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HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

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ACT NO. XIV OF 1998.

THE JAMMU AND KASHMIR PETROLEUM ACT, 1998.

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HIS HIGHNESS' GOVERNMENT, JAMMU & KASH MIR.

PRAJA SABHA DEPARTMENT.

The following Act which was passed by the Jammu and Kashmir Praja Sabha on 1st October 1941 and received the assent of His Highness the Maharaja Bahadur on 31st October 1941 is hereby published for general information :—

ACT NO. XIV OF 1998.

An Act to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances.

THE JAMMU AND KASHMIR PETROLEUM ACT, 1998.

WHEREAS it is expedient to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances, it is hereby enacted as follows :—

PRELIMINARY.

1. (1) This Act may be called the Jammu and Kashmir Petroleum Act, 1998.
Short title, extent and commencement.

(2) It extends to the whole of the Jammu and Kashmir State.

(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

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

(a) "petroleum" means any liquid hydro-carbon or mixture of hydro-carbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydro-carbon ;

(b) "dangerous petroleum" means petroleum having its flashing point below seventy-six degrees Fahrenheit ;

(c) "flashing-point" of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder ;

(d) "to transport" petroleum means to move petroleum from one place to another in the State, and includes moving from one place to another in the State, or across territory in India which is not part of the State ;

(e) "to import" petroleum means to bring it into the State by land or air, otherwise than during the course of transport ;

(f) "to store" petroleum means to keep it in any one place, but does not include any detention happening during the ordinary course of transport ;

(g) "motor conveyance" means any vehicle, vessel or air-craft for the conveyance of human beings, animals or goods, by land, water or air, in which petroleum is used to generate the motive power ;

(h) "prescribed" means prescribed by rules made under this Act.

CHAPTER 1.

CONTROL OVER PETROLEUM.

3. (1) No one shall import, transport or store any petroleum save in accordance with the rules made under section 4.

(2) Save in accordance with the conditions of any licence for the purpose which he may be required to obtain by rules made under section 4, no one shall import any dangerous petroleum, and no one shall transport or store any petroleum.

4. The Government may make rules—

(a) prescribing places where petroleum may be imported and prohibiting its import elsewhere ;

(b) regulating the import of petroleum ;

(c) prescribing the periods within which licences for the import of dangerous petroleum shall be applied for and providing for the disposal, by confiscation or otherwise, of any dangerous petroleum in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported ;

(d) regulating the transport of petroleum ;

(e) specifying the nature and condition of all receptacle and pipe-lines in which petroleum may be transported ;

(f) regulating the places at which and prescribing the conditions subject to which petroleum may be stored ;

(g) specifying the nature, situation and condition of all receptacles in which petroleum may be stored ;

(h) prescribing the form and conditions of licences for the import of dangerous petroleum, and for the transport or storage of any petroleum, the manner in which applications for such licences shall be made, the authorities which may grant such licences and the fees which may be charged for such licences ;

(i) determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier ;

(j) providing for the granting of combined licences for the import, transport and storage of petroleum or for any two of such purposes ;

(k) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion ; and

(l) generally, providing for any matter which, in the opinion of the Government, is expedient for proper control over the import, transport and storage of petroleum.

5. (1) No one shall produce, refine or blend petroleum save in accordance with the rules made under sub-section (2).

(2) The Government may make rules :—

(a) prescribing the condition subject to which petroleum may be produced, refined or blended ; and

(b) regulating the removal of petroleum from places where it is produced, refined or blended and preventing the storage therein and removal therefrom, except as dangerous petroleum, of any petroleum which has not satisfied the prescribed tests.

6. All receptacles containing dangerous petroleum shall have a stamped, embossed, painted or printed warning either on the receptacle itself or, where that is impracticable displayed near the receptacle, exhibiting in conspicuous characters the words "Petrol" or "Motor Spirit", or any equivalent warning of the dangerous nature of the petroleum.

Provided that this section shall not apply to:—

(a) any securely stoppered glass, stoneware or metal

receptacle of less than two gallons capacity containing dangerous petroleum which is not for sale or

- (b) a tank incorporated in a motor conveyance, or attached to an internal combustion engine, and containing petroleum intended to be used to generate motive power for the motor conveyance or engine, or
- (c) a pipe-line for the transport of petroleum, or
- (d) any tank which is wholly underground, or
- (e) any class of receptacles which the Government, may, by notification in the Government Gazette, exempt from the operation of this section.

