

West Bengal Cold Storage (Licensing and Regulation) Act, 1966

WEST BENGAL

India

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Act 6 of 1966

- Published on 19 March 1966
- Commenced on 19 March 1966
- [This is the version of this document from 19 March 1966.]
- [Note: The original publication document is not available and this content could not be verified.]

West Bengal Cold Storage (Licensing and Regulation) Act, 1966 West Bengal Act No. 6 of 1966

045.

[19th March, 1966.] An Act to provide for licensing, supervision and control of cold storages. Whereas it is expedient to provide in the public interest for the licensing, supervision and control of cold storages in West Bengal and to deal with matters incidental thereto; And whereas previous sanction of the President under the proviso to clause (b) of article 304 of the Constitution of India has been obtained; It is hereby enacted in the Sixteenth Year of the Republic of India, by the Legislature of West Bengal, as follows :

Chapter I Preliminary

1. Short title, extent and commencement

. (1) This Act may be called the West Bengal Cold Storage (Licensing and Regulation) Act, 1966. (2) It extends to the whole of West Bengal. (3) It shall come into [force] [Came into force on 1st May, 1969, vide Agri. & C.O. Deptt. notification No. 2414-SS&W, dated the 31st March, 1969.] on such date or dates and in such area or areas as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas,

2. Definitions

. In this Act, unless the context otherwise requires, (1) "agricultural produce" includes produce of

agriculture, animal husbandry or horticulture, fish, shell fish and all articles of food or drink wholly or partly made from any of them;(2)"cold storage" means an enclosed chamber insulated in the prescribed manner and mechanically cooled by refrigeration machinery to provide refrigerated condition to things stored therein but does not include refrigerated cabinets and chilling plants having capacity of less than 28.3168 cubic metres;(3)"cold storage receipt" means a receipt issued by a licensee under section 6 and includes a duplicate receipt issued under section 8;(4)["hirer" means a person who hires on payment of the prescribed charges space in a cold storage for storing agricultural produce;] [Substituted by the West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act, 1978, section 2(a).](5)"licensee" means any person to whom or any firm or Co-operative Society to which a licence is granted under section 3;(6)["Licensing Officer" means the Director of Agriculture including the Additional Director of Agriculture (Marketing), West Bengal and also District Magistrates within their respective districts empowered by the Director of Agriculture in this behalf;] [Substituted by the West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act, 1978, section 2(b).](7)"prescribed" means prescribed by rules made under this Act;(8)"term" means a period of 12 months or less ending on the 31st December of any year.

Chapter II

Licensing of cold storages

2A. [Construction of cold storage. No person shall, for the purpose of carrying on business of storing agricultural produce, construct a cold storage without the previous permission in writing of the Licensing Officer in this behalf.] [Inserted by the West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act, 1978, section 3.]

3. [Licensing of cold storage. No person shall start or carry on business of storing, nor any such person, not being a hirer, store agricultural produce in a cold storage, except under and in accordance with the terms of a licence granted under this Act :

Provided that a licensee may store agricultural produce on his own account with permission of the Licensing Officer in the manner prescribed.] [Substituted by *ibid*, Section 4.]

4. Issue of licence and its cancellation

. (1) Every application for the grant of a licence under section 3 shall be made in duplicate to the Licensing Officer in such form and in such manner and shall be accompanied by such fee not exceeding five hundred rupees as may be prescribed.(2)The licence shall be granted by the Licensing Officer in such form and shall be subject to such conditions as may be prescribed.(3)Every licence granted under this Act shall be valid for a period of five years and may, on application by the licensee in the manner prescribed and on payment of the prescribed fee not exceeding two hundred

rupees, be renewed from time to time for a period of two years on each occasion, by the Licensing Officer provided such application for renewal is made at least [forty-five days] [Substituted for "thirty days" by ibid, section 5.] before the expiry of the period of the licence.(4)The Licensing Officer may, after giving the applicant an opportunity of showing cause in such manner as may be prescribed, refuse to grant or renew a licence to any applicant.(5)When a licence is lost, destroyed, torn or defaced, the Licensing Officer shall, on application made in this behalf and on payment of the prescribed fee, issue a duplicate licence in the prescribed manner.(6)The Licensing Officer may, after giving the licensee an opportunity of showing cause in such manner as may be prescribed, cancel any licence granted under this Act for any breach of the terms and conditions of the licence or for any contravention of the provisions of this Act.(7)Where an application for the grant or renewal of a licence is refused or where a licence is cancelled the reasons for such refusal or cancellation shall be recorded in writing and a copy of the same shall be furnished to the applicant.(8)Where an application for the grant or renewal of a licence is refused, the fee, paid by the applicant along with the application, shall be refunded to him.

