

THE KHYBER PAKHTUNKHWA WAREHOUSES ACT, 1946.

(ACT II OF 1947).

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THE ¹[KHYBER PAKHTUNKHWA] WAREHOUSES ACT, 1946.

ACT II OF 1947.

(Received the assent of the Governor, ²[Khyber Pakhtunkhwa] on the 8th February, 1947).

An Act for the Regulation of Licensed Warehouses in ³[Khyber Pakhtunkhwa].

CHAPTER-I.

PRELIMINARY.

WHEREAS it is expedient to encourage the establishment of licensed warehouses and make provision for their proper supervision and control, it is hereby enacted as follows:- Preamble.

1. (i) This Act may be called the ⁴[Khyber Pakhtunkhwa] Warehouses Act, 1946. Title, extent and commencement.

(ii) It extends to the whole of the ⁵[Province of the Khyber Pakhtunkhwa].

(iii) The Act shall come into force on ⁶[such date as shall be notified by the Provincial Government in the official Gazette].

2. In this Act unless there is anything repugnant in the subject or context.- Definitions.

(a) “Act” wherever used in this Act unless otherwise mentioned means the ⁷[Khyber Pakhtunkhwa] Warehouses Act, 1946.

(b) “Co-operative Society” means a society established under the Co-operative Societies Act (NO. II) of 1912.

(c) “Depositor” means a person who tenders his produce to the warehouse man for storing in his warehouse and shall include any person who lawfully holds the receipt issued by the warehouse man in respect of the goods and derives title to it by proper endorsement or transfer from the depositor or his lawful transferee.

(d) “Government” means the Provincial Government.

¹. Subs vide the Khyber Pakhtunkhwa Act. IV of 2011.

². Subs vide the Khyber Pakhtunkhwa Act. IV of 2011.

³. Subs vide the Khyber Pakhtunkhwa Act. IV of 2011.

⁴. Subs vide the Khyber Pakhtunkhwa Act. IV of 2011.

⁵. Subs vide the Khyber Pakhtunkhwa Act. IV of 2011.

⁶. Ins. vide Notification No. 1/312-48/LD. date 15-2-1947.

⁷. Subs vide the Khyber Pakhtunkhwa Act. IV of 2011.

- (e) “Prescribed” means prescribed by rules under the Act.
- (f) “Prescribed Authority” means the authority empowered by Government to carry out the duties under the Act.
- (g) “Receipt” means a warehouse receipt drawn in conformity with the rules in this behalf under this Act and issued by a warehouse man to a depositor showing that certain goods described therein have been deposited in his warehouse.
- (h) “Rules” mean Rules framed by the Provincial Government.
- (i) “Warehouse” means a building, structure or other protected enclosure which is used or may be used for the purpose of storing any agricultural produce or its byproducts in accordance with the provisions of the Act.
- (j) “Warehouse man” means a person who carries on the business of storing produce on behalf of depositors and issues receipts for the goods so stored in his warehouse in accordance with the provisions of the Act.

CHAPTER-II.

LICENSING OF WAREHOUSES.

3. Every warehouse man shall take out a license for the conduct of his warehouse business by making an application in writing to the prescribed authority. Application Form.
4. The prescribed authority may grant a license to a Warehouse man for the conduct of his business in accordance with the terms of the licence and the Act and the rules thereunder. Grant of License.
5. (i) Before granting a license the Prescribed authority shall satisfy itself.- Conditions for License.
- (a) that the ware house is suitable for proper storage of the particular produce for which a licence has been applied;
 - (b) that the applicant is competent to conduct such a warehouse; and
 - (c) that there is no other cause or reason for which the applicant for the license may in the opinion of the prescribed authority be deemed to be disqualified.
- (ii) The Government may by notification in the Official Gazette Prescribe or from time to time alter the conditions under which a license is granted to a warehouseman.
6. Every license granted under Section 5 shall be valid for the Terms and Renewal

prescribed period, and may on the expiry of the prescribed period be renewed by the prescribed authority on an application in writing by the warehouse man. of License.

7. (i) Every License issued under Section 5 or renewed under Section 6 shall be liable to be suspended, cancelled or revoked either temporarily or permanently by the prescribed authority for valid reasons stated in writing and in particular If the warehouse man- Suspension and Cancellation of License.

