TAMIL NADU KEROSENE (REGULATION OF TRADE) ORDER, 1973

(Published in Supplement to Part V of Tamil Nadu Government Gazette, dated.14.11.1973, G.O.(Ms).No.274, Food Department, dated 10th October 1973)

Whereas the State Government are of opinion that for maintaining supplies of Kerosene and for securing its equitable distribution and availability at fair prices, it is necessary and expedient to provide for the licensing of kerosene.

Now, therefore, in exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955) read with the Government of India, Ministry of Mines and Fuel Order S.O.No.3524, dated the 13th November, 1962 and in supersession of the Tamil Nadu Kerosene Control Order, 1968, published with Food Department, Notification S.R.O. No.A 489 of 1968, dated 31st July 1968, of part V of the Fort St.George Gazette, dated 31st July 1968, the Governor of Tamil Nadu hereby makes the following Order.

ORDER

1. Short title, extent and commencement:

1) This order may be called the Tamil Nadu Kerosene (Regulation of Trade) Order,1973

2) It extends to the whole of the State of Tamil Nadu

3) It shall come into force at once.

2. Definitions - In this order, unless the context otherwise require:-

a) “appellate authority” means an officer appointed by the Government not below the rank of the District Revenue Officer to exercise the powers and perform the functions of the appellate authority;

b) “authorized officer” means the Licensing Authority, or any Gazetted Officer authorized by the Government by notification to exercise the powers conferred on and discharge the duties of the authorized officer under this order for such area as may be specified;

c) “authorized retailer” means a retailer authorized under sub clause (1) of clause 7:-

d) “authorized wholesale dealer” means a dealer authorized under sub-clause (1) of clause 7;

e) “bulk consumer” means a person who purchases 20 litres or more of kerosene at a time;

f) “Commissioner” means the Commissioner of Civil Supplies, Chennai;
(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection (C2) Department, dated: 16.03.2017)

g) “Competent Officer” means, “any officer of the Revenue or Civil Supplies Department not below the rank of Checking Inspector in the City of Madras and Deputy Tahsildar elsewhere or any officer of the Police Department not below the rank of Sub-Inspector of Police”. (G.O.(Ms).No.448, Food and Co-operation Department, dated 23.06.1982)

h) „Controlled Price“ means the price notified in this behalf under section 3 of Essential Commodities Act,1955.

i) „dealer“ means a person engaged in the business of purchase, movement, sale, distribution or storage for sale of kerosene, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration and includes;

i) Wholesalers

ii) Retailers

iii) Importers

iv) Casual traders

v) Commission Agents

vi) Brokers

vii) Del credre agents

viii) Auctioneers or any

other mercantile agents by whatever name called who are engaged in such business by themselves or on behalf of any principal but does not include an industrial undertaking which is charged in the refining of kerosene and which is registered, licensed under the Industries (Development and Regulation) Act, 1951 (Central Act LXV of 1951).

EXPLANATION: I

For the purpose of the sub-clause, casual trader means a person who has, whether as principal, agent or in any other capacity occasional transactions of a business nature involving the buying, selling, distribution, storage or **3** transportation of kerosene whether for cash or for deferred payment or for commission, remuneration or other valuable consideration.

EXPLANATION: II

For the purpose of this clause any person who is in possession of 20 litres or more of kerosene at any time shall unless otherwise established, be presumed to be a dealer. The onus of establishing that he is not a dealer shall be on the person concerned.

"Provided that any person who is in possession of less than twenty litres of kerosene at any time and engages himself in the active or occasional sales of kerosene shall also be treated as dealer".

(G.O.Ms.No.24, Food and Co-operation Department, dt.21.11.1982)

j) „Form" means a form set forth in the schedule to this order.

k) „Government" means the Government of Tamil Nadu;

l) „Importing Oil Companies" mean -

1. Indian Oil Corporation Limited
2. Indo-Burma Petroleum Company Limited
3. Bharath Petroleum Corporation Limited
4. Hindustan Petroleum Corporation Limited; and
5. Hindustan Petroleum Corporation Limited (V.M.U)

(G.O.(Ms).No.66, Food Department, dated 21.02.1975)

m) „Licensing authority" means -

i) In the case of city of Madras and the belt area comprising Saidapet Taluk and Avadi Township in Chengalpattu District the Assistant Commissioner of Civil Supplies within their respective jurisdiction in respect of wholesalers and retailers;

ii) In the case of the Nilgiris district, the Personal Assistant (General) to the Collector of the Nilgiris Udhagamandalam and elsewhere District Supply Officer, in respect of wholesalers and retailers;

n) „Notified Area" means any area notified by the Government;

o) „retailer‟ means a dealer who purchases his requirements from a licensed wholesaler and sells in quantities less than 20 litres, in any one transaction and includes any person selling kerosene from any shop, vehicle or by delivery in any manner to consumers and includes all dealers who are not wholesalers;

p) "wholesaler" means a dealer who sells kerosene to registered retailers or to the persons who are in possession of special order under sub-clause (i) of clause 4 of Kerosene (Restriction on Use) Order, 1966".

(G.O.Ms.No.134, Food and Co-operation Department, dated 26.02.1982).

3. LICENSING OF WHOLESALERS:

(1) No person shall start afresh or carry on business as a wholesaler except under and in accordance with the terms and conditions of a licence issued in this behalf by the licensing authority.

"Provided that nothing contained in this clause shall apply to the importing oil companies".

