THE UTTAR PRADESH WAREHOUSE ACT, 1958[1]

(U.P. ACT III OF 1959)

Amended by

U.P. Act no. XII of 1964

Adapted and modified by the Adaptation of Laws Order, 1950

[Passed in Hindi by the Uttar Pradesh Legislative Council on July 30, 1958, and by the Uttar Pradesh Legislative Assembly on September 8, 1958 with certain amendments which were approved by the U. P. Legislative Council on September 24,1958. Received the assent of the President on February 10, 1959, under Article 201 of The Constitution of India and was published in the Uttar Pradesh *Gazette Extraordinary*, dated February 19, 1959.]

AN

ACT

to provide for the supervision and control of warehouses in Uttar Pradesh

[2][Whereas it is expedient to encourage scientific and hygienic storage of goods in warehouses and to safeguard the interest of the depositors of such goods and to make provision for proper supervision and control of warehouses.]

IT IS HEREBY enacted in the Ninth Year of the Republic of India as follows:-

Short title, extent and commencement

1.(1) This Act may be called the Uttar Pradesh Warehouse Act, 1958.

(2) It extends to the whole of Uttar Pradesh.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the State Government may by notification in the official *Gazette*, appoint and different dates may be appointed for different areas of Uttar Pradesh.

Definitions

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 be registered under the Co-operative Societies Act, 1912 as amended from time time;

(*b*) "depositor" means a person who tenders his goods to the warehouseman for storing in his warehouse and includes any person who is a holder in due course of the receipt issued by the warehouseman in respect of such goods and derives title thereto by a proper endorsement or transfer from the depositor or the depositor's lawful transferee ;

1.For Statement of Objects and Reasons, *see* Uttar Pradesh *Gazette Extraordinary,* dated July 9, 1958. 2.*Subs.* by *sec.* 2 of U.P. Act no. XII of 1964.

[1] [(*c*) "goods" means agricultural produce as defined in clause (a) of section 2 of the Warehousing Corporations Act, 1962 and such other articles as may be prescribed ;]

(*d*) "licensed" means a licence granted under section 4 or renewed under section 6 ;

(*e*) "licensing authority" means the authority specified in the rules to perform the duties and exercise the powers of the licensing authority under this Act or the rules;

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

(*g*) "receipt" means a warehouse receipt in the prescribed form issued by a warehouseman to a depositor showing that the goods described therein have been deposited in his warehouse;

(*h*) "State Government" means the Government of Uttar Pradesh ;

2[(*i*) "warehouse" means any building, structure or other protected enclosure used for the purpose of warehousing ;]

3 [(*j*) "warehouseman" means a person carrying on the business of warehousing and includes any person incharge of that business ;]

4[(*jj*) "warehousing" means the business of storing goods on behalf of depositors for preservation or safe custody; and]

Act XXVI of 1881

(k) "the holder in due course" shall have the meaning assigned to it in the Negotiable Instruments Act, 1881.

CHAPTER II

LICENSING OF WAREHOUSES

No warehousing without licence

5**[3.** With effect from such date as may be notified by the State Government in the official *Gazette*, no person shall undertake or continue warehousing, except under and in accordance with the terms of a licence granted under this Act.]

Application for licence

6**[4.** (1) Every application for a licence shall be made in the prescribed form to the licensing authority and shall be accompanied by the prescribed fee and security:

Provided that where the applicant is a Warehousing Corporation established or deemed to be established under the Warehousing Corporations Act, 1962 or any other Central Act for the time being in force, no security shall be required.

(2) On receipt of an application under sub-section (1), the licensing authority shall, as soon as may be, subject to the provisions of sub-section (3), grant a licence to the applicant in such form and containing such particulars as may be prescribed.

