

GUJARAT ACT NO. 15 OF 2005.

**THE GUJARAT ESSENTIAL COMMODITIES AND CATTLE
(CONTROL) ACT, 2005.**

C O N T E N T S

Sections	Page No.
1. Short title and extent.	1
2. Definitions.	2
3. Amendment of Schedule.	2
4. Powers to control production, supply, distribution, etc.	2
5. Publication and service of orders.	3
6. Delegation of powers.	4
7. Effect of orders inconsistent with other enactment.	4
8. Ordinary avocations of life to be interfered with as little as possible.	4
9. Penalties.	4
10. Attempts and abetment.	5
11. False statements.	5
12. Offences by companies.	5
13. Cognisance of offences and composition thereof.	6
14. Special provision regarding fine.	6
15. Presumption as to orders.	6
16. Burden of proof in certain cases.	6
17. Power to try offences summarily.	6
18. Protection of action taken in good faith.	6
19. Power to make rules.	7
20. Repeal and savings.	7
21. Act not to apply to essential commodity dealt with by Act X of 1955.	7

SCHEDULE

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 23rd March, 2005 is hereby published for general information.

S.S. PARMAR,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 15 OF 2005.

(First published, after having received the assent of the Governor in the “*Gujarat Government Gazette*”, on the 23rd March, 2005).

AN ACT

to provide, in the interests of the general public, for the control and regulation of the production, movement, supply and distribution of, and trade and commerce in certain commodities and the maintenance and movement of cattle in the State of Gujarat.

WHEREAS it is expedient to provide, in the interest of the general public, for the control and regulation of the production, movement, supply and distribution of certain commodities essential to the life of the community and for the control and regulation of trade and commerce therein, and for the maintenance, licensing and movement of cattle, and the licensing of dealers in such commodities and cattle, and for certain other purposes;

It is hereby enacted in the Fifty-sixth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Essential Commodities and Cattle (Control) Act, 2005. **Short title and extent.**

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

- Definitions.** 2. In this Act, unless the context otherwise requires, -
- (a) “cattle” means any of the animals specified in Part II of the Schedule;
 - (b) “essential commodity” means a commodity specified in Part I of the Schedule;
 - (c) “notified order” means an order notified in the *Official Gazette* .
- Amendment of Schedule.** 3. The State Government may, by notification in the *Official Gazette*, direct additions to, or omissions from, either or both Parts of the Schedule whether generally, or with reference to any particular area specified in the notification, and the Schedule shall, on the issue of the notification, be deemed to be amended accordingly.
- Powers to control production, supply, distribution, etc.** 4. (1) If the State Government is of opinion that it is necessary or expedient so to do for maintaining or increasing the supply, or for securing the equitable distribution and availability at fair prices, of any essential commodity or cattle, it may, by order provide -
- (a) for regulating or prohibiting the production, supply and distribution of, or trade and commerce in, such essential commodity,
 - (b) for regulating or prohibiting movement, supply and distribution of, or trade and commerce in, or for regulating the maintenance of, cattle.
- (2) Without prejudice to the generality of the powers conferred by subsection (1), an order made thereunder may provide -
- (a) for regulating licence, permit or otherwise the production or manufacture of any essential commodity;
 - (b) for regulating by licence, permit or otherwise the storage, movement, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;
 - (c) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;
 - (d) for requiring any person holding in stock any essential commodity to sell the whole or a specified part, of the stock at such price to the Government or to an officer or agent, of such Government or to such other person or class of persons, and in such circumstances, as may be specified in the order;
 - (e) for controlling the price at which any essential commodity or cattle may be brought or sold;
 - (f) for regulating by licence, permit or otherwise, the movement, transport, distribution, disposal, acquisition, use and keeping of cattle;
 - (g) for collecting any information or statistics with a view to regulating or prohibiting any of the matters aforesaid;

- (h) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity or cattle 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;
- (i) for requiring owners as well as persons in charge of cattle to maintain and produce for inspection, such books, accounts and records relating to the number of cattle owned, controlled and maintained by them as may be specified in the order;
- (j) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles and vessels, 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, and of any vehicle, vessel or animal which he has reason to believe has been, is being or is about to be used for carrying such articles, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) Where any person sells any essential commodity in compliance with an order made with reference to clause (d) 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 such 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.

