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

GOVERNMENT OF WEST BENGAL

DEPARTMENT OF FOOD AND SUPPLIES

ORDER

No. 5236/F.S.—10th July, 1985.—Whereas the Governor is of opinion that it is necessary and expedient so to do for maintaining supplies and for securing equitable distribution and availability at fair prices of cooking gas in West Bengal;

Now, therefore, 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 Industry and Civil Supplies (Department of Civil Supplies and Co-operation) Order No. S.O.681(E), dated the 30th November 1974, the Governor is pleased hereby to make the following order:—

THE WEST BENGAL COOKING GAS (LICENSING AND CONTROL) ORDER, 1985

ORDER

1. **Short title, extent and commencement.**—(1) This Order may be called the West Bengal Cooking Gas (Licensing and Control) Order, 1985.
 - (2) It extends to the whole of West Bengal.
 - (3) It shall come into force at once.
2. **Definitions.**—In this Order, unless the context otherwise requires,—
 - (a) "Calcutta" means the town of Calcutta and the adjoining areas within the jurisdiction of the Calcutta Municipal Corporation and Bidhan Nagar as notified under the West Bengal Government Townships (Extension of Civic Amenities) Act, 1975 (West Ben. Act XLII of 1975);
 - (b) "Collector" has the same meaning as in clause (ia) of section 2 of the Essential Commodities Act, 1955 (10 of 1955);
 - (c) "consumer" means a person whose name is registered with a dealer for getting supply of cooking gas from that dealer;

- (d) "cooking gas" means liquefied petroleum gas bottled in cylinder;
- (e) "dealer" means a person including a firm, an association of persons, a company, a corporation or a cooperative society engaged in the business of purchase, sale, or storage for sale, of cooking gas, on the basis of an agreement with an oil company, whether or not in conjunction with any other business, and includes his representative, employee, agent or commission agent but does not include an oil company;
- (f) "Director" means the Director of Consumer Goods, Department of Food and Supplies, Government of West Bengal, and includes any other officer of the said Department not below the rank of Assistant Director of Consumer Goods, authorised by the State Government in this behalf to perform all or any of the functions of the Director under this Order;
- (g) "District Magistrate" includes Deputy Commissioner of a district, an Additional District Magistrate, an Additional Deputy Commissioner, a Sub-divisional Officer and any other officer, not below the rank of Sub-divisional Controller of Food and Supplies, authorised by the District Magistrate or the Deputy Commissioner, as the case may be, in writing to perform all or any of the functions of the District Magistrate under this Order;
- (h) "Form" means a form appended to this Order;
- (i) "licencee" means a person holding a valid licence granted under this Order;
- (j) "licensing authority" means, in Calcutta, the director, and elsewhere, the District Magistrate having jurisdiction;

Provided that the District Magistrate of 24-Parganas shall not exercise jurisdiction under this Order over those parts of the district which are included in Calcutta as defined in clause (a);

- (k) "oil company" means any of the following oil companies:—
- (1) Indian Oil Corporation Limited,
 - (2) Hinduthan Petroleum Corporation Limited,
 - (3) Bharat Petroleum Corporation Limited,
 - (4) Indo-Burma Petroleum Company Limited,
- (l) "State Government" means the Government of West Bengal in the Food and Supplies Department; and
- (m) "year" means a year reckoned according to the English Calendar.

3. Regulation of sale and supply of and business in cooking gas:—(1) every dealer shall, within twenty four hours of the commencement of this Order, display a stock-cum-price board as per proforma of the oil companies at a prominent place of his business premises, including the place of storage, showing the following particulars:—

- (i) opening balance of filled, empty and defective cylinders;
- (ii) the backlog of the refill orders to be supplied as on the preceding working day;
- (iii) date up to which new connections have been released.

(2) Subject to the provisions of any direction under sub-paragraph (8), no dealer having stocks of cooking gas at his business premises, including place of storage, shall refuse to sell the same on any day during working hours to any consumer whose name is registered with him according to the chronology of placing of orders.

