

THE KERALA WAREHOUSES ACT, 1960
(PRESIDENT'S ACT 2 OF 1960)

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***THE KERALA WAREHOUSES ACT, 1960.**

(President's Act 2 of 1960)

**Enacted by the President in the Tenth Year of the
Republic of India.**

An Act to provide for the regulation and licensing of warehouses in the State of Kerala.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1959 (50 of 1959), the President is pleased to enact as follows :—

CHAPTER I.

Preliminary.

1. *Short title extent and commencement* — (1) This Act may be called the Kerala Warehouses Act, 1960.

* Published in the Kerala Gazette Extraordinary dated 29th January, 1960.

(2) It extends to the whole of the State of Kerala.

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

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

(a) “co-operative society” means a society registered or deemed to be registered under the Travancore-Cochin Co-operative Societies Act, 1951, or the Madras Co-operative Societies Act, 1932, which is engaged in any of the activities specified in sub-section (1) of section 9 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956);

(b) “depositor” means a person who tenders his goods to the warehouseman for storing in his warehouse, and includes any person who lawfully holds the receipt issued by the warehouseman in respect of such goods and derives title thereto by a proper endorsement or transfer thereof to him by the depositor or the depositor’s lawful transferee;

(c) “goods” means any of the articles specified in the schedule;

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

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

(f) “prescribed authority” means, in relation to any provision of this Act, the authority prescribed to carry out such provision;

(g) “receipt” means a receipt in the prescribed form issued by a warehouseman to a person depositing goods in the warehouse;

(h) “rules” means rules made by the Government under this Act;

(i) “warehouse” means any building, structure or other protected enclosure which is or may be used for the purpose of storing goods on behalf of depositors, but does not include cloak rooms attached to hotels railway stations, the premises of other public carriers, and the like;

(j) “warehouseman” means a person who has obtained a licence under this Act in respect of his warehouse.

CHAPTER II.

Licensing of warehouses

3. *Warehouseman*.—No person shall carry on the business of a warehouseman except under a licence granted under this Act and in accordance with such terms and conditions as may, from time to time, be prescribed.

4. *Grant of licence*. (1) Application for a licence shall be made in the prescribed form to the prescribed authority.

(2) The prescribed authority may, on receiving such application and on payment of such fees as may be prescribed, grant a licence.

5. *Conditions for licence.*—Before granting a licence, the prescribed authority shall satisfy itself,—

(a) that the warehouse is suitable for proper storage of the class or classes of goods in respect of which the licence has been applied for;

(b) that the applicant is competent to conduct such a warehouse;

(c) that the applicant has paid the fee prescribed for the licence and has also furnished the prescribed security, if any, provided that where the applicant is a corporation established under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956), no security need be furnished; and

(d) that there is no other cause or reason for which the applicant is, in the opinion of the prescribed authority, disqualified.

6. *Term and renewal of licence.* Every licence granted under section 4 shall be valid for the prescribed period, and may, on application and payment of the prescribed fee, be renewed from time to time by the prescribed authority and for the prescribed period, provided the other conditions referred to in section 5 continue to be fulfilled.

7. *Notice of refusal to grant or renew licence.*—If the prescribed authority refuses to grant or renew a licence under the foregoing provisions, it shall record its reasons for such refusal in writing and forward a copy of its order to the applicant.

8. *Suspension or cancellation of licence.*—(1) Every licence granted under section 4 or renewed under section 6 may be suspended or cancelled by the prescribed authority.—

(i) if in its opinion the licensee—

(a) has applied to be adjudicated, or been adjudicated, as insolvent; or

(b) has parted, in whole or in part, with his control over the warehouse; or

(c) has ceased to conduct such warehouse; or

(d) has made unreasonable charges for the services rendered by him; or

(e) has in any other manner become incompetent to conduct such warehouse; or

(f) has contravened or failed to comply with, any of the terms and conditions of the licence or any of the provisions of this Act or the rules; or

(ii) on any other prescribed ground.

(2) If a licence is suspended or cancelled the prescribed authority shall make an entry to that effect in the licence.

(3) Whenever a licence is suspended or cancelled under this section, it shall be competent for the prescribed authority to order also a forfeiture of the security, if any, furnished by the warehouseman.

9. *Notice before suspension or cancellation of licence.*—(1) Before issuing an order of suspension, cancellation or forfeiture of security under section 8, the prescribed authority shall give notice to the warehouseman stating the grounds on which it is proposed to do so and calling upon him to show cause why such action should not be taken.

(2) After considering the explanation, if any of the warehouseman, the prescribed authority may pass such orders as it deems just.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the prescribed authority may, if it is satisfied that it is necessary in the public interest to take immediate action, without giving the notice referred to in sub-section (1) and considering the explanation of the warehouseman, suspend a licence pending decision as to the action to be taken under sub-sections (1), and (2).

10. *Return of licence.*—When a licence expires, or is suspended or cancelled, the warehouseman shall cease to work as such and shall return the licence to the prescribed authority, who shall give reasonable time to the warehouseman to enable him to wind up the business.

