

The Orissa Motor Vehicles (Licensing of Agents) Rules, 1993

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Rule

THE-ORISSA-MOTOR-VEHICLES-LICENSING-OF-AGENTS-RULES-1993 of 1993

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The Orissa Motor Vehicles (Licensing of Agents) Rules, 1993Published vide Notification Orissa Gazette Extraordinary No. 1428/1.11.1993. Notification SRO No. 1005/93/20.10.1993S.R.O. No. 1005/93. - Whereas the draft of the Orissa Motor Vehicles (Licensing of Agents) Rules, 1990 was published in an extraordinary issue of the Orissa Gazette No. 136, dated the 7th February 1991 under the Notification of the Government of Orissa in the Commerce and Transport Department No. 1590-LC-I-A-31/90-T., dated the 29th January, 1991, inviting objections or suggestions from persons likely to be affected thereby before the expiry of the period of thirty days from the date of publication of the said notification in the Official Gazette :And whereas objections and suggestions have been received and considered by the State Government in respect of the said draft:Now, therefore in exercise of the powers conferred by Section 96 of the Motor Vehicles Act, 1988 (59 of 1988), the State Government do hereby make the following rules, namely :

1. Short title and commencement.

(1)These rules may be called the Orissa Motor Vehicles (Licensing of Agents) Rules, 1993.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1)In these rules, unless the context otherwise requires(a)"agent" means any person who engages directly in the business of-(i)collecting ;(ii)forwarding and distributing ; or(iii)collecting, forwarding and distributing, goods carried by any goods carriages ;(b)"agent licence" means a licence granted under Rule 3 ;(c)"collecting agent" means a person licensed to do the business of collecting goods carried by any goods carriage ;(d)"Collecting and forwarding agent" means a person licensed to do

the business of collecting, forwarding and distributing goods carried by any goods carriage ;(e)"forwarding agent" means a person licensed to do the business of forwarding and distributing goods carried by any goods carriage ;(f)"Form" means a Form appended to these rules ; and(g)"Government" means the Government of Orissa ;(h)"licensing authority" means-(i)in relation to an agent's licence to be operative in more than one region of the State, the State Transport Authority ; and(ii)in any other case, the Regional Transport Authority of the region in which the applicant intends to carry on the business;(i)"local authority" means-(i)in case of Bhubaneswar, the Land Officer, General Administration Department ; and(ii)in other cases, the Tahsildar of the area concerned.(2)All other words and expressions used but not defined in these rules shall have the same meaning as respectively assigned to them under the Act and the Orissa Motor Vehicles Rules, 1993.

3. Licensing of agents.

- No person shall act as an agent unless he holds valid licence in Form III granted by the licensing authority authorising the carrying on of such business.

4. Application for grant and renewal of agent's licence.

(1)Every application for grant and renewal of agent's licence shall be in Forms I and II respectively.(2)The application shall be accompanied by a fee of rupees one hundred and the security specified under Rule 5 in shape of treasury challan.(3)On receipt of an application the licensing authority shall, having regard, among other things, to-(i)the number of goods carriage either owned by the applicant or under his control;(ii)the suitability of accommodation possessed by the applicant for the storage of goods;(iii)the facilities, if any, provided by the applicant for parking the goods carriage; and(iv)the financial resource of the applicant and his ability to manager the business efficiently; either grant or renew or refuse to grant or renew the licence.(4)The State Transport Authority shall cause copies of any licence granted or renewed by it under this rule to be set to each of the Regional Transport Authorities of this regions in which such licence as to be operative.

5.

Every applicant for grant of agent's licence shall deposit, by way of security, such amount as may be specified by the Government by notification in the Official Gazette from time to time and such security shall be refunded wholly or in part to the applicant if his application for agent's licence has not been granted or as the case may be, granted with such modification requiring the applicant to deposit lesser amount of security ;Provided that holder of an agent's licence in force immediately before the commencement of this rule shall deposit within a period of two months from such commencement, by way of security such amount as may remain after deducting from the amount specified under this rule, the amount of security, if any, already deposited by him.

6. Conditions in the agent's licence.

(1)An agent's licence shall, where the holder thereof is licensed to act only as a forwarding agent or as a collecting agent or both specify that fact clearly.(2)An agent's licence shall be non-transferable.(3)No agent's licence shall authorise a person to act as such agent unless he has adequate facilities to load and unload goods at the premises approved by the licensing authority under Rule 11.

7. Period of validity and renewal.

(1)An agent's licence shall be valid for a period of five years from the date of its grant or renewal.(2)It may be renewed on an application made to the licensing authority not less than thirty days before the date of its expiry.(3)The renewal of licence shall be endorsement of the renewal thereof by the licensing authority on the original licence.