4A. [Taking over of cold storage in certain cases. (1) Notwithstanding anything contained elsewhere in this Act, if, on the report of the Licensing Officer, the State Government is satisfied that a cold storage is not being managed in accordance with the provisions of this Act, the State Government may, by notification in the Official Gazette, take over the management of such cold storage for a period of three years and appoint a person to manage the cold storage so taken over on such terms and conditions as may be specified in the notification

Provided that the State Government may, if it thinks fit, extend the period by a further period of three years but not exceeding one year at a time :Provided further that in the case of a cold storage managed by a co-operative society registered under any law for the time being in force, the licensing officer shall, before making any report, consult the Registrar appointed under West Bengal Co-operative Societies Act, 1973 (West Bengal Act No. 38 of 1973).(2)On the expiry of the period of taking over (including the period of -extension, if any), the management of the cold storage shall be made over to the licensee.] [Inserted by the West Bengal cold Storate (Licensing and Regulation) (Amendment) Act, 1978, section 6.]

5. Expiry or cancellation of licence and its consequences

. (1) When a licence expires or when the renewal of such licence is refused or when a licence is cancelled, the licensee shall forth-with return the licence to the Licensing Officer but shall nevertheless continue to be liable for the agricultural produce already stored with him and shall be bound by the terms and conditions of any cold storage receipts already issued in respect of any agricultural produce :Provided that the Licensing Officer may, on the application of the hirer, require the licensee to transfer any agricultural produce stored with him to another licensed cold storage chosen by the hirer on payment of the outstanding charges due to the licensee.(2)Where any

licence is cancelled, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to the refund of any fee paid by him for the licence.

Chapter III

Cold storage receipts

6. Cold storage receipts

. For the agricultural produce stored in a cold storage by each hirer, the licensee shall issue a cold storage receipt in the prescribed form containing particulars relating to the agricultural produce [and the receipt shall bear a stamp of the value as required under the provisions of the Indian Stamp Act, 1899 and such stamp duty shall be paid by the licensee] [Inserted by the West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act, 1978, section 7.].

7. Cold storage receipts to be transferable by endorsement and delivery

. A cold storage receipt shall, unless it is otherwise specified thereon, be transferable by endorsement and delivery and shall entitle any lawful holder thereof to receive the agricultural produce specified in it as if he were the original hirer.

7A. [Advance of money by licensee. A licensee may advance money to a hirer storing agricultural produce up to five quintals on pledge of cold storage receipt. The sum advanced shall bear such interest as may be prescribed] [Inserted by ibid, section 8.]

8. Duplicate cold storage receipt

. If a cold storage receipt is lost, destroyed, torn or defaced, the licensee shall, on application by the hirer and on payment by him of the prescribed fee, issue a duplicate cold storage receipt in accordance with such rules as may be prescribed.

Chapter IV

Duties of the Licensee

9. Reasonable care of the agricultural produce stored

[(1)] [Original section renumbered as sub-section (1) thereof by ibid, section 9.] Every licensee shall take such care of the agricultural produce stored in his cold storage as a man of ordinary prudence would take care of his own goods under similar circumstances and shall provide the hirers concerned with all reasonable facilities for inspection, weighing, measuring, sampling and grading of the agricultural produce stored, in such manner as may be prescribed.(2)[Subject to the

provisions of sub-section (2) of section 10, no licensee shall, without any reasonable excuse, refuse space to a hirer, being a co-operative society or a grower of agricultural produce, offering to store agricultural produce up to ten quintals :Provided that any dispute arising in this respect may forthwith be referred to the District Agricultural Marketing Officer or the Sub-Divisional Agricultural Officer having jurisdiction over the area where the cold storage is located or such other officer as the Licensing Officer may nominate in this behalf. Such Officer shall as far as possible give his award in respect of the dispute within seven days and the said award shall be final and binding on the parties to the dispute. In giving the award such officer shall be competent to order payment of compensation for any loss or damage suffered by either of the parties to the dispute and payment of compensation shall be effected within seven days from the date of the award. Any failure to comply with the award shall be a contravention of the provisions of this Act.] [Inserted by *ibid.* section 9.]

