

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT

Notification No. 1/LD/1983.

Dated Gangtok, the 14th March, 1983.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 10th day of March, 1983, is hereby published for general information:—

THE SIKKIM INDUSTRIES LICENSING ACT, 1982.

(ACT NO. 1 OF 1983)

AN
ACT

[10.3.1983]

to provide for licences for regulation of industries in Sikkim; for abolition of exclusive right in industries; for industrial progress of the State and matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Sikkim Industries Licensing Act, 1982.
(2) It extends to the whole of Sikkim.
(3) Save as otherwise provided in section 8, this Act shall be deemed to have come into force on the 19th day of June, 1982.
2. In this Act, unless the context otherwise requires,—
 - (a) "government" means the Government of Sikkim;
 - (b) "industry" means any establishment for manufacture;
 - (c) "licensing authority" in relation to —
 - (i) a small scale industry means the Department of the Government dealing with Industries; and
 - (ii) other industries means the Government.

Short title, extent and commencement.

Definitions.

Explanation.— For the purpose of sub-clause (i), a small scale industry shall mean an undertaking having investment in fixed assets in plant and machinery (whether held on ownership terms or by lease or by hire purchase) not exceeding rupees ten lakhs and that of approved ancillaries upto rupees fifteen lakhs.

- (e) "manufacture" means any process for making, fabricating, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;
- (f) "notification" means the notification published in the Official Gazette;
- (g) "owner of an industry" includes a person who has ultimate control over the affairs of the industry and where the said affairs are substantially entrusted to or carried on by a person such person shall be deemed to be the owner of such industry;
- (h) "prescribed" means prescribed by rules made under this Act.

Licence for establishing an industry.

- 3. (1) No person or authority other than the Government, shall, after the commencement of this Act, establish or carry on any industry in the State of Sikkim except under and in accordance with a licence issued in that behalf by the licensing authority under this Act.
- (2) A licence under sub-section (1) may contain such conditions and in particular,-
 - (a) conditions as to percentage of shares to be offered to persons domiciled in Sikkim for subscription;
 - (b) appointment of Managing Director or Chairman of an industry;
 - (c) minimum employment of persons domiciled in Sikkim;
 - (d) minimum and maximum production;
 - (e) right of the Government to inspect and control quality of goods produced;
 - (f) location of the industry,
 as may be prescribed.
- (3) Notwithstanding anything contained in sub-section (2) or the rules made under section 16, the licensing authority may specify on the licence such other conditions as it may deem fit in the interest of development of industries in the State and in the interests of persons domiciled in Sikkim.

Procedure for obtaining Licence.

- 4. (1) An application for licence shall be made to the licensing authority in such form as may be prescribed and shall be accompanied by such fees not exceeding rupees ten thousand as may be prescribed.
- (2) Where before the commencement of this Act, any person was carrying on any industry, such person shall apply for licence under sub-section (1) and may be entitled to continue to carry on such business without a licence in respect of such industry -
 - (a) for a period of six months from the date of publication of this Act in the Official Gazette ; or
 - (b) if before the expiry of said six months, such person has made an application, for grant of licence under this Act for such industry until the final disposal of his application.
- (3) On receipt of the application for licence, the licensing authority may either grant or refuse a licence:

Provided that no licence under this Act shall be granted if the licensing authority for reasons to be recorded in writing, is of opinion that granting of such licence shall be against the public interest.

Duration and renewal of Licence.

- 5. (1) Every licence granted under this Act shall be valid for a period of ten years from the date on which it is granted and may be renewed as provided in this section.
- (2) An application for renewal of licence shall be made to the licensing authority not later than three months before the date of its expiry in such form and shall be accompanied by such fees not exceeding rupees five thousand as may be prescribed.

