

EXTRAORDINARY

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JAMMU AND KASHMIR OFFICIAL GAZETTE**

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separate compilation

PART III

Laws, Regulations and Rules passed thereunder.

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT—DEPARTMENT OF FOOD,
CIVIL SUPPLIES AND CONSUMER AFFAIRS

Notification

Jammu, the 23rd March, 2022.

SO-108.—In exercise of powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with Ministry of Commerce, Government of India's S. O. No. 2515 dated 05-10-1968 and in supersession of all previous orders on the subject, the Government hereby notifies the Jammu and Kashmir Subsidized Kerosene Oil (Licensing and Distribution) Order, 2022, forming Annexure "A" to this order.

By order of the Government of Jammu and Kashmir.

(Sd.) ZUBAIR AHMAD, JKAS,
Commissioner/Secretary to the Government.

Annexure-A to SO-108 dated 23-03-2022

1. **Short title and commencement.**—(1) This Order may be called the Jammu and Kashmir Subsidised Kerosene Oil (Licensing and Distribution) Order, 2022.

(2) It extends to the whole of the J&K.

(3) It shall come into force from the date to be notified.

2. **Definitions.**—In this order, unless the context otherwise requires,—

- a. **“Antodaya Anna Yojana (AAY)”** and **“Priority House Hold (PHH)”** category beneficiaries shall have the same meaning as assigned to the Household of these categories under section 10 of the National Food Security Act ;
- b. **“Dealer”** means any person carrying business in purchase, sale or storage for sale or distribution of Subsidized Kerosene Oil, either wholesale or retail ;
- c. **“Declared Price”** about Subsidized Kerosene Oil supplied under Targeted Public Distribution System in any area means the maximum selling price declared by the Central Government from time to time about an area and shall include such other charges, rates, duties, and taxes prescribed by the Government of J&K, in the case of any area in Jammu and Kashmir ;
- d. **“Form”** means a form to be devised and issued by the Licensing Authority under this order for the purpose of issuance of licence ;
- e. **“Kerosene”** means a middle distillate mixture of hydrocarbons meeting BIS specification No. IS-1459 of 1974 with important characteristics of a flash point at a minimum of 35°C and smoke point at a minimum of 18 MM, as defined under the Kerosene (Restriction on use and fixation of Ceiling Price) Order, 1993 ;
- f. **“Licensing Authority”** means Director, Department of Food, Civil Supplies and Consumer Affairs, Government of Jammu and Kashmir or an officer designated by the Government to exercise the powers and perform the duties of Licensing Authority under the provisions of this order ;
- g. **“Public Distribution System”** means the system of allocation, distribution, marketing, or selling of kerosene at declared price through a distribution system approved by the Central or Government of J&K.

- h. “**Retail Dealer**” means a person carrying on retail business of supplying Kerosene Oil to consumers other than dealers.
- i. “**Whole sale dealer**” means a person who buys Kerosene Oil from designated Oil Company to sell it to any other dealer and includes an agent of any oil company dealing in kerosene, and recognized by the Government of Jammu and Kashmir as a whole sale dealer through a valid licence.

3. **Licensing of dealers.**—(1) No dealer shall obtain and store or supply Subsidized Kerosene Oil except under the provisions of this order and the terms and conditions of the license issued to him on this behalf by the Licensing Authority.

(2) Every person who is engaged in the business as a dealer at the commencement of this order shall apply to the Licensing Authority for the grant of fresh license within ninety days of the commencement of this order subject to fulfillment of following conditions :—

- i. Should be a domicile of J&K.
- ii. Should be having SKO dealership agreement with any recognized Oil Marketing Company and should be in possession of valid prescribed licenses, in case of wholesale licensee.
- iii. Should be registered as a wholesaler/retailer with the Department of FCS&CA.
- iv. Should possess a suitable premises and storage area to the satisfaction of the Licensing Authority for carrying on such business :

Provided that in respect of the cases falling under sub-clause (2), the Licensing Authority may entertain an application after the expiry of the said period of ninety days but not later than thirty days thereafter, if it is satisfied that the applicant was prevented by sufficient cause from applying in time.

However, after the expiry of such time, no application shall be entertained and the license issued under the previous orders shall be deemed as lapsed forever.