10. Due maintenance of cold storage

[(1) (a) Every licensee shall maintain his cold storage including generator of adequate capacity in accordance with such terms and conditions of the licence and in conformity with such sanitary, electrical and other requirements as may be prescribed. (b) No licensee shall effect any improvement, renovation or addition to a cold storage without the previous permission of the Licensing Officer in such manner as may be prescribed. Explanation. The expression 'improvement' means any major work involving a basic change in the refrigeration system, but does not include minor functional adjustment.] [Substituted by *ibid.*, section 10.] (2) No licensee shall accept for storing any agricultural produce which is likely to cause damage to other agricultural produce that has been or may be stored in the same cold storage. (3) If there is any dispute as to whether any agricultural produce proposed to be stored in a cold storage is likely to cause damage to any other agricultural produce that has been or may be stored in the same cold storage, the matter shall be referred to the Licensing Officer whose decision thereon shall be final.

11. Preservation of identity of the agriculture produce

. Every licensee shall keep the agricultural produce of one hirer separate from the agricultural produce of other hirers and from other agricultural produce of the same hirer for which a separate receipt has been issued, in such a manner as to permit at all times of the identification and delivery of the agricultural produce stored in his cold storage.

12. Disposal of agricultural produce deteriorating in the cold storage

. (1) Whenever agricultural produce stored in a cold storage deteriorates or shows signs that it is about to deteriorate from causes beyond the control of the licensee, the licensee shall forthwith give notice of the fact to the Licensing Officer and to the hirer requiring the hirer to take delivery of the agricultural produce immediately, after surrendering the cold storage receipt duly discharged and paying all charges due to the licensee. (2) If the hirer does not, within a reasonable time, comply with the notice given to him under sub-section (1), the licensee may cause the agricultural produce to be removed from the cold storage and sold in the prescribed manner by public auction at the cost and

risk of the hirer.(3)The proceeds of a sale held under sub-section (2) shall be made over by the licensee to the hirer after deducting therefrom all amounts due to the licensee on account of charges for the storing of the agricultural produce and the costs of the sale.

13. Liability of licensee for storage or excess in agricultural produce stored

. (1) For the purpose of sub-section (1) of section 12, loss of weight or bulk by dryage or shrinkage or gain in weight or bulk by absorption of moisture shall not be deemed to amount to deterioration or showing signs of deterioration, if the loss or gain does not exceed such limits as may be prescribed.(2)If there is any excess in the weight or bulk of agricultural produce stored in a cold storage by absorption of moisture or other causes, the licensee shall not be entitled to such excess.(3)If there is any shortage in the agricultural produce stored in a cold storage by dryage or shrinkage or other causes beyond the control of the licensee, the licensee shall not be responsible therefor.(4)In the event of a dispute arising as to whether such shortage or excess is due to dryage or shrinkage or absorption of moisture or is due to other causes beyond the control of the licensee, the matter shall be referred to the Licensing Officer whose decision thereon shall be final

14. Delivery of agricultural produce

. (1) Every licensee shall, in the absence of reasonable excuse, without unnecessary delay, deliver the agricultural produce stored in his cold storage to the hirer on demand made by him and on surrender of the cold storage receipt duly discharged and payment of all charges due to the licensee.(2)Subject to any agreement between the licensee and the hirer, the hirer may take delivery of part of the agricultural produce stored in a cold storage.

15. [Insurance of agricultural produce in cold storage. Cold storage building, cold storage machinery and the agricultural produce stored in a cold storage shall be insured against such items of risks and with such Insurance Company or Companies as may be determined by the Licensing Officer from time to time :

Provided that pro-rata premium in respect of the agricultural produce only shall be paid by the hirer in such manner as may be prescribed.] [Substituted by the West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act, 1978, section 11.]

16. Discrimination prohibited

. Save as provided in sub-section (2) of section 10, no licensee, in the conduct of his business, shall refuse to accept for storing in his cold storage, agricultural produce tendered by any person when there is accommodation in his cold storage for storing such agricultural produce.

17. Accounts, etc. to be maintained

. A licensee shall maintain such accounts, books and records and in such form and manner as may be prescribed.

18. [Submission of returns. (1) Every licensee shall submit to the Licensing Officer such fortnightly returns and other returns as the Licensing Officer may require in such form and in such manner as may be prescribed, in respect of each class of agricultural produce stored by him or his hirers. (2) Any contravention of the provisions of sub-section (1) shall be punishable under section 21.] [Substituted by *ibid*, section 12.]

