

# **The Karnataka Essential Commodities**

## **(Public Distribution System) Control Order, 1992**

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(Food and Transport Secretariat, Notification No: FTD:203:DRA.89 Bangalore, dated: 12.10.1992)

In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (Central Act 10 of 1955) read with order No;S.O.681 (E)and S.O 682 (E) dated 30<sup>th</sup> November 1974, GSR 800, dated 9<sup>th</sup> June, 1978 of the Government of India, Ministry of Industries and Civil Supplies (Department of Civil Supplies and Co-operation), New Delhi and S.O.780 (E) dated: 21<sup>st</sup> November,1977 of the Government of India in the Ministry of Civil Supplies and Co-operation, the Government of Karnataka hereby makes the following order, namely.-

**1 Short title, extent and commencement:**(1) This order may be called the Karnataka Essential Commodities (Public Distribution System) Control Order, 1992.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force at once.

**2 Definitions** - In this order, unless the context otherwise requires:-

(a) 'Act' means, the Essential Commodities Act, 1955 (Central Act 10 of 1955)

(b) 'Appellate Authority' means, any Officer appointed by the State Government to exercise the powers of the appellate authority under this order.

(c) 'Authorized Dealer' means a person, a firm, a Corporation, an association of persons or a Co-Operative Society or any other institutions authorized as an agent by the Government or by an authority authorized by the Government in that behalf to be a wholesale dealer engaged in the purchase of essential commodities and sale of these essential commodities to the fair price depots for distribution to ration card holders.

(d) 'Authorized Authority' means the Deputy Commissioner of the District concerned in the rural, urban and the informal rationing areas in the district concerned (except Bangalore informal Rationing Area) and the Joint Director (P.D.S.) for the area comprised in Bangalore Informal Rationing Area".

(e) 'Authorization' means an authorization issued under clause 3 of this order.

(f) 'Fair Price Depot' means a depot, which is authorized to distribute the essential commodities under the public distribution system to the ration cardholders.

(g) 'Deputy Commissioner' means a Deputy Commissioner of the Revenue District concerned.

(h) 'Director' means Director of Food and Civil Supplies Department in the State of Karnataka.

- (i) 'Joint Director (PDS)' means the Joint Director in charge of procurement and Distribution System or any other officer authorized by the Government to discharge the functions of the Joint Director under this order.
- (j) 'Essential commodities' means essential commodities as defined under the Essential Commodities Act 1955, and meant for Public Distribution System by the State or Central Government or any other authority authorized in that behalf by such Government .
- (k) 'Form' means a form appended to this order.
- (l) 'Public Distribution System' means a scheme of distribution system through which the State Government distributes the essential commodities specified in the schedule appended to this order to the ration cardholders through the fair price depots at a fair price fixed by the Government.
- (m) 'Government' means the Government of Karnataka.
- (n) 'Ration Card' means a document issued to a person by a competent authority to enable such person to obtain from an authorized dealer the essential commodities to the extent specified therein and includes permit issued by the competent authority for any of such commodities.

**3. Issue of authorization:** (1) 'The Authorized Authority may issue authorization to any person to be an authorized dealer or to run a fair price depot to obtain and supply essential commodities issued under the Public Distribution System in respect of the areas specified there in'.

(2) No person other than the authorized dealer or fair price depot, shall sell any essential commodity supplied by the Government meant for distribution under Public Distribution System except and in accordance with the terms and conditions specified in the authorization issued in this behalf by the authorized authority ;

Provided that no person who at the commencement of this Order has entered into an agreement to run a wholesale depot/fair price depot shall carry on business as such wholesale depot/fair price depot without obtaining an authorization issued in his behalf by the authorized authority within a period of ninety days from the date of commencement of this order.

**4 Application for authorization:** (1) The authorized authority shall call for applications by publication of a notice after giving a minimum of thirty days time and publishing the same on the notice board of his office and at the office of the Tahsildar of the Taluk, office of the Taluk Panchayat Samithi, office of the Mandal Panchayat concerned, Town Municipal Council, Municipal Corporation, Range Offices of the Food and Civil Supplies Department concerned, as the case may be .

(2) Every application for an authorization or renewal thereof, shall be made to the authorized authority in Form -'A'.

(3) Every authorization issued or renewed under this order shall be in Form – 'B' and shall be subject to the conditions specified therein.

