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PART IV

Regulations, Orders, Notifications and Rules, of the Government of India, of the Government of Bihar, and of the High Court.

Papers extracted from the *Gazette of India* and Provincial Gazettes. Orders of Commandants of Volunteers Corps

LAW DEPARTMENT
NOTIFICATION

The 26th April 1944

No. 1815-L.—The following ordinances promulgated by the Governor-General are republished for general information.

By order of the Governor
J. E. MAHER
Secretary to Government

New Delhi, 8th April 1944
ORDINANCE No. XI of 1944

AN

ORDINANCE

further to amend the Enemy Agents Ordinance, 1943

WHEREAS an emergency has arisen which makes it necessary further to amend the Enemy Agents Ordinance, 1943 (I of 1943), for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement*—(1) This Ordinance may be called the Enemy Agents (Amendment) Ordinance, 1944.

(2) It shall come into force at once.

2. *Amendment of section 3, Ordinance I of 1943*—In section 3 of the Enemy Agents Ordinance, 1943 (I of 1943) (hereinafter referred to as the said Ordinance), after the words "His Majesty's Forces" the words "or the Forces of a foreign Power allied with His Majesty or of any Indian State" shall be inserted.

3. *Amendment of section 9, Ordinance I of 1943*—To sub-section (2) of section 9 of the said Ordinance the following proviso shall be added, namely:—

"Provided that, where in the exercise of these powers the Judge reviewing the proceedings directs a retrial of the accused, or directs further evidence to be taken, the reviewing Judge may direct the retrial to be held or the further evidence to be taken by the Special Judge by whom the case was tried in the first instance, or by any other Special Judge, or by a Special Judge to be appointed for the purpose by the Central Government.

4. *Insertion of new section 14A in Ordinance I of 1943*—After section 14 of the said Ordinance the following section shall be inserted, namely:—

"14A. *Copies of proceedings*—(1) Notwithstanding the provisions of the Code of Criminal Procedure, 1898, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, no person other than the accused or his pleader shall be entitled to be furnished with a copy of any part of the records of, or of any document relating to, any proceedings under this Ordinance.

(2) Any such copy furnished to the accused or his pleader shall be kept by the person to whom it was furnished in his personal custody, and it shall be an offence punishable under section 16 for that person to show it to any person other than his pleader or his client as the case may be, or to divulge its contents except in the course of the proceedings for the purpose of which it was obtained.

(3) Any such copy shall be returned to the authority from which it was obtained within ten days of the conclusion of the proceedings for the purpose of which it was furnished, and any failure so to do shall be punishable with the punishment provided for an offence under section 16."

WAVELL

Viceroy and Governor-General

ORDINANCE No. XII OF 1944

AN

ORDINANCE

to amend the Hoarding and Profiteering Prevention Ordinance, 1943

WHEREAS an emergency has arisen which makes it necessary to amend the Hoarding and Profiteering Prevention Ordinance, 1943 (XXXV of 1943), for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement*—(1) This Ordinance may be called the Hoarding and Profiteering Prevention (Amendment) Ordinance, 1944.

(2) It shall come into force at once

2. *Amendment of section 2, Ordinance XXX V of 1943*—In section 2 of the Hoarding and Profiteering Prevention Ordinance, 1943 (XXXV of 1943) (hereinafter referred to as the said Ordinance),—

(a) to clause (d) the words "and includes an assistant inspector" shall be added;

(b) after clause (f) the following clause shall be added, namely:—

"(g) the expression "offer for sale" shall be deemed to include a reference to an intimation by a person of the price proposed by him for a sale of an article, made by the publication of a price list, by exposing the article for sale in association with a mark indicating price, by the furnishing of a quotation, or otherwise howsoever."

3. *Amendment of section 3, Ordinance XXX V of 1943*—To sub-section (2) of section 3 of the said Ordinance the words "or for different classes of dealers or producers" shall be added.

4. *Amendment of section 4, Ordinance XXX V of 1943*—(1) Section 4 of the said Ordinance shall be renumbered as sub-section (1) of the said section, and in the sub-section as so renumbered, in clause (c), after the words "offer for sale" the words "or otherwise dispose of" shall be inserted.

(2) After sub-section (1) as so renumbered the following sub-section shall be added, namely:—

"(2) Where a dealer or producer disposes of an article by having it sold by auction on his behalf, the auctioneer as well as the dealer or producer shall be liable to the punishment provided by sub-section (1) of section 13, if in any such sale there is a contravention of clause (c) of sub-section (1)."

