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West Bengal Act I of 1959¹

THE WEST BENGAL CATTLE LICENSING ACT, 1959.

AMENDED

- .. West Ben. Act I of 1965.
- .. West Ben. Act XLII of 1976.
- .. West Ben. Act XL of 1978.
- .. West Ben. Act XXXVI of 1984.

[20th March, 1959.]

An Act to regulate the keeping of cattle in urban areas.

WHEREAS it is expedient in the interest of public health and sanitation to regulate the keeping of cattle in urban areas and for that purpose to provide for the licensing of cattle;

It is hereby enacted in the Tenth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal Cattle Licensing Act, 1959.

Short title
and
commence-
ment.

(2) It shall come into²force in such urban areas and with effect from such dates as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed for different urban areas:

³Provided that the State Government may, by notification in the *Official Gazette*, extend the provisions of this Act to such other area as it may specify in this behalf, and with effect from the date of such notification this Act shall come into force in that area.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary* of the 9th July, 1958, Part IVA, page 2533; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of that Assembly held on the 4th and 5th February, 1959, and for proceedings of the West Bengal Legislative Council, see the proceedings of the meeting of that Council held on the 24th February, 1959.

²This Act came into force with effect from the 15th July, 1960 in Calcutta (Wards 3, 4, 5, 62, 63 and 64). *Vide* notification No. 3406-Milk, dated 25th June, 1960, published in the *Calcutta Gazette*, of 1960, Part I, page 2358.

This Act came into force also in ward No. 71 of Calcutta with effect from the 15th April, 1962. *Vide* notification No. 2260-Milk, dated 2.4.62, published in the *Calcutta Gazette* of 1962, Part I, page 1164.

This Act came into force also with effect from the 1st November, 1963 in areas in Calcutta included within Ward Nos. 1, 2, 10, 14, 15, 16, 32-36, 47-49, 55-61, 65-70, 72-75, 77 and 78. *Vide* notification No. 6895-Milk, dated the 14th October, 1963, published in the *Calcutta Gazette* of 1963, Part I, page 2371.

This Act came into force in rest of Calcutta with effect from 15th December, 1964 *Vide* notification No. 4048-Milk, dated the 3rd December, 1964.

This Act came into force in certain areas with effect from 7th June, 1967 *Vide* notification No. 4336A dated the 3rd June, 1967, published in the *Calcutta Gazette, Extraordinary*, of the 3rd June, 1967, Part I, page 1737.

³The proviso was added by s. 2 of the West Bengal Cattle Licensing (Amendment) Act, 1978 (West Bengal Act XL of 1978).

(Section 2.)

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Appellate Authority" means an Appellate Authority¹ appointed by notification for any urban area or part thereof in which this Act has come into force;
- ²(aa) "Authorised Officer" means an officer appointed as such by the State Government by notification for any urban area or part thereof in which this Act has come into force;
- (b) "cattle" means any animal of the bovine species and includes buffaloes;
- (c) "family" means a set of parents, children, servants and other relations living together in the same mess;
- (d) "householder" means a person who occupies any premises as his own dwelling;
- ³(dd) "*khatal*" means a place where cattle are kept or maintained for the purpose of trade or business in cattle including business in milk or otherwise;
- (e) "license" means a license issued under this Act;
- (f) "Licensing Authority" means a Licensing Authority⁴ appointed by notification for any urban area or part thereof in which this Act has come into force;
- (g) "notification" means a notification published by the State Government in the *Official Gazette*;
- (h) "prescribed" means prescribed by rules made by the State Government under this Act;
- ⁵(j) "urban area" means—
 - (a) the area within Calcutta as defined in the Calcutta Municipal Act, 1951, or any part or parts of such area, or

West Ben.
Act XXXIII
of 1951.

¹For notification relating to the appointment of the Director, Dairy Development and Animal Husbandry and *Ex-officio* Milk Commissioner, West Bengal, as the appellate authority for the purposes of the Act, see notification No. 6249-Milk, dated 5th November, 1960, published in the *Calcutta Gazette* of 1960, Part I, page 3605.

²Clause (aa) was inserted by s. 2(a) of the West Bengal Cattle Licensing (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

³This clause was inserted by s. 2(b), *ibid*.

⁴For notification relating to appointment of the Deputy Milk Commissioner, West Bengal (1), as the Licensing Authority for the whole of the urban areas mentioned in notification No. 3406-Milk, dated the 25th June, 1960, see, notification No. 6282-Milk, dated 31st August, 1961, published in the *Calcutta Gazette* of 1962, Part I, page 1036.

⁵Clause (j) was substituted for the original clause by s. 3 of the West Bengal Cattle

I of 1959.]

(Sections 3-5.)

Ben. Act XV
of 1932.

West Ben.
Act XVIII of
1955.

