

(ACT No.29 OF 1969)

AN ACT to regulate the manufacture, storage, distribution transport acquisition and disposal of bricks in the Union territory of Himachal Pradesh and for matters connected therewith. Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:–

1. Short title and extent:–This Act may be called the Himachal Pradesh Bricks(Control)Act,1969. (2) It extends to the whole of the Union territory of Himachal Pradesh.

2. Definitions:– In this Act, unless the context otherwise requires–

- (a) 'Brick' means any piece of burnt clay fired in kiln and having a geometrical shape;
- (b) 'dealer' means any person who is engaged in the business of buying or selling, or otherwise dealing in, bricks and includes his representative or agent;
- (c) 'Government' means the Administrator of the Union territory of Himachal Pradesh;
- (d) 'kiln' means a structure used for burning bricks;
- (e) 'Official Gazette' means the Rajpatra, Himachal Pradesh.

3. Powers to control manufacture, storage, distribution etc. of bricks;– If the Government is of opinion that it is necessary or expedient so to do for maintaining or increasing the supply of bricks or for securing their equitable distribution and availability at fair prices, it may by order notified in the Official Gazette, provide–

- (a) for regulating by licenses, permits or otherwise the manufacture, storage distribution, transport, acquisition or disposal of bricks;
- (b) for collecting any information or statistics with a view to regulating of the aforesaid matters;
- (c) for the grant of issue of licenses, permits or other documents and the charging of fees therefore;
- (d) for controlling the prices at which bricks may be brought or sold;
- (e) for requiring dealer or kiln owners to maintain and produce for inspection such accounts and records regarding bricks and to furnish such information relating thereto, as may be specified in the order;
- (f) for any incidental and supplementary matters including a particular the entering and search of premises and vehicles and the seizure by a person authorised relating to make such search of the bricks in respect of which such person has reason to believe that contravention of any other made under this Act has been, is being or is about to be committed.

4.Delegation of powers:– The Government may, by order notified in the Official Gazette, direct that the power to make order under section 3, shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by such officer, or authority subordinate to the Government as may be specified in the order.

5. Effect of orders inconsistent with other enactments:– Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any

6. Provisions of sections 102 and 103 of the Code of Criminal Procedure to apply to search and seizure.– The provisions of sections 102 and 103 of the Code of Criminal Procedure,1898, relating to search and seizure shall, so far as any be, apply in relation to every seizure made in the course of such search.

7. Penalties._ If any person contravenes any order made under section 3._

- (a) he shall be punishable with imprisonment for a term which may extend two or three years, or with fine, or with both;
- (b) any property in respect of which the order has been contravened or such part thereof as the Court may deem fit shall be forfeited to the Government.

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or as the case may be, any part of property, it may, for reasons to be recorded refrain from doing so.

8. Attempts and abetments._ Any other person who attempts to contravene, or abets a contravention of, any order made under section 3 shall be deemed to have contravened that order.

9. False Statements._ If any person,_

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- (i) when required by any order under section 3 to make any statement or furnish any information makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true; or
- (ii) makes any such statement as aforesaid in any book, accounts, records, declaration, return or other documents which he is required by any such order to maintain or furnish; he shall be punishable with imprisonment for a term which may extend to three years or with fine, or both.

10. Offences by Companies.—

(1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge, be liable to be proceeded against and punished accordingly; for the conduct of the business of the company as well as the company:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(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 director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence shall be liable to be proceeded, against and punished accordingly.

Explanation.— For the purposes of this section—

- (a) 'company' means any body corporate and includes a firm or other association of individual;
- (b) 'Director' in relation to a firm means a partner in the firm.

11. Cognizance of Offences.— Notwithstanding anything contained in the Code of Criminal Procedure, 1898(5 of 1898), every offence punishable under this Act shall be cognizable.

12. Power to try offences summarily.— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), any Magistrate or Bench of Magistrate empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the said Code any, on application in this behalf made by the prosecution, try in accordance with the provisions contained in sections 262 or 265 of the said Code any offence punishable under this Act.

