial Government, may, when awarding punishment under sub-section (1), adjudge a fine without limit of amount.

(3) If any person to whom any provision of any order issued under this Act relates or who is in occupation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates,

(a) fails, without lawful authority or excuse himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply or to secure compliance, with such provision, or

(b) evades, or attempts to evade, by any means, such provision, he shall be deemed to have contravened such provision; and in this Act, the expression "contravene" with its derivatives includes any such failure, evasion or attempt to evade.

9. Any person who attempts to contravene or abets or attempts to abet or does any act preparatory to a contravention of an order made under the provisions of this Act shall be deemed to have contravened the order; and any person who, knowing or having reasonable cause to believe that any

Penalties.

Abetment and
Assistance in
Contravention.

other person is contravening any order made under any of the provisions of this Act, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest trial or punishment for the said contravention, shall also be deemed to have contravened the order.

10. If the person who contravenes or is deemed to contravene an order made under Section 3 or continued under Section 5 is a company or other body corporate, every director, manager, secretary or other officer or agent 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.

11. 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 [Pakistan Penal Code, 1860].

12. Where any person is prosecuted for contravening any order made under the provisions of this Act which prohibits him from doing an act or being in possession of a thing without lawful authority or excuse or without a permit, license, certificate or permission the burden of proof that he has such authority or excuse or, as the case may be, the requisite permit, license, certificate or permission shall be on him.

13. (1) No Court shall, in any suit, in which the validity of an order issued or action taken under this Act is in question, have power to issue any injunction, whether permanent or temporary, so as to restrain the Provincial Government or any authority or officer empowered by or under this Act, from executing or carrying out any order passed by them or by him under this Act, or in any way interfere with or affect the operation of such order.

Nothing contained in this section shall be deemed to prevent the Court from granting in the suit any relief by way of compensation to which the party may be entitled.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the [Evidence Act, 1872, presume that such order was so made by that authority.

14. (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 or continued under Section 5.

¹ Substituted by Act No. XLV of 1860.

², Omitted by Act No. I of 1872.

Cognizance of
offences.

Burden of proof.

Bar against the
issue of certain
order by court.

Protection of action
taken under the Act.

(2) No suit, or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under Section 3 or continue under Section 5.

15. The Provincial Government may make rules for the purposes of carrying into effect the provisions of this Act.

16. The expiration of this Act, shall not affect—

(a)

(b)

(c)

(d)

the previous operation of, or anything duly done or suffered under, this Act or any rule made thereunder or any order made under any such rule, or

any right, privilege, obligation or liability acquired, accrued or incurred under this Act, or any rule made thereunder or any order made under any such rule, or

any penalty, forfeiture or punishment incurred in respect of any contravention of any rule made under this Act or of any order made under any such rule, or

any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not expired.

SCHEDULE.

(i) Cattle feeds which expression shall be deemed to include oil cakes.

(ii) Fodder which expression shall be deemed to include all green fodders such as shaftal and Berseem and all dry fodders such as stalks of maize and charri (Jowar) and bhoosa.

(iii) | Sheep and goats and their meat.

(iv) | Poultry which expression shall be deemed to include, turkeys, geese, ducks and chickens.

(v) Ice.

(vi) Tea.

(vii) Matches.

(viii) Hand knitting wool.

(ix) — Wollen Cloth.

(x) Vegetable Oils including Dalda and Vanaspati.

(xi) _ Fresh Fruits.

Power to make
tules.

Saving.