- (a) has been adjudicated an insolvent or bankrupt,
- (b) has parted in whole or in part with his control over the licensed warehouse,
- (c) has ceased to conduct such licensed warehouse,
- (d) has made exorbitant or unreasonable charges for the services rendered by him,
- (e) has in any other manner become incompetent to conduct the business of warehousing, or
- (f) has violated any of the terms of the license or of the provisions of the Act or the rules thereunder.

(ii) The Government may by notification in the official gazette prescribed any other conditions under which a license may be suspended or revoked.

(iii) Any person aggrieved from the order passed under clause 7 (i) shall be entitled to prefer an appeal to the provincial Government or to such authority as the Provincial Government may appoint in this behalf ¹[, and the Provincial Government or the authority so appointed, after giving the appellant an opportunity of being heard, pass such order as it may deem appropriate].

8. (i) Before suspending, canceling or revoking a license the prescribed authority shall give notice to the warehouse man specifying the charges against him and asking him to show cause why such action should not be taken against him. Notice of Suspension and Cancellation of License.

(ii) After considering the explanation, if offered, by the warehouse man, the prescribed authority may pass such orders as it deems fit.

(iii) The prescribed authority may suspend the license of a warehouse man pending the decision of the enquiry mentioned in the previous two sub-sections.

9. When a license expires or is suspended, cancelled or revoked, the Return of License.

¹. Inserted by Khyber Pakhtunkhwa No. II of 1985.

warehouse man shall cease to work as such and shall return the license to the prescribed authority.

10. Where a license granted to a warehouse man is lost or destroyed, the prescribed authority shall issue a duplicate license on an application in writing. Duplicates.

11. No person shall without a license carry on the business of a warehouse man or hold himself out as a licensed warehouse man. Prohibition of carrying on Business as a Warehouseman with out a license.

CHAPTER – III.

DUTIES OF WAREHOUSE-MAN.

12. Every warehouse man shall take such care of the goods stored in his custody as a reasonably careful owner would take of his own goods under similar circumstances and conditions. Reasonable care of the Product Stored.

13. (i) Every warehouse man shall keep his warehouse clean and in a sanitary condition; and take all necessary precautions against rats and other pests which are likely to cause damage or injury to any of the goods stored in the warehouse. Precautions against rate, pests and infected goods.

(ii) No warehouse man shall accept for storing in his warehouse goods which are contaminated or infected by worms and pests, and which are likely to cause damage to other goods stored in the warehouse.

14. Every warehouse man shall exercise such care to keep in his warehouse the goods of different depositors separate from each other so as to permit at all times the identification of the ownership and quality of goods deposited and to facilitate easy delivery of such goods: Preservation of identity of product.

Provided that where standardized and graded goods are stored in warehouse, subject to any agreement between the warehouseman and a depositor, there may be pooling of the same variety of produce belonging to several depositors and each depositor will be entitled only to his portion of the produce according to weight or quantity as the case may be as shown in his receipt.

15. Whenever goods stored in a warehouse lose weight by shrinkage or dryage, or gain weight by absorption of moisture or deteriorate from causes beyond the control of the warehouseman, he shall give a notice by registered post of such deterioration to the depositor asking him to take delivery of the goods immediately after surrendering the receipt duly discharged and paying the warehouseman his charges. If the depositor does not comply with the notice within a reasonable time the warehouseman cause such goods to be removed from his warehouse and sold by public auction at the cost and risk of the depositor. Products deteriorating in warehouse and their disposal.

16. Every warehouseman in the absence of any reasonable or lawful excuse shall without unnecessary delay deliver the products stored in his warehouse to the depositor on a lawful demand made by him and on surrender of the warehouse receipt duly discharged and on payment of the charges due to the warehouseman. Subject to any agreement between the warehouseman and the depositor, the later may take partial delivery of his product stored in the warehouse:

Delivery of products.

Provided that the loss of weight by dryage and shrinkage or its gain by a absorption of moisture shall be accounted for when agricultural produce is delivered wholly or in part under the provisions of this clause or when disposed of as provided in clause 15.

17. No warehouse man shall in the conduct of his business show any discrimination between persons desiring to avail themselves of the facilities of his warehouse so as to prejudicially affect their interests:

Discrimination prohibited.

Provided that the Provincial Government shall have power to issue instructions from time to time for preference to be given to the Co-operative Societies in the ¹[Khyber Pakhtunkhwa] to store their goods in the warehouses at concessional rates to be fixed by the Government.

18. No Warehouse man shall deal in or lend money on goods which are deposited in any warehouse either on his own account or that of others.

