

# The Jammu and Kashmir Handicrafts (Quality Control) Act, 1978

JAMMU & KASHMIR

India

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### Act 4 of 1978

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The Jammu and Kashmir Handicrafts (Quality Control) Act, 1978 Act No. 4 of 1978 [Received the assent of Governor on 7th April, 1978 and published in Government Gazette dated 8th April, 1978.] An Act to provide for the Improvement of Quality of Handicrafts of Jammu and Kashmir so far as regards their production. Be it enacted by the Jammu and Kashmir State Legislature in the India as follows :-

### 1. Short title, extent and commencement.

(1) This Act may be called the Jammu and Kashmir Handicrafts (Quality Control) Act, 1978. (2) It shall extend to the whole of the State. (3) [ It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint and different dates may be appointed for different handicrafts and for different areas.] [Enforced vide SRO-12 of 1997 w.e.f. 7th January, 1997.]

### 2. Definitions.

- In this Act, unless the context otherwise requires:- (a) "Competent authority" means a person authorised by the Government, by notification in the Government Gazette, to perform all or any of the functions of the competent authority under this Act; (b) "Council" means the Handicrafts Quality Control Council constituted under section 3; (c) "Dealer" means a person carrying on the business of selling or buying of notified handicrafts in retail or wholesale; (d) "Notified handicraft" means a handicraft article as the Government may, by notification in the Government Gazette notify; (e) "Q. C. Mark" means an exclusive identifying quality control mark approved by the Government as representing the goods of a particular notified handicraft; (f) "Manufacturer" means a person who manufactures a notified handicraft or gets it artistically done up by hand either in his own 'Karkhana' or establishment or through others under his instructions and / or / on contract

basis;(g)"Prescribed" means prescribed by the rules made under this Act.

### **3. Constitution of the Council.**

(1)As soon as may be, after the commencement of this Act, the Government shall, by notification in the Government Gazette, constitute a Council.(2)The Council shall consist of not less than seven and not more than fifteen members to be nominated by the Government by notification in the Government Gazette. The Council shall be chaired by such person as may be appointed by the Government by notification in the Government Gazette and the Chief Inspector shall be the Member-Secretary of the Council:Provided that representation in the Council shall be secured for persons having special knowledge and practical experience in the matters relating to handicrafts.(3)The members of the Council shall hold office for such period, and shall be eligible for renomination under such conditions, as may be prescribed.(4)The non-official members shall be entitled to such allowances for attending the meetings of the Council as may be prescribed.(5)No act or proceeding of the Council shall be invalid by reasons only of the existence of any vacancy amongst its members or any defect in the constitution thereof.(6)The Council may associate with it any person from amongst the persons having special knowledge and practical experience in matters relating to handicrafts and such person shall have a right to take part in the meeting of the Council but shall not be entitled to vote.

### **4. Removal of members and filling of vacancies.**

(1)The Government may, by notification in the Government Gazette remove any member of the Council on any of the following grounds :-(i)gross misconduct;(ii)neglect of duty;(iii)failure to attend three successive meetings of the Council;(iv)if his conduct as member of the Council, makes his continuance in office undesirable or his removal desirable in the public interest.(2)When a seat of a member becomes vacant by his removal, resignation, death or otherwise, a new member shall be nominated in his place and such member shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred.

### **5. Functions of the Council.**

(1)It shall be the duty of the Council to advise on such measures, as it thinks fit, for the improvement of quality of handicraft.(2)Without prejudice to the generality of the foregoing provision and subject to the approval of the Government, the measures referred to therein may provide for :-(a)determination of qualities and standards of handicrafts together with specifications thereof;(b)determination of the manner in which sub-standard handicrafts may be disposed of;(c)the supply of technical advice to manufacturer;(d)the collection of statistics from manufacturers and dealers;(e)the form, size etc. of stamps to be stamped or patched to such handicrafts and other conditions to be observed in this respect;(f)the persons by whom and the place where physical, chemical or laboratory inspections, as the case may be, for any notified handicraft, may be made, and the procedure therefor ;(g)such other matters as may be prescribed including the identifications of Jammu and Kashmir Handicrafts.(3)It shall also be the duty of the Council :-(a)to give effect to such directions in the performance of its functions as the Government

may issue to it from time to time ;(b)to advise the Government on all matters, relating to the improvement of the quality of handicrafts;(c)to submit to the Government yearly reports on its activities and the working of this Act.(4)The Council may set up any Committee of specialists for conducting investigation on any problem relating to improvement of quality of the handicrafts.

