

The U.P. Cement Control Order, 1973

UTTAR PRADESH

India

The U.P. Cement Control Order, 1973

Rule THE-U-P-CEMENT-CONTROL-ORDER-1973 of 1973

- Published on 9 May 1973
- Commenced on 9 May 1973
- [This is the version of this document from 9 May 1973.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Cement Control Order, 1973Published vide Notification U.P. Gazette, (Extraordinary), dated 9th May, 1973, vide Notification No. 3385/29-AV-2-27, (CM)-72, dated May 9, 1973Whereas the State Government is of opinion that it is necessary and expedient so to do for maintaining supplies and for securing the equitable distribution and availability of the cement at fair prices;Now, therefore, in exercise of the powers under Section 3 of the Essential Commodities Act, 1955 (No. X of 1955), read with Government of India, Ministry of Commerce, Order No. S.O. 1844, dated June 18, 1966 and all other powers enabling him in this behalf, the Governor, with the prior concurrence of the Central Government, is pleased to make the following Order:

1. Short title, extent and commencement.

(1)This Order may be called the Uttar Pradesh Cement Control Order, 1973.(2)It extends to the whole of Uttar Pradesh.(3)It shall come into force at once.

2. [Definitions. - In this Order unless the context otherwise requires,-

(a)'Loose sale' means sale of less than one bag of cement at any one time to consumer;(b)'Wholesale' means sale of cement by a company;(c)'Enforcement Officer' means the Food Commissioner, Additional Food Commissioner, Deputy Food Commissioner, Assistant Food Commissioner, the District Magistrate, the Additional District Magistrate, the Sub-Divisional Magistrate, the District Supply Officer and includes any other officer authorised by the State Government to exercise the powers and perform the functions of Enforcement Officer under this Order;(d)'Retail-sale' means the sale of cement by a licensed dealer;(e)'State Government' means the Government of Uttar Pradesh;(f)'Licensing Authority' means the District Magistrate, and includes any officers appointed as such by the District Magistrate, not below the rank of a District Supply Officer;(g)['Licensed dealer' means a person-(i)who is granted a licence in Form B annexed to the Order, to carry on the business of purchase, storage and sale of cement in retail and regular or temporary basis; or(ii)who, being a dealer in building materials, is granted licence in Form 'D' annexed to this Order [* * *] for

the purpose of carrying on the business of the sale of cement in loose to actual consumers;](h)'Cement' means any variety of cement manufactured in India, and includes Portland Pozzolana cement, blast furnace slag cement, water proof (hydrophobic) cement, rapid hardening cement, low heat cement, masonry cement and high strength ordinary portland cement but does not include oil-well cement and white and coloured cement (other than grey-portland cement);(i)'Cement company' means a company manufacturing cement and includes any person carrying on the business of distribution of cement for or on behalf of such company as sole agent or sole distributor or wholesaler.]

3. [Restrictions on retail and loose sale. [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]

- No person shall sell or offer for sale or store for sale or carry on business in retail or loose sale of cement in Uttar Pradesh, except under and in accordance with the terms and conditions of a licence granted under this Order or by any general or special permit granted by the Licensing Authority:[Provided that a separate licence shall be necessary for each place of business:Provided further that such dealers as have been carrying on business of sale of cement immediately prior to the commencement of this Order may after applying for a licence and depositing security money and licence fee within three months from the date of this Order continue to do so.] [Substituted by Cement Control (First Amendment) Order, 1978, vides Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]]

4. [Restrictions on wholesale. - No person, except a cement company shall sell cement by wholesale and no cement company shall sell cement for re-sale to any person who does not hold a valid licence in Form 'B' annexed to this Order.] [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]

4A. [Issue of licence. - (1) Every application for a licence or renewal thereof shall be made to the Licensing Authority in Form 'A' or 'C' annexed to this Order.