Explanation.—For the purpose of this sub-paragraph and sub-paragraph (3), the expression "working hours" means the working hours observed by the dealer immediately prior to the commencement of this Order and such working hours shall be displayed prominently at the place of his business and the place or places of storage of cylinders.

(3) Notwithstanding anything to the contrary contained in any other law for the time being in force, no dealer shall keep his business premises including the place of storage closed during working hours on any day without the prior permission in writing of the licensing authority.

(4) Every dealer shall take all reasonable steps to ensure that he has adequate stocks of cooking gas at his business premises including the place of storage at all times by placing indents at the nominated supply points of the oil companies 48 hours in advance or as per the existing policy of the oil companies.

(5) No dealer shall sell cooking gas at a price higher than that fixed by the oil company from which he gets supply, nor shall he refuse to make home delivery according to the requirement of the consumer whose name is registered with him.

(C) (a) Every dealer shall maintain true and correct accounts of purchase, sale and storage of cooking gas at his business premises, to be written up in ink at the end of each day in the proforma of the oil companies showing—

- (i) the opening stock of the day-filled, empty and defective cylinders,
- (ii) the quantity received during the day-filled, empty and defective cylinders,
- (iii) the quantity sold, delivered or otherwise disposed of during the day-filled, empty and defective cylinders,
- (iv) the closing stock of the day-filled, empty and defective cylinders,
- (v) such other particulars as the State Government may, by order in writing, specify.

(b) Every dealer shall maintain a register in which the placing of orders for refills of cooking gas shall be recorded daily chronologically.

(7) With effect from such date as the State Government may by notification in the Official Gazette appoint, no person shall carry on business in cooking gas as a dealer except under and in accordance with a licence granted under this Order.

(8) Every licensee or any person employed by him or acting on his behalf shall comply with such general directions as may be issued in writing by the State Government in regard to purchase, sale, or storage for sale, of cooking gas and with such special directions as may be issued in writing by the licensing authority for proper distribution of cooking gas and for carrying out the purposes of this Order.

(9) Any contravention of any direction, including special direction issued under sub-paragraph (8), shall be deemed to be a contravention of this order.

(10) Without prejudice to the generality of the provisions of sub-paragraph (8), such directions issued by the State Government may provide for—

- (a) prohibition of sale of cooking gas to any category of consumer except on the basis of a permit;
- (b) nomination of officers or issue of such permits;
- (c) fixing the scale at which cooking gas shall be issued to any category of consumer;
- (d) specification of the form in which permits shall be issued;
- (e) the language and the manner in which accounts of sale of cooking gas shall be maintained and stock returns furnished;
- (f) drawal of his requirement of cooking gas by a consumer from a specified licensee;
- (g) such other matters necessary for, or incidentals to, the implementation of the directions issued under sub-paragraph (8).

(11) The provisions of this Order regarding powers of the licensing authorities for issuing special directions to licensees shall apply, mutatis mutandis, to the authorities nominated by the State Government for issue of permits.

4. Applications for licence under sub-paragraph (7) of paragraph 3 shall be made to the licensing authority in Form A and the licensing authority shall grant licence in Form B on payment of a fee of Rs. 100 (Rupees one hundred) in non-judicial stamp within thirty days if the application is found to be in order.

(2) Every licence granted under sub-paragraph (1) shall be subject to such conditions as may be specified therein and to such other conditions as the licensing authority may impose from time to time for the sake of fair distribution of cooking gas.

(3) Every licence granted under sub-paragraph (1) shall be valid up to the 31st of December next following the date of issue and may be renewed for a period not exceeding three years at a time on an application made in this behalf to the licensing authority before the expiry of the period of validity of the licence and on payment of a fee in non-judicial stamp at the rate of Rs. 100 (Rupees one hundred) per year: provided that the period of validity of a licence shall not be deemed to have expired, if an application for its renewal made in accordance with the provisions of this sub-paragraph is pending with the licensing authority.

(4) If a licence is defaced, mutilated, lost or destroyed, the licensing authority may, after making such enquiry as he deems necessary, issue a fresh licence in place thereof on payment of a fee of Rs. 100 (Rupees one hundred) in non-judicial stamp and thereupon the licence so defaced, mutilated, lost or destroyed shall be deemed to have been cancelled.

