

ORDER

No. 344-F. S.-20th January, 1967—Whereas the Governor is of opinion that it is necessary and expedient so to do for securing equitable distribution and availability at fair prices of Lubricating Oil ;

Now, therefore, in exercise of the conferred by section 3 of the Essential Commodities Act, 1955 (Act 10 of 1955), read with the Government of India, Ministry of Commerce, S.O. No. 20(11)-Com-Gen/56 18th June, 1965 the Governor is pleased hereby to make the following Order, namely :—

ORDER

1. Short title, extent and commencement—(1) This order may be called the West Bengal Lubricating Oil Licensing Order, 1967.

(2) It extends to the whole of West Bengal.

(3) It shall come into force at once.

2. Definitions—In this order unless there is anything repugnant in the subject or context,—

(a) "Agent" means a person who is appointed as such by a Distributor and who receive supplies of Lubricating Oil from such Distributor for sale to retailers and consumers ;

(b) "Calcutta" means the town of Calcutta as defined in Section 3 of the Calcutta Police Act, 1860 (Bengal Act IV of 1866), together with the suburbs of the town of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866 (Bengal Act II of 1866) ;

(c) "Dealer" means a person appointed as such by a Distributor and who receives supplies of Lubricating Oil from any Agent or Distributor for sale to consumers ;

(d) "Director" means the Director of Consumer Goods, Department of Food and Supplies, Government of West Bengal, and includes any other person not below the rank of an Assistant Director of Consumer Goods in the Department of Food and Supplies, Government of West Bengal, authorised by the Director of Consumer Goods in writing to perform all or any of the functions of the Director under this order ;

(e) "Distributor" means a person who receives supply of Lubricating Oil for the purpose of sale to Agents, Dealers, Retailers or Consumers within the State of West Bengal and subject to the provisions of paragraph 3 regarding obtaining licence includes the Oil Distributing Companies as specified in Schedule II which the State Government may, by notification published in the "Official Gazette", amend from time to time ;

(f) "District Magistrate" includes a Deputy Commissioner of a Schedule district and also any other person not below the rank of a Subdivisional Controller of Food and Supplies, Government of West Bengal, authorised in writing by the District Magistrate or the Deputy Commissioner to perform all or any of the functions of the District Magistrate under this order ;

(g) "Licensee" means a person to whom a licence has been granted under sub-paragraph (A) of paragraph G of this order ;

(h) "Lubricating Oil" includes such varieties of petroleum product as are specified in Schedule I which the State Government may, by notification published in the "Official Gazette", amend from time to time ;

(i) "Retailer" means a person who receives supplies of Lubricating Oil from any Distributor, Agent or Dealer for sale to consumers.

3. Ban on Trade in Lubricating Oil Without licence—After such date as the State Government may specify by notification in the "Official Gazette", which shall be not less than 30 days from the date on which this order comes into force, no person shall carry on business as a Distributor, Agent, Dealer or Retailer except under and in accordance with the terms and conditions of a valid licence granted under sub-paragraph (1) of paragraph G of this Order.

4. Grant of Licence — The Director in Calcutta and elsewhere the District Magistrate having jurisdiction may grant a licence to any person authorising him to carry on business in Lubricating Oil as Distributor, Agent, Dealer or Retailer within the State of West Bengal subject to such conditions as may be specified by him in the licence.

5. Application for grant or renewal of licence—An application for the grant or renewal of a licence under this order shall be made in Form "A" (i) in respect of areas within Calcutta, to the Director, and (ii) also where to the District Magistrate having jurisdiction, and shall be accompanied by the requisite fee in non-judicial stamps.

6. Grant of licence and licence fee—(i) The licence shall be granted in Form "B" on payment of the following fees, namely :—

(a) Rs. 50 for a licence authorising a person to carry on business as a Distributor ;

(b) Rs. 25 for a licence authorising a person to carry on business as Agent, Dealer or Retailer.

(ii) A person to whom a licence has been granted under sub-paragraph (i) shall comply with the conditions specified in the licence and also with any other general or special direction as may, from time to time be issued by the Director in Calcutta and the District Magistrate elsewhere in this behalf.

