

E & PH (1946) Department.

MS SERIES.

G.O. No. 1924 Edn.

Dated 7-10-1946

[Despatch Abstract.]

Stationery - Madras Essential Articles Control
and Requisitioning (Temporary Powers) Act, 1946. - Essential
stationery articles. - Notified.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Go	62	Edn	12-1-43				

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Go	2153	Edn	11-11-46				

Immediate

Edn. & P.H. (G1) Dept.

MEMORANDUM No. 55603-81-1-P.H. 2/21-9-46

Bills - The Madras Essential Articles Control and Requisitioning (Temporary Powers) Bill, 1946 - Clause 2(a) - Notification of articles as essential articles - Preliminary action to be taken.

The Defence of India Act, the Defence of India Rules and the Control Orders issued thereunder will expire on the 30th September 1946. As it was considered that, in spite of the termination of the war, it is essential that the power which the Government now possess under the Defence of India Rules to control the production, supply and distribution of essential articles and trade and commerce therein, should continue for sometime longer, a Bill* called the Madras Essential Articles Control and Requisitioning (Temporary Powers) Bill, 1946, was introduced in the Legislature and passed by it. The Bill is being reserved for the consideration of the Governor-General and will be published as an Act before the 1st October 1946.

Clause 2(a) of the Bill defines 'essential article' as meaning any of the articles specified in the Schedule and any other article which may be declared by the Provincial Government by notified order to be an essential article. Clause 3 of the Bill is similar in terms to rule 81 of the Defence of India Rules and provides for the issue of orders by the Provincial Government for controlling the production, supply and distribution of essential articles. Clause 9 of the Bill provides for the continuance in force after the 30th September 1946, of the control orders in force on that date in so far as they could validly have been made by the Provincial Government under the provisions of the Bill. It also provides that such control orders will remain in force until they are superseded or modified by the competent authority under the provisions of the Bill.

*copy attached.

PP 3-7 m.7

PP 3 m.7

P.7 m.7

PP 3-4 m.7

P.5 m.7

Under the Bill, as it stands, the control orders in force on the 30th September 1946 in respect of the essential articles specified in the Schedule to the Bill, will automatically continue in force after that date, whether such orders were issued by this Government or the Central Government or any officer or authority subordinate to them. It is only if any modifications to these orders are necessary, action for their modification will have to be taken by the Government. As regards other essential articles, if it is considered necessary that the existing control orders in respect of them should continue, such articles will have to be notified as essential articles under clause 2(a) of that Bill.

The Surgeon-General is requested to consider this point and to get draft notifications ready for notifying such articles as essential articles under clause 2(a) of the Bill, so that the notifications may be published simultaneously with the publication of the Bill as an Act.

As the matter is special, the S.G./D.P.H./Sany. is requested to send his reply by 27th Sept. '46.

To the Surgeon-General
The D.P.H.
The Sany. Engr. thro' C.E.
P.W.D. (G.B. & D.)

The D.P.H.
The S.G.P.
The Supdt. of Sty.

Supplied with kind: 21/9/46

Special.

memo. no. 5560 3-91-2-P.H. 2/26.9.46.

Bills - The Madras Essential Articles Control and Requisitioning (Temp'y., powers) Bill, 1946 - Clause 2(a) - notification of articles as essential articles - preliminary action to be taken.

To the S.G. ✓
" D.P.H. ✓

(Sany. Engr. thro' C.E. P.W.D.)

" D.P.D. ✓

" (S.G.P.)

" Supdt. of Sty.

The Surgeon-General (or others as in dispatch entry) is requested to send his reply at once to the Govt. memo. no. 5560 3-91-1-P.H. dated 21-9-1946 as the matter is very special.

Pls. return to Govt. from S.G.P. & Sany. Engr.

Handwritten notes in Tamil script, likely a memorandum or report, covering several lines of text. The notes are written in a cursive style and appear to be a formal communication.

Oct. 32.

From (Name) A. Lepper Esq.,

Designation Superintendent,
Government Press,

Station Madras.