(3) Upon the receipt of the application under sub-clause (2) above the Licensing Authority may accept or reject such application, after giving the applicant an opportunity of being heard and for sufficient reasons to be recorded in writing.

4. **Issue of license.**—(1) Every application for issuance of a license or renewal thereof shall be made to the Licensing Authority.

(2) An application for renewal of a license shall be made to Assistant Director concerned, not less than thirty days before the date on which license expires.

(3) Every license shall be issued on the prescribed Form by the Licensing Authority subject to the conditions mentioned therein and such other conditions as the Licensing Authority may prescribe from time to time.

(4) If a license granted under this order is defaced, lost, or destroyed, the dealer(s) shall forthwith inform the Licensing Authority, who may, on application by the licensee, issue a duplicate license as per the procedure to be devised by the Licensing Authority.

(5) The license granted under this order, unless previously suspended or cancelled, shall continue up to three years and shall be further renewable for two years at a time on submission of an application by a licensee to the Assistant Director concerned which shall be made before the expiry of the validity period of license accompanied by the renewal fee. In case the licensee does not apply for renewal within the stipulated time, the license shall be treated as lapsed and shall not be entertained for any allocation of Subsidized Kerosene Oil.

(6) The Assistant Director concerned shall verify the validity of licence issued by the Licensing Authority, periodically, so as to avoid the misuse of the license by any person other than actual licensee.

5. Eligibility for obtaining and holding Subsidised Kerosene Oil License.—(1) The applicant applying for a fresh Subsidized Kerosene Oil Retail Dealership License shall—

- (i) Be a domicile of Jammu and Kashmir.
- (ii) Be matriculate at the time of filing of application and shall furnish a certificate from the **competent authority** that he/she has not availed any type of loan from Government/Semi-Government or any financial institutions for establishment of any other business.
- (iii) Not be less than 18 year of age and not more than 40 years of age at the time of applying for the dealership. However, relaxation in age in case of reserved category candidates shall be applicable, as per norms laid down by the Government of J&K in the employment generation schemes.
- (iv) Furnish his/her character and antecedent certificate issued by any Gazetted Officer.

- (v) Possess a suitable premises and storage area/capacity to the satisfaction of the Licensing Authority for carrying on business as a retail dealer.
- (vi) Fulfill any other condition which the Licensing Authority or the Government may consider necessary and relevant for the purpose.
- (vii) Surrender his/her license before the Licensing Authority on getting a job or if he/she so desires.

(2) The applicant applying for a fresh Subsidized Kerosene Oil Wholesale Dealership License shall—

- (i) Be a domicile of Jammu & Kashmir.
- (ii) Be 10+2 at the time of filing of application and shall furnish a certificate from the competent authority that he/she has not availed any type of loan from Government/Semi-Government or any financial institutions for establishment of any other business.
- (iii) Not be less than 18 year of age and not more than 40 years of age at the time of applying for the dealership. However, relaxation in age in case of reserved category candidates shall be applicable, as per norms laid down by the Government of J&K in the employment generation schemes.
- (iv) Furnish his/her character and antecedent certificate issued by any Gazetted Officer.
- (v) Have SKO dealership agreement with any recognized Oil Marketing Company and should be in possession of valid prescribed licenses.
- (vi) Possess a suitable premises and storage to the satisfaction of the licensing authority for carrying on business as a wholesale dealer. But the storage tank must be away from the populated area and shall have the access to fire and emergency vehicles.
- (vii) The wholesale dealer must have fire-fighting equipment available at the Kerosene Oil storing place.
- (viii) Fulfill any other condition which the Licensing Authority or the Government may consider necessary and relevant for the purpose.
- (ix) Surrender his/her license before the licensing authority on getting a job or if he or she so desires.

(3) One person shall hold only one Subsidised Kerosene Oil Dealership with the condition that neither his /her family members has any business in Subsidized Kerosene Oil nor is involved in any other petroleum product

business nor his/her family member is an employee of the Department of Food, Civil Supplies and Consumer Affairs.

(4) The new sale points for Subsidized Kerosene Oil distribution shall be opened on the submission of a comprehensive proposal to be made by the Assistant Director of the Department of Food, Civil and Consumer Affairs in consultation with respective District Development Commissioners, taking into consideration the proportion of population and quantum of kerosene oil required.