(G.O.Ms.No.347, Food department, dated 16.02.1975)

(2) It shall be open to the licensing authority to specify, from time to time, the place or area within which only the dealer can purchase, store, move or sell kerosene and the quantity upto which he may purchase, store, move, distribute or sell at a time during a specified period.

(3) In laying down the conditions referred to in sub-clause (2), the licensing authority shall have regard to the following matters, namely –

a) the area in which the dealer has operated in the past;

b) the quantities in which he has been dealing in such areas in the past;

c) the availability of stocks in the area and the requirements of the public;

d) any pattern of regulation of distribution that may be enforced from time to time; and

e) the number of dealers operating in the area;

"Provided that the licensing authority may vary the conditions, from time to time, with reference to the above factors and also the arrangements that may be made for supply in the area, of Government stocks".

4) Every dealer shall declare to the licensing authority the quantity of kerosene in his possession or control every month in

Form V.

5) Whenever kerosene is sold to consumers under public distribution system, the Government, the Commissioner, the Collector or the licensing authority shall have power to direct the wholesalers to supply kerosene only to specified classes of retailers and the wholesalers shall abide by such direction.

Public distribution is a system whereby certain essential commodities are distributed to consumers through family cards.

(G.O.Ms.No.978 Food and Co-operation, dated 29.12.1981)

4. ISSUE OF LICENCE, PERIOD OF LICENCE AND FEE CHARGEABLE

Form I.

2) Every licence issued, reissued or renewed under this order shall be in Form II.

3) Every licence granted under this order shall be valid for a period of 3 years and shall not in any case be valid beyond the 31st December succeeding to the period of three years prescribed above.
(G.O.(Ms).No.218, Food and Consumer Protection Department dated 17.02.1986)

4) The fee specified below shall be chargeable in respect of each licence, for each renewal. For issue of licence Rs.1,500/- (Rupees One thousand and Five Hundred only) for renewal of licence of Rs.750/- (Rupees Seven hundred & Fifty only) for issue of duplicate licence Rs.750/- (Rupees Seven Hundred & Fifty only)
(G.O.(Ms).No.264 Co - operation, Food and Consumer Protection Department, dated 15.11.2000 also vide G.O.Ms.No.218, Food and Consumer Protection Department, dated 15.02.86, G.O.(Ms). No.1110, Co – operation, Food and Consumer Protection Department, dated 07.12.1990)

5) A separate license shall be obtained by a dealer for each place of business and in each district where he may purchase or sell kerosene. The licensee shall carry on business only at the place mentioned in the licence and nowhere else. He shall store the stocks of kerosene only at the godowns mentioned in the licence.

6) The application for renewal of licence shall be made after payment of fees prescribed in Sub-clause (4) not less than 2 months before the date of expiry of the licence;

7) A penalty of Rs.50/- (Rupees Fifty only) shall be levied on all applications for renewal of licence received after the time limit prescribed under sub-clause (6) but no application for renewal of licence shall be entertained after the 30th November.
(G.O.Ms.No.262, Co – operation, Food and Consumer Protection Department, dated 04.06.1992)

"Provided that any person, who is in possession of a valid licence granted under the provisions of the Tamil Nadu Kerosene Control Order, 1968, on the date of publication of this Order, in the Tamil Nadu Government Gazette, shall be deemed to have been granted licence under this order and such licence shall be valid upto 31st March 1974. Such person shall obtain licence under this order before 31st March 1974".
(Proviso Omitted in G.O.(Ms).No.218, Food and Consumer Protection Department, dated 17.02.1986)

5. RETAIL TRADE IN KEROSENE

(II) No person shall on or after the commencement of this order, carry on business as a retailer, unless he had been registered as such under this order by the licensing authority. Every certificate of Registration issued under this order shall be valid for a period of three years from the date of issue of certificate and shall not in any case be valid after 31st December of the third succeeding calender year from the date of issue of certificate and may be renewed subsequently; Provided that, the holders of Retail Registration Certificate shall renew their Retail Registration Certificate before 31st March 1990
(G.O.(Ms).No.394 Co – operation, Food and Consumer Protection Department, dated 10.05.1990)

AMENDMENTS

In the said order:-

1) Sub – clause (1) of clause 5 shall be renumbered as (1) (i):

2) After sub – clause (1) (i) as so renumbered the following sub – clause shall be inserted, namely:-

"(ii) If a person is already operating in Public Distribution System Kerosene vending as a retailer, the other spouse is prohibited from either applying for grant or renewal of Retail Registration Certificate

and also prohibited from operating in public distribution system for kerosene vending”

(G.O.(Ms).No.46 Co – operation, Food and Consumer Protection Department, dated 20.01.2003)

2) Every application for registration or renewal shall be made to the licensing authority in

Form III

(G.O.Ms.No.380 Co – operation, Food and Consumer Protection Department, dated.22.12.1988).

3) A certificate of registration shall be issued in Form IV to every retailer registered under sub- clause (1) and it shall be subject to the conditions specified therein.

4) If the licensing authority is satisfied that a registration certificate granted under this clause is defaced, lost, destroyed or otherwise rendered useless, he may, on application made in that behalf and on payment of the prescribed fees, issue a duplicate registration certificate.