(2)Every licence issued, re-issued or renewed under this Order shall be in Form 'B' or 'D', and shall be subject to the conditions specified therein.] [Substituted by Cement Control (First Amendment) Order,1978, vide Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]

4B. [Fees for and validity of licences.] [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.] - (1) The fees specified below shall be chargeable in respect of each licence, namely-

(a) Licence in Form 'B'	Rs.
for issue of licence	... 50
for renewal of licence	... 25
for issue of a duplicate licence	... 25
(b) Licence in form 'D'	
for issue of licence	... 25
for renewal of licence	... 10
for issue of duplicate licence	... 10

[Provided that on an application for renewal submitted within 30 days prior to the date of expiry of licence, a-late fee of Rs. 10 shall also be payable:] [Inserted by U.P. Cement Control (Second Amendment) Order, 1978, dated 8.8.1978.] Provided [further] [Inserted by U.P. Cement Control (Second Amendment) Order, 1978, dated 8.8.1978.] that if any licence submitted at the time of renewal is found to be illegible or mutilated, the Licensing Authority shall issue a duplicate copy thereof free of charge. (2) Every licence granted under this Order shall be valid for the financial year or part thereof ending on 31st day of March of the year in which it is granted and, on an application made at least 30 days prior to the date of expiry of the licence, it may be renewed for a period of one year at a time: Provided that where an application for renewal of a licence has not for any reason been disposed of until the 31st day of March, the licence shall be deemed to be valid as if renewed until the time of its renewal is refused or till the end of the year for which the application is made, whichever is earlier.

4C. [Deposit of security. [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/ XXXIX-AV-2-79(CM)-76, dated 13.3.1978]

- Every person applying for licence in Form B' shall before his licence is issued to him deposit with the Licensing Authority security of the value of Rs. 1,000 for due performance of the conditions of the licence and compliance of other provisions of this Order.]

4D. [Renewal, suspension or cancellation of licence. [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/ XXXIX-AV-2-79(CM)-76, dated 13.3.1978]

(1) The Licensing Authority may grant or for reasons to be recorded refuse to grant or renew a licence: Provided that if the Licensing Authority fails to communicate refusal of an application for the grant of a new licence within 6 months of its receipt then the applicant shall be deemed to have been granted the licence and he shall be entitled to deal in cement. (2) If any licensed dealer or his agent or any other person acting on his behalf, violates any provisions of this Order, or any other law, regulation or order for the time being in force, then, without prejudice to any other action that may be taken against him, the Licensing Authority may, for reasons to be recorded in writing, suspend the licence of the dealer, and forward a copy of the same to the cement companies

concerned for stoppage of further supply of cement to the dealer. The Licensing authority will simultaneously serve a copy of the said suspension order on the dealer, call for his explanation and then pass final orders whether the supply may be renewed or stopped forever.]

4E. [Forfeiture of security deposit. - (1) Without prejudice to the provisions of clause 4-D, if the Licensing Authority on perusal of the dealer's explanation, is satisfied that the dealer's default does not call for cancellation of his licence and the ends of justice would be met by forfeiture of his security deposit, he may by order forfeit the whole or any part of the security deposited by him and communicate a copy of the order to the licensee:

Provided that where the security has been forfeited in full or part the licensee may carry on his business only after depositing the amount so forfeited.(2)Upon due compliance by the licensee with all obligations under the licence amount of security of such part thereof which is not forfeited as aforesaid shall be returned to the licensee after the termination of the licence.] [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]

4F. [Appeal. - (1) Any person aggrieved by any order of the licensing authority refusing to grant, renew or restore a licence or cancelling or revoking a licence or forfeiting the security deposited by the licensee under the provisions of this Order may prefer an appeal to the Divisional Commissioner within thirty days from the date of receipt of such order.

(2)No order shall be made under this clause unless the aggrieved person has been afforded a reasonable opportunity of stating his case.(3)Pending the disposal of an appeal, the Divisional Commissioner, may direct that until the appeal is decided the order refusing to renew a licence shall not take effect or the order cancelling a licence shall not debar a licensee from depositing his existing stock.] [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/ XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]

5. [Restriction on movement of cement. - No person shall carry or attempt to carry or abet the carrying by rail or by motor vehicle or any other mechanised vehicle or vessel or any other mode of transport cement from any place in one district to any place outside the district, except under and in accordance with a permit issued by the Licensing Authority of the district from which cement is to be dispatched:

Provided that nothing in this sub-clause shall apply to-(i)the movement of cement on Government account or under and in accordance with a military credit note; or(ii)the movement of cement from the place of manufacture or regular dump to any place outside the district; or(iii)the movement of

cement by any cement company or its representative or distributor.]

