

COVID-19 (PREVENTION OF HOARDING) ACT, 2020.
(KHYBER PAKHTUNKHWA ACT NO. XLI OF 2020)

CONTENTS

PREAMBLE

CONTENTS

a

Short title, extent and commencement.

2. Definitions.

3. Offence of hoarding.

4. Power to search for and seizure of scheduled article.

5. Power to auction seized scheduled articles.

6. Cognizance of offence and arrest without warrant.

7. Offences by corporations etc.

8. Power to try offences summarily.

9. Appeal.

10. Reward for informers.

11. Information and declarations.

12. Offences in respect of false reporting and failure to disclose information.

13. Protection of action taken under this Act.

14. Action in aid of an officer.

15. Power to make rules.

16. Act to override other laws.

17. Power to amend schedule.

SCHEDULE

COVID-19 (PREVENTION OF HOARDING) ACT, 2020.
(KHYBER PAKHTUNKHWA ACT NO. XLI OF 2020)

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AN
ACT

to provide for the prevention of hoarding in respect of scheduled articles, in the wake of present 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 scheduled articles in present emergent situation resulting from the outbreak of the Corona virus pandemic (COVID-19) and for matters connected therewith and ancillary thereto;

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

AND WHEREAS Pakistan is a State Party to the International Health Regulations, 2005, issued by the World Health Organization, according to which Pakistan is under a direct obligation to prevent, protect against, control and provide a public health response to international diseases and being a federating unit, Khyber Pakhtunkhwa also has a corresponding obligation to act in a befitting manner;

AND WHEREAS events of hoarding contribute to adversities, in geometric progression, to the people at large, especially in circumstances of smart or complete lock-down in the Province;

It is hereby enacted by the Provincial Assembly of the Khyber Pakhtunkhwa as follows:

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

(2) It shall extend to the whole of the Province of Khyber Pakhtunkhwa.

(3) It shall come into force at once.

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

(a) "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;

(b) "Government" means the Government of Khyber Pakhtunkhwa;

(c) "hoarding" or "to hoard" means-

(i) accumulating and storing away anything in excess of such maximum quantity of scheduled articles, allowed to be held in stock or storage, to be determined and notified by the Department from time to time; or

(ii) | where no maximum quantity of a scheduled article is determined and notified under sub-clause (i), it shall mean undue storing or accumulation of scheduled articles without offering such articles for sale, despite there being a demand by consumers:

Provided that for purposes of this clause, any Notification or Order already notified or made under section 3 of the Price Control and Prevention of Profiteering and Hoarding Act, 1977, in respect of determining maximum quantity of any scheduled articles, shall continue to have effect until specifically varied, amended or withdrawn;

(d) "officer" means the Deputy Commissioner of a District or such other officer as may be authorized by him in this behalf;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Schedule" means the Schedule appended to this Act; and

(g) "scheduled article" means any of the articles, specified in the Schedule.

3. Offence of hoarding.---(1) Any dealer who is found to hoard any scheduled article shall be guilty of an offence punishable with simple imprisonment up to three (3) years and fine equivalent to fifty (50) per cent 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 by the officer in the manner as may be prescribed.

4. Power to search for and seizure of scheduled article.---(1) When an officer has reasonable grounds to suspect, either upon information from anyone or his own, that there has been a contravention of any of the provisions of this Act, it 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 premise under sub-section (1), if scheduled articles are found at such premise 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.

5. 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 Bank of Khyber, and if,-

(a) the accused person, whose scheduled articles are auctioned is acquitted of an offence under sub-section (1) of 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 sub-section (1) of section 3, the deposited amount alongwith the profit shall stand forfeited and accordingly deposited into the Government's exchequer.

6. 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 may also 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.

7. 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.

8. Power to try offences summarily.---(1) Offences punishable under this Act shall be tried by a Special Magistrate appointed under section 14A 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.

(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 (30) days.

9. Appeal.---(1) A person aggrieved by an order of conviction and sentence under this Act may file an appeal before a District and Sessions Judge of the concerned Sessions Division within thirty (30) days of the said order.

(2) An appeal under sub-section (1) shall be disposed of within thirty (30) days.

10. Reward for informers.---(1) Anyone who provides an information to an officer with regard to any act or acts of hoarding, which results in a conviction and deposit of funds into the Government exchequer, shall be entitled to an award equivalent to ten (10) per cent of the amount deposited in the Government exchequer, in the manner as may be prescribed.

(2) A false or untrue information, by any person under sub-section (1), may expose him to penal measures applicable to wrongful information and declaration under section 12.

11. 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 manufacturers 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, alongwith details of any sale or sale agreements.

(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 to be made.

12. 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 maintain record, provide information or gives fake or false information with regard to any of the items or details under section 11, or provides information of contracts, agreements or arrangements found to be fake or false, 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 up to three (03) years and fine which may extend to rupees one (01) Million.

13. Protection of action taken under this Act.---(1) No suit, prosecution or other legal proceedings shall lie against any person for anything done or intending to be done in good faith under this Act.

(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.

14. — 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.

15. Power to make rules.---Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

16. Act to override other laws.---Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act, to the extent of hoarding of the scheduled articles for purposes of COVID-19 pandemic, shall have overriding effect.

17. Power to amend schedule.---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.

SCHEDULE

[see section 2(f)]

- 1 Tea 17 | Spices, Condiments and Vegetables
- 2 Sugar 18 | Red Chili
- 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
- Onions 26 | Face masks
- Pulses (all sorts) 27 |N95 masks and other Personal
Protective Equipment
- Fish all sorts 28 Sanitizers
- Beef 29 | Surface cleaning products
- Mutton 30 | Pesticides
- Eggs 31 Match sticks
- Gur 32 | Isopropyl Alcohol