5) The fees to be paid for such registration of certificate shall be Rs.300/- (Rupees Three hundred rupees only); for renewal of such registration certificate shall be Rs.150/- one hundred and fifty rupees only) and for issue of a duplicate registration certificate shall be Rs.150/- (Rupees One hundred and fifty only)

(G.O.Ms.No.1110, Co – operation, Food and Consumer Protection Department, dated 7.12.1990), G.O.Ms.No.262, Co – operation, Food and Consumer Protection Department, dated 04.06.1992, and G.O.Ms.No.264, Co – operation, Food and Consumer Protection Department, dated 15.11.2000)

"Provided that no fees for registration shall be payable for fair price shops opened or to be opened under the Rural fair price shop scheme by the Co-operatives or Tamil Nadu Civil Supplies Corporation" (G.O.(Ms).No.877, Food and Co-operation department, dated 21.11.1981).

6) The application for renewal of Retail Registration Certificate shall be made after payment of fees prescribed in sub-clause (5), not less than two months before the date of the expiry of the Retail Registration Certificate.

7) A penalty of Rs.25/- (Rupees Twenty five only) shall be levied on all applications for renewal of Retail Registration Certificate received after the time limit prescribed under sub-clause (6) of clause 5. But no application for renewal of Retail Registration Certificate shall be entertained after the 30th November

(G.O.Ms.No.380 Co – operation, Food and Consumer Protection Department, dated 22.12.1988 and G.O.(Ms).No.394 Co – operation, Food and Consumer Protection Department, dated 10.05.1990)

8) Where the same person carries on business as retailer in more than one place, separate registration certificate shall be obtained in respect of each place of business.

9) If a wholesaler wishes to do business as a retailer also, he shall obtain a separate registration as retailer and shall maintain and render separate accounts for the retailership in accordance with the rules and instructions thereof.

10) The registered retailer shall conform to such directions and instructions as may be issued by the Commissioner / Collector of the district concerned or the licensing authority from time to time.

Provided that any person who is in possession of valid registration certificate granted under the provisions of the Tamil Nadu Kerosene Control Order ,1968, on the date of publication of this order in the Tamil Nadu Government Gazette,

shall be deemed to have been granted registration certificate under this order and such registration shall be valid upto 31st March 1974. Such person shall obtain registration certificate under this order, before 31st March 1974.

6. POWER TO REFUSE TO ISSUE LICENCE OR REGISTRATION CERTIFICATE OR RENEW LICENCE

The Licensing authority may after giving the dealer concerned an opportunity of representing his case and for reasons to be recorded in writing, refuse to grant licence or registration certificate or renew a licence. **7. AUTHORISATION OF CERTAIN DEALERS TO RECEIVE, HOLD AND SELL GOVERNMENT STOCKS**

1) The Authorised Officer may authorize any dealer whether a wholesaler or a retailer to receive, hold and sell kerosene on behalf of the Government at such price and for such period as may be specified and dispose it of in such manner and subject to such condition as may be specified by the Authorized officer from time to time.

2) Such authorization may be cancelled on 15 days notice by the Government or Commissioner or the authorized officer.

3) Any wholesaler or retailer so authorized under sub-clause (1) shall deal only in stocks of kerosene owned or controlled by Government.

4) Every authorized wholesaler or retailer shall keep and maintain a true and correct account and such other records as may be specified by the authorized officer from time to time.

5) It shall be open to the authorized officer to change amend or modify from time to time, the conditions and regulations referred in sub-clauses (1), (2), (3) and (4) in respect of any dealer.

8. DEPOSIT OF SECURITY

Every wholesaler who on the date of coming into force of this order holds a valid licence granted under the Tamil Nadu Kerosene Control Order, 1968, shall within three months from the said date and every wholesale dealer, who applies for licence under this order, shall, before the licence is issued to him furnish to the licensing authority cash security for the value of Rs.10,000/- (Rupees Ten thousand only) and every retailer who applies for the grant of registration certificate shall, before the registration certificate is issued to him, furnish to the licensing authority cash security for the value of Rs.500/- (Rupees Five hundred only) for the due performance of the conditions subject to which the licence or the registration certificate is issued to him.

Provided that in cases where a wholesaler has a number of branches within the jurisdiction of the same licensing authority, the total amount each security to be deposited shall not exceed Rs.30,000/- (Rupees Thirty Thousand only)

G.O.Ms.No.90, Co-operation, Food and Consumer Protection Department, dated 27.01.1993. (also vide G.O.Ms.No.262, Co-operation Food and Consumer Protection Department, dated 04.06.1992)

Provided further that a retailer who sells kerosene from a handcart shall furnish to the Licensing Authority, before the registration certificate is issued to him. Cash security for the value of Rs.25/- (Rupees twenty five only) for the due performance of the conditions subject to which the registration certificate is issued to him.

Provided also that no security deposit shall be payable for Fair Price Shops opened or to be opened under the Rural Fair Price Shop Scheme, either by Tamil Nadu Civil Supplies Corporation or Co-operatives.

(G.O.Ms.No.877, Food and Co-operation Department, dated 21.11.1981)

2) If he is an authorized wholesaler, he shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) with the licensing authority as additional cash security for the due performance of the conditions of such authorization.

3) If he is an authorized retailer, he shall deposit a sum of Rs.500/- (Rupees Five hundred only) with the licensing authority as additional cash security for the due performance of the conditions of such authorization.

(Cash Security substituted G.O.(Ms).No.133, Food Department, dated 26.05.1976)

9. POWER TO FIX THE QUANTITY OF KEROSENE FOR SALE

The Commissioner or the licensing authority may from time to time issue directions that kerosene may be sold only to such persons or institutions as may be specified by Commissioner or the Licensing authority, is such quantities and at such intervals as the Commissioner or the licensing authority may be general or special order direct and all dealers shall comply with such directions.

