

The Himachal Pradesh Poisons (Possession and Sale) Rules, 2014

HIMACHAL PRADESH

India

The Himachal Pradesh Poisons (Possession and Sale) Rules, 2014

Rule

THE-HIMACHAL-PRADESH-POISONS-POSSESSION-AND-SALE-RULE of 2014

- Published on 14 July 2014
- Commenced on 14 July 2014
- [This is the version of this document from 14 July 2014.]
- [Note: The original publication document is not available and this content could not be verified.]

The Himachal Pradesh Poisons (Possession and Sale) Rules, 2014 Published vide Health and Family Welfare Department Notification No. HFW-B(E)3-86/2013, dated 14-7-2014, as required under Article 348 (3) of the Constitution of India, (Draft Rules). In exercise of the powers conferred by section 8 read with sections 2, 4 and 9 of the Poisons Act, 1919 (Act No. 12 of 1919), the Governor, Himachal Pradesh hereby proposes to make The Himachal Pradesh Poisons (Possession and Sale) Rules, 2014 and the same are hereby published in the Rajpatra, Himachal Pradesh (Extra-Ordinary) for the general information of the public as required under sub section (2) of section 8 of the Poisons Act, 1919. If any person likely to be affected by the draft rules has any objections or suggestions to make with regard to the said rules, he may send the same to the Additional Chief Secretary (Health) to the Government of Himachal Pradesh, Shimla-2 within a period of thirty days from the date of publication of the same in the Rajpatra, Himachal Pradesh (Extra-Ordinary). The Objections or suggestions, if any, received within the above stipulated period shall be taken into consideration by the State Government before finalizing the said rules, namely :-

1. Short title.

- These rules may be called the Himachal Pradesh Poisons (Possession and Sale) Rules, 2014.

2. Definitions.

(1) In these rules, unless the context otherwise requires, -(a) "Act" means the Poisons Act, 1919 (Act No. 12 of 1919); (b) "dealer" means a person holding a valid license for possession and sale of poisons

whether in wholesale or retail under these rules;(c)"Licensing Authority" means the District Magistrate or any other officer authorized by the State Government under rule 3 to grant a license;(d)"licensee" means holder of a license;(e)"notification" means a notification published in the Official Gazette.(f)"form" means form appended to these rules;(g)"Schedule" means the Schedule appended to these rules; and(h)"sale" means sale of poisons, whether in wholesale or retail, by the licensed dealer to another licensed dealer or to any educational institution, any research or medical institution, hospital or dispensary under a qualified medical practitioner (Registered Medical Practitioner), any recognized public institution, industrial firm requiring poisons for its own use, Government Departments, Public Sector Undertakings or an individual for personal use;(2)The poisons specified in the Schedule shall be deemed to be poisons for the purpose of these rules.(3)The terms and expressions used herein and not defined, but defined in the Act shall have the meanings respectively assigned to, them in the Act.

3. License for possession or sale of poisons.

- No person, unless exempted under the provisions of the Act and the rules made thereunder shall possess or sell any poison specified in the Schedule, except under a license in Form-B granted or renewed under rule 5 by the Licensing Authority.

4. Exhibition of rules on the premises.

- A copy of these rules shall be displayed by the Licensee at conspicuous place in his Business premises specified in the license granted under rule 5.

5. Application for grant or renewal of license.

(1)Application for grant of a license for possession and sale of poisons may be made to the licensing authority in Form-A accompanied by a fee of rupees five hundred.(2)Application for renewal of license shall be made well before the expiry date accompanied by a fee of rupees one hundred per month or part thereof in Form-A, in addition to the prescribed fee of rupees five hundred.(3)In case original license is lost or destroyed, the licensee may make application for issue of duplicate license accompanied by a copy of First Information Report lodged with the police and a fee of rupees five hundred.(4)In the case of any change in the place of premises of business of the licensee, a fresh application for license shall be made in writing to the Licensing Authority and such application will be accompanied by a fee of rupees five hundred.(5)If poisons are sold or stocked at more than one place, separate application shall be made, and a separate license shall be obtained in respect of each such place of business.(6)A certificate of renewal of a license shall be issued in Form-C.(7)The application for grant of license or any person granted a license shall, on demand, furnish to the authority, before grant of license or during the period the license is in force, as the case may be, documentary evidence in respect of business premises whether self owned or rental or any other basis, specified in the application for license or in the license granted, constitution of the firm or any other relevant matter which may be required for the purpose of verifying the correctness of the statements made by the applicant or the licensee while applying for or after obtaining the license, as the case may be.