6. [Retail price. - (1) No dealer holding licence in Form 'B' shall sell cement at a price exceeding the price fixed by the Licensing Authority of the district in consultation with the cement company having due regard to-

(i)F.o.r. price;(ii)handling charges (including charges in respect of packing or container and transporting charges);(iii)godown charges;(iv)commission of an agent, distributor, wholesaler or dealer;(v)local taxes;Provided that it shall not be necessary for the licensee to get the retail price fixed for every consignment. The retail price once fixed by the Licensing Authority shall remain operative until there is any change in any of the aforesaid constituents thereof.(2)No dealer holding licence in Form 'D' shall charge a profit of more than ten paise per kilogram on the cost price.] [Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]

7. [Counter-signature of railway receipts or road transport receipt by Licensing Authority. - No consignment of cement shall be taken delivery of by any person at any railway station or at any road transport station in Uttar Pradesh unless the railway receipt or road transport receipt, as the case may be, in respect of the consignment has been countersigned by the Enforcement Officer of the district in which such delivery is to be taken:

Provided that the receipt shall be countersigned without delay and returned to the licensee on the same day on which he produces it. In the absence of the Licensing Authority, any officer under him not below the rank of a Supply Inspector shall be authorised to countersign on behalf of the Licensing Authority.] [Substituted by U.P. Cement Control (Second Amendment) Order, 1978, dated 8.8.1978]

8. Power to direct sale and disposal.

- The [Licensing Authority] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] may, by a written order require any person holding stock of cement to sell the whole or any part of the stock to such person or class of persons as may, in the opinion of the [Licensing Authority] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.], be genuine consumers of cement, and on such terms as may be specified in the order and for such retail price as may be determined in accordance with the provisions of clause 6.

9. [Ban on transfer of cement by consumers. - (1) Any person who obtains cement according to the order of the licensing authority issued under clause 8 or otherwise purchases it from a licensed dealer or direct from a cement company as a result of an allotment by the State Government shall utilise it

for his own purposes and he shall not dispose it of by way of loan or otherwise transfer it in any manner.

(2) No person shall, except buying cement from a licensed dealer or cement company, obtain it either by way of loan, purchase, gift or in any other manner from any other person, institution, corporation or body.] [Substituted by U.P. Cement Control (Second Amendment) Order, 1978, dated 8.8.1978.]

10. Exhibition of price and stock by dealers.

- Every [Licensed Dealer] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] shall exhibit at the entrance or some other prominent place of his business premises the retail price of cement and the stock of cement actually held by him at the beginning of the day.

11. [Regulation of supply and distribution. - (1) The State Government may by order, regulate the distribution of cement by any cement company or its representative or distributor in such area or areas and in such manner as may be specified in the Order:

Provided that nothing in this sub-clause shall apply to movement of cement by producers / manufacturers under the orders of Government of India or the Cement Controller.(2) The Licensing Authority may, by order, regulate the allotment of cement to and its distribution by licensed dealers in the district, and in doing so, may issue such orders under the provisions of this Order, as he may consider necessary from time to time.(3) Every cement company, its representative or distributor shall comply with all directions contained in the orders issued by the State Government and the Licensing Authorities under this Order.] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.]

12. Maintenance and production of account books for inspection.

(1) Every [Licensed Dealer] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] shall maintain account books and records pertaining to his business according to the orders of the [Licensing Authority] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] and keep them posted up to date and shall on being so required, furnish such information relating thereto to the Enforcement Officer as may be required by him.(2) Every dealer shall produce such books, accounts and records relating to his business for inspection if and when demanded by the Enforcement Officer. He shall also furnish to the [Licensing Authority/Enforcement Officer] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] such periodical returns and in such form as may be required by them.

