

The Gujarat Warehouses Act, 2006

GUJARAT

India

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Act 15 of 2006

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The Gujarat Warehouses Act, 2006 Gujarat Act No. 15 of 2006 (First published after having received the assent of the Governor in the "Gujarat Government Gazette", on the 31st March, 2006). An Act to provide for the regulation of the Warehousing of certain goods in the State of Gujarat. It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows: -

Chapter I Preliminary

1. Short title and extent.

(1) This Act may be called the Gujarat Warehouses Act, 2006. (2) It extends to the whole of the State of Gujarat.

2. Definitions.

(1) In this Act, unless the context otherwise requires, - (a) "co-operative society" means a society registered or deemed to be registered under the provisions of the Gujarat Co-operative Societies Act, 1961 (Gujarat X of 1962) or any corresponding law in force in any part of the State of Gujarat; (b) "depositor" means a person who deposits goods with a warehouseman for storing in his warehouse, and includes any person who lawfully holds the receipt issued by the warehouseman in respect of the goods and derives title thereto by endorsement or transfer from the depositor or his lawful transferee; (c) "goods" means any of the articles specified in the Schedule appended to this Act; (d) "licence" means a licence granted under section 4, or renewed under section 6; (e) "person" includes a firm and any company or association or body of individuals, whether incorporated or not; (f) "prescribed" means prescribed by rules; (g) "prescribed authority" means the authority empowered by the State Government to carry out the duties under this Act; (h) "receipt" means a warehouse receipt, issued in the prescribed form, by a warehouseman to a depositor depositing

goods in a warehouse;(i)"rules" means rules made or deemed to have been made under this Act;(j)"warehouse" means any building, structure or other protected enclosure which is used 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;(k)"warehouseman" means a person who has obtained a licence under this Act for the purpose of carrying on his business of warehousing.

Chapter II

Licensing of Business of Warehousing

3. Prohibition of carrying on business of warehousing without license.

- Subject to the provisions of section 11, no person shall carry on the business of warehousing, or represent or hold himself out as carrying on the business of warehousing, except under and in accordance with the terms and conditions of a licence granted under this Act.

4. Application for and grant of licence.

(1)A person may make an application to the prescribed authority for the grant of licence for carrying on the business of warehousing.(2)Every application made under sub-section (1) shall be in such form, contain such particulars and accompanied by such fees, as may be prescribed.(3)On receipt of such application, the prescribed authority may, on payment of the prescribed fee, grant a licence to such person for the conduct of his business of warehousing in accordance with the terms and conditions of the licence, and the provisions of this Act and the rules made thereunder.

5. Terms and conditions for grant of licence.

- Before granting a licence, the prescribed authority shall satisfy itself -(a)that the warehouses in which it is proposed to store goods are suitable for storing the particular goods, or the class or classes of goods which it is intended to store therein;(b)that the applicant is competent to conduct such warehouses;(c)that the applicant furnishes to the prescribed authority such security, in such manner, as may be prescribed:Provided that where the applicant is a corporation established under the Warehousing Corporations Act, 1962 (58 of 1962), or the National Co-operative Development Corporation Act, 1962 (26 of 1962), no such security shall be required;(d)that the applicant fulfils other conditions which the State Government may, by notification in the Official Gazette, specify in this behalf; and(e)that there is no other cause or reason for which the applicant may, in the opinion of the prescribed authority, be deemed to be disqualified for a licence.

6. Duration and renewal of licence granted under section 4.

(1)Every licence granted under section 4 shall be valid for such period as may be prescribed.(2)A licence may be renewed on an application made by the warehouseman in that behalf to the

prescribed authority in such form and accompanied by such fee as may be prescribed.

7. Notice of refusal to grant or renew licence.

- If the prescribed authority refuses to grant or renew a licence, it shall record its reasons therefor in writing, and communicate a copy of its order to the applicant.