6. Duration of license.

- Subject to the provisions of rules 8 and 9, a license, unless suspended or cancelled, shall be valid for a period of five years from the date of issue of the same. Provided that if application for renewal of license is made before its expiry, or if the application is made within six months after its expiry, after payment of additional fee of five hundred rupees, the license shall continue to be in force until orders are passed on the application. The license shall be deemed to have expired, if application for its renewal is not made within six months after its expiry.

7. Discretion of licensing authority.

- A license may be cancelled or revoked at any time by the licensing authority, if it is satisfied that licensee has misused the license : Provided that before cancellation or revocation of license, the licensee shall be afforded reasonable opportunity of being heard. Provided further that if application for grant of a license or renewal of license is refused or license is cancelled or revoked, he may file appeal within thirty days from the date of order before the Appellate Authority, notified by the State Government.

8. Termination of license.

- A license shall stand terminated on the death of license holder or on transfer of his business to other place and if license is granted to a firm or company, on winding up or transfer of business of such firm or company: Provided that, if the business carried on by the licensee as such of the firm or company is transferred as a going concern and the transferee applies for a fresh license, with court fee stamp of hundred rupees, within fourteen days of the date of transfer, the subsisting license shall continue to be in force until a new license has been granted or the application for fresh license is rejected by the licensing authority.

9. Disposal of stock on termination, revocation or cancellation of license.

- In the event of revocation or cancellation of license under rule 8 or in the event of the termination of license under rule 9, the stock of poisons may be sold to any other license holder within a period of three months from the date of such termination, revocation or cancellation of the license, after which the remaining poisons shall be destroyed under the orders of the licensing authority. In the case referred to in rule 9, the proceeds of the sale, if any, shall be made over to the legal representative of the deceased license holder or his transferee or, liquidator of the dissolved firm or company of the transferee of the firm or company, as the case may be.

10. Power to inspect poisons and registers.

- Any Executive Magistrate or a Police officer of the rank of Sub-Inspector and above or a Medical Officer appointed by the State Government or an Inspector appointed under section 21 of the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940) may, at any time, visit and inspect the premises of

the license holder where a poison is kept for sale and may inspect all poisons found therein and the registers.

11. License to whom granted.

(1) No license shall be granted or renewed to any person unless the authority empowered to grant the license is satisfied that the premises in respect of which the license is to be granted or renewed are safe, secured, adequately equipped with proper storage accommodation for the poisons to which the license applied and are in the charge of a person who has passed the Matriculation examination or its equivalent examination from a recognized Board and competent in the opinion of the Licensing Authority to supervise and control the procurement, handling, sale and distribution of poisons. (2) The license issued in the name of proprietary firm or partnership firm or any company shall always be in the name of the proprietor or proprietors of the company or institution or others and its proprietor or partner(s) or Director(s) or a responsible person to be nominated or manager, as the case may be, holding the prescribed qualification, shall be the responsible person. (3) The name or names of the responsible person(s) so given may be altered or amended by the licensing authority on a written application from the firm or company and such application shall bear a court fee stamp of one hundred rupees.

12. Sale of poison.

(1) Sale of poison, as far as practicable, shall be made by the license-holder in person or where the license-holder is a firm or a company, through or under supervision of an accredited representative of such firm or company. (2) A person holding license for possession and sale of poisons granted under these rules shall store and sell the poison from the premises specified in the license.

13. Persons to whom poisons may be sold.

- A license holder shall not sell any poison to any person, unless the latter is personally known to him, or identified to his satisfaction by producing a photo identity card which has his address or substantiate it with a document giving his address. He shall also ascertain before selling any poison the name, telephone and address of the purchaser and the purpose for which the poison is to be purchased. He shall not sell any poison to any person who appears to him to be under the age of eighteen years, or to any person who does not appear to him to be in full possession of his identity.

14. Register of sales of poisons.

(1) Every license holder shall maintain a register in which he shall enter correctly all sales of poisons other than used by a Chemist, Druggist or Compounder dispensing or compounding in compliance with the prescription of a qualified medical officer or practitioner or veterinary practitioner. The following details shall be entered in such register in respect of such sale, namely: (a) Serial No; (b) Name of poison; (c) Quantity sold; (d) Date of sale; (e) Name and address of the purchaser, serial number of the photo identity card or Adhar Card produced and the name of the issuing

authority;(f)Purposes for which the poison was stated to be required;(g)Signature of purchaser (or thumb impression if illiterate) or in the case of purchase by post, date on which the letter was written and reference to the original in the file in which it is preserved;(h)Signature of a person identifying the purchaser if any (or thumb impression, if illiterate); and(i)Signature of Dealer.(2)In a separate portion of the register he shall enter in separate columns for each poison, the quantity of each poison sold daily, and those entries shall be filled up from day to day.(3)The signature in the register prescribed under item (i) of sub rule (15) shall be that of the license-holder himself, or, when the license holder is a firm or company, that of an accredited representative of such firm or company and shall be written at the time of sale or dispatch to the purchaser. Such signature shall be held to imply that the signatory had satisfied himself that the requirements of rule 14 have been fulfilled.(4)All letters or written orders referred to under item (g) of the above register shall be preserved in original by the license holder for a period not less than two years from the date of sale.(5)The daily balance of stock should be entered in the register.

