

Orders

H.P. Hoarding and Profiteering Prevention Order, 1977

**[Published in the Extraordinary gazette of H.P. Govt. dated 9.8.1977]
Shimla -2, the 5th August 1977**

No. FDS.A (3)-2/77, – Whereas the Governor of Himachal Pradesh is of the opinion that it is necessary so to do for maintenance and increase of supplies and for securing the equitable distribution and availability of article or things specified in the Schedule at fair price.

Now, therefore, in exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955) and with GSR No. 316(E) dated 20.6.72, No. 452(E) dated 25.10.72 and No. 168(E) dated 13.3.73, S.O.No.681(E) and S.O. No. 682(E) 56th dated 30.11.74 issued by the Government of India and all other powers enabling him in this behalf and with the prior concurrence of the Central Government, the Governor of Himachal Pradesh is pleased to make the following order, namely:–

- 1.**
 - (i) This order may be called the Himachal Pradesh Hoarding and Profiteering Prevention Order, 1977.
 - (ii) It shall come into force at once.
 - (iii) It extends to whole of the State of Himachal Pradesh.

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

- (a) “article” means an article specified in schedule I, II and III to this order and it shall be deemed to be in the possession of a person even when it is held on behalf of that person by another person notwithstanding that it is mortgaged to another person.
- (b) “dealer” means a person engaged in the business of sale or storage for sale of any article, whether such business is carried on in retail or in wholesale and includes the distributing agent or the selling agent of such person.
- (c) “producer” includes a manufacturer.
- (d) “Inspector” means Inspector of Food & Supplies and includes any person authorized by the Director to exercise all or any of the powers of the Inspector under this order.
- (e) “District Magistrate” means the District Magistrate of the district and includes the Additional District Magistrate of the district.
- (f) “Director” means the Director, Food & Supplies, Himachal Pradesh.
- (g) “Magistrate” means the Sub-Divisional Magistrate and the Executive Magistrate within their respective jurisdictions.
- (h) “Deputy Director” means the Deputy Director, Food & Supplies and includes any officers not below the rank of District Food & Supplies Controller authorized by the Director to exercise all or any of the powers of the Director under this order.

3.

- (1) The Director or the District Magistrate, may, by Notification in the official gazette, fix in respect of any article given in Schedules I, II, & III:–
 - (a) The maximum quantity which may at any one time be possessed by a dealer or a producer provided that the quantity so fixed in this clause shall in no case exceed the quantity if any, fixed under the specific Licensing and/ or Price Control Order issued under section 3 of the Essential Commodities Act, 1955.
 - (b) The maximum quantity which may at any one time be possessed by any consumer..
 - (c) The maximum quantity which may in one transaction be sold to any person by a dealer or producer.
 - (d) The maximum margin of profit that may be charged by a dealer or producer over his costs in respect of any article included in Schedule I.
 - (e) The maximum retail price including taxes in respect of any article in Schedule –I that may be charged by a dealer or producer subject to the condition that the price so fixed shall not remain operative for more than a month at a time or for such further extended time which in no case shall exceed 3 months from the date of the first order provided that the District Magistrate shall exercise the powers under this para subject to the guidelines, if any, of the Director.
- (2) The quantities, price and margin of profit fixed in respect of any article under this paragraphs may be different in different localities provided that while fixing the margin of profit, the prescribed authority shall take into consideration, the nature of the commodities and also all relevant local-conditions and that such margin of profit shall in no case be less than 1.5% and more than 10%. But in the case of fresh vegetable, the margin may extent up to 25% .

4.

- (1) No dealer or producer shall –
 - (a) have in his possession at any one time a quantity of any article exceeding the maximum fixed by notification under paragraph (a) of sub-clause (1) of clause 3.
 - (b) sell or offer for sale to any person in any one transaction a quantity of any article exceeding the maximum fixed by notification under paragraph (c) of sub-clause(1) of clause 3.
 - (c) charge more than the maximum margin of profit fixed under paragraph (d) of sub-clause (1) of clause 3. (d) charge more than the maximum retail price fixed under clause (e) of sub-paragraph (1) of paragraph 3.