11. *Duplicate licence.*—(1) Where a licence granted to a warehouseman is lost, destroyed or torn or defaced or otherwise becomes illegible, the prescribed authority shall issue a duplicate licence in the manner prescribed on the application of the warehouseman and on payment of the prescribed fee.

(2) When a duplicate licence is issued, it shall be clearly stamped "Duplicate" and shall be marked with the date of issue of the duplicate and that of the original from the record of the officer issuing the licence.

CHAPTER III

Duties of a warehouseman

12. *Reasonable care of the goods deposited.*—Every warehouseman shall take such care of the goods deposited with him as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

13. *Precautions against damage or injury to goods.*—(1) Every warehouseman shall keep his warehouse clean and free from damp, take all necessary precautions against rats and other pests, and fulfil such other conditions as may be prescribed

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

14. *Preservation of identity of goods.*—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 receipt has been issued, in such a manner as to permit at all times of the identification and delivery of the goods deposited:

Provided that where standardised and graded goods are stored in a warehouse, then subject to any agreement between the warehouseman and a depositor, the same variety of goods belonging to different depositors may be pooled together and each depositor shall be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

15. *Warehouseman to allow facilities for the depositor to inspect.*—Every warehouseman shall allow necessary facilities for the depositor to inspect and satisfy himself that his goods are properly cared for.

16. *Goods deteriorating in warehouse and their disposal.*—(1) Whenever goods deposited in a warehouse deteriorate, or are about to deteriorate from causes beyond the control of the warehouseman, he shall forthwith, give notice of such deterioration by registered post to the depositor, requiring him to take delivery of the goods immediately, after surrendering the receipt duly discharged and paying all charges due to the warehouseman.

Explanation—Loss of weight or bulk by shrinkage or dryage or gain of weight or bulk by absorption of moisture shall be deemed to amount to deterioration within the meaning of this sub-section if the loss or gain exceeds such limits as may be prescribed.

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

(3) Any person having an interest in any goods deposited in a warehouse or in the receipt for such goods may inform the warehouseman in writing of the fact and nature of his interest and the warehouseman shall keep a record thereof; and if such person requests in writing that intimation be given to him regarding the condition of the goods and agrees to pay the charges for giving such intimation, the warehouseman shall give him intimation accordingly.

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

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

18. *Liability of warehouseman for shortage or excess in goods stored.*—(1) If there is any excess in the goods stored in a warehouse by absorption of moisture or other causes, the warehouseman shall not be entitled thereto.

(2) If there is any shortage in the goods stored in a warehouse by dryage or other causes, beyond the control of the warehouseman, the warehouseman shall not be responsible therefor.

(3) In the event of a dispute arising as to whether such shortage or excess is due to dryage or absorption of moisture or is due to other causes beyond the control of the warehouseman, the matter shall be determined by arbitration.

19. *Insurance of goods in warehouses.*—(1) Every warehouseman shall insure the goods stored in his warehouse against such risks and in such manner as may be prescribed:

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

(2) Every warehouseman shall be entitled to recover from the depositor, at the rate prescribed, the charges for insurance in respect of the depositor's goods before delivery thereof.

20. *Discrimination prohibited.*—No warehouseman shall, in the conduct of his business, discriminate between persons desiring to avail themselves of the facilities of his warehouse:

Provided that the warehouseman shall show such preference to co-operative societies in the State of Kerala and allow them such concessional rates as may be prescribed.

21. *Warehouseman not to deal in or lend against goods in warehouse.*—Notwithstanding anything contained in any other law, no warehouseman other than a co-operative society, shall either on its own account or that of others, deal in, or lend money on, goods received by him for deposit in his warehouse.

22. *Accounts, etc., to be maintained.*—A warehouseman shall maintain accounts, books and records in such form and manner as may be prescribed.

CHAPTER IV

Inspection and grading of goods.

23. *Inspection.*—The prescribed authority may, at any time during business hours, inspect or examine or cause to be inspected or examined, any licensed warehouse, its machinery and equipment, goods deposited therein, and the accounts, books and records relating thereto for the purpose of satisfying itself that the requirements of this Act and the rules are being complied with.

24. *Weighers, samplers and graders to obtain licences.*—(1) The prescribed authority may, on application made in the prescribed manner and on payment of the prescribed fee, issue licences to persons possessing the prescribed qualifications, entitling them to act as weighers, samplers, or 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.

(2) Any certificate so issued shall, subject to the provisions of section 25 and to any order passed on a complaint preferred by either of them to the Board of Arbitrators, be binding on the warehouseman and the depositor, as to the weight, bulk, quality or grade of the goods so certified.

(3) Any complaint against weighers, samplers, graders or warehousemen relating to weight, quality or grade of the goods deposited in the warehouse shall be determined by arbitration.

(4) No person who is not licensed under this section shall act or hold himself out as a weigher, sampler or grader.

25. *Provisions regarding such licences.*—(1) Every licence granted to a weigher, sampler or grader under section 24 shall be valid for the prescribed period and may, on application, and payment of the prescribed fee, be renewed from time to time for the prescribed period by the prescribed authority.

