

**THE JAMMU AND KASHMIR BRICK KILNS (REGULATION)
RULES, 2017**

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**THE JAMMU AND KASHMIR BRICK KILNS (REGULATION)
RULES, 2017**

Department of Food, Civil Supplies and Consumer Affairs Notification SRO-504 dated 13th December, 2017.— In exercise of the powers conferred by section 26 of the Jammu and Brick Kilns (Regulation) Act 2010 (Act No. XVII of 2010), the Government of Jammu and Kashmir hereby make the following rules ; namely :—

1. *Short title and Commencement.* —(1) These rules may be called “The Jammu and Kashmir Brick Kilns (Regulation) Rules, 2011”.

(2) They shall extend to whole of the *[State of Jammu and Kashmir].

(3) These rules shall come into force from the ¹date of their publication in the ^{**}[Government Gazette].

2. *Definitions.*— In these rules unless the context otherwise requires :—

- (a) ‘Act’ means the Jammu and Kashmir Brick Kilns (Regulation) Act 2010 ;
- (b) ‘Appellate Authority’ means an Authority appointed by the Government by notification under section 20 of the Act ;
- (c) ‘Director’ means the Director, Food, Civil Supplies and Consumer Affairs ;
- (d) ‘District Magistrate’ means the District Magistrate of the District and includes any other Officer appointed by the Government by name or designation to act as such for all or any of the purposes of these rules ;
- (e) ‘Form’ means form appended to these rules ;
- (f) All words and expressions used in these rules but not defined shall have the same meanings as is assigned to them in the Act.

3. *No manufacture, sale or storage of bricks except by holding a valid license.*— Save as hereinafter provided, no manufacturer or dealer shall manufacture

* Now Union territory of Jammu and Kashmir.

1. Published in Government Gazette dated 18th May, 2011.

** Now Official Gazette.

or sell or offer to store for sale or have in his possession for the purposes of sale or for disposal in any other manner of deposit with or consign to any person for the purposes of sale or for storage for sale, bricks except by way of a valid license issued under the provisions of the Act and in accordance with the conditions of license granted under these rules.

4. *Licensing Authority.*— For the purpose of section 5 of the Act, ¹[Deputy Commissioner of the concerned District], shall exercise the powers of Licensing Authority within their respective territorial jurisdiction.

5. *Application for grant of License.* —(1) An application for grant of License to establish a Brick Kiln under section 6 of the Act shall be made to the Licensing Authority in Form ‘A’ duly accompanied by a fee prescribed under section 8 of the Act, in the form of Treasury Challan.

(2) On receipt of the application under sub rule (1), the Licensing Authority or any officer authorized by him, subject to the general or special instruction issued by the Government, from time to time, in this behalf shall :—

- (a) seek the comments/recommendations of the Block Medical Officer of the area so as to determine, if the site of the kiln is not detrimental to the health of the general public or to the crops, orchards or nurseries in close proximity and whether the sanitary arrangements proposed to be made at the kiln site are adequate ;
- (b) make on the spot inspection of the land on which the kiln is proposed to be established in order to ascertain that it is not in the close vicinity to any inhabited area, religious place, educational institution or any area which is likely to be inhabited.

(3) The applicant shall not be granted the licence unless he :—

- (a) obtains a certificate from the concerned Executive Engineer to the effect that the proposed site of brick kiln is not at a distance of less than 100 meters from any public road ; and
- (b) obtains a certificate from Deputy Controller, Legal Metrology, to authenticate the specifications of the mould in accordance with specified sizes ; and

1. Substituted for “Directors, Department of Food, Civil Supplies and Consumer Affairs, Kashmir/Jammu Divisions” by SRO-137 dated 27.02.2019.

- (c) furnishes an undertaking obtained from the proprietor duly attested by Judicial Magistrate for not using any clay from prohibited Agriculture land for manufacturing purpose ; and
- (d) obtains 'land use transfer' certificate from the competent authority.