8. Conditions for agent's licenses.

- Agent's licence shall be subject to the following conditions, namely : (a)that the licensee shall provide places for loading and unloading of goods;(b)that the licensee shall be responsible for proper arrangements for storage of goods collected for despatch and delivery;(c)that, where he is a authorised to forward and distribute goods, the licensee shall-(i)be responsible for proper delivery of the goods to the consignee;(ii)be liable to indemnify the consignee for any loss or damage to goods while in his control or possession;(iii)not issue a good transport receipt without having actually received the goods;(iv)not deliver the goods to the consignee without actually receiving from the consignee a goods, transport receipt or if the receipt is lost or misplaced, an indemnity bond covering the value of goods;(d)that the licensee shall ensure the goods against any loss or damage while in his control or possession;(e)that the licensee shall maintain a proper record of the vehicles under his control and of the collection, despatch and delivery of goods which shall be open to inspection by the State Transport Authority or the Regional Transport Authority or by any person duly authorised in this behalf by any such authority and shall furnish to the State Transport Authority by the 31st March every year a return in respect of the previous calendar year in Form IV;(f)that the licensee shall not charge any commission exceeding that prescribed under Rule 10;(g)that the licensee shall furnish the operators with correct figures of freight receivable thereby then from the consignors or the consignees;(h)that the licensee shall maintain proper account of the commission charged by him and have the same audited by qualified auditors annually;(i)that the licensee shall ensure that the goods vehicles under his control have valid permits for routes on which the vehicles have to ply;(j)that the licensee shall maintain in good condition a weighing device capable of weighing at time not less than 226 Kgs.;(k)that the licensee shall attend to his customers in the order in which they approach him :Provided that customers in respect of perishable goods as notified by the Government in the Official Gazette shall be given priority over other customers and shall be attended to in the order, in which they approach the licensee;(l)that the licensee shall assign the available traffic amongst the operators in the order in which they have approached him and shall maintain a register chronologically recording particulars of the available traffic and the waiting operators;(m)that the licensee shall comply with the provision of this rule and shall observe such

other conditions as the licensing authority may specify in the licence;(n)that the licensing authority may, at his discretion make an order for forfeiture, in whole or part of the security or the additional security furnished by the licensee under Rule 5 for contravention of any of the provisions of this rule or for breach of any of the conditions of the licence;(o)that the licensing authority may after giving notice of not less than one month in writing either vary the conditions of the licence or attach to the licence further conditions.

9. Particulars to be mentioned in contract of Agency.

- All contracts entered into by the licensee for the purpose of collecting, forwarding and distributing goods or collecting goods or forwarding and distributing, as the case may be, shall be in writing and shall contain the following particulars, namely :(i)names and addresses of the consignor and the consignee;(ii)description and weight of the consignment;(iii)destination and its distance in kilometres from starting station;(iv)freight for tone/metre and for the whole consignment;(v)delivery instructions (e.g.) the date by which and the exact place where the goods are to be delivered to the consignee; and .(vi)name of the owner, driver, the registration number of the vehicle and its authorised load and the rate and amount of the commission.

10. Rate of commission.

- The State Government may, by the notification in the Official Gazette prescribe the maximum rates at which commission may be charged by the licensee under the rules.

11. Premises to be used.

(1)The licensing authority may, in consultation with the local authority or the police authority having jurisdiction over the area concerned, approve any premises owned or in the possession of a licensee or an applicant for an agent's licence to be used for loading or unloading of goods or for parking of goods carriage for the storage of goods in the custody of the agent, having regard to the suitability of the site, sanitary conditions and storage facilities provided at such premises.(2)Any approval under Sub-rule (1) shall be subject to the following conditions, namely :(i)that the premises shall all times be kept in a clean condition and goods state of repairs;(ii)that the premises shall be administered in a seemly and orderly manner;(iii)that the licensee shall take all possible precautions to ensure that no breach of any of the provisions of the Act or of these rules is committed in respect of any vehicle entering or leaving or parking at such premises and shall report in writing any such breach to the nearest police-station.(3)Where the licensing authority refuses to approve any premises under Sub-rule (1) he shall record in writing the reasons for such refusal.

12. Suspension or cancellation of licenses.

(1)Without prejudice to any other action which may be taken against a licensee, the licensing authority may, by order in writing, cancel the agent's licence or suspend it for such period as it thinks fit, if in its opinion any of the conditions, under which the licence has been

contravened.(2)The licensing authority may by order in writing cancel the agent's licence or suspend it for such period as it thinks fit, if in its opinion any of the conditions under which any premises have been approved under Rule 11 has been cancelled.(3)Before making any order of suspension or cancellation under this rule, the licensing authority shall give the licensee an opportunity of being heard and shall record reasons in writing for such cancellation or suspension.

