

THE WAREHOUSES ORDINANCE, 1959

(EAST PAKISTAN ORDINANCE NO. LXVI OF 1959).

[30th September, 1959]

An Ordinance to provide for the regulation of warehouses for storing agricultural produce in Bangladesh.¹

WHEREAS it is expedient to provide for the regulation of warehouses for storing agricultural produce in Bangladesh;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:-

CHAPTER I**PRELIMINARY****Short title, extent and commencement**

1. (1) This Ordinance may be called the ²[* * *] Warehouses Ordinance, 1959.

(2) It extends to the whole of Bangladesh.

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

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "Agricultural produce" means paddy, rice, jute, gram, rape-seed, wheat or any other crop which may be declared by the Government by notification in the official Gazette, to be agricultural produce for the purposes of this Ordinance;

(b) "depositor" means a person who tenders his agricultural produce to the warehouse-man for storing in his warehouse and includes any person who lawfully holds a receipt issued by the warehouse-man in respect of such produce and derives title to it by proper endorsement or transfer from the depositor of his lawful transferee;

(c) "Director" means the Additional Director of Agriculture (Marketing), Government of Bangladesh;

(d) "prescribed" means prescribed by rules made under this Ordinance;

(e) "receipt" means a warehouse receipt drawn in conformity with the rules made under this Ordinance and issued by a warehouse-man to a depositor showing that certain agricultural produce described therein have been deposited in his warehouse.

(f) "warehouse" means any building, structure or other protected enclosure which is used or may be used for the purpose of storing of any agricultural produce;

(g) "warehouse-man" means a person who has taken out a licence under section 5 of this Ordinance;

(h) "small warehouse" means a warehouse of the capacity of five thousand maunds or less; and

(i) "large warehouse" means a warehouse of the capacity of more than five thousand maunds.

Licence for Warehouses

3. Any person desirous of running a warehouse under this Ordinance shall take out a licence for the conduct of his warehouse business by making an application in writing to the Director.

Conditions for licence

4. Before granting a licence, the Director shall satisfy himself-

(a) that the warehouse is suitable for proper storage of the particular agricultural produce for which an application for such licence has been made in writing;

(b) that the applicant has furnished such security as may be prescribed and is competent to conduct such a warehouse; and

(c) that there is no other cause or reason for which the applicant for the licence may, in the opinion of the Director, be deemed to be disqualified.

Grant of licence

5. The Director, on being satisfied after making enquiries under section 4, may grant a licence to the applicant on payment of a fee of taka fifty for a small warehouse and taka one hundred for a large warehouse for the

conduct of his business and on such terms and conditions as may be prescribed.

Term and renewal of licence

6. Every licence granted under section 5 shall be valid for the financial year and may, on the expiry of such period, be renewed, by the Director on an application in writing made by the warehouse-man on payment of an annual fee of taka twenty-five for a small warehouse and taka fifty for a large warehouse.

Suspension and cancellation of licence

7. (1) Every licence issued under section 5 or renewed under section 6 shall be liable to be suspended, cancelled or revoked either temporarily or permanently by the Director for valid reasons to be stated in writing, and in particular if the warehouse-man-

(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 licence or of the provisions of this Ordinance or the rules.

(2) The Government may, by notification in the official Gazette, prescribe any other conditions under which a licence may be suspended, cancelled or revoked.

(3) Any person aggrieved by an order passed under sub-section (1) shall be entitled to prefer an appeal to the Government or to such authority as it may appoint in this behalf.

Notice of

8. (1) Before suspending, cancelling or revoking a licence the Director shall

suspension and cancellation of licence

give notice to the warehouse-man specifying the charges against him and asking him to show cause within a prescribed period why such action should not be taken against him.

(2) After considering the explanation, if offered by the warehouse-man, the Director may pass such order as he deems fit.

Return of licence

9. When a licence expires or is suspended, cancelled or revoked the warehouse-man shall cease to work as such and shall return the licence to the Director.

Duplicate licences

10. Where a licence granted to a warehouse-man is lost or destroyed, the Director may issue a duplicate licence on an application made in writing in prescribed manner.

CHAPTER II**DUTIES OF WAREHOUSE-MAN****Reasonable care of the product stored**

11. Every warehouse-man shall take such care of the agricultural produce stored in his custody as a reasonably careful person would take of his own produce under similar circumstances and conditions.

Precaution against rats, pests and infected goods

12. (1) 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 agricultural produce stored in the warehouse.

(2) Every warehouse-man shall take out a policy of Insurance in respect of the agricultural produce stored in his warehouse against loss or damage by fire, flood, theft, riot, civil commotion or any other act of Providence.

(3) No warehouse-man shall accept for storing in his warehouse agricultural produce which is contaminated or infected by worms and pests and which is likely to cause damage to other agricultural produce stored in the warehouse.