5. **Power of licensing authority to refuse to grant or renew licence.**—The licensing authority may, after giving the applicant an opportunity of stating his case in writing and for reasons to be recorded in writing, refuse to grant or renew a licence.

6. **Power of licensing authority to suspend or cancel a licence.**—(1) No licensee shall contravene any of the conditions of the licence and any contravention of any such condition shall be deemed to be a contravention of this Order.

(2) If a licensee or any person acting on his behalf contravenes any of the provisions of this Order, then, notwithstanding anything contained in paragraph 4 and without prejudice to any other action that may lawfully be taken against him, the licensing authority may, by order, suspend the licence and, after giving the licensee an opportunity of hearing, cancel the licence.

(3) Notwithstanding any thing contained in sub-paragraph (2), where a licensee has been convicted under section 7 of the Essential Commodities Act, 1955 (10 of 1955), the licensing authority may, by order, cancel his licence: provided that if such conviction is set aside on appeal or revision, the licensing authority shall re-issue the licence to him on an application being made to it.

(4) On cancellation or suspension of a licence under sub-paragraph (2) or sub-paragraph (3) or on a licence ceasing to be valid, the licensee shall surrender the same to the licensing authority within seven days from the date of such suspension or cancellation or cessation of validity as the case may be, and shall dispose of the stock of cooking gas available with him in accordance with the direction of the licensing authority.

(5) On the cancellation or suspension of a licence, the licensee shall not be entitled to get any supply of cooking gas from any oil company and the licensing authority in consultation with the oil companies shall link the consumers registered with that licensee to one or more other licensees as may be considered convenient.

7. **Appeal.**—(1) Any person aggrieved by an order passed by the licensing authority under paragraph 5 or paragraph 6 may, within thirty days of such order, prefer an appeal to the Secretary to the Government of West Bengal in the Department of Food and Supplies:

Provided that the appellate authority may transfer the appeal for hearing to the Special Secretary or the Joint Secretary of the Food and Supplies Department:

Provided further that on sufficient ground being shown, the appellate authority may condone the delay in preferring the appeal.

(2) On receipt of an appeal under sub-paragraph (1), the appellate authority, including the Special Secretary and the Joint Secretary, shall, after giving the appellant and the licensing authority concerned a reasonable opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) The appellate authority may direct that the order appealed against shall not take effect pending the disposal of the appeal.

8. **Restriction on consumption of cooking gas.**—(1) No consumer shall draw his requirement of cooking gas except from a licensee.

(2) No consumer shall use cooking gas except for cooking and such other purposes as may be authorised by the State Government under this Order.

(3) No consumer shall keep in his possession more than two cylinders of cooking gas at a time without a permit obtained from an officer nominated by the State Government under clause (b) of sub-paragraph (10) of paragraph 3.

(4) No person, other than a licensee, a consumer or a holder of a permit issued by an officer nominated by the State Government under clause (b) of sub-paragraph (10) of paragraph 3, shall have in his possession or under his control cooking gas after the date of issue of the notification under sub-paragraph (7) of paragraph 3.

9. Power of entry, search, seizure, etc.—(1) Any officer in the Department of Food and Supplies of the State Government, not below the rank of Chief Inspector, or any police officer, not below the rank of an Inspector, may with a view to securing compliance with the provisions of this Order,—

(a) inspect any books of account referred to in sub-paragraph (6) of paragraph 3 as well as any stock of cooking gas belonging to or under the control or possession of any person;

(b) require any person to give any information in his possession with respect to any business or undertaking for purchases, sale, or storage, of cooking gas;

(c) stop and search any person or vehicle or vessel used or suspected of being used for delivery of cooking gas from a godown or from premises or places where, he has reason to believe, cooking gas is stored;

(d) enter and search, with such aid or assistance as may be necessary, any such godown or premises or places; and

(e) seize and remove, with such aid or assistance as may be necessary, the entire quantity of any stock of cooking gas along with the vehicles, vessels or any other conveyances used in carrying such stock if he has reason to suspect that any provision of this Order has been, is being, or is about to be, contravened in respect of such stock and thereafter takes or authorise the taking of, all measures necessary for securing the production of the stock of cooking gas, vehicles, vessels or other conveyances so seized before the Collector having jurisdiction under the provisions of section 6A of the Essential Commodities Act, 1955 (10 of 1955) and for their safe custody pending such production;

Provided that in exercising the powers under this sub-paragraph, due regard shall be paid to the social and religious customs of the inmates or occupants of the premises or places concerned.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, apply to searches and seizures under this paragraph.

