

THE AZAD KASHMIR ESSENTIAL SUPPLIES (TEMPORARY POWERS) ACT, 1954.

(Passed under Council Order No. 148 dated 20-2-1954.)

Whereas it is necessary to control the production, supply and distribution of, and trade and commerce in certain essential commodities in Azad Kashmir ;

It is hereby enacted as follows :-

1. **Short title, extent and durations:-** (1) This Act may be called the Azad Kashmir Essential Supplies (Temporary Powers) Act, 1954.
 - (2) It extends to the whole of Azad Kashmir territory.
 - (3) It shall cease to have effect on the first day of April, 1959, except as respects things done or omitted to be done before that date, provided that the Government may, from time to time, extend the period for which it is to remain in force thereafter.
2. **Definitions:-** In this Act, unless there is anything repugnant in the subject or context:
 - (a) "Essential Commodity" means any of the following classes of commodities :-
 - (i) Foodstuffs;
 - (ii) Cotton and woolen textiles;
 - (v) Papers;
 - (iv) Petroleum and petroleum products ;
 - (v) Spare parts of mechanically propelled vehicles;
 - (vi) Coal;
 - (vii) Iron and steel;
 - (viii) Mica;
 - (ix) Such other classes of commodities as may be declared by the Government to be essential commodities ;
 - (b) "Food crops" shall include crops of sugarcane ;
 - (c) "Foodstuffs" shall include edible oilseeds and oils ;
 - (d) "notified order" means an order notified in the official Gazette ;
 - (e) "Paper" shall include newsprint ;
 - (f) "Government" means the Azad Kashmir Governments.

3. **Power to control production, supply, distribution etc, of essential commodities:-** (1) The Government, so far as it appears to it to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may by notified order provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.
- (2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide:
- (a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity ;
 - (b) for bringing under cultivation any waste or arable land, the order are, or if unregulated are likely to be detrimental to public interest ;
 - (h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters ;
 - (i) for requiring persons engaged in the production supply or distribution of, or trade or commerce in, any essential commodity to maintain and produce for inspection of such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order ;
 - (j) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles 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 licences, permits or other documents and the charging of fees therefore.
- (3) An order made under sub-section (1) may confer powers and impose duties upon the Government or officers and authorities of the Government.
- (4) The Government, so far as it appears to it to be necessary for maintaining or increasing the production and supply of an essential commodity may by order authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order, such functions or control as may be

provided by the order; and so long as an order made under this sub-section is in force with respect to any undertaking or part thereof :-

- (a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order, and the undertaking or part thereof shall be carried on in accordance with any directions given by the authorised controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.
4. **Delegation of powers:-** The Government may by notified order direct that the power to make orders under section 3, shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government as may be specified in the directions.
5. **Effects or orders inconsistent with other enactments:-** Any order made under section 3, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.
6. **Penalties:-** If any person contravenes any order made under section 3 :
 - (1) 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 the Court is satisfied that the order has been contravened shall be forfeited to the Government :

Provided that where the contravention is of an order relating to foodstuffs which contains an express provisions 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) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a

term which may extend to three years or with fine or with both.

7. **Attempts and abetments:-** Any person who attempts to contravene, or abets a contravention of any order made under section 3, shall be deemed to have contravened that order.
8. **Offences by Corporations:-** If the person contravening an order made under section 3, 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 with out his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.
9. **False statement:-** If any person :-
 - (1) When required to any order made under section 8 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true; or
 - (2) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.
10. **Cognizance of offences:-** No Court shall take cognizance of any offence punishable under this Act except on a report in writing the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Penal Code.
11. **Powers to try offences summarily:-** Any magistrate or bench of magistrates empowered for the time-being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said code any offence punishable under this Act.
12. **Special provision regarding fines:-** Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, it shall be lawful for any Magistrate of the First Class specially empowered by the Government in this behalf to pass a sentence of fine not exceeding one thousand rupees on any persons convicted contravening an order made under section 3.

13. **Presumption as to orders:-** (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any court.
- (2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Evidence Act, presume that such order was so made by that authority.
14. **Burden of proof in certain cases:-** Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.
15. **Protection of action taken under this Act:-** (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.
- (2) No suit or other legal proceeding shall lie against the Government 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.