13. Presumption as to orders.— Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a court shall presume that such order was made by that authority within the meaning of the Indian Evidence Act, 1872(1 of 1872).

14. Protection of action taken under this Act.—

- (1) No suit, prosecution or other legal proceeding, shall lie against any person for anything which is in good faith or intend to be done in pursuance of any order made under section 3.
- (2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

15. Repeal and Savings.—

(1) The East Punjab Control of Bricks Supplies Act, 1949 (1 of 1949) as in force in the territories transferred to the Union Territory of Himachal Pradesh by sub-section (1) of section 5 of the Punjab Re-organisation Act, 1966(31 of 1966) is hereby repealed.

(2) Notwithstanding such repeal, any order made under the Act hereby repealed and in force immediately before the commencement of this Act shall be deemed to have been made under this Act and shall, in so far as it is not inconsistent with the provisions of this Act, continue in force and accordingly any appointment made, license or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force immediately before such commencement shall continue in force until and unless it is superseded by any appointment

made, license or permit granted or direction issued under this

NOTIFICATION
Shimla-2, the 14th October, 1970
AS AMENDED UP TO 31-07-93

No.13-2/69-CS&T.— In exercise of the powers conferred vide Section 3 of the Himachal Pradesh Bricks (Control) Act, 1969 (Act No.29 of 1969), and all other powers enabling him in this behalf, the Lieutenant Governor (Administrator), Himachal Pradesh is pleased to make the following order :—

ORDER

1. (i) This Order may be called the Himachal Pradesh Bricks (Control) Order, 1970.

(ii) It extends to the whole of the Union territory of Himachal Pradesh.

(iii) It shall come into force at once.

2. In this order unless there is anything repugnant in the subject or context:—

(a) 'consumer' means a person permitted to acquire bricks under order for private consumption and not for sale;

(b) 'Director' means the Director, Civil Supplies, Himachal Pradesh and includes Deputy Director, Civil Supplies Himachal Pradesh;

(c) 'District Magistrate' means the District Magistrate of the District and includes the District Food and Supplies Controller/District Food and Supplies Officer/ District Co-operative and Supplies Officers and any other officer appointed by the State Government by name or designation to, act as such for all or any of the purposes of this order;

(d) 'Inspector' means Inspector, Food & Supplies and includes Sub-Inspector, Food & Supplies/District Inspector Civil Supplies and Sub-Inspector, Civil Supplies;

(e) 'manufacturer' means a person engaged in the production or manufacture of bricks in a kiln;

(f) the terms and expressions used in this order but not defined shall have the meaning respectively assigned to them in the Himachal Pradesh Bricks (Control) Act, 1969.

3. Save as hereinafter provided no manufacturer or dealer shall manufacture or sell or offer to store for sale or have in his possession for the purposes of sale or for disposal in any other manner of deposit with or consign to any person for the purposes of sale or for storage for sale, for sale, bricks except under and in accordance with the condition of a license granted under this order:

Provided that no license shall be required for manufacturer of bricks in Maidani Bhattis (Awas) if such bricks are manufactured for the personal consumption of the manufacturer.

Explanation:— Maidani Bhatti (Awas) means a structure used for burning brick in which neither a chimney is used nor slack coal is consumed as fuel.

4. (i) All applications for the grant or renewal of a license shall be made to the District Magistrate in form 'A' (appended to this order) duly accompanied by a fee prescribed in clauses 7 and 8 in the form of a Treasury Challan.

(ii) Subject to the general or special instructions notified by the State Government, from time to time, in this behalf a license may, if the site of the kiln is not detrimental to the health of the general public or to the crops, gardens or nurseries in close proximity thereto, be granted or renewed by the District Magistrate.