8. Licence when to be revoked.

- Every licence shall be liable to be revoked by the prescribed authority for reasons to be recorded in writing in the order of revocation and in particular, a licence shall be liable to be revoked, if the warehouseman-(a)has applied to be adjudicated, or has been adjudicated an insolvent; or(b)has parted in whole or in part with his control over the warehouses in respect of which he is licensed; or(c)has ceased to conduct such warehouses; or(d)has made unreasonable charges for services rendered by him; or(e)has in any manner become incompetent to conduct the business of a warehouseman; or(f)has contravened any of the terms or conditions of the licence or any of the provisions of this Act or the rules made thereunder, or any other conditions which the State Government has, by notification in the Official Gazette, specified under section 5.

9. Notice to be given before revocation of licence, and suspension of licence.

(1)Before revoking a licence, the prescribed authority shall give notice to the warehouseman specifying the charges against him and calling upon him to show cause why the licence should not be revoked.(2)After considering the explanation, if any, offered by the warehouseman, the prescribed authority may revoke the licence, or pass such orders as it deems just and proper.(3)The prescribed authority may suspend the licence of a warehouseman pending decision on the enquiry referred to in sub-sections (1) and (2).(4)If a licence is suspended or revoked, the prescribed authority shall make an entry to that effect in the licence.

10. Appeal and revision.

(1)An appeal against any order of the prescribed authority refusing to grant or renew a licence, or suspending or revoking any licence of a warehouseman shall be made to the Registrar of Co-operative Societies within sixty days from the date of such order.(2)On receipt of an appeal under sub-section (1), the Registrar shall, after giving the warehouseman and the prescribed authority an opportunity of being heard, pass such order thereon as he thinks fit.(3)The State Government may at any time call for and examine the record of any proceedings before the prescribed authority or the Registrar relating to the suspension or revocation of, or the refusal to grant or renew, a licence, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed therein, and as to the regularity of such proceedings, and may either annul, reverse, modify or confirm such order, or pass such other order as it may deem just.(4)Every order passed by the prescribed authority under section 9, subject to appeal or revision as provided in this section, and every order passed by the Registrar in appeal, subject to such revision, and every

order passed by the State Government in revision, shall be final and shall not be questioned in any court of law.

11. Return of licence.

(1) During the period a licence is suspended, a warehouseman shall not carry on the business of warehousing; and when a licence expires and is not renewed, or is revoked, a warehouseman shall cease to carry on his business of warehousing, and shall return the licence to the prescribed authority. (2) Where a licence expires and is not renewed, or where it is revoked, the prescribed authority shall give to the warehouseman such reasonable time thereafter as it thinks fit to wind up his business, and notwithstanding anything contained in section 3, the warehouseman may carry on his business of warehousing during the said period, and may do all things necessary for winding up such business.

12. Duplicate licence.

- Where a licence granted to a warehouseman is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall, on an application made in that behalf by the warehouseman and on payment of the prescribed fee, issue a duplicate thereof.

Chapter III

Duties of A Warehouseman

13. Reasonable care of goods stored.

- 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.

14. 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 fulfill such other conditions as may be prescribed in this behalf. (2) No warehouseman shall accept for deposit in his warehouse, goods which are contaminated or infected by worms and pests, and which are likely to cause damage to other goods which are or which may be deposited in the warehouse.

15. Preservation of identity of goods.

(1) In order to permit at all times, the identification of the goods deposited in a warehouse, and easy delivery therefrom, every warehouseman shall keep in his warehouse the goods of one depositor separate from the goods of other depositors, and also the goods of the same depositor separate from his other goods for which a separate receipt has been issued: Provided that where standardised and

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

16. Goods deteriorating in warehouse and their disposal.

(1)Whenever from causes beyond the control of the warehouseman, goods stored in a warehouse deteriorate or are about to deteriorate, the warehouseman shall forthwith give notice thereof to the depositor asking him to take delivery of the goods immediately on surrendering the receipt duly discharged, and on payment of all dues. If the depositor does not comply with the notice within a reasonable time, the warehouseman may cause such goods to be removed from his warehouse, and sold by public auction at the cost and risk of the depositor.(2)Any person interested in any goods, or the receipt covering such goods, stored in a warehouse may, in writing inform the warehouseman of the fact and the nature of his interest, and the warehouseman shall keep a record thereof. 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.