15. Custody of poisons kept for sale and labelling of receptacles in which they are kept.

- All poisons kept for sale under these rules by any license holder shall be kept securely in a box, almirah, room or building (according to the quantity maintained) which shall be secured by lock and key and in which no substance shall be placed other than poisons possessed in accordance with a license granted under these rules, and each poison shall be kept, securely within such box, almirah, room or building in a separate closed receptacle of glass, metal or earthenware. Every such box, almirah, room or building and every such receptacle shall be marked with the word 'POISON' in red capital letters, both in English and in the local language and in the case of receptacles containing separate poison, with name of such poison.

16. Poisons sold to be securely packed and labelled.

- When any poison is sold, it shall be securely packed in a closed receptacle or container (according to the quantity); and every such receptacle or packet shall be labelled by the licensee with a red label bearing in English and in local language giving the name of the poison and the name and address of the licensee. The universal warning symbols shall also be displayed on the receptacle.

17. Security, storage and incident management of acids/corrosive substances by users (except individuals).

- A Standard Operating Procedure (SOP) outlining the measures undertaken for security, storage and incident management of acids or corrosive substances shall be prepared and prominently displayed in the premises of the user, which are as under :-(1)Security of acid or corrosive substances.(a)a person shall be accountable for possession and safekeeping of acid in the premises;(b)the storage of acid or corrosive shall be under the supervision of such person;(c)the storage of acid or corrosive shall be under double lock system to ensure more security;(d)a register of usage of acid shall be maintained and the same shall be filed with the concerned SDM (or

Tehsildar wherever the office of SDM does not exist) in each quarter; and (e) there shall be compulsory checking of the students and personnel leaving the laboratories or place of storage where acid or corrosive is used or stored. (2) storage of acids or corrosive substances, - (a) the chemicals shall be stored in plastic or other suitable containers; (b) all storage containers shall be labelled to indicate the identity of the chemicals and the hazards involved and the precautions to be taken; (c) incompatible chemicals shall not be stored together; (d) the inventory of corrosive chemicals shall be kept to a minimum; (e) protective gloves, aprons, safety glasses and face shields should be worn where appropriate; (f) Acids should be diluted with care - always add acid to water, never add water to acid. (g) Skin contact: Quickly take off contaminated clothing, shoes and leather goods (e.g. watchbands, belts). Quickly and gently blot or brush away excess chemical. Immediately flush with lukewarm, gently flowing water for at least 30 minutes. Do not interrupt flushing, if it can be done safely; continue flushing during transport to hospital. Immediately call a Poison Centre or doctor if treatment is urgently required, or call transport to a hospital. (h) Eye contact: Avoid direct contact. Wear chemical protective gloves if necessary. Quickly and gently blot or brush chemical off the face. Immediately flush the contaminated eye(s) with lukewarm, gently flowing water for at least 30 minutes, while holding the eyelid(s) open. If a contact lens is present, do not delay flushing or attempt to remove the lens. Neutral saline solution may be used as soon as it is available. Do not interrupt flushing. If necessary, continue flushing during transport to hospital. (i) Ingestion: Have victim rinse mouth with water. If vomiting occurs naturally, have victim lean forward to reduce risk of aspiration. Have victim rinse mouth with water again. Immediately call a Poison Centre or doctor. If treatment is urgently required, transport victim to a hospital. (j) Inhalation: Take precautions to ensure your own safety before attempting rescue (e.g. wear appropriate protective equipment). Move victim to fresh air. Keep at rest in a position comfortable for breathing. If breathing is difficult, trained personnel should administer emergency oxygen. Do not allow victim to move about unnecessarily. Symptoms of pulmonary edema may be delayed. Immediately call a Poison Centre or doctor. Treatment is urgently required. Transport to a hospital.

18. Power to regulate possession of any poison in certain area.

- If the Licensing Authority is of the opinion that the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be such frequent occurrence, it may, by order impose such restriction on the possession thereof as it may deem fit. Any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both together with confiscation of the poison in respect of which the breach has been committed, and of the vessels, packages or covering in which the same is found.

19. Penalties.

- Any person who acts in contravention of the provisions of these rules, shall be liable for punishment under section 6 of the Act. By order Sd/- Addl. Chief Secretary (Health).

