



# THE TEA (CONTROL OF PRICES, DISTRIBUTION AND MOVEMENT) ORDINANCE, 1960



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# THE TEA (CONTROL OF PRICES, DISTRIBUTION AND MOVEMENT) ORDINANCE, 1960

ORDINANCE No. XXVIII OF 1960

[6th July, 1960]

**An Ordinance to provide for special measures for the control of prices, distribution and movement of tea.**

WHEREAS it is expedient to provide for special measures for the control of prices, distribution and movement of tea;

Now, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

**1. Short title, extent and commencement.**-(1) This Ordinance may be called the Tea (Control of Prices, Distribution and Movement) Ordinance, 1960.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

**2. Definitions.** In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) “approved dealer” means a dealer in tea registered under this Ordinance as a bidder, blender, importer, wholesaler or retailer;

<sup>1</sup>[(aa) ‘appropriate Government’ means, in relation to matters pertaining import of tea from outside Pakistan, and trade and commerce between the Provinces the <sup>2</sup>[Federal Government] and, in relation to other matters, the Provincial Government;]

(b) “bidder” means a person who bids at internal tea auctions for the purpose of buying tea either for himself or on behalf of others, and includes a broker;

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<sup>1</sup>Clause (aa) ins. by A. O., 1964, Art. 2 and Sch.

<sup>2</sup>Subs. by F.A.O., 1975 Art. 2 and Table, for “Central Government”.

- (c) “blender” means a person engaged in the business of buying and blending tea and preparing packets or other containers of tea for distribution;
- (d) “brewed tea” means tea prepared for drinking, whether with or without milk, sugar or *gur*;
- (e) “broker” includes a commission agent;
- (f) “Controller-General” means the Controller-General of Prices and Supplies appointed by the <sup>1</sup>[appropriate Government], and includes any Additional, Deputy or Assistant Controller-General so appointed, and any other officer authorized by the <sup>1</sup>[appropriate Government] to exercise all or any of the powers of the Controller-General under this Ordinance;
- (g) “dealer” means a person who deals in tea as a bidder, blender, importer, wholesaler or retailer;
- (h) “importer ” means a person who imports into Pakistan tea from outside Pakistan;
- (i) “prescribed” means prescribed by rules made under this Ordinance;
- (j) “retailer” means a person carrying on the business of selling tea in retail, whether in conjunction with any other business or not;
- (k) “tea” includes blended and unblended tea, tea leaf, tea fanning, tea dust, tea contained in packets or other containers and brewed tea; and
- (l) “wholesaler” means a person carrying on the business of selling tea wholesale, whether in conjunction with any other business or not.

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<sup>1</sup>*Subs, by A. O., 1964, Art. 2 and Sch., “Central Government”.*

**3. Registration of dealers.**-(1) The Controller-General shall maintain separate registers, in such form as may be prescribed, for the registration of bidders, blenders, importers, wholesalers and retailers, and may register any person in such register on an application made to him, giving such particulars, in such form, and on payment of such fees as may be prescribed, and subject to such conditions, if any, as the Controller-General may think fit to impose.

(2) The Controller-General may require any person applying for registration under sub-section (1) to furnish such further particulars and information and to produce such documents as the Controller-General may consider necessary for the purpose.

(3) The Controller-General shall notify in the official Gazette the name of every person registered under sub-section (1).

(4) Nothing in this section shall be construed as precluding a person registered in any one of the registers maintained under sub-section (1) from being registered in any other register so maintained.

**4. Power to refuse, suspended or cancel registration.**-(1) No dealer shall be entitled to registration under sub-section (1) of section 3 as of right, and registration may be refused, or, if granted, may be suspended or cancelled for any one of the following reasons, that is to say,-

- (a) for contravening or failing to comply with any provision of this Ordinance, or the rules or orders made thereunder;
  - (b) for contravening or failing to comply with any condition imposed by the Controller-General at the time of registration under section 3;
  - (c) for under-invoicing or over-invoicing the value of imports or exports of tea;
  - (d) for obtaining or attempting to obtain registration under this Ordinance by fraudulent means or wilful misrepresentation;
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(e) for indulging in activities which in the opinion of the Controller-General are detrimental to public interest.