(2) The prescribed authority may cancel any such licence, after communicating to the licensee the grounds on which it is proposed to take action and giving him a reasonable opportunity of showing cause against it.

(3) Notwithstanding anything contained in sub-section (2), the prescribed authority may, at any time, suspend any such licence without such notice pending any action under the said sub-section.

(4) The holder of any such licence shall, on the expiry thereof or the receipt of an order suspending or cancelling it, return the licence to the prescribed authority.

26. *Facilities to be given for weighing goods. etc.*—Every warehouseman shall provide facilities for weighing, sampling and grading any goods deposited in his warehouse.

CHAPTER V.

Warehouse receipts.

27. *Receipt to be issued.*—For the goods deposited in his warehouse by each depositor, the warehouseman shall issue a receipt which shall contain full particulars of the goods and shall be in the prescribed form.

28. *Receipts for deposits in warehouses.*—The receipt issued by a warehouseman shall, unless it is otherwise specified

thereon, be transferable by endorsement and shall entitle the lawful holder thereof to receive the goods specified in it on the same terms and conditions as the original depositor.

29. *Duplicate receipt.*—If a receipt is lost, destroyed or damaged, the warehouseman shall, on application by the depositor and on payment by him of the prescribed fee, issue a duplicate receipt on such conditions as he may think fit to impose, being conditions included in rules prescribed for the purpose.

CHAPTER VI.

Miscellaneous.

30. *Appeals against certain orders of prescribed authority.*—
(1) An appeal against any order of the prescribed authority refusing to grant or renew a licence or suspending or cancelling any licence or forfeiting the security, if any, furnished by a warehouseman shall be made to such authority and within such time as may be prescribed.

(2) The decision of such appellate authority shall be final.

31. *Arbitration.*—Where under this Act any matter is required to be determined by arbitration, the matter shall be determined by a board of arbitrators consisting of three members of whom one each shall be nominated by the two parties concerned and the third by the Government or such other authority as may be empowered in this behalf by the Government. In all other respects, the arbitration shall be subject to the provisions of the Arbitration Act, 1940 (10 of 1940).

32. *No compensation for suspension or cancellation of licence.*—Where any licence is suspended or cancelled under this Act, 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.

33. *Government may help to start warehouses.*—The Government may offer any aid to the establishment of warehouses under this Act, by way of grant or lease of land, or of subsidy towards the cost of construction or by guarantee of a reasonable return on the capital invested, or in any other manner, and on such terms and conditions as may appear to the Government suitable in the circumstances of any particular case.

34. *Contracts and agreements inconsistent with Act to be void.*—Every contract or agreement which is inconsistent with the provisions of this Act, or the rules shall, to the extent of such inconsistency, be void.

35. *Penalty and procedure.*—Whoever—

(a) acts or holds himself out, as a licenced warehouseman without having obtained a licence under this Act, or

(b) knowingly contravenes or fails to comply with any of the provisions or requirements of this Act or the rules, 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.

36. *Offences by companies.*—(1) If the person committing an offence under section 35 is 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 the 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 contravention took place without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 35 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.

37. *Power to amend Schedule.*—(1) The Government may by notification in the Gazette, amend the Schedule by adding any article to, or omitting any article from, the Schedule.

(2) All references in this Act to the Schedule shall be construed as referring to such Schedule as for the time being amended in exercise of the powers conferred by sub-section (1).

38. *Rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the matters expressly required or allowed by this Act to be prescribed ;

(b) the conditions to be inserted in licences to be granted to warehousemen and the form of such licences ;

(c) the publication of the grant, suspension or cancellation of licences to warehousemen and of consolidated lists of warehousemen and licensed warehouses;

(d) the charges to be levied by warehousemen for their services ;

(e) the books, accounts and records to be maintained by warehousemen ;

(f) the conduct of 'public auctions for the sale of goods deteriorating or about to deteriorate in licensed warehouses and the manner in which the proceeds of such sales shall be accounted for ;

(g) the scales of losses and gains of weight or bulk which may be sustained by goods owing to shrinkage or dryage in the one case and owing to absorption of moisture in the other ;

(h) the disinfection of licensed warehouses and the disinfection of goods stored therein ;

(i) the manner in which any sum falling due as a result of forfeiture of security may be recovered ;

(j) the efficient conduct generally of the business of warehousemen.

(k) the qualifications to be possessed by persons applying for the grant of licences as weighers, samplers or graders; the conditions to be inserted in their licences; the form of the certificates to be issued by them and the grounds for which the licences may be suspended or cancelled ;

(l) the establishment and conduct of warehouses by co-operative societies ;

(m) the standard weights, measures and gradations of goods to be used in licensed warehouses ;

(n) the authority to which and the time within which an appeal under section 30 should be made; and

(o) the manner of giving notices under this Act.

(3) The power to make rules under this section shall be subject to the condition of previous publication.

(4) All rules made under this section shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

39. *Power to exempt.*—The Government may, by notification in the Gazette, for reasons to be recorded, exempt any person or class of persons from all or any of the provisions of this Act.

40. *Act not to apply to certain warehouses.*—Nothing contained in this Act shall apply to any warehouse established or