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SINDH ORDINANCE NO. XI OF 2005

THE SINDH ESSENTIAL COMMODITIES PRICE CONTROL AND PREVENTION OF PROFITEERING AND HOARDING ORDINANCE, 2005.

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[5TH October 2005]

An Ordinance to provide for price control and prevention of profiteering on and hoarding of essential commodities.

Preamble.

WHEREAS it is expedient to provide for price control and prevention of profiteering on and hoarding of essential commodities and to provide for matters ancillary thereto;

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of Sindh is pleased to make and promulgate the following Ordinance:-

Short title, and commencement.

1. (1) This Ordinance may be called the Sindh Essential Commodities Price Control and Prevention of Profiteering and Hoarding Ordinance, 2005.

(2) It shall come into force at once.

Definitions

2. In this Ordinance. Unless there is anything repugnant in the subject or context-

a) "District Controller" means the District Controller of Price and supplies appointed by Government and includes any Deputy or Assistant District Controller of Prices and supplies so appointed or any other officer authorized by Government to exercise all or any of the powers of the District Controller under this Ordinance;

b) "dealer" means a person carrying on, whether in conjunction with any other business or not, the business of selling any essential commodity, whether wholesale or retail;

c) "essential commodity" means any of the commodities or classes of commodities mentioned in the First Schedule;

d) "Government" means the Government of Sindh;

e) "Inspector" means an Inspector appointed by Government from amongst the Deputy District Officers (Revenue) within such local limits as may be specified in the notification of their appointment;

f) "Local Government" shall have the same meaning as assigned to it in the Sindh Local Government Ordinance, 2001;

g) "notified order" means an order notified in the official Gazette;

h) "producer" means a person engaged in the manufacture or production of any essential commodity;

i) "prescribed" means prescribed by rules;

j) "rules" means rules made under this Ordinance; and

k) "schedule" means a Schedule to this Ordinance.

Power to make orders,

3. (1) Government, so far as it appears to it to be necessary or expedient for securing equitable distribution of an essential commodity and its availability at fair price may, by notified order, provide for regulating the prices, production, movement, transport, supply, distribution, disposal and sale of the essential commodity and for the price to be charged or paid for it at any stage of transaction therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made there under may provide-

a) for controlling the prices at which any essential commodity may be bought or sold in any area;

b) for regulating the production, treatment and keeping of any essential commodity;

c) for regulating by license, permit or otherwise, the transport movement and distribution between the districts of an essential commodity;

d) for prohibiting the withholding of sale of an essential commodity ordinarily kept for sale;

e) for requiring any person holding stock in a district of an essential commodity to sell in another district the whole or a specified part of the stock at such price, to such persons or classes of persons and under such conditions as may be specified in the order;

f) for fixing the maximum quantity of any essential commodity which may at any time be possessed by a producer or dealer;

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 any of the matters aforesaid in respect of any essential commodity to maintain and produce for inspector 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 every producer and dealer to mark the essential commodities with the sale prices and to exhibit on his premises a price list of the essential commodities held by him for sale;

j) for specifying duties and functions of the Inspectors; and

k) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, the seizure by an Inspector authorized to make such search of any article of essential commodities in respect of which such Inspector has reason to believe that a contravention of the order has been, is being or is about to be committed, or any records connected therewith, the grant or issue of licences, permits or other documents and the charging of fees therefor.

Delegation of powers

4. Government may, by notified order, direct that any power conferred on it by or under this Ordinance 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 Government as may be specified in the direction.

Power and Functions of the District Officers

5. (1) The Deputy District Officer (Revenue) shall be responsible to check the prices, stock and record of essential commodities.

(2) The District Officer (Revenue) shall be responsible for the implementation of the Ordinance under the supervision of Executive District Officer (Revenue).

(3) the Executive District Officer (Revenue) may give such directions and issue such instructions to the District Officer (Revenue) and the Deputy District Officer (Revenue) as he deems fit for proper implementation of the Ordinance.

Effect of orders inconsistent with other enactment

6. Any order made under section 3 shall have effect not withstanding anything inconsistent therewith contained in any enactment other than this Ordinance or any instrument having effect by virtue of any enactment other than this Ordinance.

Fixation of prices

7. (1) subject to such general or special order as may be made by Government under section 3, the District Controller may, by notification in the official Gazette, fix specific maximum prices of essential commodities and different prices may be fixed for different localities or for different classes or categories of any essential commodities.

(2) No person shall sell or re-sell any essential commodity at a price higher than the maximum price so fixed.

(3) Every dealer, or producer shall supply to the District Controller such information regarding the production, purchase, stock, sale or distribution of any of the essential commodities as the District controller may, by an order in writing or by a notified order, require.

Penalties

8. Any person who contravenes any order made under section 3 or a notification issued, or order made under section 7 shall be punished with imprisonment for a term which may extend to three months or fine which may extend to ten thousand rupees, or with both:

Provided that, if a person convicted for and offence punishable under this section is again convicted for such offence the term of imprisonment awarded to him shall not be less than three days.

