

The U.P. Regulation of Cold Storages Act, 1976

UTTAR PRADESH

India

The U.P. Regulation of Cold Storages Act, 1976

Act 11 of 1976

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The U.P. Regulation of Cold Storages Act, 1976(U.P. Act No. 11 of 1976)Received the assent of the Governor on April 16, 1976, published in the Uttar Pradesh Gazette, Extraordinary dated April 19, 1976.An Act to provide for licensing, supervision and control of cold storages in Uttar Pradesh and for matters connected therewithIt is hereby enacted in the Twenty-seventh Year of the Republic of India:

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Uttar Pradesh Regulation of Cold Storages Act, 1976.(2)It extends to the whole of Uttar Pradesh.(3)It shall be deemed to have come into force on September 20, 1975.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Agricultural produce" includes products of agriculture or horticulture, animal husbandry or pisciculture and all articles of food or drink wholly or partly made from any of them;(b)"Board" means the Cold Storages Advisory Board constituted under Section 3;(c)"Cold storage" means an enclosed chamber insulated and mechanically cooled by refrigeration machinery to provide refrigerated condition to agricultural produce stored therein, but does not include refrigerated cabinets and chilling plants having a capacity of less than 100 cubic metre;(d)"hirer" means a person who on payment hires space in a cold storage for storing agricultural produce;(e)"licence" means a licence under this Act;(f)"licensee" means any person to whom a licence is granted under this Act;(g)"Licensing Officer" means the Director of Horticulture and Fruit Utilization, Uttar Pradesh, and except in the Explanation to Section 17, includes,-(1)any other officer of the Horticulture Department, not below the rank of District Horticulture

Officer;(2)an officer of the Revenue Department, not below the rank of a Sub-divisional Officer,empowered by the Director of Horticulture and Fruit Utilization in this behalf to exercise some or all of the powers of the Licensing Officer under this Act;(h)"prescribed" means prescribed by rules made under this Act;(i)"receipt" means a cold storage receipt including a duplicate receipt issued by a licensee under this Act;(j)"Tribunal" means the Tribunal constituted under Section 35.

Chapter II

Cold Storage Advisory Board

3. Constitution of the Board.

- The State Government shall, by notification, constitute a Cold Storage Advisory Board, which shall consist of the following members, namely:(a)The Agricultural Production Commissioner, Uttar Pradesh who shall be the Chairman of the Board;(b)A representative of the Agricultural Marketing Advisor to the Government of India;(c)The Director of Industries, Uttar Pradesh;(d)The Registrar, Co-operative Societies, Uttar Pradesh;(e)The Director of Mandis, Uttar Pradesh, Lucknow; and(f)The Director of Horticulture and Fruit Utilization, Uttar Pradesh who shall also act as Secretary.

4. Duties and functions of the Board.

(1)The Board shall discharge the following duties and functions, namely:(a)to advise the State Government on policy matters relating to the licensing of cold storages and matters connected therewith;(b)to make suggestions to the State Government in respect of scientific planning, maintenance, development and expansion of cold storages and to suggest proper steps for coordination of cold storage facilities in the State;(c)to advise the State Government in the matter of fixation, from time to time, of maximum charges for storing agricultural produce in the cold storage; and(d)to advise the State Government on such matters as may be referred to the Board by the State Government, or as may be prescribed.(2)The business of the Board shall be conducted in such manner as may be prescribed.

Chapter III

Licensing of Cold Storages

5. Restrictions on carrying on the business of cold storage.

- On and after such dates as the State Government may, by notification appoint in that behalf, no person shall carry on the business of storing any agricultural produce in a cold storage except under and in accordance with the terms and conditions of a licence granted under this Act.

6. Application for licence.

(1) Every application for a licence under this Act shall be made in the prescribed form to the Licensing Officer and shall be accompanied by the prescribed fee. (2) No licence under this Act shall be granted, if it appears to the Licensing Officer that—(a) the cold storage does not conform to the prescribed specifications; (b) the cold storage is not suitable for storage of the class of goods for which it is intended; (c) the application is not accompanied by the prescribed fee; (d) the applicant is guilty of any fraud or misrepresentation; (e) the applicant has been convicted of any offence under this Act, or the rules made thereunder.