7. Notwithstanding anything contained in this Chapter,

No licence needed for small stocks of non-dangerous petroleum not in bulk.

a person need not obtain a licence for the transport or storage of non-dangerous petroleum if the total quantity in his possession at any one place does not exceed five hundred gallons and none of it is contained in a receptacle exceeding two hundred gallons in capacity.

8. (1) Notwithstanding anything contained in this

No licence needed for small quantities of dangerous petroleum.

Chapter, a person need not obtain a licence for the import, transport or storage of dangerous petroleum not intended for sale if the total quantity in his possession does not exceed six gallons.

(2) Dangerous petroleum possessed without a licence under this section shall be kept in securely stoppered receptacles of glass, stoneware or metal which shall not in the case of receptacles of glass or stoneware exceed one quart in capacity or in the case of receptacles of metal five gallons in capacity.

9. (1) The owner of a motor conveyance who complies

Exemptions for motor conveyances, and stationary engines

with the requirements of the law for the time being in force relating to the registration and licensing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine shall not be required to obtain a licence—

(a) for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or

(b) for the transport or storage of dangerous petroleum not exceeding twenty gallons in quantity in addition to any quantity possessed under clause (a):

Provided the petroleum is intended to be used to generate motive power for the motor conveyance or engine.

(2) The dangerous petroleum transported or stored without a licence under clause (b) shall be kept as provided in subsection (2) of section 8, and, if it exceeds six gallons in quantity, shall be stored in an isolated place which does not communicate with any room where any person resides or works or in any room where persons assemble.

10. Notwithstanding anything contained in this Chapter, a railway administration, as defined in section 3 of the Indian Railways Act, 1890, need not obtain any licence for the import or transport of any petroleum in its possession in its capacity as carrier.

11. Nothing in this Chapter shall apply to any petroleum which has its flashing-point not below two hundred degrees Fahrenheit.

12. The Government may, by notification in the General power of Government Gazette, exempt any petroleum specified in the notification from all or any of the provisions of this Chapter.

13. (1) The Government may, authorise any officer by name or by virtue of office to enter any place where petroleum is being imported, stored, produced, refined or blended, or is under transport, and inspect all receptacles, plant and appliances used in connection with petroleum in order to ascertain if they are in accordance with the provisions of this Chapter and the rules made there under.

(2) The Government may make rules regulating the procedure of officers authorised under this section.

CHAPTER II.

THE TESTING OF PETROLEUM.

14. (1) The Government may, by notification in the Government Gazette, authorise any officer by name or by virtue of office to enter any place where petroleum is being imported, transported, stored, produced, refined or blended and to inspect and take samples for testing of any petroleum found therein.

(2) The Government may make rules—
(a) regulating the taking of samples of petroleum for testing,
(b) determining the cases in which payment shall be made for the value of samples taken, and the mode of payment, and

(c) generally, regulating the procedure of officers exercising powers under this section,

15. (1) A standard apparatus for determining the flashing-point of petroleum shall be deposited with an officer to be appointed in this behalf by the Government, by notification in the Government Gazette.

(2) Such apparatus shall be engraved with the words "Standard Test Apparatus" and shall be verified and corrected from time to time and replaced when necessary, in accordance with rules made under section 21.

(3) The Standard Test Apparatus shall, on payment of the prescribed fee, be open to inspection at all reasonable times by any person wishing to inspect it.

16. (1) The officer appointed under section 15 shall, on payment of the prescribed fee, if any, compare with the Standard Test Apparatus any apparatus for determining the flashing-point of petroleum which may be submitted to him for this purpose.

(2) If any apparatus is found by him to agree with the Standard Test Apparatus within prescribed limits, the officer shall engrave such apparatus with a special number and with the date of the comparison, and shall give a certificate in respect of it in the prescribed form, certifying that on the said date the apparatus was compared with the Standard Test Apparatus and was found to agree with it within the prescribed limits, and specifying any corrections to be made in the results of tests carried out with the apparatus.

(3) A certificate granted under this section shall be valid for such period as may be prescribed.

(4) A certificate granted under this section shall, during the period for which it is valid, be proof, until the contrary is proved, of any matter stated therein.