Registered.

Enclosures:

No. R. 7111 dated 24th September 1946.

Sir,

Sub: Bills - The Madras Essential Articles - control and
Requisitioning (Temporary powers) Bill 1946.

Ref: Memo.No.55603-G1-1 Public Health dated 21-9-1946.

With reference to the above Memo. I have the honour to state that
there is no article in use in the Government Press requiring specification
as essential article under clause 2(a) of the Bill in the Schedule;
therefore no draft notifications will be prepared in this office.

Superintendent.

Immediate.

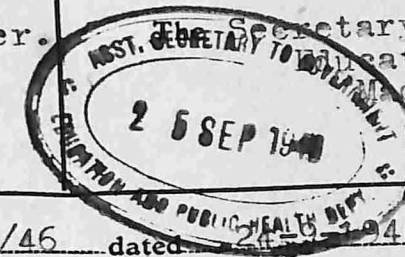
C.F. 32.

Public Works Department

Received.....Registered.....

From (Name) Sri S. Ramchandra, B.E.,
A.M.I.C.E., M.Inst. M & Cy. E.,
Designation Chartered Civil Engineer.
Sanitary Engineer to Govt.,
Station Madras.

To
The Secretary to Government,
Education & P.H. Dept.
Madras.



Enclosures:

No. 11510 H.C./46 dated 24-9-46. 194

Sir,

Sub: Bills- The Madras Essential articles control
and requisitioning (Temporary Powers) Bill 1946-
Clause 2(a) Notification of articles as
essential Articles.- Preliminary action to be
taken.

Ref: E. & P.H. Dept. Memo No. 55603-G1-P.H. d/21-9-46.

I have no remarks to offer on the above, as the
Sanitary Engineering Department is not concerned in the
Production or Manufacture of any articles considered
essential articles for inclusion in the schedule under
clause 2(a) of the bill.

V. Adinmaswami 24/9/46
for Sanitary Engineer to Govt.

DSR/24-9-46).

IMMEDIATE

From

Major General J.P. Huban, CSI, OBE, KHS, IMS,
Surgeon-General with the Government of Madras, Madras

To

The Secretary to Government, Education and Public
Health Department, Madras.

R.No. 61786-M/46 dated 28th September 1946.

Sir,

Ref: Government Memorandum No. 15603-G1-1 P.H. dated 21st
September 1946.

Sub: Bills - The Madras Essential Articles - Control and
Requisitioning - Bill 1946.

The Medical Department is concerned with mainly with the
supply of drugs and medicines and diet and non-diet articles to
the Medical Institutions in the Province. As regards drugs and
medicines, the Drug Control order is in force to control the
prices and distribution.

The Diet and Non-diet articles required for Medical Insti-
tutions are obtained through contractors selected every
year on the basis of tenders and open auction system. Certain
essential articles like Rice, Maida Flour for Bread, Firewood
(in many localities) are already included in the Rationing Scheme.
In view of the fact that no reports have been received in this
office, regarding the non-availability of essential articles
required for use in hospitals, I have no remarks to offer in
the matter.

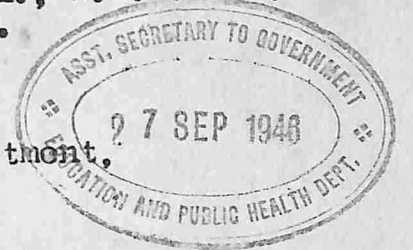
Your obedient servant,

B. Kuttappa
for Surgeon-General with the
Govt. of Madras.

10
Office of the Director of Public Health,
L.Dis. 66757-1-P.W.R.46.Madras, dated 26.9.46.

From Rao Bahadur Dr. R.M. Mathew, D.P.H., D.T.M. & H., M.R.C.P.,
Director of Public Health, Madras.

To The Secretary to Government,
Education and Public Health Department,
Fort St. George,
Madras.



