

Rajasthan Mica Act, 1958

25 of 1958

[19 March 1958]

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PREAMBLE

An Act to regulate the possession and transport of and trading in mica in the State of Rajasthan.

Whereas it is expedient, in the interest of the general public, to regulate possession and transport of and trading in mica in the State of Rajasthan.

Be it enacted by the Rajasthan State Legislature in the Ninth Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short title extent and commencement :-

(1) This Act may be called the Rajasthan Mica Act, 1958.

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

(3) It shall come into force on such date ¹as the State Government may by notification in the Official Gazette, appoint in this behalf.

1. Act came into force from 1.10.1965 vide Notification No. F.3 (1) (65) Ind./B/65/5311 dated 11.8.1965. Pub. in Raj. Govt. Gaz. Pt. 4 (C) dated 9.9.1965.

2. Interpretation :-

In this Act, unless the context otherwise requires-

(a) "block mica" means any mica, other than chillas, splittings and waste mica, obtained from crude mica by any process of trimming;

(b) "chillas" means thin laminations or cleanings of mica not more than .008 inch thick obtained from crude or block mica;

(c) "controller" means an officer appointed by the State Government to be a Mica Controller for the purpose of this Act;

(d) "crude mica" means mica in its rough state before it has been trimmed or subjected to any process;

- (e) "dealers license" means a license granted under section 5 authorising the person to whom it is granted to buy mica, and to have in his possession and sell mica-
- (i) extracted in the State of Rajasthan from a mica mine of which he is not in possession or from a mica dump, or
- (ii) imported into the State of Rajasthan from any place not situated in the State of Rajasthan;
- (f) "home splitter" means a person who is employed by a splitting contractor or a licensee to split block mica or chillas;
- (g) "licensee" means a person to whom a dealers license has been granted:
- (h) "manufactured mica" means mica in any form other than the form of crude mica, block mica, chillas or splittings;
- (i) "mica" ¹[includes] crude mica:
- (j) "mica dump" means any collection of refuse consisting wholly or largely of mica ²[and shall include waste, scrap or waste- round mica];
- (k) "mica mine" means any excavation where any operation for the purpose of searching for or obtaining mica has been or is being carried on:
- (l) "mining lease" means a mining lease as defined by the ³[rules made from time to time under section 13 of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act LXVII of 1957),] covering "mica, granted by State Government and "mining lessee" means a person holding a mining lease:
- (m) "prescribed" means prescribed by rules made under this Act:
- (n) "prospecting license" means a prospecting license as defined by the ³[rules made, from time to time. under section 13 of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act LXVII of 1957),] covering mica, granted by State Government and "prospecting licensee- means a person holding a prospecting license:
- (o) "splittings" means thin laminations of mica not more than .00125 inch thick; and
- (p) "splitting contractor" means a person who receives block mica or chillas from a licensee for preparing splittings, there from through home splitters.

1. Substituted by Act 43 of 1976. Pub. in Raj. Govt. Gaz. Ext. Pt. 4(A) dated 21.10.1976.

2. Inserted by Act 43 of 1976 Ibid.

3. Substituted by Act 43 of 1976 Ibid.

3. Section :-

¹[x x x]

1. Omitted by Act 43 of 1976 Ibid.

CHAPTER2 RESTRICTIONS ON POSSESSION, PURCHASE AND SALE OF MICA

4. Prohibition of possession of, and trading in mica, without license or prospecting license or mining lease :-

(1) Save as provided in sub-section (2) and sub-section (3) of this section, no person shall .-

(a) have in his possession or sell mica extracted from a mica mine of which he is in possession, whether it is situated in land of which he is the proprietor or otherwise, except mica extracted under a prospecting license or mining lease held by him:

(b) have in his possession or sell mica extracted from a mica dump of which he is in possession, except under a dealers license or except mica extracted under a prospecting license or mining lease held by him;

(c) buy mica or have in his possession or sell mica extracted in the State of Rajasthan from a mica mine or mica dump of which he is not in possession or mica imported into the State of Rajasthan from any place not situated in the State except under and in accordance with a dealers license:

(d) buy or sell crude mica except at the mine from which the crude mica was extracted:

(e) being a licensee, prospecting licensee or mining lessee sell mica to any person resident or carrying on business in the State of Rajasthan, unless such person possesses a valid dealers license:

(f) being a licensee, buy mica from a person resident or carrying on business in the State of Rajasthan, unless such a person is a licensee, a prospecting licensee or a mining lessee.