5. (1) An order made under section 4 shall -

- (a) if it is an order of a general nature or affecting a class of persons, be notified in the *Official Gazette* ;
- (b) if it is an order affecting an individual corporation or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or, as the case may be, rule 3 of Order XXX in the First Schedule of the Code of Civil Procedure, 1908;
- (c) if it is an order affecting an individual person other than a corporation or firm, be served on the person –
 - (i) personally, by delivering or tendering to him the order, or
 - (ii) by post, or
 - (iii) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain and a written report of such affixing shall be prepared and witnessed by two persons living in the neighborhood.

**Publication
and service of
orders.**

(2) Where a question arises whether a person was duly informed of an order made in pursuance of section 4, compliance with the requirements of sub-section (1) shall be conclusive proof that he was so informed, but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

Delegation of powers

6. The State Government may, by notified order, direct that the power to make orders under section 4 shall be exercisable also by such officer or authority and in relation to such matters and subject to such conditions, if any, as may be specified in the order.

Effects of orders inconsistent with other enactment.

7. Any order made or deemed to be made under section 4 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.

Ordinary avocations of life to be interfered with as little as possible.

8. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the general interest of the public.

Penalties.

9. (1) If any person contravenes any order made or deemed to be made under section 4, shall on conviction be punished, -

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

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded, refrain from imposing a sentence of imprisonment.

(2) Any Court trying the contravention of an order may direct that any property in respect of which the Court is satisfied that the order has been contravened, and any vehicle, vessel or animal which the Court is satisfied has been used with the knowledge of the person having the control thereof for carrying such property, shall be forfeited to Government :

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

10. Any person who attempts to contravene, or abets a contravention of any order made or deemed to be made under section 4, shall be deemed to have contravened that order. **Attempts and abetment.**

11. If any person -

False statements.

- (i) when required by any order made or deemed to be made under section 4 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, on conviction, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

12. (1) If the person contravening an order made or deemed to be made under section 4 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 :

Offences by companies.

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 firm or other association of individuals; and
- (b) “director” in relation to a firm means a partner in the firm.

Cognisance of offences and composition thereof.

13. (1) No Court shall take cognisance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the person aggrieved by such offence or by a person who is a public servant as defined in section 21 of the Indian Penal Code.

XLV of 1860.

(2) The public servant aforesaid may, either before or after the institution of any proceedings for any offence punishable under this Act, accept from any person charged with such offence by way of composition of the offence a sum of money not exceeding one thousand rupees, and direct the release of any property which has been seized as liable to forfeiture under this Act on payment of the value thereof as estimated by him.

(3) On payment by such person of such sum of money, or such value or both, as the case may be, such person if in custody shall be set at liberty and if any proceedings have been instituted against such person in any criminal court, the composition shall be deemed to amount to an acquittal and in no case shall any further proceedings be taken against such person or property in respect of the same offence.

- Special provision regarding fine.** **14.** Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf to pass a sentence of fine exceeding the pecuniary limit specified in that section as in force in any part of the State on any person convicted of contravening any order made or deemed to be made under section 4. **2 of 1974.**
- Presumption as to order.** **15.** 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 presume that such order was so made by that authority within the meaning of the Evidence Act, 1872. **I of 1872.**
- Burden of proofs in certain cases.** **16.** Where a person is prosecuted for contravening any order made or deemed to be made under section 4 which prohibits him from doing any 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.
- Power to try offence summarily.** **17.** 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, 1973, 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. **2 of 1974.**
- Protection of action taken in good faith.** **18.** (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 or deemed to be made under section 4.
- (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 or deemed to be made under section 4.
- 19.** The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act. **Power to make rules.**
- LXII of 1958.** **20.** (1) The Bombay Essential Commodities and Cattle (Control) Act 1958 is hereby repealed. **Repeal and savings.**
- (2) Notwithstanding such repeal of the said Act, anything done or any action taken (including any rule or order made, notification issued or appointment made) by or under the said Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or

taken by or under this Act and shall continue in force until superceded by anything done or any action taken under the provisions of this Act.

- 21.** Nothing in this Act shall apply to any commodity or class of commodities which is an essential commodity, or which is declared to be an essential commodity, under the Essential Commodities Act, 1955, and if any commodity included in Part I of the Schedule is declared to be an essential commodity under that Act, then on such declaration, this Act shall cease to apply thereto except as respects things done or omitted to be done before such declaration.
- X of 1955.** **Act not to apply to essential commodity dealt with by Act X of 1955.**

SCHEDULE

PART I

ESSENTIAL COMMODITIES

1. Bricks used for building purposes.

PART II

CATTLE

- | | |
|-------------|--------------|
| 1. Bulls | 5. Calves |
| 2. Bullocks | 6. Buffaloes |
| 3. Cows | 7. Goats |
| 4. Heifers | 8. Sheep |