5. *Amendment of section 6, Ordinance XXX V of 1943*—For sub-sections (2) and (3) of section 6 of the said Ordinance the following sub-sections shall be substituted, namely:—

"(2) For the purposes of this section a consideration is unreasonable if, whether it is exclusively in money or not—

(a) the purchaser is, as a condition of sale, required to purchase at the same time any other article;

(b) where the sale is by a dealer, the consideration exceeds the amount represented by the addition allowed by the normal trade practice in force on the 31st day of August 1939, to—

(i) the landed cost of the article, in the case of an article imported into British India, or, where the article is delivered to the consignee elsewhere than at a port, that cost increased by any charges incurred for freight and octroi or other duties before delivery, or

(ii) the price at which the producer sold the article, in the case of an article which is not imported :

(e) where the sale is by a producer, the consideration exceeds the amount represented by the addition allowed by the normal trade practice in force on the 31st day of August, 1939 to the cost of production :

Provided that, where the addition allowed by such normal trade practice exceeds or is alleged to exceed 20 per cent, the dealer or producer, as the case may be, shall report the fact to the Controller-General who may either sanction such addition or, for reasons to be recorded in writing, order its variation : and, unless such report has been made and the price charged is within the limits approved by the Controller-General under this proviso, the dealer or producer, as the case may be, shall be deemed to sell for a consideration which is unreasonable.

(3) The Controller-General may make or cause to be made a certificate stating the landed cost of any imported article dealt in by a dealer, and shall, on request made by any dealer, grant or cause to be granted to that dealer a certificate stating the landed cost of any such imported article.

(4) Where a dealer or producer disposes of an article by having it sold by auction on his behalf, the auctioneer as well as the dealer or producer shall be liable to the penalty provided by sub-section (1) of section 13, if in any such sale there is a contravention of sub-section (1)."

6. *Insertion of new section 9A in Ordinance XXX V of 1943*—After section 9 of this said Ordinance, the following section shall be inserted, namely :—

"9A. *Power of Controller-General to order sale*—The Controller-General may, by order in writing, direct any producer or dealer to sell to any specified person any specified article or articles in such quantity, within the limits as to quantity imposed by this Ordinance, as may be specified by the Controller-General."

7. *Amendment of section 11, Ordinance XXX V of 1943*—In section 11 of the said Ordinance, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) The Controller-General may, by order published in the official Gazette, issue a direction under sub-section (1) generally to all dealers in or producers of a particular article or particular articles."

8. *Insertion of new section 13A in Ordinance XXX V of 1943*—After section 13 of the said Ordinance, the following section shall be inserted, namely :—

"13A. *Right of buyer to avoid prohibited transactions or to recover excess prices*—(1) Where any person has been convicted of the offence specified in sub-section (1) of section 6, then,—

(a) if the prosecution was in respect of a sale, the buyer at that sale, and

(b) if the prosecution was in respect of a sale or an offer to sale or a disposal otherwise than by sale, the buyer under any sale of similar articles effected at the same or a higher price in the course of that business in contravention of the provisions of sub-section (1) of section 6 before the date of the conviction, may at his option—

(i) either treat the sale as void, and recover from the seller, as money received by him for the use of the buyer, any amount paid by the buyer as consideration therefor, or

(ii) affirm the sale but recover as aforesaid to the extent of any loss sustained by him by reason of the contravention, regard being had to any consideration received or to be received by him for a resale of the articles :

Provided that the buyer shall not be entitled to exercise the right conferred by clause (i) if any rights acquired by a third-party would be prejudiced thereby, or after the lapse of an unreasonable time from the date of the sale or unless the tender the articles to the seller in substantially the same state as that in which they were when the property passed to the buyer.

(2) Any sum recoverable under this section shall be recoverable with interest thereon at the rate of 5 per cent per annum from the date when it was paid.

(3) No person may exercise any right conferred by this section who is himself liable to punishment as an abettor of the contravention in question."

9. *Insertion of new sections 14A, 14B and 14C in Ordinance XXX V of 1943*—After section 14 of the said Ordinance, the following sections shall be inserted, namely :—

"14A. *Summary Trials*—Notwithstanding anything contained in section 30 in Chapter XXII of the Code of

Criminal Procedure, 1898 (V of 1898), a Magistrate empowered to act under that section may try any offence punishable under this Ordinance in a summary way under the provisions of that Chapter, unless the District Magistrate directs that the case should not be tried.

14B. *Special rules of evidence*—(1) In any prosecution for a contravention of the provisions of section 5 the burden of proving that the quantity of an article in the possession of an accused person was not in excess of the limits specified in that section shall lie on the accused person.

(2) In any prosecution for a contravention of the provisions of section 6, when the sale of or offer to sell or disposal of the article in question and the price at which it was made have been proved, then if it is also proved that such price exceeded by more than 20 per cent the amount specified in sub-clause (i) or (ii) of clause (b) of sub-section (2) of section 6 or in clause (c) of that sub-section as the case may be, it shall lie on the accused person to prove that the sale price charged was within the limits approved by the Controller-General under the proviso to the said sub-section.

(3) For the purposes of section 6 a certificate signed by or under authority from the Controller-General as to the landed cost of any article shall be conclusive evidence of that landed cost.

14C. *Offences by corporations*—If the person contravening any provision of this Ordinance 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."