10.POWER TO EXEMPT

The Government may by notification, exempt subject to such conditions as may be specified in the notification any person, or class of person, institutions, or any other agency including co-operative agencies from the operation of all or any of the provisions of this order, and may at any time vary, amend, cancel withdraw or suspend such exemption.

11. POWER TO ISSUE DIRECTIONS

1. The Government, Commissioner, Collector or the licensing authority may issue instructions/directions on all matters covered by the provisions of this order and all dealers and persons shall comply with them.

2. Without prejudice to the generality of sub-clause (1) such instructions or direction may provide for fixation, alteration, amendment or variation of the maximum or minimum limits for purchase, storage and sale of kerosene by a dealer at any time or during any period of time.

Provided that, no such instructions or directions shall be issued by the Commissioner, Collector, or licensing authority, without the prior approval of the Government.

12. DEALER NOT TO WITHHOLD STOCKS FROM SALE

No dealer shall withhold from sale or refuse to sell kerosene held by him except under a direction from the Commissioner or the Licensing Authority.

13. POWER TO FIX PRICES

(1) The Commissioner or the Collector shall subject to the provisions of the kerosene (Fixation of Ceiling Prices) Order, 1970, or any other law or order issued by the Government of India or Government of Tamil Nadu, have power to fix by Notification from time to time, as he may find necessary, the prices at which kerosene may be sold by each wholesaler and retailer. (2) Any notification published under sub-clause (1) may fix the prices for the same description of kerosene differently in different localities or for different classes of dealers or for different containers.

14. SALE PRICE

The holder of a licence or registration certificate under this order shall not sell kerosene at rates higher than those fixed from time to time under clause 13.

15. DISPLAY OF STOCK AND PRICE

Every dealer shall display at a conspicuous part of the premises, where he carries on his business, the price list and stock position of each variety of kerosene held by him in stock for sale in a manner so as to be easily accessible for consultation by any person.

16. MEASUREMENTS:

Every retail dealer in kerosene shall have in his possession, ready for use in his trade atleast one set of conical measures of 1 litre, 500 milli litre and 200 milli litre and one dipping or pouring type measure of 50 milli litre, such capacity of these measures being marked clearly upon such measures.

17. RESTRICTION ON STOCKING OF KEROSENE

No person, other than an importing oil company or a dealer licenced or registered under this order, shall have in his possession or under his control a stock exceeding twenty litres of kerosene at a time.

Provided institutions or special classes of consumers to whom permits are issued by the licensing authority to buy kerosene in bulk may stock at any time quantities not exceeding the quantity permitted for one month.

18. CONTRAVENTION OF CONDITIONS OF LICENCE OR REGISTRATION CERTIFICATE ON STATUTORY ORDER

1) No holder of a licence or registration certificate issued under this order or his agent or servant or any other person acting in his behalf, shall contravene, attempt or abet the contravention of the provisions of this order or of any of the conditions of the licence or registration certificate or any directions issued thereunder. If he does so, then without prejudice to any other action that may be taken against him his licence or registration certificates may be cancelled or suspended for such period as may be specified by order in writing, by the licensing authority, District Revenue Officer, or Additional Collector, Collector, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies or Commissioner of Civil Supplies.

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection Department, dated 16.03.2017)

2) Pending action as in sub-clause (1) above, the licensing authority, District Revenue Officer / Additional Collector, Collector, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies or Commissioner of Civil Supplies may for reasons to be recorded in writing, order ad interim suspension of the license or registration certificate for any period not exceeding ninety days.

Provided that within 7 days of such order, the grounds for such suspension indicating the provisions of the law, prima facie contravened by the facts disclosed shall be communicated to the dealer.

(G.O.(Ms).No.360, Co-operation, Food and Consumer Protection Department, dated 22.07.1992 and G.O.(Ms).No.43, Co-operation, Food and Consumer Protection Department, dated 16.03.2017)

3) Not withstanding anything contained in sub-clause (2) the licensing authority, appellate authority, Collector Joint Commissioner of Civil Supplies, Additional Commissioner of

Civil Supplies or Commissioner may by an order, in writing suspend, pending enquiry for a period not exceeding ninety days a license or registration certificate issued to a dealer in respect of whom he has reason to believe that any contravention of the conditions of the license or registration certificate or any statutory order has taken place or is about to take place.

(G.O.(Ms).No.43, Co-operation and Food and Consumer Protection Department, dated 16.03.2017)

Provided that within three days of such order, the grounds of suspension indicating as far as possible the facts and the provisions of law,
order or conditions of licence or registration certificate which prima facie are violated should be communicated in writing to the dealer.

(18 A Omitted in G.O.Ms.No.360, Co-operation, Food and Consumer Protection department, dated 22.07.1992)

19. CANCELLATION OF LICENCE OR REGISTRATION

Certificate in Certain Other Cases:

(1) Notwithstanding anything contained in clause 18 where a licensee or holder of a Registration Certificate has been convicted by a Court of Law, in respect of any offence under any law in force or contravention of any order made under section 3 of the Essential Commodities Act,1955 (Central Act 10 of 1955) the Licensing Authority, District Revenue Officer, Additional Collector, Collector, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies or Commissioner of Civil Supplies, may be order, in writing, cancel his licence or registration certificate issued under this order.