1952
Sir,

Sub:- Bills - The Madras Essential Articles - Control
and requisitioning (Temporary Powers) Bill -
1946- Clause 2 (a) - Notification of articles -
as essential articles - Preliminary action to
be taken.

56296
pp1-2 auti
Ref:- Government Memorandum No. 55603-G 1-1 P.H.,
dated 21.9.46.

pp1-2 auti
With reference to the Government Memorandum
cited above I have to state that there is no
essential article to be controlled as far as this
Department is concerned.

For Director of Public Health,
Madras.

249
L.Y.S. 26.9.

L.Dis.No.7493 W1/46.

Office of the
Director of Public Instruction,
Madras, Dated 26-9-1946.

From

Dr. S.R.U. Savor, M.A., D.Sc., I.E.S.,
Director of Public Instruction, Madras.

To

The Secretary to Government,
Education and Public Health Department, Madras.

Sir,

Subject:- Bills - The Madras Essential Articles - Control and
Requisitioning (Temporary powers) Bill, 1946 -
Clause 2(a) - Notification of articles as essential
articles - Preliminary action to be taken.

PP-1-2 aut

Refce:- Government Memorandum No.55603 G1-1 Public Health,
dated 21-9-1946.

I have the honour to submit a nil report.

I have the honour to be,
Sir,
Your most obedient servant,

for Director of Public Instruction

m.k.26/9

14

From : M.Karamatullah, Esq., I.C.S.,
Superintendent of Stationery,
Madras at Guindy,
Saidapet P.O.
No.B.4.2615/46 dated

To : The Secretary to Government,
Education and Public Health Department, Madras.

57597

Sir,

Sub: Bills - The Madras Essential Articles - Control and Requisitioning (Temporary powers) Bill - Essential articles notification of

Ref: Govt.Memo.No.55603-G1-1 Public Health dated 21-9-46.

The supply position of typewriters and duplicators is still acute. If the typewriter control order will expire on 30th September 1946 it will be necessary to treat typewriters and duplicators as essential articles.

The following articles of stationery which are not easily procurable may also be treated as essential articles.

- (1) Sable and Camel hair brushes.
- (2) Drawing paper.
- (3) Canvas cloth for needle work.
- (4) Superior drawing pencils (Kohinnor variety) of different grades.

SAS/

27/9/46
26/9/46
26/9/46
27/9/46
SUPERINTENDENT OF STATIONERY.

Ce PA Dept
C2

CM 580302/46

Subject

Stationery
Madras Essential Articles Control and Requisitioning
(Temporary Powers) Act, 1946 - Essential Articles - Notified

Issue today
Cura
7/10

Go 1924 Edn D 7. 10. 46

The following notification will be published in
the F.S.G.G.:-

Notification

Under Section 2 (a) of the Madras Essential
Articles Control and Requisitioning (Temporary Powers)
Act, 1946, (Madras Act XIV of 1946), H.E. the Governor
of Madras hereby declares the following to be essential
articles:-

Go 2153 Edn
11-11-46

- (1) Duplicators Rotary Duplicators - Handfeed model
- (2) Sable and Camel hair brushes
- (3) Drawing paper
- (3) Canvas cloth for needle work
- (4) Superior drawing pencils (Kohinoor variety) of 40
grad

Published as Edn Dept
Notified d. 7.10.46 at p 788
of Part II of the F.S.G.G.
d. 8.10.1946

20
The S.G.O.
has published the
F.S.G.G.
copy to S.G.S

1/10/46
Cura
1.10.46

7.10.46

The scale of pay of 140-5/2-145-7 1/2-190
 by the Sgs for the post of storekeeper is not now
 existence as it is the 1938 scale of pay for the post
 of storekeeper, in store, having first mentioned in
 above staff. There does not also appear to be a
 leaving between the security demanded for a post and
 its scale of pay. The scale of pay recommended for
 storekeeper appears to be high. The scale of pay of 190-
 10/2-175 may be fixed for the post to make it at least
 in view of the high security demanded. This is the
 scale of pay of the English head clerk and will be a
 secure proper men from the Government service for the post
 of storekeeper.
 3. The Sgs has also forwarded the petition
 addressed to Govt from the storekeeper and Manager of the
 office. The points for consideration in these petitions are
 as follows:
 (1) Grant of an additional compensatory allowance of
 Rs 3-2-0 to the storekeeper on account of the premium paid by
 him for the fidelity bond

SPECIAL.



