

The Odisha Gazette

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HOME DEPARTMENT

NOTIFICATION

The 28th November 2013

SUBJECT—The Odisha Poisons (Possession and Sale), Rules, 2013

No. 43916—CP (Lit)-09/2013-C&HR.—The following draft of certain rules which the State Government propose to make to regulate the possession for the sale and sale of poisons, in exercise of the powers conferred by Sections 2 and 8 of the Poison Act, 1919 (12 of 1919) is hereby published as required by sub-section (2) of Section 8 of the said Act for information of the persons likely to be affected thereby and notice is hereby given that the said draft shall be taken into consideration on or after the expiry of the period of thirty days from the date of publication of this notification in the *Odisha Gazette*.

Any objection or suggestion which may be received from any person in respect of the said draft before the expiry of the said period so specified above shall be considered by the State Government :—

DRAFT

1. Short Title, Extent and Commencement —

- (1) These rules may be called the Odisha Poisons (Possession and Sale) Rules, 2013
- (2) They shall extend to the whole of the State of Odisha
- (3) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. Definitions —

- (1) In these rules, unless the context otherwise requires,—
 - (a) “Act” means the Poisons Act, 1919 (Act 12 of 1919) ;
 - (b) “Dealer” means a person holding licence under these rules ;
 - (c) “Form” means a form appended to these rules ;
 - (d) “Licensee” means a holder of a licence ;
 - (e) “Licensing Authority” means the District Magistrate or any other Officer authorized by the Government under sub-section (1) of Section 7 of the Act to grant a licence;
 - (f) “Notification” means a notification published in the *Odisha Gazette* ;

- (g) "Sale" means any sale by one licensed dealer to another or by a licensed dealer to any school or college or to any research or medical institution or hospital or dispensary under a registered medical practitioner or any recognized public institution or industrial firm requiring poisons for its own use or to an individual for personal use ; and
- (h) "Schedule" means the Schedule appended to these rules.

(2) The words and expressions used in these rules but not defined in sub-rule (1) shall have respective meaning assigned to them in the Act.

3. Substances deemed to be Poison —

The substances specified in the Schedule shall be deemed to be poisons for the purposes of these rules.

4. Licence for Possession or Sale of Poison —

No person, not exempted under the provisions of the Act, shall sell or possess for sale any poison specified in the Schedule except under a licence in Form I granted or renewed in that behalf by the licensing authority.

5. Exhibition of rules on the premises —

A copy of these rules shall always be displayed in a prominent position at the place of business specified in the licence granted under Rule 4.

6. Application for grant or renewal of Licence —

(1) Every person desiring for the grant or renewal of a licence shall make a written application in Form II to the Licensing Authority and such application shall bear a Court Fee Stamp of ten rupee :

Provided that any application for renewal of a licence which is made less than one month prior to the date of the expiry of the licence shall bear a Court Fee Stamp of hundred rupees.

(2) Applications for duplicate licences, when the original is lost or destroyed, shall be made in writing and shall bear a Court Fee Stamp of hundred rupees.

(3) In the case of any change in the place of business of the licensee, a fresh application for licence shall be made to the licensing authority and such application shall bear a Court Fee Stamp of hundred rupees.

(4) The licensee shall prominently display the licence in the place of business.

7. Duration of Licence —

Subject to the provisions of Rules 8 and 9, a licence granted or renewed under these rules shall remain in force for three years from the date of issue.

8. Discretion of the Licensing Authority —

(1) A licence may be cancelled or revoked at anytime

(2) The grant or renewal or cancellation or revocation of a licence shall be in the discretion of the Licensing Authority whose decision shall be final :

Provided that the Licensing Authority shall give an opportunity to the party concerned to show cause, if any, against the action proposed to be taken and shall record in writing the reasons for refusing to grant or renew a licence or for cancelling or revoking a licence.

9. Termination of Licence —

A licence shall terminate on the death of the licence-holder or on the transfer of his business, or if granted to a Firm or Company, on the winding up or the transfer of the business of such Firm or Company :

Provided that, if the business carried on by the licensee is transferred as a going concern and the transferee applies for a fresh licence, with Court Fee Stamp of hundred rupees, within fourteen days of the date of transfer, the subsisting licence shall continue of be in force until a new licence has been granted or the application for fresh licence is rejected by the Licensing Authority.

10. Disposal of Stock on termination, revocation or cancellation of licence —

(1) In the event of revocation or cancellation of the licence under Rule 8 or in the event of the termination of licence under Rule 9, the stock of poison may be sold to any other licence holder within a period of three months from the date of such termination, revocation or cancellation of the licence, after which the remaining poison may be destroyed under the orders of the Licensing Authority.

(2) In the case referred to in Rule 9, the proceeds of the sale, if any, shall be made over to the legal representative of the deceased licence holder or his transferee or, liquidator of the dissolved Firm or Company of the transferee of the Firm or Company, as the case may be.

