

# THE ESSENTIAL COMMODITIES (AMENDMENT) BILL, 2014

## A BILL

further to amend the Essential Commodities Act, 1955.

BE it enacted by Parliament in the 65<sup>th</sup> year of the Republic of India as follows:—

<b>10 of 1955</b>	<p><b>1.</b> (1) This Act may be called the Essential Commodities(Amendment) Act, 2014.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> <p><b>2.</b> In the Essential Commodities Act, 1955(hereinafter referred to as the principal Act), in section 2A, sub-section (3) shall be omitted and consequently, the sub-section 4 and 5 shall be renumbered as 3 and 4 respectively.</p>	<p><b>Short title and commencement.</b></p> <p><b>Amendment of section 2A(3).</b></p>
<p><b>Amendment of Section 2</b></p> <p><b>Definition of “foodstuffs”</b></p>	<p><b>3.</b> In section 2 of the principal Act, in clause(f), the word “ foodstuffs” defined as under:—</p> <p>2(f) Notwithstanding anything contained in the Food Safety and Standards Act, 2006 (34 of 2006), “foodstuffs means- any substance, whether perishable or non-perishable, which is used as a final food product by human beings and will also include raw food articles, which may after processing be used as food by human beings”;</p> <p>(i) the “foodstuffs” as defined above to be read with Section 2A specified in the schedule as item number (3).</p> <p>Provided that the Central Government may, in the public interest and for reasons to be specified, by notification in the official gazette, include such commodities as “foodstuffs” as deemed necessary within the discretion under the Act.</p>	
<p><b>Insertion of new clause</b></p> <p><b>Definition of “Code”</b></p> <p><b>2 of 1974</b></p>	<p><b>4.</b> After Section 2 of the principal Act, the following clauses shall be renumbered and added:—</p> <p>(a) Clause (ia) shall be re-numbered as clause (iia), and before clause (iia) as so re-numbered, the following clause shall be inserted namely:</p> <p>‘(ia) “Code” means the Code of Criminal Procedure, 1973 (2 of 1974)’; and</p> <p>(b) After Clause (f), the following clause shall be inserted, namely:</p> <p>“(g) words and expressions used but not defined in this act and defined in the Code shall have the meaning respectively assigned to them in that Code”.</p>	

<p><b>Insertion of new clause</b></p> <p><b>Transparency and accountability of stocks</b></p> <p><b>Explanation of dealers and traders in this Act.</b></p>	<p><b>5.</b> After Section 3 sub-section(2) and clause(ii) of the principal Act, the following clauses shall be renumbered and added:—</p> <p>Below Section 3(2)(ii) shall be inserted as under:</p> <p>3(2)(iii): any person holding in stock in the case of non-perishable essential commodities to require the dealer to register/declare to an authority under such conditions as may be prescribed from time to time by the Central Government.</p> <p><b>Explanation:</b> “dealer/trader” means any person engaged in the business of purchase, movement, sale, supply, distribution or storage for sale of any of the commodities specified in the schedule of Section 2A, directly or otherwise, whether as a wholesaler or retailer or producer or manufacturer or exporter or importer and whether or not in conjunction with any other business and includes his representative or agent but does not include a producer or manufacturer or importer or exporter of specified commodities as notified in the Gazette from time to time by the Central Government.</p>	
<p><b>Insertion of new clause</b></p> <p><b>Ban on future trade of specified foodstuffs.</b></p> <p><b>Future trading in other agricultural commodities permitted.</b></p>	<p><b>6.</b> After Section 3 sub-section(2) and clause(g) of the principal Act, the following clauses shall be renumbered and added:—</p> <p>3(2)(gg): food security being the utmost concern there shall be a ban on the trading of essential commodities including specified foodstuffs in the future markets except those items specifically exempted through a Gazette notification by the Central Government.</p> <p>However, trading in future of other agricultural commodities may be permitted unless otherwise directed by the Central Government.</p>	
<p><b>Insertion of new clause</b></p> <p><b>Transparency in trading/storage.</b></p> <p><b>Accountability and scrutiny</b></p>	<p><b>7.</b> After Section 3 sub-section(2) and clause(h) of the principal Act, the following clauses shall be renumbered and added:—</p> <p>Below Section 3(2)(h) shall be inserted as under:</p> <p>3(2)(hh): for securing the interests of farmers, Central Government may from time to time prescribe that all farmer-trader transactions including electronics be reported to such an authority and in such a manner as may be specified.</p> <p>3(2)(jj): “ Provided that when a person authorized under an order issued under this section to make the entry, search, examination or seizure is below the rank of Magistrate of the first class or its equivalent such as Executive Magistrate, he shall obtain prior permission of an officer not below the rank of a Magistrate of first class or its equivalent such as Executive Magistrate including District Magistrate and Commissioner of Police wherever they have been appointed, before making such entry, search, examination or seizure.”</p>	

