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FOOD SUPPLIES & CONSUMER WELFARE DEPARTMENT

NOTIFICATION

The 17th April 2015

No. 7737—09-17-10-45/2014—In exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the orders of the Government of India, Ministry of Agriculture & Irrigation (Department of Food) No. 800-G.S.R., dated the 9th June 1978 and Ministry of Agriculture (Department of Food) Order No. 168(E)-G.S.R., dated the 13th March 1973, read with Order No. 104(E)-G.S.R., dated the 15th February 2002 as amended from time to time and the last such amendment made by Order No. 1685(E)-S.O., dated the 3rd July 2014 of Ministry of Consumer Affairs, Food and Public Distribution and with the concurrence of Government of India, the State Government do hereby make the following Order, namely :—

ORDER

1. Short title, extent, commencement and duration—

- (1) This order may be called the Odisha Potato and Onion (Storage Control) Order, 2015
- (2) It extends to the whole of the State of Odisha
- (3) It shall come into force from the date of publication in the Official Gazette and shall remain in force up to the period specified by Government of India from time to time.

2. Definitions—

In this order, unless the context otherwise require—

- (a) 'Act' means the Essential Commodities Act, 1955 (10 of 1955)
- (b) 'Bulk Consumer' means an establishment or an institution authorised by State Government for purchasing or storing of potatoes and onions in quantities exceeding fifty quintal and twenty quintal, respectively at any one time either for consumption in the establishment or for manufacturing purposes but not for sale.
- (c) 'Cold Storage' means an enclosed chamber insulated in the prescribed manner and mechanically cooled by refrigeration machinery to provide refrigerated condition to things stored therein but does not include refrigerated cabinets and chilling plants having capacity of less than 28.3168 cubic meters.

(d) 'Competent Officer' means :—

- (i) Director, Consumer Affairs or Collector or Deputy Director or Asst. Director, Food Supplies or Deputy Director (Market Intelligence) or Civil Supplies Officers or Assistant Director (Market Intelligence) or Assistant Civil Supplies Officers or Market Intelligence Officers or Inspector Supplies or Marketing Inspectors or Market Intelligence Inspectors of Food Supplies & Consumer Welfare Department ;
- (ii) any officer not below the rank of Assistant Civil Supplies Officers in case of Bhubaneswar or Cuttack or Berhampur Municipal Corporation ;
- (iii) any officer of the Police Department not below the rank of Deputy Superintendent of Police ; and
- (iv) any officer of the Food Supplies and Consumer Welfare Department specially authorized by the controller in this behalf.

(e) 'Controller' means the Secretary to Government Food Supplies & Consumer Welfare Department includes Commissioner-cum-Secretary or Principal Secretary to Government.

(f) 'Dealer' means any person engaged in the business of purchase, movement, sale, supply, distribution or storage for sale of potatoes and onions as importer, wholesaler or retailer and includes agent of such person, but does not include a producer.

(g) 'Government' means the Government of Odisha

(h) 'Hirer' means a person who hires on payment of prescribed charges space in cold storage for storing of potatoes and onions.

(i) 'Retailer' means a person who sells potatoes and onions to a consumer not being a dealer or producer.

(j) 'Importer' means any person who purchases and brings any stock of potatoes or onion from outside the State of Odisha for the purpose of sale and includes & a broker or a commission agent or any other agent having authority to sell such items on behalf of such person.

(k) 'Schedule' means the schedule attached to this order.

(l) 'Wholesaler' means a dealer who sells potatoes or onions to any other dealers or bulk consumers directly with the permission of the authorities and include a broker, commission agent or any other agent having authority to sell potatoes or onions belonging to his principals.

3. Prohibition on withholding from sale of potatoes and onions— No dealer of any category, whether he is wholesaler or retailer, as the case may be, shall withhold the sale of potatoes and onions ordinarily kept for sale.