19. Licensee to comply with directions

. Every licensee shall be bound to comply with such direction or order as may be issued to him by the Licensing Officer under this Act and any failure to comply with such direction or order within the period of thirty days shall be deemed to be contravention by the licensee of the provisions of this Act.

19A. [Transfer of cold storage. (1) A licensee shall, before transferring his cold storage, give previous notice to the Licensing Officer in such form and within such time as may be prescribed.

(2)On receipt of the notice under sub-section (1) the Licensing Officer shall inspect the cold storage and may issue such direction to the licensee as may be necessary in respect of the agricultural produce stored in such cold storage.(3)Notwithstanding such transfer the licensee shall continue to be liable for the agricultural produce already stored with him and shall be bound by the terms and conditions of any cold storage receipt already issued in respect of any agricultural produce.]
[Inserted by *ibid*, section 13.]

Chapter V

Miscellaneous

20. Powers of the Licensing Officer

. The Licensing Officer may with a view to securing compliance with this Act (a)require any licensee to give any information which may be required by the Licensing Officer with respect to the cold storage run by the licensee,(b)enter upon and inspect the premises, books and other relevant documents of any licensee at any time with a view to satisfying himself that the requirements of this Act are being complied with,(c)collect, on payment, samples of agricultural produce stored in any cold storage and get them analysed at any Laboratory selected for the purpose, and(d)prohibit by an

order in writing further storage or disposal of any agricultural produce in respect of which he has reason to believe that any contravention of this Act has taken place.

20A. [Licensing Officer to decide disputes between the licensee and the hirer. In case of any dispute between the licensee and the hirer in respect of weighing, measurement, sampling, grading and payment of compensation, such dispute shall be referred to the Licensing Officer whose decision in the matter shall be final. The Licensing Officer shall also decide any dispute arising out of the provisions of section 12 regarding damage to or deterioration of agricultural produce stored in a cold storage.

20B. Constitution of expert committee.

(1) The State Government may, with a view to securing expert opinion for efficient management of cold storage, constitute, by notification in the Official Gazette, one or more expert committees with such number of official and non-official members and on such terms and conditions as may be prescribed.(2)The members of the expert committee shall be appointed by the State Government.(3)The State Government shall appoint one of the members as the Chairman and another as Convenor.(4)The expert committee shall submit its report along with recommendation to the State Government within such period as may be fixed by the State Government :Provided that the State Government may vary, alter or add to the terms and conditions referred to in sub-section (1) as may be necessary and may also extend the period referred to in sub-section (4).

20C. Power of State Government to issue direction.

On receipt of the report and the recommendation of the expert committee under section 20B, the State Government shall examine the same and may issue such direction or order as it thinks fit and proper :Provided that the State Government may, if it considers it necessary so to do in the public interest, modify, alter or rescind the direction or order.

20D. Licensee to comply with the direction or order of the State Government.

Every licensee shall be bound to comply with the direction or order issued by the State Government under section 20C, within such period as may be specified therein and failure to comply with such direction or order shall be a contravention of the provisions of this Act.

20E. Dissolution of expert committee.

If at any time the State Government considers it necessary so to do, it may, by notification in the Official Gazette, dissolve any expert committee constituted under section 20B.] [Section 20A to 20E inserted by West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act 1978, section 14.]

21. Penalty

. (1) Any person, who starts or carries on a cold storage business or stores agricultural produce in a cold storage without having a valid licence under this Act or contravenes any provision of this Act or the rules made thereunder or cancels, destroys, mutilates or defaces any book or other document with a view to evading the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both and for continuance of such contravention the person concerned shall be liable to an additional fine of fifty rupees per day so long as the contravention continues or so long as the orders and directions validly given are not complied with. (2) Where an offence punishable under this section is committed by any employee or agent of a trader on behalf of such trader, unless he proves that the offence was committed by his employee or agent without his knowledge and without his consent, and his employee or agent by whom the offence was committed, shall both be deemed to be guilty of the offence. (3) If the person committing an offence punishable under sub-section (1) is a company, the company and every director, manager, secretary or agent of the company, unless such director, manager, secretary or agent proves that the offence was committed without his knowledge or consent, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished.

22. Cognizance of offence and arrest without warrant

. (1) An offence punishable under this Act shall be cognizable. (2) Any police officer not below the rank of a Sub-Inspector of Police may arrest without warrant any person against whom a reasonable complaint has been made or credible information has been received of his having been concerned in any offence punishable under this Act.