25603

PP 38 removed and
 sent to S.G.

*copy attached.

pp. 3-4 infra

p. 3 infra

p. 7 infra

pp. 3-4 infra

not put up

p. 5 infra

GOVERNMENT OF MADRAS.
Legal Department.

U.O. Note No. 7375-1 dated the 19th Sep. 1946.

Bills - The Madras Essential Articles Control
 and Requisitioning (Temporary Powers) Bill, 1946 -
 Clause 2(a) - Notification of articles as essential
 articles - Preliminary action to be taken.

The Defence of India Act, the Defence of India
 Rules and the Control Orders issued thereunder will
 expire on the 30th September 1946. As it was consi-
 dered that, in spite of the termination of the war,
 it is essential that the power which the Government
 now possess under the Defence of India Rules to control
 the production, supply and distribution of essential
 articles and trade and commerce therein, should con-
 tinue for sometime longer, a Bill* called the Madras
 Essential Articles Control and Requisitioning (Tempo-
 rary Powers) Bill, 1946, was introduced in the Legis-
 lature and passed by it. The Bill is being reserved
 for the consideration of the Governor-General and will
 be published as an Act before the 1st October 1946.

Clause 2(a) of the Bill defines "essential article"
 as meaning any of the articles specified in the
 Schedule and any other article which may be declared
 by the Provincial Government by notified order to be
 an essential article. Clause 3 of the Bill is similar
 in terms to rule 81 of the Defence of India Rules and
 provides for the issue of orders by the Provincial
 Government for controlling the production, supply and
 distribution of essential articles. Clause 9 of the
 Bill provides for the continuance in force after the
 30th September 1946, of the control orders in force
 on that date in so far as they could validly have been
 made by the Provincial Government under the provisions
 of the Bill. It also provides that such control
 orders will remain in force until they are superseded
 or modified by the competent authority under the pro-
 visions of the Bill.

Under the Bill, as it stands, the control orders in force on the 30th September 1946 in respect of the essential articles specified in the Schedule to the Bill, will automatically continue in force after that date, whether such orders were issued by this Government or the Central Government or any officer or authority subordinate to them. It is only if any modifications to these orders are necessary, action for their modification will have to be taken by the Government. As regards other essential articles, if it is considered necessary that the existing control orders in respect of them should continue, such articles will have to be notified as essential articles under clause 2(a) of that Bill. Departments of the Secretariat are therefore requested to consider this point and to get draft notifications ready for notifying such articles as essential articles under clause 2(a) of the Bill, so that the notifications may be published simultaneously with the publication of the Bill as an Act.

K.B.Vencatachela Ayyar,
Secretary to Government.

To
The Departments of the Secretariat(except Legal).

(Sd P.H. Dept)

Forwarded/By order.

K. hadambartana Sundaram
Superintendent.

Legal U.O.No.7375-1
d. 19-9-1946.

The Central Govt. is likely to issue an Ordinance as regards the essential articles specified in the India (Central Govt. & Legislature) Act, 1946. If such an Ordinance is issued the existing Control Orders relating to the said articles will be continued. If not, steps will have to be taken to bring them under clause 2(a) of the Bill.

K.B.V.
19-9-46.

ACT No. XIV OF 1946.

An Act to provide for the continuance during a limited period of powers to control the production, supply, distribution, transport and prices of essential articles and trade and commerce therein and requisitioning of property.

WHEREAS it is expedient to provide for the continuance during a limited period of powers to control the production, supply, distribution, transport and prices of essential articles and trade and commerce therein and requisitioning of property; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1946.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force on the 1st day of October 1946.