(4) If after considering the application under sub-rule (1) and the applicant fulfills the conditions prescribed under sub-rules (2) and (3) and all other requirements provided under the Act for grant of license, the Licensing Authority shall issue the license in Form 'B' on payment of prescribed fee under the Act :

Provided that in case the applicant does not fulfill the conditions prescribed for grant of license under the Act and Rules, the Licensing Authority may by speaking order and assigning the reason thereof reject the application made under sub-rule (1) and inform the applicant accordingly along with grounds of rejection :

Provided further that the Licensing Authority shall decide the application made under sub-rule (1) within a period of three months from the date of submission of the requisite N.O.C's.

6. *Application for renewal of license.* —(1) The licensee shall make an application for renewal of license to the Licensing Authority in Form 'C' at least one month before the expiry of validity of the license.

- (2) The Licensing Authority shall, before renewing the licence, ensure that :—
 - (a) the licensee has not alienated in whole or in part, his ownership of the brick kiln ;
 - (b) the licensee has not sold the bricks at a higher rate or price than that of rates fixed by the Competent Authority from time to time ;
 - (c) the licensee has not without reasonable cause, failed to comply with any of the terms and conditions of the license or any directions lawfully given by the Licensing Authority or has not contravened any of the provisions of the Act or the Rules made thereunder ;
 - (d) royalty prescribed by the Geology and Mining Department from time to time has been paid ; and
 - (e) the licensee is not in arrears of any amount of prescribed Tax/Duty and/or electric charges/tariff.

(3) If the licensing Authority is satisfied that the applicant has not contravened any of the provisions of the Act or rules, it shall renew the license on payment of the fee prescribed.

(4) Where the Licensing Authority refuses to renew any license, it shall before making an order in this behalf, give the licensee an opportunity of being heard. If the applicant, or the licensee, does not show any cause within the specified time, or shows cause which in the opinion of the Licensing Authority is not satisfactory, the concerned Licensing Authority shall make an order accordingly.

7. *Display of licence.*— Every manufacturer shall display his licence at the place where he carries on his business or manufactures bricks.

8. *Fee for duplicate licence.*— If a licence is lost, destroyed, torn, defaced or mutilated, the licensee shall, through an application forthwith inform the Licensing Authority, who may on payment of Rs. 1000/- as the fee, issue a duplicate licence.

9. *Appeals.* —(1) An appeal under section 20 of the Act against an order passed by the Licensing Authority, may be filed by the applicant before the Divisional Commissioner of the respective division whose decision thereon shall be final in the manner specified herein below.

(2) (a) Every Appeal filed shall :—

- (i) be in writing ;
- (ii) specify the name and address of the appellant and date of the order appealed against ;
- (iii) specify the date on which the order appealed against was communicated to the appellant ;
- (iv) contain a statement of facts of the case and ground relied upon by the appellant in support of the appeal ;
- (v) state the relief applied for ; and

(b) Every such appeal shall be accompanied by :—

- (i) an authenticated copy of the order against which appeal is made ; and
- (ii) any other document relating to the appeal.

(3) Every appeal shall be submitted to the Appellate Authority in person by the appellant or by his authorized agent. When the appeal is presented by an agent, it shall be accompanied by a 'letter of authority', written on a simple paper, appointing him as such agent.

(4) On receipt of the appeal, the Appellate Authority shall endorse thereon the date of its presentation and the name of the appellant or his duly authorized agent presenting it, as the case may be.

(5) As soon as the appeal, is filed, the Appellate Authority shall peruse the same and if it is considered that there are sufficient grounds for proceeding ahead in the matter, it may give notice in Form 'D' to the appellant and the Licensing Authority, with the direction to the appellant present all the relevant record in support of the appeal on the date to be fixed by the Appellate Authority.