13. Powers of entry, search and seizure, etc.

(1)The [Licensing Authority/Enforcement Officer] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] or any other officer authorised by the [Licensing Authority/Enforcement Officer] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] in this behalf may with such assistance, if any, as he thinks fit-(a)require the owner, occupier or any other person incharge of any premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this order has been, is being or is about to be committed to produce any books, accounts or other records showing transaction relating to such contravention;(b)enter, inspect, or break open and search any premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this order has been, is being or is about to be committed;(c)take or cause to be taken, extracts from or copies of any documents showing transactions relating to such contravention which are produced before him;(d)search, seize and remove stocks of cement in respect of which he has reason to believe that a contravention of the provisions of thisOrder has been, is being or is about to be committed, and thereafter take or authorise the taking of all measures necessary for securing the production of the stocks so seized in a Court and for their safe custody pending such production.(2)[Powers of entry, search and seizure. - The provisions of Section 100 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), relating to search and seizure shall be so far as may be apply to searches and seizures under this clause.] [Substituted by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.]

14. Rescission.

- The Uttar Pradesh Cement Control Order, 1966, is hereby rescinded except as respect things done or omitted to be done thereunder.

Schedule

[Form 'A'] [Added by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.]Form of application for licence as a retail dealer of cement or for renewal of such licence

1. Applicant's name, parentage and address
2. If the application is made on behalf of a firm or an incorporated company, the trading name
3. Names and addresses of all partners or directors, as the case may be
4. Exact address of the places of storage and business
5. Names of cement company/(ies) of which applicant holds stockistship or agency, with necessary details
6. Whether the applicant is holding any dealer's licence in any other district? If so, specify
7. Whether the applicant has ever been tried or convicted for any offence? If so, particulars thereof

8. Number of existing licence if the application is for renewal

I/We have read the provisions of the Uttar Pradesh Cement Control Order, 1973 and understand that the licence issued to me/us will be subject to the provisions of that Order and conditions given in the licence and that any breach of the conditions of the licence will amount to a breach of the Order. I/We declare that to the best of my/our information and belief, the above information is correct and complete. Signature of the Applicant(s). [Form 'B'] [Added by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.] Licence to a dealer for retail sale under U.P. Cement Control Order, 1973

1. Name of licensee

2. If the licensee is a firm or an incorporated company, names and addresses of all partners or directors, as the case may be

3. Exact address of place of business

4. Exact address of place of storage of cement

5. Date up to which licence is valid March 31, 19

6. The licence is granted subject to the conditions given hereinafter

Signature of Licensing Authority. Renewal of Endorsement

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

Conditions of Licence

1. The licensee shall display his licence prominently at his place of business.

2. The licensee shall not carry on business or store cement except in the premises specified in his licence provided that the premises may be changed or additional premises used with the permission of the Licensing Authority

3. The licensee shall maintain a stock register in which he will show correctly:

(a) the opening stock on each day, (b) the quantity of cement received by him from the cement company each day, (c) the quantities sold, delivered or otherwise disposed of each day, (d) the closing stock at the end of the day.

4. The licensee shall submit to the Licensing Authority by the 5th day of each month a return in respect of the previous month in the following form:

Stock at the beginning of the month	Quantities received during the month	Total of 1 and 2	Quantities sold during the month	Balance
To other licensees for	General public	Total		

loose sale			quantity sold			
(1)	(2)	(3)	(4)	(5)	(6)	(7)

5. The licensee shall not engage in loose sale in cement.

6. The licensee shall exhibit, in a prominent position at his place of business, a statement showing the current price and present stock of cement under the Order.

7. The licensee shall issue to every purchaser of cement, a correct receipt giving the name and full address of the purchaser, quantity sold, the rate at which sold and the total amount charged and shall keep a duplicate of the same available for inspection.

8. The licensee shall not refuse to sell or withhold from sale, any cement in his possession in such quantities, at such times, to such persons and in such manner, as the Licensing Authority may, by written order, direct.