10. Submission of statement about the stock of cooking gas.—Every licensee shall submit to the licensing authority a statement about the stock of cooking gas held by him at the end of each month according to English Calendar within three days from the last day of the month in Form 'C'.

11. Power to exempt in special case.—If the State Government considers it necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, exempt, subject to such conditions as it may consider fit to impose, any class or classes of consumers from the operation of this Order.

12. Review and Revision by the Government.—The State Government may, of its own motion, call for and examine the records of any order passed under the provisions of this Order by any authority subordinate to the State Government, and may give such directions with reference thereto as the State Government may deem fit: provided that no direction to the disadvantage of any party shall be given under this paragraph unless the party has been accorded an opportunity of making a representation which it may make against such order.

13. Power to relax the Order.—Nothing in this Order shall be construed to limit or abridge the power of the State Government to dispense with or relax the requirement of any provision of this Order to such extent and subject to such conditions as the State Government may consider necessary in the public interest.

FORM -'A'

[See paragraph 4(1)].

Form of application for licence.

I hereby apply for a licence under the West Bengal Cooking Gas (Licensing and Control) Order, 1985, and furnish the following particulars in connection therewith:

1. Applicant's name :
2. Applicant's father's/husband's name (in the case of an individual) :
3. Applicant's residential address :
4. Situation of applicant's place of business and godown with particulars :
5. Name of the oil company from which the applicant will get his supply :
6. Particulars of fire service/explosive licence :
7. Particulars of current municipal trade licence, if the business is carried on within the jurisdiction of a Corporation or a municipality :

I declare that the following quantity of cooking gas is in my possession this day and is held at the following place, namely,

.....

I declare that I am the Proprietor/Manager/Partner/Director/Secretary/Lessee of the firm or organisation on behalf of which the application is made.

Date.....

.....
(Signature or left thumb impression of the applicant).

FORM -'B'

[See paragraph 4(1)].

1. Subject to the provisions of the West Bengal Cooking Gas (Licensing and Control) Order, 1985, and to the terms and conditions of this licence, Shri/Sarvashri.....son/wife/daughter of....., Proprietor / Partner / Manager / Director / Secretary / Lessee of M/s....., having place of business atof village/town....., Police Stationis/are hereby authorised to carry on business as a dealer in cooking gas.

2. The licensee shall carry on the aforesaid business and store cylinders of cooking gas only at the following place/places:

Place of business.....

Place of storing cylinders of cooking gas.....

3. The licensee shall not--

(a) enter into any transaction involving purchase, sale, or storage for sale, of cooking gas in a speculative manner prejudicial to the maintenance and easy availability of supplies thereof in the market;

(b) withhold from sale/supplies of cooking gas ordinarily kept for sale.

4. The licensee shall give all facilities at all reasonable hours to the licensing authority or any officer authorised by it or the State Government for the inspection of his stocks and accounts at any shop or other place used by him for storage, sale, or purchase of, cooking gas.

5. The licensee shall comply with any directions that may be given to him from time to time by the licensing authority in regard to the purchase, sale, or storage for sale of cooking gas and in regard to the manner and the language in which the accounts shall be written.

6. The licence shall cease to be valid in the event of death of the licensee or transfer of interest of the licensee in his business under the licence or reconstitution of the partnership firm where such a firm is a licensee.

7. If the licensee intends to change his place of business to, or store cooking gas in, any place or premises other than those mentioned in the licence, he shall intimate the address of such place or premises to the licensing authority and shall not carry on business, or store any cooking gas, in such premises until it has been endorsed on the licence.