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection department, dated 16.03.2017)

(2) Pending action as in sub-clause (1) above, the licensing authority may, for reasons to be recorded in writing, order ad interim suspension of the licence or registration certificate for the duration of proceedings in the court.

Provided that where such conviction is set aside on appeal or revision, the licensing authority shall on application in

form I by the person, whose licence or registration certificate has been cancelled, reissue the licence or registration certificate to such person.

20. POWER TO CANCEL, SUSPEND, MODIFY OR WITHDRAW AUTHORISATION:

(1) The Authorized Officer may cancel for such period as may be specified, suspend, modify or withdraw, authorization issued under sub-clause (1) of clause 7 for contravention of the terms and conditions.

Provided that no order shall be made under this clause, unless the authorized wholesaler or authorized retailer has been given an opportunity of stating his case in writing against the proposed action. (2) Notwithstanding, anything contained in sub-clause (1) , the licensing authority, District Revenue Officer, Additional Collector, Collector, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies, Commissioner of Civil Supplies or the authorized officer may be an order in writing suspend pending enquiry, for a period not exceeding 90 days the authorization issued to a wholesaler or retailer if he has reason to believe that any contravention of the terms and conditions has taken or is about to take place.

Provided that within three days of such order, the ground of suspension indicating as far as possible the facts and the provisions of law, order or conditions of licence or registration certificate which prima facie are violated, should be communicated in writing to the dealer.

21. DISPOSAL OF STOCKS WHEN LICENCE OR REGISTRATION CERTIFICATE CANCELLED

When a licence or registration certificate issued under this order, is cancelled or suspended, the stocks of kerosene available with the dealer at the time of such cancellation or suspension shall be disposed of in accordance with the directions of the licensing authority, District Revenue Officer, Additional Collector, Collector, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies, or Commissioner of Civil Supplies.

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection Department, dated 16.03.2017)

22. DISPOSAL OF STOCKS OF KEROSENE WHEN AUTHORISATION IS CANCELLED, SUSPENDED OR WITHDRAWN:

When authorization issued under clause 7 is cancelled, suspended or withdrawn under clause 20, the stocks of kerosene available with the authorized wholesaler or authorized retailer at the time of such cancellation, suspension, or withdrawal shall be disposed of in accordance with the directions of the authorized Officer, District Revenue Officer, Additional Collector, Collector, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies, or Commissioner of Civil Supplies.

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection department, dated 16.03.2017)

23. FORFEITURE OF SECURITY DEPOSIT OR IMPOSITION OF FINE OR SUSPENSION OR CANCELLATION OF LICENCE

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection

Department, dated 16.03.2017)

AMENDMENTS

In the said order :

"(1) (a) Without prejudice to the provisions of Clause 27 , if the licensing authority, District Revenue Officer, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies or Commissioner of Civil Supplies has reason to believe that any dealer has contravened any of the conditions of the licence or Registration Certificate or statutory order and that a forfeiture of the security deposit or imposition of fine or suspension or cancellation of licence is called for, he may, after giving the dealer a reasonable opportunity to defend his case in writing against the proposed action, by an order, forfeit the whole or any part of the security deposit remitted by him or suspend or cancel the licence issued to the dealer, for the offence with reference to the nature of the offence committed by the dealer as specified in the Table below and copy of such order in writing shall be communicated to the dealer concerned. Such punishment shall also be entered on the licence of the dealer and in the licence register being maintained by the licensing authorities immediately on passing of such order.

THE TABLE

Sl. No. (1)	Nature of irregularity (2)	PENAL ACTION (3)		
		1st Offence	2nd Offence	3rd Offence
(1)	Non-observance of Government regulations, operating guidelines and instruction on sale and distribution of Superior Kerosene Oil	Forfeiture of Rs.5,000/- from Security Deposit remitted by kerosene wholesaler and suspension of licence for 15	Forfeiture of entire Security Deposit remitted by kerosene wholesaler and suspension of licence for 30 days.	Cancellation of wholesale licence.

(2)	Over charging.	Forfeiture of Rs.5,000/- from Security Deposit remitted by kerosene wholesaler ans suspension of	Forfeiture of entire Security Deposit remitted by kerosene wholesaler and suspension of licence for 30 days.	Cancellation of wholesale licence.
(3)	(a) Short delivery of products (Weight and Measurements seals intact).	Sales and Supplies should be suspended from dispensing till re-calibration is carried out by Weight and Measurements Department in the presence of the Officer of the Oil Company and Civil Supplies Department.		
	(b) Short Delivery of products (Weights and Measures seals tampered).	Cancellation of wholesale licence (irrespective of delivery being short or correct or excess)	---	---
	(c) Totaliser seals found tampered with (Penal action as applicable for weights and Measures seals tampered).	Cancellation of wholesale licence (irrespective of delivery being short or correct or excess)	---	---
(4)	Unauthorised purchase or sale or exchange of Superior Kerosene Oil or any product which could be used as a substitute for this product, including diversion of products in transit	Cancellation of wholesale licence.	---	---
(5)	Stock variation between physical stock and book stock beyond	Cancellation of wholesale licence.	---	---

(b) The licensee shall remit the fine amount or forfeiture of the Security Deposit

as ordered by the Licensing Authority or District Revenue Officer or Deputy Commissioner of Civil Supplies or Joint Commissioner of Civil Supplies or Additional Commissioner of Civil Supplies or Commissioner of Civil Supplies or Government within 7 days from the date of receipt of the orders unless or otherwise such orders are stayed by the appellate authority on petition from the wholesaler or retailer. If the dealer fails to remit the fine amount within the period specified above, such amount shall be adjusted from the Security Deposit remitted by the dealer and the licence shall automatically become invalid for falling short of Security Deposit."

