

Twelfth Kerala Legislative Assembly
Bill No. 303

**THE KERALA ESSENTIAL ARTICLES CONTROL
(AMENDMENT) BILL, 2010**

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THE KERALA ESSENTIAL ARTICLES CONTROL (AMENDMENT)

BILL, 2010

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to amend the Kerala Essential Articles Control Act, 1986.

Preamble.— WHEREAS, it is expedient to amend the Kerala Essential Articles Control Act, 1986 for the purposes hereinafter appearing ;

BE it enacted in the Sixty First Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Essential Articles Control (Amendment) Act, 2010.

(2) It shall come into force at once.

2. *Amendment of Section 2.*—In section 2 of the Kerala Essential Articles Control Act, 1986 (13 of 1986) (hereinafter referred to as the principal Act), in clause (a), for the words “any article, not being an essential commodity as defined in the Essential Commodities Act, 1955 (Central Act 10 of 1955) which may be declared by the Government by notified order to be an essential article”, the words “any article which may be declared by the Government by notified order to be an essential article and in respect of which the State Legislature is competent to make laws” shall be substituted.

3. *Insertion of a new section.*—After section 14 of the principal Act, the following section shall be inserted, namely :—

“14A. *Overriding effect of the Act.*—The provisions of this Act or any orders issued thereunder shall have effect notwithstanding anything contained in the Essential Commodities Act, 1955 (Central Act 10 of 1955) or any orders issued thereunder or in any other law for the time being in force.”.

STATEMENT OF OBJECTS AND REASONS

Section 2 (a) of the Kerala Essential Articles Control Act, 1986 (13 of 1986) defines the term 'essential article' as "any article, not being an essential commodity as defined in the Essential Commodities Act, 1955 (Central Act 10 of 1955), which may be declared by the Government by notified order to be an essential article. The Government of India have issued the Removal of (Licensing requirements, Stock limits and Movement Restrictions) on Specified Food Stuff Order, 2002 vide G.S.R. 104 (E) dated 15-2-2002 declaring that any dealer may freely buy, stock, sell, transport, distribute, dispose, acquire use or consume any quantity of wheat, paddy/rice, pulses, sugar, edible oils etc. and shall not require a permit or licence therefor under any order issued under the Essential Commodities Act, 1955. The object of Government of India was to check price rise by allowing the free flow of essential commodities in the open market. Consequently all licensing orders have become defunct. Exploiting the loopholes of the said Order almost all States including Kerala have witnessed black marketing, hoarding, smuggling of essential commodities leading to unbridled price hike. It was in this background that Government of India have restored control over wheat and pulses and force of this order was extended for six months at a stretch. However, the order was in force only upto 31-8-2008.

It is in this context that the State Government have decided to enact a legislation for ensuring free flow and equitable distribution of essential commodities. Hoarding and consequent price rise can be checked by this measure.

As essential commodities defined in the Essential Commodities Act, 1955 (Central Act 10 of 1955) are excluded from the purview of Kerala Essential Articles Control Act, 1986, essential commodities like rice, wheat etc. can be notified as essential articles only if the scope of the term "essential article" under section 2(a) of the said Act is widened by way of an amendment.

The Bill seeks to amend the Kerala Essential Articles Control Act, 1986 to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation would not involve any expenditure from the Consolidated Fund of the State.

ELAMARAM KAREEM

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
ESSENTIAL ARTICLES CONTROL ACT, 1986

(ACT 13 OF 1986)

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2. *Definition.*—In this Act, unless the context otherwise require,—

(a) “essential article” means any article, not being an essential commodity as defined in the Essential Commodities Act, 1955 (Central Act 10 of 1955), which may be declared by the Government by notified order to be an essential article ;

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14. *Protection of action taken in good faith.*—(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.

(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 order made under section 3.

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