

West Bengal Act XLI of 1963

THE WEST BENGAL WAREHOUSES ACT, 1963.

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette*, Extraordinary, of the 15th May, 1964.]

[15th May, 1964.]

An Act to provide for the licensing of warehouses, the proper supervision and control of licensed warehouses and certain other connected matters.

It is hereby enacted in the Fourteenth 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 Warehouses Act, 1963.

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

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

(4) It shall not apply to warehouses established under any other State law for the time being in force in this respect or under the Sea Customs Act, 1878, the Inland Bonded Warehouses Act, 1896 and the Central Excises and Salt Act, 1944.

Short title, extent, commencement and application.

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

(1) “co-operative society” means a society registered or deemed to be registered under the Bengal Co-operative Societies Act, 1940;

(2) “depositor” means a person who has deposited any goods with a warehouseman in a licensed warehouse, and includes any lawful holder of a warehouse receipt issued by a warehouseman under section 22;

(3) “goods” mean any of the articles or commodities specified in the Schedule;

(4) “licensed warehouse” means a warehouse licensed under this Act;

(5) “prescribed” means prescribed by rules made under this Act;

(6) “Prescribed Authority” means an authority appointed by the State Government, by notification in the *Official Gazette*, for all or any of the purposes of this Act;

(7) “warehouse” means any building, structure or enclosure which is or is intended to be used for the purpose of storing articles or commodities on behalf of persons depositing them but does not include cloak rooms attached to hotels and railway stations or any premises where a public carrier keeps articles or commodities for carriage or delivery;

Definitions.

8 of 1878
8 of 1896.
1 of 1944.

Ben. Act
XXI of
1940.

(Chapter II.—Licensing of Warehouses.—Sections 3—6.)

- (8) "Warehouse Authority" means an authority referred to in section 4;
- (9) "warehouseman", used in relation to a warehouse, means a person who holds a license under this Act in respect of the warehouse;
- (10) "warehouse receipt" means a receipt issued by a warehouseman under section 22.

CHAPTER II.

Licensing of Warehouses.

Power to
have
warehouses
licensed.

3. Any person may, subject to the provisions of this Act, have his warehouse licensed in respect of any class or classes of goods.

Explanation.—Where a person has more than one warehouse, he shall obtain a separate license for each warehouse which he desires to be licensed under this Act.

Appoint-
ment of
Warehouse
Authori-
ties.

4. The State Government may, by notification in the *Official Gazette*, from time to time appoint Warehouse Authorities with jurisdiction over such areas as may be specified in such notification.

Grant of
license.

5. (1) Applications for license shall be made in the prescribed manner to the Warehouse Authority having jurisdiction over the area within which the warehouse is situated.

(2) Before granting a license, the Warehouse Authority shall satisfy itself—

- (a) that the warehouse is suitable for the storage of the class or classes of goods in respect of which the license has been applied for;
- (b) that the applicant has paid the fee prescribed for the license;
- (c) that there is no good and sufficient reason for refusing the license.

(3) Every license granted under this Act shall be in such form and shall be subject to such terms and conditions as may be prescribed.

(4) If the Warehouse Authority refuses to grant or renew a license, it shall record the grounds for refusal in its order and shall in particular, in cases coming under clause (c) of sub-section (2), state specifically the reason for refusal.

Terms of
licence
and
renewal
thereof.

6. Every license granted under section 5 shall be valid for the prescribed period, and may, on application and on payment of the fee prescribed for renewal, be renewed from time to time by the Warehouse Authority provided that the requirements referred to in clauses (a) and (c) of sub-section (2) of section 5 continue to be satisfied.

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(Chapter II.—*Licensing of Warehouses.*—Sections 7, 8.—
Chapter III.—*Duties of Warehouseman.*—Section 9.)

7. (1) The Warehouse Authority may cancel any license granted under section 5 or renewed under section 6,—

Cancel-
lation of
license.

- (a) if the licensee has applied to be adjudicated or has been adjudicated, an insolvent; or
- (b) if the licensee has substantially parted with his ownership of, or control over, the warehouse or has ceased to conduct the same; or
- (c) if the charges in respect of any goods stored with the licensee or of any services in connection with such goods are, in the opinion of the Warehouse Authority, excessive or unreasonable; or
- (d) if the licensee has contravened or failed to comply with any of the provisions of this Act or the rules made thereunder or of any terms and conditions prescribed for the license.