- Every warehouseman in the absence of any reasonable or lawful excuse, shall, without unnecessary delay, deliver the goods stored in his warehouse to the depositor on demand made by him and on surrender of the receipt duly discharged, and on payment of all the charges due to the warehouseman. Subject to any agreement between the warehouseman and the depositor, the depositor may take partial delivery of the goods stored in the warehouse.

18. Warehouseman not entitled to excess nor responsible for shortage of goods.

(1)If there be any excess in the goods stored in a warehouse by absorption of moisture or on account of other causes, the warehouseman shall not be entitled to the same.(2)If for any cause beyond the control of the warehouseman, there be any shortage in such goods by damage or other causes, the warehouseman shall not be responsible for the same.(3)In the event of any dispute arising as to whether such excess or shortage is due to absorption of moisture or driage, or is due to other causes, beyond the control of the warehouseman, the matter shall be referred to the Registrar of Co-operative Societies or any other officer appointed by the State Government in this behalf, and the decision of the Registrar or other officer shall be final.

19. Accounts, books, etc. to be maintained by warehouse man.

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

20. Insurance of goods in warehouses.

(1) Every warehouseman shall insure, in such manner as may be prescribed, the goods in his warehouse against loss or damage by fire or burglary. On a written request from a depositor and on his agreeing to pay the requisite charges for additional insurance, the warehouseman may insure such goods also against loss or damage by flood, riot, civil commotion or any other contingency. (2) Every warehouseman shall be entitled to recover from the depositor, at the rate prescribed if the insurance is obligatory, or at the rate agreed to if the insurance is optional, the charges for insurance in respect of the depositor's goods before delivery thereof, and the warehouseman shall have a lien on the said goods in respect of such charges.

21. Discrimination prohibited.

- Every warehouseman shall receive for storage in his warehouse, so far as its capacity permits, any goods of the kind customarily stored by him therein, which may be tendered to him in a suitable condition for storing in the usual manner in the ordinary and usual course of business without making any discrimination between persons desiring to avail themselves of the facilities of his warehouse: Provided that a warehouseman may grant such concessions to a co-operative society as may be prescribed.

22. Warehouseman, other than co-operative society, etc. not to lend money against goods in warehouses.

- Notwithstanding anything contained in any law, no warehouseman other than a co-operative society or a corporation established under the Warehousing Corporations Act, 1962 (58 of 1962), or the National Co-operative Development Corporation Act, 1962 (26 of 1962), shall, either on his own account or that of others, deal in, or lend money on goods which he receives for storage in his warehouse.

Chapter IV

Inspection and Grading of Goods

23. Inspection.

- For the purpose of satisfying itself that the requirements of this Act and the rules made thereunder are duly complied with, the prescribed authority may at any time during business hours, inspect or cause to be inspected, or examine or cause to be examined, any warehouse in respect of which a licence is granted, the machinery or equipment thereof, the goods stored therein, and the account, books and records relating thereto.

24. Licensed weighers, samplers and graders.

(1) On an application made to it in the prescribed manner and on payment of the prescribed fee, the prescribed authority may 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 warehouse, and to issue certificates as to the weight, bulk, quality or grade of the goods which they have examined. (2) The certificates issued by weighers, samplers or graders as to weight, quality or grade of the goods stored in the warehouse shall, subject to any order in appeal preferred by either of them to the Board of Arbitrators, be binding on the warehouseman and depositor. (3) The prescribed authority may appoint a Board of Arbitrators to decide complaints against weighers, samplers, or graders or warehouseman relating to weight, quality or grade of the goods stored in a warehouse. The decision of the Board of Arbitrators shall be final and shall not be liable to be questioned in any court of law.