**5 Conditions for Eligibility** - To be eligible for grant of authorization under clause 3, an institution or person should satisfy the following conditions:

- (a) He should not have been convicted for an offence under the Essential Commodities Act, 1955 nor should a wholesale dealers license or retail dealers license issued to him under any order made under the Essential Commodities Act, 1955 or an authorization issued to him to run a fair price depot have been cancelled;
- (b) He should be in possession of suitable business premises, and in the case of wholesale dealers, godowns with sufficient space to store the essential commodities;
- (c) He should have sufficient funds in a bank account to purchase one month's stock requirements.

**6 Order of Priority for Grant of authorization:** (1) subject to the provisions of Clause 5, the authorized authority shall follow the following order of priority for granting authorization.

**(a) Authorized Wholesale Dealer :-**

- (i) Karnataka Food and Civil Supplies Corporation
- (ii) Co-operative Societies registered under the Karnataka Co-operative Societies Act which have been in existence for at least one year.

**(b) Fair Price Shops :-**

- (i) Stree Shakthi Groups recognized by the Women and Child Development Department, Government of Karnataka and which have been in existence for not less than one year as on the date of application;
- (ii) Consumer Co-operative Societies;
- (iii) Other Co-operative Societies;
- (iv) A Society or Association, not being a youth club or Youth Association, registered under the Karnataka Societies Registration Act 1960 (Karnataka Act 17 of 1960);
- (v) If eligible applicants from the categories (i) to (iv) are not available to run the fair price shops, in particular area, then the authorized authority may grant authorization to open a fair price depot to individuals who are above 18 years of age, and who have passed 10<sup>th</sup> standard, in the following order of priority, namely –
  - (a) Persons belonging to the Scheduled Castes;
  - (b) Persons belonging to the Scheduled Tribes;
  - (c) Un-employed graduates;

- (d) Physically handicapped persons;
- (e) Ex-servicemen;
- (f) Others.

Provided that, out of the authorization for fair price depot issued to individuals during the official year by an authorized authority, a minimum of fifteen percent shall be reserved for the persons belonging to the Scheduled Castes and a minimum of five percent for the persons belonging to the Scheduled Tribes and if persons belonging to those categories are not available then such authorization, may be issued to other persons.

**Note:**

- (i) Co-operative Society means a Co-operative Society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959).
- (ii) Only such Co-operative Society or Society or Association which is financially sound (as verified from the audited accounts of the last three years) and has been functioning at least for three years prior to the date of consideration of the application shall be considered.

2. The authorized authority shall replace the existing dealer or fair price depot if its authorization is cancelled for any reason by granting an authorization to an institution or a persons in the order of priority specified under sub-clause (1).

\*(provided that nothing in this sub-clause shall apply in respect of applications made by the Karnataka Food and Civil Supplies Corporation)

**7. Period of authorization and Fees Chargeable:** 1) Every authorization issued under this order, shall be valid for a period for three years from the date of issue and may be renewed for a further period of three years at a time, if the authorized authority is satisfied that the applicant has not committed any offence or irregularity in the distribution of essential commodities during the previous years.

2) The fees specified below shall be chargeable, in respect of each authorization, namely:

a) For issue of authorization:

i) Wholesale Dealer-300-00

ii)Fair Price Depot- 150-00

b) For renewal of authorization applied for before the expiry of the period of authorization:

i)Wholesale Dealer-150-00

ii)Fair Price Depot- 75-00

c) For renewal of authorization applied after the expiry of the period of authorization,(but before thirty days after the expiry of said period).

i Wholesale Dealer- 300-00

ii) Fair Price Depot-150-00

d) For issue of duplicate authorization:

i) Wholesale Dealer - 50-00

ii) Fair Price Depot - 25-00

**8. Replacement of Defaced, Lost or Destroyed authorization:** If the authorization issued under this order is defaced, lost or destroyed an application furnishing true and correct information in such form as may be specified by the Authorized Authority, may be made to it for issue of a duplicate authorization after paying the fees specified in sub-clause (2) of Clause 7 and the Authorized Authority may after making such enquiry as it deems fit, issue a duplicate authorization.

**9. Deposit of Security:** (1) For the due performance of the conditions and subject to which the authorization is granted, every authorized dealer and every fair price depot applying for an authorizations shall before the authorization is issued to him, deposit with the Authorizing Authority, a security of the value of-

i) five thousand rupees for authorized wholesale dealer at the district level and for Bangalore Informal Rationing Area;

ii) two thousand rupees for authorized wholesale dealer for area other than the district level and Bangalore Informal Rationing Area ;

iii) five hundred rupees in the case of fair price depot in rural areas and rupees one thousand in urban and Informal Rationing Areas.