(5) The officer shall keep a register in the prescribed form of all certificates granted by him under this section.

17. The Government may authorise any officer by name or by virtue of office to test petroleum of which samples have been taken under this Act, or which may have been submitted to him for test by any person, and to grant certificates of the results of such tests.

18. All tests of petroleum made under this Act shall be made with a test apparatus in respect of which there is a valid certificate under section 16, shall have due regard to any correction specified in that certificate, and shall be carried out in accordance with the rules made under section 21.

19. (1) The testing officer after testing samples of petroleum shall make out a certificate in the prescribed form, stating whether the petroleum is dangerous or non-dangerous and, if the petroleum is non-dangerous, the flashing point of the petroleum.

(2) The testing officer shall furnish the person concerned, at his request with a certified copy of the certificate, on payment of the prescribed fee, and such certified copy may be produced in any Court in proof of the contents of the original certificate.

(3) A certificate given under this section shall be admitted as evidence in any proceedings which may be taken under this Act in respect of the petroleum from which the samples were taken, and shall, until the contrary is proved, be conclusive proof that the petroleum is dangerous or non-dangerous, as the case may be, and, if the petroleum is non-dangerous, of its flashing point.

20. (1) The owner of any petroleum or his agent, who is dissatisfied with the result of the test of the petroleum may, within seven days from the date on which he received intimation of the result of the test apply to the officer empowered under section 14 to have fresh samples of the petroleum taken and tested.

(2) On such application and on payment of the prescribed fee, fresh samples of the petroleum shall be taken in the presence of such owner or agent or person deputed by him, and shall be tested in the presence of such owner or agent or person deputed by him.

(3) If, on such re-test, it appears that original test was erroneous, the testing officer shall cancel the original certificate granted under section 19, shall make out a fresh certificate, and shall furnish the owner of the petroleum or his agent, with a certified copy thereof, free of charge.

21. The Government may make rules—
Power to make rules regarding tests.

(a) for the specification, verification, correction and replacement of the Standard Test Apparatus;

(b) prescribing fees for the inspection of the Standard Test Apparatus;

(c) regulating the procedure in comparing a test apparatus with the Standard Test Apparatus;

(d) prescribing the form of certificate to be given in respect of a test apparatus so compared, and the period for which such certificates shall be valid;

(e) prescribing the form of the register of such certificate;

(f) prescribing fees for comparing a test apparatus with the Standard Test Apparatus;

(g) regulating the procedure of testing officers in carrying out tests of petroleum, providing for the averaging of results where several samples of the same petroleum are tested, and prescribing the variations from standard temperatures which may be allowed;

(h) prescribing the form of certificates of tests of petroleum and the fees which may be charged therefor;

(i) providing, where the results of the testing of samples raise a doubt as to the uniformity of the quantity of the petroleum in any lot under test, for the division of the lot into sub-lots, and for the selection and testing of samples of each sub-lot and for the averaging of results in accordance with the results of tests of those samples;

(j) prescribing fees for re-tests under section 20 and providing for their refund where the original test was erroneous; and

(k) generally, regulating the procedure of all officers performing duties connected with the testing of petroleum, and providing for any matter incidental to such testing.

22. The Government may also make rules providing specially for the testing of any form of petroleum which is viscous or solid or contains sediment or hickening ingredients and such rules may modify or supplement any of the provisions of this Chapter or of the rules made under section 21 in order to adapt them to the special needs of such tests.

Special rules for testing viscous or solid forms of petroleum.

CHAPTER III.

PENALTIES AND PROCEDURE.

23. (1) Whoever—

General penalty for offences under this Act.

(a) in contravention of any of the provisions of Chapter I or of any of the rules made thereunder imports, transports, stores, produces, refines or blends any petroleum, or

(b) contravenes any rule made under section 4, or section 5, or

(c) breaks the condition of any licence held by him issued under section 4, or

(d) being for the time being in control or in charge of any place where petroleum is being imported, stored, produced, refined or blended or is under transport, refuses or neglects to show to any officer authorised under section 13 any receptacle, plant or appliance used in such place in connection with petroleum, or in any way obstructs or fails to render reasonable assistance to such officer during an inspection, or

(e) being for the time being in control or in charge of any place where petroleum is being imported, transported, stored, produced, refined or blended, refuses or neglects to show to any officer authorised under section 14 any petroleum in such place, or to give him such assistance as he may require for the inspection of such petroleum or refuses to allow him to take samples of the petroleum, or

(f) being required, under section 27, to give information of an accident, fails to give such information as so required by that section, shall be punishable with fine which may extend to five hundred rupees.