23. [Contract or agreement form. xxx] [Omitted by the West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act, 1978, section 15.]

24. [Compensation payable for loss or deterioration of agricultural produce stored in a cold storage. (1) In the event of any loss of or deterioration in any agricultural produce stored in a cold storage caused on account of any negligence of the licensee or any defect in the refrigeration machinery, the hirer may, within thirty days from the date of detection of such loss of deterioration by him, apply in writing to the Licensing Officer for assessing the compensation payable by the licensee on account of such loss or deterioration.] [Substituted by ibid, section 16.]

Explanation. In this sub-section burden of proof that the loss or deterioration was caused beyond the control of the licensee shall lie on the licensee. (2) The Licensing Officer on receipt of an application under sub-section (1) shall cause an enquiry to be made in accordance with such procedure as may be prescribed and shall also assess the amount of compensation payable by the

licensee to the hirer.(3)The Licensing Officer may also on his own motion cause the enquiry to be made in the matter of any loss or deterioration in any agricultural produce stored in a cold storage and pass such orders as to the amount of compensation payable by the licensee to the hirer as he thinks proper and just.(4)In case of any dispute between the licensee and the hirer as to the amount of compensation to be paid. the Licensing Officer shall settle the dispute as expeditiously as possible and shall also make an order determining the amount of compensation payable by the licensee who shall make payment of the compensation to the hirer within two months from the date of the order, whether any claim against insurance of any, is settled or not.(5)In determining the amount of compensation payable by the licensee, the Licensing Officer shall take into account the market price of the agricultural produce at the time of detection of loss or deterioration :Provided that in case of agricultural produce stored for seed purposes, such amount of compensation shall be twenty per cent. higher than that of other agricultural purposes.(6)If the compensation or any portion of it remains unpaid after the date specified in the order passed under sub-section (4), the same shall be recoverable as an arrear of land revenue.(7)The licensee shall also be required to furnish fortnightly reports regarding settlement of compensation cases.

25. [Tribunal. (1) The State Government shall, by notification in the Official Gazette, constitute a Tribunal consisting of three members of whom one shall be an officer of the Central Government and the others of the State Government.

(2)The Tribunal shall meet at such times and places and shall observe such procedure in regard to the transaction of business at its meetings as may be prescribed.(3)Any person aggrieved by an order of the Licensing Officer (a)refusing permission under section 2A, or(b)refusing to grant or renew a licence or cancelling a licence under section 4, or(c)refusing permission under clause (b) of sub-section (1) of section 10, or(d)assessing compensation under section 24,may, within thirty days from the date of such order, prefer an appeal to the Tribunal, and the decision of the Tribunal thereon shall be final.(4)Appeals, if any, pending before the State Government or the Director of Agriculture, West Bengal, on the date of coming into force of the West Bengal Cold Storage (Licensing and Regulation) (Amendment) Act, 1978, shall be disposed of by the State Government or the Director of Agriculture, West Bengal, as the case may be.] [Substituted by *ibid*, section 17.]

26. Bar to suits and legal proceedings

. No suit or legal proceeding shall lie against the State Government and no suit. prosecution or legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or the rules made thereunder.

26A. [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.]
[Inserted by the West Bengal cold Storage (Licensing and Regulation)
(Amendment) Act, 1978, section 18.]

27. Licensing Officers to be public servant

. The Licensing Officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

28. [Power to exempt. The State Government may, by notification in the Official Gazette, and for reasons to be recorded in writing, exempt any licensee from the operation of all or any of the provisions of this Act :

Provided that the State Government may, subject to such conditions and restrictions as it may impose, delegate the power under this section to the Licensing Officer.] [Substituted by ibid section 19.]

29. Power to make rules

. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :(a)any matter which, under any provision of this Act, either expressly or by implication, is required to be prescribed or to be provided for by rules;(b)the granting of licences by the Licensing Officer to persons entitling them to act as weighers, measurers, samplers and graders of any agricultural produce stored or to be stored in a cold storage including the manner of making applications, fees to be paid, and qualifications necessary, for the purpose, the period of validity, the method of obtaining renewal together with the fees to be paid for such renewal, or the grounds of cancellation, of such licences, and the facilities to be granted and the authorities to be exercised by the holders of such licences;(c)priorities to be allowed to co-operative societies for storing their agricultural produce in a cold storage.