## **6. Registration of manufacturers and dealers.**

(1)Every manufacturer of, and dealer in, a notified handicraft shall, within a period of three months from the date of commencement of this Act, apply to the competent authority for registration as a manufacturer or dealer, as the case may be. The application shall be made in such form and shall be accompanied by such fee as may be prescribed :Provided that the competent authority may, for reasons to be recorded in writing, extend the period for such registration up to six months.(2)Every person who commence manufacturing of or dealing in any notified handicraft after the commencement of this Act, shall get himself registered as manufacturer or dealer, as the case may be, within six months of commencing his business in the same manner as is provided in sub-section (1).(3)The registration once made shall be renewable after every five years from the date of registration on payment of such fee, as may be prescribed.(4)Notwithstanding anything contained in sub-section (1) and (2), a manufacturer of, and a dealer in, a handicraft shall not be required to get himself registered, if he stands already registered for such a handicraft under any other law for the time being in force :Provided that the requirements in respect of such registration as laid down by, or under this Act, shall be complied with by such manufacturer or dealer as if he is registered under this Act.

## **7. Allotment of Q. C. Mark.**

- As soon as may be, not later than three months or any extended period as may be approved by the Government after registration is effected, every registered manufacturer shall be allotted by the competent authority a mark which shall be stamped on a handicraft manufactured by him.

## **8. Prohibition of improper use of Q. C. Mark.**

(1)No manufacturer or dealer shall use in relation to any notified handicraft any Q. C. Mark other than that allotted by the competent authority.(2)No manufacturer or dealer shall notwithstanding that he has been registered, use in relation to any notified handicraft the Q. C. Mark unless such handicraft conforms to the quality and standard determined by the Council.

## **9. Appointment of Chief Inspector.**

- The Government may, by notification in the Government Gazette, appoint any person as Chief Inspector for purposes of this Act who shall exercise such powers and perform such duties as may be prescribed.

## **10. Appointment of Inspectors.**

(1)The Government or any officer authorised by it in this behalf may, by notification in the Government Gazette, appoint such persons as it or he thinks necessary, to be Inspectors for the purposes of this Act and every such Inspector shall exercise the powers and perform duties under this Act within such local areas as may be assigned to him:Provided that no person who has any financial or other interest in the manufacture or sale of notified handicraft shall be so appointed.(2)The Chief Inspector and every Inspector shall be deemed to be a public servant within the meaning of section 21 of the State Ranbir Penal Code, Samvat 1989.

## **11. Control.**

(1)The general superintendence and control over the Chief Inspector and Inspectors shall vest in such person as the Government may by notification in the Gazette, appoint.(2)Subject to the control of the persons appointed under sub-section (1), the Inspectors shall be subordinate to and under the control of the Chief Inspector.

## **12. Powers of Inspectors.**

(1)Subject to any rules made by the Government in this behalf, an Inspector shall have power to :- (a)enter and search at all reasonable times and with such assistance, if any, as may be necessary, any place or premises where he has reason to believe that notified handicraft is manufactured, sold or stocked ;(b)examine the notified handicraft manufactured sold or stocked in such place or premises with a view to ascertaining the quality, size and specification of such handicraft;(c)require the production of any register or any other document kept in pursuance of this Act or the rules made thereunder and take on spot or otherwise statement of any person which he may consider necessary for carrying out the purposes of this Act:Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself;(d)seize any stock of notified handicraft in respect of which he has reason to believe that contravention of any of the provisions of this Act or the rules made thereunder has been or is being committed, and thereafter take all measures necessary for securing the production of stocks so seized in a court or for their safe custody, pending such production.(2)The provision of sections 102 and 103 of the Code of Criminal Procedure, Samvat 1989, relating to searches and seizures, shall so far as may be, apply to searches and seizures under this section.

