

Chhattisgarh Regulation, Prohibition, Sale And Use Of Acid Act, 2013

24 of 2013

[31 July 2013]

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Chhattisgarh Regulation, Prohibition, Sale And Use Of Acid Act, 2013

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PREAMBLE

An Act to provide for the regulation and control of the sale, supply and distribution of acids in the State of Chhattisgarh and for matters connected therewith or incidental thereto.

Be it enacted by the Chhattisgarh Legislature in the Sixty-fourth Year of the Republic of India as follows: --

* Published in the Chhattisgarh Rajpatra (Asadharan) dated 31-7-2013 Pages 666(11-18).

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called as the Chhattisgarh Regulation, Prohibition, Sale and Use of Acid Act, 2013.

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

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

2. Definitions :-

In this Act, unless the context otherwise requires,--

(a) "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability;

(b) "appellate authority" means an Officer or authority authorised by the State Government to hear appeal under Section 13;

(c) "bulk quantity" means quantity as may be prescribed by the State Government;

(d) "dealer" means a person on the business of purchase or sale of acids, whether as a wholesaler or retailer or distributor and whether or not in conjunction with any other business and includes his

agent;

(e) "distributor" means a distributor of acids or his agent or a stockist appointed by a manufacturer for stocking his acids for sale to a dealer;

(f) "government" means Government of Chhattisgarh;

(g) "handling" means processing, treatment, packaging, storage, transportation by vehicle, use, collection, destruction, conversion, offering for sale, transfer of like acids;

(h) "licensing authority" means a licensing authority appointed under clause (a) of Section 3;

(i) "manufacturer" means any person who manufactures acid in the State of Chhattisgarh;

(j) "person-in-charge" means head of the institution, industry, company or firm and shall include every person who is in overall control of the day to day business of such organisation;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "purchaser" means a person who purchases acid directly from the manufacturer or dealer of acid and stores and utilizes the acid for use under clause (p) of this Section and shall include his representatives, employees, agent or any person whom acid is handed over for use;

(m) "retailer" means a dealer carrying on the retail business of sale of acids to customers;

(n) "sale" means any transfer of acid by one person to another, for cash or for credit or by way of exchange, by a wholesaler or retailer and includes an agreement for sale, an offer for sale and exposure for sale;

(o) "state" means State of Chhattisgarh;

(p) "use" means use in relation to acids, use of acid for clinical, educational, industrial purpose including use by goldsmiths, medical, research and scientific purposes;

(q) "wholesaler" means a dealer or his agent or a stockist appointed by a manufacturer or an importer for the sale of his acids to a retailer, hospital, dispensary, medical, educational or research or any other institution purchasing bulk quantities of acids.

CHAPTER 2 RIGHTS AND DUTIES OF LICENSING AUTHORITY, MANUFACTURER, DEALER AND PURCHASER

3. Licensing Authority :-

The State Government may, by notification in the Official Gazette,-

- (a) appoint such persons, being Gazetted Officers of the State Government, as it thinks fit to be Licensing Authorities for the purposes of this Act; and
- (b) define the limits within which a Licensing Authority shall exercise the powers conferred and perform the duties imposed on him, by or under this Act.

4. Restriction on use of acid :-

No person shall use acid, as defined under this Act, for a purpose other than for clinical, educational, industrial including use by metal crafts and handicrafts, medical, research and scientific purposes.

5. Dealer and manufacturer of Acid to obtain licence :-

No dealer or manufacturer of acid shall, after the expiry of six months from the date of commencement of this Act or from the date on which he first becomes dealer or manufacturer of acid, whichever is later, stock, store, transport, conduct or carry on the business of sale of the acid, except under and in accordance with a licence obtained by him under the provisions of this Act and the rules made thereunder:

Provided that any dealer or manufacturer having more than one retail shops dealing in acids, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such retail shops.

6. Application for grant and renewal of licence :-

(1) Any dealer or manufacturer desiring to obtain a licence referred to in the last preceding Section shall make an application in writing to the Licensing Authority in such form and manner and accompanied by such licence fee as may be prescribed by the State Government from time to time.

