

Orders

The H.P. Coal Licensing and Price Control Order, 1989

**FOOD AND SUPPLIES DEPARTMENT
Shimla – 2, the 26th July, 1989**

No. FDS.A(I)–(3)–9/85.– Whereas the State Government is of the opinion that it is necessary so to do for securing the equitable distribution and availability of coal at fair prices;

Now, therefore, in exercise of powers conferred by section 3 of Essential Commodities Act, 1955, read with section 5 of the said Act and notification of the Government of India in the Ministry of Agriculture and Irrigation (Department of Food) published under G.S.R. No. 800, dated 9th June, 1978 and in the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Co-operation) published under S.O. 681 (E), and 682(E), dated 30–11–1974 with the prior concurrence of the Central Government, the Governor of Himachal Pradesh is to make the following Order, namely:–

1. Short title, extent and commencement.–

- (1) This order may be called the Himachal Pradesh Coal Licensing and Price Control order, 1989.
- (2) It extends to the whole of the State of the Himachal Pradesh.
- (3) It shall come into force at once.

2. Definitions.– In this order, unless the context otherwise requires:–

- (a) "Coal" means steam coal, soft coke, hard coke and slack coal of all grade and other derivatives including dust coal, but shall not include steam coal and hard coke used for industrial purposes;
- (b) "dealer" means a person carrying on as a principal or agent whether separately or on conjunction with some other business, the business of import, sale, purchase or storage for sale of coal whether whole sale or retail, but shall not include a consumer who imports coal for his own use;
- (c) 'Director' means the Director of Food and Supplies, Himachal Pradesh and includes Joint Director, Food and Supplies, Himachal Pradesh, or any other officer appointed by the State Government to administer this order;
- (d) 'District Magistrate' means the District Magistrate of the district concerned and includes District Food and Supplies Controller concerned for the purpose of this order;
- (e) 'form' means a form appended to this order;
- (f) 'import' means to bring or cause to be brought into the territory of the State of Himachal Pradesh;
- (g) 'inspector' means the inspector of Food and Supplies and includes District Inspector of Food and Supplies, and sub-inspector of Food and Supplies or any other officer appointed by the State Government to exercise the powers in respect of the matters specified in clause 16 of this order;
- (h) 'Licensing Authority' means the District Magistrate of the District concerned or any other officer appointed by the State Government to exercise the powers and to perform the duties of the licensing authority under this order.
- (i) retail means sale of coal to the ultimate consumer; and
- (j) 'wholesale' means sale of coal to the retailer for further sale to the ultimate consumer.

3. Licensing of dealer.–

- (1) No person shall carry on business as a dealer except under and in accordance with the terms and conditions of a license issued to him under this order.
- (2) Every person who is engaged in business as a dealer at the commencement of this order shall obtain a license under this order within a period of twenty days of such commencement.

4. Issue of license.–

- (1) Every application for the grant of renewal of a wholesale or retail license shall be made to the licensing authority in Form :A or Form :B as the case may be.
- (2) Every license granted or renewed under this order shall be Form: 'C' in case of wholesale dealer and in Form: 'D' in case of retail dealer and shall be subject to the conditions specified therein and such other conditions as the Director or District Magistrate may specify from time to time.
- (3) An application for renewal of a license shall be so made as to reach the licensing authority before the date of expiry of the license: Provided that the licensing authority may entertain an application within a period of thirty days after the date on which license expires, if it is satisfied that the application was prevented by sufficient cause from making the application in time.
- (4) If a license granted under this order is lost, defected or destroyed, that fact shall be intimated in writing to the licensing authority, who may, after making such enquiry as it may deem fit, issue a duplicate license, on payment of such fee as specified in this order.
- (5) The licensing authority may, for reason to be recorded in writing, refuse to grant or renewal license.
- (6) Any person to whom the grant or renewal of a license has been refused may, within a period of thirty days from the date of the order of such refusal, appeal to the Director.
- (7) A separate license shall be obtained by a dealer for each place or business.
- (8) No person shall simultaneously hold wholesale and retail license as a dealer at one place.