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection department, dated 16.03.2017)

24. FORFEITURE OF ADDITIONAL SECURITY DEPOSIT AND IMPOSSING OF FINE

1) If the licensing authority, District Revenue Officer, Additional Collector, Deputy Commissioner of Civil Supplies,(Chennai City), Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies or Commissioner of Civil Supplies has reason to believe that any dealer has contravened any of the conditions of the licence or registration certificate or any provision of this order or directions issued thereunder and that forfeiture of the additional security deposit deposited by the authorized wholesaler under sub-clause (2), or by the authorized retailer under Sub-clause (3) of clause 8 or imposing of fine is called for, it or he may, after giving the dealer a reasonable opportunity of stating his case in writing against the forfeiture or imposing of the fine or both by order, forfeit the whole or any part of the additional security deposit remitted by him or impose a fine not exceeding the amount equal to five times the cost of the issue price of the quantity of kerosene involved or both.

(G.O.(Ms).No.121, Co-operation, Food and Consumer Protection Department, dated 10.03.2003)

2) If the amount of additional security at any time after forfeiture under sub- clause (1) falls short of the amount specified in sub-clause (2) or sub- clause (3) of the clause 8, the licensing authority, District Revenue Officer, Additional Collector, Collector, Deputy Commissioner of Civil Supplies, Joint Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies or the authorized officer may direct the authorized wholesaler or authorized retailer to deposit within such time as may be specified such sum as to make up that amount.

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection Department, dated 16.03.2017)

3) Upon due compliance by the authorized wholesaler or authorized retailer with all obligations, or upon cancellation or withdrawal of the authorisation, the amount of

additional security or such part thereof which is not forfeited shall be returned to the authorised wholesaler or authorised retailer.

25. PREVIOUS SANCTION FOR PROSECUTION

No person shall be prosecuted for contravention, attempt to contravene, or abet the contravention of any of the provisions of this order, or of the terms and conditions of the licence or registration certificate, issued to him under this order or the terms and conditions applicable to authorisation issued by the Government or the Licensing authority or the authorised officer except with the previous sanction of the Commissioner or Additional Commissioner of Civil Supplies or the Deputy Commissioner (CS) (City) (Madras) or the Collector concerned or such other officer as may be authorised by the Collector under clause (I.a.) of Section 2 of the Essential Commodities Act 1955 (Central Act 10 of 1955) to perform the functions and exercise the powers of the Collector under the said Act.

(G.O.Ms.No.100, Food Dept. dt.06.03.74 and G.O.(Ms).No.43, Co-operation, Food and Consumer Protection Department, dated 16.03.2017)

26. POWERS OF ENTRY, SEARCH, SEIZURE ETC.,

1) If any competent officer has reason to believe that any contravention of this order has been committed or is being committed or is about to be committed, he may by himself or authorize any other officers to,

a) inspect any book account or other document or any stock of kerosene in the possession or under the control of any person:

b) seize any such account or other documents;

c) stop and search any person, boat, motor or any vehicle or receptacle used or intended to be used for the movement of kerosene;

d) seize the stocks of kerosene along with packages, coverings, or receptacles in which such kerosene is found or the animals, vehicles, vessels, boats, or other conveyances used in carrying such kerosene and thereafter send to the Collector of the District concerned a report in writing as required under section 6A of the Essential Commodities Act,1955.

e) Seize the stocks of kerosene in respect of which the competent officer has reason to believe that any provision of this order has been, is being or about to be contravened along with the packages, coverings, receptacles, in which such kerosene is found or the animals, vehicles, vessels, boats or other conveyances used in carrying such kerosene and thereafter, take or authorise the taking of all measures necessary for securing the production of the packages, coverings, receptacles, animals, vehicles, vessels, boats or other conveyances so seized in court and for their safe custody pending such production.

Provided that the officer conducting the inspection or search shall give a receipt for what is seized immediately after the seizure is effected.

2) The competent officer may requisition the services of any Police Officer or any other officer of the State Government to assist the Competent officer in the lawful exercise of any power vested in the competent officer under this clause and it shall be the duty of every such officer to comply with such requisition.

3) Notwithstanding anything contained in sub-clause (i) but subject to the order if any, of the court, the Licensing Authority, may by an order, in writing require any stock of kerosene,

seized under sub-clause (i) and within his jurisdiction to be sold to the Government or to an officer or agent of the Government and in such circumstances as may be specified in the order and on such order being made, such stock shall be sold in accordance with such order. A copy of such order shall be communicated to the persons from whom such stock of kerosene was seized. Every order passed under this sub-clause shall specify the price payable for the stock of kerosene to be sold in pursuance of such order and such price shall be in accordance with the provisions of the Essential Commodities Act, 1955 (Central Act 10 of 1955) and shall be paid to the persons from whom such stock of kerosene was seized.

4) Subject to the provisions of sub-clause (1) of this clause the provisions of sections 100 and 165 of the code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to search and seizure so far as may apply to searches and seizures under this clause.

27. APPEAL

1. Any persons aggrieved by an order passed or action taken under this order by the officers specified in column (i) below may within 30 days of the receipt by him of such order or of action taken, appeal to the officers specified in column (ii) below within their respective jurisdiction and such appeal petition shall be disposed of within 90 days from the date of its receipt.