(2) The amount of security to be deposited may be in the form of National Savings Certificates or Post Office Savings Bank Deposit.

Provided that if the authorized dealer is a Co-operative Society registered under the Karnataka Co-operative Societies Act 1959 the amount of security to be deposited shall be equal to one half of the amounts specified in sub-Clause (1) above.

(3) Nothing in sub-clause (2) shall apply to the Karnataka Food and Civil Supplies Corporation).

**10. Power to Refuse authorization:** (1) The Authorized Authority may, after giving the person affected an opportunity of being heard and for reasons to be recorded by him in writing, refuse to grant or renew an authorization

(2) The Authorized Authority shall refuse to grant or renew an authorization, if-

(a) the applicant is a minor or a lunatic or is unsound mind : or

- (b) the applicant is an undischarged insolvent : or
  - (c) the applicant is not eligible under clause 5 of this Order.
- (3) The Authorized Authority shall also refuse to grant or renew authorization, if-
- (a) an applicant has already been deprived of authorization due to cancellation of the same on a previous occasion ;
  - (b) an applicant has applied for both wholesale and retail authorization except in respect of Co-operative Societies.

**11. Assignment of Ration Card:** (1) After sanctioning an authorization to run a fair price depot, the Authorized Authority shall assign to the fair price depot a certain number of ration cards belonging to persons residing in areas near the fair price depot.

(2) The number of ration cards assigned to a fair price depot under sub-clause (1) shall not be less than 300 for a fair price depot in a rural area and not less than 500 for a fair price depot in an urban area :

Provided that the Authorized Authority may, in exceptional cases and for reasons to be recorded in writing, relax the limit upto 200 cards for a fair price depot in a rural area and upto 300 cards for a fair price depot in an urban area if the fair price depot is to serve the needs of an isolated settlement or layout where the number of ration cards is below the limit prescribed.

(3) The Authorized Authority may, if he considers it necessary in the interest of the ration cardholders, transfer ration cards from one fair price shop to another.

Provided that no such transfer shall leave any fair price depot with less than the minimum number of ration cards specified in sub-clause (2).

**12. Contravention of Conditions of Authorization:** (1) No authorized dealer or fair price depot under this order or his agent or servant or any other person acting on his behalf, shall contravene any of the terms of conditions of the authorization or the provisions of this order and if any such dealer or fair price depot or his agent or servant or any other person acting on his behalf contravenes any of the said terms of conditions or provisions, then without prejudice to any other action that may be taken against him, his authorization may be cancelled by order in writing by the Authorized Authority in respect of one or more of the essential commodities covered by that authorization :

Provided that no order shall be made under his clause unless the authorized dealer or fair price depot has been given a reasonable opportunity of being heard.

(2) If the Authorized Authority is satisfied that *prima facie* the conditions of the authorization or the provisions of this order are contravened, he may, notwithstanding

anything in sub-clause (1), suspend the authorization pending enquiry for cancellation of authorization.

**13. Prohibition of Transfer of Authorization:** No authorized dealer shall assign or transfer his authorization to any other person by and no person shall carry on business as a transferee or otherwise on behalf of any such authorized dealer.

“Provided that the authorized authority may order for such transfer in the event of the death of the authorized dealer to the spouse or son or unmarried daughter with the prior approval of the Government”.

**14. Maintenance of Accounts, Display of Prices and Stocks, Issue of Cash Memo or Invoice, withhold of Stocks from Sale, etc :** The provision of the Karnataka Essential Commodities (Maintenance of Accounts, Display of Prices and Stocks) Order, 1981 shall mutatis mutandis apply to every authorized dealer under this order.

**15. Forfeiture of Security Deposit :** (1) Without prejudice to the provisions of Clause 10, if the Authorized Authority is satisfied that the authorized dealer has contravened any of the terms or conditions of the authorization or the provisions of this Order and that a forfeiture of his Security Deposit is called for, he may, after giving the authorized dealer a reasonable opportunity of being heard, by order forfeit the whole or any part of the security deposited by him and communicate a copy of the order to the authorized dealer.

(2) The authorized dealer shall, if the amount of security at any time falls short of the amount specified in Clause 8, forthwith deposit further security to make up that amount on being required by the Authorized Authority to do so.