Schedule

(See Rule 2)List of poisons

- 1. Acetic acid (beyond 25% concentration by weight).**
- 2. Acetic Anhydride.**
- 3. Sulphuric acid (H₂SO₄) (beyond 5% concentration by weight).**
- 4. Hydrochloric acid (HCl) (beyond 5% concentration by weight).**
- 5. Phosphoric acid (H₃PO₄).**
- 6. Hydrofluoric acid (HF).**
- 7. Perchloric acid (HClO₄).**
- 8. Formic Acid (beyond 10% concentration by weight).**
- 9. Hydrocyanic Acid except substances containing less than 0.1 percent weight in weight of Hydrocyanic Acid.**
- 10. Hydrochloric acid, except substances containing less than 5 percent weight in weight of Hydrochloric acid.**
- 11. Nitric acid, except substances containing less than 5 percent weight in weight of Nitric Acid.**
- 12. Oxalic acid.**
- 13. Per chloride of mercury (corrosive sublimate).**
- 14. Potassium Hydroxide except substances containing less than 2 percent weight in weight of Potassium Hydroxide.**
- 15. Sodium Hydroxide except substances containing less than 2 percent weight in weight of sodium Hydroxide.**

16. Hydrogen peroxide (beyond 50% concentration by weight).

17. Formaldehyde (beyond 25% concentration by weight).

18. Phenol (beyond 30% concentration by weight).

19. Sodium Hypochlorite Solution (Beyond 5% concentration by weight).

20. White Arsenic.

Form A[(See Rule 5(1)]Application for the grant/renewal of the licenses to sell, stock or distribute Poisons

1. I/we _____ of _____ hereby apply for the grant/renewal of the license to sale by retail and/ or wholesale or distribute poison(s) on the premises situated at _____

2. The sale, stocking and distribution of the drugs will be made under the personal supervision of the qualified person namely:

3. List of the Poisons proposed to be sold:

1. _____

2. _____

3. _____

4. A fee of Rupees _____ (_____) has been credited in the Government account.

Date: _____ SignatureName and address of the applicant(s)List of the documents to be enclosed

1. Site and layout plan of the premises.

2. Documents pertaining to the ownership or rental arrangement of the premises.

3. Constitution, in case of partnership firm or company including nomination for the authorized representative.

4. Photo IDs of the applicant/proprietor/partners/qualified person.

Form B(See Rule 3)License to sell, stock or distribute Poisons

Passport size photograph of the licensee/qualified person in charge

License No. _____ Date: _____

1. _____ is hereby licensed to possess, sell or distribute by retail and/or wholesale poisons as detailed below on the premises situated at Village: _____ PO; _____ Tehsil: _____ District: _____ of Himachal Pradesh, subject to the conditions specified below and to the provisions of the The Poison Act 1919 and the rules made thereunder.

(1) _____ (2) _____ (3) _____ (4) _____

2. Name(s) of the qualified person(s) in charge: _____

3. This license shall remain in force from _____ to _____

Date: _____ Signature and seal of the Licensing Authority Conditions of the license

1. This license shall be displayed in a prominent place in the part of the premises open to the public.

2. The licensee shall comply with the provisions of the Poison Act 1919 and the Rules made there under for the time being in force.

3. The licensee shall report to the licensing authority any change in the name of person in-charge within one month of such change.

4. No poison shall be stocked or sold otherwise under the direct supervision of the qualified person as endorsed in the license.

- 5. No poison shall be stocked or sold unless the same has been purchased under the cash/credit memo from a duly licensed dealer.**
- 6. No Poison shall be sold to any person unless the later is major, (above 18 years in age) personally known to him or identified to his satisfaction by producing photo identity card and satisfactory to be in full possession of his indentity.**
- 7. The licensee shall inform the Licensing Authority in the event of any change in the constitution of the firm operating under the license. Where any change in the constitution of the firm takes place the current licence shall be deemed to be valid for a maximum period of three months from the date of such change takes place unless, in the meantime a fresh license has been taken from the Licensing Authority in the name of the firm with the changed constitution.**
- 8. The licensee shall maintain the records of purchase, stock and sale of all Poisons in accordance with provisions of the Himachal Pradesh Poison (Possession and Sale) Rules.**
- 9. The license shall terminate on the death of the license-holder or if granted to a Firm or company on the winding up or transfer of the business of such firm or company.**

Form C[(See Rule 5(6)]Certificate of Renewal of the License to sell stock or distribute PoisonsLicense No. _____ Date of issue: _____

1. Certified that above said license No. _____ issued in form A, granted on _____ to M/s. for the sale, stock or distribution of the following poisons under the provisions of the Poison Act at the premises situated at _____ has been renewed for the period from _____ to _____

(1) _____ (2) _____

2. Name(s) of the person(s) in charge _____

Date: _____ Licensing Authority.