13. Issue of duplicate licence.

- If at any time an agent's licence is lost, destroyed, torn or otherwise defaced so as to be illegible, the agent shall forthwith apply to the licensing authority for the grant of a duplicate licence. The application shall be accompanied by a fee of rupees twenty in shape of Treasury challan. Upon receipt of such an application that authority shall issue a duplicate agent's licence is granted on a representation that the licence originally granted has been lost or destroyed and the original licence is subsequently found, the original licence shall be surrendered to the licensing authority.

14. Display of agent's licence.

(1)Collecting agent shall carry with him his agent's licence while on duty and shall produce it on demand to any Inspecting officer or the Orissa Motor Vehicles Department or any Police Officer in uniform not below the rank of a head constable.(2)A forwarding agent shall exhibit his agent's licence at a prominent place in the premises approved under Rule 11 and the licence shall be made available for inspection by any Inspection Officer of the Orissa Motor Vehicles Department or any Police Officer in uniform not below the rank of a head constable.(3)A collecting and forwarding agent shall carry with him his agent's licence while on duty and shall produce it on demand to any Inspecting Officer of the Orissa Motor Vehicles Department or to any Police Officer in uniform to below the rank of a head constable and shall also cause a true copy of his agent's licence to be exhibited at a prominent place in the premises approved under Rule 11.

15. Levy of fees for supply for copies by the Transport Authorities.

- The authority which passed an order to be appealed against shall on an application by a party give a certified copy of any relevant documents on payment of a fee of rupees four for each page and such payment being made by means of Treasury Challan.

16. Appeals.

(1)Any person aggrieved by an order made under Sub-rule (3) of Rule 4, Rule 5, Clause (m), (n) and (o) of Rule 8, Sub-rule (3) of Rule 11 and Sub-rules (1) and (2) of Rule 12 may appeal-(i)to the State Government if the order is made by the State Transport Authority;(ii)to the State Transport Authority if the order is made by the Regional Transport Authority within thirty days from the date of the receipt of such order.(2)The memorandum of appeal shall be filed in duplicate setting forth concisely the grounds of objection and shall be accompanied by a certified copy of the order appealed against :Provided that a memorandum of appeal shall not relate to more than one order or

be signed by more than one party and shall be accompanied by a fee of rupees fifty in the shape of Treasury challan.

17. Delegation of powers.

- The State Transport Authority or the Regional Transport Authority may, by general or special resolution recorded in the proceedings and subject to the restrictions, limitations and conditions specified below delegate to its Chairman, Secretary or any other officer the following powers and functions, namely : (i) powers to grant or renewal or refusal thereof the agent's licence and to issue duplicate agent's licence; (ii) powers to suspend or cancel the agent's licence; (iii) powers to forfeit the security; (iv) powers to attach the conditions to the agent's licence, vary such conditions and attach further conditions : Provided that the Chairman or Secretary or any other officers so delegated shall intimate to the State Transport Authority or, as the case may be, to the Regional Transport Authority in its next meeting the action taken by him in pursuance of the powers so delegated.

18. Interpretation.

- If any question arises relating to the interpretation of any of the provisions of these rules, it shall be referred to the Government.

19. Repeal and saving.

- The Orissa Licensing of Motor Vehicles Agent's Rules, 1971 are hereby repealed. Notwithstanding such repeal any order issued, appointment made, licence issued, action taken and things done under any of the provisions of the rules so repealed, shall be deemed to have been issued, made, taken and done under the corresponding provisions of these rules. Form I [See Rule 4(1)] Application for licence to work as collecting agent/forwarding agent/collecting and forwarding agent To The Secretary, State Transport Authority/Regional Transport Authority.....

1. Full name

2. Name of father or husband (in the case of individuals)

3. Address

4. Educational qualifications or experience in the management of transport business

5. (a) Place where the applicant proposed to engage as an agent

(b) Places where he proposes to establish his sub-agencies/offices

6. Nature and extent of financial resources of the applicant

7. Particulars of goods carriage either owned by the applicant or under his control-

(a)Total number(b)Makes....(c)Models or years of manufacture(d)Registered laden weights(e)Registration marks

8. Additional particulars to be supplied where the application is for a licence as forwarding agent for a licence as forwarding agent or collecting and forwarding agent-

(a)Particulars of the site and its location(b)Description of the premises (Nature of building, extent of the site etc.)(c)Facilities if any, provided by the applicant for parking the goods vehicles carriage....(d)Facilities provided by him for loading and unloading goods(e)Particulars of weighing device provided at the above-mentioned placesNote - This application, if made to the State Transport Authority shall be accompanied by certificates of the Regional Transport Authorities concerned approving the facilities provided by the applicant for parking the goods carriages, loading and unloading goods and storage of goods.

9. I am/we are fully conversant with the conditions of goods carriage permits and the provisions of the Motor Vehicles Act, 1988 and the rules made thereunder so far as they relate to the restrictions regarding the routes, weights, loading and unloading of goods and the duties and functions of agents.