(4) It shall remain in force for a period of two years; but the Provincial Government may, from time to time, by notification in the Fort St. George Gazette, extend this period by a further period or periods not exceeding two years in the aggregate, if, in the opinion of the Provincial Government, it is expedient so to do. Such notification shall be placed on the table of the Houses of Legislature if sitting; if not sitting, it will be sent to the members of the Legislature.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "essential article" means any of the articles which is specified in the schedule to this Act and any other article which may be declared by the Provincial Government by notified order to be an essential article,

(b) "notified order" means an order notified in the Fort St. George Gazette,

(c) "undertaking" means any undertaking by way of any trade or business and includes the occupation of handling, loading or unloading goods in the course of transport.

3. (1) The Provincial Government, so far as it appears to them to be necessary or expedient for maintaining, increasing or securing supplies of essential articles or for arranging for their equitable distribution and availability at fair prices or for directing, maintaining or increasing the production of any essential article, may, by notified order, provide for regulating or prohibiting the production, supply, distribution and transport of essential articles and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential article;

(b) for controlling the prices at which any essential article may be bought or sold;

(c) for prohibiting or regulating by licences, permits, or otherwise the storage, distribution, transport, disposal, acquisition, use or consumption of any essential article;

(d) for prohibiting the withholding from sale of any essential article ordinarily kept for sale;

(e) for requiring any person holding stocks of an essential article to sell them at fair prices to specified persons or class of persons or in specified circumstances;

(f) for regulating or prohibiting any class of commercial or financial transactions relating to any essential article, which in the opinion of the Provincial Government are, or if unregulated are likely to be, detrimental to the public interest;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(h) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential article to declare their stocks of essential articles, to maintain and allow inspection of or produce for inspection any books, accounts and records relating to their business, and to furnish any other information relating thereto;

(i) for regulating the processing of any essential article;

(j) for exercising over the whole or any part of an existing undertaking, such functions of control and subject to such conditions, as may be specified in the order;

(k) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorized to make such search of any article in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

4. (1) If, in the opinion of the Provincial Government, it is necessary or expedient so to do for maintaining, increasing or securing supplies of any essential article or for arranging for its equitable distribution and availability at fair prices or for directing, maintaining or increasing the production of any essential article, the Provincial Government may, by order in writing, requisition any property, movable or immovable, and may make such further orders as appear to them to be necessary or expedient in connexion with such requisitioning:

Provided that no property used for the purpose of religious worship shall be requisitioned under this section:

Provided further that buildings solely used for residential purposes shall not ordinarily be requisitioned.

(2) Where the Provincial Government have requisitioned any property under sub-section (1), they may use or deal with the property in such manner as may appear to them to be expedient and may acquire it by serving on the owner thereof, or where the owner is not readily traceable or the ownership is in dispute, by publishing in the *Fort St. George Gazette*, a notice stating that the Provincial Government have decided to acquire it in pursuance of this section.

(3) Where a notice of acquisition is served on the owner of the property or is published in the *Fort St. George Gazette*, under sub-section (2), then, at the beginning of the day on which the notice is so served or published, the property shall vest absolutely in the Provincial Government free from all encumbrances and the period of requisition thereof shall end.

5. (1) Whenever in pursuance of section 4 any movable property is requisitioned or acquired, the compensation payable therefor and the person or persons to whom it should be paid shall be determined in accordance with the rules to be made in this behalf by the Provincial Government.

(2) Whenever in pursuance of section 4 any immovable property is requisitioned or acquired, there shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say—

(a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached, the Provincial Government shall appoint, as arbitrator, the District Judge or Subordinate Judge having jurisdiction over the area in which the immovable property is situated.

(c) At the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation.

(d) The arbitrator in making his award shall have regard to—
(i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable, and
(ii) whether the acquisition is of a permanent or temporary character:

Provided that where any property requisitioned is subsequently acquired, the arbitrator, in any proceedings in connexion with such acquisition, shall for the purposes of the provisions of the said section 23, take into consideration the market value of the property at the date of the requisition as aforesaid and not at the date of its subsequent acquisition.