8. The licensee shall issue to every customer a true cash memo, or credit note, as the case may be, giving its name, licence number and address, the date of the transaction, the quantity sold, the price, the number and date of the permit, if any, under which sold and the salesman's signature and shall keep duplicate carbon copies of all such cash memos, and credit notes, arranged serially and chronologically to be made available for inspection on demand by the licensing authority, or any officer authorised by it in writing in this behalf, and shall preserve such duplicate copies of cash memos, or credit notes for one year from the date of issue.

9. The licence shall be valid up to
Date.....

.....
(Signature and designation of the
licensing authority).

(Office seal of the licensing
authority).

FORM-'C'

(See paragraph 10).

Form of Statement showing stock of cooking gas held by the licensee at the end of each month.

	Filled	Empty	Defective
1. Opening balance on the first day of the month	:	:	:
2. Supplies received during the month	:	:	:
3. Cylinders returned to the Oil companies during the month	:	:	:
4. Total quantity sold during the month--			
(a) to existing customers	:	:	:
(b) to new customers	:	:	:
5. Closing balance at the end of the month	:	:	:
6. Number of consumers registered with him--			
(a) for single cylinder	:	:	:
(b) for two cylinders	:	:	:

Date.....

.....
(Name and signature or left thumb impression
of the licensee).

By order of the Governor,
A. K. CHATTERJEE,
Secy. to the Govt. of West Bengal.

NOTIFICATION

No. 5237-F.S./FS/CG/14R-2/85.—10th July 1985.—In exercise of the power conferred by sub-paragraph (7) of paragraph 3 of the West Bengal Cooking Gas (Licensing and Control) Order, 1985, published under this department Order No. 5236-F.S., dated the 10th July 1985, the Governor is pleased hereby to appoint the 19th day of August 1985 as the date with effect from which no person shall carry on business in cooking gas except under and in accordance with a licence granted under the said Order.

By order of the Governor,
A. K. CHATTERJEE,
Secy. to the Govt. of West Bengal.

NOTIFICATION

No. 5238-F.S./FS/CG/14R-2/85.—10th July 1985.—In exercise of the powers conferred by sub-paragraph (8) read with sub-paragraph (10) of paragraph 3 of the West Bengal Cooking Gas (Licensing and Control) Order, 1985, the Governor is pleased hereby to issue the following directions for regulation of supply and distribution of cooking gas :

Directions

1. These directions shall come into force on and from 19th day of August 1985.
2. Every licensee or his representatives/workmen shall wear the identity badge as provided by the oil companies during the working hours at the place of his business/godown and at the time of delivery of cooking gas at the consumers' premises.
3. The licensees shall book refill indent in a Refill Order Register as per the format of the oil companies and receive a booking order number and date of booking from the oil company concerned.
4. The licensee shall issue to each consumer who will ask for home delivery a token book as per design of the oil companies. No. cylinder of cooking gas shall be delivered to such a consumer unless the latter surrenders a token for the cylinder received.
5. The licensee shall maintain a correct and true account of each consumer regarding indents and supplies in consumer's history card as designed by the oil companies. The consumer's history card shall be updated after the transaction of the date.
6. Besides home delivery the licensee may supply cylinders of cooking gas to the consumers in the following manner :
 - (a) off shelf delivery—for such supplies, a consumer will be given a separate card by the licensee as designed by the oil companies. These supplies will be from the godwon of the licensee and the consumer will get a rebate in the selling price as declared by the oil company concerned from time to time. The special card given to the consumer for this purpose will be filled in by the licensee.
 - (b) supplies under cash-and-carry system—such supplies may be made to clear backlog, if there be any, from places as may be approved by the oil companies. Facility of such system will be available to all consumers without discrimination. Consumers taking supplies under this system will not get any rebate in the selling price.
7. (a) Supplies made to the consumers under all the systems mentioned in the preceding paragraph shall be supplemental to, and not at the cost of home delivery.
 - (b) In the case of home delivery supplies will be made in order of priority of booking. If for any reason the order of priority cannot be strictly maintained, the Licensing authority shall be taken.

