

The 25th April 1960

No.LJL.49/56.—The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

(Received the assent of the Governor on the 21st April 1960)

ASSAM ACT XV OF 1960

**THE ASSAM REGULATED AND LICENSED WARE-
HOUSES ACT, 1959**

(As passed by the Assembly)

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CHAPTER I

Preliminary

Preamble Whereas it is expedient to encourage the establishment of independent warehouses and make provision for their proper supervision

and control, it is hereby enacted in the Tenth Year of the Republic of India as follows:—

short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Regulated and Licensed Warehouses Act, 1959.

(2) It extends to the whole of the State of Assam.

(3) The Act shall come into force on such date as Government may, by notification in the official Gazette, appoint.

Definition

2. In this Act, unless there is anything repugnant in the subject or context—

(a) "Co-operative Society" means a society registered or deemed to have been registered under the Assam Co-operative Societies Act, 1949 ;

(b) "depositor" means a person who tenders his goods to the warehouseman for storing in his warehouse and includes any person who lawfully holds the receipts issued by the warehouseman in respect of such goods and derives title thereto by a proper endorsement or transfer to him by the depositor or the depositor's lawful transferee ;

(c) "goods" means any of the articles specified in the schedule to this Act;

Provided that the Government may, by notification in the official Gazette, add any article to, or omit any article from the schedule ;

- (d) "Government" means the State Government ;
- (e) "licensed warehouse" means a warehouse licensed under this Act ;
- (f) "Person" shall include any company or association or body corporate ;
- (g) "prescribed" means prescribed by rules made under this Act ;
- (h) "prescribed authority" means, in relation to any provision of this Act, the authority prescribed by rules made under this Act to carry out such provision ;
- (i) "receipt" means a warehouse receipt in the prescribed form issued by a warehouseman to a person depositing goods in the warehouse ;
- (j) "rules" mean rules made by the Government under this Act ;
- (k) "warehouse" means any building, structure or other protected enclosure which is or may be used for the purpose of storing goods on behalf of depositors but does not include cloak rooms attached to hotels, railway stations, premises of other public carriers and the like ; and
- (l) "warehouseman" means a person, who has obtained license under this Act in respect of his warehouse.

CHAPTER II

Licensing of warehouses

Warehouse-
man. 3. No person shall carry on the business of warehouseman except under the license granted under this Act and in accordance with such terms and conditions thereof as may, from time to time, be prescribed under this Act.

Grant
license. of 4. (1) Application for a license shall be made in the prescribed form to the prescribed authority.

(2) The prescribed authority may on receiving such application and on payment of such fees as may be prescribed, grant a license.

Condition
or license. 5. Before granting a license the prescribed authority shall satisfy itself—

- (a) that the warehouse is suitable for proper storage of the class or classes of goods in respect of which the license has been applied for ;
- (b) that the applicant possesses such qualifications as may be prescribed ; and
- (c) that the applicant has paid the fee prescribed for the license and has also paid the prescribed security if any:

Provided that when the applicant is a corporation established under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956, no such security shall be required.

Terms and
renewal of
license. 6. Every license granted under section 5 shall be valid for the prescribed period, and may, on application and payment of the prescribed fee, be renewed from time to time by the prescribed authority and for the prescribed period, provided the other conditions referred to in section 5 continue to be fulfilled.

Notice of refusal to grant or renew license.

7. If the prescribed authority refuses to grant or renew a license under the foregoing provisions, it shall record its reasons for such refusal in writing and communicate a copy of its order to the applicant.

Suspension and cancellation of license.

8. (1) Every license granted under section 5 or renewed under section 6 shall be liable to be suspended or cancelled either temporarily or permanently by the prescribed authority if in its opinion—

- (a) the licensee has applied to be adjudicated, or been adjudicated an insolvent, or
- (b) has parted, in whole or in part, with his control over the warehouse, or
- (c) has ceased to conduct such warehouse, or
- (d) has in any other prescribed grounds become incompetent to conduct such warehouse, or
- (e) has contravened, or failed to comply with any of the terms of the license or any of the provisions of this Act and the Rules, or
- (f) on any other prescribed ground.