1.*Subs.* by *sec.* 3 (1) of U.P. Act no. XII of 1964.
2.*Subs.* by *sec.* 3(2) *ibid.*
3.*Subs.* by *sec.* 3(3) *ibid.*
4.*Subs.* by *sec.* 3(4) *ibid.*
5.*Subs.* by *sec.* 4 of *ibid.*
6.*Subs.* by *sec.* 5 of *ibid.*

(3) An application for licence may be refused if it appears to the licensing authority that-

(a) the proposed warehouse is not, according to the prescribed conditions, suitable for storage of the class of goods for which it is intended; or

(b) the application is not accompanied by the prescribed fee or security and the same has not been paid or furnished within such time, not exceeding fifteen days, as the licensing authority may allow.] 1

Modifications of the conditions of the licence

5.The State Government may, by notification in the official Gazette, add to or alter the conditions under which a licence is granted to a warehouseman under section 4.

Term and renewal of licence

6.A licence granted under section shall be valid for such period, as may be prescribed, and may, on application made by the warehouseman and upon payment of the prescribed fees, be renewed, from time to time, by the licensing authority for such further period as may be prescribed:

Provided the other conditions referred to in section 4 continue to be finifilled.

Procedure of Application and refusal of refund

2**[7.** (1) Before the licensing authority refuses an application for licence or for the renewal of a licence, it shall allow the applicant an opportunity of being heard.

(2) When the licensing authority refuses an application for licence or for the renewal of a licence, it shall record in writing its reasons for such refusal and send a copy of its order to the applicant.

(3) A person whose application for licence or renewal of a licence has been refused shall, on application made in this behalf, be entitled to the refund or return of the security, if any, deposited or furnished by him and also of the fee, if any, deposited for the period to which the application related.]

Suspension and cancellation of licence

8.Every licence shall be liable to be suspended or cancelled either temporarily or permanently by the licensing authority, if in its opinion the licensee has–

(a) been adjudicated an insolvent; or

(b) parted, in whole or in part, with his control over the warehouse; or

(c) ceased to conduct such warehouse; or

(d) levied unreasonable charges for the services rendered by him; or

(e) [3][* * *]

(f) contravened, or failed to comply with any of the terms and condititions of the licence or any provisions of this Act or the Rules:

1.*Subs.* by *sec.* 5 of U.P. Act no. XII of 1964.

2.*Subs.* by *sec.* 6 *ibid.*

3.*Deleted* by *sec.* 7 *ibid.*

Provided that before passing an order for suspensions or cancellation, the licensing authority shall give notice to the warehouseman stating the grounds on which it is proposed to suspend or cancel his licence and shall give him a reasonable opportunity to show cause why it should not be suspended or cancelled:

Provided further that, where immediate action is required in public interest, the licensing authority may, after recording the reasons, suspend a licence without giving such notice.

[1][**9.** (1) When a licence expires or is suspended or cancelled, the warehouseman shall cease to carry on warehousing, except for winding up the affairs of that business within such period as may be prescribed. The warehouseman shall within ninety days of the expiry of the licence or its suspension of cancellation, as the case my be, return the licence to the licensing authority.

(2) Where a warehouseman does not return the licence as required under sub-section (1), the licensing authority may, without prejudice to any other penalty provided by this Act, order the forfeiture of the whole or any part of the security, if any, deposited or furnished by him.]

Duplicate licence

10. Where a licence granted to a warehouseman is lost, destroyed, torn, defaced or otherwise becomes illegible, the licensing authority shall, in the prescribed manner and on payment of the prescribed fee, issue a duplicate licence.

CHAPTER III

DUTIES OF A WAREHOUSEMAN

Reasonable care of the goods deposited

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

Precautions against damage of injury to goods

12.(1) Every warehouseman shall keep his warehouse in such conditions, as may be prescribed, in order to prevent loss, damage or injury to the goods deposited in the warehouse.

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

Preservation of identity of goods

13. Every warehouseman shall keep in his warehouse 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 manner as to permit at all times the identification and easy delivery of goods deposited:

Provided that where standardized and graded goods are deposited in a warehouse, the same variety of goods belonging to the same or different depositors may, subject to any contrast to the contrary, 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, having due regard to driage or shrinkage.