7. Terms and renewal of licence.

- A licence granted under Section 6 shall be valid for such period, as may be prescribed, and may on application made in that behalf and upon payment of the prescribed fees, renewed, from time to time, by the Licensing Officer for such further period as may be prescribed. (2) No licence granted under this Act shall be renewed if it appears to the Licensing Officer that—(a) any of the grounds mentioned in sub-section (2) of Section 6 exists; (b) the licensee is guilty of breach of the provisions of this Act or the rules made thereunder; (c) that the application involves a breach of any direction issued by the State Government under Section 44.

8. Suspension and cancellation of a licence.

(1) A licence granted under this Act, may be suspended or cancelled, if it appears to the Licensing Officer that—(a) any of the grounds mentioned in sub-section (2) of Section 7 exists; (b) the licensee has parted wholly or partly with the possession or control of the cold storage or that he has ceased to run it. (2) Where any licence is suspended or cancelled, the licensee shall not be entitled to any compensation therefor nor he shall be entitled to any refund of any fee paid by him for the licence.

9. Permission for construction of a new cold storage.

(1) No person shall construct any new cold storage without obtaining prior permission from the Licensing Officer for such construction. (2) Every application for permission under sub-section (1) shall be made in the prescribed form to the Licensing Officer and shall be accompanied by the prescribed fee. (3) The Licensing Officer shall, while granting the permission under sub-section (1), have regard to—(a) the number of cold storages operating in the area in which the cold storage is sought to be constructed; (b) availability of agricultural produce in such area; (c) any other matter which may be prescribed. (4) The Licensing Officer may, while granting permission under subsection (1), impose such conditions as he may consider necessary.

10. Orders to contain reasons.

(1) Every order refusing to grant the licence under Section 6, or refusing to renew the licence under Section 7, or suspending or cancelling the licence under Section 8, or refusing permission under

Section 9, shall be in writing and shall contain the reasons in support thereof.(2)Before making an order referred to in sub-section (1), the Licensing Officer shall give the licensee or the applicant, as the case may be, a reasonable opportunity of being heard:Provided that when immediate action is required in public interest, the Licensing Officer may, for reasons to be recorded, suspend a licence without any notice under this section.

11. Duplicate licence.

- Where a licence is lost, destroyed, torn, defaced, or otherwise becomes illegible, the Licensing Officer shall in the manner prescribed and on payment of the prescribed fee, issue a duplicate licence.

Chapter IV

Rights and Duties of a Licensee

12. Reasonable care of goods deposited.

- Every licensee shall take such care of the goods stored in his cold storage as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

13. Duty to exhibit capacity of the cold storage.

- Every licensee shall, before the commencement of business every day, display and exhibit in the prescribed manner on or near the main entrance of cold storage the following information in respect of the cold storage-(a)total capacity of cold storage (both in area and tonnage);(b)capacity physically occupied (both in area and tonnage);(c)vacant capacity (both in area and tonnage).

14. Acceptance of goods for deposit.

(1)No licensee shall accept for storage agricultural produce which is likely to cause damage to other agricultural produce which is, or may be stored in the cold storage and if any question arises whether any agricultural produce is such as is likely to cause damage as aforesaid, it shall be referred to the Licensing Officer whose decision shall be final:Provided that a licensee shall not refuse to store potato seed of bona fide cultivators, so certified in the prescribed form and manner by a Gazetted Officer of Horticulture Department or a Block Development Officer, as the case may be, on the ground that it is likely to cause damage to other agricultural produce.(2)Subject to the provisions of sub-section (1), no licensee shall refuse to accept agricultural produce for storage in his cold storage without any lawful excuse.Explanation. - The refusal to accept any agricultural produce on the ground that the space in the enclosed chamber, though physically vacant, is booked in favour of any other person, shall not be deemed to be a "lawful excuse" within the meaning of this section.

15. Preservation of identity of goods.

- Every licensee shall keep in his cold storage the agricultural produce of one hirer separate from such produce of other hirer and from other produce of the same hirer for which a separate receipt has been issued, so as to permit at all times the identification and easy delivery thereof: Provided that where standardised and graded goods are stored in the cold storage, the same variety of goods belonging to the same or different hirer may, subject to any contract to the contrary, be pooled together and each hirer 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, less any driage or shrinkage up to the limit fixed under Explanation to Section 17.

16. Licensee to allow facilities for the hirer to inspect goods.

- Every licensee shall allow, during such hours as the Licensing Officer may by order direct, necessary facilities to a hirer or his nominee to inspect and satisfy himself that his goods are properly cared for.

17. Good's deterioration in cold storage and their disposal.

(1) Whenever goods stored in a cold storage being to deteriorate or are likely to deteriorate from a cause beyond the control of the licensee, or where the hirer fails to take delivery of the goods stored in the cold storage within a period of fifteen days from the date specified therefor in the receipt, the licensee shall forthwith give notice thereof to the hirer, requiring him to take delivery of the goods immediately after surrendering the receipt duly discharged and paying all charges due to the licensee, and send a copy of such notice to the Licensing Officer. (2) Where the hirer fails to comply with the notice referred to in sub-section (1) within a period of seven days from the date of service thereof, the licensee may cause the goods to be removed from the cold storage and sold by public auction at the cost and risk of their hirer: Provided that the licensee shall give notice of the sale to the Licensing Officer at least forty-eight hours before such sale, and the Licensing Officer shall supervise such sale either himself or through an officer authorised by him in that behalf. Explanation. - Loss of weight or bulk by driage or shrinking or gain of weight or bulk by absorption of moisture shall be deemed to amount to deterioration within the meaning of this section, if the loss or gain exceeds such limits as the Licensing Officer may, from time to time, having regard to the climatic conditions of different areas, fix by notification published in the Gazette. (3) If there is any excess in the weight or bulk of an agricultural produce stored in a cold storage by absorption of moisture or other causes, the licensee shall not be entitled to such excess.

18. Intimation regarding condition of goods.

- Any person having an interest in any goods stored in a cold storage or in the receipt covering such goods may inform the licensee in writing of the fact and nature of his interest and the licensee shall keep a record thereof and if such person requests in writing, that intimation be given to him regarding the condition of goods and agrees to pay the prescribed charges for giving such

intimation, the licensee shall be bound to give him intimation accordingly.

19. Delivery of goods.

(1) Every licensee shall on demand made by or on behalf of the hirer, deliver the goods stored in the cold storage, provided the hirer surrenders the receipt and pays all charges due to the licensee. (2) Every receipt so surrendered to the licensee shall be defaced and shall not be re-issued. (3) Subject to an agreement between the parties, the hirer may take partial delivery of the goods stored in a cold storage and in every such case, the licensee shall make necessary endorsement on the receipt and return it to the hirer.

20. Licensee's lien.

- Every licensee in possession of the goods in his cold storage is entitled to retain possession thereof until the receipt therefor is surrendered and necessary charges are duly paid in accordance with Section 19.

21. Licensee not to pledge or deal in the goods in cold storage without the authority of the hirer.

- No licensee shall, except with the written authority of the hirer, pledge or otherwise deal in goods received by him for storage in the cold storage.

22. Rate of interest on loan to a hirer.

- If any money is lent by the licensee to a hirer against the goods stored by some hirer in the cold storage, the rate of interest, in no case shall be higher than one-half of one per cent per annum simple interest over the current rate of interest charged by the State Bank of India, at the time of the loan, for like purposes in respect of advances made by it against goods pledged in its favour.

23. Insurance.

- Every licensee shall insure the agricultural produce stored in his cold storage against loss or damage by fire, breakdown (whether mechanical or otherwise) or such other like cause.

24. Compensation for loss, destruction, etc.

- Except as otherwise provided in this Act, the licensee shall be liable to pay to the hirer compensation for every loss, destruction, damage, deterioration or non-delivery of the goods stored in his cold storage caused by the negligence, misconduct or default on the part of such licensee.

25. Dispute regarding compensation to be referred to the Licensing Officer.

(1) Every dispute regarding compensation payable by the licensee under Section 24 shall be referred to the Licensing Officer, and subject to the result of appeal, if any, under Section 36, the order of the Licensing Officer shall be final. (2) When the Licensing Officer is satisfied that any compensation payable by a licensee under sub-section (1) has not been paid within thirty days from the date of the order under sub-section (1) or, as the case may be, from the date of the decision of the Tribunal under Section 36, he shall issue a certificate of recovery to the Collector, and the Collector shall recover the amount of such compensation together with costs of recovery as arrears of land revenue and pay the amount realised, after deduction of costs, to the hirer.

26. Prohibition from recovery of excess amount.

- No licensee shall take or receive, for storage or any other service rendered to the hirer, amount over and above [the charges fixed under Section 29] [Substituted by U.P. Regulation of Cold Storages (Amendment) Act, 1997 (U.P. Act No. 2 of 1997), published in U.P. Gazette (Extraordinary), Part 1, Section (Ka), dated 2.5.1997.].

27. Licensee to maintain account books.

- Every licensee shall maintain account books and records in such form and manner as may be prescribed.

28. Power of Licensing Officer to issue directions.

- Every licensee shall be bound to comply with such directions of the Licensing Officer under this Act as may be issued by him from time to time for carrying out the purposes of this Act.

Chapter V

Service Charges

29. [Maximum charges. - (1) Every licensee shall, from time to time, fix the maximum charges for storing agricultural produce in the cold storage or for any other service rendered in connection therewith, and different charges may be fixed for different agricultural produce.

(2) Every licensee shall display and exhibit on or near the main entrance of the cold storage the charges fixed under sub-section (1), and shall also deliver a copy thereof in the office of the Licensing Officer. (3) If the State Government is of the opinion that the charges fixed by a licensee under sub-section (1) are unreasonably high, then notwithstanding the provisions of sub-section (1), the State Government may, by a notified order, fix the maximum charges for the purposes of sub-section (1) with respect to such licensee and the charges so fixed by the State Government shall

be effective for the remaining part of the financial year in which they are fixed.] [Substituted by U.P. Regulation of Cold Storages (Amendment) Act, 1997 (U.P. Act No 2 of 1997), published in U.P. Gazette (Extraordinary), Part 1, Section (Ka), dated 2.5.1997.]

30.

[* * *] [Omitted by U.P. Regulation of Cold Storages (Amendment) Act, 1997 (U.P. Act No 2 of 1997), published in U.P. Gazette (Extraordinary), Part 1, Section (Ka), dated 2.5.1997.]

31. Board's report to be considered.

- Where a Board has been constituted under Section 3, the State Government shall consider its report before fixing the [charges under sub-section (3) of Section 29.] [Substituted by U.P. Regulation of Cold Storages (Amendment) Act, 1997 (U.P. Act No 2 of 1997), published in U.P. Gazette (Extraordinary), Part 1, Section (Ka), dated 2.5.1997.]

Chapter VI

Cold Storage Receipt

32. Duty to issue receipt.

- Every licensee shall issue, in the form prescribed, a receipt for the agricultural produce stored in his cold storage.

33. Cold storage receipt transferable by endorsement and delivery.

- The receipt referred to in Section 32, shall, unless it is otherwise specified therein be transferable by endorsement and delivery and shall entitle the holder in due course to receive the goods specified in it as if he was the original hirer.