(2) If a license is suspended or cancelled the prescribed authority shall make an entry to that effect in the license and such cancellation shall be notified in the official Gazette.

Notice of suspension and cancellation of license.

9. (1) Before passing an order for cancellation under section 8, the prescribed authority shall give notice to the warehouseman stating the grounds on which it is proposed to cancel his license and calling up him to show cause why it should not be cancelled.

(2) After considering the explanation, if any, of the warehouseman, the prescribed authority may pass such orders as it deems just.

- (3) The prescribed authority may, however, suspend a license at any time for a specified period without such notice and after recording the reasons therefor in writing.

Return of license. 10. When a license expires, or is suspended or cancelled, the warehouseman shall cease to work as such and shall return the license to the prescribed authority, who shall give reasonable time to the warehouseman to enable him to wind up the business.

Duplicate license. 11. (1) Where a license granted to a warehouseman is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall issue a duplicate license on the application of the warehouseman and on payment of the prescribed fee.

- (2) When a duplicate license is issued, it shall be clearly stamped "Duplicate" and shall be marked with the date of issue of the duplicate and that of the original from the record of the office issuing the license.

DUTIES OF WAREHOUSEMAN

CHAPTER III

Reasonable care of the goods deposited. 12. Every warehouseman shall take such care of the goods deposited with him as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

Precautions against damage or injury to goods. 13. (1) Every warehouseman shall keep his warehouse clean and free from damp, take all necessary precautions against rats and other pests, and fulfil such other conditions as may be prescribed.

- (2) No warehouseman shall accept goods for deposit which are likely to cause damage to other goods which are, or may be deposited, in the warehouse.

Preservation
of identity of
goods.

14. Every warehouseman shall keep the goods of one depositor separate from the goods of other depositors and from other goods of the same depositor 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 goods deposited :

Provided that where standardised and graded goods are stored in a warehouse then subject to any agreement between the warehouseman and a depositor, the same variety of goods belonging to different depositors may be pooled together and each depositor shall be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

Goods de-
teriorating
in warehouse
and their
disposal

15. (1) Whenever goods deposited in a warehouse deteriorate from causes beyond the control of the warehouseman, he shall forthwith give notice of such deterioration to the depositor, requiring him to take delivery of the goods, within a reasonable period to be specified in the said notice after surrendering the receipt duly discharged and paying all charges due to the warehouseman.

Explanation.—Loss of weight or bulk by shrinkage or dryage or gain of weight or bulk by absorption of moisture shall be deemed to amount to deterioration, within the meaning of this sub-section if the loss or gain exceeds such limits as may be prescribed.

(2) If the depositor does not, within the period specified, comply with the notice given to him under sub-section (1), the warehouseman may cause the goods to be removed from the warehouse and sold by public auction at the cost and risk of the depositor :

Provided that at any time before such sale by public auction, the depositor may remove the goods after paying all the charges due to the warehouseman.

(3) Any person having an interest in any goods deposited in a warehouse or in the receipt for such goods may inform the warehouseman in writing of the fact and nature of his interest and the warehouseman shall keep a record thereof; and if such person requests in writing that intimation be given to him regarding the condition of the goods and agrees to pay the charges for giving such intimation the warehouseman shall give him intimation accordingly.

Delivery of goods. 16. (1) Every warehouseman, in the absence of reasonable excuse shall, without unnecessary delay, deliver the goods deposited in his warehouse to the depositor on demand made by him and surrender of the receipt duly discharged and payment of all charges due to the warehouseman.

(2) Subject to any agreement between the warehouseman and the depositor, the depositor may take partial delivery of the goods deposited in the warehouse.