(2) Any person aggrieved by an order under sub-section (1) may appeal against the order to the <sup>1</sup>[appropriate Government], within such time as may be prescribed, and the order of the <sup>1</sup>[appropriate Government] thereon shall be final.

**5. Forward transaction banned.**-(1) All sales at internal auctions of tea shall be on immediate payment basis, and all kinds of speculative forward transactions in tea are hereby prohibited.

(2) Any such transaction as aforesaid outstanding immediately before the promulgation of this Ordinance shall, notwithstanding anything in any agreement, contract, deed or other document, be void.

**6. Restrictions on dealings in tea.** No person, not being an approved dealer, shall at any one time hold in stock, purchase, sell, or agree to purchase or sell tea weighing three hundred pounds or more.

**7. Duty to declare possession of excess stocks.** Any person having in his possession a quantity of tea exceeding that permitted by or under this Ordinance shall forthwith report the fact to the Controller-General and shall take such action as to the storage, distribution and disposal of the excess quantity as the Controller-General may direct.

**8. Fixation of prices.** The Controller-General may, from time to time, by notification in the official Gazette, fix the maximum prices up to which any variety of tea may be sold by (a) a blender, (b) an importer, (c) a wholesaler, (d) a retailer, or (e) any other person or class of persons, and no person shall sell or resell tea at prices higher than the prices so fixed.

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<sup>1</sup>Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government".

**Explanation.**-It shall not be a contravention of this section to sell or resell tea at prices lower than the prices fixed under this section.

**9. Fixation of quantities of tea to be held by approved dealers, etc.,** The Controller-General may, by notification in the official Gazette, fix in respect of any grade or variety of tea-

- (a) the maximum quantity which may at any time be possessed by an approved dealer or class of approved dealers ;
- (b) the maximum quantity which may in any one transaction be sold by an approved dealer or class of approved dealers to another approved dealer or class of approved dealers ; and
- (c) the maximum quantity which may at any one time be purchased by any approved dealer or class of approved dealers.

**10. Restrictions on possession and sale of tea where maximum is fixed under section 9.** No approved dealer shall-

- (a) have in his possession at any one time stock of tea exceeding the maximum fixed by notification under clause (a) of section 9, or,
- (b) sell or offer for sale to any person in any one transaction tea exceeding the maximum fixed by notification under clause (b) of section 9.

**11. Power to order sale.** The Controller-General may by order in writing require any approved dealer to sell to such person or persons such quantity of tea as may be specified in the order, and may issue such incidental or supplementary instructions in writing to any approved dealer in regard to the sale thereof as he thinks fit.

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**12. Restrictions on movements of tea.** Notwithstanding any agreement to the contrary, the Controller-General or any other officer empowered in this behalf by the <sup>1</sup>[appropriate Government] may, by a general or special order in writing, prohibit the transport of tea from one place to another within Pakistan by or on behalf of any dealer or other person, and direct such dealer or person to sell or deliver the whole or any part of the tea held by him to any person or persons specified in the order.

**13. Information to be furnished by importers.**-(1) Every importer, shall, within fourteen days from the date of receiving intimation of despatch of any consignment of tea from any place outside Pakistan, furnish to the Controller-General by registered post, acknowledgement due, the following information in respect of the consignment, namely:-

- (a) grade or variety and quantity of tea included in the consignment ;
- (b) expected date and place of arrival of the consignment in Pakistan; and
- (c) how the stocks of tea are proposed to be disposed of on arrival.

(2) Every importer shall, within fourteen days of the clearance of the consignment from the customs, furnish to the Controller-General the following information supported by original documents in respect of the consignment, namely :-

- (a) grade or variety and quantity of tea included in the consignment ;
- (b) landed cost of the consignment showing C.I.F. value, customs duty, sales tax, and other incidental charges, if any, separately.

