

THE PUNJAB FOODSTUFFS (CONTROL) ACT, 1958

(XX OF 1958)

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TEXT

¹THE ²[PUNJAB] FOODSTUFFS (CONTROL) ACT, 1958

(XX of 1958)

[23rd April, 1958]

An

Act

to provide for the continuance of powers to control the supply and distribution of, and trade and commerce in foodstuffs.

Preamble.- WHEREAS it is expedient in the public interest to provide for the continuance of powers to control the supply, distribution and movement of, and trade and commerce in, foodstuffs in ³[the Punjab];

It is hereby enacted as follows: —

1. Short title, extent and commencement.- (1) This Act may be called ⁴[the Punjab] Foodstuffs (Control) Act, 1958.

⁵[(2) It extends to the whole of ⁶[the Punjab] except the Tribal Areas.]

(3) It shall come into force at once.

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

(a) “foodstuff” means any of the following classes of commodities: —

(i) wheat, wheat atta, maida, rawa and suji;

(ii) rice and paddy;

(iii) sugar; and

¹ For statement of objects and reasons, see Gazette of West Pakistan (Extraordinary), dated 9th March, 1957, pp.412-413.

This Act was passed by the West Pakistan Assembly on 31st March, 1958; assented to by the Governor of West Pakistan on 17th April, 1958; and, published in the West Pakistan Gazette (Extraordinary), dated 23rd April, 1958, pages 623-27.

² Substituted for the words “West Pakistan” by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974); and published in the Punjab Gazette (Extraordinary), pages1425-A to 1425-PP, dated 20.11.1974, see Article 2 and Schedule, Part III, at entry No.9 (w.e.f. 14.8.1973).

³ Ibid.

⁴ Ibid.

⁵ Substituted subsection (2) of section 1 for:

“It extends to the whole of West Pakistan, except the Special Areas and the Federal Capital.” by the West Pakistan Foodstuffs (Control) (Amendment) Ordinance, 1963 (VIII of 1963); and published in the Gazette of West Pakistan (Extraordinary), dated 7.5.1963, pages 2027-2028, s.2.

⁶ Substituted for the words “West Pakistan” by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974); and published in the Punjab Gazette (Extraordinary), pages1425-A to 1425-PP, dated 20.11.1974, see Article 2 and Schedule, Part III, at entry No.9 (w.e.f. 14.8.1973).

- (iv) such other commodity or class of commodities as may be declared and notified by the Government to be foodstuffs for the purposes of this Act;
- (b) "Government" means ⁷[Provincial Government of the Punjab]; and
- (c) "notified order" means an order notified in the Official Gazette.

3. Powers to control supply, distribution, etc., of foodstuffs. - (1) The Government, so far as it appears to it to be necessary or expedient for maintaining supplies of any foodstuff or for securing its equitable distribution and availability at fair prices, may, by notified order, provide for regulating or prohibiting the keeping, storage, movement, transport, supply distribution, disposal, acquisition, use or consumption 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 manufacture of any article of food from any foodstuffs;
- (b) for controlling the prices at which any foodstuffs may be bought or sold;
- (c) for regulating by licences, permits or otherwise, the storage, transport, distribution, disposal, acquisition, use or consumption of any foodstuff;
- (d) for prohibiting the withholding from sale of any foodstuff ordinarily kept for sale;
- (e) for requiring any person holding stock of any foodstuff to sell the whole or a specified part of the stock to such persons or class of persons or in such circumstances as may be specified in the order;
- (f) for regulating or prohibiting any class of commercial or financial transactions relating to any foodstuff which, in the opinion of the authority making the order is, or is likely to be, detrimental to public interest;
- ⁸[(ff) for levying fees or charges to meet the expenses incurred by Government on the administration of this Act;]
- (g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;
- (h) for requiring persons engaged in the supply or distribution of, or trade or commerce in, any foodstuffs, to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto as may be specified in the order; and
- (i) for any incidental and supplementary matters including, in particular, the entering and search of premises, vehicles, vessels and aircraft, the

⁷ Substituted for the words "Government of West Pakistan" by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974); and published in the Punjab Gazette (Extraordinary), pages 1425-A to 1425-PP, dated 20.11.1974, see Article 2 and Schedule, Part III, at entry No.9 (w.e.f. 14.8.1973).

⁸ Inserted by the West Pakistan Foodstuffs (Control) (Punjab Amendment and Validation) Ordinance, 1971 (XXVII of 1971); and published in the Punjab Gazette (Extraordinary), pages 1571-C to 1571-D, dated 13.12.1971, s.2.

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, or any records connected therewith, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

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 an officer or authority subordinate to the Government.

5. Effect of orders inconsistent with other enactment.- 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.- (1) If any person contravenes any order made under section 3, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both and, if the order so provides, any ⁹[Court or Tribunal] trying such contravention shall direct that any property in respect of which the ¹⁰[Court or Tribunal] is satisfied that the order has been contravened shall be forfeited to the Government, unless for reasons to be recorded in writing, it is of the 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) The owner of any vessel, conveyance or animal carrying any property in respect of which an order under section 3 is contravened, shall, if the carrying is part of the transaction involving the contravention and if he knew or had reason to believe that the contravention was being committed, be deemed to have contravened the order, and, in addition to the punishment to which he is liable under sub-section (1), the vessel, conveyance, or animal shall when the order provides for forfeiture of the property in respect of which the order is contravened, be forfeited to the Government.

(3) If any person to whom a direction is given under sub-section (3) of section 3 fails to comply with the direction, he shall be punished 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 the contravention of any order made under section 3 shall be deemed to have contravened that order.