(2) On the receipt of such application, the Licensing Authority shall make such inquiry as he considers necessary for the grant of licence and if the Licensing authority is satisfied--

- (a) that the dealer or manufacturer of acid is suitable for the proper and safe transportation, storage and handling of the acid in respect of which the licence has been applied for;
- (b) that the applicant is competent to manage such shop dealing with business of acid;
- (c) that the applicant has paid the prescribed licence fee;

(d) that the applicant fulfils or undertakes to fulfil such other conditions, as may be prescribed, from time to time by the State Government, being conditions for ensuring the proper and restricted sale of acid; and

(e) that he has not been convicted by any court of law and is of sound mind; then, the Licensing Authority may grant the licence to the applicant after completion of inspection within one month from the date of application and in case Licensing Authority is not so satisfied, then after giving a reasonable opportunity to the applicant of being heard and after recording a brief statement of the reasons for refusal, he may refuse to grant the licence and furnish a copy of such statement to the applicant.

(3) Every licence granted under this Section shall be valid for the period, as may be prescribed by the Government, and may, on an application made to the Licensing Authority, be renewed from time to time by the Licensing Authority for such period and on payment of such fee and on such conditions, as may be prescribed by the State Government from time to time and where the Licensing Authority refuses to renew a licence, he shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant:

Provided that no order refusing to renew a licence shall be made, unless the applicant is given a reasonable opportunity of being heard.

7. Duties of the holder of licence :-

Every holder of a licence under this Act shall--

(a) undertake to transport, store, handle and sell only such type of acids as specified in the licence;

(b) maintain a written record in the form as may be prescribed by the State Government;

(c) specify in a conspicuous manner an individual label on carton the scientific name, together with the local name, if any, of the acids at all times;

(d) maintain and submit returns or statement in such form and containing such information and within such time frame, as may be prescribed.

8. Duties of the purchaser :-

Every purchaser of acid shall--

(a) purchase the acid only from the valid licence holder under this

Act;

(b) not use the acid purchased other than for the purposes specified under Section 4 of this Act;

(c) maintain a record showing details of the quantity of acid received opening stock, daily consumption and closing stock; and

(d) keep a check on the storage and handling of the acid at regular intervals.

9. Duty of the person-in-charge :-

Every person-in-charge of the industry or any institution purchasing acid under this Act shall be responsible for the utilization, storage and disposal of the acid and shall comply with the provisions of Section 8.

10. Power to cancel or suspend licences :-

(1) The Licensing Authority may suspend or cancel any licence issued or renewed under this Act on any one or more of the following grounds, namely: --

(a) that he has parted, in whole or in part with his control over the shop or has otherwise ceased to conduct the business or hold such acid;

(b) he fails to produce without any reasonable cause such license on demand of the any officer authorized by the Licensing Authority in this behalf;

(c) that he has failed to maintain the record as prescribed;

(d) he omits, without any reasonable cause, to maintain accounts or to submit any return in accordance with the provisions of this Act or any rule made thereunder;

(e) that he has, without reasonable cause, failed to comply with any of the terms and conditions of the licence or any directions lawfully given by the Licensing Authority or has contravened any of the provisions of this Act or the rules made thereunder; or

(f) on any other grounds as may be prescribed.

(2) The Licensing Authority may suspend the licence as interim measure pending final order under sub-section (1).

(3) Before passing of a final order under sub-section (1), the Licensing Authority shall inform the licensee, of the grounds on which action against him is proposed and give him a reasonable opportunity of being heard.

(4) A copy of every order passed under sub-section (1) or (2) shall be communicated to the licensee forthwith and shall be affixed on

outer door or some conspicuous part of the shop visible to the public.

11. Return of licence :-

On the expiry of the period of validity specified in a licence or on receipt of an order suspending or cancelling a licence, the licensee shall return the licence to the Licensing Authority and he shall not deal with the transport, storage, handling and sale of acid thereafter:

Provided that such authority may, after such expiration, suspension or cancellation, give such reasonable time, not exceeding fifteen days, to the dealer or manufacturer in order to enable him to wind up his business in acids.

12. Duplicate licence :-

If a licence issued to any dealer or manufacturer is lost, destroyed or damaged, the Licensing Authority shall, on receipt of application and fee, as may be prescribed, issue a duplicate licence.

CHAPTER 3 APPEAL AND REVISION

13. Appeal :-

(1) Any person aggrieved by an order of a Licensing Authority refusing to grant or renew a licence or suspending or cancelling a licence, may appeal in such form and manner within such period to such Appellate Authority, as may be prescribed:

Provided that the Appellate Authority may entertain the appeal on expiry of the prescribed period, if he is satisfied that there was sufficient cause for delay.

(2) On receipt of an appeal under sub-section (1), the Appellate Authority shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as he thinks fit.