Liability of warehouseman for shortage or excess in goods stored. 17. (1) For the purpose of sub-sections (1) and (2) of the foregoing section and sub-section (1) of section 15, loss of weight or bulk by dryage or shrinkage within the prescribed limits and gain in weight by absorption of moisture within such limits shall not be deemed to amount to deterioration.

(2) If there is any excess in the goods stored in a warehouse by absorption of moisture or other causes the warehouseman shall not be entitled thereto.

(3) If there is any shortage in the goods stored within the prescribed limit in a warehouse by dryage or other causes beyond control the warehouseman 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 absorption of moisture or is due to other causes beyond the control of the warehouseman the matter shall be referred to the appellate authority referred to in section 29 whose decision thereon shall be final and binding.

Insurance of goods in warehouses. 18. Every warehouseman shall insure the goods in his warehouse against such events and in such manner as may be prescribed.

Discrimination prohibited. 19. No warehouseman shall in the conduct of his business, discriminate between persons desiring to avail themselves of the facilities of his warehouse:

Provided that the warehouseman shall show such preference to Co-operative Societies in the State and allow them such concessional rates as may be prescribed.

Warehouseman not to deal in or lend against goods in warehouse. 20. Notwithstanding anything contained in any other law, no warehouseman other than a Co-operative Society or the Central or any State Warehousing Corporation set up under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 shall, either on his own account or that of others, deal in or lend money on goods received by it for deposit in its warehouse.

Act 28 of 1956.

Accounts, etc., to be maintained. 21. A warehouseman shall maintain accounts, books and records in such form and manner as may be prescribed.

CHAPTER IV

Inspection and grading of goods

Inspection: 22. The prescribed authority may, at any time during business hours, inspect or examine or cause to be inspected or examined, any licensed warehouse, its machinery and equipment, goods deposited therein, and the accounts books and records relating thereto, for purpose of satisfying itself that the requirements of this Act and the rules are being complied with.

Weights, samplers and graders to obtain licenses. 23. (1) The prescribed authority may, on application made in the prescribed manner and on payment of the prescribed fee, issue license to persons possessing the prescribed qualifications, entitling them to act as weighers, samplers, and graders of any goods deposited or to be deposited in a licensed warehouse, and to issue certificates as to the weight, bulk, quality or grade of the goods which they have examined.

(2) Any certificate so issued shall be subject to the provisions of section 24 be binding on the warehouseman and the depositor as to the weight, bulk, quality or grade of the goods so certified.

(3) No person who is not licensed under this section shall act, or hold himself out, as weigher, sampler or grader.

Provisions
regarding
such licen-
ses.

24. (1) Every license granted to a weigher, sampler, or grader under section 23 shall be valid for the prescribed period and may, on application and payment of the prescribed fee, be renewed from time to time for the prescribed period by the prescribed authority.

(2) The prescribed authority may cancel any such license, after communicating to the licensee the grounds on which it is proposed to take action and giving him a reasonable opportunity of showing cause against it.

(3) The prescribed authority may, however, suspend any such license without such notice after recording in writing its reasons therefor.

(4) The holder of any such license shall, on the expiry thereof or the receipt of an order suspending or cancelling it, return the license to the prescribed authority.

Facilities to
be given for
weighing
goods, etc.

25. Every warehouseman shall provide facilities for weighing, sampling and grading any goods deposited in his warehouse.

CHAPTER V

Warehouse receipts

Receipt to
be issued.

26. For the goods deposited in his warehouse by each depositor, the warehouseman shall issue a receipt which shall contain full particulars of the goods and be in the prescribed form.

Receipts for
deposits in
warehouses.

27. The receipt issued by a warehouseman shall, unless it is otherwise specified thereon, be transferable by endorsement and shall entitle the lawful holder thereof to receive the goods specified in it on the same terms and conditions as the original depositor.

Duplicate
receipt.

28. If a receipt is lost, destroyed or damaged, the warehouseman shall, on application by the depositor and payment by him of the prescribed fee, issue a duplicate receipt on such conditions as he may think fit to impose, being conditions included in rules prescribed for the purpose.

