

Supplies And Services (Temporary Provisions) Act, 1946

22 of 1946

[29 July 1946]

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An Act To Provide For The Continued Exercise, During A Limited Period, Of Certain Powers, In Relation To Supplies And Services And Certain Other Matters, Conferred By The Emergency Powers Act, 1939, And To Continue In Force For A Limited Period Certain Orders And Instruments Made Under The Said Act, And To Provide For Divers Other Matters (Including The Charging Of Fees On Certain Licences And Other Documents) Connected With The Matters

Aforesaid Be It Enacted By The Oireachtas As Follows:-

1. Definitions :-

In this Act-

the expression "the Act of 1939" means the Emergency Powers Act, 1939 (No. 28 of 1939), as amended by the Emergency Powers (Continuance and Amendment) Act, 1942 (No. 19 of 1942), and the Emergency Powers (Continuance and Amendment) Act, 1945 (No. 26 of 1945);

the word "authorisation" means a document in writing which is a licence, permit, certificate or authorisation of whatsoever kind;

the word "direction" means a direction given (whether before or after the passing of this Act) under power conferred by a Government order;

the expression "Government order" means an order being-

(a) an order made by the Government under any section or subsection of this Act, or

(b) an order continued in force by subsection (1) of section 3 of this Act;

the word "Minister" means a member of the Government;

the expression "the operative date" means the 2nd day of September, 1946;

the expression "subsidiary instrument" means an order or regulation made (whether before or after the passing of this Act) under power conferred by a Government order.

2. Power Of Government To Make Certain Orders :-

(1) The Government may, whenever and so often as they think fit, do, by order, all or any of the following things, that is to say:-

(a) authorise and provide for the regulation and control by or on behalf of the State of all or any supplies or services which are, in the opinion of the Government, essential to the life of the community, and, where the Government so thinks proper, the maintenance and provision of such essential supplies by or on behalf of the State and the provision and operation of such essential services by or on behalf of the State;

(b) authorise and provide for the control, regulation, restriction or prohibition of the import or the export of particular kinds or classes of goods;

(c) authorise and provide for the acquisition (either by agreement or compulsorily) by or on behalf of the State of any currency (other

than Irish currency), bills, credits, and balances, payable otherwise than in Irish currency, gold coin and bullion, and securities, and for the ascertainment of the price to be paid therefor in the case of compulsory acquisition, and for the control and restriction of dealings in any currency, bills, credits and balances payable otherwise than in Irish currency, gold coin and bullion, and securities, and for the control and restriction of payments by residents in the State to persons abroad, and for the prohibition and restriction of imports of currency notes (other than Irish currency notes);

(d) make such provisions with respect to the cultivation, management or use of land as are, in the opinion of the Government, necessary or expedient for increasing or maintaining the production in the State of articles which are, in the opinion of the Government, essential to the life of the community, including, in particular, provisions corresponding to those contained in the Emergency Powers (No. 366) Order, 1945 (S.R.&O., No. 251 of 1945);

(e) authorise the maintenance and provision by local authorities of supplies which are, in the opinion of the Government, essential to the life of the community, and the provision and operation of services which are, in the opinion of the Government, essential to the life of the community, and the acquisition, taking possession, control or user (either by agreement or compulsorily) by local authorities of any land which is necessary to enable them to maintain such supplies or operate such services;

(f) authorise and provide for the guarantee by the State of the principal of and interest on any borrowings by corporate bodies engaged in the provision of supplies and services which are, in the opinion of the Government, essential to the life of the community;

(g) provide for the reduction or suspension of customs duties on particular articles.

(2) Whenever the Government makes an order under this section, the Government may, in lieu of making provision for or doing any particular thing in or by such order, authorise or empower by such order a Minister or any other person specified or indicated in such order to make the said provision or do the said thing and for that purpose (subject to such (if any) conditions and consents as may be specified in such order) to make such orders or regulations, grant or issue such authorisations and give such directions as shall appear to such Minister or person to be necessary or proper for the said purpose.

