

The Export (Quality Control and Inspection) Act, 1963

February 11, 2013

1. Short title, extent and commencement

- (1) This Act may be called the Export (Quality Control and Inspection) Act, 1963.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.

In this Act, unless the context otherwise requires,-

- (a) "Council" means the Export Inspection Council established under section 3;
- (b) "Export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;
- (c) "Inspection", in relation to a commodity, means the process of determining whether a batch of goods in that commodity complies with the standard specifications applicable to it or any other specifications stipulated in the export contract generally by inspecting either the whole batch or a selected sample or samples which purport to represent the whole batch;
- (d) "Notified commodity" means any commodity notified under clause (a) of section 6;
- (e) "Prescribed" means prescribed by rules made under this Act;
- (f) "Quality control" means any activity having for its object the determination of the quality of a commodity (whether during the process of manufacture or production or subsequently in order to ascertain whether it satisfies the standard specifications applicable to it or any other specifications stipulated in the export contract and whether it may be accepted for purposes of export.

3. Establishment of Export Inspection Council.

- (1) The Central Government may, by notification in the Official Gazette, establish, with effect from such date as may be specified in the notification, a Council to be known as the Export Inspection Council, which shall consist of-
 - (a) A Chairman to be appointed by the Central Government;
 - (b) The Director of Inspection and Quality Control, ex officio, who shall be the Secretary;
 - (c) The Honorary Adviser on Standardization to the Government of India and Director of Indian Standards Institution, ex officio;
 - (d) The Agricultural marketing Adviser to the Government India, ex officio;

(e) The Director-General of Commercial Intelligence and Statistics, ex officio;

(f) Eleven other members nominated by the Central Government three of whom shall be persons representing the agencies referred to in section 7.

(2) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and shall by the said name sue and be sued.

(3) The term of office of, and the manner of filling casual vacancies among, the members of the Council referred to in clauses (a) and (f) of sub-section

(1) and the travelling and daily allowances payable to the members of the Council and the procedure to be followed in the discharge of its functions by the Council and the procedure to be followed in the discharge of its functions by the Council shall be such as may be prescribed.

(4) No act or proceeding of the Council shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the Council.

(5) Subject to such rules as may be made by the Central Government in this behalf, the Council may appoint such officers and other employees as it considers necessary for the purpose of discharging its functions under this Act.

4. Director of Inspection and Quality Control.

The Central Government shall appoint a Director of Inspection and Quality Control to exercise such powers and perform such duties under this Act as may be prescribed.

5. Functions of the Council.

(1) The functions of the Council shall generally be to advise the Central Government regarding measures for the enforcement of quality control and inspection in relation to commodities intended for export and to draw up programmes therefor, to make, with the concurrence of the Central Government, grants-in-aid to the agencies established or recognised under section 7 and to perform such other functions as may be assigned to it by or under this Act.

(2) For the purpose of performing its functions, the Council may co-opt as members such number of persons as it thinks fit who have special knowledge and practical experience in matters relating to any commodity or trade therein and any such person shall have the right to take part in the discussions of the Council but shall not have the right to vote and shall not be a member for any other purpose.

(3) The Council may also constitute specialist committees for conducting investigations on special problems connected with its functions.

(4) In the performance of its functions under this Act, the Council shall be bound by such directions as the Central Government may give to it in writing from time to time.

6. Powers of the Central Government in regard to quality control and inspection.

If the Central Government, after consulting the Council, is of opinion that it is necessary or expedient so to do for the development of the export trade of India, it may, by order published in the Official Gazette,-

(a) Notify commodities which shall be subject to quality control or inspection or both prior to export;

(b) Specify the type of quality control or inspection which will be applied to a notified commodity;

(c) Establish, adopt or recognise one or more standard specifications for a notified commodity;

(d) Prohibit the export in the course of international trade of a notified commodity unless it is accompanied by a certificate issued under section 7 that the commodity satisfies the conditions relating to quality control or inspection, or it has affixed or applied to it a mark or seal recognised by the Central Government as indicating that it conforms to the standard specifications applicable to it under clause (c).

7. Machinery for quality control and inspection.

(1) The Central Government may, by notification in the Official Gazette, establish, or recognise subject to such conditions as it may deem fit, agencies for quality control or inspection or both:

Provided that if the Central Government is of opinion that any recognition granted to any agency under this sub-section should, in the public interest, be withdrawn, the Central Government may after giving a reasonable opportunity to that agency to make representations in the matter, withdraw, by like notification, the recognition granted to it.

(2) Any agency referred to in sub-section (1) may, on application made to it or otherwise, hold or cause to be held such examination as it thinks fit relating to quality control or inspection of notified commodities, either at the time of export or earlier, in such testing houses or by such surveyors or samplers as are approved by the Central Government in this behalf and may charge such fees as may be prescribed for the purpose of such examination.

(3) If, after the examination, the agency is of opinion that the commodity satisfies the standard specifications laid down in respect of it under Section 6 or as the case may be, any other specifications stipulated in the export contract, it may issue a certificate that the commodity satisfies the conditions relating to quality control and inspection.

(4) Any person aggrieved by the refusal of any agency referred to in sub-section (1) to issue a certificate may prefer an appeal within such time as may be prescribed to such authority as the Central Government may, by notification in the Official Gazette, constitute for the purpose of hearing appeals.