(6) The Appellate Authority, if satisfied that the material produced by Appellant or the Licensing Authority is not sufficient, may take additional evidence and call for such further relevant material from the appellant or the licensing authority as it deems fit. Such material shall form part of the record only after the party other than the one from whom such record has been received, has been given an opportunity to peruse the same.

(7) Where, on the date fixed for hearing or any date to which the hearing of the appeal may be adjourned, the appellant or his duly authorized agent does not appear, when the appeal is called for the hearing, the appeal shall be liable to be dismissed.

(8) The order passed by the Appellate Authority on the appeal shall be in writing, bearing his seal and signature and shall state the grounds of acceptance or rejection of the appeal.

(9) A copy of the order passed in appeal shall be supplied by the Appellate Authority, free of cost, to the appellant and copy thereof shall also be sent to the Licensing Authority.

10. *Repeal and savings.* —(1) The Jammu and Kashmir Brick Kilns (Regulation) Rules, 2011 are hereby repealed.

(2) Notwithstanding such repeal, any order made or action taken under the provision of the rules so repealed, shall be deemed to have been made or taken under the corresponding provision of these rules.

FORM 'A'**APPLICATION FOR LICENSE UNDER SECTION 6 OF THE JAMMU
AND KASHMIR BRICK KILNS (REGULATION) ACT, 2010**

To

The Licensing Authority,

_____.

Sir,

We/I hereby apply for the grant of license to establish :—

- (a) New Brick Kilns.
- (b) Recommence the brick manufacturing operation.
- (c) Operate the existing brick kiln.

1. Name and type of Brick Kiln _____

2. Name and address of actual kiln owner _____

3. Name of lessee, if any specifying if the kiln has been leased out—

4. Name, parentage and address of the applicant in block letters)
(specifying whether he falls in category 2 or 3 above) _____

5. Name and style of the proposed Brick kiln _____

6. Location of the kiln _____
 - (a) Name of the Village _____
 - (b) Tehsil _____ District _____
 - (c) Title of the Land _____

- (d) Kind of the Soil_____
- (e) Khasra No_____
- (f) Area of the land_____
- (g) Distance from Abadi Deh, Religious Place, Educational Institution, Health Institution_____
7. Site plan of Kiln_____
8. Premises other than kiln (if any) where bricks are stocked or business is carried on_____
9. N.O.Cs from as prescribed in sec 6(4) of the Act,—
- (a) Deputy Commissioner.
- (b) Divisional Forest Officer concerned ;
- (c) State Pollution Control Board ;
- (d) Wild life Warden concerned ;
- (e) Director, Geology Mining ;
- (f) Block Medical Officer concerned ;
- (g) The Executive Engineer (PWD/R&B) concerned ; and
- (h) Tehsildar concerned clearly recording that establishment of brick kiln at the proposed site does not violate the provisions of the Act relating to land use.

10. DECLARATION

I/We hereby declare that all the particulars given in the application are correct to the best of my knowledge and nothing has been concealed thereof ; An Affidavit in support of the averments made herein above is enclosed.

Dated:

Yours faithfully,

(Sign. of the applicant).

Name_____

Address_____

Note:— In the case of firm, its name with the names of all persons having any interest in the business should be given in paragraph (2) along with a copy of partnership deed duly registered in the court of law.

FORM "B"**LICENCE UNDER SECTION 6 OF THE JAMMU AND KASHMIR
BRICK KILNS (REGULATION) ACT, 2010****PHOTO**

Licence No.....

Village_____ Tehsil_____ District_____

Name of Proprietor_____ Parentage_____ is
licensed to manufacture, sell and supply bricks at_____ (Here mention
the address of the place of business) subject to the conditions of this licence.The licence shall be valid for a period of two year from date of issue, unless
suspended or revoked prior to that date.

Date

Seal Licensing Authority.

