

CHAPTER VI FILLING AND POSSESSION

43. Licence for filling and possession: —

(1) No person shall fill any cylinder with compressed gas and no cylinder filled with compressed gas shall be possessed by anyone except under and in accordance with the conditions of a licence granted under these rules.

(2) The licensee shall be responsible, for all operations connected with the filling and possession of cylinders in the licensed premises.

44. No licence needed for filling and possession in certain cases: —

Notwithstanding anything contained in Rule 43, no licence shall be necessary for -

(a) possession of any cylinder filled with a compressed gas by a carrier or other person for the purpose of transport in accordance with the provisions of these rules;

(b) possession of cylinders filled with -

(i) liquified petroleum gas when the total quantity of gas does not exceed 100 kg at a time;

(ii) any other flammable but non-toxic gas when the total number of cylinders containing such gas does not exceed 25 or the total weight of gas does not exceed 200 kg., whichever is less, at a time;

(iii) any non-flammable non-toxic gas when the total number of such cylinders does not exceed 200 at a time;

(iv) any toxic gas when the total quantity of such cylinders does not exceed 5 at a time;

(v) acetylene gas contained in cylinders in dissolved state when the total quantity of such cylinder does not exceed 50 at a time.

45. Restriction on filling : —

No person shall fill any cylinder with any compressed gas unless such a cylinder and its valve or other fittings -

(a) are of approved type and standard as per rule 3 and has been specifically approved for filling by the Chief Controller,

(b) have passed the examination and test specified in rule 35,

(c) conform to the provisions of rules 4,5,6,7 and 8.

46. Working pressure and filling ratios:—

(1) The working or internal pressure in any cylinder charged with a permanent gas shall not exceed two-third of the test pressure.

(2) Cylinders charged with liquefiable gases shall not be filled in excess of the filling ratios specified in IS:3710 for low pressure liquefiable gases and IS:8866 for high pressure liquefiable gases.

47. Prior approval of specifications and plans of premises proposed to be licensed: —

(1) Every person desiring to obtain a licence to fill and store any compressed gas in any cylinder shall submit to the Chief Controller or Controller authorised by Chief Controller-

(a) specifications and plans drawn to scale in triplicate clearly indicating —

(i) the manner in which the provisions prescribed in these rules will be complied with,

(ii) the premises proposed to be licensed, the area of which shall be distinctly coloured or otherwise marked,

(iii) the surrounding area lying within 100 metres of the edge of all facilities which are proposed to be licensed,

(b) scrutiny fee as specified in Schedule V.

(2) If the Chief Controller or Controller after scrutiny of the specifications and plans and after making such inquiries as considered necessary, satisfied that compressed gas will be filled and stored in the premises proposed to be licensed, according to the provisions of these rules, he shall return to the applicant one copy of each of the specifications and plans signed by him conveying his sanction subject to such conditions as may be specified.

(3) Prior approval specified in sub-rules (1) and (2) is not mandatory for installation of non-toxic

non-flammable gases and an applicant for such installation is at liberty to install the facilities in accordance with provisions of these rules without obtaining prior approval from Chief Controller or Controller.

48. No Objection Certificate: —

(1) An applicant for a new licence in Form 'G', for a CNG dispensing station shall apply to the District Magistrate with two copies of site plan showing the location of the premises proposed to be licensed under these rules for a certificate to the effect that there is no objection to the applicant's receiving a licence for a CNG dispensing station at the site proposed, and the District Magistrate, if satisfied, shall grant no objection certificate to the applicant who shall forward it to the Chief Controller or Controller with his application.

(2) Every certificate issued by the District Magistrate under sub-rule (1) above shall be accompanied by a copy of the plan of the proposed site duly endorsed by him under official seal.

(3) The Chief Controller or Controller may refer an application not accompanied by a certificate granted under sub-rule (1) to the District Magistrate for his observation.

(4) If the District Magistrate, either on a reference being made to him or otherwise, intimates to the Chief Controller or Controller that any licence which has been applied for should not, in his opinion, granted, such licence shall not be issued without the sanction of the Central Government.

49. Application for licence:—

A person wishing to obtain or renew a licence under these rules shall submit an application, in writing, to the Chief Controller or Controller

(a) in Form 'B' for a licence prescribed in sub-rule (1) of rule 51 and

(b) in Form 'C', for a licence prescribed in sub-rule (2) of rule 51.

50. Grant of licence: —

(1) A licence under these rules may be granted by the Chief Controller or Controller on payment of the fees specified in Schedule V.

(2) A licence under sub-rule (1) shall be granted if the provisions of these rules are complied with by the applicant.

(3) Every licence granted under these rules shall be subject to the conditions specified therein.

51. Period for which licences may be granted or renewed: —

(1) A licence in Form 'D' for the import of cylinders filled or intended to be filled with compressed gas may be granted for such period as the Chief Controller may deem necessary subject to a maximum of one year.