11. Power to inspect poisons and registers —

Any Executive Magistrate or a Police Officer of or above the rank of Sub-Inspector of the concerned Police Station or a Medical Officer appointed by the Government or an Inspector appointed under Section 21 of the Drugs and Cosmetics Act, 1940 (Act 23 of 1940) may, at anytime, visit and inspect the premises of the licence holder where poison is kept for sale and may inspect all poisons found therein and the registers.

12. Licence to whom granted —

(1) A licence shall be granted only to a person who, in the opinion of the Licensing Authority, is competent to conduct business in poisons.

(2) The licence issued to a Firm or Company shall always be in the name of the proprietor or proprietors of the Firm or Company or a responsible person to be nominated by such proprietor or proprietors for the purpose, or in the case of a public company, in the name of its manager.

(3) The name or names so given may be altered or amended by the Licensing Authority on a written application from the Firm or Company and such application shall bear a Court Fee Stamp of hundred rupees.

13. Sale of poison —

Every Sale of Poisons, shall, as far as practicable, be made by the licence holder in person or where the licence holder is a Firm or a Company, through or under supervision of an accredited representative or such Firm or Company.

14. Persons to whom poisons may be sold —

(1) A licence holder shall not sale any poison to any single person, unless accompanied by minimum one companion as witness to disclose the purpose of purchase.

(2) The buyer must be personally known to the licence holder, or identified to his satisfaction by producing a Photo Identity Card which has his address or substantiate it with a document giving his address.

(3) The licence holder shall also ascertain, before selling any poison, the name, telephone number and address of the buyer and the witness and the purpose for which the poison is purchased.

(4) The licence holder shall not sell any poison to any person who appears to him to be under the age of eighteen years, or to any person who does not appear to him to be in full possession of his faculties.

15. Register of Sales of Poisons —

(1) Every licence holder shall maintain a register in which he shall enter correctly all sales of poison other than those used by a Chemist, Druggist or Compounder dispensing or compounding in compliance with the prescription of a qualified Medical or Veterinary Practitioner.

(2) The following details shall be entered in such register in respect of such sale, namely :—

- (a) Serial No ;
- (b) Name of poison ;
- (c) Quantity sold ;
- (d) Date of sale ;
- (e) Name and address of the purchaser, serial number of the Photo Identity Card produced and the name of the issuing authority ;
- (f) Purposes for which the poison was stated by the purchaser to be required ;
- (g) Signature of the purchaser (or thumb impression if illiterate) or in the case of purchase by post, date and which the letter was written and reference to the original in the file in which it is preserved ;
- (h) Name and Address of the witnesses, Signature of the witnesses identifying the purchaser (or thumb impression, if illiterate) with the Photo Identity Card produced and the name of the issuing authority ;
- (i) Digital photograph of purchaser and witnesses ; and
- (j) Signature of Dealer.

(3) In a separate portion of the register shall be entered, in separate columns for each poison, the quantity of each poison sold daily, and those entries shall be filled up every day.

(4) The signature in the register prescribed under item (j) of sub-rule (2) shall be that of the licence holder himself, or, when the licence holder is a Firm or Company, such signature shall be of an accredited representative of such Firm or Company and shall be written at the time of sale or despatch to the purchaser.

(5) Such signature shall be held to imply that the signatory had satisfied himself that the requirements of Rule 14 have been fulfilled.

(6) All letters or written orders referred to under item (g) of sub-rule (2) shall be preserved in original by the licence holder for a period not less than two years from the date of the sale.

16. Stock Register of Poisons —

(1) The licence holder shall maintain in respect of each poison, a stock register which shall contain the following details, namely :—

- (a) Serial No ;
- (b) Date ;
- (c) Quantity received ;
- (d) Name and address of person from whom received ;
- (e) Quantity sold ;
- (f) Balance in stock ; and
- (g) Remarks.

(2) The licence holder, at the end of each month, shall intimate the following to the local Police Station, namely :—

- (a) Balance of different poison at the beginning of the month ;
- (b) Details of the Quantity sold purchaserwise with purpose during the month ;
- (c) Name of the purchaser and witnesses with address ; and
- (d) Balance stock at the end of the month for different poisons.

(3) Poisons issued from stock to the dispensary on any day for retails sale and for dispensing of prescriptions shall be entered as one item in the issue said of the register with a note to that effect.

(4) Where poisons issued to different institutions for its use in the laboratory or Industry, the head of the institution shall ensure of its proper use and no quantity of poison shall be pilfered.

(5) The daily balance of stock must be entered in the register.