- (b) the area within any municipality as defined in the Bengal Municipal Act, 1932, or within Chandernagore as defined in the Chandernagore Municipal Act, 1955, or any part or parts of such area;

and includes such other area to which the provisions of this Act may be extended under the proviso to sub-section (2) of section 1.

13. After this Act comes into force in any urban area no person shall keep in, or import into, such area any cattle except under a valid license.

Explanation.—For the purpose of this section, “import” includes the unloading of cattle from any railway wagon, vehicle or vessel or any other conveyance used in carrying the same and also the taking of cattle through any urban area.

Cattle not to be kept or imported in certain areas without license.

4. (1) There shall be ²[three] classes of licenses, namely:—

- ¹(a) a license granted to a householder in respect of cattle kept in his own premises exclusively for consumption of milk by himself or by any member of his family or by his agent.

Explanation.—“Agent” shall have the same meaning as in the Indian Contract Act, 1872;

- (b) a license granted to any person in respect of cattle kept in any premises or place for any purpose save as mentioned in clause (a) above.

- ⁴(c) a license granted to any person for importing cattle.

(2) Licenses referred to in clauses ³[(a), (b) and (c)] of sub-section (1) shall be called respectively ⁶[Class A, Class B and Class C] licenses.

Two classes of licenses.

9 of 1872.

5. (1) Any person intending to have a ⁷[Class A or a Class B or a Class C] license shall apply to the Licensing Authority in the prescribed manner and the licensing authority may thereafter grant a license under this Act or may, after recording reasons therefor, refuse the application for a license.

Issue of license.

¹Section 3 was substituted for the original section by s. 2 of the West Bengal Cattle Licensing (Amendment) Act, 1976 (West Ben. Act XLII of 1976).

²The word within the square brackets was substituted for the word “two” by s. 3(a)(i), *ibid.*

³Clause (a) was substituted for the original clause by s. 3 of the West Bengal Cattle Licensing (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

⁴Clause (c) was inserted by s. 3(n)(ii) of the West Bengal Cattle Licensing (Amendment) Act, 1976 (West Ben. Act XLII of 1976).

⁵The brackets, letters and word within the square brackets were substituted for the brackets, letters and word “(a) and (b)” by s. 3(b)(i), *ibid.*

⁶The words and letters within the square brackets were substituted for the letters and words “Class A and Class B” by s. 3(b)(ii), *ibid.*

⁷The words and letters within the square brackets were substituted for the words and

(Sections 6-9.)

(2) Every license shall be valid for such period as may be prescribed and may be renewed on application in the prescribed manner to the Licensing Authority.

(3) Every license shall mention the address of the premises or place where the cattle are to be ¹[kept or imported] and the maximum number and the description of cattle which may be ¹[kept or imported] under the license; such address, number or description may be varied on application made in the prescribed manner to the Licensing Authority.

(4) The nature and type of shed to be provided for keeping cattle under a license shall be such as may be prescribed and no license shall be granted unless the Licensing Authority is satisfied that a shed as prescribed has been provided.

(5) Every license shall be subject to such conditions as may be prescribed and the conditions shall be stated in the license.

Cancellation
of license in
certain
cases.

6. Where the Licensing Authority has reason to believe that a person to whom a license has been granted has violated or failed to comply with the conditions for the license or any provisions of this Act or the rules made thereunder, he may, after affording in the prescribed manner an opportunity to the licensee to show cause, cancel the license or refuse to renew it.

Appeal.

7. (1) Any person aggrieved by an order of a Licensing Authority, refusing his application for license, or cancelling his license or refusing to renew his license or by an order relating to any change of address or description or variation in number under sub-section (3) of section 5 may, within 30 days of the date of service of such order, prefer an appeal against such order to the Appellate Authority in the prescribed manner.

(2) The Appellate Authority shall deal with the appeal in the prescribed manner and shall pass such order as it deems fit.

Orders and
proceedings
of Licensing
and
Appellate
Authorities
not to be
questioned.

8. No order made by, and no proceedings before, a Licensing Authority or an Appellate Authority shall be called in question in any Civil or Criminal Court.

Prohibited
areas.

9. (1) Notwithstanding anything contained in the foregoing sections, the State Government may, at any time after the date on which this Act has come into force in any area, declare, by notification, such area or any part thereof as a prohibited area if it thinks fit so to do in the public interest.

¹The words within the square brackets were substituted for the word "kept" by s. 4(b) of

I of 1959.]

(Sections 9A, 10.)

(2) No Class B license shall be issued in respect of any premises or place within a prohibited area and any such license already issued or in force in respect of any premises or place in such area shall stand cancelled on the expiry of six months from the date of the issue of the notification under sub-section (1) or of the remaining period of license whichever is earlier.