(3) An order made by the Government under this section may contain all such incidental or ancillary provisions as shall appear to the Government to be necessary or expedient for giving full effect to any provision inserted in such order under the powers conferred on the Government by the foregoing provisions of this section.

3. Continuance In Force Of Certain Orders, Etc., Under The Act Of 1939 :-

(1) Notwithstanding the expiration of the Act of 1939, every order (in this section referred to as a continued Government order) being-

(a) an order which-

(i) was made by the Government, under section 2 of the Act of 1939, before the 18th day of June, 1946, and

(ii) was in force immediately before the operative date, or

(b) an order which-

(i) was made by the Government, under section 2 of the Act of 1939, on or after the 18th day of June, 1946, and before the operative date, and

(ii) could, if section 2 of this Act had been in force when it was made, have lawfully been made under the said section 2 of this Act, and

(iii) was in force immediately before the operative date, or

(c) an order which-

(i) was made by the Government under section 3 of the Act of 1939 before the operative date, and

(ii) amended any such order as is referred to in paragraph (a) or paragraph (b) of this subsection or any order made under section 3 of the Act of 1939, and

(iii) was in force immediately before the operative date, shall, on and after the operative date, continue in force so long as this Act continues in force, unless previously revoked.

(2) Every continued Government order (except the Emergency Powers (No. 178) Order, 1942 (S. R. & O., No. 174 of 1942)) shall, on and after the operative date, have effect subject to the following modifications:-

(a) any reference therein to section 5 of the Act of 1939 shall be construed as including a reference to section 6 of this Act,

(b) any reference therein to section 9 of the Emergency Powers (Continuance and Amendment) Act, 1942 (No. 19 of 1942), shall be construed as including a reference to section 7 of this Act,

(c) any reference therein to a Government order shall be construed as including a reference to a Government order as defined by section 1 of this Act,

(d) any reference therein to a subsidiary instrument shall be construed as including a reference to a subsidiary instrument or a direction as defined by section 1 of this Act,

(e) any reference therein to an emergency powers instrument shall be construed as including a reference to a Government order a subsidiary instrument or a direction as defined by section 1 of this Act,

(f) any reference therein to an emergency powers order shall be construed as including a reference to a Government order as defined by section 1 of this Act.

(3) Every order, regulation or direction (in this section referred to as a continued order, regulation or direction), which has been made or given (whether before or after the passing of this Act) in exercise of the powers conferred by a continued Government order and which was in force immediately before the operative date, shall, on or after the operative date, continue in force so long as such continued Government order remains in force, unless previously revoked.

(4) Every authorisation, which has been granted or issued (whether before or after the passing of this Act) in exercise of the powers conferred by a continued Government order or by a continued order, regulation or direction and which was in force immediately before the operative date, shall, on and after the operative date, continue in force so long as such continued Government order or continued order, regulation or direction remains in force, unless previously revoked.

4. Revocation And Amendment Of Government Orders :-

(1) The Government may by order, whenever they so think fit, revoke a Government order.

(2) (a) The Government may by order, whenever and so often as they so think fit, amend (whether by addition, deletion or variation) in such manner as they think fit any Government order to which this subsection applies and, in particular, may do by such amending order anything which they could lawfully have done by such Government order and may also by any such amending order amend an order previously made under this subsection.

(b) This subsection applies only to a Government order, being-

(i) an order made by the Government under section 2 of this Act, or

(ii) an order which is continued in force by subsection (1) of section 3 of this Act and which could, if section 2 of this Act had been in force when it was made, have lawfully been made under the said section 2 .

(3) The Government may by order, whenever they so think fit, revoke any order made by them under subsection (2) of this section.

5. Revocation And Amendment Of Instruments And Directions Under Government Orders :-

(1) Every power conferred by a Government order to make an order or regulation shall be construed and have effect as including a power exercisable in the like manner and subject to the like conditions and consents (if any) to revoke or amend any order or regulation made under such power and (where requisite) to make another order or regulation in lieu of the order or regulation revoked.