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection Department, dated 16.03.2017)

(i)	(ii)
a) District Supply Officers b) Omitted vide G.O. (Ms).232, Co-operation, Food and Consumer Protection dated 03.07.1991. c) District Revenue Officers / Additional Collectors d) Assistant Commissioner of Civil Supplies in the case of Madras City / and Belt Area Comprising Saidapet, Taluk and Avadi Township in Chengalpattu District	District Revenue Officers/ Additional Collectors. Collectors Deputy Commissioners (Civil Supplies) (City)

e) The Deputy Commissioner of Civil Supplies (City) and Collectors f) The Joint Commissioner of Civil Supplies or Additional Commissioner of Civil Supplies or Commissioner of Civil Supplies.	The Commissioner of Civil Supplies, Additional Commissioner of Civil Supplies or Joint Commissioner of Civil Supplies. Government

(G.O.(Ms).No.43, Co-operation, Food and Consumer Protection Department, dated 16.03.2017)

2. The Commissioner of Civil Supplies may be of his own motion or on application, call for and examine the record of any officer subordinate to him and the Government may of their own motion or on application call for and examine the records of the Commissioner of Civil Supplies in respect of any proceedings to satisfy himself or themselves as the regularity of such proceedings, or the corrections, legality or propriety of any decision passed, order made therein, and if any case, it appears to the Commissioner of Civil Supplies, or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly. Provided that every application to the Commissioner of Civil Supplies or the Government

for the exercise of the powers under this sub-clause shall be preferred within 30 days from the date on which the proceedings, decision, or order to which the application relates was communicated to the applicant.

3. No order adversely affecting any person shall be made under this clause unless the concerned person has been given a reasonable opportunity of stating his case in writing.

4. Pending disposal of an appeal under sub-clause (1) above or Proceedings for revision under Sub-Clause (2) above the appellate authority specified in sub clause (1) above or the Commissioner or Joint Commissioner of Civil Supplies or the Government as the case may be, may by an order direct, that (i) the whole or any part of the order covered by the appeal or revision shall not take effect subject to such conditions as may be specified or (ii) issue such interim directions as he or they may so deem fit pending disposal of the appeal or the proceedings for revision or for any specified period.

5. Any person aggrieved by a seizure made under the provisions of this clause may within fifteen days thereof appeal to the licensing authority, who may pass such order or issue such directions as he may deem, fit.

28. EXEMPTION TO OPERATIONS BY CENTRAL OR STATE GOVERNMENT OR BY FOOD CORPORATION OF INDIA OR BY BANKS

Nothing containing in this order shall apply to:

i) The sale or storage for sale or purchase of kerosene on Central or State Government Account, or by the Food Corporation of India established under the Food Corporation Act,1964 (Central Act 37 of 1964) or the Tamil Nadu Civil Supplies Corporation Limited established by the Government of Tamilnadu into the operations on behalf of the Central or State Government.

ii) The sale by banks of stocks of kerosene, hypothecated to them, provided that the kerosene is sold in accordance with the terms and conditions applicable to hypothecation after notice to licensing authority having jurisdiction over the place of sales.

29. REPEAL AND SAVINGS

1) The Tamil Nadu Kerosene Control Order, 1968 is hereby repealed.

2) Notwithstanding such repeal, anything done or any action taken under the said order including any order or direction issued shall be, deemed to have been made or issued under this order.

FORM I

(See Clause 4 (1))

The Tamil Nadu Kerosene (Regulation of Trade) Order 1973

Form of Application for licence as a wholesaler in Kerosene

1. Applicant‟s name and address :
2. Applicant‟s place of business :
3. How long the applicant has been trading in Kerosene :
4. Quantity of kerosene handled annually by the applicant during the preceeding three years (Quantity to be specified in litres) :

I declare that the following quantities of kerosene are in my possession this day, and are held at the places noted against them:-

Name of Place :

Stocks :

Variety :

Quantity (in litres) :

I hereby certify that to the best of my knowledge the particulars given in this application are true and correct.

Station: Signature of applicant

Date :

FORM II

(See Clause 4 (2))

THE TAMIL NADU KEROSENE (REGULATION OF TRADE)ORDER, 1973

Licence granted to a wholesaler

Subject to the provisions of the Tamil Nadu Kerosene (Regulation of Trade) Order, 1973 and to the terms and conditions of this Licence .....is/are authorized to deal wholesale in kerosene.

2. The wholesaler shall carry on, the aforesaid business at the following place:

.....

.....

NOTE;

Where the same person carries on business in more than one place, separate licence should be obtained in respect of each such place and the registers and returns referred to in conditions 4 and 5 following shall be maintained and submitted separately for each such place.

3. wholesaler shall not store kerosene in any place other than that specified in conditions 2 above, except with the approval of the licensing authority.

4. The wholesaler shall not sell kerosene to any person other than a registered retailer or a person who is in possession of special order under sub-clause (i) of clause 4 of the kerosene (Restriction of use) Order , 1966 **35**

(G.O.Ms.No.134,Food and Co-operation Department, dated 25.02.1982.)

5. The wholesaler shall maintain a register of daily accounts showing correctly all transactions of kerosene in his possession. It shall show:

a) the opening stock on each day

b) the quantities and the brands received on each day showing the names of the suppliers, and

c) the quantities sold, delivered or otherwise disposed of on each day showing the places of destination of the name of the consignee.