7. Renewal of licence—(1) Every licence issued under paragraph 6 of this Order shall be valid up to the 31st December next following the date of its issue and may at the discretion of the authority by which the licence was granted be renewed for successive periods of one year on application made/before expiry of the date of validity of the licence and on payment of a fee equivalent to that paid for the grant of the original licence :

Provided that the Director in Calcutta or the District Magistrate elsewhere may, by notification in the "Official Gazette", extend the period of validity of existing licences issued under paragraph 6 of this order for such period beyond 31st. December herein before mentioned, as he may, for reasons to be recorded in writing, think fit.

(2) The Director or District Magistrate to whom the application for renewal of a licence is made under sub-paragraph (1) shall grant a receipt in Form "C" for the application and this receipt will be authority for the applicant for renewal to continue his trade until application for renewal is granted or refused.

(3) Where an application for the renewal of a licence is filed at any time after the due date for such renewal but before the date up to which the due date has been extended under the proviso to sub-paragraph (1), the applicant shall pay an extra fee of Rs. 10 in the case of a Distributor and Rs. 5 in the case of others, in addition to the usual renewal fee prescribed under paragraph 6 of this Order.

8. Issue of duplicate licence where original licence is defaced, destroyed, damaged or lost.—If a licence granted or renewed under this Order is defaced, destroyed, damaged or lost, the Director or the District Magistrate, by whom the licence was granted or renewed may, after making such enquiry as he deems necessary, issue a fresh licence in place of the original or renewed licence on payment of a fee of rupees five only in non judicial stamps and thereupon the licence that has been defaced, destroyed, damaged or lost shall be deemed to be cancelled.

9. Refusal to grant or renew licence—The Director in Calcutta or elsewhere the District Magistrate having jurisdiction may, for reasons to be recorded in writing and after giving an applicant for grant or renewal of a licence an opportunity of showing cause, refuse to grant or renew a licence.

10. Cancellation or suspension of licence—The Director in Calcutta or elsewhere the District Magistrate having jurisdiction may, for reasons to be recorded in writing and after giving an applicant for grant or renewal of a licence an opportunity of showing cause, cancel or

suspend a licence granted or renewed by him under this Order, if he is of opinion that the licence has contravened any of the conditions specified in the licence or any direction, general or special, issued to him under the provisions of sub-paragraph (ii) of paragraph 6.

Explanation—For the purpose of this paragraph the licensee shall be deemed to be responsible for the acts and omissions of his employees.

11. Appeal—(1) Any person aggrieved by an order of the Director in Calcutta or the District Magistrate elsewhere refusing to grant or renew a licence or cancelling or suspending a licence under the provisions of this order may prefer an appeal to the State Government or to an appellate authority, not below the rank of a Director or District Magistrate appointed by the State Government by a notification in this behalf in the "Official Gazette", within thirty days of the receipt by him of such order.

(2) No order shall be passed in an appeal made under sub-paragraph (1) unless the aggrieved person has been given a reasonable opportunity of stating his case in writing.

(3) The State Government or the appellate authority appointed under sub-paragraph (1) before whom an appeal against any such order is pending may direct in writing that such order shall not take effect pending the disposal of the appeal.

12. Business and storage places to be specified in licence—(1) Every licence issued under this Order shall specify—

(a) the premises or places wherefrom the licensee shall conduct sales ; and

(b) the premises or places where Lubricating Oil may be stored by the licensee.

(2) No licensee shall conduct his sales or store any Lubricating oil, to which the licence prelates except in the premises, or places, as the case may be, specified in the licence.

(3) If the licensee is carrying on business in more than one place, a separate licence shall be taken out for every such place of business.

13. Compliance with conditions of licence and directions general or special—(1) Every licensee shall comply with such conditions as may be specified in the licence granted and also with such general or special directions as may, from time to time be given to him by the Director in Calcutta or the District Magistrate elsewhere for the purpose of giving effect to the provisions of this Order.

(3) Without prejudice to the generality of the powers conferred by-paragraph (1), such directions may, subject to the provisions of this Order, provide for the manner and Form in which a licensee shall maintain the accounts and registers and shall submit the returns or reports required to be maintained and submitted by him.

14. Powers of search, Seizure, etc.—(1) The Director or the District Magistrate or such other person not below the rank of a Sub-Inspector of Food and Supplies in the Department of Food and Supplies, West Bengal or a Sub-Inspector of Police, authorised in writing in this behalf by the Director or the District Magistrate may, with a view to securing compliance with the provisions of this order,—

- (a) require any person to give any information in his possession with respect to any stock of Lubricating Oil in his possession or in the possession of any other person ;
 - (b) enter and inspect the premises of any licensee for the purpose of ascertaining if the Director or the District Magistrate as the case may be, are being complied with and seize, any stock in respect of which the Director or the District Magistrate or the person so authorised has reason to believe that a contravention of this Order has been, or being made, or about to be made ;
 - (c) require a dealer to produce before him any accounts, registers, vouchers or other documents relating to the sale or purchase of Lubricating Oil by such licensee ;
- (2) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), relating to search and seizure shall, as far as may be, apply to searches and seizures under this paragraph.