<p><b>Insertion of new clause</b></p> <p><b>Responsibility of the owners of the vehicles seized.</b></p>	<p><b>8.</b> After Section 6B sub-section(2) of the principal Act, the following clauses shall be renumbered and added:— A clause in Sub-Section 2 to be added as;</p> <p>(i), “Prima-facie the owner(s) of the vehicles involved in offences are liable to be punished if fails to establish innocence to the satisfaction of the Collector”.</p> <p>(ii) without prejudice to the provisions of sub-section(1), no order confiscating any animal, vehicle, vessel or other conveyance shall be made under section 6A 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 essential commodity 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.</p>	
<p><b>Cognizable and Non-cognizable</b></p>	<p><b>9.</b> In Section 10(A) of the principal Act, after the word, “cognizable” the words “<b>and non-bailable</b>” to be inserted.</p>	<p><b>Provisions as to cognizance and bail</b></p>
<p><b>Insertion of new Sections</b></p>	<p><b>10.</b> After Section 10A of the principal Act, the following Section shall be inserted:— 10AA: notwithstanding anything contained in Section 10A and the Code of Criminal Procedure 1973 ( 2 of 1974), every offence committed and as may be prescribed from time to time by the Central Government shall be punishable under this act as cognizable and non-bailable.</p>	
<p><b>Insertion of new clause</b></p> <p><b>Exceptions</b></p>	<p><b>11.</b> After Section 10AA of the principal Act, the following Section shall be inserted:—  10AB: All offences shall be non-bailable except the contravention of orders on Clauses(h) and (i) of sub section 2 of section 3 of the EC Act 1955 which will be bailable, but the same shall be non-bailable for second and subsequent contravention.</p>	
<p><b>Insertion of new clause</b></p> <p><b>Powers to arrest</b></p> <p><b>Insertion of new sections</b></p>	<p><b>12.</b> After Section 10AB of the principal Act, the following Section shall be inserted:—  10AAA: <b>Power to arrest.-</b> notwithstanding anything contained in the Code of Criminal Procedure 1973 ( 2 of 1974), no officer below the rank of an officer in-charge of a police station or, in specific circumstances, any police officer authorized by him in this behalf in writing, not below the rank of a sub-inspector of police, shall arrest any person accused of committing of any offence punishable under this Act.</p> <p><b>13.</b> After Section 12A of the principal Act, the following Sections shall be inserted:—</p>	

<p><b>Constitution of special courts/special designated courts and procedure for offences triable</b></p>	<p><b>12AA. Constitution of Special Courts/Special Designated Courts.—</b></p> <p>(1) The State government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special courts as may be necessary for such area or areas as may be specified in the notification.</p> <p>(2) A Special court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.</p> <p><i>Explanation (i)</i>— In this sub-section, the word “appoint” shall have the meaning given to it in the explanation to section 9 of the Code.</p> <p><i>(ii)</i> Special Court/Special Designated Court as per provisions of the court.</p> <p>(3) A person shall not be qualified for appointment as a judge of a Special Court unless:-</p> <p>(a) he is qualified for appointment as a judge of a High Court, or</p> <p>(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.</p>	
<p><b>Offences triable by Special Courts</b></p>	<p><b>12AB. Offences triable by Special Courts.—</b> (1) Notwithstanding anything contained in the Code,—</p> <p>(a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court;</p> <p>(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code, such Magistrate may authorize the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:</p> <p>Provided that where such Magistrate considers-</p> <p>(i) when such person is forwarded to him as aforesaid; or</p> <p>(ii) upon or at any time before the expiry of the period of detention authorized by him,</p> <p>that the detention of such person is unnecessary, he may, if he is satisfied that the case falls under the provision to section 8, order the release of such person on bail and if he is not so satisfied, he shall order such person to be forwarded to the Special Court having jurisdiction;</p>	

