

The Orissa  Gazette

REGISTERED No. P. 390

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 33

CUTTACK, THURSDAY, DECEMBER 21, 1944

LAW DEPARTMENT

NOTIFICATION

The 21st December 1944

No. 4782-L.—The following Ordinance promulgated by the Governor-General is hereby republished for general information.

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

New Delhi, 13th December 1944
ORDINANCE No. LIII of 1944

AN

ORDINANCE

Further to amend the Hoarding and Profiteering Prevention Ordinance, 1943

WHEREAS an emergency has arisen which makes it necessary further 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 (Second Amendment) Ordinance, 1944.

(2) It shall come into force at once.

2. Amendment of section 2, Ordinance XXXV of 1943.—In sub-clause (i) of clause (f) of section 2 of the Hoarding and Profiteering Prevention Ordinance, 1943 (hereinafter referred to as the said Ordinance), after the words "another person" the words "or when held by that person on behalf of another person" shall be inserted.

3. Amendment of section 4, Ordinance XXXV of 1943.—To section 4 of the said Ordinance the following sub-section shall be added, namely:—

"(3) Where any article is sold, offered for sale or otherwise disposed of in contravention of sub-section (1) by a dealer or producer through any person employed by him or acting on his behalf, such person and also, unless they prove that they exercised due diligence to prevent such contravention, the dealer or producer, as the case may be, and any person having charge on behalf of the dealer or producer of the place where the contravention occurred, shall be liable to the punishment provided by sub-section (1) of section 13, whether or not they were present when the contravention occurred."

4. Amendment of section 6, Ordinance XXXV of 1943.—(1) In sub-section (2) of section 6 of the said Ordinance—

(a) in sub-clause (i) of clause (b), for the words "a port" the words "the port of entry" shall be substituted;

(b) in clause (c), after the words "cost of production" the following shall be inserted, namely:—

"of the article, such cost of production being deemed to be exclusive of the amount, if any, by which the price paid by the producer for any component part of the article exceeded—

(i) the maximum price fixed for the component part under section 3 and in force at the time of its purchase by the producer, or

(ii) where no maximum price has been so fixed for the component part, the amount represented by the addition allowed by the normal trade practice in force of the 31st day of August 1939 to the cost of production of the component part:—"

(c) in the proviso, for the words beginning with "and unless such report has been made" and ending with "for a consideration which is unreasonable" the following shall be substituted, namely:—

"and the dealer or producer, as the case may be, shall be deemed to sell for a consideration which is unreasonable if such report has not been made or if after such report has been made and the Controller-General has varied such addition, the price charged exceeds the limits approved by the Controller-General under this proviso."

(2) To the said section 6 the following sub-section shall be added, namely :—

“(5) Where any article is sold, offered for sale or otherwise disposed of in contravention of sub-section (1) by a dealer or producer through any person employed by him or acting on his behalf, such person and also, unless they prove that they exercised due diligence to prevent such contravention, the dealer or producer, as the case may be, and any person having charge on behalf of the dealer or producer of the place where the contravention occurred, shall be liable to the punishment provided by sub-section (1) of section 13, whether or not they were present when the contravention occurred.”

5. Amendment of section 9, Ordinance XXXV of 1943—In section 9 of the said Ordinance, after the word “limits” the words “if any” shall be inserted.

6. Substitution of new section for section 9A, Ordinance XXXV of 1943—For section 9A of the said Ordinance the following section shall be substituted, namely :—

9A. Power of Controller-General to order or prohibit sale—The Controller-General may, by order in writing, direct any dealer or producer—

(a) to sell to any specified person any specified article or articles in such quantity, within the limits if any as to quantity imposed by this Ordinance, as may be specified in the order;

(b) not to sell, except to such persons as the Controller-General may, in the order or otherwise, specify, any specified articles or classes of articles for such period not exceeding twenty-one days as may be specified in the order.”

7. Amendment of section 11, Ordinance XXXV of 1943—In sub-section (2) of section 11 of the said Ordinance, after the word “alter” the words “or cause to be destroyed, effaced or altered” shall be inserted.

8. Amendment of section 12, Ordinance XXXV of 1943—(1) In sub-section (1) of section 12 of the said Ordinance—

(a) in clause (e), the words “not below the status of a gazetted officer” shall be omitted;

(b) in clause (f), for the words “has been” the words “has been, is being or is about to be” shall be substituted.

(2) To the said section 12 the following sub-section shall be added, namely :—

“(3) The Controller-General and such Inspectors and other officers as may be empowered by the Central or the Provincial Government in this behalf shall within the respective areas for which they are appointed have power to investigate all offences punishable under this Ordinance, and in conducting any such investigation shall, within the said areas, have all the powers, duties, privileges and liabilities of an officer in charge of a police-station under the Code of Criminal Procedure, 1898 (Act V of 1898), when investigating a cognisable offence within the limits of his station.”

9. Amendment of section 13, Ordinance XXXV of 1943—To section 13 of the said Ordinance the following sub-section shall be added, namely :—

“(4) Notwithstanding anything to the contrary in clause (a) of sub-section (1) of section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), a Magistrate of the first class specially empowered by the Provincial Government in this behalf or any Presidency Magistrate may impose a sentence of fine exceeding one thousand rupees for any offence punishable under this Ordinance.”

10. Amendment of section 14, Ordinance XXXV of 1943—In section 14 of the said Ordinance, for the word “rank” the words “rank, in a Presidency-town of a Deputy Commissioner of Police, or elsewhere” shall be substituted.

11. Amendment of section 14A, Ordinance XXXV of 1943—In section 14A of the said Ordinance, for the word “may” the word “shall” shall be substituted and to the section the following shall be added, namely :—

“and notwithstanding anything contained in section 362 of the said Code a Presidency Magistrate trying any offence punishable under this Ordinance shall not record the evidence or frame a charge unless for reasons to be recorded by him in writing he considers it advisable in any particular case to do so.”

12. Amendment of section 14B, Ordinance XXXV of 1943—In sub-section (3) section 14B of the said Ordinance, for the words “evidence of that landed cost” the following shall be substituted, namely :—

“proof of that landed cost, and in giving the said certificate, such of the following charges as are actually incurred in connection with the article shall be taken into account, namely, buying commission, insurance premium, freight, customs duty paid, land and clearing charges up to deposit of the article in the importer's warehouse or other place of storage, and charges made by banks for transmitting shipping documents.”

WAVELL

Viceroy and Governor-General