(2) Before passing an order under sub-section (1), the Warehouse Authority shall intimate to the licensee the grounds on which it is proposed to cancel the license and give him a reasonable opportunity of showing cause.

(3) In cases coming under clauses (c) and (d) of sub-section (1), the Warehouse Authority, instead of proceeding under sub-section (1) or sub-section (2), may issue a warning to the licensee.

(4) Where a license is cancelled by the Warehouse Authority it shall make an entry to that effect in the records of its office. It shall further publish a notice of such cancellation in the prescribed manner and the warehouseman shall be bound prominently to display a copy of such notice in front of the warehouse.

8. Where a license expires or the renewal of a license is refused or where a license is cancelled, the licensee shall nevertheless continue to be liable for the goods already deposited with him and shall be bound by the terms and conditions of any warehouse receipts already issued in respect of any goods:

Safe-
guarding
the
interest
of deposi-
tors in case
of expiry
of or
refusal
to renew a
license or
cancel-
lation
of a
license.

Provided that the Warehouse Authority may, on the application of the depositor, require the warehouseman to transfer any goods deposited with him to another licensed warehouse chosen by the depositor on payment of the outstanding charges due to the warehouseman.

CHAPTER III.

Duties of Warehouseman.

9. Every warehouseman shall take such care of the goods deposited in his warehouse as a man of ordinary prudence would take care of his own goods under similar circumstances and shall provide the depositors concerned with all reasonable facilities for inspection of the goods deposited, in such manner as may be prescribed by the Warehouse Authority.

Reasonable
care of the
goods
deposited.

(Chapter III.—Duties of Warehouseman.—Sections 10—13.)

Due maintenance of warehouses.

10. (1) Every warehouseman shall maintain his warehouse in accordance with the terms and conditions of the license.

(2) No warehouseman shall accept for deposit any goods which are likely to cause damage to other goods that have been or may be deposited in the warehouse.

Preservation of identity of goods.

11. Every warehouseman shall keep the goods of one depositor separate from the goods of other depositors and from other goods of the same depositor for which a separate warehouse receipt has been issued, in such a manner as to permit at all times of the identification and delivery of the goods deposited in his warehouse.

Goods deteriorating in warehouse and their disposal.

12. (1) Whenever goods deposited in a licensed warehouse deteriorate or show signs that they are about to deteriorate from causes beyond the control of the warehouseman, the warehouseman shall forthwith give notice of the fact to the depositor, requiring him to take delivery of the goods immediately, after surrendering the warehouse receipt duly discharged and paying all charges due to the warehouseman and shall simultaneously send a copy of such notice to the local representative of the Warehouse Authority.

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

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

Liability of warehouseman for shortage or excess in goods stored.

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 to show signs of deterioration, if the loss or gain does not exceed such limits as may be prescribed.

(2) If there is any excess in the weight or bulk of goods stored in a licensed warehouse by absorption of moisture or other causes, the warehouseman shall not be entitled to such excess.

(3) If there is any shortage in the goods stored in a licensed warehouse by dryage or shrinkage or other causes beyond the control of the warehouseman, the warehouseman 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 warehouseman, the matter shall be referred to the Appellate Authority.

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(Chapter III.—Duties of Warehouseman.—Sections 14—17.—
Chapter IV.—Inspection and Grading of goods.—
Sections 18, 19.)

14. (1) Every warehouseman shall, in the absence of reasonable excuse, without unnecessary delay, deliver the goods deposited in his warehouse to the depositor on demand made by him and on surrender of the warehouse receipt duly discharged and payment of all charges due to the warehouseman.

Delivery of goods.

(2) Subject to any agreement between the warehouseman and the depositor, the depositor may take delivery of part of the goods deposited in a warehouse.

15. Goods in a licensed warehouse shall be insured in the prescribed manner by the warehouseman against loss or damage by fire, theft, riot or civil commotion and also in respect of any particular class of goods or in respect of a warehouse situated in any particular class of localities, any other event as may be prescribed for such class of goods or such class of localities:

Insurance of goods in warehouses.

Provided that a depositor may at his own cost insure his goods against other risks.