Attempts and abetments

9. Any person who attempts to contravene or a abets a contravention of, any order made under section 3 shall be deemed to have contravened the order:

Provided that, a person who buys an essential commodity for his personal consumption or use and not for sale shall not be deemed to have abetted the contravention of an order controlling the price at which the essential commodity may be sold.

Offences by corporations

10. If the person contravening an order made under section 3 is a company or other body corporate or a partnership or other body of individuals, every director, manager, secretary, member 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.

False statements

11. If any person-

i) when required by an order made under section 3 to make a statement or furnish any information makes any statement or furnishes any statement which is false and which he knows or has reasonable cause to believe to be false, or does not believe to be true; or

ii) makes any 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 be punished with imprisonment for a term which may extend to three months or fine which may extend to ten thousand rupees, or with both.

Cognizance of Offence

12. No court shall take cognizance of an offence under this Ordinance except upon a complaint in writing by concerned Inspector.

Imposition of fine through ticketing

13. (1) Where any person in the opinion of an Inspector is committing an offence mentioned in the Second Schedule in respect of as essential commodity the Inspector may, notwithstanding anything to the contrary contained in this Ordinance, charge such person on the spot by issuing a ticket for payment of fine specified in the ticket:

Provided that in case the offence is repeated the amount of fine shall be double of the amount specified in the Schedule.

(2) The ticket under sub-section (1) shall be issued in quadruplicate by delivering three copies to the person committing the offence after obtaining his signatures or thumb impression on the fourth copy to be retained by the Inspector for record.

(3) A person charged with an offence under this section shall unless contest the charge, before the court having jurisdiction, pay, within ten days from the date of delivery of the ticket to him, the penalty specified for the offence mentioned in the ticket through cash in the assigned Post Office or a branch of the National Bank of Pakistan empowered to receive Government dues.

(4) The Bank of Post Office shall provide two copies of the ticket to the offender with endorsement of receipt of amount of fine and forward one copy to the concerned Treasury Officer.

(5) The offender shall deliver one copy of duly paid ticket in the office of the concerned Inspector within ten days.

(6) If the fine is not paid, the Inspector issuing the ticket shall by a complaint against the offender before the court having jurisdiction.

Maintenance of record.

14. (1) The Inspector shall maintain record of offences in which tickets were issued, the cases which were not contested or contested before the Court, complaints were filed for prosecution, the recovery of fines, punishment awarded and similar ancillary matters.

(2) The Inspector shall furnish monthly reports on the tenth day of each month, regarding the enforcement activities within the area of his jurisdiction in the manner as may be prescribed.

Police support to inspectors, etc

15. To enforce the provisions of this Ordinance, if the situation so warrants, the Inspector shall be provided police assistance by the Station House Officer of the concerned Police Station.

16. Government may, by notification, in the official Gazette, make rules for carrying out the purposes of this Ordinance. **Powers to make rules**

17. Government may, by notification in official Gazette, amend a Schedule so as to add, or omit from it any commodity or class of commodities. **Power to amend schedule**

18. Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit licence or other documents, the burden of proving that he has such authority, permit, licence or other document shall be on him. **Burden of Proof in certain cases**

19. 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 under this Ordinance. **Protection of action taken under the Ordinance**

FIRST SCHEDULE

(see section 2-c)

LIST OF ESSENTIAL COMMODITIES.

1. Fresh Milk.
2. Powdered Milk.
3. Beef.
4. Mutton
5. Chicken Meat.
6. Milk for infants
7. White sugar
8. Tea.
9. Edible Oils including ghee.
10. Aerated water.
11. Fruit Juices and Squashes.
12. Vegetables.
13. Fruits.
14. Fish
15. Eggs.
16. Pulses all sorts.

17. Wheat Flour.
18. Rice.
19. Red chilies.
20. Spices all sorts (packed and un-packed)
21. Bakery items including nimco.

SECOND SCHEDULE

(see section 13)

OFFENCES WHERE TICKET CAN BE ISSUED

S.No.	Offence	Amount of Fine
01.	Failure to display price list of essential commodities	(i) Rs. 500/ for whole sellers. (ii) Rs. 200/- for retailers other than push cart vendors. (iii) Rs. 100/- for push cart vendors.
02.	Failure to declare stock of essential commodities.	Rs. 500/-
03.	Sale of the following essential commodities at a higher price than the notified price:-	
	a) Fresh	Rs. 500/-
	b) Milk	Rs. 500/-
	c) Beef and Mutton	Rs. 500/-
	d) Chicken, Fish and eggs	(i) Rs. 500/- for whole sellers
	e) Kiryana items such as pulses, rice, wheat flour, sugar, powdered milk, tea, spices, edible oils including ghee	(ii) Rs. 200/- for retailers
	f) Bakery items including nimco	(i) Rs. 500/- for whole sellers (ii) Rs. 200/- for a retailer
	g) Vegetables and Fruits	(i) Rs. 200/- for shops other than push carts vendor (ii) Rs. 100/- for push cart vendors