NOTE

When a licensee is registered as a retail dealer the stock issued for retail trade should also be entered in the transactions and a separate account maintained for the retail sales.

d) the closing stock on each day

6. The wholesaler shall submit to the Collector so as to reach him not later than the 5th of each month a true return of the stocks, receipts, deliveries and balance during the previous month.

7. The wholesaler shall exhibit in a prominent place at his place of business a statement showing the following particulars in English and the Principal language of the district.

STATEMENT

1. Name of Oil :
2. Importing Oil Company‟s price for bulk for importing :

oil company‟s price for packed per

3. Actual transport charges : from a rail or installation to place of sale

4. Incidental charges :

5. Selling price :

8. The wholesaler shall issue to every customer a correct receipt giving the name, the licence number, the date of the transaction, the quantity sold the rate at which sold, and the total amount charged and shall keep a duplicate of the same to be available for inspection on demand by any officer authorized by the Collector.

9. The wholesaler shall give all facilities at all reasonable hours to any officer authorized by the Commissioner or the Collector for the inspection of the accounts and stocks wheresoever they may be kept and for taking samples of kerosene for examination.

10. The wholesaler shall comply with any directions that may be given to him by the Commissioner or Collector in regard to the purchase, sale or storage for sale or distribution of kerosene.

11. The wholesaler shall not have in his possession or under his control in excess of the next quantity revealed by his account.

12. The licence granted is valid upto .....and it shall be submitted to the licensing authority within the time specified in Sub - Clause (3) and (6) of Clause 4, in the prescribed form along with the Challan evidencing the payment of renewal fee. The licensee shall also enclose along with the application particulars evidencing application submitted by him for renewal of his storage licence to the authorities concerned.

(Government Letter.No.4050/F2/83-13 dated 04.05.1985 and G.O.(Ms).No.218 Food and Consumer Protection Department, dated 17.02.1986) .

FORM III

[See Clause 5 (2)]

THE TAMILNADU KEROSENE (REGULATION OF TRADE) ORDER, 1973

Form of application for registration

(or)

Renewal for registration as a retailer in kerosene.

1. Applicant‟s name and address : 2. Applicant‟s place of business : (if a cartman area of his business)

3. The period for which the application : has been trading in kerosene as a retail dealer

4. Quantity of kerosene handled by him per month on an average :

5. Wholesaler / Wholesalers from whom he gets his stocks of kerosene :

I hereby certify that to the best of my knowledge the particulars given in this application are true and correct.

Station :

Signature of Applicant.

Date :

FORM IV

[See Clause 5 (3)]

THE TAMIL NADU KEROSENE (REGULATION OF TRADE) ORDER, 1973.

Registration certificate issued to a retailer

1. Subject to the provisions of the Tamil Nadu Kerosene (Regulation of Trade) Order, 1973 and subject to the terms and conditions of this certificate .....is/are hereby authorized to deal in retail in kerosene.

2. The retailer shall carry on the aforesaid business at the following place.

3. The retailer shall not store kerosene in any place other than that specified in condition 2 above, except with the approval of the licensing authority.

4. The retailer shall maintain a register of daily accounts showing correctly:

a) The opening stock

b) receipts

c) the quantity sold and

d) the closing stock on each day

5. The retailers shall exhibit in a prominent place at his place of business, a statement showing the following particulars:

Stock and Price Board

Date :

Name of retail dealer

Opening stock of kerosene Litre:

Price per litre

If the retailer is handcartman, he shall prominently display on the barrel 1) Police registration of the cart,

2) Registration Certificate number, and

3) price per litre.

6. He shall sell kerosene at prices not exceeding the price notified by the Commissioner or the Collector for area.

7. The retailer shall give all facilities at all reasonable hours to any officer authorised by the licensing authority for the inspection of the accounts and stocks and for taking samples of kerosene for examination.

8. The retailer shall comply with any directions that may be given to him by the licensing authority in regard to the purchase, sale or storage for sale or distribution of kerosene.

9. The retailers shall sell kerosene only to bonafide domestic consumers for lighting and cooking and such sales should be in such quantities and at such intervals as the licensing authority may, by a general or a special order direct.

LICENSING AUTHORITY

Place :

Date :

FORM V

(For use by a Dealer)

(See Clause 3 (4)

The Tamil Nadu Kerosene (Regulation of Trade) Order, 1973.

Return of stocks, receipts and deliveries of kerosene for the month ending the

*****

Name :

Number of licence/Registration :

Certificate :

Address :

Particulars of godowns where stocks held and quantity of stocks in each quality of kerosene in stock in barrels and tins.

Particulars of godowns	Quantity in Kilo litres	Remarks if any
1.		
2.		
3.		

1. Stock at the beginning of the month :
   a) actually with the dealer :
   b) Pledged with any person or Institution such as a banker co-operative society :
   Total

2. Quantity purchased during the and source of supply
   Name of refinery / oil distributing company/wholesaler from purchased

i.
ii.
iii
iv

Total

3. Quantity received out of quantity purchased name of oil company/ wholesaler

Total	Quantity Date Purchase (In Kilo litres)	Date of purchase

4. Quantity sold
   a) Quantity sold and delivered/

removed during the month.

b) Quantity sold but not yet delivered

Total

5. Stock at the end of the month

6. Actually with the dealer

i) Unsold

ii) Sold but awaiting delivery

b) Pledged with any other person or institution such as a bank or a cooperative society:

Total

To

1. Licensing Authority District Signature

Place:

Date: