

LAW (LEGISLATIVE DRAFTING) DEPARTMENT
(GROUP-II)
NOTIFICATION

Jaipur, February 7, 2014

No. F. 2 (10) Vidhi/2/2014.-In pursuance of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorize the publication in the Rajasthan Gazette of the following translation in the English language of the Rajasthan Maal (Utpadan, Praday, Vitran aur Vyapar aur Vanijya ka Niyantiran) adhinyam, 2014 (2014 Ka Adhinyam Sankhyank 1):-

(Authorised English Translation)

THE RAJASTHAN GOODS (CONTROL OF PRODUCTION,
SUPPLY, DISTRIBUTION AND TRADE AND
COMMERCE) ACT, 2014

(Act No. 1 of 2014)

[Received the assent of the Governor on the 7th day of February, 2014]

An

Act

to provide, in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain goods.

Be it enacted by the Rajasthan State Legislature in the Sixty-fifth Year of the Republic of India, as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Rajasthan Goods (Control of Production, Supply, Distribution and Trade and Commerce) Act, 2014.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Application.- This Act shall not apply-

(a) to the essential commodities specified in the Schedule to the Essential Commodities Act, 1955 (Central Act No. 10 of 1955);

(b) to the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public

- interest, and imported goods of the same kind as such products;
- (c) to the products of any industry declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war; and
- (d) to the goods in respect of regulation and control of manufacture, sale, supply and distribution of which Parliament has power to make law by virtue of the entries of List I of the Seventh Schedule to the Constitution.

3. Definitions.- In this Act, unless the context otherwise requires,-

- (a) "Collector" includes an Additional Collector and such other officer, not below the rank of Sub-Divisional Officer, as may be authorised by the Collector to perform the functions and exercise the powers of the Collector under this Act;
- (b) "declared goods" means the goods declared under section 4;
- (c) "goods" includes all materials, commodities, and articles;
- (d) "notified order" means an order notified in the Official Gazette;
- (e) "order" includes a direction issued thereunder.

4. Declaration of goods.- (1) The State Government may, if it is satisfied that it is necessary so to do in the public interest and for reasons to be specified in the notification published in the Official Gazette, declare the goods to which the provisions of this Act shall apply.

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, before the House of the State Legislature and thereupon the provisions of sub-section (1) of section 26A of the Rajasthan General Clauses Act, 1955 (Act No. 8 of 1955) shall apply *mutatis mutandis* to such notification.

5. Powers to control production, supply, distribution, etc., of declared goods.- (1) If the State Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any declared goods or for securing their equitable distribution and availability at fair prices, it may, by 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 declared goods;

(b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops;

(c) for controlling the price at which any declared goods may be bought or sold;

(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of, any declared goods;

(e) for prohibiting the withholding from sale of any declared goods ordinarily kept for sale;

(f) for requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any declared goods,-

(i) to sell the whole or a specified part of the quantity held in stock or produced or received by him, or

(ii) in the case of any such goods which is likely to be produced or received by him, to sell the whole or a specified part of such goods when produced or received by him,

to the State Government or to an officer or agent of the State Government or to a Corporation owned or controlled by the State Government or to such other person or class of persons and in such circumstances as may be specified in the order;

Explanation.- An order made under this clause in relation to food grains or edible oilseeds, may, having regard to the estimated production, in the concerned area, of such food grains and edible oilseeds, fix the quantity to be sold by the producers in such area may also fix, or provide for the fixation of, such quantity on a graded basis, having regard to the aggregate of the area held by, or under the cultivation of the producers;

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(g) for regulating or prohibiting any class of commercial or financial transactions relating to any declared goods which, in the opinion of the authority making the order, is, or, if unregulated, is likely to be, detrimental to the 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 and commerce in, any declared goods 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;

(j) for the grant or issue of licences, permits or other documents, the charging of fees therefor, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any such licence, permit or other documents, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;

(k) for any incidental and supplementary matters, including, in particular, the entry, search or examination of premises, aircrafts, vessels, vehicles or other conveyances and animals, and the seizure by a person authorised to make such entry, search or examination -

(i) 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 and any packages, coverings or receptacles in which such articles are found;

(ii) of any aircraft, vessel, vehicle or other conveyance or animal used in carrying such articles, if such person has reason to believe that such aircraft, vessel, vehicle or other conveyance or animal is liable to be forfeited under the provisions of this Act;

(iii) of any books of accounts and documents which in the opinion of such person, may be useful for, or relevant to, any proceeding under this Act and the person from whose custody such books of accounts or documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of an officer having the custody of such books of accounts or documents.

(3) Where any person sells any declared goods in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to him the price therefor as hereinafter provided:-

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

(4) (i) If the State Government is of opinion that it is necessary so to do for controlling the rise in prices or preventing the hoarding, of any declared goods in any locality, it may, by notification in the Official Gazette, direct that notwithstanding anything contained in sub-section (3), the price at which the declared goods shall be sold in the locality in compliance with an order made with reference to clause (f) of sub-section (2) shall be regulated in accordance with the provisions of this sub-section.

(ii) Any notification issued under this sub-section shall remain in force for such period not exceeding three months as may be specified in the notification.

(iii) Where, after the issue of a notification under this sub-section, any person sells declared goods of the kind specified therein and in the locality so specified, in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to the seller as the price therefor, -

(a) where the price can, consistently with the controlled price of the declared goods, if any, fixed under this section, be agreed upon, the agreed price ;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither sub-clause (a) nor sub-clause (b) applies, the price determined under clause (iv).

(iv) For the purposes of sub-clause (c) of clause (iii), the market price shall be determined by an officer authorised by the State Government in this behalf, having regard to cost of production of the goods, tax or other statutory levies paid or payable in respect of the production of the goods and securing a

reasonable return of the capital employed in the production of the goods.

(5) If the State Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of any declared goods, it may, by order, authorize 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 declared goods as may be specified in the order such functions of control as may be provided therein and so long as such order 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 State Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in-charge of the management of the undertaking, except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under 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.

(6) An order made under this section shall,-

(a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

(b) in the case of an order directed to a specified individual, be served on such individual,-

(i) by delivering or tendering it to that individual, or

(ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report thereof shall be prepared and witnessed by two persons living in the neighbourhood.

(7) Every order made under this section by the State Government or by any officer or authority of the State Government shall be laid before the House of the State Legislature, as soon as may be, after it is made and thereupon the provisions of sub-section (1) of section 26A of the Rajasthan General Clauses Act,

1955(Act No. 8 of 1955) shall apply *mutatis mutandis* to such order.

6. Delegation of powers.- The State Government may, by notified order, direct that the power to make orders or issue notification under section 5 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 State Government as may be specified in the direction.

7. Effect of orders inconsistent with other enactments.- Any order made under section 5 shall have effect notwithstanding anything inconsistent therewith contained in any Rajasthan Act other than this Act or any instrument having effect by virtue of any enactment other than this Act.

8. Confiscation of declared goods.- (1) Where any declared goods is seized in pursuance of an order made under section 5 in relation thereto, a report of such seizure shall, without unreasonable delay, be made to the Collector of the district in which such declared goods is seized and whether or not a prosecution is instituted for the contravention of such order, the Collector may, if he thinks it expedient so to do, direct the declared goods so seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order may order confiscation of,-

- (a) the declared goods so seized;
- (b) any package, covering or receptacle in which such declared goods is found; and
- (c) any animal, vehicle, vessel or other conveyance used in carrying such declared goods:

Provided that without prejudice to any action which may be taken under any other provision of this Act, no food grains or edible oilseeds in pursuance of an order made under section 5 in relation thereto from a producer shall, if the seized food grains or edible oilseeds have been produced by him, be confiscated under this section:

Provided further that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of

seizure of the declared goods sought to be carried by such animal, vehicle, vessel or other conveyance.

(2) Where the Collector, on receiving a report of seizure on inspection of any declared goods under sub-section (1), is of the opinion that the declared goods is subject to speedy and natural decay or it is otherwise expedient in the public interest so to do, where the owner of the goods requests so, he may,-

(i) order the same to be sold at the controlled price, any, fixed for such declared goods under this Act or under any other law for the time being in force; or

(ii) where no such price is fixed order the same to be sold by public auction.

(3) Where any declared goods is sold, as aforesaid, the sale proceeds thereof, after deduction of the expenses of any such sale or auction or other incidental expenses relating thereto, shall,-

(a) where no order of confiscation is ultimately passed by the Collector, or

(b) where an order passed on appeal under sub-section (1) of section 10 so requires, or

(c) where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under this section, the person concerned is acquitted,

be paid to the owner or the person from whom it is seized.

9. Issue of show-cause notice before confiscation of declared goods.- (1) No order confiscating any declared goods shall be made under section 8 unless the owner of such declared goods, package, covering, receptacle, animal, vehicle, vessel or other conveyance, or the person from whom it is seized,-

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the declared goods, package, covering, receptacle, animal, vehicle, vessel or other conveyance;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation; and

(c) is given a reasonable opportunity of being heard in the matter.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any animal, vehicle, vessel or other conveyance shall be made under section 8 if the owner of the

animal, vehicle, vessel or other conveyance proves to the satisfaction of the Collector that it was used in carrying the declared goods without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the animal, vehicle, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use.

(3) No order confiscating any declared goods, package, covering, receptacle, animal, vehicle, vessel or other conveyance shall be invalid merely by reason of any defect or irregularity in the notice given under clause (a) of sub-section (1), if, in giving such notice, the provisions of that clause have been substantially complied with.

10. Appeal.- (1) Any person aggrieved by an order of confiscation under section 8 may, within one month from the date of the communication to him of such order, appeal to the State Government and the State Government shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.