(2) Every power conferred by a Government order to give a direction shall be construed and have effect as including a power, exercisable in the like manner and subject to the like conditions and consents (if any) to revoke or amend any direction given under such power and (where requisite) to give another direction in lieu of the direction so revoked.

6. Offences, Prosecutions And Punishments :-

(1) Every person who contravenes (whether by act or omission) or attempts so to contravene a provision in a Government order, a subsidiary instrument or a direction shall be guilty of an offence under this section.

(2) Every person who aids, abets, or assists another person, or conspires with another person, to do any thing (whether by way of act or of omission) the doing of which is declared by subsection (1) of this section to be an offence under this section shall himself be guilty of an offence under this section.

(3) Every person who, knowing that another person has committed a n offence under this section, gives that other person any assistance with intent thereby to prevent, hinder, or interfere with the apprehension, trial, or punishment of the said other person for the said offence shall himself be guilty of an offence under this

section.

(4) Whenever there is, in relation to a ship or other vessel, or an aircraft, a contravention (whether by act or omission) or an attempted contravention of a provision in a Government order, a subsidiary instrument or a direction, the person who is, at the time of such contravention or attempted contravention in charge of such vessel or such aircraft, as the case may be, and also the person who, at the said time, has the management of such vessel or such aircraft shall each be guilty severally of an offence under this section.

(5) Where an offence under this section is committed by a body corporate and is proved to have been so committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary, or other officer of such body corporate, such director, manager, secretary, or other officer shall also be deemed to have committed the said offence and shall be liable to be proceeded against and punished accordingly.

(6) Every person who, being an Irish citizen or ordinarily resident in the State, commits or is deemed to have committed, whether within or without the State, an offence under this section and every person who, not being an Irish citizen or ordinarily resident within the State, commits or is deemed to have committed within the State an offence under this section shall-

(a) on summary conviction thereof be liable to a fine not exceeding five hundred pounds (together with, in the case of a continuing offence, a fine not exceeding ten pounds for every day on which the offence is continued) or, at the discretion of the Court, imprisonment for a term not exceeding twelve months or both such fine and such imprisonment, or

(b) on conviction thereof on indictment, be liable to a fine not exceeding five thousand pounds (together with, in the case of a continuing offence, a further fine not exceeding fifty pounds for every day on which the offence is continued) or, at the discretion of the Court, to penal servitude for a term not exceeding ten years or to imprisonment for a term not exceeding two years or to both such fine and such penal servitude or imprisonment.

(7) Where a person is convicted of an offence under this section the Court may, in addition to the punishment to which such person is liable under subsection (6) of this section, direct that any goods or chattels, in relation to, or by means of which, such offence was committed, be forfeited and any goods or chattels so forfeited shall

be disposed of in such manner as a Minister may direct, and any moneys arising from any such disposal shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

(8) Proceedings in the District Court in relation to an offence under this section may be brought and prosecuted by a Minister or by a member of the *Gárda Síochána*.

(9) Notwithstanding subsection (4) of section 10 of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this section may be instituted within twelve months from the date of the offence.

7. Penalty For Continued Non-Compliance With Certain Orders, Etc :-

(1) Where-

(a) a person is convicted of an offence under section 6 of this Act by reason of his failure, neglect or refusal to comply with a provision in a Government order, a subsidiary instrument or a direction requiring him to perform a specified act within a specified period or before a specified date, and

(b) the said act remains, after the date of such conviction, unperformed by him,

such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds for each day after the date of such first-mentioned conviction, on which the act remains unperformed by him or, at the discretion of the Court, to imprisonment for a term not exceeding twelve months.

(2) An offence under this section shall be a continuing offence and accordingly fresh proceedings in respect thereof may be taken from time to time.

(3) Subsections (5) and (8) of section 6 of this Act shall apply in relation to an offence under this section in like manner as they apply to an offence under the said section 6 .