¹9A. (1) At any time after the West Bengal Cattle Licensing (Amendment) Act, 1976, comes into force in any urban area, the State Government may, notwithstanding anything contained in the foregoing sections, if it thinks fit so to do in the public interest, declare such area or any part thereof as a restricted area.

Restricted areas.

(2) No class C license shall be issued for importing cattle into a restricted area:

Provided that,—

- (a) a Class C license may be granted to the holder of a Class A license;
- (b) no license shall be necessary for importing cattle into a restricted area by the Central Government or the State Government or a local authority or a Government undertaking;
- (c) the licensing authority may, if it thinks fit so to do in the public interest, grant Class C license to any person for importing cattle into a restricted area with prior approval of the State Government.

10. The Licensing Authority or any officer of the State Government authorized by him by an order in writing in this behalf or any police officer of and above the rank of a Sub-Inspector shall have power to enter or inspect at any time between sunrise and sunset, any premises or place situate in any area in which this Act has come into force,—

Power to enter or inspect premises or place.

- (i) in order to view any cattle, or the arrangements for keeping cattle, in respect of which an application for a license has been made or a license has been issued; or
- (ii) in order to ascertain if any cattle²[have been or are being kept or imported] in violation of the conditions of a license or the provisions of this Act or the rules made thereunder, if he has reason to believe that cattle³[have been or are being so kept or so imported].

¹Section 9A was inserted by s. 5 of the West Bengal Cattle Licensing (Amendment) Act, 1976 (West Ben. Act XLII of 1976).

²The words within the square brackets were substituted for the words "are being kept" by s. 6(a), *ibid.*

³The words within the square brackets were substituted for the words "are being so kept"

(Section 11.)

Seizure,
forfeiture,
etc.

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force,—

2 of 1974.

- (1) the Licensing Authority or any officer authorised by him in this behalf or any police-officer not below the rank of Sub-Inspector may, having reason to believe that the provisions of this Act have been contravened in respect of any cattle or article used for running a *khatal*, seize such cattle or article or both after compliance, as nearly as may be, with the provisions of section 100 of the Code of Criminal Procedure, 1973 relating to search and seizure;
- (2) the Licensing Authority or the officer authorised by him or the police-officer seizing the cattle or article or both shall forthwith submit to the officer-in-charge of the police-station having jurisdiction over the area a report in writing with respect to such seizure;
- (3) the Licensing Authority or the officer authorised by him or the police-officer seizing the cattle or article under clause (1) shall arrange for the custody and maintenance of such cattle and article and shall forthwith submit a report (stating the contravention of the provisions of this Act and the place wherefrom, the persons from whom and the circumstances under which the cattle and the article have been seized) to the Authorised Officer having jurisdiction;
- (4) on receipt of the report submitted under clause (3), the Authorised Officer may, if he considers it expedient so to do, direct the production of the cattle and the article seized and (whether or not any prosecution has been instituted for contravention of the provisions of this Act), if he is satisfied that there has been contravention of the provisions of this Act in respect of the cattle and the article seized, may order forfeiture of such cattle and article;
- (5) no order forfeiting the cattle and the article seized shall be made by the Authorised Officer under clause (4) unless the owner of the cattle and the article seized or the person from whom they have been seized—
 - (a) is given a notice in writing in the manner prescribed informing him of the grounds on which it is proposed to forfeit the cattle and the article,

¹Section 11 was substituted for the original section by s. 4 of the West Bengal Cattle Licensing (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984). Prior to this substitution the words "either order the cattle to be released or" were omitted, in sub-section (3) of original section 11, by s. 7 of the West Bengal Cattle Licensing (Amendment) Act, 1976 (West Ben. Act XI of 1976).

I of 1959.]

(Section 11.)

- (b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of forfeiture, and
 - (c) is given a reasonable opportunity of being heard in the matter;
- (6) the Authorised Officer may also, if he considers it expedient so to do for avoiding imminent danger to the cattle or the article seized, pass orders for the custody of such cattle and article in a Government farm or for the sale of such cattle and article by public auction and for deposit of the sale proceeds in a Government treasury.

Explanation.—"Government farm" shall mean a farm maintained and managed by the State Government;

- (7) the State Government shall appoint an officer, not below the rank of a District Judge, as the Appellate Officer to hear appeal against the order of forfeiture made under clause (4) by the Authorised Officer;
- (8) any person aggrieved by an order of forfeiture made by the Authorised Officer under clause (4) may, within a period of thirty days from the date of communication of the order of forfeiture, prefer an appeal to the Appellate Officer who shall, after giving an opportunity to the appellant to be heard, pass such order as he may think fit, confirming, modifying or annulling the order appealed against;
- (9) where an order appealed against is modified or annulled by the Appellate Officer or where, in a prosecution instituted for the contravention of the provisions of this Act in respect of which an order of forfeiture has been made under clause (4), the person concerned is acquitted, the cattle and the article seized shall be returned to the owner or the person from whom seized or if it is not possible to return such cattle and article, such owner or person shall be entitled to the recovery of the sale proceeds of such cattle and article that may be lying in deposit in the Government treasury after deducting therefrom the cost of seizure and transport of such cattle and article, the cost of maintaining the cattle during the period intervening the seizure, and the sale by public auction, of the cattle, and also the cost incurred for holding the sale by public auction:

Provided that the cost of maintenance of the cattle during the period as aforesaid shall be determined in such manner as may be prescribed:

(Section 12.)