17. Custody of poisons kept for sale and labeling of receptacles in which they are kept —

(1) All poisons kept for sale under these rules by any licence holder shall be kept securely in a box, almirah, room or building (according to the quantity maintained) which shall be secured by lock and key and in which no substance shall be placed other than poisons possessed in accordance with a licence granted under the Act, and each poison shall be kept securely within such box, almirah, room or building in a separate closed receptacle of glass, plastic metal or earthenware.

(2) Every such box, almirah, room or building and every such receptacle shall be marked with the word "POISON" in red letters, both in English and in the local language and in the case of receptacles containing separate poisons, with the name of such poisons.

18. Poisons sold to be securely packed and labeled —

When any poison is sold, it shall be securely packed in a closed receptacle or packet according to the quantity ; and every such receptacle or packet shall be labelled by the licensee with a red label bearing the name of the poison in English and in local language and the name and address of the licensee.

SCHEDULE

[See Rules 2 and 3 of the Odisha Poisons (Possession and Sale) Rules, 2013]

List of Poisons

1. Acetic Acid ;
2. Sulphuric Acid (H_2SO_4) (beyond 5% concentration by weight) ;
3. Hydrochloric Acid (HCl) (beyond 5% concentration by weight) ;
4. Phosphoric Acid (H_3PO_4) ;
5. Hydrofluoric Acid (HF) ;
6. Perchloric Acid ($HClO_4$) ;
7. Formic Acid ;
8. Hydrocyanic Acid except substances containing less than 0.1 per cent weight in weight of Hydrocyanic Acid ;
9. Hydrochloric Acid, except substances containing less than 5 per cent weight in weight of Hydrochloric Acid ;
10. Nitric Acid, except substances containing less than 2 per cent weight in weight of Nitric Acid ;
11. Oxalic Acid ;
12. Perchloride of mercury (corrosive sublimate) ;
13. Potassium Hydroxide except substances containing less than 12 per cent weight in weight of Potassium Hydroxide ; and
14. Sodium Hydroxide except substances containing less than 12 per cent weight in weight of Sodium Hydroxide.

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FORM I

[See Rule 4 of the Odisha Poisons (Possession and Sale) Rules, 2013]

Licence for possession and sale of poisons

Affix 3 x 2.5 cm. size photograph of licensee duly signed by the licensing authority of which half of the signature will be on the photograph and other half on the licence paper with seal.



1. Register No.
2. Name of the Licensee
3. Locality of shop
4. Shri _____ son of Shri _____
carrying on business as _____ in the _____ (Name of Local
Body) under _____ Police Station, of _____ District, is hereby
licensed to possess for sale by retail and to sell by retail the following poisons, namely :—

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____

- (a) This licence is subject to the conditions specified on reverse, the breach of any of which shall involve forfeiture of the licence as well as liability to the penalties provided by Section 6 of the Poisons Act, 1919.
- (b) This licence will remain in force from the date of grant, for a period of three years unless previously terminated by the death of the licence holder or cancelled by the licensing authority concerned.

Seal and signature of the Licensing Authority

CONDITIONS —

- (i) Subject to the provisions of Rules 5 and 8, a licence granted or renewed on any day shall remain in force for a period of three years from the date of issue. Every applicant for the grant or renewal of a licence shall make a written application to the Licensing Authority and such application shall bear a Court Fee Stamp of hundred rupees.
- (ii) A licence shall terminate on the death of the licence holder or if granted to a Firm or Company on the winding up or transfer of the business of such Firm or Company.
- (iii) The Licensing Authority may, for any sufficient cause, revoke or cancel any licence
- (iv) Every sale of a poison shall, so far as possible, be conducted by the licence holder in person or where the licence holder is a Firm or a Company, through or under the supervision of an accredited representative of such Firm or Company.
- (v) A licence holder shall not sell any poison to any single person, unless accompanied by minimum one companion as witness to disclose the purpose of purchase. The buyer must be personally known to the licence holder, or identified to his satisfaction by producing a Photo Identity Card which has his address or substantiate it with a document giving his address. He shall also ascertain before selling any poison the name, telephone number and address of the buyer and the witnesses and the purpose for which the poison is purchased. He shall not sell any poison to any person who appears to him to be under the age of eighteen years, or to any person who does not appear to him to be in full possession of his faculties.
- (vi) Every licence holder shall maintain a register in which he shall enter all sales of poison other than those used by a chemist and druggist for dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner. The following particulars shall be entered in such register in respect of each sale, namely :—
 - (a) Serial No. ;
 - (b) Date of sale ;
 - (c) Name, telephone number and address of the buyer ;
 - (d) Name of the poison ;
 - (e) Quantity sold ;
 - (f) Purpose for which the poison was stated by the buyer to be required ;
 - (g) Signature of buyer or thumb impression, if illiterate, or in case of purchase by post, date of letter or written order and reference to the origins in the file in which it is preserved ;
 - (h) Name and address of the witnesses, Signatures of the witnesses identifying the purchaser (or thumb impression, if illiterate) with the Photo Identity Card produced and the name of the issuing authority ;
 - (i) Digital photograph of the buyer and witnesses ;
 - (j) Signature of the dealer ;