(iii) The District Magistrate, may for reasons to be recorded in writing, refuse to grant or renew a license or having granted or renewed it may subsequently cancel, suspend or revoke, it, for contravening any of the provisions of this Order or for transferring his license, or the kiln with respect to which the license has been granted to any other person without the previous permission in writing of the District Magistrate or indulging in activities which are anti-national or which tend to cause disharmony, likely to result in breach of peace between different communities or in any other similar activities and without prejudice to any other punishment to which he may be liable.

(iv) Where the District Magistrate refuse to grant or renew or cancel or suspends or revokes any license, he shall before making an order in this behalf, require the applicant or as the case may be, the licensee, to show cause within a specified time why such order should not be made. If the applicant, or the Licensee does not show any cause within the specified time, or show cause which in the opinion of the District Magistrate is not satisfactory, the District Magistrate concerned shall make an order accordingly.

(v) No applicant, or the holder of a license shall be entitled to the refund of fee paid by him or any compensation for

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cancellation or suspension or revocation of his license.

5. Every manufacturer or dealer whose license has been cancelled or suspended or revoked or not renewed under clause 4 (iii) shall dispose of his stocks of bricks with such time and to such person and in such a manner at such price as may be specified by the District Magistrate, such price being not less than that fixed under clause 10.

6. Every license shall be in Form 'B' (appended to this order) and shall be subject to the conditions mentioned therein and such other conditions as the Director may from time to time prescribe vide notification No. FDS-A(3)-5/91 dated 8-10-99 published in Extra Ordinary Gazette dated 2-12-99.

7. A fee of Rs. 2000.00 shall be payable for a license granted under this order but in the event of license being lost, or destroyed, a duplicate license shall be supplied, on payment of Rs. 1000.00.

8. (i) Every manufacturer of bricks or dealer shall take out a license in respect of every place at which the manufacturer of bricks carries on his business. The license granted under this Order shall unless previously suspended or revoked, continue in force upto the 31st March, next but shall be renewable annually on application by the holder to the District Magistrate which shall be made before the expiry of the validity period of the license on payment of a fee of Rs. 2000.

(ii) If a licensee fails to apply for renewable before the expiry of the validity period, but does so within one month after the expiry of the validity period, he shall in addition to the renewal fee of Rs. 2000 have to pay a penalty of Rs. 500.

(iii) If a licensee fails to apply for renewable of his license within two months of the expiry of the validity period, he shall, in addition of the renewable fee of Rs. 2000, have to pay a penalty of Rs. 1000/-.

(iv) If a licensee fails to apply for the renewable of his license within three months of the expiry of the validity period he shall in addition to the renewable fee of Rs. 2000 have to pay a penalty of Rs. 2000.

(v) If a licensee fails to apply for the renewable of a license within 3 months of the expiry of validity period the license shall be treated as cancelled.

(vi) No licensee, the period of validity of whose license had expired shall be entitled to carry on his business in bricks unless:

(a) he has applied for renewable of his license and paid the requisite fee before the expiry of the validity period of his license; or

(b) he has applied for the renewable of his license and deposited the renewable and penalty fee within 3 months after the expiry of the validity period of his license.

9. No person shall purchase or sell offer to sell or supply any bricks save against a permit issued by the Director or the District Magistrate and subject to all the conditions made in such permits.

10. No person shall purchase or sell bricks at a price higher than that which may be fixed by the District Magistrate. The price shall be fixed keeping in view the following facts:-

(i) Cost of the coal F.O.R. Colliery rate.

(ii) Railway freight on coal.

(iii) Loading/Unloading Charged.

(iv) Transport charges of coal from Railway Station to kiln.

(v) Expenses incurred on moulding of kutchka bricks.

(vi) Expenses incurred on making available sand, water, earth for moulding bricks.

(vii) Expenses on loading and unloading bricks from kiln and stacking in the premises of the bricks kiln.

(viii) Mistri and labour for firing kiln.

(ix) Maintenance of temporary labour huts, chimneys and other brick kiln equipment.

(x) Cost of firewood for ignition coal.

(xi) Munshi and Chaukidars expenses.