**14. Disposal of Imports.** No importer shall sell or otherwise dispose of any consignment of tea imported by him except in accordance with such written instructions as may be issued to him by the Controller General in this behalf.

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<sup>1</sup>Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government".

**15. Declaration of godowns, store-houses and ware-houses.** Any dealer may be required by the Controller-General to declare the situation and descriptive particulars of any place other than his usual place of business where he keeps or stores tea, and after making such declaration he shall not keep or store tea elsewhere than at such place or his usual place of business.

**16. Information to be furnished by blenders.** Every blender shall furnish to the Controller-General so as to reach him by the fifteenth day of each calendar month the following information, namely:-

- (a) grade or variety and actual or estimated quantity of tea blended during the preceding calendar month ;
- (b) the actual or estimated cost of blending such tea ; and
- (c) the manner in which and the persons to whom the blender proposes to dispose of the same.

**17. Maintenance of records, etc.**-(1) Every approved dealer shall keep such books, accounts and records relating to the business carried on by him as the Controller-General may require from time to time.

(2) Every dealer or other person holding stocks of tea and every person employed in connection with the business of such dealer or other person, on being required so to do either by notice served on him or by special or general direction issued by the Controller-General, shall-

- (a) produce before such person as may be specified in the notice or direction such accounts and other documents as may be specified in the notice or direction ;
  - (b) furnish to the Controller-General such estimates, returns and other information relating to the business as may be specified in the notice or direction ; and
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(c) permit any person or persons of a class or description mentioned in the notice or direction to enter upon, inspect and search with a view to securing compliance with this Ordinance or the rules or orders made thereunder any premises used for or in connection with the business, and seize all stocks of tea in respect of which such person or persons have reason to believe that a contravention of this Ordinance or the rules or orders made thereunder has been, is being, or is about to be, committed.

**18. Marking of prices and exhibition of price lists.**-(1) Every blender shall mark the retail sale price on each packet or other container of tea or on a label affixed to each packet or container.

(2) Every dealer shall maintain and exhibit on his premises a price list of all kinds of tea exposed or intended for sale.

(3) No dealer shall destroy, efface or alter or cause to be destroyed, effaced or altered the prices marked and exhibited under sub-sections (1) and (2).

**19. Cash memorandum to be given in certain cases.** Every dealer when selling tea for cash shall, if the sale for five rupees or more in all cases, and if the sale is for less than five rupees, when so requested by the purchaser, give the purchaser a cash memorandum containing particulars of the transaction:

Provided that the provisions of this section shall apply only to those dealers who are liable to pay income-tax.

**20. Refusal to sell.** No dealer shall without reasonable excuse refuse to sell to any person any quantity of tea not exceeding the maximum fixed by or under this Ordinance.

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**Explanation.**-The possibility or expectation of obtaining a higher price at a later date shall not be deemed to be a reasonable excuse within the meaning of this section, but it shall not be a contravention of this section to refuse to supply tea to a retailer or a consumer in excess of his normal quota or reasonable requirements determined in accordance with the established system of distribution, in case such system is equitable and is in keeping with established commercial and trade practice.

**21. Offences and penalties.**-(1) If any person contravenes any provision of this Ordinance or any rule or order made thereunder, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and any Court trying such contravention may direct that any stocks of tea in respect of which such contravention has been made shall be forfeited to Government.

(2) The owner of any vessel, conveyance or animal carrying any tea in respect of which any provision of this Ordinance or any rule or order made thereunder has been contravened shall, if the carrying is part of the transaction involving the contravention and if he knew or had reason to believe that the contravention was being committed, be deemed to have contravened the provisions of this Ordinance, and in addition to the punishment to which he is liable under sub-section (1), the vessel, conveyance or animal shall also be liable to be forfeited to Government.

**22. Attempts and abetments.** Any person who attempts to contravene, or abets the contravention of any provision of this Ordinance or any rule or order made thereunder shall be deemed to have contravened the provisions of this Ordinance.