(2) Nothing in sub-section (1) shall apply to.-

(a) the possession sale or purchase of manufactured mica:

(b) the, sale of mica by a licensee, a prospecting licensee or a mining lessee or the purchase of mica from a licensee, a prospecting licensee or a mining lessee by any person not resident

or carrying on business in the State of Rajasthan and

(c) the possession, sale or purchase of mica under such circumstances and subject to such conditions as may from time to time, by notification, be specified by the State Government.

¹[(3) Any licensee whose license ceases to be in force under sub-section(4) of section 5 or, as the case may be, is cancelled under this Act or any mining lessee whose mining lease is determined shall be entitled, upto a date not later than six months after the date on which his license ceases to be in force or is cancelled or his mining lease is determined, as the case may be to soli or otherwise dispose of any mica which was in his possession on the date on which his license ceases to be in force or is cancelled or his mining lease is determined].

1. Substituted by Act 43 of 1976. Pub. in Raj. Govt. Gaz. Ext. Pt. 4(A) dated 21.10.1976.

5. Grant of license :-

(1) The Controller shall, on the application of any person and on. payment by such person of a fee of two hundred and fifty rupees, grant to such person a dealers is

Provided that the Con may refuse to grant such a license to a person who is convicted of any offence in respect of mica under this Act or under Chapter XVII of Indian Penal Court (Central Act XLV of 1860) or under the Mines and Minerals (Regulation and Development) Act, ¹[1957 (Central Act LXVII of 1957)] or rules made there under.

(2) Any person who has been refused a license by the Controller under the proviso to sub-section (I) may, within thirty days of the order of the Controller, appeal to the Board of Revenue or such other authority as may be prescribed.

(3) There shall be paid to the Controller in respect of every license granted under sub-section (1) all annual fee of one hundred and fifty rupees. Such annual fee shall be paid on the second day of January next following the date on which the license is granted and on the second day of January in each succeeding year.

(4) If the fee payable under sub-section (3) in respect of any license is not paid within sixty days of the date on which it is required by that, sub-section to be paid, such license shall cease to be in force.

(5) If at any time a license granted under sub-section (1) is lost by

the licensee or is destroyed. the licensee shall forthwith report the fact in writing to the Controller and shall plain the circumstances in which the license has been lost or destroyed. I !poll the receipt of the intimation the Controller shall make such inquiry as he may think Mt. and if he is satisfied that the license has been lost or destroyed, he may issue a duplicate license on payment of a fee of five rupees by the licensee. Such a license shall be stamped with the word "duplicate".

1. Substituted by Act 43 of 1976. Pub. in Raj. Govt. Gaz. Fxt. Pt. 4(A) dated 2 4. 10.1976.

6. Exercise of powers of licensee etc. by agents :-

The Controller shall, on the application of a licensee, a prospecting licensee or a mining lessee, endorse on his license or otherwise certify the name of persons who shall be entitled to exercise on behalf of such licensee prospecting licensee or mining lessee any of the powers conferred on him under this Act or under his license, and no person whose name is . not so endorsed or certified shall be entitled to exercise any of the said powers on behalf of any licensee prospecting licensee or mining lessee.

CHAPTER3 DUTIES OF LICENSEESHOLDER OF PROSPECTING LICENSES AND MINING LESSEES

7. Keeping of account and submission of returns :-

(1) Every licensee, prospecting licensee and mining lessee shall submit such returns and in such form and manner as may be prescribed and shall keep accounts showing-

(a) in respect of crude mica, the following particulars, namely

(i) the quantity received the date of receipt and the source of supply;

(ii) the quantity issued to cutters or disposed of and the date of such issue or disposal and the name of the person, if any to whom it is disposed of;

(iii) the quantity of block mica received from cutters and the date of receipt;

(iv) the quantity of chillas received from cutters and the date of receipt; and

(v) the quantity of the balance remaining in stock at intervals not exceeding seven days;

(b) all respect of mica other than crude or manufactured mica, the following particulars, namely

(i) all additions to the stock, specifying the quantity and the size or, in the case of mica which has not been sorted into sizes, the description and the quantity of the mica received and, in the case of purchase the name of the person from whom it is purchased:

(ii) all issues from the stock, specifying-

(a) the quantity and the size or, in the case of mica which has not been sorted into sizes, the description and the quantity issued;

(b) the purpose for which it is issued; and

(c) in the case of sale or export, the name of the purchaser or of the agent to whom it is sold or exported, as the case may be; and

(iii) the quantity and the size or, in the case of mica which has not been sorted into sizes, a description and the quantity, of the balance remaining in stock at intervals not exceeding seven days.