25. Duration and renewal of licence granted under section 24.

- Every licence granted to a weigher, sampler or grader under section 24 shall be valid for the prescribed period and may, on the expiry of such period be renewed, from time to time, for a further period by the Prescribed Authority on an application made in that behalf and on payment of the prescribed fee.

26. Suspension or revocation of licence.

- Subject to rules made in this behalf, every licence granted to a weigher, sampler or grader shall for adequate reasons which shall be recorded in writing, be liable to be suspended or revoked by the prescribed authority. Before revoking a licence the prescribed authority shall communicate to the licensee the grounds on which it is proposed to take action, and shall give him a reasonable opportunity of showing cause against it.

27. Return of Licenses.

- Whenever a licence granted to a weigher, sampler or graders, expires, or is revoked, he shall return it to the prescribed authority.

28. Prohibition of unlicensed weighers, samplers and graders.

- No person who is not licensed under this Chapter shall work as, or hold himself out as, a weigher, sampler or grader.

29. Duplicate licence.

- Where a licence granted to a weigher, sampler or grader is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall issue a duplicate thereof on an

application made in that behalf by the weigher, sampler or grader, as the case may be, and on payment of the prescribed fee.

30. Facilities, weighing, sampling and grading.

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

Chapter V

Warehouse Receipts

31. Issue of receipt.

- Every warehouseman shall, at the time when goods are received by him for deposit in a warehouse, issue a receipt in the prescribed form, containing full particulars in respect of the goods stored in his warehouse by each depositor.

32. Receipt transferable by endorsement.

- A receipt issued by a warehouseman shall, unless otherwise specified on the receipt, be transferable by endorsement, and shall entitle its lawful holder to receive the goods specified in it on the same terms and conditions on which the person who originally deposited the goods would have been entitled to receive them.

33. Duplicate receipt.

- If a receipt issued under section 31 is lost, destroyed, torn, defaced, damaged or otherwise becomes illegible, a warehouseman shall on an application made 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 made by rules prescribed for the purpose.

Chapter VI

Miscellaneous

34. Security amount to be forfeited and recovered as arrears of land revenue.

(1) If a warehouseman fails to comply with, or contravenes any of the terms or conditions of his licence or of any provision of this Act, then, without prejudice to any other penalty to which he may be subject, the amount of security deposited by him under a bond executed by him under the provisions of this Act shall be liable to be forfeited, and the amount due under such bond shall be recoverable from him, or from his sureties or their heirs or legal representatives, as an arrears of

land revenue.(2)The State Government may make payment out of the amount so forfeited or recovered, to any person who may have sustained loss by reason of the warehouseman failing to comply with, or acting in contravention of, any provision of this Act.

35. Penalty.

(1)Whoever, fails to comply with, or acts in contravention of any provisions of this Act shall be deemed to commit an offence under this Act, and shall on conviction be punished-(a)in the case of a contravention of the provisions of section 3 or 22, with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both;(b)in any other case with fine which may extend to one thousand rupees.(2)If the person committing an offence under this Act 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 in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of such offence.(3)Notwithstanding anything contained in sub-section (2), where an offence under this Act is committed by a company and it is proved that the offence is committed with the consent or connivance 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 1. - For the purposes of sub-sections (2) and (3)-(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.Explanation 2. - The provisions of sub-section (2), in so far as they apply to persons who at the time of the offence were in charge of or were responsible to the company for the conduct of the business thereof, shall not apply to any such persons in charge of or responsible to a corporation established under the Warehousing Corporations Act, 1962 (58 of 1962), or the National Co-operative Development Corporation Act, 1962 (26 of 1962).

36. No compensation for suspension or cancellation of licence.

- Where any licence is suspended or revoked under this Act, no person shall be entitled to any compensation or the refund of any fee paid in respect thereof.

37. 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 made thereunder shall, to the extent of such inconsistency, be void.

38. Power of State Government to delegate its powers.

- The State Government may delegate to any officer or authority subordinate to it any of the powers

conferred on it by or under this Act.

39. Power of State Government to amend Schedule.

- The State Government may, by notification in the Official Gazette, add to, amend or omit any of the entries in the Schedule.