(2) A licence in Form 'E', 'F' or 'G' for filling or storage of compressed gases granted or renewed under rules shall remain in force till the 30th day of September of the year up to which the licence is granted or renewed subject to a maximum of ten years.

(3) Notwithstanding anything contained in sub-rule (2), the Chief Controller or Controller authorised by Chief Controller, where he is satisfied that a licence is required for a specific work which is not likely to last up to the 30th day of September of the year up to which the licence is granted or renewed may grant or renew a licence for such a period as is necessary.

52. Particulars of licence: —

(1) Every licence granted under these rules shall be subject to the conditions specified therein and shall contain all the particulars, which are contained in the form specified under these rules.

(2) One copy of the plan or plans for the licensed premises signed in token of approval by the Chief Controller or Controller shall be attached to the licence, which shall form part of such a licence, and an identical copy shall be filed for record in the office of the Chief Controller or Controller.

53. Prior approval necessary for alteration in the licensed premises: —

(1) No alteration shall be carried out in the licensed premises until the plan showing such alteration has been approved in writing by the Chief Controller or Controller authorised by Chief Controller.

(2) A person wishing to carry out any alteration in the licensed premises shall submit to the Chief Controller or Controller —

(a) three copies of a properly drawn plan to scale, of the licensed premises showing in distinct colours the proposed alterations and the reason therefor;

(b) scrutiny fee as specified in Schedule V.

(3) If the Chief Controller or Controller, after scrutiny of the plan showing the proposed alteration and after making such enquiries as he deems fit, is satisfied that the proposed alteration may be carried out, he shall return to the licensee one copy of the plan signed by him and conveying his sanction subject to such condition or conditions as may be specified.

(4) The holder of the licence shall apply to the Chief Controller or Controller for the amendment of the licence as soon as the sanctioned alteration has been carried out.

(5) No additions or alterations carried out in the licensed premises sanctioned by the Chief Controller or Controller shall be brought into use unless the licence is received by the licensee duly amended.

54. Amendment of licence: -

(1) Any licence granted under these rules may be amended by the Chief Controller or Controller authorised by the Chief Controller.

(2) The fee for amendment of a licence shall be amendment fee plus the amount, if any, by which the fee that would have been payable if the licence had originally been issued in the amended form exceeds the fee originally paid for the licence.

(3) A licensee who desires to have his licence amended shall submit to the Chief Controller or Controller —

(i) an application duly filled in and signed in Form 'B' if the licence has been granted in Form 'D' and in Form 'C' if the licence has been granted in Form 'E', 'F' or 'G';

(ii) the licence sought to be amended together with the approved plans attached to it;

(iii) where any alterations in the licensed premises have been carried out, three copies of the properly drawn plans showing the alterations sanctioned under rule 53 by the Chief Controller or Controller.

(iv) fees for the amendment of the licence as specified in sub-rule(2).

(4) The holder of a licence in form 'E', 'F' or 'G' may, at any time before the expiry of the licence, apply to the licensing authority to transfer the licence to another person and every application for such transfer of a licence shall be accompanied with -

(i) a letter signed by the holder of the licence indicating the full name and postal address of the person to whom he wishes to transfer the licence and give complete possession of the licensed premises;

(ii) the licence sought to be transferred together with the approved plan or plans attached to it;

(iii) an application in Form 'C' duly filled and signed by the person to whom the licence is sought to be transferred;

(iv) amendment fee as specified in Schedule V.

55. Renewal of licence:—

(1) A licence may be renewed by the Chief Controller or Controller.

(2) Every licence granted in Form 'E' 'F' and 'G' under these rules, may be renewed for a maximum period of ten years at a time where there has been no contravention of the provisions of the Act or any rules framed thereunder or of any condition of the licence so renewed.

(3) Where a licence, which has been renewed for more than one year, is surrendered before its expiry, the renewal fee paid for the un-expired portion of the licence shall be refunded to the licensee provided that no refund of renewal fee shall be made for the year during which the Chief Controller or Controller receives the renewed licence for surrender.

(4) Every application for the renewal of a licence shall be accompanied by the licence, which is to be renewed together with or without approved plans attached to the licence, and the renewal fee.

(5) Every application for the renewal of a licence shall be made so as to reach the licensing authority on or before the date on which it expires and if the application is so made, the licence shall be deemed to be in force until such date as the Chief Controller or Controller renews the

licence or until an intimation that the renewal of the licence is refused, has been communicated to the applicant.

(6) Where the renewal of a licence is refused, the fee paid shall be refunded to the licensee after deducting therefrom the proportionate fee for the period beginning from the date from which the licence was to be renewed up to the date on which renewal thereof is refused.

