

GOVERNMENT OF WEST BENGAL

Legislative Department

West Bengal Act VI of 1966

THE WEST BENGAL COLD STORAGE (LICENSING AND REGULATION) ACT, 1966.

[*Passed by the West Bengal Legislature.*]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 19th March, 1966.]

[19th March, 1966.]

An Act to provide for licensing, supervision and control of cold storages.

WHEREAS it is expedient to provide in the public interest for the licensing, supervision and control of cold storages in West Bengal and to deal with matters incidental thereto;

AND WHEREAS previous sanction of the President under the proviso to clause (b) of article 304 of the Constitution of India has been obtained;

It is hereby enacted in the Sixteenth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the West Bengal Cold Storage (Licensing and Regulation) Act, 1966.

Short title, extent and commencement.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date or dates and in such area or areas as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different areas.

2. In this Act, unless the context otherwise requires,—

Definitions.

(1) “agricultural produce” includes produce of agriculture, animal husbandry or horticulture, fish, shell fish and all articles of food or drink wholly or partly made from any of them;

(2) “cold storage” means an enclosed chamber insulated in the prescribed manner and mechanically cooled by refrigeration machinery to provide refrigerated condition to things stored therein but does not include refrigerated cabinets and chilling plants having capacity of less than 28.3168 cubic metres;

(3) “cold storage receipt” means a receipt issued by a licensee under section 6 and includes a duplicate receipt issued under section 8;

(Chapter I.—Preliminary.—Section 2.—

(Chapter II.—Licensing of cold storages.—Sections 3, 4.)

- (4) “hirer” means a person who hires on payment of the prescribed charges space in a cold storage for storing agricultural produce and enters into a contract or agreement with the licensee for the purpose;
- (5) “licensee” means any person to whom or any firm or Co-operative Society to which a licence is granted under section 3;
- (6) “Licensing Officer” means the Director of Agriculture, West Bengal, and includes any other officer not below the rank of Superintendent of Agricultural Marketing empowered by the Director of Agriculture in this behalf;
- (7) “prescribed” means prescribed by rules made under this Act;
- (8) “term” means a period of 12 months or less ending on the 31st December of any year.

CHAPTER II.

Licensing of cold storages.

Licensing
of cold
storages.

3. No person shall, after two months from the date of coming into force of this Act, start or carry on the business of storing, nor any such person not being a hirer store, agricultural produce in a cold storage, except under and in accordance with the terms of a licence granted under this Act.

Issue of
licence
and its
cancellation.

4. (1) Every application for the grant of a licence under section 3 shall be made in duplicate to the Licensing Officer in such form and in such manner and shall be accompanied by such fee not exceeding five hundred rupees as may be prescribed.

(2) The licence shall be granted by the Licensing Officer in such form and shall be subject to such conditions as may be prescribed.

(3) Every licence granted under this Act shall be valid for a period of five years and may, on application by the licensee in the manner prescribed and on payment of the prescribed fee not exceeding two hundred rupees, be renewed from time to time for a period of two years on each occasion, by the Licensing Officer provided such application for renewal is made at least thirty days before the expiry of the period of the licence.

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*(Chapter II.—Licensing of cold storages.—Section 5.—
Chapter III.—Cold storage Receipts.—Section 6.)*

(4) The Licensing Officer may, after giving the applicant an opportunity of showing cause in such manner as may be prescribed, refuse to grant or renew a licence to any applicant.

(5) When a licence is lost, destroyed, torn or defaced, the Licensing Officer shall, on application made in this behalf and on payment of the prescribed fee, issue a duplicate licence in the prescribed manner.

(6) The Licensing Officer may, after giving the licensee an opportunity of showing cause in such manner as may be prescribed, cancel any licence granted under this Act for any breach of the terms and conditions of the licence or for any contravention of the provisions of this Act.

(7) Where an application for the grant or renewal of a licence is refused or where a licence is cancelled the reasons for such refusal or cancellation shall be recorded in writing and a copy of the same shall be furnished to the applicant.

(8) Where an application for the grant or renewal of a licence is refused, the fee, paid by the applicant along with the application, shall be refunded to him.

5. (1) When a licence expires or when the renewal of such licence is refused or when a licence is cancelled, the licensee shall forthwith return the licence to the Licensing Officer but shall nevertheless continue to be liable for the agricultural produce already stored with him and shall be bound by the terms and conditions of any cold storage receipts already issued in respect of any agricultural produce:

Expiry or
cancellation
of licence
and its
consequence.

Provided that the Licensing Officer may, on the application of the hirer, require the licensee to transfer any agricultural produce stored with him to another licensed cold storage chosen by the hirer on payment of the outstanding charges due to the licensee.

(2) Where any licence is cancelled, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to the refund of any fee paid by him for the licence.

CHAPTER III.

Cold storage Receipts.

6. For the agricultural produce stored in a cold storage by each hirer, the licensee shall issue a cold storage receipt in the prescribed form containing particulars relating to the agricultural produce.

Cold
storage
receipts.