40. Power of State Government to exempt warehouses.

- The State Government may, by notification in the Official Gazette, exempt any class of warehouses from all or any of the provisions of this Act.

41. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying into effect the purposes of this Act.(2)In particular, but without prejudice to the generality of the foregoing provision, such rules may provide for the following matters, namely:-(i)the Authority empowered to carry out the duties under this Act;(ii)the form of receipt under clause (h) of section 2;(iii)the form of application and the fee for taking out a licence under section 4, for its renewal under section 6 and for the issue of duplicate licence under section 12;(iv)the terms and conditions of a licence in accordance with which the business of a warehouseman shall be conducted under section 3 and the period for which the licence shall be valid under section 6;(v)the amount of security and the manner of furnishing the same (including the form of bond) under clause (c) of section 5;(vi)the conditions on or under which a duplicate of a licence may be issued;(vii)the conditions (including disinfection of warehouses and the goods stored therein) which a warehouseman shall fulfil under sub-section (1) of section 14;(viii)the books, accounts and records to be kept and maintained under section 19;(ix)the manner in which goods deposited in a warehouse shall be insured under sub-section (1) of section 20;(x)the rates at which charges for insurance shall be recoverable under subsection (2) of section 20;(xi)the concessions which may be granted by a warehouseman to a cooperative society under section 21;(xii)the qualifications of, and grant of licences to weighers, samplers and graders, the form of application for licences, the fee payable in respect of them, and the period for which the licences may be granted to them, the form of certificates to be issued by them, the renewal of their licences, the conditions on which duplicate licences may be issued, and the conditions under which the licences may be suspended or revoked for the purposes of sections 24, 25, 26 and 29;(xiii)the form for the issue of a receipt under section 31 and the fee to be paid for the issue of a duplicate receipt and the conditions under which the duplicate receipt may be issued under section 33;(xiv)the publication of the grant, suspension and revocation of licences and the list of warehouseman and their warehouses;(xv)the charges to be made by a warehouseman for storing goods in his warehouses;(xvi)the manner of giving notices under this Act;(xvii)the manner of conducting a public auction for the sale of goods deteriorating or which are about to deteriorate in a warehouse and accounting for the proceeds of such sale by a warehouseman;(xviii)the classification of goods stored by a warehouseman;(xix)the standard weights, measures and gradation of goods, to be used in a warehouse;(xx)the procedure to be followed in proceedings before the Board of Arbitrators and the mode of executing their

awards;(xxi)generally for the efficient conduct of the business of a warehouseman;(xxii)any other matter which is to be, or may be, prescribed.(3)In making rules under this section, the State Government may provide that any person failing to comply with or contravening the provisions of any rules shall, on conviction, be punished with fine which may extend to one hundred rupees.(4)The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.(5)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.(6)Any rescission or modifications so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

42. Repeal and savings.

(1)On the commencement of this Act, the Bombay Warehouses Act, 1959 (Bombay V of 1960) in its application to the State of Gujarat shall stand repealed.(2)Notwithstanding such repeal of the said Act, anything done or any action taken (including any rule or order made, notification issued or appointment made) by or under that Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken by or under this Act and shall continue to be in force until superseded by anything done or any action taken under the provisions of this Act.

43. Act not to apply to warehouses under Customs Act, 1962, etc.

(1)Nothing in this Act shall apply to a warehouse appointed or licensed under the Central Excise and Salt Act, 1944 (1 of 1944) or the Customs Act, 1962 (52 of 1962) or any law corresponding thereto or to a warehouse belonging to or appointed by the Trustees of the Port of Gujarat.

Schedule

[See Section 2(C)]

1. Fibres. -

(1)Cotton (ginned and unginned).(2)Raw Jute.

2. Food-stuffs including edible oils.

3. Oil-seeds.

4. Tobacco.

5. Gul.

6. Vegetable oils.

7. Cattle-fodder including oil-cakes and other concentrates.

8. Seeds.

9. Manures.

10. Fertilizers.

11. Agricultural implements.