(7) The same fee shall be charged for the renewal of a licence for every twelve months for the grant of such renewal:

Provided that-

(a) if the application with accompaniments required under sub-rule (4) is not received within the time specified in sub-rule (5) but received not later than three months the licence shall be renewed only on payment of a fee amounting to twice the fee ordinarily payable;

(b) if such an application with accompaniments is received by the Chief Controller or Controller after three months from the date of expiry but not later than one year from the date of expiry, the licence may, without prejudice to any other action that may be taken in this behalf, be renewed on payment of late fee at the rate of one year licence fee for every delay of three months or part thereof:

Provided further that in the case of an application for the renewal of a licence for a period of more than one year at a time, the fee prescribed under the first proviso, if payable shall be paid only for the first year of renewal.

(8) No licence shall be renewed if the application for renewal is received by the Chief Controller or Controller after one year of the date of its expiry.

56. Refusal of licence. —

The Chief Controller or Controller refusing to grant, amend, renew or transfer a licence, shall communicate the reasons thereof to the applicant.

57. Suspension and cancellation of licence: -

(1) Every licence granted under these rules shall be liable to be suspended or cancelled by an order of the licensing authority for any contravention of the provisions of the Act or rules framed thereunder or of any condition contained in such licence, or by an order of the Central Government, if at any time the continuance of the licence in the hands of the licensee is deemed objectionable:

Provided that—

(a) before suspending or canceling a licence under this rule, the holder of the licence shall be given an opportunity of being heard;

(b) the maximum period of suspension shall not exceed three months; and

(c) the suspension of a licence shall not debar the holder of the licence from applying for its renewal in accordance with the provisions of rule 55.

(2) Notwithstanding anything contained in sub-rule (1) an opportunity of being heard may not be given to the holder of a licence before his licence is suspended or cancelled in cases-

(a) where the licence is suspended by the licensing authority as an interim measure for violation of any of the provisions of the Act or these rules, or of any condition contained in such licence or in his opinion such violation is likely to cause imminent danger to the public:

Provided that where a licence is so suspended, the licensing authority shall give the holder of the licence an opportunity of being heard before the order of suspension is confirmed;

(b) where the licence is suspended or cancelled by the Central Government, if the Government considers that in the public interest or in the interest of the security of the State such opportunity should not be given.

(3) The Chief Controller or Controller or the Central Government suspending or cancelling a licence under sub-rule (1), shall communicate the reasons thereof to the applicant except when the licence is suspended under sub-rule (2).

58. Procedure on expiration, suspension or cancellation of licence:—

A person licensed to fill or store compressed gas shall, on the expiration, suspension or cancellation of such licence, forthwith give notice to the Chief Controller or Controller of the

nature and quantity of compressed gas in his possession and shall comply with the directions which the Chief Controller or Controller may give in regard to its disposal.

59. Appeal: -

(1) An appeal shall lie with the Central Government against any order passed by the Chief Controller refusing to grant, amend or renew a licence or cancelling or suspending a licence and to the Chief Controller against any order passed by the Controller

(2) Every appeal shall be in writing and shall be accompanied by a copy of the order appealed against and shall be presented within sixty days of the order passed.

60. Procedure on death or disability of licensee. —

If a licensee dies or becomes insolvent or mentally incapable or is otherwise disabled, the person carrying on the business or legal heir of such licensee shall not be liable to any penalty or confiscation under the Act or these rules for exercising the powers granted to the licensee during such time as may reasonably be required to allow him to make an application for a new licence or transfer of the existing licence in his own name:

Provided that nothing in this rule shall be deemed to authorise the exercise of any power under this rule by any person after the expiry of the period of the licence.

61. Loss of licence. —

Where a licence granted under these rules is lost or accidentally destroyed, a duplicate copy of the licence may be granted on submission of a copy of the plan or plans identical with those attached to the licence and on payment of a fee as specified in Schedule V.

62. Production of licence on demand: —

(1) Every person holding or acting under a licence granted under these rules shall produce it, or an authenticated copy of it, at the place to which the licence applies, when called upon to do so by any of the officers specified in rule 71.

(2) Copies of any licence may, for the purposes of this rule, be authenticated by the authority, which granted the licence —

(a) on payment of a fee as specified in Schedule V for each authenticated copy; and

(b) on the submission of a copy of the plan identical with the approved plan attached to the licence.

63. Procedure on reports of infringement: —

The District Authority shall inform the Chief Controller or Controller of the action taken by him on any reports of infringement of the Act or of these rules, which the Chief Controller or Controller may make to him.

64. Executive control over authorities: —

Every authority, other than the Central Government, acting under this Chapter shall perform its duties subject to the control of the Central Government:

Provided that nothing in these rules shall be deemed to affect the powers of executive control of the Chief Controller over the officers subordinate to him.

65. Licence fee and other than licence fee: -

(1) Licence fee and fees other than licence fee are specified in Schedule 'V'. The fees are liable to be revised from time to time by an order issued by the Central Government.

(2) All fees payable under these rules shall be paid through crossed demand draft drawn on any Bank in favour of the Chief Controller of Explosives or Controller of Explosives or Department of Explosives payable at respective places as the case may be.