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(Chapter III—Cold Storage Receipts—Sections 7—8)
(Chapter IV.—Duties of the Licensee.—Sections 9—11.)

Cold
storage
receipts to
be trans-
ferable by
endorse-
ment
and
delivery.

7. A cold storage receipt shall, unless it is otherwise specified thereon, be transferable by endorsement and delivery and shall entitle any lawful holder thereof to receive the agricultural produce specified in it as if he were the original hirer.

Duplicate
cold
storage
receipt.

8. If a cold storage receipt is lost, destroyed, torn or defaced, the licensee shall, on application by the hirer and on payment by him of the prescribed fee, issue a duplicate cold storage receipt in accordance with such rules as may be prescribed.

CHAPTER IV.

Duties of the Licensee.

Reasonable
care
of the
agricul-
tural
produce
stored.

9. Every licensee shall take such care of the agricultural produce stored in his cold storage as a man of ordinary prudence would take care of his own goods under similar circumstances and shall provide the hirers concerned with all reasonable facilities for inspection, weighing, measuring, sampling and grading of the agricultural produce stored, in such manner as may be prescribed.

Due
mainten-
ance of
cold
storages.

10. (1) Every licensee shall maintain his cold storage in accordance with such terms and conditions of the licence and in conformity with such sanitary and other requirements as may be prescribed.

(2) No licensee shall accept for storing any agricultural produce which is likely to cause damage to other agricultural produce that has been or may be stored in the same cold storage.

(3) If there is any dispute as to whether any agricultural produce proposed to be stored in a cold storage is likely to cause damage to any other agricultural produce that has been or may be stored in the same cold storage, the matter shall be referred to the Licensing Officer whose decision thereon shall be final.

Preserva-
tion of
identity
of the
agricul-
tural
produce.

11. Every licensee shall keep the agricultural produce of one hirer separate from the agricultural produce of other hirers and from other agricultural produce of the same hirer for which a separate receipt has been issued, in such a manner as to permit at all times of the identification and delivery of the agricultural produce stored in his cold storage.

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(Chapter IV.—Duties of the Licensee.—Sections 12—14.)

12. (1) Whenever agricultural produce stored in a cold storage deteriorates or shows signs that it is about to deteriorate from causes beyond the control of the licensee, the licensee shall forthwith give notice of the fact to the Licensing Officer and to the hirer requiring the hirer to take delivery of the agricultural produce immediately, after surrendering the cold storage receipt duly discharged and paying all charges due to the licensee.

Disposal
of agricul-
tural
produce
deterio-
rating in
the cold
storage.

(2) If the hirer does not, within a reasonable time, comply with the notice given to him under sub-section (1), the licensee may cause the agricultural produce to be removed from the cold storage and sold in the prescribed manner by public auction at the cost and risk of the hirer.

(3) The proceeds of a sale held under sub-section (2), shall be made over by the licensee to the hirer after deducting therefrom all amounts due to the licensee on account of charges for the storing of the agricultural produce and the costs of the sale.

13. (1) For the purpose of sub-section (1) of section 12, loss of weight or bulk by dryage or shrinkage or gain in weight or bulk by absorption of moisture shall not be deemed to amount to deterioration or showing signs of deterioration, if the loss or gain does not exceed such limits as may be prescribed.

Liability
of licensee
for
shortage
or
excess in
agricul-
tural
produce
stored.

(2) If there is any excess in the weight or bulk of agricultural produce stored in a cold storage by absorption of moisture or other causes, the licensee shall not be entitled to such excess.

(3) If there is any shortage in the agricultural produce stored in a cold storage by dryage or shrinkage or other causes beyond the control of the licensee, the licensee shall not be responsible therefor.

(4) In the event of a dispute arising as to whether such shortage or excess is due to dryage or shrinkage or absorption of moisture or is due to other causes beyond the control of the licensee, the matter shall be referred to the Licensing Officer whose decision thereon shall be final.

14. (1) Every licensee shall, in the absence of reasonable excuse, without unnecessary delay, deliver the agricultural produce stored in his cold storage to the hirer on demand made by him and on surrender of the cold storage receipt duly discharged and payment of all charges due to the licensee.

Delivery
of agricul-
tural
produce.

(2) Subject to any agreement between the licensee and the hirer, the hirer may take delivery of part of the agricultural produce stored in a cold storage.

*(Chapter IV.—Duties of the License.—Sections. 15—19—
Chapter V.—Miscellaneous.—Section 20.)*

Insurance
of agricul-
tural
produce in
cold
storages.

15. Agricultural produce stored in a cold storage shall, if so required by the rules, be insured by the licensee against loss or damage by fire, theft, riot, civil commotion or such other cause as may be prescribed.

Discrimi-
nation
prohibi-
ted.

16. Save as provided in sub-section (2) of section 10, no licensee, in the conduct of his business, shall refuse to accept for storing in his cold storage, agricultural produce tendered by any person when there is accommodation in his cold storage for storing such agricultural produce.

Accounts,
etc., to be
main-
tained.

17. A licensee shall maintain such accounts, books and records and in such form and manner as may be prescribed.

Submission
of returns.