14. Revision :-

(1) The State Government may on an application for Revision made to it by an aggrieved person against an order in appeal or suo moto against an order of the Licensing Authority or of Appellate Authority call for and examine the record of such case and may pass such order thereon, as it thinks fit:

Provided that the State Government shall not exercise the power

conferred on it by this section in respect of an order against which an appeal is pending:

Provided further that the State Government shall not pass any order under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.

(2) An order passed under sub-section (1) shall be final.

CHAPTER 4 OFFENCES AND PENALTIES

15. Offences and Penalties :-

(1) If any person contravenes any of the provisions of this Act or contravenes the provisions of any rule made thereunder, he shall be punished with imprisonment which may extend upto one year or with fine which may extend upto twenty five thousand rupees or with both:

Provided that any person previously convicted for an offence punishable under this sub-section and subsequently convicted of an offence punishable under this sub-section, shall be punished with imprisonment, which may extend upto two years or with fine, which may extend upto fifty thousand rupees or with both.

(2) If any person obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed on him by or under this Act, shall be punished with imprisonment, which may extend upto six months or with fine, which may extend upto twenty five thousand rupees or with both.

16. Offences by Companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time of commission of such offence was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and shall be liable to be proceeded against and be punished under Section 15:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it

is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any member of the management or any employee of the company, such person (s) shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished under Section 15.

Explanation.--For the purpose of this Section--

(a) "Company" means any body corporate and includes a firm, sole-proprietorship or any association of individuals dealing with business of acids.

17. Jurisdiction of Court :-

No court inferior to that of a Judicial Magistrate First Class, shall try any offence punishable under this Act.

18. Offences under Act to be cognizable and non-bailable :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974) offences punishable under this Act shall be cognizable and non-bailable.

19. Provisions of the Code of Criminal Procedure, 1973 to apply to warrants, arrests, searches and seizures :-

The provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) shall apply, in so far as, they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act.

CHAPTER 5 MISCELLANEOUS

20. Power of entry and inspection :-

(1) For the purpose of ascertaining the position or examining the concentration of any acid or place of business where the acid are sold or for any other purpose mentioned in this Act or rules made thereunder, the Licensing Authority or any person authorized by him or by the State Government in this behalf, shall have the right at all reasonable hours and with or without assistants--

(a) to enter into any shop or place of business where the acids are stored and/or sold and to inspect or examine the concentration of the acid therein;

(b) to order the production of any account book, record or other document relating to such business and take or cause to be taken

extracts from or copies of such a document(s);

(c) to ask all necessary questions and examine any person having control of or employed in connection with, such place of business.

(2) Licensee and all persons employed in connection with such shop or such place of business shall allow the Licensing Authority or person authorized by him or State Government, all reasonable access and offer facilities for such inspection and examination as may be required for the purposes aforesaid and shall be bound to answer all questions to the best of their knowledge and belief, to produce documents in their possession and to furnish such other information in relation to the retail shop or place of business where acids are sold as may be required by such authority or person.

21. Officers and persons exercising power under this Act to be Public Servants :-

All officers appointed under this Act and every person authorized to exercise any powers conferred or to perform any duties imposed on him by or under this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).

22. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or person for anything which is done in good faith or intended to be done in pursuance of this Act or any rules made thereunder.

23. Power to delegate :-

The State Government may, by notification in the Official Gazette, direct that any power or duty which by this Act or by any rule made thereunder is conferred or imposed on the State Government, except the power to make rules, shall in such circumstances and subject to such conditions, if any, as may be specified in the notifications, be exercised or performed also by any officer or authority sub-ordinate to the State Government.

24. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, 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 provide for all or any of the following matters, namely: --

- (a) the form of licence, the period for which it shall be issued and the conditions subject thereto, as under Section 5;
- (b) the form and manner of making an application for such licence, the fees and renewal thereof;
- (c) the other grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the licence under Section 10;
- (d) the form and process under which a duplicate licence under Section 12 may be issued and the fee payable thereof;
- (e) the process of filing an appeal/revision, the period of limitation for appeal/revision and the authority to which appeal/revision may be made under Section 13 and Section 14 respectively and the procedure to be followed in such appeal/revision.
- (f) any other matter which is necessary for the implementation of this Act.

(3) Any rule made under sub-section (1) and (2) may provide that a contravention thereof shall be punishable under Section 15 of this Act.

(4) Every rule made under this Section shall be laid as soon as may be after it is made before the House of the State Legislature while it is in session for a, total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rules should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

25. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions which are not inconsistent with the provisions of this Act, as may be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a

period of five years from the commencement of this Act.