## **13. Maintenance of Registers etc.**

- Every manufacturer of, and dealer in a handicraft shall maintain such registers and records and display such notices, in such manner, as may be prescribed.

#### **14. Power to obtain information etc.**

- Every manufacturer or dealer shall supply to the Government or any officer authorised by it in this behalf such information, and with such samples of any raw material or substance used in relation to any handicraft, as the Government or the officer authorised may require.

#### **15. Delegation of powers.**

- The Government may, by notification in the Government Gazette, direct that any power exercisable by it under this Act except under section 23 shall in relation to such matters and subject to such conditions, if any, be exercisable also by the Council or any officer of the Government.

#### **16. Protection of action taken in good faith.**

(1) No suit, prosecution or other legal proceeding shall lie against the Council or any officer or employee of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. (2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

#### **17. Penalty for improper use of Q.C. Mark.**

(1) Any manufacturer or dealer who contravenes the provisions of section 8, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than five hundred rupees and which may extend to ten thousand rupees or with both. (2) Any court trying a contravention under sub-section (1) may direct that any handicraft in respect of which the contravention has taken place shall be forfeited to the Government.

#### **18. Penalty for obstructing Inspectors.**

- Any person who wilfully obstructs the Chief Inspector or an Inspector in the exercise of any power conferred on him by or under this Act, or any person lawfully assisting the Chief Inspector or an Inspector in the exercise of such powers, or who fails without sufficient cause to comply with any lawful direction made by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

#### **19. Penalties.**

- Any person who contravenes any provision of this Act other than those referred in section 17 and 18 or any rule made thereunder shall be punishable with imprisonment for a term which may extend to six months or with a fine which shall not be less than two hundred rupees and which may extend

to two thousand rupees or with both, and where such contravention relates to section 6 of this Act, he shall be punishable with a further fine not exceeding one hundred rupees for each day on which the contravention continues after conviction.

## **20. Penalty where the person contravening in firm or a company.**

- If the person who contravenes any of the provisions of this Act is a company or a firm, every Director, Partner, Manager or Secretary thereof shall, unless he proves that the contravention or non-compliance took place without his knowledge or that he exercised all due diligence to prevent such contravention or non-compliance be deemed to be guilty of such contravention or non-compliance.

## **21. Cognizance of offences.**

- No court shall take cognizance of any offence punishable under this Act except on written complaint made by an Inspector in that behalf.

## **22. Exemptions.**

- The Government may, on the recommendation of the Council, exempt any manufacturer or dealer from all or any of the provisions of this Act. The power to grant exemption, shall, however, be limited to the stocks held by a manufacturer or dealer on the date of commencement of this Act: Provided that it shall be the responsibility of such manufacturer or dealer to get such stocks inspected by the Inspector appointed under this Act and a proper inventory drawn up of such stocks with periodic intimation to the Chief Inspector as to the disposal of such stocks : Provided further that the manner of submission of periodic reports and drawing up of the inventory and other connected matters shall be regulated in such manner as may be prescribed.

## **23. Power to make rules.**

(1) The Government may by notification in the Government Gazette, make rules to carry 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) the procedure to be followed at meetings of the Council for the conduct of business, and the number of members which shall form a quorum at any meeting ; (b) the holding of a minimum number of meetings of the Council every year ; (c) the travelling and other allowances of members of the Council, associated members and members of Committees set-up under sub-section (4) of section 5 ; (d) the maintenance of the registers and other records of the Council ; (e) the collection of any information or statistics in respect of any handicrafts ; (f) the form of application for registration under section 6 and the fee payable thereof ; (g) the procedure to be followed in renewing registration and the fee payable on such application ; (h) the manner in which any handicrafts shall be marked ; (i) the manner in which manufacturers and dealers shall maintain registers and records ; (j) any other matter which is to be or may be prescribed.