RENEWAL ENDORSEMENT

Date of renewal	Date of Expiry	Signature of Licensing Authority	Remarks
1	2	3	4

CONDITIONS OF LICENCE

1. The holder of the licence shall display the licence in conspicuous place on the premises in which he carries on his business.
2. Maintain a register giving an account of sales in the following form :—

- (a) Date
 - (b) Opening balance of Bricks
 - (c) No. of bricks manufactured during the day
 - (d) Total No. of columns (2) and (3)
 - (e) No. of bricks sold or otherwise disposed of during the day.
 - (f) Balance in hand on the last day of month.
 - (g) Remarks.
3. Submit to the licensing authority monthly return of stock of bricks in following form by 7th of the month following the month to which it relates :—
- (i) Month ;
 - (ii) Opening balance (Stock in hand on the commencement of month) ;
 - (iii) Number of bricks manufactured during the month ; and
 - (iv) Balance in hand on the last day of the month.
4. Maintain any other register or record or supply information that the licensing authority may by general or special order require him to supply.
5. Permit the licensing authority or any other person authorized by him,—
- (a) To inspect the premises in which bricks are manufactured, kept or stored and the vehicle or animals in which they are transported ;
 - (b) To take samples of the different kinds of bricks free of charge ;
 - (c) To inspect any records which the holder is required by the conditions of his license to keep.
6. They shall keep the approved samples at the trading premises.

7. Bill must be issued for every sale.
8. Shall in no case change the location of Brick Kiln without the prior permission of Licensing Authority.
9. Shall fix a 2x2 m permanent black coloured board conspicuously at the trading premises indicating information in contrast colour to be read legibly :—
 - (a) Name of Brick Kiln alongwith name of Prop.
 - (b) Opening Stock of Bricks Class-wise.
 - (c) Sale Price of Bricks Class-wise.
 - (d) Displaying the address and phone number of Licensing Authority for the information of consumers in case of any grievance.

FORM “C”

**APPLICATION FOR RENEWAL OF LICENCE UNDER SECTION 6 (7)
OF THE JAMMU AND KASHMIR BRICK KILNS (REGULATION)
ACT, 2010**

To

The Licensing Authority,

Sir,

My/Our Brick kiln Licence No _____ expires on _____. It is requested that the licence may kindly be renewed for a period as admissible under rules. The licence in original is also enclosed.

An amount of Rs. _____ has been deposited into Treasury vide Try. Vr. No. _____ dated _____ at Try _____ is also enclosed in original for renewal.

NOCs from the following departments is also enclosed :—

- I. Pollution Control Board.
- II. Geology and Mining Department.
- III. Commercial Taxes Department.
- IV. Power Development Department.

Yours faithfully,

Signature of the Applicant(s)
 Name _____
 Address _____

FORM "D"

**NOTICE UNDER RULE 9 TO THE JAMMU AND KASHMIR BRICK
 KILNS (REGULATION) RULES, 2017**

(Name and Designation of the appellate Authority)

.....

In the matter of appeal No. _____/20___ filed under rule 9 of the Jammu
 and Kashmir Brick Kilns (Regulation) Rules, 2017, by Shri _____
 S/O _____ R/O _____.

Whereas, you have filed before this Authority a Memorandum of Appeal
 against the order _____ dated _____ passed by the licensing
 authority ; and

Whereas, under sub-rule (5) of rule 9 of the Jammu and Kashmir Brick Kiln
 (Regulation) Rules, 2017 this authority is required to give to the parties an
 opportunity of being heard.

Now, therefore, please take notice that this authority has fixed _____ as
 date of hearing of the aforesaid appeal. The hearing shall take place at _____
 on that date in the office of the _____. You are hereby called
 upon to appear this authority at the appointed time and date and place, either in

person or through a duly authorized agent, and explain your cause. Please take notice that failure on your part to appear on the day of hearing either in person or through a duly authorized agent, without showing sufficient cause to satisfaction of this authority will make your appeal liable to be dismissed or decided ex-parte.

Shri.....
Designation.....
Appellate Authority

Dated:
