

Jammu and Kashmir Brick Kilns (Regulation) Rules, 2011

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-BRICK-KILNS-REGULATION-RULES-2011 of 2011

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Jammu and Kashmir Brick Kilns (Regulation) Rules, 2011Published vide SRO 152, dated 18.05.2011, Consumer Affairs & Public Distribution DepartmentIn exercise of the powers conferred by section 26 of the Jammu and Kashmir Brick Kilns (Regulation) Act 2010 (Act No. XVII of 2010), the Government hereby makes the following rules; namely:

1. Short title and Commencement

(1) These rules may be called the Jammu and Kashmir Brick Kilns (Regulation) Rules, 2011.(2)They shall extend to whole of the State of Jammu and Kashmir.(3)These rules shall come into force from the date [of their publication in the Government Gazette] [With effect from 18.05.2011].

2. Definitions

In these rules unless the context otherwise requires:(a)'Act' means the Jammu and Kashmir Brick Kilns (Regulation) Act 2010.(b)'Appellate Authority' means an Authority appointed by the Government by notification under section 20 of the Act.(c)'Form' means form appended to these rules.(d)All words and expressions used in these rules but not defined shall have the same meanings as is assigned to them in the Act.

3.

Save as hereinafter provided, no manufacturer or dealer shall manufacture or sell or offer to store

for sale or have in his possession for the purposes of sale or for disposal in any other manner of deposit with or consign to any person for the purposes of sale or for storage for sale, bricks except under and in accordance with the conditions of a license granted under these rules. Provided that nothing in the rules shall apply to the existing Brick Kilns for a period of five years from the date of notification subject to general or special directions given from time to time, by the Licensing Authority to improve the existing machinery and for use of improved methods to eliminate air and water pollution.

4. Application for grant of Licence

(1) An application for grant of Licence under section 6 of the Act shall be made to the Licensing Authority in Form 'A'. (2) On receipt of the application under sub rule (1), the Licensing Authority or any officer authorized by him subject to the general or special instructions notified by the Government, from time to time, in this behalf shall; (a) seek the comments/recommendations of the Block Medical Officer or the Chief Medical Officer of the area so as to determine, if the site of the kiln is not detrimental to the health of the general public or to the crops, orchards or nurseries in close proximity and whether the sanitary arrangements proposed to be made at the kiln site are adequate. (b) make on the spot inspection of the land on which the kiln is proposed to be established in order to ascertain that it is not in the close vicinity to any inhabited area religious place, educational institution or any area which is likely to be inhabited and direct the applicant to; (c) obtain a certificate from the concerned Executive Engineer to the effect that the proposed site of brick kiln is not at a distance of less than 100 meters from any public road. (d) obtain a certificate from Deputy Controller Legal Metrology to authenticate the specifications of the mould. (e) given an undertaking for not using any clay from prohibited Agriculture land for manufacturing purpose. (f) obtain N.O.C from State Pollution Control Board. (3) Where the application is allowed, the Licensing Authority shall issue the licence in Form 'B' on payment of fee provided in section 8 of the Act and subject to the conditions mentioned in the said licence. In case the application is rejected, the Licensing Authority may inform the applicant about the grounds of rejection. The decision to issue or reject a licence shall be taken within 3 months of the submission of requisite N.O.C's

5. Application for renewal of licence

(1) The licensee shall make an application for renewal of licence to the Licensing Authority in Form 'C' at-least one month before the expiry of validity of the license. (2) The Licensing Authority shall, before renewing the licence, ensure: (a) that the licensee has not alienated in whole or in part, his ownership of the brick kiln; (b) that the licensee has not sold the bricks at a higher rate or price than that of rates fixed by the Authority from time to time; (c) that the licensee has not without reasonable cause, failed to comply with any of the terms and conditions of the licence or any directions lawfully given by the Licensing Authority or has not contravened any of the provisions of the Act or rules made there-under; (d) that Royalty prescribed by the Geology and Mining Department from time to time has been paid; and (e) that the licensee is not in arrears of any amount of prescribed Tax/Duty and or electric charges/triff. (3) If the licensing Authority is satisfied that the applicant has not contravened any of the provisions of the Act or these rules it shall renew the

licence on payment of the fee provided under section 8 of the Act. Where the Licensing Authority refuses to renew the licence, it shall before issuing such order, give the applicant an opportunity of being heard.

6. Specifications of Bricks

(1) The bricks shall conform to the standards fixed by the Indian Bureau of Standards.(2)The size specifications of the bricks shall be fixed by Divisional Commissioners of respective Divisions.

7. Disposal of stocks

Every manufacturer or dealer whose licence has been suspended or revoked or who has failed to get his licence renewed in time shall dispose of his stocks of bricks within such time and in such manner as may be specified by the Licensing Authority.

8. Display of licence

Every manufacturer shall display his licence at the place where he carries on his business or manufactures the bricks.

9. Fee for duplicate licence

If a licence is lost, destroyed, torn, defaced or mutilated, the licensee shall, through an application forthwith inform the Licensing Authority, who may on payment of Rs. 1000/- as the fee, issue a duplicate licence.

10. Appeals

(1) An appeal under section 20 of the Act against an order passed by the licensing Authority, may be filed by the applicant in the manner specified herein below: -(2)(a)Every Appeal filed shall:-(i)be in writing;(ii)specify the name and address of the appellant and date of the order appealed against;(iii)specify the date on which the order appealed against was communicated to the appellant;(iv)contain a statement of facts of the case and ground relied upon by the appellant in support of the appeal;(v)state the relief applied for; and(b)Every such appeal shall be accompanied by:-(i)an authenticated copy of the order against which appeal is made; and(ii)any other document relating to the appeal.(3)Every appeal shall be submitted to the Appellate Authority in person- by the appellant himself/ herself or by his authorized agent. When the appeal is, presented by an agent, it shall be accompanied by a 'letter of authority', written on a simple paper, appointing him as such agent.(4)On receipt of the appeal, the Appellate Authority shall endorse thereon the date of its presentation and the name of the appellant or his duly authorized agent presenting it, as the case may be.(5)As soon as the appeal, is filed, the Appellate Authority shall peruse the same and if it considers that there are sufficient grounds for proceeding ahead in the matter, it may give notice in Form 'D' to the appellant and the Licensing Authority, with the direction to the appellant present all

the relevant record in support of the appeal.(6)Where the material record is insufficient to enable the appellate authority to come to a definite decision, it may take additional evidence and call for such further relevant material from the appellant or the licensing authority as it deems fit. Such material shall form part of the record only after the party other than the one from whom such record has been received, has been given an opportunity to peruse the same.(7)Where, on the date fixed for hearing or any date to which the hearing of the appeal may be adjourned the appellant or his duly authorized agent does not appear, when the appeal is called for the hearing, the appeal shall be liable to be dismissed.(8)The order passed by the Appellate Authority on the appeal shall be in writing, bearing his seal and signature and shall state the grounds of acceptance or rejections of the appeal.(9)A copy of the order passed in appeal shall be supplied by the Appellate Authority, free of cost, to the appellant and copy thereof shall also be sent to the Licensing Authority.

Form 'A'

Application for Licence Under Section 6 of the Jammu and Kashmir Brick Kilns (Regulation) Act, 2010

To The Licensing Authority, Sir, We/I hereby apply for the grant of licence to establish: (a) New Brick Kilns. (b) Recommence the brick manufacturing operation (c) Operate the existing brick kiln.

1. Name and type of Brick Kiln

2. Name and address of actual kiln owner

3. Name of lessee, if any specifying if the kiln has been leased out

4. Name, parentage and address of the applicant in block letters) (specifying whether he falls in category 2 or 3 above)

5. Name and style of the proposed Brick kiln

6. Location of the kiln

(a) Name of the Village..... (b) Tehsil..... District..... (c) Title of the land..... (d) Kind of the soil..... (e) Khasra No..... (f) Area of the land..... (g) Distance from Abadi Deh, Religious place, Educational Institution, Health institution

7. Site plan of Kiln.....

8. Premises other than kiln (if any) where bricks are stocked or business is carried on ..

9. N.O.C's from as prescribed in sec 6(4) of the Act.

(a) State Pollution Control Board; (b) Divisional Forest Officer concerned; (c) Wild life Warden concerned; (d) Director Geology Mining (e) District Agriculture officer concerned; (f) Chief Medical Officer concerned; (g) The Executive Engineer (PWD/R&B) concerned; and (h) Tehsildar concerned

clearly recording that establishment of brick kiln at the proposed site does not violate the provisions of the Act relating to land use.

10. I/We hereby declare that all the particulars given in the application are correct to the best of my knowledge and nothing has been concealed thereof. An Affidavit in support of the averments made herein above is enclosed.

Dated: Yours faithfully, (Sign. of the applicant). Name _____ Address _____
 _____ Note - In the case of firm, its name with the names of all persons having any interest in the business should be given in paragraph (2) along with a copy of partnership deed duly registered in the court of law. FORM "B" Licence Under Section 6 of the Jammu and Kashmir Brick Kilns (Regulation) Act, 2010 Licence No: Village..... Tehsil..... District..... Name of Prop..... Parentage..... is licensed to manufacture, sell and supply bricks at..... (Here mention the address of the place of business) subject to the conditions of this licence. The licence shall be valid for a period of two year from date of issue, unless suspended or revoked prior to that date. Date Seal Licensing Authority. Renewal Endorsement

Date of renewal	Date of Expiry	Signature of Licensing Authority	Remarks.
1	2	3	4

Conditions of Licence

1. The holder of the licence shall display the licence in conspicuous place on the premises in which he carries on his business.

2. Maintain a register giving an account of sales in the following form:

(1) Date (2) Opening balance of bricks (3) No of bricks manufactured during the day (4) Total of columns (2) and (3) (5) No. of bricks sold or otherwise disposed of during the day. (6) Balance in hand on the last day of month. (7) Remarks.

3. Submit to the licensing authority monthly return of stock of bricks in following form by 7th of the month following the month to which it relates: -

(i) Month; (ii) Opening balance (Stock in hand on the commencement of month); (iii) Number of bricks manufactured during the month; and (iv) Balance in hand on the last day of the month.

4. Maintain any other register or record or supply information that the licensing authority may by general or special order require him to supply.

5. Permit the licensing authority or any other person authorized by him,

(a)To inspect the premises in which bricks are manufactured, kept or stored and the vehicle or animals in which they are transported;(b)To take samples of the different kinds of bricks free of charge;(c)To inspect any records which the holder is required by the conditions of his licence to keep.

6. They shall keep the approved samples at the trading premises.

7. Bill must be issued for every sale.

8. Shall in no case change the location of Brick Kiln without the prior permission of Licensing Authority.

9. Shall fix a 2 x 2 m permanent black coloured board conspicuously at the trading premises indicating information in contrast colour to be read legibly;-

(a)Name of Brick Kiln along with name of Prop.(b)Opening Stock of Bricks class-wise.(c)Sale Price of Bricks class-wise.(d)Displaying the address and phone number of Licensing Authority for the information of consumers in case of any grievance.

Form "C" Application For Renewal Of Licence Under Section 6 (7) Of The Jammu And Kashmir Brick Kilns (Regulation) Act, 2010

To The Licensing Authority, Sir, My/ Our Brick kiln Licence No:.....expires on.....It is requested that the licence may kindly be renewed for a period as admissible under rules. The licence in original is also enclosed. An amount of Rs.has been deposited into Treasury vide Try. Vr. No:dated.....at Try.....is also enclosed in original for renewal. NOCs from the following departments is also enclosed: i. Pollution Control Board. ii. Geology and Mining Department. iii. Commercial Taxes Department. iv. Power Development Department.

Yours faithfully, Signature of the Applicant(s) Name.....Address.....

Form "D" Notice Under Rule 9 To The Jammu And Kashmir Brick Kilns (Regulation) Rules, 2011 (Name and Designation of the appellate Authority)

In the matter of appeal No.....19.....filed under rule 8 of the Jammu and Kashmir Brick Kilns (Regulation) Rules, 2011, by Shri.....S/oR/O.....Whereas, you have filed before this Authority a Memorandum of Appeal against the order.....dated.....passed by the licensing authority; and Whereas, under sub-rule (5) of rule 8 of the Jammu and Kashmir Brick Kiln (Regulation) Rules, 2011 this authority is required to give to the parties an opportunity of being heard. Now, therefore, please take notice that this authority has fixed.....as date of hearing of the aforesaid appeal. The hearing shall take place at.....on that date in the office of the.....You are hereby called upon to appear this authority at the appointed time and date and place, either in person or through a duly authorized agent, and explain your cause. Please take notice that failure on your part to appear on the day of hearing either in person or through a duly authorized agent, without showing sufficient cause to satisfaction of this authority will make your appeal liable to be dismissed or decided ex-parte.

Shri.....Designation.....Appellate Authority

Dated: Notifications, Circulars, Orders, Etc.

Appointment of Licensing Authority SRO 92, dated 23.03.2011, Consumer Affairs & Public Distribution Department

In exercise of the powers conferred by section 5 of the

Jammu and Kashmir Brick Kilns (Regulation) Act, 2010, the Government hereby appoint all the Deputy Commissioners to be the Licensing Authority under the said Act within their respective territorial jurisdiction. Delegation of powers SRO 93, dated 23.03.2011, Consumer Affairs & Public Distribution Department In exercise of the powers conferred by section 19 of the Jammu and Kashmir Brick Kilns (Regulation) Act, 2010, the Government hereby direct that the powers exercisable by it under section 13 of the said Act shall be exercised by the Deputy Commissioners concerned within their respective territorial jurisdiction. Appointment of Divisional Commissioners as Appellate Authorities SRO 94, dated 23.03.2011, Consumer Affairs & Public Distribution Department In exercise of the powers conferred by section 5 of the Jammu and Kashmir Brick Kilns (Regulation) Act, 2010, the Government hereby appoint the Divisional Commissioners to be the Appellate Authorities under the said Act within their respective Divisions.