

West Bengal Act XXVI of 1948

THE WEST BENGAL CEMENT CONTROL ACT, 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette*, Extraordinary, of the 8th October, 1948.]

An Act to confer powers to control the production, supply and distribution of, and trade and commerce in, cement in West Bengal.

WHEREAS it is expedient to confer powers to control the production, supply and distribution of, and trade and commerce in, cement in West Bengal;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Bengal Cement Control Act, 1948.

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

(3) It shall come into force on the date on which the West Bengal Cement Control Ordinance, 1948, ceases to operate.

West Ben.
Ord. IX of
1948.

Short title,
extent and
commence-
ment.

2. In this Act, unless there is anything repugnant in the subject or context, "cement" includes portland cement, any other cementitious product manufactured by intergrinding or intermixing portland cement as defined in the British Standard Specifications of 1940, with any active or inert material, white and coloured cements, high alumina cements, and any product manufactured by direct mixing of some or all oxides constituting normal portland cement.

Definition.

3. (1) The Provincial Government, so far as it appears to it to be necessary or expedient for maintaining or increasing the supply of cement or for securing its equitable distribution and availability at fair prices, may, by order in the *Official Gazette*, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein within West Bengal.

Power to
control
production,
supply,
distribu-
tion, etc.,
of cement.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licenses, permits or otherwise the production or manufacture of cement;

(b) for regulating or controlling the prices at which cement may be purchased or sold and for prescribing the conditions of sale thereof;

(c) for regulating by licenses, permits or otherwise, the storage, transport, movement, possession, distribution, disposal, acquisition, use or consumption of cement;

(d) for prohibiting the withholding from sale of cement ordinarily kept for sale;

(Sections 4—6.)

- (e) for requiring any person holding stock of cement to sell the whole or specified part of the stock at such prices and to such persons or classes of persons or in such circumstances, as may be specified in the order;
- (f) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;
- (g) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, cement to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order; and
- (h) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of cement in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licenses, permits or other documents, and the charging of fees therefor.

(3) When any cement is seized under the authority of any order made under sub-section (1), the person seizing the cement shall make a report of such seizure to a Magistrate who may give such directions as to its temporary custody as he thinks fit, so, however, that where no prosecution is instituted for contravention of the order in respect of the cement seized within a period in his opinion reasonable, the Magistrate shall direct its return to the person from whom it was seized; and the provisions of the Code of Criminal Procedure, 1898, shall, so far as they may be applicable, apply to any search or seizure under any such order as they apply to any search or seizure under Chapter VII of that Code. Act V of 1898.

Delegation
of powers.

4. The Provincial Government may, by order in the *Official Gazette*, direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such Officer or authority subordinate to the Provincial Government as may be specified in the direction.

Effect of
orders in-
consistent
with other
enact-
ments.

5. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Penalties.

6. If any person contravenes any order made under section 3, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and, if the order so provides, any Court, trying such

XXVI of 1948.]

(Sections 7—13.)

contravention, may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty.

7. Any person who attempts to contravene, or abets a contravention of, any order made under section 3, shall be deemed to have contravened that order. Attempts and abetments.

8. If the person contravening an order made under section 3 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention. Offences by corporation.

9. If any person—

False statement.

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

10. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code. Cognizance of offences.

Act XLV of 1860.

11. Any Magistrate or bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act. Power to try offences summarily.

Act V of 1898.

12. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under section 3. Special provision regarding fines.

13. No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

Protection
of action
taken
under the
Act.

14. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Crown for any damages caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

Power to
exempt cer-
tain varie-
ties
of
cement.

15. The Provincial Government may, by notification in the *Official Gazette*, exempt any variety of cement from all or any of the provisions of this Act.

Conti-
nuance of
action
taken
under West
Ben. Ord.
IX of 1948.

16. Any order or direction issued or any action taken or anything done or any penalty, forfeiture or punishment incurred or imposed or any proceeding commenced in exercise of any power conferred by the West Bengal Cement Control Ordinance, 1948, shall, on the said Ordinance ceasing to be in operation, be deemed to have been issued, taken, done, incurred, imposed or commenced under the provisions of this Act as if this Act had commenced on the 6th day of August, 1948.

West Ben.
Ord. IX of
1948.