**23. Offences by corporations.** If the person contravening any provision of this Ordinance or any rule or order made thereunder is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

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**24. False statements.** Any person who,-

- (a) when required by or under this Ordinance to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or
- (b) makes any statement as aforesaid in any book, account, record, declaration, return or other document which he is required by or under this Ordinance to maintain or furnish,

shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

**<sup>1</sup>25. Cognizance of offences.** No court shall take cognizance of an offence punishable under this Ordinance except with the previous sanction in writing of the <sup>2</sup>[appropriate Government], <sup>3</sup>\* \* \* or of an officer or other authority empowered for the purpose by the <sup>2</sup>[appropriate Government] <sup>4</sup>\* \* \*.

**26. Power to try offences summarily.** Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 ([Act V of 1898](#)), may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Ordinance.

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<sup>1</sup> For notification authorizing the Government of East and West Pakistan and the Administrator of Karachi under this section, see Gaz. of P., 1960, Ext., p. 1584a.

<sup>2</sup> Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government".

<sup>3</sup> The original words and commas "or if it is authorised by the Central Government in this behalf, of the Provincial Government", omitted *ibid*.

<sup>4</sup> The original words "or by the Provincial Government so authorized" omitted *ibid*.

**27. Special provisions regarding fines.** Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 ([V of 1898](#)), it shall be lawful for any magistrate of the first class especially empowered by the Provincial Government in this behalf to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence under this Ordinance.

**28. Presumption as to orders.**-(1) No order made in exercise of any power conferred by or under this Ordinance shall be called in question in any Court.

(2) Where any order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall, within the meaning of the Evidence Act, 1872, (I of 1872) presume that such order was so made by that authority.

**29. Protection of action taken in goods faith.**-(1) No suit or prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provision of this Ordinance or any rule or order made thereunder.

**30. Delegation of powers.** The <sup>1</sup>[appropriate Government] may, by notified order<sup>2</sup>, direct that all or any of its powers under this Ordinance or the rules made thereunder shall in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exerciseable also by-

(a) such officer or authority subordinate to the <sup>1</sup>[appropriate Government], or

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<sup>1</sup> Subs. by A. O., 1964, Art. 2 and Sch., for "Central Government".

<sup>2</sup> For notification, see Gaz. of P., 1960, Ext., pp. 1923 a-1.

(b) <sup>1</sup>[where <sup>2</sup>[Federal Government] is the appropriate Government such Provincial Government or such officer or authority subordinate to a Provincial Government,

as may be specified in the direction.

**31. Ordinance not to apply to Government Transactions.** Nothing in this Ordinance shall apply to the possession or sale of any quantity of tea by a dealer or other person in the course of the fulfilment of a contract entered into with the <sup>2</sup>[Federal Government] or a Provincial Government.

**32. Power to make rules.** The <sup>3</sup>[appropriate Government] may by notification in the official Gazette make rules<sup>4</sup> for carrying out the purposes of this Ordinance.

**33. Power to exempt.** The <sup>3</sup>[appropriate Government] may by order notified in the official Gazette, exempt any person or class of persons or any grade, variety or stock of tea from the operation of all or any of the provisions of this Ordinance to such extent and subject to such conditions, if any, as may be specified in the order.

**34. Ordinance in addition to Other Laws, etc.** The provisions of this Ordinance shall be in addition to and not in derogation of any other laws for the time being in force relating to the control of prices, distribution and movement of tea.

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<sup>1</sup> Ins. by A. O., 1964, Art., 2 and Sch.,

<sup>2</sup> Subs. by F.A.O. 1975, Art., 2 and Table for "Central Government".

<sup>3</sup> Subs. by A.O., 1964 Art. 2 and Sch., for "Central Government".

<sup>4</sup> For the Tea (Registration of Dealers) Rules, 1960 see Gaz. of P. 1960. Ext. p. 1363-1365.

<sup>5</sup> For notifiin under this section, see Gaz. of P., 1960, Ext., p. 1847a.