16. Save as provided in sub-section (2) of section 10, no warehouseman, in the conduct of his business, shall refuse to accept for deposit in his warehouse, goods tendered by any person when there is accommodation in his warehouse for storing such goods.

Discrimination prohibited.

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

Accounts, etc., to be maintained.

CHAPTER IV.

Inspection and Grading of goods.

18. A Warehouse Authority may, at any time during business hours, inspect or examine or cause to be inspected or examined, by any officer authorised by it, any licensed warehouse, its machinery and equipment, goods deposited therein, or the accounts, books or records referred to in section 17, for the purpose of satisfying itself that the provisions of this Act and the rules made thereunder are being complied with.

Inspection.

19. (1) The Prescribed Authority may, on application made in the prescribed manner and on payment of the prescribed fee, issue licenses to persons possessing the prescribed qualifications, entitling them to act on the requisition of a depositor or a warehouseman as weighers, measurers, samplers and graders of any goods deposited or to be deposited in a licensed warehouse, and to issue certificates as to the weight, bulk, quality or grade of the goods which they have examined.

Licensing persons entitled to act as weighers, measurers, samplers and graders.

(2) When any certificate is so issued on the requisition of a depositor or a warehouseman, it shall be binding on the depositor and the warehouseman as to the weight, bulk, quality or grade of the goods so certified:

(Chapter IV.—*Inspection and Grading of goods.*—Sections 20, 21.—Chapter V.—*Warehouse Receipts.*—Sections 22—24.—Chapter VI.—*Miscellaneous.*—Section 25.)

Provided that if any dispute arises between the depositor and the person issuing the certificate or the warehouseman and such person or between two or more such persons as to the weight, bulk, quality or grade of goods, the matter shall be referred for decision to such authority as may be prescribed for this purpose.

Certain provisions regarding licenses referred to in section 19.

20. (1) Every license granted to a person entitling him to act as a weigher, measurer, sampler and grader under section 19 shall be valid for the prescribed period and may, on application and on payment of the prescribed fee, be renewed from time to time for the prescribed period by the Prescribed Authority.

(2) The Prescribed Authority may, if there are sufficient grounds, cancel any such license, after communicating to the licensee the grounds on which it is proposed to take action and giving him a reasonable opportunity of showing cause.

(3) The Prescribed Authority may, pending proceedings for cancellation of any such license, suspend the license.

Facilities to be given for weighing goods, etc.

21. Every warehouseman shall provide facilities for weighing, measuring, sampling and grading any goods deposited in his warehouse.

CHAPTER V.

Warehouse Receipts.

Warehouse receipts.

22. For the goods deposited in a licensed warehouse by each depositor, the warehouseman shall issue a receipt in the prescribed form containing particulars relating to the goods.

Warehouse receipts to be transferable by endorsement and delivery.

23. A warehouse receipt shall, unless it is otherwise specified thereon, be transferable by endorsement and delivery and shall entitle any lawful holder thereof to receive the goods specified in it as if he were the original depositor.

Duplicate warehouse receipt.

24. If a warehouse receipt is lost, destroyed, torn or defaced, the warehouseman shall, on application by the depositor and on payment by him of the prescribed fee, issue a duplicate warehouse receipt in accordance with such rules as may be prescribed.

CHAPTER VI.

Miscellaneous.

Appeals.

25. (1) The State Government shall appoint an authority (elsewhere in this Act referred to as the Appellate Authority) for hearing and deciding—

(i) appeals against any order refusing to grant or refusing to renew a license to a warehouseman;

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(Chapter VI.—Miscellaneous.—Sections 26—32.)

- (ii) appeals against any order cancelling the license of a warehouseman;
 - (iii) any reference under sub-section (4) of section 13;
 - (iv) appeals against any decision of an authority referred to in the proviso to sub-section (2) of section 19.
- (2) The decision of the Appellate Authority shall be final.
- (3) The procedure to be followed in such appeals or reference, the fee and the period of limitation therefor, shall be such as may be prescribed.

26. The State Government, if it thinks fit to do so in the public interest, may, by notification in the *Official Gazette*, make any alterations in the Schedule by making any modifications therein, or additions thereto or omissions therefrom.

Power to alter Schedule.