34. Duplicate receipt.

- If a receipt is lost, destroyed, torn, defaced, or otherwise becomes illegible, the licensee shall, on an application made by the hirer and upon payment of the prescribed fee. issue a duplicate receipt subject to such conditions, if any, as may be prescribed.

Chapter VII

Tribunal

35. Constitution of Tribunal.

- There shall be a Tribunal consisting of the following members, namely-(a)the Agricultural Marketing Adviser to the Government of India, who shall be the Chairman;(b)the Legal Remembrance to the Government of Uttar Pradesh or an Officer of his department nominated by him not below the rank of Joint Legal Remembrance;(c)the Secretary to the Government in the Agriculture Department or an officer of that department nominated by him not below the rank of Joint Secretary.

36. Appeal.

- Any person aggrieved by an order of the Licensing Officer refusing to grant a licence under sub-section (2) of Section 6. or refusing to renew it under sub-section (2) of Section 7 or suspending or cancelling it under sub-section (1) of Section 8, or refusing permission under Section 9, or deciding a dispute referred to in sub-section (1) of Section 14 or in sub-section (1) of Section 25, may prefer an appeal to the Tribunal within thirty days from the date of communication of such order, and the decision of the Tribunal thereon shall be final.

Chapter VIII

Penalties and Procedure

37. Penalty.

- Whoever contravenes any provision of this Act or any rule, order or direction made thereunder shall on conviction be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

38. Offences by companies.

(1)If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence 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 offence was committed 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 any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any managing agent, secretary, treasurer, director, manager or other officer of the company, such managing agent, secretary, treasurer, director, manager or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purpose of this Section,-(a)"company" means anybody corporate,

and includes a firm or other association of individuals; and (b) "director" in relation to a firm, means a partner in the firm.

39. Cognizance of offence.

(1) Every offence punishable under this Act shall be cognizable. (2) No Court inferior to that of a Magistrate of the first class shall try any such offence.

Chapter IX Miscellaneous

40. Power of Licensing Officer.

- The Licensing Officer may, - (a) require any licensee to furnish such information as he may specify in respect of the cold storage owned or run by such licensee; (b) enter upon and inspect or cause to be inspected any cold storage, its machinery and equipment, goods stored therein, and the account books and records relating thereto, for the purpose of satisfying himself that the requirements of this Act and the rules made thereunder are being complied with; (c) collect samples of agricultural produce stored in any cold storage and get them analysed, examined or tested in any laboratory selected for the purpose.

41. Protection of acts in good faith.

(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 under this Act or the rules made thereunder. (2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

42. Savings as to orders.

- No order made in exercise of any power conferred by or under this Act, shall be called in question in any court.

43. Effect of Act and Rules etc., inconsistent with other enactments and instruments.

- The provision of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any contract, or in any other instrument having effect by virtue of any enactment other than this Act.

44. Directions by State Government.

- In the discharge of his duties under this Act, the Licensing Officer shall carry out such directions of the State Government on matters of policy as may be issued by the State Government from time to time suo motu or on the advice of the Board.

44A.

[* * *] [Omitted by U.P. Regulation of Cold Storages (Amendment) Act, 1997 (U.P. Act No. 2 of 1997), published in U.P. Gazette (Extraordinary), Part I, section (Ka), dated 2.5.1997.]

45. Rules.

(1)The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act, including any rules prescribing fees in respect of any proceeding under this Act.(2)All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session, for a total period of not less than thirty days comprised in its one session or more than one successive sessions, and shall, unless some later date is appointed, take effect, from the date of their publication in the Gazette, subject to such modifications or annulments as the two Houses of the Legislature may, during the said period, agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

46. Repeal and Savings.

(1)The Uttar Pradesh Regulation of Cold Storages Ordinance, 1976 (U.P. Ordinance 7 of 1976), is hereby repealed.(2)Notwithstanding such repeal or the repeal of the Uttar Pradesh Regulation of Cold Storages Ordinance, 1975 by the Ordinance mentioned in sub-section (1) anything done or any action taken under the said ordinances shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at all material times.