(3) Upon the compliance by the authorized dealer with all the obligations under the authorization, the amount of security or such part thereof, which is not forfeited as aforesaid shall be returned to the authorized dealer after the termination of authorization.

**16. Issue of Directions :** (1) The Government and the Director may, in order to secure better compliance with the provisions of this order, issue directions from time to time to authorized dealers and fair price depots.

(2) Every authorized dealer and every fair price depot to whom any order or direction is issued by Government or the Director or an authority empowered under this order shall comply with such order or direction.

**17. Appeal :** (1) Any person aggrieved, by an Order of the Authorized Authority refusing to issue or renew an authorization or canceling or suspending an authorization or forfeiting the security deposited by the authorized dealer under the provisions of this order may appeal to the Appellate Authority within thirty days of receipt by him of such order.

Provided that the Appellate Authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that there was sufficient cause for not filling it within that period.

- (2) No such appeal shall be disposed of unless the aggrieved person has been given a reasonable opportunity of being heard.
- (3) Pending the disposal of an appeal, the Appellate Authority may direct that the order under appeal shall not take effect until the appeal is disposed of.

**18. Prohibition of unauthorized sale of food grains and essential commodities issued through Public Distribution System:** (a) No person other than the authorized dealer shall purchase or sell or store or offer for sale of food grains in any quantity of any food grains or essential commodities issued to the authorized dealer for distribution under public distribution system.

- (b) No authorized dealer shall sell or offer for sale of food grains and other essential commodities at a price exceeding the price fixed by the Government .
- (c) No authorized wholesale dealer shall distribute food grains or other essential commodities issued under public distribution system to any person other than fair price depots and no fair price depot shall sell any essential commodity issued under public distribution system to any person other than a ration card holder attached to the fair price depot.

**19. Powers of Entry, Search, Seizure, etc. :** (1) The Director of Food and Civil Supplies, the Joint Directors of Food and Civil Supplies, or the Tahsildar of a taluk, the Authorized Authority or any other officer of the Department of Food and Civil Supplies not below the rank of a Food Inspector within their jurisdiction may with such assistance, if any, as he thinks fit and if he has reason to believe that there is or has been any contravention of the provisions of this order or with a view to securing compliance with this order or to satisfying himself that there is or has been any contravention of the order :

- (a) require the owner, occupier or any other person in charge of any place, premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this order or of the conditions of any authorization issued there under has been, is being or is about to be committed, to produce any books, accounts or other documents showing transactions relating to such contraventions :
- (b) enter, inspect or break open and search any place or premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this order or of the conditions of any authorization issued there under has been, is being or is about to be committed ;
- (c) take or cause to be taken extracts from or copies of any documents showing transactions relating to such contraventions which are produced before him ;



(d) search, seize and remove books, accounts and other documents and stocks of essential commodity and the animals vehicles, vessels or other conveyance used in carrying the said essential commodities in contravention of the provisions of this order, or of the conditions of the authorization issued there under and thereafter take or authorize the taking of all measures necessary for securing the production of stocks, of essential commodity and the animals, vehicles, vessels or other conveyance so seized, in a Court for their safe custody pending such production.

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

**20. Power to call for and Examine Records :** The Government may suo moto or on any application made to it by an aggrieved person, at any time call for and examine the record of any enquiry or proceedings of any officer exercising or failing to exercise the powers under this order to suspend or cancel any authorization issued for the purpose of satisfying itself as to the legality or the propriety of any decision or order passed by such officer and as to the regularity of the proceedings of such officer may pass such order thereon as it thinks fit. Provided that the State Government shall not pass any order under this clause which adversely affects any person unless such person has been given a reasonable opportunity of being heard.

**20A power to relax :** The State Government shall have the powers to relax any of the provisions contained in this order in public interest.

**21. Repeal and Savings:**

The administrative orders issued by the Government or the Director of Food and Civil Supplies are hereby repealed:

**Provided that such repeal shall affect :**

- (a) the previous operation of the said orders or anything duty done or suffered there under: or
- (b) any right, privilege, application or liability acquire, accrued or incurred under the said orders; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said order; or
- (d) any investigation, legal proceedings or remedy in respect of any such right, privilege, application, liability, penalty, forfeiture or punishment as aforesaid: and any such investigation, legal proceeding or remedy may be instituted continued, or enforced and any such penalty, forfeiture or punishment may be imposed as if the said orders have nor been repealed.