8. Offences by Corporation.- 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 without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

⁹ Substituted for the words "Court" by the West Pakistan Foodstuffs (Control) (Punjab Second Amendment) Act, 1975 (XLVIII of 1975); and published in the Punjab Gazette (Extraordinary), dated 19.7.1975, pages 995-c to 995-T, s.2.

¹⁰ Substituted *ibid*.

9. False statements.- If any person —

- (i) when required by an order made under section 3 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
- (ii) 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 punished with imprisonment for a term which may extend to three years or with fine or with both.

¹¹**[9-A. Trials by Tribunal.-** All offences punishable under this Act shall be exclusively triable by a Tribunal constituted under this Act.

9-B. Constitution of Tribunals.- (1) Government may, by notification in the official Gazette, constitute, for the whole or any part of the Province of the Punjab one or more Tribunals consisting of a person who--

- (a) has to his credit, five years practice as an Advocate; or
- (b) has, for a total period of not less than three years exercised, whether continuously or not, the powers of a First Class Magistrate under the Code of Criminal Procedure, 1898; or
- (c) is and has for a period of not less than ten years been in the service of Pakistan and is a law graduate.

(2) A Tribunal shall sit at such place as the Government may, by notification in the official Gazette, specify in this behalf.

9-C. Powers of Tribunals.- A Tribunal may pass any sentence and exercise all or any of the powers which a Magistrate of the First Class empowered under section 30 of the Code of Criminal Procedure, 1898, may pass or exercise under the said Code.

9-D. Appeal.- (1) A person sentenced by a Tribunal shall have a right of appeal to the Court of Session having jurisdiction in the area, within thirty days of the passing of the sentence.

(2) Save as provided in subsection (1), no court shall have authority to revise such sentence, or to transfer any case from a Tribunal or to make order under section 426, 491 or 498 of the Code of Criminal Procedure, 1898, or have jurisdiction of any kind in respect of any proceeding of a Tribunal.

9-E. Transfer of cases. - All cases regarding any matter within the jurisdiction of a Tribunal pending trial in any Court immediately before the constitution of a Tribunal under this Act, shall stand transferred to such Tribunal.]

¹²**[10. Offences and Procedure -** (1) Offences under this Act shall be cognizable and non-bailable.

¹¹ Added by the West Pakistan Foodstuffs (Control) (Punjab Second Amendment) Act, 1975 (XLVIII of 1975); and published in the Punjab Gazette (Extraordinary), dated 19.7.1975, pages 995-c to 995-T, s.3.

¹² Substituted section 10 for:

(2) The procedure for the trial of offences under this Act shall be the same as is laid down in the Code of Criminal Procedure, 1898, for summary trials[:]¹³

¹⁴[Provided that whenever a Tribunal considers it desirable, it may follow the procedure laid down in the Code of Criminal Procedure, 1898, for the trial of Summons Cases by Magistrates.]

¹⁵[**11. Bar of jurisdiction and reference to arbitration.-**] (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

¹⁶[(2) Save any order passed by a Tribunal under section 9-C of this Act, any person aggrieved by an order made in exercise of any power conferred by or under this Act, may by an application in writing, within 30 days of the passing of the order, refer the matter to the arbitration of a sole arbitrator appointed by the Government.

(3) The Government shall soon after the enforcement of these provisions, appoint one or more Arbitrators for all cases or different Arbitrators for different classes of cases under this Act.

(4) All suits, appeals or applications regarding matters to which this Act applies, pending in any Court, except an appeal against the order of a Tribunal preferred to the Court of Session under section 9-D of this Act, shall abate.

(5) A reference to Arbitration under sub-section (2) in respect of such orders as were subject-matter of a suit, appeal or application which abated under subsection (4), may be made to an arbitrator within 30 days of the enforcement of these provisions.]

¹⁷[**11-A. Presumption as to orders.-** Where an order purports to have been made and signed by authority in exercise of any power conferred by or under this Act, a Court shall presume within the meaning of the Evidence Act, 1872, that such order was so made by that authority.]

12. 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.

¹³No 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 (XLV of 1860) by the West Pakistan Foodstuffs (Control) (Punjab Amendment) Act, 1975 (XXXVI of 1975); and published in the Punjab Gazette (Extraordinary), dated 24.6.1975, pages 922-c to 922-D, s.2.

¹⁴In subsection (2) of section 10, the full-stop at the end is replaced with colon, by the West Pakistan Foodstuffs (Control) (Punjab Second Amendment) Act, 1975 (XLVIII of 1975); and published in the Punjab Gazette (Extraordinary), dated 19.7.1975, pages 995-c to 995-T, s.4.

¹⁵Inserted *ibid*.

¹⁶Substituted marginal note for "Presumption as to Orders." by *ibid*., s.5.

¹⁷Added *ibid*.

¹⁸Substituted for Sub-Section (2) of Section 11, by the West Pakistan Foodstuffs (Control) (Punjab Second Amendment) Act, 1975 (XLVIII of 1975); and published in the Punjab Gazette (Extraordinary), dated 19.7.1975, pages 995-c to 995-T.

13. Protection of action taken under the 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.

14. Repeal - The following enactments are hereby repealed, namely: —

- (1) The Bahawalpur Foodgrains Control Act, 1947.
- (2) The Bahawalpur Control of Essential Supplies Commodities Act, 1948¹⁸.
- (3) The West Pakistan Foodstuffs (Control) Ordinance, 1957¹⁹.

18 Bwp. III of 1948.

19 W.P. Ord. XI of 1957.