11. No manufacturer or dealer shall act in contravention of any directions issued by the District Magistrate.

12. The Director may, from time to time issue directions to the District Magistrate for carrying out the provisions of this order.

13. An application for the permit to purchase bricks shall be made to the District Magistrate in Form 'C' appended to this order.

14. Every permit for the purchase of bricks shall be issued in Form 'D' appended to this order.

15. Number of consumers shall vary or alter the contents of the permit issued under this order.

16. The Director or the District Magistrate or any other person duly authorised by him in this behalf or an Inspector may, with a view to securing compliance with this order:—

(i) enter and inspect any premises on which he has reasons to believe that bricks have been or are being or are likely to be kept, store, distributed, disposed of or to an from which bricks, have been or are being or are likely to be removed, or transported;

(ii) stop and inspect any vehicle or animal in which bricks are being carried for sale, supply or storage or for any other purpose;

(iii) seize bricks found in the possession of any vehicle or on any animal in respect of which he has reason to believe that contravention of this Order has been or is being or is about to be committed; and

(iv) seize any record pertaining to bricks, of which he has reasons to believe that contravention of this order has been or is being or is about to be committed;

(v) every person (including his agents and servants) in charge of a vehicle or animal or premises which is searched under the provisions of sub-clause (a) shall allow the authority making the demand access to such premises, vehicle or animal and shall also answer all questions put to him truthfully and to the best of his knowledge and belief.

17. Every manufacturer or dealer shall maintain a register giving an account of receipts and sale of bricks in Form 'E' appended to this order and shall keep the register up to date, strike balances at the close of the day.

18. Every manufacturer or dealer shall submit to the District Magistrate monthly stocks returns of bricks in Form 'F' appended to this order by 7th day of the month following the month to which it relates.

19. Every manufacturer or dealer shall, when so required, by general or special directions by the Director or the District Magistrate furnish truthfully and to the best of his knowledge such particulars relating to his kiln, dealing in bricks and stocks thereof as may be required. Vide Notification No.FDS-A(3)-5/91 dated 8-10-99 published on Extra Ordinary Gazette Dated 2-12-99.

20.

(i) Every manufacturer or dealer shall, when so required by the District Magistrate by general or special order in writing, deposit security with him amounting to Rs.10000/-in shape of National Defense Certificate duly pledged to the District Magistrate.

(ii) If any order has been issued under the provisions of sub-clause (i) the manufacturer or the dealer affected by it shall deposit the security in full by the date specified in the order and if security is not deposited then without prejudice to any order action that may be taken against him, his license may be cancelled or withheld or suspended.

(iii) If the manufacturer or dealer who has deposited security under the provisions of this clause contravenes any of the provisions of this Order or conditions of his license then without prejudice to any other action which may be taken against him the District Magistrate may direct by order in writing that his security shall be confiscated in whole or in part,

21.

(1) Any person aggrieved by the order passed by the District Magistrate under this order may within 30 days from the date on which the order is communicated to him, appeal to the Director.

(2) The State Government may call for and examine the record of any proceeding disposed of by the Director in appeal under this Order for the purpose of satisfying itself as to the legality or propriety of any order made therein and may confirm, modify, suspend or restore such orders.

22.

(1) The Punjab Control of Bricks Supplies Order, 1956 in force in the territories transferred to the Union territory of Himachal Pradesh by sub-section (1) of Section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed. Provided that such repeal shall not effect:—

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- (a) The previous operation of any such offer, or
 - (b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such order, or
 - (c) any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment
- and any such investigation, legal or remedy may be instituted, continued or enforced, any such penalty forfeiture or punishment may be imposed as if this order had not been passed.
- (2) Subject to the provisions of sub-clause (1), anything done or any action taken including an appointment or delegation made, notifications or directions issued, or license granted under the Order hereby repealed shall—
- (a) be deemed to have been done or taken under this Order, and
 - (b) continue in force until and unless directed otherwise or superseded by anything done or any action taken under his Order by the State Government or other competent authority.