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## NOTIFICATION

No. H-12018/23/91-LJJ, the 26th June, 1991. The following Act of the Mizoram Legislative Assembly which received the assent of the Governor is hereby published for general information.

The Mizoram Act No. 20 of 1991

The Mizoram Trading (Regulation) Act, 1991.

(Received the assent of the Governor of Mizoram on the 3rd June, 1991).

AN  
ACT

to regulate trading in the State of Mizoram with a view to promote economic growth in the interest of the people of Mizoram and for matter connected therewith.

Be it enacted by the Legislative Assembly of Mizoram in the Forty-Second year of the Republic of India as follows:—

## PART—I

## (Preliminary)

- Short title, extent and commencement. 1. (1) This Act may be called the Mizoram Trading (Regulation) Act, 1991.
- (2) It shall extend to the whole of the State of Mizoram.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, notify, and different dates may be notified for different areas.
- Definition. 2. In this Act, unless the context otherwise requires—
- (a) “Agent” means a person who, on behalf of another person and in consideration of commission makes or offers to do anything necessary for completing and carrying out such trade;
- (b) “Appellate Authority” means a Board consisting of not less than three members constituted by the Government and notified in the Official Gazette.
- (c) “Form” means a form as may be prescribed under this Act from time to time;
- (d) “Government” means the state Government of Mizoram;
- (e) “Licence” means a licence granted under this Act to a person or society, association, firms or a company;
- (f) “Temporary Licence” means a licence granted for a specified period;
- (g) “Licence Holder” means a person or society, association, firm or company holding a licence under this Act;
- (h) “Licensing Authority” means the State Government of Mizoram or any Officers authorised by the Government on its behalf;
- (i) “List of Price and Stock” means the list maintained from time to time by a licence holder in prescribed form indicating the sale prices and stock of the trade articles in which the licence holder carries on business;
- (j) “Official Gazette” means the Mizoram Gazette;
- Amended* ✓ (k) “Native” means a person belonging to any Scheduled Tribe or Schedule Caste community having permanent residence in Mizoram who is the descendant of the inhabitant of the then Lushai Hills since its inception as such;

- (l) "Permit" means a permit issued by the Licensing Authority;
- (m) "Place of Business" means any place where a licence holder sells any of the goods held by him in stock and include a place where the books of accounts, licence holder of business are kept and where orders of offers involving purchase or sale of any trade articles are received and where the licence holder stores any trade articles;
- (n) "Person" includes joint family, association or body of individual, whether incorporated or not;
- (o) "Rules" means the rules made under this Act for carrying out the purpose of this Act;
- omitted* (p) "Residential settler" means a person other than a Native residing in the erstwhile Lushai Hills now Mizoram having immovable property in Mizoram;
- (q) "Trade" means any trade, business, industry, transportation, profession, or the like nature occupation relating to the production, manufacturing, supply, distribution or control of any goods or commodities and includes the wholesale or retail sale of any commodity purchased for sale, non-banking financial activities or money lending operated by private persons or firms.

**PART-II**  
**PROCEDURE FOR GRANTING AND ISSUE OF LICENCE:**

Regulation  
of Trading.

3. No person shall, after the commencement of this Act, carry on any trade in Mizoram except in accordance with the terms and conditions of licence issued under this Act by Licensing Authority under the provisions of this Act and the rules made thereunder:

Provided that such a licence shall not be refused to a person(s) who has been carrying on trade within the erstwhile Mizo District, now Mizoram since before the commencement of this Act unless disqualified under this Act:

Provided further that if such a licence is to be refused the licence holder shall be given an opportunity of being heard and the ground (s) of refusal shall be recorded in writing by the authority.

Application  
for licence.

4. Any Native Residential Settler, person or firm who desires to carry on himself any trade, may make an application for grant of licence to the Licensing Authority in prescribed form along with the prescribed fee.

- Verification of the Application. 5. On receipt of an application for the grant of licence under section 4, the Licensing Authority shall hold inquiry having regards to necessary qualifications as may be prescribed in the rules made under this Act.
- Grant of Licence. 6. The Licensing Authority may, after holding necessary inquiry under section 5, issue a licence or temporary licence on payment of such fees as may be prescribed for a specified period or periods as prescribed in the rules made under this Act:

Provided that a licence shall not be refused to a person or persons who has been carrying on trade within the erstwhile Mizo District now Mizoram under a Permanent licence issued by the erstwhile Mizo District Council, since immediately before the commencement of this Act unless disqualified under this Act:

Provided further that if such a licence is to be refused the licence holder shall be given an opportunity of being heard and the ground or grounds of refusal shall be recorded in writing by the Licensing Authority.

- Renewal of Licence. 7. An application for renewal of licence shall be made, along with the prescribed fees to the Licensing Authority in prescribed form. The license may be renewed for a period not exceeding 3 (three) years at a time. In case the licence holder fails to furnish the application along with fee before the expiry of the licence, the Licensing Authority may entertain an application for renewal upto one month on payment of the late fee as may be prescribed by the rule.

- Refusal of Issue of Licence. 8. The Licensing Authority may refuse to grant licence if in his opinion, the applicant does not fulfil the required qualifications as may be prescribed in the rules or on any other sufficient and reasonable ground or grounds.