8. (a) The licensing authority is authorised to issue permits in favour of the following special categories of consumers :

- (i) large scale/heavy industries which are allowed to use cooking gas by the Ministry of Petroleum, Govt. of India;
- (ii) S.S.I. units which are allowed to use cooking gas by the committee formed in terms of Govt. of India's directive No. P/17011 : 10 :81-MKT, dated 21-10-81;
- (iii) hotels, restuarants, nursing homes, laboratories and other establishments. Provided that such permits shall be issued in consultation with the oil companies.

(b) The scale of supplies to the permit holders referred to as (i) and (ii) above shall be decided by the licensing authority as per guidelines given by the Government of India. In case of the existing consumers permits will be issued according to the scales as enjoyed by them on 10th July 1985.

(c) Such permits as mentioned in (a)(i)(ii) and (iii) shall be issued on quarterly basis in January, April, July and October.

9. In pursuance of the authority given in paragraph 3(8) of the West Bengal Cooking Gas (Licensing and Control) Order, 1985 the licensing authority shall be competent to issue in writing special directions to the licensees for proper distribution of cooking gas.

By order of the Governor,
A. K. CHATTERJEE,
Secy. to the Govt. of West Bengal.

Paragraph	Existing Provisions	Amended Provisions
12(2)(b)(i)	(i) Fixation of a minimum quota of kerosene per family per month.	Fixation of a minimum quota of kerosene per head per month.
12(2)(b)(ii)	(ii) Linking of family/individual ration card against dealers under this order.	The word 'family' is omitted.
12(2)(b)(iii)	(iii) Distribution of kerosene on production of family/individual ration card.	The word 'family' is omitted.
12(2)(b)(iv)	(iv) Issue of special quota to any institution/establishment requiring kerosene for its own consumption.	12(2)(b)(iv) Deleted.
15(d)	Every hawkers holding a licence under this order shall carry with him his licence and produce it for inspection on demand by Officer, Authorized in this behalf by the Director in Calcutta or the District Magistrate elsewhere and the authorised officer may seize any stock of kerosene in respect of which he has reason to believe that any contravention of this order has been made or is being made, or is about to be made.	15 (d) Deleted.

THE HEAD OF ACCOUNT for depositing all fees under the Control Orders is 1456-Civil Supplies-800-other receipts-001-Civil Supplies-27-other receipt.

This order will take immediate effect.

This notification issues in supersession of the Dept's previous Notification No. 3004/FS, dated 3-11-2003.

By order of the Governor,
N. I. MOLLA,
Jt. Secy. to the Govt. of West Bengal.

NOTIFICATION

No. 3576/FS/ES/Secy/Sup/4M-52/2003, dated 24th November 2003. Whereas the Governor is of opinion that it is necessary and expedient so to do for maintaining supplies and for securing equitable distribution and availability at fair prices of Cooking Gas in West Bengal.

Now therefore, 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 Industry and Civil Supplies (Department of Civil Supplies and Co-operation) Order No. CS-681(E), dated the 30th November, 1974, the Governor is pleased hereby to make the following amendment in the West Bengal Cooking Gas (Licensing and Control) Order, 1985.

Paragraph No.	Existing Provisions	Amended Provisions
Sub-paragraph (1) of paragraph 4	Rs. 3,000 under Treasury Challan.	Rs. 10,000 under Treasury Challan.
Sub-paragraph (4) of paragraph 4	Rs. 2,000 per year by Treasury Challan.	Rs. 5,000 per year by Treasury Challan.
Sub-paragraph (1) of paragraph 4	Rs. 2,000 by Treasury Challan.	Rs. 5,000 per year by Treasury Challan.

THE HEAD OF ACCOUNT for depositing all fees under the Control Orders is 1456-Civil Supplies-800-other receipts-001-Civil Supplies-27-other receipt.

This order will take immediate effect.

This notification issues in supersession of the Dept's previous Notification No. 3005/FS, dated 3-11-2003.

By order of the Governor,
N. I. MOLLA,
Jt. Secy. to the Govt. of West Bengal.