10. *Addition of new section 18 to Ordinance XXX V of 1943*—After section 17 of the said Ordinance, the following section shall be added, namely :—

"18. *Exception of certain articles*—The provisions of this Ordinance shall not apply—

(a) to the possession or sale of any article intended for export from British India by a person holding an export license for the export of that article ;

(b) to the possession or sale of any article by a person discharging a contract entered into with the Central or Provincial Government where the possession or sale is in pursuance of that contract."

WAVELL

Viceroy and Governor-General

HOME DEPARTMENT NOTIFICATION

The 25th April 1944

No. 1279-G.—The following notification by the Government of Madras is republished for general information.

By order of the Governor

R. A. E. WILLIAMS

Chief Secretary to Government

PUBLIC (GENERAL) DEPARTMENT

The 6th March 1944

No. 763—Whereas in the opinion of the Government of Madras the book in Tamil entitled "Manavarukku"—Gandhi Malar I (Gandhi Malar—First Book), printed at the Navalair Power Press, Karaikudi, and published by Pudumai Padippakam, Karaikudi, contains prejudicial reports ;

Now, therefore in exercise of the powers conferred by clauses (d) and (e) of sub-rule (1) of rule 40 of the Defence of India Rules, His Excellency the Governor of Madras is hereby pleased to prohibit the further publication, sale or distribution of the said book, or of any extract therefrom or of any translation thereof and to declare the said book, and every copy or translation thereof or extract therefrom, wherever found, to be forfeited to His Majesty.

By order of His Excellency the Governor
G. W. PRIESTLEY
Chief Secretary

FINANCE DEPARTMENT NOTIFICATION

The 25th April 1944

No. 2865-F.—The following notification, issued by the Government of India in the Finance Department, is republished for general information.

By order of the Governor
V. RAMANATHAN

Deputy Secretary to Government

Simla, 23rd March 1944

No. F.46(1)-R.II 44—In pursuance of sub-rule (1) of rule 19 of the Defence Savings Provident Fund Rules, the

Governor-General in Council is pleased to direct that the following further amendment shall be made in the said Rules, namely :—

For clause (a) of rule 13 of the said Rules, the following shall be substituted, namely :—

“(a) on his quitting service, or proceeding on leave preparatory to retirement, or, if he is employed in a vacation department, on leave preparatory to retirement combined with vacation.”

B. C. A. COOK

Deputy Secretary to the Government of India

**PUBLISHED UNDER THE AUTHORITY
OF THE HIGH COURT OF
JUDICATURE AT PATNA**

NOTIFICATION

The 24th March 1944

No. 10—IX-12-43-R.—The following amendments to the rules made by the High Court of Judicature at Patna under

the powers vested in it by section 6 of the Legal Practitioners' Act, 1879 (Act XVIII of 1879), are published for general information :—

(i) In the Court's General Rules and Circular Orders, Civil Volume I, *add* the following as rule 14(b) below rule 14(a) at page 178 :—

“When a candidate presents himself for identification the Judge shall require him to write his father's name and address and to put his signature and left hand thumb-impression on his application and shall endorse thereon that these have been done in his presence.” and

(ii) *renumber* rule 18 at page 179 as rule 18 (a) and *add* the following as rule 18(b) thereunder :—

“18(b) Every candidate for examination shall put his left hand thumb-impression and signature on and enter his father's name and address in a register to be maintained for this purpose in presence of the Secretary or other person in charge of the conduct of the examination who shall endorse thereon that these have been done in his presence.”

By order of the High Court

A. SALISBURY

Registrar

**DEPARTMENT OF SUPPLY AND TRANSPORT
NOTIFICATIONS**

The 26th April 1944

No. 8203-S.T.—The following notification, issued by the Government of India in the Department of Industries and Civil Supplies, is republished for general information.

By order of the Governor
C. S. JHA

Secretary to Government

New Delhi, 18th March 1944

No. Tex. (1) 17/44—In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules, the Central Government is pleased to direct that the following further amendments shall be made in the Cotton Cloth and Yarn (Control) Order, 1943, namely:—

In the said Order,—

1. For sub-clause (C) of clause 10, the following sub-clause shall be substituted, namely:—

“(c) the markings to be made by the manufacturers and dealers on any class or specification of cloth or yarn manufactured or sold by them, and the time and manner of making those markings.”

2. In sub-clause (1) (a) of clause 13, after the words “every manufacturer of” the words “and dealer in” shall be inserted.

3. In sub-clause (1) (b) of clause 13, after the words “a manufacturer” the words “or a dealer” shall be inserted.

H. M. PATEL

Joint Secy. to the Govt. of India

The 27th April 1944

No. 8228-S.T.—The following notification, issued by the Government of India in the Department of Industries and Civil Supplies, is republished for general information.

By order of the Governor

C. S. JHA

Secretary to Government

Bombay, 18th March 1944

No. T.C.(6)/44—In pursuance of sub-clause (c) of clause 10 of the Cotton Cloth and Yarn (Control) Order, 1943, I hereby direct that every dealer in ready-made cotton sheets shall attach thereto a label specifying the following:—

- (1) The price of the material;
- (2) The charge for hemming;
- (3) The final price.

M. K. VELLODI

Textile Commissioner