6. (1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as has been prescribed and for that purpose require the holder of licence by notice in writing to deliver up the licence to it within such time as may be specified in the notice.
- (2) The licensing authority may, on the application of the holder of licence also vary the conditions of licence except such of them as have been prescribed.
- (3) The licensing authority may, by an order in writing, suspend a licence for such period as it thinks fit or revoke a licence,-
- if it is satisfied that the holder of licence is prohibited by any law for the time being in force to carry on an industry; or
 - if the holder of the licence has violated any of the conditions under which the licence was granted; or
 - if the licensing authority deems it necessary in the interest of public peace or public safety to suspend or revoke a licence; or
 - if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of licence or any other person on his behalf at the time of applying for licence; or
 - if the holder of licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence; or
 - if the holder of licence has been convicted of an offence under the Prevention of Food Adulteration Act, 1954, the Essential Commodities Act, 1955, the Foreign Exchange Regulation Act, 1973, the Essential Commodities (Special Provisions) Act, 1981 or any other offence involving moral turpitude.
- (4) Where the licensing authority makes an order varying the conditions of a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand and on payment of a fee of rupees fifty a brief statement of the same.
- (5) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder or of any offence under the Acts referred to in clause (f) of sub-section (3), may also suspend or revoke a licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

- (6) An order of suspension or revocation under sub-section (5) may also be made by an appellate court or by the High Court.
7. Notwithstanding anything contained in any law, order, custom, promise or contract to the contrary, no owner of an industry in Sikkim shall have an exclusive right to manufacture any article for any period within the State of Sikkim. Any person, company, body corporate or firm having exclusive right to carry on any industry or to manufacture any article (to the exclusion of others) shall cease to have such right from the date of commencement of this Act.
8. The Notification No. 2/TIC, dated the 16th February, 1974 relating to Incentive for Growing industries in Sikkim except paragraph (v) (b) and paragraph (vii) (a) and (b) thereof (relating to Income Tax and Participation by the Government of Sikkim and Sikkimese people) is hereby repealed. This section shall be deemed to have come into force with effect from the 24th day of May, 1976.
9. Every licence holder shall submit to the licensing authority returns in respect of such statistics and other information at such intervals as the Government may, from time to time, require.

Variation, suspension and revocation of licences.

Abolition of exclusive right.

Repeal of notification No. 2/TIC.

Submission of Returns.

**Licence holder
to deposit cer-
tain amount
with Government.**

10. (1) Every licence holder shall deposit with the licensing authority such amount in such instalments as the said authority, may having regard to the nature of the industry and the number of persons employed therein, specify.
- (2) The amount also deposited may be utilised by the licensing authority for payment to the employees of the industry, compensation for loss of employment before the expiry of the period of licence.

**Incentives to cer-
tain industries.**

11. For promotion and development of traditional and small-scale in indigenous industries using local materials, the Government may grant such incentives as it may think fit in each case.

**Offences by
companies**

12. (1) Where an offence under this Act or rules made thereunder has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

- (a) "company" means any body corporate and includes a firm or other association of individuals, and
- (b) "director" in relation to a firm means a partner in the firm.

**Protection of
action in good
faith.**

13. No suit or other legal proceeding shall lie against the Government or any officer or authority empowered by the Government for anything which is in good faith done or intended to be done under this Act or rules made thereunder.

Bar to suits.

14. No suit or other proceedings shall lie against the Government or its officers for any damage caused or likely to be caused by any Act that may be enacted, extended and enforced by a competent legislature in this State and has the effect of amending, adding to, varying, altering or repealing of any of the provisions of this Act.

Penalties.

15. Every person who contravenes any of the provisions of this Act or rules made thereunder shall, on conviction, be liable to be punished with imprisonment which may extend to six months or to fine or with both.

**Power to make
rules.**

16. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.
- (2) In particular, and without prejudice, to the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) the form of application for grant of licence and renewal thereof;
- (b) the fees payable for grant and renewal of licence;
- (c) the condition subject to which a licence may be granted;
- (d) any other matter which is required to be or may be prescribed.

**Repeal and
saving.**

17. (1) The Sikkim Industries Licensing Ordinance, 1982 (1 of 1982) is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.

B. R. PRADHAN,
Secretary to the Government of Sikkim.
Law Department,
F. No. 16(167)LD/82.