(2) If the State Government is satisfied that the particulars specified in sub-section (1) are infer lent, it may, by notification direct that the accounts required to be kept under sub-section (1) shall show such additional particulars as may be specified in such notification, and thereupon every licensee prospecting licensee and mining lessee shall keep account showing such additional particulars in addition to the particulars specified in sub-section (1).

8. Production of accounts by licensees, holders of prospecting licensees and mining licensees :-

Every licensee, prospecting licensee and mining lessee shall, when so required by any officer authorized in this behalf by the State Government-

(a) produce his accounts and disclose or produce the full amount of his stock of mica for the inspection of such officer;

(b) give such officer every facility for inspecting any mica mine or mica dump of which he is in possession.

9. Notifying places used for storing mica :-

Every licensee prospecting license and mining lessee shall notify to the prescribed authority, and in the prescribed manner all places used by him whether for storing mica or for preparing the same for sale, and shall give to such authority every facility for inspecting such places.

CHAPTER 4 IMPORT, EXPORT AND TRANSPORT OF MICA

10. Restriction on import and export of mica :-

Every person who imports into or exports out of the State mica in any quantity shall give a notice in writing of his intention to do ¹[so as to reach the Controller or any other officer authorized by him in this behalf] before the date of import or export.

Explanation.-In this section import means bringing into the State of Rajasthan by any means whatsoever and export means taking out of the State of Rajasthan by any means whatsoever.

1. Substituted by Act 43 of 1976..Pub. in Raj. Govt. Gaz. Ext. Pt. 4(A) dated 21.10.1976.

11. Transport of mica :-

(1) No person shall remove mica from any mica mine, mica dump or other place in the occupation of a licensee, prospecting licensee or mining lessee, unless he carries a pass in the prescribed form specifying the date and time of its issue signed by such licensee, prospecting licensee and mining lessee or his duly authorized agent, showing-

(a) the place from which the mica has been removed:

(b) the quantity and the size, or, in the case of mica which has not been sorted into sizes, the description and the quantity of such mica: and

(c) the destination of such mica and the route by which it will be transported:

Provided that any person who is ordinarily engaged in the business of splitting mica may, with the approval in writing of an officer authorized in this behalf by the Controller, without a pass-

(i) remove block mica or chillas of a size not exceeding the size mentioned in section 3 from any place in the occupation of a licensee, prospecting licensee or a mining lessee other than a mica mine or mica dump; and

(ii) return to such licensee, prospecting licensee or and mining lessee splittings made from such block mica or chillas.

(2) any person who removes mica from a mica mine, mica dump or other place in the occupation of a licensee, prospecting licensee or mining lessee and who is required by sub-section (1) to carry a pass shall, on being required-to do so by any officer authorized in this behalf by the State Government, produce such pass to such officer.

CHAPTER 5 OFFENCES AND PENALTIES

12. Penalties :-

(1) Save as provided in sub-section (2) and sub-section (3) of section 4, any person who commits a breach of any of the provisions of sub-section (1) of section 4 shall on conviction by a Magistrate of the first class be punishable with fine which may extend to one thousand rupees.

(2) Any licensee, prospecting licensee or mining lessee who fails to comply with any of the provisions of sections 7 and 8 or fails to submit any prescribed return or submits a prescribed return which is a false in any material particular, shall on conviction by a Magistrate of the first in class be punishable with fine which may extend to one thousand rupees.

(3) Any licensee who fails to produce his license within a reasonable time after being so required by the prescribed authority shall on conviction by a Magistrate of the first class be punishable with fine which may extend to fifty rupees.

(4) Any licensee, prospecting licensee or mining lessee who-

(a) fails to notify to the prescribed authority and in the prescribed manner the place or places used by him whether for storing mica or preparing for its sale; or

(b) stores mica at any place other than a place notified in accordance with section 9: shall on conviction by a Magistrate of the first class be punishable with fine which may extend to one thousand rupees.

13. Penalty for an unauthorized import, export or removal of mica :-

Any person who fails to give notice of import or export of mica under section 10 or removes mica in contravention of section 11 shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees.