- Addition and alteration 9. The Licensing Authority may make necessary additions, deletions or alterations in the entries made in the licence relating to godown, place of business, names of partners, names of employees, items of trade articles, etc. either on the application of the licence or on suo motu.

- Benami transaction and engagement of employee. 10. (1) No person shall be allowed to have benami transaction for any trade;
- (2) No person other than a Native shall be engaged or employed in any trade in the pursuit of that trade in any capacity without prior approval of the Government or by Officer authorised by the Government in this behalf.

Decision of Government to be final.

11. The decision of the Government in granting, rejecting or cancellation or suspension of licence to any Native, Residential Settler, person, society, association, firm or company for dealing in any item of trade by any licence holder shall be final. *omitted*

Licence not transferable.

12. Licence granted under this Act shall not be transferable;

Provided that where a licence holder dies or disqualifies himself the provisions or otherwise unable to continue, the licence shall stand cancelled and the Licensing Authority may consider granting of licence to his legal heir or his next of kin to continue the business.

### PART - III

#### MISCELLENOUS

Disposal of trade article when licence is cancelled.

13. In the event of cancellation of licence, save otherwise as provided under section 12, the Licensing Authority may, on application made to it in this behalf and for good and sufficient reason (s), grant a time for disposal of the stocks of trade articles available with the licence holder for a period of fifteen days or such further period or periods not exceeding two months.

Display of price and stocks, call for returns and maintenance of accounts.

14. The Licensing Authority may require any licence holder to display the price and stocks of trade articles, call for returns from the licence holder in respect of the stock in trade and to maintain accounts in the manner as may be prescribed.

Appeals.

15. Any licence holder aggrieved by an order made under this Act may, prefer an appeal within sixty days from the date of receipt of the order to the Appellate Authority on payment of such fees as may be prescribed:

Provided that no such appeal shall be entertained if not preferred within a specified period. The decision of the Appellate Authority shall be final.

The Appellate Authority may direct the order against which the appeal is made, not to take effect until the appeal is disposed off.

Inherent Power ✓

16. Nothing in this Act shall prevent the State Government from giving effect to the provisions of this Act and the rules made thereunder.

- Sanction for prosecution. 17. No prosecution in respect of alleged contravention of any provisions of this Act shall be instituted without the sanction of the Licensing Authority in writing.
- Suspension and Cancellation of Licence. 18. If any licence holder or his agent or servant or any other person acting on his behalf contravene any terms and conditions of the licence, his licence may be cancelled or suspended by an order in writing of the Licensing Authority and an entry will be made in his licence relating to such suspension or cancellation.
- Penalty. 19. Without prejudice to any other penalties under this Act, if any licence holder violates any of provisions of this Act or rules made thereunder, he shall be punishable with imprisonment which may extend to one year or a fine not exceeding two thousand rupees or with both.

And whoever commits an offence under section 3 shall on conviction by a Magistrate be punishable with imprisonment for a term not exceeding one year or a fine not exceeding two thousand rupees or with both and all the Stocks of trade articles available at the shop will be liable to be confiscated to the State whoever wilfully refuses or fails to comply with any direction:

Provided that if any person, after having been previously convicted of an Offence punishable under this Act subsequently commits and is convicted of an offence punishable under any of those sections of this Act, shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

Provided further that the Court may, for reasons to be recorded in the judgement impose a fine exceeding Rs. 2,000/-.

- Offence to be cognizable. 20. An Offence under this Act shall be cognizable.
- Offence by companies. 21. (1) If any person committing an offence under this Act is a company, every person, who, at the time the offence was committed, 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 the offence and shall be liable to be proceeded against and punished accordingly:

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

- (2) Notwithstanding anything contained in sub-section (1), where any 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, he shall also be deemed to be guilty of that offence and 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 individuals; and
- (b) “director” in relation to a firm, means a partner in the firm.

Protection of Officers acting in good faith.

22. No suit, prosecution or other legal proceedings shall be instituted against any officer of the Government for anything done or intended to be done in good faith under the provisions of this Act of Rules made thereunder.

Delegation of power.

23. Subject to such restriction as may be specified, the Government may, by notification in the Official Gazette, delegate any of the power under this Act to any officers shall, thereupon exercise such power or powers.

Power to make rules.

24. (1) The Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act; and
- (2) Without prejudice to the generality of the foregoing power, such rules may, in particular, prescribed :—
- (a) the form and particulars of application for the grant of licence under section 4;
- (b) the form of necessary qualifications under section 5;
- (c) the amount of fee to be paid and the form or manner of declaration of commodities under sections 4, 6 and 7;
- (d) the form of return under section 14;
- (e) the form and manner of maintaining book of accounts and records under section 14;
- (f) the manner in which petition for invoking inherent power may be filed to Government; and
- (g) any other matters expressly acquired by this Act.

- (3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Mizoram while it is in session for a total period of seven 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 sessions immediately following, the Legislative Assembly of Mizoram makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter 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 under that rule.

Sd/-  
(K.N. SRIVASTAVA,  
Secretary to the Govt. of Mizoram,  
Law, Judicial & Parliamentary Affairs Department.