1.*Subs.* by *sec.* 8 of U.P. Act no. XII of 1964.

Warehouseman to allow facilities for the depositor to inspect goods

14. Every warehouseman shall allow during such hours, as may be prescribed, necessary facilities to a depositor or such person, as may be authorised by him, to inspect and satisfy himself that his goods are properly cared for.

Goods deteriorating in warehouse and their disposal

15.(1) Whenever goods deposited in a warehouse being to de- teriorate or are likely to deteriorate from causes beyond the control of the warehouseman, he shall forthwith give notice thereof to the depositor, requiring him to take delivery of the goods immediately after surrendering the receipt duly discharged and paying all charges due to the warehouseman.

(2) Where the depositor does not, within the prescribed time, comply with the notice given to him under sub-section (1), the ware- houseman 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 the warehouseman shall give notice of the sale to such authority as may be prescribed at least 48 hours before such sale.

1[***Explanation-***Loss of weight or bulk by driage or shrink- age or gain of weight or bulk by absorption of moisture shall be deemed to amount to deterioration within the meaning of this section if the loss or gain exceeds such limits as the licensing authority may, from time to time, having regard to the climatic conditions of different areas, fix by notification published in the official *Gazette*.]

Intimation regarding conditions of goods

16. Any person having an interest in any goods deposited in a warehouse or in the receipt covering such goods may inform the warehouseman in writing of the fact and nature of his interest and warehouseman shall keep a record thereof; 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

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

Provided that the depositor may, subject to any agreement between the warehouseman and the depositor, take partial delivery of the goods deposited in a warehouse.

(2) Every such receipt after being so surrendered to the warehouseman shall, 2[subject to the provisions of sub-section (3),] be defaced by him and no such receipt shall be reissued.

3[(3) Where only partial delivery of the goods is taken by a depositor, the warehouseman shall make an entry of it in the receipt and return it to the depositor.]

1.*Subs.* by *sec.* 9 of U.P. Act no. XII of 1964.

2.*Ins.*. by *sec.* 10(1) *ibid*.

3.*Subs.* by *sec.* 19(2) *ibid.*

Liability of Warehouseman for shortage or excess in goods deposited

18.(1) The warehouseman shall be liable to pay compensation determined in the manner prescribed to the depositor for any loss sustained by him by reason of the goods having lost weight or bulk in excess of the 1[limits fixed by the licensing authority] owing to shrinkage or driage or by reason of deterioration in the quality of the goods owing to their having gained weight or bulk in excess. of the 1[limits fixed by the licensing authority] by the absorption of moisture.

[2][(2) Any dispute arising as to whether loss or gain in weight or bulk in excess of the limit fixed by the licensing authority is due to driage or absorption of moisture or is due to other causes beyond the control of the warehouseman, shall be referred to the licensing authority and such dispute shall, unless the parties express in writing their desire to refer it to the Board of Arbitrators appointed under section 29, when it shall be so referred, be decided by the licensing authority and the decision of the Licensing Authority shall be d and binding on the parties.]

Insurence of goods in warehouse

[3][**19.** Every warehouseman shall insure the goods stored in his warehouse in such manner and against such events as may be prescribed:

Act LVIII of 1962

Provided that nothing in this section shall apply to the goods deposited in a warehouse belonging to a Warehousing Corporation established or deemed to be established under the Warehousing Cor- porations Act, 1962, or any other Central Act for the time being in force where such Warehousing Corporation has undertaken in the prescribed manner to compensate the depositor against loss or damage arising from such events.]

Discrimination prohibited

20. No warehouseman shall, in the conduct of his business, dis- criminate between persons desiring to avail themselves of the facilities of his warehouse:

Provided that the warehouseman shall show such preference to a co-operative society and allow it such concessional rates as may be prescribed.