15. Refuse to give intimation or giving false information—If any person, with the intent that any provision of this Order may be evaded, refuses to give any information lawfully demanded of him, or gives any false information in respect thereof, or make any false declaration in any application for licence, knowing or having reason to believe it to be false, or conceals, destroys, mutilates or defaces any book or other documents, he shall be deemed to have contravened the provisions of this Order.

16. Issue of Delivery Order or Permit,—(1) The Director in Calcutta or elsewhere the District Magistrate having jurisdiction, may issue a Delivery order or permit on any Distributor, Agent, Dealer or Retailer for supply of Lubricating Oil, to—

- (a) a dealer, or
- (b) any other person or establishment requiring such oil for his or its own purposes in any particular area, if in the opinion of the Director or the District Magistrate, as the case may be, supplies made in that area are inadequate or require to be thus regulated.

17. Exemption—The State Government may, by general or special order, exempt any class of person from the operation of all or any one of the provisions of this Order.

18. Adulteration—No person shall adulterate or directly or indirectly store for sale or sell or cause to be sold any Lubricating Oil which is adulterated.

19. Indemnity—No suit, prosecution or other legal proceeding shall lie against the State Government, any Officer subordinate to it or any other person for anything in good faith done or intended to be done under this Order.

20. For forfeiture—Any Court trying any contravention of this Order may, without prejudice to any other sentence which it may pass, direct that any Lubricating Oil, together with the container thereof in respect of which it is satisfied that this Order has been contravened, shall be forfeited to the State Government.

SCHEDULE—I

(See paragraph 2 (b)).

1. Varieties of Lubricating Oil—

(a) High Grade Industrial Oils—

- (1) Steam Cylinder Oils,
- (2) Compressor and Compression Ignition Engine Oils.
- (3) Turbine Oils ;
- (4) First quality spindle and Crankcase Oils,
- (5) Spindle Machinery and Engine Oils,
- (6) Textile Machinery Oils,
- (7) Non-drip Oils,
- (8) Custing Oils,
- (9) Refrigerator Oils,
- (10) Marine Oils,
- (11) Gear Oils,
- (12) Quenching and heat transfer Oils,
- (13) Hydraulic Oils,
- (14) Protective Oils,
- (15) Drilling Oils,

(b) High Grade Industrial Greases and Compounds—

- (1) Greases,
- (2) Compounds

(c) Low Grade Industrial Oils—

- (1) Spindle Oils,
- (2) Machinery Oils,
- (3) Steam cylinder Oils

- (4) Cutting Oils,
 - (5) Marine Engine Oils,
 - (6) Dark Oils,
 - (d) Low Grade Industrial Greases—
 - (1) Greases
 - (2) Compounds,
 - (e) High Grade Motor Oils and Specialities—
 - (1) Engine Oils,
 - (2) Gear and Transmission Oils,
 - (3) Brake Oils and other Specialities.
 - (f) High Grade Motor Greases—
 - (g) Low Grade Motor Lubricants—
 - (1) Engine Oils,
 - (2) Gear Oils,
 - (3) Flushing Oils,
 - (4) Air Cleaner Oils,
 - (5) Greases,
2. Transformer and Switch Gear Oils.

FORM—A
(See paragraph 5)

Form of application under paragraph 5 of the West Bengal Lubricating oil Licensing order, 1967.

Application No. -----

GOVERNMENT OF WEST BENGAL

Application for the grant of a licence under the West Bengal Lubricating Oil Licensing Order, 1967,

Class of licence required—

- (1) Distributor.
- (2) Agent/Dealer/Retailer.

1. Name of applicant to whom the licence is to be issued with father's name.....
2. Residential and office addresses of the Applicant.....
3. Exact address of the place where business is to be conducted (with police-station).....
4. Exact address of the place or places of storage.....
5. Source from which the applicant expects to get his supply.....
6. Whether the applicant or any of the persons signing the application had previously applied for a licence under the West Bengal Lubricating Oil Licensing Order, 1967, and if so, with what result (No. of the old licence, if issued, should be stated).....
7. Whether the applicant or any such person is minor.....