5. Duration of license and amount of fee chargeable.–

Every license granted under this order shall be valid upto the 31st March next following the date on which it is issued and may be renewed from year to year on the payment of the fee mentioned below:–

ORDERS : Food, Civil Supplies and Consumer Affairs Department, Himachal Pradesh

	Rs.
For grant of license:	
(a) (i) Wholesale	1000.00
(ii) Retail	100.00
For renewal of license:	
(b) (i) Wholesale	100.00
(ii) Retail	25.00
(c) For issue a duplicate wholesale or retail license	50.00

6. Deposit of security.—

Before a license is granted, the licensee shall be required to deposit a security of Rs. 20,000/– in case of whole dealer and Rs. 10,000/– in case of a retail dealer in such form as the Director may direct, for the compliance of the provisions of this order and performance of the terms and conditions of the license.

7. Direction regarding distribution and sale.—

(1) Every dealer shall comply with any direction that may be given to him from time to time by the Director or the District Magistrate in relation to purchase, sale and storage for the sale of coal.

(2) The wholesale dealer shall not sell coal to the retail dealer at the rates higher than those fixed from time to time by the District Magistrate, but shall sell in the following manner:—

(i)	actual cost paid at the colliery	Actual cost.
(ii)	taxes if any payable	Actual tax.
(iii)	middle man's commission	as fixed by the Director.

(3) No wholesale dealer shall sell coal to any person, who does not hold brick–kiln license issued under the Himachal Pradesh Bricks (Control) Order, 1970, or a license under this order.

8. Duties and functions of dealer.— Every dealer shall:—

(a) acquire full quota of coal or coke allotted to him unless prevented by sufficient cause to the satisfaction of the District Magistrate/Director Food & Supplies;

(b) dispatch or sell coal in accordance with the instructions of the District Magistrate.

(c) not dispose of coal until its rates have been fixed by the District Magistrate;

(d) not sell coal at the rates higher than those fixed from time to time by the District Magistrate in the following manner:—

(i) price of coal paid by him to wholesale dealer as fixed by the District Magistrate under sub–clause (2) of clause 7 of this order;

(ii) railway freight including all other charges collected by the Railway exclusive of wharfage and demurrage paid to the Railway, if any;

(iii) wastage and shortage allowance as determined by the Director Food & Supplies on price;

(iv) Octroi, if any, paid at destination;

(v) transport charges from Railway Station to the premises of the depot–holder as fixed by the District Magistrate in respect of each town;

(vi) dealer's commission as fixed by the District Magistrate/Director Food & Supplies;

(vii) Sales tax levied by the State Government at rates applicable at the time of sale;

(e) acquire stock and store coal according to the instructions of the District Magistrate and at the premises approved by him;

(f) maintain true and up–to–date accounts of the receipt and disposal of coal;

(g) maintain accurately a daily register of sales in Form 'E' and stock register in Form 'F' ; and

(h) send an accurate monthly stock return in Form 'G' to the District Magistrate by the 7th day of the month following the month to which it relates.

9. Penalty for contravention and appeal against such penalty.—

(1) If a coal dealer contravenes any provisions of this order or any instruction of the Director or the District Magistrate, then without prejudice to any other action that may be taken against him, the District Magistrate may, for reasons to be recorded in writing:—

(a) Order for the suspension of his coal business for a period to be specified in that order, or cancel his coal depot; or

(b) forfeit the security of the coal dealer in part or whole : provided that no order shall be passed under this sub–clause unless the coal dealer has been given an opportunity of being heard.

(2) The coal dealer may, within a period of thirty days from the date of the order passed under sub–clause (1) appeal to the Director against the said order and the order of the Director passed on such appeal shall be final.

(3) The penalty specified in sub–clause (1) of this clause may be imposed by 'the Director' also and in that case his orders shall be final.