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(2) No dealer or producer shall charge in respect of any article in schedule III more than the price printed on packets under the provisions of the standards of Weights and Measures Act.1976 and the rules framed there under.

5. No consumer shall have in his possession at any one time a quantity of any article exceeding the maximum fixed by notification under paragraph (b) of sub-clause (1) of clause 3.

6. Any dealer or producer or consumer having in his possession a quantity of any article exceeding that permitted by a notification issued under clause 3 shall forthwith report the fact to the Director, Deputy Director, the District Magistrate or Magistrate and shall take such action as to the storage, distribution or disposal of the excess quantity as the Director, Deputy Director, the District Magistrate or Magistrate as the case may be, may direct.

7. No dealer or producer shall, unless previously authorized to do so by the Director or District Magistrate or any person authorized in writing in this behalf by the Director.

(i) without sufficient causes, refuse to sell to any person any article within the limits as to quantity imposed by or under this order; or

(ii) require the purchaser of any article to purchase at the same time any other article as condition for the purchase of that article.

Explanation : The possibility or expectation of obtaining a higher price for an article at a later date shall not be deemed to be a sufficient cause for the purposes of this clause.

8. Omitted vide Notification No. FDS-A-3(2)/77, dated 30.10.80(IV amendment).

9. The Director or the District Magistrate or any person authorized in writing in this behalf by the Director or the District Magistrate may, with a view to securing compliance of this order or any notification issued there under or to satisfying himself that any such provision has been complied with:-

(a) require, by an order in writing any producer or dealer to furnish within such period and at such intervals as may be specified in such order such information, returns or reports and in such forms as may be required; and

(b) prescribe the manner in which true accounts of stocks, sales, purchases or other transactions of articles should be kept.

10.

(1) Director, the District Magistrate, the Deputy Director, the Magistrate, the Inspector or Police Officers of the rank of Sub-Inspector and above may:-

(a) inspect or cause to be inspected any books or other documents belonging to or under the control of a producer or a dealer.

(b) enter or search the premises of a producer, a dealer or a consumer; and

(c) seize any article in respect of which he has reason to believe that a contravention of this order or any notification issued there under has been, is being or is about to be committed.

(2) 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.

11. The powers exercisable by the Director and the District Magistrate under this order shall also be exercisable by the State Government.

SCHEDULE-I

[See clause (a) of paragraph 2 and paragraph 3 (1)]

1. Food grains (Wheat, gram, barley, rice and maize including their products).;

2. Bread.

3. Gur, Shakkar, Khandsari and Sugar.

4. Pulses.

5. Match boxes [Omitted vide Notification dated 5.9.98]

6. Kerosene Oil and Diesel.

7. Paper.

8. Soft coke, hard coke, steam coal and slack coal.

9. Liquefied Petroleum Gas

10. Exercise books.

11. Coarse Woolen cloth/common cloth.

12. Meat/chicken/fish

13. Eggs

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14. Tea leaves excluding tea leaves sold in packets.
15. Edible/vegetable oils and other hydrogenated oils except those sold in tins or other packets of 4 Kgs. Or below.
16. Washing and toilet soaps excluding those sold in packets. [Omitted vide notification dated 5.9.98.]
17. Cooked food served in any establishment.
18. Milk, curd and cottage cheese.
19. Fruit and vegetables.
20. Bottled Beverages.
21. Salt.
22. Cement. [Omitted]
23. Onion [Added vide Notification No. FDS–A(3)–1/95 dated 16.10.99 (Published in weekly Rajpatra dated 13.11.99(10th Amendment))]

SCHEDULE–II

[See clause (a) of paragraph 2 and paragraph 3(1)]

1. Baby Food sold in packets.
2. Tealeaves sold in packets. [Omitted]
3. Battery/Transistor cells. [Omitted vide notification dated 5.9.98]
4. Tyres and tubes of cycles, rickshaws, motor–cycles, scooters, trucks, jeeps and car [Omitted vide notification dated 5.9.98.]

SCHEDULE–III

[See clause (a) of paragraphs 2 and paragraph 3(1) and 4(2)]

1. Drugs.
2. Foodstuffs.
3. Soaps. [Omitted vide notification dated 5.9.98]

By Order
S. M. KANWAR,
Secretary