(5) The authority for grant of new Retail Dealership license for distribution of Subsidized Kerosene Oil shall be the respective Director, Department of Food, Civil Supplies and Consumer Affairs on the recommendations of Assistant Director concerned duly endorsed by the Deputy Commissioner as per the procedure to be prescribed by the licensing Authority. However, the authority for the renewal of a license shall be with the concerned Director.

(6) The authority for transferring a license shall be the respective Director on the recommendations of concerned Assistant Director in consultation with the concerned District Development Commissioner wherever feasible, subject to eligibility.

(7) In case of death/incapacitation due to serious illness/accident of the Licensee resulting in total and permanent disability, which may disable him/her to work and carry on business, the dealership may be transferred to his/her legal heirs by the Licensing Authority subject to fulfillments of conditions that enable him/her to obtain a license under these rules.

6. The categories of beneficiaries eligible for allocation of Subsidized Kerosene Oil.—(1) AAY category for the entire year in winter zone.

(2) PHH category for the entire year in remote areas where winter dumping of food grains for a period of six months or three months is done.

(3) PHH category in winter zone for four winter months only (December, January, February and March), not covered in clause (2).

7. Allocation and rationalization of distribution of Subsidized Kerosene Oil.—(1) All the eligible beneficiaries shall be provided Subsidized Kerosene Oil at the scale of 3 liters per family per month or as decided by the Government, depending upon the availability. However, any allocated quantity of Subsidised Kerosene Oil if left after distribution on

any account shall be treated as a saving for the month and will be carried forward for utilization in the subsequent month with prior permission of the department.

(2) Assistant Directors of the Department of Food, Civil Supplies, and Consumer Affairs shall verify the actual beneficiaries using the Kerosene Oil for *bona-fide* purposes for cooking and illumination. They may ask the Administrative Department through the respective Directorate for allocation of Subsidized Kerosene Oil/based on the actual requirement in the district. The Assistant Directors may also take into account the beneficiaries voluntarily giving up Subsidized Kerosene Oil while asking for the allocation.

(3) On the basis of the requisition to be made by the respective Directors, the Administrative Department shall allocate the Subsidized Kerosene Oil as per the availability and requisition.

(4) A copy of the release order of Subsidized Kerosene Oil shall invariably, be forwarded to Deputy Commissioners and District SSPs for monitoring the distribution of kerosene oil at the different sale points to prevent its diversion for other uses and leakage.

(5) The Subsidized Kerosene Oil quota shall be allocated to such wholesale dealers by the respective Director, who possesses a valid license and qualify the required conditions prescribed by the Licensing Authority and as per this order and allocation can be stopped at any point of time for non-fulfilling of the conditions laid down in this order or any other instructions issued from time to time by the Government or the Licensing Authority. The allocation of Subsidized Kerosene Oil shall be made by the respective Director(s) so as to ensure convenient and effective distribution equally amongst the licensees, on district basis as far as possible, keeping in view the requirement of Subsidized Kerosene Oil in the district.

(6) The Subsidized Kerosene Oil dealers shall have to adhere to all the initiatives or reforms, decided by the Government or the Licensing Authority and also put in place all such arrangements as may be required towards that effort, so as to make the process of allocation, transportation and distribution of Subsidised Kerosene Oil more credible/dependable and transparent.

(7) A Monitoring Cell to track the movement of tankers transporting Subsidized Kerosene Oil shall be established in both the Directorates of the Department of Food, Civil Supplies and Consumer Affairs, Jammu/Kashmir. The Monitoring Cell shall track the movement of tankers in their respective divisions.

(8) The quota of Subsidized Kerosene Oil shall be released only after GPS is installed in the tankers transporting the Subsidized Kerosene Oil.

(9) The colour of the tanker transporting Kerosene Oil shall be as prescribed by Oil Marketing Companies, highlighting the name of the Dealer, and the words “Subsidized Kerosene Oil” shall be written on the body of the tanker boldly, while transporting Subsidized Kerosene Oil.

8. Restriction on use of Subsidised Kerosene Oil supplied under Public Distribution System.—(a) No person shall use Subsidized Kerosene Oil, supplied under the Public Distribution System for any purpose, other than cooking and illumination :

Provided that the Central or J&K Government may by order permit any person to use such Subsidized Kerosene Oil for such other purposes as it may specify in that order.