(e) An appeal shall lie to the High Court against the award of an arbitrator where the value of the subject-matter in dispute in appeal is two thousand rupees and above.

Explanation.—In the case of periodical payments the value of the subject-matter in appeal shall be deemed to be five times the amount in dispute calculated for one year.

(f) Save as provided in this section and in any rules made under this Act, nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

(3) The Provincial Government may, with a view to requisitioning or acquiring any property under section 4, by order—

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be so specified;

Central
Act I
of 1894.

(b) direct that the owner, occupier or person in possession of the property shall not, without the permission of the Provincial Government, dispose of it or where the property is a building, structurally alter it or where the property is movable, remove it from the premises in which it is kept, until the expiry of such period as may be specified in the order.

6. (1) Where any property requisitioned under this Act is to be released from such requisition, the Provincial Government or any person generally or specially authorized by them in this behalf may, after such inquiry, if any, as they or he may in any case consider it necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(2) The delivery of possession of the property to the person specified in an order under sub-section (1) shall be a full discharge of the Provincial Government from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by a due process of law to enforce against the person to whom possession of the property is given.

7. (1) The Provincial Government, so far as it appears to be necessary or expedient for maintaining, increasing or securing the supply of essential articles, may, by notified order, provide—

(a) for prohibiting, restricting or otherwise controlling the cultivation of specified crops;

(b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, and for the growing therein of specified crops.

(2) If, in the opinion of the Provincial Government, the person in possession or having effective control of any land to which an order made under sub-section (1) applies, has failed to comply with the order, the Provincial Government may, without prejudice to any other action that may be taken against that person (hereinafter referred to as "defaulter") in respect of the contravention, by order direct that the land shall be placed in the exclusive possession of such person and for such period as may be specified in the order and during the period of continuance of the last mentioned order, the person specified therein shall have all the rights of the defaulter to manage the land and to realize the profits arising therefrom and shall only be liable to pay on behalf of the defaulter the Government revenue, all other charges of a public nature and the rent, if any, accruing due in respect of the land during that period.

8. (1) The Provincial Government may, by notified order, authorize any officer or authority subordinate to the Provincial Government, to exercise any one or more of the powers vested in them by or under this Act, except the power mentioned in section 19, in relation to such matters and subject to such restrictions and conditions, if any, as may be specified in the order.

(2) The exercise of the powers delegated under sub-section (1) shall be subject to control and revision by the Provincial Government or by such persons as may be empowered by them in that behalf. The Provincial Government shall also have power to control and revise the acts or proceedings of any persons so empowered.

9. (1) Every order made by the Provincial Government or the Central Government or any other competent authority under any of the provisions of the Defence of India Rules in respect of any of the matters specified in sections 3, 4 and 7 which having been notified in the Official Gazette was in force immediately before the commencement of this Act shall, in so far as it could validly have been made by the Provincial Government under this Act, continue in force as if it has been made by the Provincial Government under the provisions of this Act and remain until it is superseded or modified by the competent authority under the provisions of this Act; and all appointments made, licences or permits issued, regulations made and directions given under any such order shall also continue in force until superseded or modified by the competent authority.

(2) The Provincial Government may, if they consider it expedient so to do, from time to time, modify or annul any order, appointment, licence, permit, regulation or direction specified in sub-section (1).

10. Any order made under section 3 or section 4 or section 7 or continued under section 9 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

11. (1) Every authority or officer who makes any order in writing in pursuance of any of the provisions of this Act shall in the case of an order of a general nature affecting a class of persons publish such order by a notification in prescribed manner and in such manner as may in the opinion of such authority or officer be best

4
suited for informing the persons whom the order concerns. Where the order is not of a general nature, the authority or officer may serve the order or cause it to be served on the person concerned—

- (a) personally by delivering or tendering him the order; or
- (b) by sending him an authenticated copy of the order by post; or
- (c) where the person cannot be found, by leaving an authenticated copy of the order with some adult male member of his family or by affixing it to any part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

(2) Where any provision of this Act empowers an authority or officer to take action by notified order, the provisions of sub-section (1) shall not apply in relation to such order.