(2) Where an order under section 8 is modified or annulled by the State Government or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under section 8, the person concerned is acquitted, and in either case it is not possible for any reason to return the declared goods seized, such person shall, except as provided by sub-section (3) of section 8, be paid the price therefor as if the declared goods, had been sold to the Government with reasonable interest calculated from the day of the seizure of the declared goods and such price shall be determined in accordance with the provisions of sub-section (3), or, as the case may be, sub-section (4), of section 5.

11. Award of confiscation not to interfere with other punishments.- The award of any confiscation under this Act by the Collector shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

12. Bar of jurisdiction in certain cases.- Whenever any declared goods is seized in pursuance of an order made under section 5 in relation thereto, or any package, covering or receptacle in which such declared goods is found, or any animal, vehicle, vessel or other conveyance used in carrying such declared goods is seized pending confiscation under section 8, the Collector or, as

the case may be, the State Government under section 10 shall have and, notwithstanding anything to the contrary contained in any other law for the time being in force, any court, tribunal or other authority shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal, release or distribution of such declared goods, package, covering, receptacle, animal, vehicle, vessel or other conveyance.

13. Penalties.- (1) If any person contravenes any order made under section 5, -

(a) he shall be punishable,-

(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to three year and shall also be liable to fine, and

(ii) in the case of any other order, with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;

(b) any property in respect of which the order has been contravened shall be forfeited to the State Government;

(c) any package, covering or receptacle in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the goods shall, if the Court so orders, be forfeited to the State Government.

(2) If any person to whom a direction is given under clause (b) of sub-section (5) of section 5 fails to comply with the direction, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months.

(3) If any person convicted of an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) is again

convicted of an offence under the same provision, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

(4) For the purposes of sub-sections (1), (2) and (3), the fact that an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) has caused no substantial harm to the general public or to any individual, shall be an adequate and special reason for awarding a sentence of imprisonment for a term of less than three months or six months, as the case may be.

(5) Where a person having been convicted of an offence under sub-section (1) is again convicted of an offence under that sub-section for contravention of an order in respect of any declared goods, the Court by which such person is convicted shall, in addition to any penalty which may be imposed on him under that sub-section, by order, direct that person shall not carry on any business in that declared goods for such period, not being less than six months, as may be specified by the Court in the order.

14. Power of the State Government to recover certain amounts as arrears of land revenue.- (1) Where any person, liable to -

- (a) pay any amount in pursuance of any order made under section 5, or
- (b) deposit any amount to the credit of any account or fund constituted by or in pursuance of any order made under that section,

makes any default in paying or depositing the whole or any part of such amount, the amount in respect of which such default has been made shall be recoverable by the State Government together with simple interest due thereon computed at the rate fifteen per cent per annum from the date of such default to the date of recovery of such amount, as an arrears of land revenue or as a public demand.

(2) The amount recovered under sub-section (1) shall be dealt with in accordance with the order under which the liability to pay or deposit such amount arose.

(3) If any order, in pursuance of which any amount has been recovered by the State Government as an arrear of land

revenue or as a public demand under sub-section (1) is declared by a competent court, after giving to the State Government a reasonable opportunity of being heard, to be invalid, the State Government shall refund the amount so recovered by it to the person from whom it was recovered, together with simple interest due thereon, computed at the rate of fifteen per cent per annum, from the date of recovery of such amount to the date on which such refund is made.

15. Attempts and abetment.- Any person who attempts to contravene, or abets contravention of, any order made under section 5 shall be deemed to have contravened that order.

16. Offences by companies.- (1) If the person contravening an order made under section 5 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

17. Power of court to publish name, place of business, etc., of companies convicted under the Act.- (1) Where any company is convicted under this Act, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as

the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspapers or in such other manner as the court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the order of the Court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(3) The expenses of any publication under sub-section (1) shall be recoverable from the company as if it were a fine imposed by the court.

Explanation.- For the purposes of this section, "company" has the meaning assigned to it in clause (a) of the explanation to section 16.

18. Cognizance of offences.- 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 Indian Penal Code, 1860 (Central Act No. 45 of 1860) or any person aggrieved or any recognized consumer association, whether such person is a member of that association or not.

Explanation.- For the purposes of this section "recognised consumer association" means a voluntary consumer association registered as such under any law for the time being in force.

19. Grant of injunction, etc., by civil courts.- No civil court shall grant an injunction or make any order for any other relief, against the State Government or a public officer in respect of any act done or purporting to be done by the State Government, or such officer in his official capacity, under this Act or any order made thereunder, until after notice of the application for such injunction or other relief has been given to the State Government or such officer.

20. Protection of actions.- (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 5.

(2) No suit or other legal proceeding shall lie against the State 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 5.

21. Prosecution of public servants.- Where any person who is a public servant is accused of any offence alleged to have

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been committed by him while acting or purporting to act in the discharge of his duty in pursuance of an order made under section 5, no court shall take cognizance of such offence except with the previous sanction of the State Government.

प्रकाश गुप्ता,
Principal Secretary to the Government.

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