- (vii) In a separate portion of the register, shall be entered, in separate *column* for each poison, the quantity of the each such poison sold daily and these entries shall be filled up everyday ;
- (viii) The signature under item (j) of sub-rule (2) of Rule 15 shall be that of the licence holder himself, or, when the license holder is a Firm or Company such signature shall be of an accredited representative of such Firm or Company and shall be entered at the time of sale or dispatch of the poison to the purchaser. Such signature shall be held to imply that the writer has satisfied himself that the requirements of Rule 15 have been fulfilled ;
- (ix) All letters or written orders referred to in item (g) of sub-rule (2) of Rule 15 of the register shall be preserved in original by the licence holder for a period of not less than two years from the date of the sale ;
- (x) A licence holder shall maintain in respect of each poison a stock register, which shall contain the following particulars, namely :—
 - (a) Serial No. ;
 - (b) Date ;
 - (c) Quantity received ;
 - (d) Name and address of person from whom received ;
 - (e) Quantity sold ;
 - (f) Balance in stock ;
 - (g) Remarks.
- (xi) Every licence holder shall intimate to the local police station about details of sale as provided under sub-rule (2) of Rule 16 ;
- (xii) Daily balance of stock must be entered in the register ;
- (xiii) Any Executive Magistrate or an Inspector appointed under Section 21 of the of Drugs and Cosmetics Act, 1940 or a Police Officer of or above the rank of Sub-Inspector of concerned Police Station or any Medical Officer of or above the rank of Assistant Medical Officer appointed by the Government may, at any time, visit and inspect the premisses where poison is kept for sale and may inspect all poisons found there and the register maintained under Rules 15 and 16 of the Odisha Poisons (Possession and Sale) Rules, 2013 ;
- (xiv) All poisons kept for sale by any licence holder under the Odisha Poisons (Possession and Sale) Rules, 2013 (except those kept by a chemist and druggist for the purpose of dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner) shall be kept in a box, almirah, room or building (according to the quantity maintained) which shall be secured by lock and key and in which no substance shall be placed other than poisons possessed in accordance with a licence granted under the Act and each poison shall be kept within such box, almirah, room or building in a separate closed receptacle of glass, plastic, metal, or earthenware. Every such box, almirah, room or building and every such receptacle shall be marked with the word "POISON" in red letters in English and local language and in the case of receptacles containing separate poisons with the name of such poisons ;

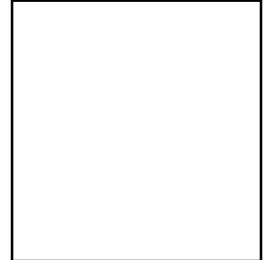
- (xv) When any poison is sold, it shall be securely packed in closed receptacle or packet according to the quantity and every such receptacle or packet shall be labeled by the licensee with a red label bearing the name of the poison in English and in local language, the name and address of the licensee and the number and date of the entry in the register of sales specified in Rule 16 of the Odisha Poison (Possession and Sale) Rules, 2013 ;
- (xvi) The licence shall be held subject to the conditions mentioned above and to the provisions of the Act and of any Rules, from time to time, made under the Act.

FORM II

[See Rule 6 of the Odisha Poisons (Possession and Sale) Rules, 2013]

APPLICATION FOR GRANT / RENEWAL OF LICENCE

The application to be accompanied by two copies of recent 3 x 2.5 cm. size photographs duly attested by Gazetted Officer on the back side, one of which to be affixed in the space provided.



1. Name of the applicant
2. Purpose of the Application
3. Status-Individual / Registered / Unregistered Company / Firm
4. Age (for individual only)
5. Postal Address (Address of Registered Offices and PIN Code, Principal Office, if applicant is a Company).
 - (i) Telephone Number ;
 - (ii) Telegraphic Address ;
 - (iii) E-mail ;
6. Location of the premises / Place of business :
 - (i) State ;
 - (ii) District ;
 - (iii) Town or Village ;
 - (iv) House No ;
 - (v) Municipal holding No. / Plot No. ;
 - (vi) Police Station ;
 - (vii) Railway Station ;
7. Quantity of Poisons proposed to be purchased and stored ;

8. Licence No. _____ and Date of issue _____ (in case of Renewal)
9. Quantity of poison already held, if any, _____
10. A copy of the Licence already issued may be attached to the application

I certify that the above informations are correct to the best of my knowledge and belief

Signature of the applicant

Place :

Designation / Status

Date :

Full Postal Address

By order of the Governor

U. N. BEHERA

Additional Chief Secretary to Government