12. (1) If any person contravenes any order made under section 3 or section 4 or section 7 (1) (a) or continued under section 9, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; and, if the order so provides, any court trying such contravention may direct that any property in respect of which the court is satisfied that the order has been contravened shall be forfeited to the Provincial Government:

Penalties.
Provided that where the contravention is of an order relating to an essential article which contains an express provision in this behalf, the court shall make such direction, unless for reasons to be recorded in writing, it is of opinion that the direction should not be made in respect of the whole or, as the case may be, a part of the property.

(2) Where any essential article is seized under the authority of an order made under this Act or continued under section 9 and such order provides for the forfeiture of the article in respect of which the order has been contravened, such forfeiture may, whether or not any prosecution is instituted for a contravention of the order, be adjudged by the Collector of the district or Presidency-town in which the seizure was made, and any forfeiture so adjudged shall, subject only to an appeal which shall lie to the Provincial Government, be final:

Provided that an adjudication of forfeiture under this sub-section shall be no bar to the prosecution or punishment of any person under sub-section (1).

Central Act V of 1898.
(3) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under this Act or continued under section 9.

(4) If any person to whom any provision of any order made under this Act or continued under section 9 relates, or to whom any such provision is addressed or who is in occupation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates—

(a) fails, without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply, or to secure compliance, with such provision, or

(b) evades, or attempts to evade, by any means, such provision, he shall be deemed to have contravened such provision; and in this Act, the expression "contravention" with its grammatical variations includes any such failure, evasion or attempt to evade.

13. Any person who attempts to contravene or abets or attempts to abet or does any act preparatory to a contravention of an order made under this Act or continued under section 9 shall be deemed to have contravened the order; and any person who, knowing or having reasonable cause to believe that any other person is contravening any order made under this Act or continued under section 9, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said contravention, shall also be deemed to have contravened the order.

14. If the person who contravenes or is deemed to contravene an order made under section 3, section 4 or section 7 or continued under section 9 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 and that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

15. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code.

Central Act XLV of 1860.

16. Where any person is prosecuted for contravening any order made under this Act or continued under section 9 which prohibits him from doing an act or being in possession of a thing without lawful authority or excuse or without

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a permit, licence, certificate or permission, the burden of proof that he has such authority or excuse or, as the case may be, the requisite permit, licence, certificate or permission shall be on him.

17. (1) No court shall, in any suit in which the validity of an order issued or action taken under this Act is in question, have power to issue any injunction, whether permanent or temporary, so as to restrain the Provincial Government or any authority or officer empowered by or under this Act from executing or carrying out any order passed by them or by him under this Act, or in any way interfere with or affect such order.

Nothing contained in this section shall be deemed to prevent the court from granting in the suit any relief by way of compensation to which the party may be entitled.

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

Central Act I of 1872.

18. (1) No suit, 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 any order made under section 3, section 4 or section 7 or continued under section 9.

(2) No suit or other legal proceeding shall lie against the Provincial 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 order made under section 3, section 4 or section 7 or continued under section 9.

19. (1) The Provincial Government may, by notification in the Fort St. George Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the procedure to be followed in arbitrations under this Act;
- (b) the principles to be followed in apportioning costs of proceedings before the arbitrator and on appeal.

THE SCHEDULE.

[See section 2 (a).]

- (1) Firewood.
- (2) Charcoal.
- (3) Livestock.
- (4) Eggs.

- (5) Non-edible oil seeds.
- (6) Manures.
- (7) Electrical energy.
- (8) All vat dyes.
- (9) Alizarine.

- (10) Other dyes used for textile printing.
- (11) Artificial silk yarn.
- (12) Motor vehicles (new or used).