- (10) an order made by the Authorised Officer shall, subject to any order of the Appellate Officer, be final and shall not be called in question in any court, tribunal or other authority;
- (11) in relation to any cattle or article seized under clause (1), the Authorised Officer or, as the case may be, the Appellate Officer appointed under clause (7) shall have and any court, tribunal or other authority shall not have jurisdiction to make order with regard to the possession, delivery, disposal or distribution of such cattle or article.

Penalties.

12. (1) Any person, who—
- (i) contravenes the provisions of section 3, or
 - ¹(ii) being the holder of Class A license sells milk in any urban area or in any part of it, or
 - (iii) keeps cattle in any premises or place different from that mentioned in the license, or ²[imports cattle into any urban area without a license, or]
 - (iv) ³[keeps or imports] cattle in excess of the maximum number or different in description from that stated in the license, or
 - (v) violates or fails to observe the conditions referred to in sub-section (5) of ⁴[section 5, or]
 - ⁵(vi) keeps cattle in any area which has been declared to be a prohibited area under sub-section (1) of section 9, without a license, ⁶[or]
 - ⁷(vii) imports cattle into an area declared to be a restricted area under sub-section (1) of section 9A without a license,

⁸[shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to three thousand rupees or with both.]

¹Clause (ii) was substituted for the original clause by s. 5(a)(i) of the West Bengal Cattle Licensing (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

²The words within the square brackets were inserted by s. 8(a)(i) of the West Bengal Cattle Licensing (Amendment) Act, 1976 (West Ben. Act XLII of 1976).

³The words within the square brackets were substituted for the word "keeps" by s. 8(a)(ii), *ibid.*

⁴The words and figure within the square brackets were substituted for the word and figure "section 5" by s. 2(1)(a) of the West Bengal Cattle Licensing (Amendment) Act, 1965 (West Ben. Act I of 1965).

⁵Clause (vi) was inserted by s. 2(1)(b), *ibid.*

⁶The word "or" was inserted by s. 8(a)(iii) of the West Bengal Cattle Licensing (Amendment) Act, 1976 (West Ben. Act XLII of 1976).

⁷Clause (vii) was inserted by s. 8(a)(iv), *ibid.*

⁸The words within the square brackets were substituted for the words "shall be punishable with imprisonment for a term which may extend to six months or with fine not exceeding one thousand rupees or with both." by s. 5(a)(ii) of the West Bengal Cattle Licensing (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

1 of 1959.]

(Sections 13-16.)

¹(2) Every offence under this Act shall be cognizable and non-bailable.

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⁴13. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be or are required to be prescribed or made by rules.

14. The State Government may, by written order, exempt any institution, authority or person from the operation of this Act on such conditions as it may think fit, in respect of the ³[keeping or importing] of such number and description of cattle as may be specified, for a scientific, educational or public purpose, if in its opinion, it is necessary so to do in the public interest.

Power to exempt.

15. No suit or proceeding shall lie against the State Government and no suit, proceeding or prosecution shall lie against any officer of the State Government for anything in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

Indemnity.

16. (1) The provisions of this Act shall have effect notwithstanding anything to the contrary in any other Act.

Act to override other enactments.

(2) Subject to the provisions of sub-section (1), the provisions of this Act shall be in addition to, and not in derogation of, the provision of, the Calcutta Municipal Act, 1951, the Bengal Municipal Act, 1932, and the Chandernagore Municipal Act, 1955.

West Ben. Act XXXIII of 1951.
Ben. Act XV of 1932.
West Ben. Act XVIII of 1955.

¹Sub-section (2) was substituted for the original sub-section by s. 5(b) of the West Bengal Cattle Licensing (Amendment) Act, 1984 (West Ben. Act XXXVI of 1984).

²Sub-section (3) was omitted by s. 5(c), *ibid.*

³Sub-section (4) was omitted by s. 5(d), *ibid.*

⁴Section 13 was substituted for the original section by s. 6, *ibid.*

⁵The words within the square brackets were substituted for the word "keeping" by s. 9 of the West Bengal Cattle Licensing (Amendment) Act, 1976 (West Ben. Act XLII of 1976).