CHAPTER VI

Miscellaneous

Appeals
against
certain
orders of
prescribed
authority.

29. (1) An appeal against any order of the prescribed authority refusing to grant or renew a license or suspending or cancelling any such license in respect of warehouseman shall be made to such authority and within such time as may be prescribed.

(2) The decision of such appellate authority shall be final.

No compensation for
suspension
or cancellation of
license.

30. Where any license is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall be entitled to the refund of any fee paid by him for license.

Contracts
and agreements
inconsistent
with Act to
be void.

31. Every contract or agreement which is inconsistent with the provisions of this Act, or the rules, shall, to the extent of such inconsistency, be void.

Penalty and
procedure.

32. (1) Whoever—

(a) acts, or holds himself out, as a licensed warehouseman without having obtained a license under this Act, or

(b) knowingly, contravenes or fails to comply with any of the provisions or requirements of this Act or the rules,

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.

(2) Where a person committing an offence under sub-section (1) is a company or an association or a body of persons, whether incorporated or not, the manager, secretary, agent or other principal officer, managing the affairs of such company, association or body, shall be deemed to be guilty of such offence.

Government
may help
to start
warehouses

33. The Government may offer any aid to the establishment of warehouses under this Act, by way of grant or lease of land, or of subsidy towards the cost of construction or by guarantee of a reasonable return on the capital invested, or in any other manner and on such terms and conditions as may appear to the Government in circumstances of any particular case.

Rules.

34. (1) The Government may, by notification, 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 add any article to, or omit any article from, the schedule or provide for:—

- (a) the matters expressly required or allowed by this Act to be prescribed ;
- (b) the conditions to be inserted in licenses to be granted to warehouseman and the form of such licenses ;
- (c) the publication of the grant, suspension or cancellation of licenses to warehouseman and of consolidated lists of warehouseman and licensed warehouses ;

- (d) the charges to be levied by warehouseman for their services ;
- (e) the books, accounts and records to be maintained by warehousemen ;
- (f) the conduct of public auctions for the sale of goods deteriorating or about to deteriorate in licensed warehouses and the manner in which the proceeds of such sales shall be accounted for ;
- (g) the scales of losses and gains of weight or bulk which may be sustained by goods owing to shrinkage or dryage in the one case and owing to absorption of moisture in the other ;
- (h) the disinfection of licensed warehouses and the disinfection of goods stored therein ;
- (i) the circumstances in which any security or bond furnished by a warehouseman may be forfeited, and the manner in which any sum falling due as a result of such forfeiture may be recovered ;
- (j) the efficient conduct generally of the business of warehousemen ;
- (k) the qualifications to be possessed by persons applying for the grant of licenses as warehousemen, weighers, samplers or graders ; the conditions to be inserted in their licenses ; the form of the certificates to be issued by them and the grounds for which the licenses may be suspended or cancelled ;

- (l) the standard weights, measures and gradations of goods to be used in licensed warehouses ;
- (m) the authority to which and the time within which an appeal under section 29 should be made ;
- (n) the manner of giving notices under this Act.
- (3) Such rules shall be laid on the table as soon as possible;
- (4) All these rules shall be laid on the table for an uniform and total period of fourteen days before the date of their final publication ; and
- (5) the rules made shall be subject to such modifications as the House may like to make.

The Schedule

[Section 2 (c)]

GOODS TO WHICH THE ACT APPLIES

1. Paddy and rice ;
2. Cotton, ginned or unginned and cotton seed ;
3. Jute, raw or baled ;
4. Rape seeds and mustard seeds ;
5. Potatoes and seed potatoes ;
6. Betel nuts and Tejpat ;
7. Chemical fertilisers, bone-meals and oil cakes ;
8. Cocoons of raw silk : and
9. Pulses.

B. C. BARUA,
Secy. to the Govt. of Assam, Law Deptt.