(4) The Government may, by notification in the official Gazette, make rules for the keeping of the warehouse in clean and sanitary condition and for regulating the manner in which books and records are to be maintained by the warehouse-man.

Preservation of identity of

13. Every warehouse-man shall exercise such care to keep in his warehouse the agricultural produce of different depositors separate from

products

each other so as to permit, at all times, the identification of the ownership and quality of such produce deposited and to facilitate easy delivery of such produce on demand by depositors:

Provided that where standardised and graded agricultural produce is stored in a warehouse, subject to any agreement between the warehouse-man and a depositor, there may be pooling of the same variety of such produce belonging to several depositors and each depositor shall be entitled only to his portion of such produce according to weight or quantity, as the case may be, as shown in his receipt.

Deterioration of produce in warehouse and their disposal

14. Whenever agricultural produce stored in a warehouse deteriorates from causes beyond the control of the warehouse-man he shall give notice of such deterioration to the depositor asking him to take delivery of such produce immediately after surrendering the receipt duly discharged and paying the warehouse-man his charges.

If the depositor does not comply with the notice within a reasonable time, the warehouse-man may, with the approval of the Director in writing, cause such produce to be removed from his warehouse and sold by public auction at the cost and risk of the depositor. The sale-proceeds thereof shall be paid to the depositor after deducting charges due to the warehouse-man.

Delivery of products

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

Provided that the loss of weight by evaporation of moisture and shrinkage of its gain by absorption of moisture shall be accounted for when agricultural produce is delivered wholly or in part under the provisions of this section or when disposed of as provided in section 14.

Discrimination prohibited

16. 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.

Warehouse-man not to lend against the products in his warehouse

17. No warehouse-man shall deal in or lend money or agricultural produce which he receives in his warehouse either on his own account or that of others.

Issue of receipt

18. A warehouse-man shall issue a receipt in the prescribed form containing full particulars in respect of the agricultural produces stored in his warehouse by each depositor.

Receipt transferable by endorsement

19. A receipt issued by a warehouse-man shall, unless specified otherwise, be transferable by endorsement and shall entitle its lawful holder to receive the agricultural produces specified in it on the same terms and conditions on which the person who originally deposited such produce would have been entitled to receive it.

Duplicate receipt

20. In case a receipt is lost or destroyed a warehouse-man shall issue a duplicate receipt to the depositor on an application being made in writing in this behalf and upon furnishing such indemnity and on payment of such fees as may be prescribed.

Delegation of power

21. The Director may delegate any of the powers conferred on him under this Ordinance to any officer subordinate to him.

CHAPTER III**Inspection and classification of products**

22. The Director or any officer authorised by him in this behalf may inspect or examine a warehouse licensed under this Ordinance, its machinery, equipment, agricultural produce stored, the account books, records, etc., at any time during business hours for the purpose of satisfying himself that the requirements of this Ordinance and the rules are being complied with.

Licensed weighers and graders

23. (1) Each warehouse approved and licensed under this Ordinance, shall have on its staff a person assigned by the Director, who is qualified, competent and licensed by the Director to act as weigher, sampler or grader of any agricultural produce stored or to be stored in such warehouse.

(2) The Director shall grant licences to weighers, samplers and graders on such terms and conditions and on payment of such fees as may be prescribed.

(3) The Director shall publish rules and regulations defining specifically the duties and responsibilities of licensed weighers, samplers and graders and shall assign them to a particular warehouse or area.

(4) The agricultural produce to be stored in the warehouse may be graded and the warehouse-man shall provide facilities for such grading.

Suspension or cancellation of licence

24. Every licence granted to a sampler, weigher or grader may be suspended or revoked by the Director in the prescribed manner.

Return of licence

25. Whenever a licence granted to a sampler, weigher or grader expires or is suspended or revoked, he shall return it to the Director.

Prohibition of unlicensed weighers, graders, etc

26. No person who is not licensed under this Ordinance shall act or hold himself out as a licensed weigher, sampler or grader.

CHAPTER IV

MISCELLANEOUS

Settlement of disputes

27. In the case of a dispute regarding the action of warehouse-man, weigher, sampler or grader, the matter shall be referred to the Director whose decision shall be final.

Penalty

28. (1) Any person who intentionally infringes any of the provisions of this Ordinance or the rules made under this Ordinance shall, on conviction by a Magistrate, be liable to imprisonment of either description for a period not exceeding two years or with fine not exceeding one thousand taka or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 an offence under this Ordinance shall be cognisable and triable by a Magistrate of the First Class.

Indemnity

29. No suit, prosecution or other legal proceedings shall lie against any person empowered to perform any functions under this Ordinance for anything which is in good faith done or intended to be done under this Ordinance.

Power to make rules

30. The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

¹ Throughout this Ordinance, the words "Bangladesh", "Government" and "taka" were substituted for the words "East Pakistan", "Provincial Government" and "rupees" respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

² The words "East Pakistan" were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

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