10. Penalty for giving wrong facts and appeal against such penalty.—

(1) If any person, obtain coal depot by giving wrong facts in the application, then without prejudice to any other action that may be taken against him, the District Magistrate may, for reasons to be recorded in writing. —

(a) cancel his coal depot and transfer his stock to some other coal dealer or person at a price fixed by him under order 8; or

(b) forfeit the security deposited by him in part or whole.

(2) The coal dealer may within a period of thirty days from the date of such order appeal to the Director and the order of the Director passed on such appeal shall be final.

(3) The penalty specified in sub–clause (1) may be imposed by the Director also and in that case his orders shall be final.

11. Bar to transfer of coal.— No license under the Himachal Pradesh Bricks (Control) Order, 1979, shall transfer coal obtained by him from a

ORDERS : Food, Civil Supplies and Consumer Affairs Department, Himachal Pradesh

wholesale dealer or from some other source to any other licensee under the aforesaid order without the permission of the District Magistrate.

12. Maintenance of accounts.—

- (1) Every dealer shall maintain a true account in Form 'F' of the stock of the daily receipts and disposal of coal separately and keep it up-to-date at the place of his business for inspection as and when required.
- (2) Every retail dealer shall maintain a sale register in Form "E".
- (3) Every dealer shall send accurate monthly stock return in form 'G' to the District Magistrate by the 7th of the following the month of which it relates.

13. Display of stock position.— Every dealer shall display at a conspicuous place of his business premises, the opening balance and price of each variety of coal in stock before the commencement of business on each day :

Provided that a wholesale dealer who does not stock coal physically shall not be required to display the stock position.

14. Suspension of revocation of licence.—

(1) If any dealer or his agent or servant or any other person acting under him or on his behalf contravenes any provision of this order or any condition of the license or any direction issued by any authority under this order or if the dealer transfers his license to any other person without the previous permission in writing of the licensing authority, then without prejudice to any other action that may be taken against him the licensing authority may:—

- (a) suspend his license or revoke the same; or
- (b) forfeit his security either in whole or in part:

Provided that no order shall be passed under this clause without giving to the dealer an opportunity of being heard.

(2) The dealer shall, if the amount of security at any time falls short of the amount specified in clause 6, forthwith deposit the amount to make up the deficiency in the amount of security on being required to do so by the licensing authority.

(3) The whole or any part of the amount of security which is not forfeited under the provisions of this order, shall be refunded to the dealer on the termination of his license.

(4) Any dealer aggrieved by the order of the licensing authority revoking or suspending his license or forfeiting the security in whole or in part, may appeal to the Director within a period of thirty days of such order and the Director may pass such order thereon as he may deem fit: Provided that no such appeal shall be disposed of unless the appellant has been given an opportunity of being heard.

(5) The State Government may call for and examine the record of any proceeding disposed of by the Director in appeal under sub-clause (4) in respect of wholesale dealer for the purpose of satisfying itself as to the legality or propriety of any order made therein and may confirm, commodity, second or rescind such order.

15. Compensation for suspension etc. of license.— The suspension or revocation of a license or forfeiture of security in whole or in part shall not entitle a dealer to any compensation or to the refund of any fee paid by him for such license.

16. Power of entry, search, seizure etc. —

(1) The Director or the licensing authority or an Inspector may, with a view to securing compliance with, this order :—

- (i) enter and inspect any premises on which he has reasons to believe that coal has been or is being or is likely to be kept, stored, distributed, disposed of, or to and from which, coal has been or is being or is likely to be removed, or transported;
- (ii) stop and inspect any vehicle or animal in or on which coal is being carried for sale, supply or storage or for any other purpose.
- (iii) seize coal found in the possession of any person or in any vehicle or on any animal in respect of which he has reasons to believe that contravention of this order has been or is being or is about to be committed; and
- (iv) Seize any record pertaining to coal, of which he has reasons to believe that contravention of this order has been or is being or is about to be committed.

(2) Every person, (including his agent and servant) incharge of vehicle or animal or premises, which is searched or is sought to be searched under the provision of sub-clause (1), shall allow the authority making the demand, access to such vehicle, animal or premises and, shall also answer truthfully and to the best of his knowledge and belief all questions put to him.