14. Forfeiture :-

Whenever any person is convicted of an offense under this Act, the mica in respect of which the offence was committed shall be forfeited to the State, unless the Court otherwise directs.

CHAPTER 6 POWER OF OFFICERS

15. Arrest without warrant :-

Any Police Officer may arrest without warrant any person found committing an offence punishable under sub-section (1) of section 12 read with clause (c) of sub-section (1) of section 4 or under section 13.

16. Seizure and detention of mica removed without pass :-

(1) Any officer authorized in this behalf by the State Government may seize any mica which is removed from any place mentioned in sub-section 1 of section by a person who does not Carry a pass as required by that sub-section or who does not produce such pass when required to do so, and may detain such mica at the nearest police station until the ownership thereof is established to the satisfaction of any Magistrate authorized in this behalf by the Controller.

(2) If the ownership of such mica is disputed or if the ownership thereof is not established to the satisfaction of the Magistrate, he shall refer the matter to the Controller. If any claim made to the ownership of such mica is rejected by the Controller, or if no claim is made within one month from the date of detention, the mica shall be forfeited to the State Government:

Provided that when any such claim is rejected, the claimant may, within three months from the order rejecting the claim, apply to the civil court to set aside such order and the court, if satisfied that such claimant is the owner of the mica, shall make an order for the delivery thereof to him.

17. Powers of search and seizure :-

(1) Whenever any officer authorized in this behalf by the State Government have reason to believe that an offence punishable under sub-section (1) of section 12 read with clause (a), (b) or (c) of sub-section (1) of section 4 or under clause (b) of sub-section (4) of section 12 has been or is being committed in respect of any mica and that such mica is to be found in any buildings or place and that a search warrant cannot be obtained without affording the offender an opportunity of concealing or removing mica, he may, after recording the grounds of his belief at any time by day, enter and search such building or place and seize mica found therein in respect of which he has reason to believe that any offence referred to in this sub-section has been or is being committed:

Provided that no Police Officer whose rank is lower than that of an Inspector of Police shall be authorized to exercise the power conferred by this section.

(2) Every officer seizing any mica under sub-section (1) shall-

(a) prepare a list of mica so seized and deliver a copy thereof signed by him to the person found in possession of such mica:

(b) enclose the mica seized in a package and placed on such package a mark indicating that the mica therein contained has been seized; and

(c) as soon as may be after such seizure make, a report thereof to Magistrate having jurisdiction to try the offence on account of which such seizure has been made.

(3) Upon receipt of any such report, the Magistrate shall with all convenient dispatch take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

18. Compounding of offences :-

Subject to such restrictions and conditions, if any, as may be prescribed, the Controller or any other officer authorized by the State Government in this behalf may compound any offence under this Act on such terms, including terms regarding the payment of compensation money to the State, as may appear to be proper and there upon no prosecution shall be instituted or continued for that offence against the person in respect of whom the offence is compounded.

CHAPTER 7 MISCELLANEOUS

19. Cancellation of licence :-

(1) The State Government may, after giving the licensee a reasonable opportunity of being heard, cancel the license of any licensee who.-

(a) is convicted of an offence in respect of mica under this Act or under Chapter XVII of the Indian Penal Code (Central Act XLV of 1860) or under the Mines and Minerals (Regulation and Development) Act ¹[1957 (Central Act LXVII of 1957)]; or

(b) is guilty of repeated failure to comply with any of the provisions of this Act:

Provided that the license shall not be cancelled solely by reason of a conviction from which the licensee has no right of appeal.

(2) A fresh license shall not, without the previous sanction of the State Government, be granted to any licensee whose license has been cancelled under this section.

1. Substituted by Act 43 of 1976. Pub. in Raj. Govt. Gaz. Ext. Pt. 4(A) dated 21.10.1976.

20. Delegation of powers and duties of the Controller :-

The Controller, may, with the previous approval of the State Government delegate any of the powers or duties conferred or imposed on him by this Act or any Act to any Gazetted Officer.

21. Rules :-

(1) The State Government may, after previous publication 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, the State Government may make rules-

(a) prescribing the returns to be submitted by any licensee, prospecting licensee or mining lessee:

(b) providing for any matter which is to be, or may be prescribed under any provision of this Act:

(c) prescribing a penalty of fine not exceeding one hundred rupees for the breach of any rule.

22. Repeal :-

All laws corresponding to this Act in force in any of the former Indian States now forming part of the State of Rajasthan or in any other part of the State of Rajasthan are hereby repealed.