10. I/We hereby declare that to the best of my/our knowledge and belief the particulars given above are true.

Place.....DateSignature of applicantForm II[See Rule 4 (i)]Application for the renewal of agent's licenceToThe Secretary, State Transport Authority/Regional Transport Authority.I/We hereby apply for the renewal of my/our licence which is attached and particulars of which are as follows :(a)Licence No.....(b)Date of issue(c)Nature of the licence, i.e. collecting agent or forwarding agent or collecting and forwarding agent....(d)Name of the licensee (in block letters)(e)AddressIf the licence is not attached, reasons why it is not available.....If the application for renewal was not made 30 days before the date of expiry of the licence, reasons for the delay.....The prescribed fee of Rs.100 is tendered hereby means of.....I/We hereby declared that there is no such change in the circumstances in which the licence was issued to me/us as disqualifies me/us from continuing to hold this licence.Place.....DateSignature of applicantForm III[See Rule 3]Agent's licenceLicence No.....Full Name.....Name of father or husband.....(in the case of an individual).....Addressis licensed to engage as Forwarding Agent/Collecting Agent/Collecting

and Forwarding Agent at (1).....and maintain subagencies/offices for the purpose at (1).....subject to.(2)The licence is valid from to.....Date.....So long as this agent's licence is valid and renewed from time to time, the holder is authorised to use the premises, the particulars of which are given below in connection with his business subject to the provisions of Rule 11 (2).....particulars of premisesDate.....Secretary,State/Regional Transport Authority(1)Specify the place or places where the agent's office or offices are or will be located.(2)Specify the conditions.RenewalsThis licence is hereby renewed up to.....Date.....This licence is hereby renewed up to.....Date.....Secretary,State/Regional Transport AuthoritySecretary,State Transport Authority/Regional Transport AuthorityForm IV[See Rule 8(e)]Annual return for the period ending the 31st December, 20....submitted by (Name and address of) the AgentToThe Secretary, State Transport Authority.....

1. Licence No.....

2. Date of its grant of last renewal ..

3. Total number of goods carriages owned by the agent.....

4. Total number of goods carriages under the control of the agent

5. Number of goods carriages out of those mentioned in item Nos. (3) and (4) above, which were actually used during the year-

(a)For more than 6 months in the year.....(b)For more than 9 months in the year.....(c)For more than 10 months in the year.....

6. Tonnage of goods collected and delivered to the forwarding agents

Name and address of the forwarding agent.....	Tonnes of the goods delivered to the forwarding agent
.....
.....
Total No. of agents.....	Total tonnage.....

Note - In case the space given above under item No. 6 is not sufficient, attach as separate sheet.

7. Total tonnes of the goods collected, forwarded and delivered by the agent himself

8. Minimum and maximum distances of which the goods were forwarded from the forwarding point to the delivering point-

Distance Total tonnes

(a)Distance not exceeding 80 kilometres(b)Distance exceeding 80 kilometres but not exceeding 160 kilometres.(c)Distance exceeding 160 kilometres but not exceeding 240 kilometres.(d)Distance exceeding 240 kilometres but not exceeding 320 kilometres.(e)Distance exceeding 320 kilometres but not exceeding 400 kilometres.(f)Distance exceeding 400 kilometres but not exceeding 480 kilometres.(g)Distance exceeding 480 kilometres.

9. In respect of the entry made in item No. 8 (g) above, specify the nature of the goods (e.g. frutis class, household effects, corn coal, etc.).....

10. Total length of journeys performed by the goods carriages mentioned in item Nos. 3 and 4 above, in kilometres

11. Maximum time taken in delivering a consignment from the date of its booking by the forwarding agent-

Time	Tonnes of the consignment	Distance from the forwarding point to the delivering point
(1)	(2)	(3)

12. Claims received and settled

No. of claims holding from previous year	No. of claims received during the year	Compensation claimed during the year	No. of claims settled during the year	Compensation paid during the year	No. of claims pending at the end of the year
(1)	(2)	(3)	(4)	(5)	(6)

13. Freight and commission

Total freight realised in respect of the vehicle mentioned in item No. (3) above	Total freight realised in respect of the vehicles mentioned in item No. (4) above	Total freight realised and paid to other operators	Total amount of commission realised
(1)	(2)	(3)	(4)

14. Total amount of the premium paid to insurance companies for insurance of the goods.....

15. Total amount realised from the insurance companies in respect of claims for loss or damage of goods.....

16. Maximum time for which a consignment was held by the collecting agent before delivering it to the forwarding agent.....

17. Maximum time for which a consignment was held by the forwarding agent in his godown before despatch.....

18. Maximum time for which a consignment was held by the forwarding agent in his godown at the distributing point there delivery to the consignee.....

Signature of the applicant