(2) No dealer appointed under the Public Distribution System or transporter shall sell/distribute or supply Subsidized Kerosene Oil under the public distribution system to any person other than the person for whom the supplies are meant.

(3) The licensee shall not have in his possession or under his control any Subsidized Kerosene Oil over the net quantity revealed by his account and if any such excess quantity is not properly accounted for by the licensee it will be liable to seizure.

9. Fee chargeable.—The fee specified below shall be chargeable in respect of each license, namely :—

1. For grant of a new license—

(i) to a wholesale dealer Rs. 10.000/-

(ii) to a retail dealer Rs. 3000/-

2. For renewal of license—

(i) to a wholesale dealer Rs. 6000/-

(ii) to a retail dealer Rs. 2000/-

3. For the issue of duplicate—

(i) license Rs. 2000/-

10. **Deposit of security.**—Every person who applies for a grant of license under this order shall have to deposit the security with the Licensing Authority at the following rates :—

(1) for grant of license to Wholesale dealer. Rs. 30,000/-

(2) for grant of license to a Retail dealer Rs. 10,000/-

11. **Contravention of the terms and conditions of license or directions.**—(1) No dealer shall contravene any of the terms or conditions of the license or the directions issued under the provisions of this order and if any dealer contravenes any of the said terms, conditions, or any provision of this order, then without prejudice to any other action that may be taken against the license, his license may be cancelled or suspended by an order in writing by the Licensing Authority :

Provided that no order shall be made under this clause, unless the dealer, as the case may be, has been given a reasonable opportunity of presenting his case and of being heard against the proposed cancellation or suspension of the license.

(2) No dealer shall sublet his dealership to any unauthorized person for handling the Subsidized Kerosene Oil. In case of any temporary disability of the licensee in operating the said dealership, the helper can be engaged for the period of such disability not exceeding one year at a time with the prior permission of the Licensing Authority, by providing his details and taking the responsibility of his conduct by the licensee.

(3) The Licensing Authority may cancel the license issued and debar the licensee forever if it is established to its satisfaction that the dealer has misused the terms and conditions of the license granted and is acting in a way that goes against the public interest.

(4) In case of suspension or cancellation of the license of the dealer, the Deputy Commissioner/SDM after obtaining a report from Assistant Director, FCS&CA shall make an alternate arrangement for ensuring uninterrupted supply of Subsidized Kerosene Oil to the beneficiaries till the time Licensing Authority decides the matter.

(5) The Vigilance Committees set up under NFSA for the Targeted Public Distribution System at the different levels in the District shall also be empowered to keep a regular check on the distribution of Subsidized Kerosene Oil in their areas of jurisdiction and ensure prevention of any diversion/irregularity in such distribution by the dealers.

(6) The Grievance Redressal Mechanism set up under NFSA for receiving the complaints relating to the Targeted Public Distribution System shall also act as Grievances Redressal Mechanism for disposing of complaints relating to the distribution of Subsidized Kerosene Oil amongst the targeted groups. The complaints/grievances shall be disposed of as per the procedure laid down in the mechanism set up under NFSA.

12. **Maintenance of accounts.**—Every dealer shall maintain a complete account of stock of the daily receipts and disposal of Subsidized Kerosene Oil separately and keep it up-to-date and make it available for inspection at the place of his business, along with such other information as he may be required by the Licensing Authority or such other officer as may be designated by the Government or the Licensing Authority in this behalf.

13. **Display of stock position.**—Every dealer shall display at a conspicuous place of his business premises, the opening balance, price of Subsidized Kerosene Oil, allocated list of eligible beneficiaries, if applicable, and stock before the commencement of business every day.

14. **Forfeiture of security deposit.**—(i) Without prejudice to the provisions of this order, if the Licensing Authority is satisfied that any dealer has contravened any of the provisions of this order or any of the terms and conditions of the license or the directions conveyed by Government, his/her security deposit shall be forfeited, whole or a part thereof, by an order in writing after providing the dealer a reasonable opportunity of stating his case against the proposed forfeiture. A copy of such order shall be forwarded to the dealer.

(ii) The dealer shall, if the amount of his security deposit at any time, falls short of the amount specified in clause 10 shall forthwith deposit further security to make up that amount on being required by the Licensing Authority to do so.