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

17. Power to call for information.— Every dealer shall, when so required by general or special direction by the Director or the licensing authority, furnish truthfully and to the best of his knowledge such particulars or information relating to coal as may be required.

18. Persons to whom the order not to apply.— Nothing contained in this order shall apply to the purpose, sale, import or storage of coal and coke or by on behalf of the Central Government or Government companies.

19. Power to exempt.— The State Government may exempt any person or class or persons from the operation of all or any of the provisions of this order and suspect or rescind such exemption.

FORM 'A'

HIMACHAL PRADESH COAL (LICENSING AND PRICE CONTROL) ORDER, 1989

[See Clause 4(1)]

Application for grant/renewal of wholesale license under clause 4(1)

1. Name of applicant (in block letters)
2. Residential address of the applicant
3. If the application is made on behalf of a firm, incorporated company or a co-operative society, state the trading name and names of

ORDERS : Food, Civil Supplies and Consumer Affairs Department, Himachal Pradesh

Proprietors, Partners, Managing Directors, as the case may be

.....
4. Correct address of godown or place of business or place (with Municipal license number if any)....

.....
5. State for how long the applicant has been in the cola business and if any, the proof thereof

.....
6. Has the applicant or his partners ever been prosecuted for breach of any control Order? Give particulars in brief

.....
I hereby apply for grant/renewal of license No.....

issued to me on

I solemnly declare that the above particulars are correct to the best of my knowledge and belief.

Signature of the applicant.

To

The District Magistrate,

.....

FORM 'B'

HIMACHAL PRADESH COAL (LICENSING AND PRICE CONTROL) ORDER, 1989

[See Clause 4(1)]

Application for grant/renewal of retail license under clause 4(1)

1. Name of applicant (in block letters)

2. Residential address of the applicant

3. If the application is made on behalf of a firm, incorporated company or a co-operative society, state the trading name and names of Proprietors, Partners, Managing Directors, as the case may be

.....

4. Correct address of shop or place of business or place (with Municipal numberof

.....licensenumber)..... if

any).....

5. State for how long the applicant has been in the coal business

6. Has the applicant or his partners ever been prosecuted for breach of any control Order? Give particulars in brief

.....

I hereby apply for grant/renewal of license

No....., dated

issued to me on

I solemnly declare that the above particulars are correct to the best of my knowledge and belief.

Signature of the applicant.

To

The District Magistrate,

.....

FORM 'C'

LICENSE ISSUED UNDER HIMACHAL PRADESH COAL (LICENSING AND PRICE CONTROL) ORDER, 1989

[See Clause 4(2)]

Wholesale, license No.....

1. Name of the Licensee (Trading Name)

2. If the licensee is a firm or incorporated company or co-operative society, state the name of Proprietors, Managing Director or Partners, as the case may be

3. Correct address of the place of business (with Municipal License No..... if

any)

4. Correct address of the office where record of sale shall be kept if it is different from the place of business (with Municipal License No.

ORDERS : Food, Civil Supplies and Consumer Affairs Department, Himachal Pradesh

..... if any)

5. Correct address of the place or places of storage of coal

(with Municipal License No.

if any_

6. This license is valid from to

7. Date of issue

Signature of the Licensing Authority.

Seal

[See Clause 4(1)]