(2) If any person, having been convicted of an offence punishable under sub-section (1), is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence with fine which may extend to two thousand rupees.

24. (1) In any case in which an offence under clause (a) or clause (b) or clause (c) of sub-section (1) of section 23 has been committed, the convicting Magistrate may direct that—

(a) the petroleum in respect of which the offence has been committed, or

(b) where the offender is convicted of importing, transporting or storing petroleum exceeding the quantity he is permitted to import, transport or store, as the case may be, the whole of the petroleum in respect of which the offence was committed, shall, together with the receptacles in which it is contained, be confiscated.

(2) This power may also be exercised by the High Court in the exercise of its appellate or revisional powers.

25. Offences punishable under this Act shall be triable by a Magistrate of the first class, or by a Magistrate of the second class who has been specially empowered by the High Court of Judicature in this behalf.

26. (1) The Government may, by notification in the Government Gazette, authorise any officer by name or by virtue of office to enter

Power of entry and search.

and search any place where he has reason to believe that any petroleum is being imported, transported, stored, produced, refined or blended otherwise than in accordance with the provisions of this Act and the rules made thereunder, and to seize, detain or remove any or all the petroleum in respect of which in his opinion an offence under this Act has been committed.

(2) The provisions of the Code of Criminal Procedure, 1989, relating to searches shall, so far as they are applicable, apply to searches by officers authorised under this section.

(3) The Government may make rules regulating the procedure of authorised officers in the exercise of their powers under this section subject, however, to the provisions of sub-section (2).

27. Where any accident by explosion or fire, which is attended with loss of human life or serious injury to person or property, occurs as the result of the ignition of petroleum or petroleum vapour or occurs in or near any place where petroleum is kept and under circumstances making it likely that it was the result of such ignition, the person for the time being in charge of the petroleum shall forthwith give information to the nearest Magistrate or to the officer-in-charge of the nearest police station.

28. (1) The inquiry mentioned in section 176 of the Code of Criminal Procedure, 1989, shall be held in all cases where any person has been killed by an accident which the Magistrate has reason to believe was the result of the ignition of petroleum or petroleum vapour.

(2) Any Magistrate empowered to hold an inquest may also hold an inquiry under the said section into the cause of any accident which he has reason to believe was the result of the ignition of petroleum or petroleum vapour, if such accident was attended by serious injury to person or property, notwithstanding that no person was killed thereby.

(3) The result of all inquiries held in pursuance of this section shall be submitted as soon as may be to the Government.

CHAPTER IV.

SUPPLEMENTAL.

29. (1) In making any rules under this Act, the Government may—
Provisions relating to rules.

(a) provide for any matter ancillary to such rules for which in his opinion provision is necessary to protect the public from danger arising from the import, transport, storage, production, refining or blending of petroleum, and

(b) make special provision for the special circumstances of any district or place.

(2) All rules made under this Act shall be published in the Government Gazette.

30. (1) The Government may by notification in the Government Gazette apply any or all of the provisions of this Act and of the rules made thereunder with such modification as they may specify, to any dangerously inflammable substance, other than an explosive, and thereupon the provisions so applied shall have effect as if such substance had been included in the definition of petroleum.

(2) The Government may make rules providing specially for the testing of any substance to which any of the provisions of this Act have been applied by notification under sub-section (1), and such rules may supplement any of the provisions of Chapter II in order to adapt them to the special needs of such tests.

31. Where any enactment confers powers upon any local authority in respect of the transport or storage of petroleum, the Government may, by notification in the Government Gazette,—

(a) limit the operation of such enactment, or

(b) restrict the exercise of such powers, in any manner they deem fit.

32. The enactment mentioned in the Schedule is hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

ENACTMENT REPEALED.

(See Section 32)

1	2	3	4
Year.	Number.	Short title.	Extent of repeal.
1977	XXXII	The Petroleum Regulation, 1977.	The whole.

(Sd.) HIRANAND RAINA,

Secretary to Government, Praja Sabha Department.