18. Every licensee shall submit to the Licensing Officer a return in duplicate in such form and in such manner as may be prescribed, in respect of each class of agricultural produce stored by him or by his hirers during the period of three months immediately preceding the month in which the return is submitted.

Licensee
to comply
with
directions.

19. Every licensee shall be bound to comply with such direction or order as may be issued to him by the Licensing Officer under this Act and any failure to comply with such direction or order within the period of thirty days shall be deemed to be contravention by the licensee of the provisions of this Act.

CHAPTER V.

Miscellaneous.

Powers
of the
Licensing
Officer.

20. The Licensing Officer may with a view to securing compliance with this Act—

- (a) require any licensee to give any information which may be required by the Licensing Officer with respect to the cold storage run by the licensee,
- (b) enter upon and inspect the premises, books and other relevant documents of any licensee at any time with a view to satisfying himself that the requirements of this Act are being complied with,
- (c) collect, on payment, samples of agricultural produce stored in any cold storage and get them analysed at any Laboratory selected for the purpose, and
- (d) prohibit by an order in writing further storage or disposal of any agricultural produce in respect of which he has reason to believe that any contravention of this Act has taken place.

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(Chapter V.—Miscellaneous.—Sections 21—24.)

21. (1) Any person, who starts or carries on a cold storage business or stores agricultural produce in a cold storage without having a valid licence under this Act or contravenes any provision of this Act or the rules made thereunder or cancels, destroys, mutilates or defaces any book or other document with a view to evading the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both and for continuance of such contravention the person concerned shall be liable to an additional fine of fifty rupees per day so long as the contravention continues or so long as the orders and directions validly given are not complied with. Penalty.

(2) Where an offence punishable under this section is committed by any employee or agent of a trader on behalf of such trader, such trader, unless he proves that the offence was committed by his employee or agent without his knowledge and without his consent, and his employee or agent by whom the offence was committed, shall both be deemed to be guilty of the offence.

(3) If the person committing an offence punishable under sub-section (1) is a company, the company and every director, manager, secretary or agent of the company, unless such director, manager, secretary or agent proves that the offence was committed without his knowledge or consent, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished.

22. (1) An offence punishable under this Act shall be cognizable. Cognizance of offence and arrest without warrant.

(2) Any police officer not below the rank of a Sub-Inspector of Police may arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received of his having been concerned in any offence punishable under this Act.

23. A licensee may enter into a contract or agreement with a hirer in such form and in accordance with such conditions as may be prescribed. Contract or agreement form.

24. (1) In the event of any loss of or deterioration in any agricultural produce stored in a cold storage caused on account of any negligence of the licensee or any defect in the refrigeration machinery the hirer may, within thirty days from the date of detection of such loss or deterioration by him, apply in writing to the Licensing Officer for assessing the compensation payable by the licensee on account of such loss or deterioration. Compensation payable for loss or deterioration of stored agricultural produce.

(Chapter V.—Miscellaneous.—Sections 25—29.)

(2) On receipt of such application the Licensing Officer shall cause an enquiry to be made in accordance with such procedure as may be prescribed and assess the amount of compensation payable by the licensee to the hirer.

(3) The Licensing Officer shall direct the licensee to pay to the hirer, within a date specified in the order, the compensation so assessed.

(4) If the compensation or any portion of it remains unpaid after the date specified in the order passed under sub-section (3) the same shall be recoverable as an arrear of land revenue.

Appeals.

25. If the Licensing Officer—

(a) refuses to grant or renew a licence or cancels a licence under section 4, or

(b) assesses compensation under section 24,

any person aggrieved by such refusal, cancellation or assessment may, within thirty days from the date thereof, prefer an appeal—

(i) in the case of a refusal, cancellation or assessment by the Licensing Officer being the Director of Agriculture, West Bengal, to the State Government; and

(ii) in any other case, to the Director of Agriculture, West Bengal.

Bar to suits and legal proceedings.

26. No suit or legal proceeding shall lie against the State Government and no suit, prosecution or legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or the rules made thereunder.

Licensing Officer to be public servant.

27. The Licensing Officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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Power to exempt.

28. The State Government may, by notification in the *Official Gazette*, for reasons to be recorded, exempt any class or classes of licensees from all or any of the provisions of this Act.

Power to make rules.

29. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

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(Chapter V.—Miscellaneous.—Section 29.)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) any matter which, under any provision of this Act, either expressly or by implication, is required to be prescribed or to be provided for by rules;
- (b) the granting of licences by the Licensing Officer to persons entitling them to act as weighers, measurers, samplers and graders of any agricultural produce stored or to be stored in a cold storage including the manner of making applications, fees to be paid, and qualifications necessary, for the purpose, the period of validity, the method of obtaining renewal together with the fees to be paid for such renewal, or the grounds of cancellation, of such licences, and the facilities to be granted and the authorities to be exercised **by the holders of such licences;**
- (c) priorities to be allowed to co-operative societies for storing their agricultural produce in a cold storage.