I/We hereby certify that the details given above are correct.

Date

Signature

SCHEDULE—II

(See paragraph 2 (c))

1. Burmah-Shell Oil Storage and Distributing Company of India, a Company incorporated in the United Kingdom and carrying on business in India.
2. ESSO Standard Eastern Incorporated, a Company incorporated in the United States of America and carrying on business in India,
3. Caltex (India) Limited, a Company incorporated in the Bahama Island and carrying on business in India,
4. Burmah Oil Company (India Trading) Limited, a Company incorporated in Scotland and carrying on business in India as agents for Assam Oil Company Limited.
5. Indo-Burmah Petroleum Company Limited, a Company incorporated in India,
6. Indian Oil Corporation Limited, a Company incorporated in India,
7. National Oil Company,
8. Martin Burn Limited,
9. Castrol Limited,
10. Balmer Lawrie and Company Limited,
11. The Victor Oil Company (Private) Limited.

FORM—B
(See. Paragraph—G)

Licence under the West Bengal Lubricating Oil Order, 1967.

1. Licence No.
Class of licence granted or renewed—
 - i) Distributor.
 - ii) Agent/Dealer/Retailer,
2. Area.....
3. Name with father's name of licensee.....
4. Address of the place of business.....
5. Address of godown or other premises where Lubricating Oil is to be stored.....
6. The licence will expire on the 31st December 19.....
7. The licensee shall hold the licence subject to the conditions specified below :

Conditions of Licence

1. The licence is being issued subject to the provisions of the West Bengal Lubricating Oil Licensing Order, 1967.
2. If the licensee intends to store any Lubricating Oil in any place, premises or godown other than those already mentioned in the licence, he shall intimate the address of such place, premises or godown to the Director or to the District Magistrate having jurisdiction, as the case may be, and shall not store any Lubricating Oil in such place, premises or godown until the Director or the District Magistrate or such other officer as may be authorised by the Director or the District Magistrate in writing in this behalf had endorsed it on the licence.
3. The licensee shall give all facilities to the Director or to the District Magistrate or to any other person authorised in writing by the Director or the District Magistrate.

Note :—A licence granted under this Order is liable to cancellation if the information supplied in this form is found to be incorrect or incomplete. In the case of a firm the names, father's names and addresses of all the partners, in the case of a Joint Stock Company the names, father's names and addresses of all directors and agents and in the case of a co-operative society the names, father's names and addresses of the members of the managing body or officials appointed for the purpose must be given and in such cases all the persons referred to above or a Managing Director, Director, Secretary or any other individual legally authorised to so act on behalf of a body corporate must sign the application.

WEST BENGAL KEROSENE CONTROL ORDER, 1968

(Published in the Calcutta Gazette dated 26.6.1968)

No. 4816-F.S./F.S./CG/14R-15/66 dated the 26th June, 1968—Whereas the Governor is of opinion that it is necessary and expedient so to do for the maintenance of supplies and for securing the equitable distribution and availability at fair prices of kerosene in West Bengal :

Now, therefore, in exercise of the power conferred by sub-section (1) of section 3 of the Essential Commodities Act, 1955 (Act 10 of 1955) read with clauses (d), (e), (h) and (j) of sub-section (2) of that section and section 7 (1) of the said Act and the Order No. 26(1) Com. Genl./166, dated the 18th June, 1966, of the Government of India, Ministry of Commerce, the Governor is pleased hereby to make the following order, namely :

ORDER

1. Short title, extent and commencement—(1) This order may be called the West Bengal Kerosene Control Order 1968.
 - (2) It extends to the whole of West Bengal.
 - (3) It shall come into force at once.
2. West Bengal Kerosene Control Order, 1965 is hereby repealed provided that anything done or any action taken under the said order shall be deemed to have been done or taken under the said order.
3. Definitions—In this order, unless there is anything repugnant in the subject or context—
 - (a) "agent" means a person who has been appointed as an agent of an oil distributing company by such company and has been granted a licence under paragraph 5 of this order :
 - (b) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866 (Ben. Act IV of 1866), together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866 (Ben. Act, 11 of 1866) :
 - (c) "dealer" means a person who has been granted a licence under paragraph 6 of this order authorising him to carry on trade in kerosene oil :