Warehouseman not to deal in or land money against goods in warehouse

[4][**21.** (1) No warehouseman shall either on his own account or that of others including the owner of the goods, deal in, or lend money on, goods received by him for deposit in his warehouse, anything to the contrary contained in any other law notwithstanding.

(2) The provisions of sub-section (1) shall not apply to-

Act LVIII of 1962

(i) a Warehousing Corporation established or deemed to be established under the Warehousing Corporations Act, 1962, except in regard to the restriction on its power to lend money on goods received by it for deposit in its warehouse: or

(ii) a co-operative acciety.]

1.*Subs.* by *sec.* 11(1) of U.P. Act no. XII of 1964.
2.*Subs.* by *sec.* 11(2) *ibid.*
3.*Subs.* by *sec.* 12 *ibid.*
4.*Subs.* by *sec.* 13 *ibid.*

Service charges

22. The warehouseman may lovy such charges as may be prescribed for storing goods in the warehouse.

Accounts *etc.* maintained

23. A warehouseman shall maintain accounts, books and records in such form and manner as may be prescribed.

Warehouseman's lien

24. Every warehouseman shall have a lien on the goods deposited in his warehouse for charges for storing goods and for all the other lawful charges incidental thereto.

CHAPTER-IV

GRADING OF GOODS

Weighers, samplers and classifiers to obtain licence

25.(1) The licensing authority may, on application made in the prescribed form on payment of the prescribed fee and the security money, grant a licence to person possessing the prescribed qualifications, entitling them to Act as weighers, samplers and classifiers, of any goods deposited or to be deposited in a warehouse ruu by a warehouseman 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 subject to any order [made by the Board of Arbitrators on complains refereed to in section 29] be

binding on the warehousemen 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 a weigher, sampler or classifier, in relation to goods kept in the warehouse run by a warehouseman.

Provisions regarding licences granted under section 25

26.(1) Every licence granted to a weigher, sampler or classifier under section 25 shall be valid for such period, as may be prescribed and may, on application and payment of the prescribed fee, renewed from time to time for such further period as may be prescribed.

(2) The licensing authority may concel any licence after com- municating to the licensed the grounds on which it is proposed to take action and giving him a reasonable opportunity of showing cause against it.

(3) Where immediate action is required in public interest, the licensing authority may, after recording the reasons, suspend any such licence without giving such notice.

Return of licence

1 **[27.** Whenever alloence granted to a weigher, sampler or classifiers expires or is suspended or cancelled, the licensee shall return the licence to the licensing authority and if he fails to do so the whole or 2[any part of his security shall be liable to be forfeited at the discretion of the licensing authority.]

Duplicate licence of weigher, etc.

3[**27-A.** Where a licence granted to a weigher, sample or classifier is lost, destroyed, torn, defaced, or otherwise becomes illegible, the licensing authority shall, in the prescribed mermer and on payment of the prescribed fee, issue a duplicate licence.]

Facilities to be given for weighing goods, etc.

28. Every warehouseman shall provide at lis warehouse such facilities as may be prescribed for weighing, sampling and classifying any goods deposited in his warehouse.

1.*Subs.* by *sec.* 14 of U.P. Act no. XII of 1964.
2.*Subs.* by *sec.* 15 *ibid.*
3.*Add.* by *sec.* 16 *ibid.*

Decision of Board of Arbitrators

1[**29.** (1) The licensing authority may, in the manner prescribed, constitute a Board of Arbitrators to decide any dispute referred to under sub-section (2) of section 18 or any complaint against any weigher, samples, classifier or warehousemen releting either to the quality, weight or grade of goods stored in a warehouse or to the description thereof in the receipt.

(2) The Board of Arbitrators in deciding such dispute or complaint shall follow such procedure as may be prescribed. (3) The decision of the Board of Arbitrators shall be final and binding on the parties.]

CHAPTER-V

WAREHOUSE RECEIPTS

Receipt

2[**30.** The warehouseman shall, for the goods deposited in his warehouse by each depositor, issue a receipt in the prescribed form containing full particulars of the goods.]