(5) Subject to the provisions of sub-section (6), the decision of the agency where no appeal is filed, and the decision of the appellate authority where an appeal is filed, shall be final and shall not be questioned in any court of law.

(6) The Central Government may, at any time, call for and examine the record of any proceeding relating to any decision of an agency or appellate authority under this section for the purpose of satisfying itself as to the legality or propriety of such decision and may pass such order thereon as it thinks fit.

8. Power to recognise or establish marks to denote conformity with standard specification.

(1) The Central Government may, by notification in the Official Gazette, recognise or establish any mark or seal in relation to a notified commodity for the purpose of denoting that such commodity conforms to a standard specification applicable to it.

(2) Any such mark or seal affixed or applied to a notified commodity or to any covering containing, or label attached to, such commodity shall be deemed to be evidence of the commodity being in conformity with the standard specifications applicable to it under this Act:

Provided that nothing in this sub-section shall prevent any officer of customs from examining any consignment of a notified commodity intended for export if he has reason to believe that the seal or mark is not genuine or has been affixed or applied fraudulently or if such an examination is necessary for the purpose of any other law for the time being in force.

9. Power to obtain information from exporters, etc

The Central Government or any officer or authority authorised by it in this behalf may, by notice published in the Official Gazette, require-

- (i) Persons manufacturing, dealing in or exporting notified commodities; and
- (ii) Such other persons as may be prescribed, to furnish any information, return or report which the Central Government or such officer or authority may consider necessary for carrying out the purposes of this Act.

10. Finance, accounts and audit.

(1) For the purpose of enabling the Council to discharge its functions under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council such sums of money as that Government considers necessary by way of grants, loans or otherwise.

(2) For the purpose of discharging its functions under this Act, the Council may receive grants or donations from bodies and institutions approved by the Central Government in this behalf.

(3) The Council shall have its own fund to which shall be credited the sums of money referred to in sub-sections (1) and (2) and the moneys in the fund shall be applied for-

(a) Meeting the pay and allowances of the officers and other employees of the council and other administrative expenses of the Council;

(b) Carrying out the functions of the Council under this Act.

(4) The Council shall prepare, before the commencement of each financial year, a statement of programme of its activities during that year as well as a financial estimate in respect thereof.

(5) A statement prepared under sub-section (4) shall, not later than three months before the commencement of each financial year, be submitted for approval to the Central Government.

(6) The Council shall maintain such accounts and prepare the balance-sheet in such form as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

(7) The accounts of the Council shall be audited in such manner and at such times as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

11. Penalty.

(1) If any person contravenes any order under clause (d) of section 6, or fraudulently obtains a certificate under section 7, or fraudulently affixes or applies any such mark or seal as is referred to in sub-section (1) of section 8, he shall, on conviction, be punishable-

(i) For the offence, with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both;

(ii) For the second or subsequent offence, with imprisonment for a term which may extend to two years and also with fine which may extend to five thousand rupees and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than three months.

(2) Any person who attempts to commit or abets the commission of an offence punishable under sub-section (1) shall be deemed to have committed such offence.

(3) If any person contravenes or attempts to contravene or abets the contravention of any other provision of this Act or any rules or orders made there under, he shall be punishable with fine which may extend to one thousand rupees.

12. Offences by companies.

(1) Where an offence under this Act has been committed by 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 such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(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 negligence 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 and shall be liable to be proceeded against and punished accordingly.

Explanation For the purposes of this section-

(a) "Company" means a 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.

13. Delegation of powers.

The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by-

(a) The Council;

(b) Such officer or authority subordinate to the Central Government, or such State Government or such officer or authority subordinate to a State Government as may be specified in the direction.

14. Procedure for prosecution.

No prosecution for an offence punishable under this Act shall be instituted except by or with the consent of an officer authorised by the Central Government by general or special order in this behalf.

15. Officers and employees of agency to be public servants of 1860.

All officers and employees of the Council or of any agency established or recognised under sub-section (1) of section 7 and all surveyors, samplers and employees of testing houses, referred to in sub-section (2) of that section shall, while acting or purporting to act in pursuance of the provisions of this Act or any rule or order made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

16. Protection of action taken in good faith.

(1) No suit, prosecution or other legal proceeding shall lie against the Council or any officer or employee of the Government or the Council or any agency referred to in sub-section (1) of section 7 for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made there under.

(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 this Act or any rule or order made there under.

17. Power to makes rules.

(1) The Central Government may, 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, such rules may provide for-

(a) The travelling and daily allowances payable to members of the Council, persons co-opted under sub-section (2) of section 5, and members of specialist committees referred to in sub-section (3) of that section;

(b) The functions of the Council and procedure to be followed by it;

(c) The appointment of officers and other employees of the Council;

(d) The procedure to be followed for various types of quality control and inspection;

(e) The conditions which a testing house, surveyor or sampler should satisfy for purposes of approval by the Central government;

- (f) The fees chargeable for purposes of examination and issue of certificates under section 7;
- (g) The filing of appeals under section 7 and the fees payable therefore;
- (h) The manner in which the accounts of the Council shall be maintained and audited;
- (i) Any other matter which is required to be, or may be prescribed.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree 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.

18. Act to over-ride other enactments.

As from the date on which a commodity is notified under clause (a) of section 6, the provisions of this Act or anything done or any action taken thereunder shall have effect in relation to that commodity notwithstanding any provisions (relating to quality control) and inspection prior to the export of such commodity) contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.