(c) the Special court may, subject to the provisions of clause (d) of this subsection, exercise, in relation to the person forwarded to it under clause (b), the same power which is Magistrate having Code in relation to an accused person in such case who has been forwarded to him under that section;

(d) save as aforesaid no person accused of or suspected of the commission of an offence under this Act shall be released on bail by any court other than a Special Court or the High Court:

Provided that a Special Court shall not release any such person on bail—

(i) without giving the prosecution an opportunity to oppose the application for such release unless the Special Court, for reasons to be recorded in writing, is of opinion that it is not practicable to give such opportunity; and

(ii) where the prosecution opposes the application, if the Special court is satisfied that there appear reasonable grounds for believing that he has been guilty of the offence concerned:

Provided further that the Special Court may direct that any such person may be released on bail if he is under the age of sixteen years or is a woman or is a sick or infirm person, or if the Special court is satisfied that it is just and proper so to do for any other special reason to be recorded in writing;

(e) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act 1[(or upon a complaint made by the officer of the Central Government or a State Government authorized in this behalf by the Government concerned] 2[ or any person aggrieved or any recognized consumer association, whether such person is a member of that association or not,] take cognizance of that offence without the accused being committed to it for trial;

(f) all offences under this Act shall be tried in a summary way and the provisions of sections 262 (both inclusive) of the Code shall, as far as may be, apply to such trial;

Provided that in the case of any conviction in a summary trial under this section, it shall in the case of any conviction in a summary trial under this section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code, be charged at the same trial;

Provided that such other offence is under any other law for the time being in force, triable in a summary way;

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law.

	<p>(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.</p> <p>(4) Nothing contained in this section shall be deemed to affect the special powers of the high Court regarding bail under section 439 of the Code and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to “Magistrate” in that section included also a reference to a “Special Court” constituted under section 12AA.</p>	
<p><b>Insertion of new sections</b></p>	<p><b>12AC. Appeal and revision.</b>— The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.</p> <p><b>12AD. Application of code to proceedings before a Special Court.</b>— Save as otherwise provided in this Act, the provisions of the code (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purpose of the said provisions, the Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor’.</p> <p><b>14.</b> After Section 15A of the principal Act, the following Sections shall be inserted and renumbered as:-</p>	
<p><b>Power to give directions</b></p>	<p><b>16. Central Government to give directions.</b>— Notwithstanding anything contained in other sections of the Act, the Central Government may give such directions as it may consider necessary to a State Government as to the carrying into execution of the provisions of this Act.</p>	
<p><b>Power to make rules</b></p>	<p><b>17. Power to make rules.</b>— Notwithstanding the powers of the Central Government to notify orders under section 3(2) of this Act in respect of various aspects of production, supply, distribution etc. and also delegation of powers to the State Governments under Section 5 of this Act, the following provisions are expressly given to enable the Central Government to work out details in the rules, if necessary:</p> <p>(i) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes, objects and reasons of this Act.</p>	

<p><b>Laying of rules before both Houses of Parliament</b></p>	<p>(ii) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before both Houses of Parliament.</p>	
	<p><b>15.</b> Section 16 shall be Re-numbered as Section 18 with the same existing content i.e.</p>	
<p><b>Repeals and savings</b></p>	<p><b>18. Repeals and savings.</b>—(1) The following laws are hereby repealed:-</p> <p>(a) the Essential Commodities Ordinance, 1955( 1 of 1955);</p> <p>(b) any other law in force in any State immediately before the commencement of this Act in so far as such law controls or authorizes the control of the production, supply and distribution of, and trade and commerce in, any essential commodity.</p> <p>(2) Notwithstanding such repeal, any order made or deemed to be made by any authority whatsoever, under any law repealed hereby and in force immediately before the commencement of this Act, shall, in so far as such order may be made under this Act, be deemed to be made under this Act and continue in force, and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force before such commencement shall continue in force until and unless it is superseded by any appointment made, licence or permit granted or direction issued under this Act.</p> <p>(3) The provision of sub-section (2) shall be without prejudice to the provision contained in section 6 of the General Clauses Act, 1897 (10 of 1897), which shall also apply to the repeal of the Ordinance or other law referred to in sub-section (1) as if such Ordinance or other law had been an enactment.</p>	

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