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Registered No. WB/SC-247

No. WB(Part-I)/2015/SAR-345

The

Kolkata **Gazette**
सत्यमेव जयते

Extraordinary
Published by Authority

SRAVANA 5]

MONDAY, JULY 27, 2015

[SAKA 1937

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
DEPARTMENT OF FOOD & SUPPLIES
11-A, MIRZA GHALIB STREET, KOLKATA-700 087

NOTIFICATION

No. 2380-FS/Seect./Food/14R-03/2014

Dated, Kolkata, the 24th July, 2015.

In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with the Government of India, Ministry of Agriculture and Irrigation (Department of Food) Order No. G.S.R. 800, dated the 9th June, 1978 and Ministry of Agriculture (Department of Food), Order No. G.S.R. 168 (E) dated 13th March, 1973 read with S.O. 1797 (E) dated 2nd July, 2015, of Ministry of Consumer Affairs, Food and Public Distribution and with the concurrence of Government of India vide its No. S-11/11/2015-ECR&E Dated 22.07.2015, 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 Onion (Storage Control) Order, 2015.
- (2) It extends to the whole of the State of West Bengal.
- (3) It shall come into force with effect from the date of publication in the official gazette and shall remain in force up to 2nd July, 2016.

2. Definitions : In this order, unless the context otherwise require —

- (a) 'Act' means the Essential Commodities Act, 1955 (10 of 1955);
- (b) 'Bulk Consumer' means an establishment or an institution purchasing or storing of onions in quantities exceeding 500 qnths & 20 qnths respectively at any one time either for consumption in the establishment or for manufacturing purposes but not for sale;
- (c) 'Commissioner' means the Commissioner of Food and Supplies to the Government of West Bengal and includes an officer not below the rank of Joint Secretary to the Government of West Bengal duly authorized by the Commissioner in this behalf;

- (d) 'Competent Officer' means
- (i) Assistant Director of Agriculture (Administration) under the Department of Agriculture and Assistant Agricultural Marketing Officer (Administrative) / Agricultural Marketing Officer (Administrative) / Assistant Director of Agricultural Marketing (Administrative) under Agricultural Marketing Department;
 - (ii) any officer not below the rank of Chief Manager (Market) in case of Kolkata Municipal Corporation;
 - (iii) any officer of the Police Department not below the rank of Assistant Sub Inspector of Police;
 - (iv) any officer of the Food and Supplies Department specially authorized by the Commissioner of Food in separate notification;
- (e) 'Controller' means the Deputy Director of Agriculture under Department of Agriculture, the Deputy Director of Agricultural Marketing (Administrative) under Department of Agricultural Marketing, Joint Commissioner in case of Kolkata Municipal Corporation and the Director of DDP&S under Food and Supplies Department. In case of areas covered under Urban Public Distribution System (Maintenance & Control) Order, 2013, the Director of Rationing, West Bengal will be the Controlling Officer. The Directors include officers not below the rank of Sub-division level officers;
- (f) 'Cold storage' means a cold storage as defined in clause (2) of section 2 of the West Bengal Cold Storage (Licensing and Regulation) Act, 1966;
- (g) 'Dealer' means any person engaged in the business of purchase, movement, sale, supply, distribution or storage for sale of onions as importer, wholesaler or retailer and includes agent of such person, but does not include a producer;
- (h) 'Government' means the Government of West Bengal;
- (i) 'hirer' means hirer as defined in clause (4) of section 2 of the West Bengal Cold Storage (Licensing and Regulation) Act, 1966;
- (j) 'retailer' means a person who sells onions to a consumer not being a dealer or producer;
- (k) 'importer' means any person who purchases and brings any stock of onion from outside West Bengal for the purpose of sale and includes a broker or a commission agent or any other agent having authority to sell such item on behalf of such person;
- (l) 'wholesaler' means a dealer who sells onions to any other dealers or bulk consumers directly with the permission of the authorities and include a broker, commission agent or any other agent having authority to sell onions belonging to his principals.
3. **Prohibition on withholding from sale of onions** — No dealer of any category, whether he is an importer, wholesaler or retailer, as the case may be, shall withhold the sale of onions ordinarily kept for sale.
4. **Restriction on storage of onions** — No dealer of any category, whether he is an importer, wholesaler or retailer, as the case may be, shall store or have in his possession at any time onions in excess of the quantity specified in the Schedule to this Order except under and in accordance with a permit granted by the Controller.
- Provided that whether a dealer by virtue of the nature of his business falls under more than one category, he shall, for the purpose of this paragraph, be deemed to belong to that category for which the higher or highest quantity, as the case may be, has been specified in the Schedule to this Order.
5. **Prohibition of permitting hiring of space in cold storage** — No person owning, managing or having control in any way, over the affairs of a cold storage, including their agents and servants, shall permit any space in a cold storage for storing any foodstuffs except to a bonafide hirer and not to a *benamdar* or a name lender to a hirer or to a fictitious person.
6. **Savings** — Nothing in this Order shall apply to storage or possession of onions, either singly or in any combination, by or on account of or on behalf of or on the authority of the Food Corporation of India (FCI) or the State Government or the Central Government.

7. **Power of entry, search and seizure etc.** — (1) The Controller or any Competent Officer, with a view to securing compliance with this Order or to satisfying himself that this order has been complied with, may —
- inspect or cause to be inspected any book or document or accounts as well as any stock of onions belonging to, or under the control of, any person;
 - require any person to give any information in his possession with respect to onions;
 - stop and search forthwith, with such aid or assistance as may be necessary, any person or vehicle or vessel or animal used or suspected of being used for delivery of onions from any premises where he has reason to believe that onions are stored;
 - enter and search, with such aid or assistance as may be necessary any such premises;
 - seize and remove, with such aid or assistance as may be necessary, any stock of onions along with packages, coverings or receptacles in which such stock is found and animals, vehicles or vessels used in carrying such stocks, if he has reasons to suspect that any provision of the Order has been, is being or is about to be contravened in respect of such stock or any part thereof or in respect of any other stock of onions which, immediately before the contravention, was stored along with such stock and thereafter take or authorize that taking of all measures necessary for securing the production, as expeditiously as possible, of the stocks of onions, packages, coverings receptacles, animal, vehicles so seized to the Collector with a report in writing under section 6A of the Act.
- Provided that the officer making the seizure shall give a receipt for such seizure immediately after the seizure is affected.
- Notwithstanding the power of entry, search and seizure having being vested with Competent Officers, the authority shall not be exercised except with the written permission of the Controller.
 - Subject to the provisions of sub-paragraph (1), the provisions of the sections 100 and 165 of the Code of Criminal procedure, 1973 (2 of 1974), relating to search and seizure, shall, mutatis mutandis, apply to searches and seizures under this paragraph.
8. **Power to exempt in special cases** — If the State Government, having regard to the conditions prevailing in area, considers if necessary or expedient so to do in the public interest, it may, by notification, exempt, subject to such condition as it may think fit to impose, such class or classes of persons in that areas as it may specify in that notification from the operation of all or any of the provision of this Order.
9. **Violation** — When a dealer violates or contravenes any provision of this Order or any direction issued hereunder, shall be liable to be prosecuted under the provisions laid down in the Act.

The Schedule

[See paragraph 4]

Commodity	Maximum quantity that may be stored or had in possession by at any point of time		
	Importer (Quintals)	Wholesaler (Quintals)	Retailer (Quintals)
Onion	Nil	500	20

By order of the Governor,

ANIL VERMA, IAS
Principal Secretary to the Government of West Bengal
& Commissioner, Food.