

## 31. ACTS AND CONTROL ORDERS AT A GLANCE

Section	1. The Essential Commodities Act, 1955
1	Short title and extent
2	Definitions
3(1)	Central Government empowered to issue orders providing for regulating or prohibiting the production, supply and distribution of any essential commodity and trade and commerce therein (i) for maintaining or increasing its supplies or (ii) for securing its equitable distribution and availability at fair prices or (iii) for securing it for the defence of India or for the efficient conduct of military operations.
3(2)	Subject to the generality of the powers conferred by sub-section (1) of section 3, an order made there under may provide for
	(a) regulation of production or manufacture of any essential commodity, by licences, permits etc.,
	(b) bringing under cultivation of any waste or arable land for growing food crops;
	(c) controlling the price at which any essential commodity may be bought or sold;
	(d) regulating storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity by licences, permits etc.,
	(e) prohibiting the withholding from sale of any essential commodity, ordinarily kept for sale;
	(f) requiring any person to sell any quantity of any essential commodity held in stock or produced or received by him or likely to be produced or received by him to the Central or State Government.
	(g) regulating or prohibiting any class of commercial or financial transactions relating to food-stuffs or cotton textiles, which if unregulated would be detrimental to public interest;

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	<p>(h) collection of information or statistics with a view to regulate or prohibit any matter covered by sub section 2 of section 3.</p> <p>(i) requiring maintenance and production of books and accounts and furnish information;</p> <p>(ii) charging licence fee, deposits, forfeiture of deposits etc., for issue of licences or permits;</p> <p>(j) entry, search, examination of premises, air craft, vessels, vehicles, and seizure of stocks or vehicles and books of accounts etc.,</p>
3(3)	Price payable for any essential commodity sold to government
3(3A)	Fixation of ceiling price for any essential commodity to be sold in any locality
3(3B)	Price payable for food grains/edible oil seeds/edible oils sold to Govt.,
3(3C)	Price payable for sugar sold to Government
4	Confers powers and imposes duties on officers and authorities of Central or state Government to exercise any powers.
5	Central Govt., can delegate powers to State Government to make orders or issue notifications under Sec.3 State Govt., or any officer or authority subordinate to the State Govt., as specified in the direction can also exercise the powers.
6	An order made under this Act will have overriding powers on the provisions of any other Act.
6A	If any essential commodity is seized, it should be reported to Collector without any delay.
6A(1)	If Collector is satisfied that there was contravention of any order issued under the Act, he may order confiscation of seized stocks. Food grains or edible oils seeds seized from a farmer not to be confiscated, if those seized stocks are produced by that farmer.
6A(2)	If the essential commodity seized is subject to speedy and natural decay or it is expedient in public interest, Collector can order its interim disposal. If the retail sale price of seized

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	commodity is fixed by Central or State Govt., Collector may order its sale through F.P.Shops at the price so fixed for its equitable distribution and availability at fair prices.
6A(3)	If confiscation of seized stocks is not ordered or where an order on appeal so requires, or if the prosecution fails against the owner from whom the stocks are seized, the sale proceeds after deducting the expenses if any, shall be returned to the party.
6B	Before ordering confiscation, show cause notice must be issued and an opportunity of making a representation in writing and also of being heard has to be given. If the owner of the vehicle, vessel etc., proves that it was used without his knowledge, then such vehicle, vessel need not be confiscated. Order of confiscation will not be invalid because of any defect or irregularity in the notice given.
6C(1)	Against the orders of confiscation by Collector, an appeal can be filed to the Dist. & Sessions Judge.
6C(2)	If in an appeal or prosecution the person is acquitted, the seized stocks or the value of goods with reasonable interest shall be returned.
6D	The award of any confiscation by the Collector shall not prevent the infliction of any punishment to which the person affected there by is liable.
7	Imprisonment or fine amount to be imposed
7A	Any amounts due under any order made under section 3 shall be recovered as a public demand with 15% interest.
8	Any person who attempts or abets to contravene any order made under section 3 shall be deemed to have contravened.
9	Making any false statement or furnishing false information or any false reports or maintaining incorrect accounts, shall be punishable with imprisonment for a term which may extend to five years or with fine or both.
10	In respect of offences committed by companies, the person

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	who was incharge and responsible for the conduct of business of the company shall be deemed to be guilty and liable to be proceeded against unless he proves that the contravention took place without his knowledge.
10A	All offences punishable under this Act shall be cognizable and bailable
10B	Court can publish name, place of business etc.,of the companies which are convicted under the E.C.Act, nature of contravention at the expenses of the company in newspapers.
10C	The court shall presume the existence of culpable mental state in all prosecutions under the Act
11	Court shall take cognizance of any offence punishable under E.C.Act on a report in writing by a public servant or any person aggrieved or any recognized Consumer Association.
12B	No Civil court shall give an injunction without notice to the Government or officer.
13	Court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872.
14	The burden of proving that any person prosecuted has the lawful authority, permit, licence or other document shall be on that person.
15	No suit, prosecution or other legal proceeding shall lie against any person for any thing done in good faith.
15A	Prosecution of any public servant can be done with the previous sanction of Central or State Government.