15. **Appeal.**—Any person aggrieved by the order of the Licensing Authority refusing to grant or renewal of license or cancellation or suspending his license, or forfeiting the security deposited by him, may within thirty days from the date of the receipt of a copy of such order, prefer an appeal in writing before the Administrative Secretary, Food, Civil Supplies and Consumer Affairs Department, Jammu and Kashmir or any other officer as may be appointed by the Government in this behalf, whose decision thereon shall be final.

16. **Restriction on purchase or sale of kerosene oil.**—(1) No wholesale dealer shall supply or cause to be supplied Subsidized Kerosene Oil to any person other than a licensed retail dealer.

(2) No dealer shall obtain or cause to be obtained Subsidized Kerosene subject to sub-clause (1) from any person other than the wholesale dealer.

(3) No dealer shall sell Subsidized Kerosene Oil to any consumer, at a price higher than the price fixed by the competent authority.

17. Power to call for information.—Every dealer shall, when so required, by general or special directions by the Licensing Authority/Government, furnish truthfully and to the best of his knowledge, such particulars of information relating to Subsidized Kerosene Oil distribution in such a manner, as may be required.

18. Exemption.—Nothing in this order shall apply to purchases and storage of Subsidized Kerosene Oil on the Government account.

19. Powers of entry, search, seizure, etc.—(1) The Licensing Authority or any other officer authorized by the Government or the Licensing Authority in this behalf, with such assistance, as he/she deems fit, may—

(a) Require the owner, occupier, or any other person in charge of any place, premises, vehicles, boat, or any other conveyance in which he has reason to believe that any contravention of the provisions of this order or the conditions of any license issued thereunder has been, is being or is about to be committed, to produce any books or accounts or other information.

(2) Enter, inspect or break open and search any place or premises, vehicle, boat, or any other conveyance in which he has reason to believe that any contravention of the provisions of this order or the conditions of any license issued thereunder, has been, is being or is about to be committed.

(3) Take or cause to be take/extracts from or copies of any documents showing transactions relating to such contraventions and return the same to the person from whom they were seized.

(4) Search, seize, and remove any stocks of Subsidized Kerosene Oil and the vehicles, boats, or other conveyance used in carrying kerosene oil in contravention of the provisions of this order, or of the conditions of the license issued thereunder and thereafter take or authorize taking of all measures necessary for securing the production of stocks of Subsidized Kerosene Oil and the vehicles, boats or other conveyance so seized in a court and for their safe custody, pending such production.

(5) The officer conducting search and seizure shall immediately inform the concerned Deputy Commissioner and Department of Food, Civil Supplies and Consumer Affairs, the stock of Subsidized Kerosene Oil seized by him under this order.

(6) The provisions of section 100 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), relating to searches and seizures shall, *mutatis mutandis*, apply to search and seizure under this order.

20. **Power to issue instructions.**—The Government or the Licensing Authority may from time to time issue such instructions, not inconsistent with this order, as it may consider necessary for the purpose of implementing the provisions of this order.

21. **Review.**—To ensure that the objectives of the scheme for providing Subsidized Kerosene Oil reach only to targeted and *bona fide* beneficiaries under the norms/guidelines issued by the Government of India/ Government of J&K from time to time and to further streamline the process of distribution in a convenient and effective manner, the Government of J&K may review the provisions of this order as and when required, including the eligibility of beneficiaries to be provided the Subsidized Kerosene Oil.

22. **Power to relax.**—The Government may relax any of the conditions mentioned above if it deems fit and in the interest of the public at large or by a general or special order include any person or class of persons to avail benefits under this order.

23. **Repeal and savings.**—(1) The Jammu and Kashmir Kerosene Oil (Licensing) Order, 2016, and other orders on the subject are hereby repealed.

(2) Notwithstanding such repeal,—

- a. anything done or any action taken ; or
- b. any right, entitlement or liability acquired, accrued or incurred ; or
- c. any inquiry or any other legal proceeding initiated, conducted or continued in respect of such right, entitlement or liability ; or
- d. any penalty imposed under the said orders, shall be deemed to have done, taken, acquired, accrued, incurred, initiated, conducted, continued or imposed under the corresponding provisions of these rules.