9. The licensee shall render all reasonable facilities to person authorised by the Licensing Authority or the Enforcement Officer for inspection of permits, stocks and accounts.

10. If the licensee contravenes any of the conditions of this licence or is found to have made any incorrect statement in his application for a licence or in any return submitted by him or any accounts maintained by him, his licence may be cancelled and he shall also be punishable under Section 7 of the Essential Commodities Act, 1955.

11. The licensee shall comply with any general or special directions issued by the Licensing Authority from time to time in regard to the disposal of any stocks of cement held by him or in regard to the maintenance of any other records or returns, as required by the Licensing Authority.

[Form 'C'] [Added by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.]Form of application for licence as a loose dealer in cement or for renewal of such licence

1. Applicant's name, parentage and address
2. If the application is made on behalf of a firm or an incorporate company, the trading name

3. Names and addresses of all partners or directors as the casemay be
4. Applicant's place of business
5. Exact address of place of storage
6. How long the applicant has been trading in building material
7. Whether the applicant has ever been tried for or convicted ofany offence. If so, the particulars thereof
8. Number of existing licence if the application is for renewal

I/We have read the provisions of the Uttar Pradesh Cement Control Order, 1973 and understand that the licence issued to me/us will be subject to the provisions of that Order and conditions given in the licence and that any breach of the conditions of the licence, will amount to a breach of the Order.I/We declare that to the best of my/our information and belief the above information is correct and complete.Signature of the Applicant(s)[Form 'D'] [Added by U.P. Cement Control (First Amendment) Order, 1978, dated 13.3.1978.]Licence granted to a loose dealer of cement under U.P. Cement Control Order, 1973

1. Name and parentage of licensee
2. If the licensee is a firm or an incorporate company, namesand addresses of all partners or directors, as the case may be
3. Exact address of place of business
4. Exact address of place of storage

The licence is granted subject to the conditions given hereinafter, and shall be valid up to 31st day of March, 19Signature of Licensing AuthorityRenewal of Licence

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

Conditions of Licence

- 1. The licensee shall display his licence prominently at his place of business.**
- 2. The licensee shall not carry on business at any place other than the premises specified in his licence except with the permission of the Licensing Authority.**
- 3. The licensee shall make only loose sale of cement in accordance with the orders issued by the Licensing Authority from time to time, and shall limit his profit to 10 paise per kg.**
- 4. The licensee shall purchase cement only from recognised cement stockists and preserve cash memos thereof for checking by Licensing Authority and/or Enforcement Officer.**

5. The licensee shall not keep in stock more than 10 bags of cement at any one time.

6. The licensee shall maintain the stock register showing:

(a)the opening stock on each day,(b)quantities received on each day, the name of cement: stockists,(c)total quantities disposed of each day,(d)rate per kilogram charged from consumers, and(e)closing balance at the end of the day.

7. The licensee shall issue to every customer in the case of sale 0.5 kg. or more of loose cement, a correct receipt showing the quantity sold, the rate at which sold, and the total amount charged.

8. The licensee shall comply with any general or special directions issued by the Licensing Authority from time to time, in regard to the disposal of any stocks of cement held by him or in regard to the maintenance of any other records of references, as required by the Licensing Authority.

9. The licensee shall not refuse to sell or withhold from sale, any cement in his possession in such quantities, at such times, to such persons and in such manner, as the Licensing Authority may by written order, direct.

10. The licensee shall render all reasonable facilities to persons authorised by Licensing Authority and/or Enforcement Officer for inspection of permits, stocks and accounts.

11. If the Licensee contravenes any of the conditions of this licence or is found to have made any incorrect statement in his application for a licence or in any return submitted by him or any accounts maintained by him, his licence may be cancelled and he shall also be punishable under Section 7 of the Essential Commodities Act, 1955.

[Substituted by Cement Control (First Amendment) Order, 1978, vide Notification No. 1652/XXXIX-AV-2-79(CM)-76, dated 13.3.1978.]