4. Restriction on storage of potatoes and onions— No dealer of any category, whether he is importer, wholesaler or retailer, as the case may be, shall store or have in his possession at any time potatoes & onions in excess of the quantity specified in the Schedule except under and in accordance with a permit granted by the Controller :

Provided that whether a dealer by virtue of the nature of his business falls under more than one category, he shall for the purpose of this paragraph be deemed to belong to that category for which the higher or highest quantity, as the case may be has been specified in the Schedule to this order.

- 5. Prohibition of permitting hiring of space in cold storage—** No person owning, managing or having control in any way, over the affairs of a cold storage, including their agents and servants shall permit any space in a cold storage for storing of potatoes and onions except to a hirer.
- 6. Savings—** Nothing in this order shall apply to storage or possession of potatoes and onions either singly or in any combination by or on account of or on behalf of or on the authority of the Food Corporation of India (FCI) or the State Government or the Central Government.
- 7. Power of entry, search and seizure, etc.—**

(1) The Controller of any Competent Officer with a view to securing compliance with this order and to satisfy himself that this order has been complied with, may—

- (a) inspect or cause to be inspected any book or document or accounts as well as any stock of potatoes and onions belonging to, or under the control of any person ;
- (b) require any person to give any information in his possession with respect to potatoes and onions ;
- (c) stop and search forthwith, with such aid or assistance as may be necessary, any person or vehicle or vessel or animal used or suspected of being used for delivery of potatoes and onions from any premises where he has reason to believe that potatoes and onions are stored ;
- (d) enter, inspect or break open and search any place or premises, vehicles, vessels with such aid or assistance as may be necessary, which he has reason to believe that any contravention of the provisions of this order is being or is about to be committed ; and
- (e) seize and remove, with such aid or assistance as may be necessary, any stock of potatoes and onions along with packages, coverings or receptacles in which such stock is found and animals, vehicles or vessels used in carrying such stocks, if he has reasons to suspect that any provision of the order has been is being or is about to be contravened in respect of such stock or any part thereof or in respect of any other stock of potatoes and onions which immediately before the contravention was stored along with such stock and thereafter take or authorize that taking of all measures necessary for securing the production as expeditiously as possible of stock potatoes and onions, packages, coverings receptacles, animal, vehicles so seized to the Collector with a report in writing under Section 6A of the Act :

Provided that the officer making the seizure shall give a receipt for such seizure immediately after the seizure is effected.

- (2) Notwithstanding the power of entry, search and seizure having being vested with Competent Officers, the authority shall not be exercised except with the written permission of the Controller or Collector.
- (3) Subject to the provisions of sub-clause (1), the provisions of Section 100 and Section 165 of the Code of Criminal Procedure 1973 (2 of 1974), relating to search and seizure, shall *mutatis mutandis*, apply to searches and seizures made under this clause.
- (4) The take or cause to be tested the weight of potato and onion found in any such premises.
- (5) The take or cause to be taken extract from or copies of any document showing transactions relating to such contraventions which are produced before him.
- 8. Power to exempt in special cases—** If the Government having regard to the conditions prevailing in area, considers, if necessary or expedient so-to-do in the public interest, it may, by notification, exempt, subject to such condition as it may think fit to impose, such class or classes of persons in that areas as it may specify in the notification from the operation of all or any provision of this order.
- 9. Power to issue direction—** The Government may from time to time issue such directions as it considers necessary for the purpose of giving effect to the provisions of this order and/or the dealers or producers to whom such directions have been issued.

SCHEDULE
(See Clause 4)

Commodity	Maximum quantity that may be stored or had in possession by at any point of time				
	Wholesaler			Retailer	
	Bhubaneswar City	Cuttack/Rourkela/ Berhampur/ Sambalpur	All other places of the State	Bhubaneswar Cuttack/Rourkela Berhampur/Sambalpur	All other places of the State
Patato	1000 quintals	500 quintals	300 quintals	40 quintals	15 quintals
Onion	500 quintals	300 quintals	150 quintals	20 quintals	8 quintals

By order of the Governor

MADHUSUDAN PADHI

Commissioner-*cum*-Secretary to Government