Sany, Engineer, S.G., D.P.H and the D.P. 9 PP. 7, 9, 11, and 13 etc.
at pp. 5-13 c.7. All of them say that they have
no articles to be included in the schedule at
P.7 anti (as essential articles). Attention is, however,
invited to para 2 of the Surgeon-General's
letter at P. 9 c.7. ~~may be sent to~~ ^{The} Food Dept may
~~see this para~~ for remarks if any.

The reply from the Superintendent
of Stationery is still due. It may be sent to
~~the Legal Dept.~~
on receipt, ~~in continuation.~~

The Legal Dept have stated that
The Bill will be published as an
Act before 1-10-1946. The file may
be sent to Legal through Food. The
Food Dept may be requested to see
that the file reaches Legal in time.

28.9.46
12 Nov. Seen in Ford
20219-11/46-1
29.9.46 Legal
28.9.46
Read in P.M.
28.9.46
Food/Legal
29.9.46
Special
Exp. Hub. 55603/46-24
29.9.46

ASSISTANT SECRETARY
30 SEP 1946
LEGAL DEPARTMENT.

ADDITIONAL ASSISTANT SECRETARY
29 SEP 1946
FOOD DEPARTMENT

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55603/46-2
AS
30/9/46
May be passed and returned to S & P. H.
The Madras Essential Articles Control and
Regulating (Supply. Power) Act, 1946 is
being published in a Gazette Extraordinary
today as Madras Act XIV of 1946.
30/9/46
AS, may see.
30/9/46
F & P. H.

Asst. Secretary to Government
30 SEP 1946
3.40 PM
EDUCATION AND PUBLIC HEALTH DEPT.

Edn. & P.H. (G1) Dept.
Please see the Food and Legal Department's note
at pp. 10-11 above. The reply from the Superintendent of
Stationery has been received and is at p. 15 c.f. C2.
Section may be requested to note on the Supdt. of Stationery
letter and send the file to Legal Department u.o. for
necessary action.
1/10/46
C2

12 The proposal of the S.G.S. to notify the articles mentioned in his letter on 15.9.46 with the exception of Typewriters as essential articles may be accepted & 10.10.46. The G.O. have assured the Govt that arrangements have been made with major Typewriter Firms in India to supply the same percentage of Typewriters, imported by them, for Govt use as at present even after the lapse of the Typewriter Control Order, 1943.

2. A draft notification under Section 2(a) of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1946 is submitted. It may be issued after formal legal.

11.10.46
over
1.10.46

2.10.46

ASSISTANT SECRETARY
3 - OCT 1946
LEGAL DEPARTMENT.

ADDITIONAL ASSISTANT SECRETARY
2 - OCT 1946
LEGAL DEPARTMENT

ENTR 58030-1/46
- 1 Cds
2-10-46

10.11 (This copy has been seen on 10.11.46)
May be perused and passed on to Legal

2.10.46 D.S. Cm
2.X.46 3.X.46

Legal
Recd. 3-15 P.M.
3.X.46

For use 20956 H/46-1
Recd. 3-50 P.M.
3-10-46

Paper is included in the list of essential commodities in the Essential Supplies (Temporary Powers) Ordinance, 1946, recently promulgated by the Governor-General. Paper has also been declared to be an essential article under section 2 (a) of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1946 - See the notification of the Development Department in the Fort St. George Gazette Extraordinary Part II dated 30-9-46. "Paper" apparently includes drawing paper. It does not, therefore, seem to be necessary to declare drawing paper as an essential article as proposed in the draft. Item (3) in the draft may be omitted.

58539

ASST. SECRETARY TO GOVERNMENT
5 - OCT 1946
EDUCATION AND PUBLIC HEALTH DEPT.

Legal no. 7938-1
S.X.46.

It is presumed that there are no orders in force relating to the control of the articles mentioned in the draft and that necessary action will be taken to enforce control measures under the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1946.

The draft does not call for any other remarks.

5/10/46 E.P.H.

114

Expt Dept
C2

The presumption of legal Dept ^{para 2 of} in their note on p. 13 ento
is correct. The draft note below may now come with
the omission of item (3) suggested by legal.

7/10/46
over
7.10.46

7.10.46

P82

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