27. When a license under Chapter II or Chapter IV expires or when the renewal of such license is refused or when such license is cancelled, the licensee shall forthwith return the license to the Warehouse Authority or the Prescribed Authority, as the case may be.

Return of license.

28. Where a license under Chapter II or Chapter IV is lost, destroyed, torn or defaced, the Warehouse Authority or the Prescribed Authority, as the case may be, shall, on application made in this behalf and on payment of the prescribed fee, issue a duplicate license in the prescribed manner.

Duplicates of license.

29. Where any license under Chapter II or Chapter IV 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 license.

No compensation for cancellation of license.

30. Notwithstanding anything contained elsewhere in this Act, a co-operative society shall be allowed such priorities for storing their goods as may be prescribed.

Special provision for co-operative societies.

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

Power to exempt.

32. (1) Any person who—

- (a) acts or holds himself out as a warehouseman without having a valid license under this Act, or

Penalty.

(Chapter VI.—Miscellaneous.—Sections 33, 34.)

(b) acts or holds himself out as a person entitled to act as a weigher, measurer, sampler and grader under sub-section (1) of section 19 without having a valid license under this Act, or

(c) knowingly contravenes any provisions of this Act or any rules made thereunder,

shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

(2) Where a person committing an offence under sub-section (1) is a company or an association or a body of persons, whether incorporated or not, any person, by whatever name called, managing the affairs of such company, association or body, shall also be deemed to be guilty of such offence.

Bar of
suits and
legal
proceed-
ings.

33. 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.

Rules.

34. (1) The State Government may make rules for carrying out the purposes of this Act.

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

(a) any matter which is required to be or may be prescribed under this Act;

(b) the publication, from time to time, of consolidated lists of warehousemen and licensed warehouses and supplements to such lists;

(c) the refund of any fees or part of the fees paid when any application for a license or renewal of a license under Chapter II or Chapter IV is refused;

(d) the publication, from time to time, of consolidated lists of persons entitled to act as weighers, measurers, samplers and graders and supplements to such lists;

(e) the disinfection of licensed warehouses and of goods stored therein and the prevention of damage to goods by rodents, pests and noxious insects.

(3) All rules made under this Act shall be subject to the condition of previous publication in the *Official Gazette*.

(The Schedule.)

THE SCHEDULE.

[See section 2(3).]

Cereals.

1. Paddy and its products.
2. Rice and its products.
3. Wheat and wheat products.
4. Maize and its products.
5. Barley and its product.
6. Jewar.
7. Bajra.

Pulses (Whole and Split).

8. Gram and its products.
9. Mung.
10. Masur.
11. Urid.
12. Matar.
13. Rahar.
14. Khesari.
15. Chera (Barbati seeds).

Spices.

16. Turmeric.
17. Cloves.
18. Myrobalan.
19. Cardamom.
20. Betelnut.
21. Chillies.
22. Black pepper.
23. White pepper.
24. Aniseed (Mouri).
25. Corriander (Dhania).
26. Cumin seed (Zeera).
27. Black cumin (Kalazera).
28. Methi seed.
29. Onion.
30. Garlic.
31. Ginger.
32. Katha.
33. Cinamon.
34. Ajwan.

*(The Schedule.)***Oil Seeds and Vegetable Oils.**

35. Linseed and its oil.
36. Rape, Mustard and Toria and their oil.
37. Mohua and its oil.
38. Groundnut and its oil.
39. Castor and its oil.
40. Til and its oil.
41. Copra and its oil.
42. Oilcakes.

Tobacco.

43. Unmanufactured Tobacco.
44. Bidi Tobacco.

Fibres.

45. Raw Jute.
46. Mesta.
47. Raw Cotton (Ginned and unginned).
48. Kapok.
49. Raw Wool.
50. Ramie and Sisal and Aloe.
51. Pig Bristle.
52. Horse Mane and Tail.
53. Sunn hemp.

Fruits and Vegetables.

54. Coconut (dry).
55. Almond.
56. Raisins.
57. Walnut.
58. Cashew.
59. Apricot.
60. Dates (dry).
61. Pesta.
62. Potato.

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(The Schedule.)

Miscellaneous.

- 63. Stick Lac.
- 64. Seed Lac.
- 65. Concentrated Cattle Fodder.
- 66. Manures.
- 67. Fertilizers.
- 68. Agricultural implements.