RENEWAL ENDORSEMENT

Date of renewal	Date of expiry	Signature of Licensing Authority	Remarks

CONDITIONS OF THE LICENCE

1. The licensee shall display the license prominently at the place of business.
2. The licensee shall not carry on business of coal or store coal for sale in premises other than those specified in the license.
3. The licensee shall comply with the directions that may be issued by the Director or District Magistrate from time to time.
4. The licensee shall invariable file indents in time for the movement of coal/coke allotted through them.
5. The licensee shall move coal/coke strictly in accordance with the allotment and under the directions of the Director Food and Supplies.
6. The licensee shall give due intimation to the Director about the sanction/movement of rakes immediately on sanction/movement.
7. The licensee shall deliver coal wagons to the retail dealers under the directions of the Director, Food & Supplies, Himachal Pradesh.
8. The instructions/directions issued by the Director/Licensing Authorities from time to time shall be binding on the licensee.
9. The licensee shall not sell or offer for sale coal at a rate in excess of that agreed to in the undertaking given by him or fixed under this or any other relevant control order.
10. The licensee shall maintain stock register for coal/coke showing correctly.-(
 - (i) The opening stock of each day;
 - (ii) quantities received on each day (indicate wagon No.);
 - (iii) total of columns (i) and (ii);
 - (iv) Quantities sold on each day; and
 - (v) closing balance.
11. The licensee shall maintain sale register for coal/coke in the following form:-

Date	Quantity sold in metric ton	Rate per Metric ton	Cash Memo No. and date	Total amount charged	Name and license No. of the retail dealer, to whom sold

ORDERS : Food, Civil Supplies and Consumer Affairs Department, Himachal Pradesh

FORM 'D' [See Clause 4(2)]

License issued under Himachal Pradesh Coal (Licensing and Price Control) Order, 1989.

Retail License No

1. Name of Licensee (trading name)
2. If the licensee is a firm or incorporated company or co-operative.....
society, state the names of proprietors, managing directors, partners,
as the case may be.
3. Correct address of the place of business (with Municipal License
number, if any).
4. Correct address of the office where records of sale shall be kept if it
is different from the place of business (with Municipal License number,
if any).
5. Correct address of the place of storage of coal (with Municipal
License number, if any).
6. This license is valid from to
7. Date of issue

Signature of licensing authority
with designation

RENEWAL ENDORSEMENT

Date of renewal	Date of expiry	Signature of Licensing Authority	Remarks

CONDITIONS OF THE LICENSE

1. The licensee shall display the license prominently at the place of business.
2. The licensee shall not carry on business of coal or store coal for sale in premises other than those specified in the license.
3. The licensee shall comply with the directions that may be issued by the Director or District Magistrate from time to time.
4. The licensee shall not sell or offer for sale coal at a rate in excess of that agreed to in the undertaking given by him or that fixed under this or any other relevant control order.
5. The licensee shall maintain stock register for coal/coke showing correctly.—
 - (i) the opening stock of each day ;
 - (ii) the quantities received on each day ;
 - (iii) total of columns (i) and (ii) ;
 - (iv) the quantities sold on each day; and
 - (v) the closing balance.

FORM 'E' HIMACHAL PRADESH COAL (LICENSING AND PRICE CONTROL) ORDER, 1989 [See Clauses 8(g) and 12(2)]

Daily sale register of coal

Name and address of the coal Dealer (Retailer/Wholesaler).....

Date

Sl. No.	Name of the consumer	Address	Card No	Quantity Issued	Rate	Price Charged	Signature/Thumb-impression
1.	2.	3.	4.	5.	6.	7.	8.

FORM 'F'

HIMACHAL PRADESH COAL (LICENSING AND PRICE CONTROL) ORDER, 1989

[See Clauses 8(g) and (2)(1)]

Daily stock register to be maintained by the Coal dealer

Date of month	Opening Balance	Receipt during the day	Total balance in hand	Disposal during the day (Column 2+3)	Particulars of disposal	Balance in hand at the close of the day	Attestation by the purchaser, if any	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.

FORM 'G'

HIMACHAL PRADESH COAL (LICENSING AND PRICE CONTROL) ORDER, 1989

[See Clauses 8(h) and 12(3)]

Monthly Stock Return of Coal

Name and address of the coal dealer

Stock return for the month

Opening balance	Receipt during the month	Total balance in hand	Disposal of coal during the month of the month	Balance in hand on the last day	Remarks if any
1	2	3	4	5	6

Signature of the Coal dealer.

Date

Sd/—

Commissioner—cum—Secretary,
Food & Supply to the
Government of Himachal Pradesh.