(4) This section shall not apply in respect of any provision in a Government order relating to the cultivation of land by occupiers thereof.

8. Laying Of Government Orders And Subsidiary Instruments Before Houses Of Oireachtas :-

Every document (being a Government order or subsidiary

instrument made on or after the operative date) shall be laid before each House of the Oireachtas as soon as may be after it is made and if a resolution annulling such document is passed by either such House within the next subsequent twenty-one days on which such House has sat after such document is laid before it, such document shall be annulled accordingly but without prejudice to the validity of anything previously done under such document.

9. Judicial Notice Of Government Orders And Subsidiary Instruments :-

(1) Every Government order and every subsidiary instrument shall be, and, in the case of every Government order or subsidiary instrument made before the operative date, be deemed always to have been, judicially noticed.

(2) Nothing in subsection (1) of this section shall render a person who has been acquitted of an offence liable to be charged again with that offence.

10. Operation Of Government Orders, Subsidiary Instruments And Directions :-

Every Government order, every subsidiary instrument and every direction shall have the force of law and 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. Fees On Authorisations :-

(1) There shall be charged, levied and paid on the grant, renewal, or issue of any authorisation, granted, renewed or issued under or for the purposes of a Government order, a subsidiary instrument or a direction such (if any) fee as the Minister for Finance shall from time to time direct.

(2) All fees charged and levied by virtue of this section shall be collected and taken in such manner as the Minister for Finance shall from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the said Minister.

(3) The Public Offices Fees Act, 1879, shall not apply in respect of any fees charged and levied by virtue of this section.

12. Delegation Of Statutory Powers And Duties :-

(1) A Minister, having obtained the consent of the Government, may by order delegate any power or duty conferred or imposed on him to another Minister or to a Parliamentary Secretary.

(2) A Minister, having obtained the consent of the Government may by order revoke or amend an order made by him under this section, including an order made under this subsection.

(3) Whenever a power or a duty is delegated by a Minister under this section such power or duty shall be exercisable or performed by the person to whom it is delegated, in his own name, but (save in the case of a delegation to another Minister) such delegation shall not derogate from the responsibility of such Minister to Dáil Éireann or as a member of the Government for the exercise of such power or the performance of such duty.

(4) Every order made under subsection (1) of section 6 of the Act of 1939 and in force immediately before the operative date shall continue in force and be deemed to have been made under subsection (1) of this section.

(5) Every order made under this section shall be judicially noticed.

13. Adaptation Of References In Certain Enactments To The Act Of 1939 :-

(1) References, in any Act of the Oireachtas for the appropriation of public moneys passed during the financial year which commenced on the 1st day of April, 1946, to the Act of 1939 shall, on and after the operative date, be construed as including references to this Act.

(2) On and after the operative date-

(a) the reference, in subsection (3) of section 49 of the Finance Act, 1941 (No. 14 of 1941), to the Act of 1939 shall be construed as including a reference to this Act, and

(b) the reference, in subsection (9) of the said section 49 , to the Act of 1939 shall be construed as a reference to this Act.

14. Saving For Other Powers :-

The powers conferred on the Government or a Minister by this Act shall be in addition to, and not in derogation of, any other powers exercisable by the Government or by a Minister.

15. Expenses :-

The expenses incurred, by the Government or by any Minister or by

any other person on or to whom powers are conferred or delegated by virtue of this Act, in the administration of this Act or in giving effect to any Government order, subsidiary instrument or direction shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

16. Short Title, Commencement And Duration :-

(1) This Act may be cited as the Supplies and Services (Temporary Provisions) Act, 1946.

(2) This Act shall come into operation on the 2nd day of September, 1946.

(3) Unless previously terminated under subsection (4) of this section, this Act shall continue in force until the 31st day of December, 1947, and shall then expire, unless the Oireachtas otherwise determines.

(4) The Government may by order declare that this Act shall expire on a specified date, being earlier than the 31st day of December, 1947, and in that case this Act shall expire accordingly.