Warehouseman not to lend against the products in his warehouse.

19. A Warehouse man shall issue a receipt in the prescribed form containing full particulars in respect of the products stored in his warehouse by each depositor.

Issue of receipt.

20. A receipt issued by a warehouse man shall unless specified otherwise, be transferable by endorsement and shall entitle its lawful holder to receive the products specified in it on the same terms and conditions on which the person who originally lodged the products would have been entitled to receive them.

Receipt transferable by endorsement.

21. In the case of a receipt lost or destroyed a warehouse man shall issue a duplicate receipt to the depositor on application in writing.

Duplicate receipt.

¹. Subs vide the Khyber Pakhtunkhwa Act. IV of 2011.

CHAPTER—IV.

INSPECTION AND CLASSIFICATION OF PRODUCTS.

22. The prescribed authority may inspect or examine a warehouse licensed under the Act, its machinery, equipment, products stored, the account books and records at any time during business hours for the purpose of satisfying itself that the requirements of the Act and the rules are being complied with. Inspection.

23. (i) The prescribed authority may issue licenses to qualified and competent persons entitling them to act as weighers, samplers and graders of any products stored or to be stored in a warehouse and to issue certificates as to weight quality or grade of the products which they have examined. The certificate so issued shall be binding on the warehouseman and the depositor as to weight, quality or grade of the products stored in the warehouse. Licensed weighers and graders.

(ii) The produce stored in the warehouse may be graded and the warehouse man shall provide facilities for weighing and grading.

24. Every licence granted to sampler, weigher or grader may be suspended or revoked by the prescribed authority according to rules framed by the Government: Suspension or cancellation of license.

¹[Provided that no licenses shall be suspended or revoked without giving the person concerned an opportunity of being heard].

25. Whenever a license granted to a sampler, weigher or grader expires, or is suspended or revoked, he shall return it to the prescribed authority. Return of license.

26. No person who is not licensed shall act or hold himself out as a licensed weigher, sampler, or grader. Prohibition of un-licensed weighers, graders, etc.

CHAPTER-V.

MISCELLANEOUS.

27. In the case of dispute about the action of weighers, samplers and graders, the matter shall be referred to the Provincial Government or to such authority as may be appointed by that Government in this behalf whose decision shall be final. Settlement of disputes.

28. Any person who intentionally infringes any of the provisions of the Act or the rules shall on conviction by a Magistrate be liable to imprisonment of either description for a period not exceeding one year or with fine or with both. Notwithstanding anything contained in the Code of Penalty.

¹. Insert by Khyber Pakhtunkhwa Act No. II of 1985.

Criminal Procedure, an offence under this Act shall be cognizable and triable by a Magistrate of the First Class.

29. (i) The Government may by previous notification in the official gazette prescribe rules for carrying out the purposes of the Act. Rules.

(ii) 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 authority empowered to carry out the duties under the Act;
- (b) the form of application for the grant of license to a warehouse man, period and conditions of license, its renewal, conditions for the issue of a duplicate license;
- (c) the form of receipt to be issued by a warehouse man and the particulars to be specified therein and the conditions for the issue of a duplicate receipt;
- (d) the nature of accounts, books and records, to be maintained by a warehouse man;
- (e) the manner of giving notice under the Act;
- (f) the manner of conducting a public auction for the sale of goods deteriorating in warehouse and accounting for the proceeds of such sales;
- (g) the qualifications for grant of licenses to weighers, samplers, and graders, the conditions and period of their licenses, form of certificates to be issued by them, renewal of their licenses, the conditions under which the licenses may be suspended or revoked and the conditions for issue of duplicate licenses;
- (h) the amount of fees payable for the grant of licenses under the Act and their renewal and for the issue of duplicate licenses;
- (i) the standard weight, measures and gradations of products to be used in warehouse under the Act;
- (j) the publication of the grant, suspension or revocation of licenses and the list of licensed warehouse;
- (k) generally for the efficient conduct of the business of a warehouse man;
- (l) the keeping of the warehouse in clean and sanitary conditions;

- (m) the taking out of policies of insurance by a warehouse man in respect of products in his warehouse against loss or damage by fire, floods, theft, riot or civil commotions;
- (n) the conditions under which a duplicate receipt may be issued by a warehouse man; and
- (o) to regulate the charges to be received by the warehouse man for his services in keeping the warehouse in proper condition, receiving the produce, storing it and doing all the incidental work involved.