Receipts transferable by endorsement

31. The receipt issued by a warehouseman shall, unless other- wise specified thereon, be transferable by an endorsement and shall entitle the holder in due course to receive the goods specified in it on the same terms and conditions as the original depositor.

Duplicate receipt

32. Where a receipt is lost, destroyed or damaged, the ware- houseman shall, on an application made by the depositor and upon payment of the prescribed fees, issue a duplicate receipt subject to such conditions as may be prescribed.

CHAPTER-VI

MISCELLANEOUS

Inspection

33. The licensing authority may, at any time during such hours, as may be prescribed, inspect or examine or cause to be inspected or examined, any warehouse, its machinery and

equipment, goods deposited therein, and the account books and records relating thereto, for the purpose of satisfying itself that the requirements of this Act and the rules are being complied with.

Appeal

[3]**[34.** (1) An appeal against an order of the licensing authority refusing to grant or renew a licence or suspending or cancelling any licence under this Act, or forfeiting any security deposited or furnished in respect of a licence shall lie to such authority, not below the rank of an Assistant Registrar, Co-operative Societies, and within such time, as may be prescribed.]

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

No compensation for suspension or cancellation of licence

35. Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation thereof nor shall be entitled to the refund of fee, if any, paid by him.

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1. *Subs.* by *sec.* 17 of U.P. Act no. XII of 1964.
2. *Subs.* by *sec.* 18 *ibid.*
3. *Subs.* by *sec.* 19 *ibid.*

Contracts and agreements inconsistent with this Act to be void

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

Penalty and procedure

37.[1][(1) Whoever-

(a) acts as a warehouseman, weigher, sampler or classifier without having obtained a licence required under this Act, or

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

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 unless he proves that the offence was committed without his knowledge or consent.

Bar of suits and legal proceedings

[2]**[37-A** (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or the rules made thereunder.]

Rules

38. (1) The State Government may 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 and conditions of licences granted under this Act;

(b) the procedure relating to the grant, renewal, cancellation and suspension of licences under this Act;

(c) the publication, from time to time, of the grant, suspension and cancellation of licences and the list of warehousemen and their warehouses;

(d) the procedure relating to the forfeiture of security money;

3[(dd) the procedure for the refund of licenes fee or security:]

(e) the manner of giving notices under this Act;

(f) the manner of communication of orders under section 7;

1.*Subs.* by *sec.* 20 of U.P. Act no. XII of 1964.
2.*Add.* by *sec.* 21 *ibid.*
3.*Add* by *sec.* 22(1) *ibid.*

(g) the manner of sale of goods by public auction under section 15;

(h) the form and the manner in which intimation under section 16 shall be sent and the particulars to be specified therein;

(i) the procedure relating to the delivery of goods under section 17;

(j) the form of certificate issued under section 25;

(k) the standard weights, measures and gradations of goods to be used in licensed warehouses;

(1) the procedure to be followed in the proceedings before the Board of Arbitrators under section 29 and the mode of execution of their award;

(m) the procedure to be followed in the disposal of appeals;

(n) efficient conduct generally of the business of warehouse- man; and

(o) such other matters which are to be or may be prescribed.

1[(3) All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature while it is in session, for a total period of not less than fourteen days extending in its one session or more than one successive sessions and shall, unless some later date is appointed, take effect, from the date of or annulments as the two Houses of the Legislature may agree to make, so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done thereunder.]

Savings

Act I of 1944

Act VIII of 1878 Act VIII of

2[**39.** The provisions of this Act, shall not apply to any warehouse licensed under the provisions of Central Excises and Salt Act, 1944, Sea Customs Act, 1878, or the Inland Bonded Warehouses Act, 1896 or the rules made thereunder.

Power to

40. The State Government may, by notification in the official persons from all or any of the provisions of this Act.]

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1.*Add* by *sec.* 22(2) of U.P. Act no. XII, 1964.