

Andhra Pradesh Excise (Amendment) Act, 1989**10 of 1989****[20 April 1989]**

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Andhra Pradesh Excise (Amendment) Act, 1989**10 of 1989****[20 April 1989]**

An Act further to amend the Andhra Pradesh Excise Act, 1968. Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fortieth Year of the Republic of India as follows:- *Received the assent of the Governor on the 19th April, 1989. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part-IV A, Extraordinary, dated the 14th March, 1989 at Pages 11 & 12.

1. Short Title And Commencement :-

(1) This Act may be called the Andhra Pradesh Excise (Amendment) Act, 1989.

(2) (a) section 6 shall be deemed to have come into force on the 1st December, 1981;

(b) sections 17 and 18 shall be deemed to have come into force on the 1st January, 1987; and

(c) the remaining provisions shall be deemed to have come into force on the 16th September, 1988.

2. Amendment Of Section 2 :-

In the Andhra Pradesh Excise Act, 1968(Act 17 of 1968) (hereinafter referred to as the principal Act) in section 2, to clause (31), the words and includes, to move from a place outside the State to any other place outside it through the intervening area lying within the State" shall be added at the end.

3. Substitution Of New Section For Section 5 :-

For section 5 of the principal Act, the following section shall be substituted, namely:-

5. "Appointment of certain officers and staff.--

(1) The Government may appoint an Additional Commissioner of Excise, Director of Distilleries and Breweries, as many Deputy Commissioners of Excise, Assistant Commissioners of Excise and such other officers as they think fit for the purpose of performing the functions respectively conferred on them by or under this Act.

(2) The Government may sanction the appointment of as many Excise Superintendents, Assistant, Excise Superintendents and other Subordinate Staff as they think fit for the purpose of performing the functions respectively conferred on them by or under this Act.

(3) The appointment to the posts sanctioned in sub-section (2), shall be made by such authority as may be prescribed.

(4) All such officers shall perform the said functions within such area or areas or in the whole of the State as the Government or the Commissioner may assign to them."

4. Omission Of Sections 6 And 7 :-

Sections 6 and 7 of the principal Act shall be omitted.

5. Amendment Of Section 11 :-

In section 11 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) The Government may, by notification, prohibit or regulate the transport of an intoxicant or any kind of intoxicants from any area into any other area within the State or from any place outside the State to any other place outside it through the intervening area lying within the State, except under a permit issued under section 12.

6. Amendment Of Section 12 :-

In section 12 of the principal Act, for sub-section (1), the following sub-section, shall be substituted, namely:-

"(1) Any officer not below the rank of an Assistant Excise Superintendent authorised by the Commissioner may issue a permit for the transport of intoxicants.

7. Amendment Of Section 24 :-

In section 24 of the principal Act, sub-section (3) shall be omitted.

8. Amendment Of Section 26 :-

In section 26 of the principal Act, the words "which shall not exceed the duty payable therefor, under this Act" shall be omitted.

9. Amendment Of Section 27 :-

In section 27 of the principal Act,

(a) the words "belonging to the Government" shall be omitted;

(b) in the marginal heading, the word "Government" shall be omitted.

10. Amendment Of Section 31 :-

In section 31 of the principal Act, in sub-section(1),-

(a) in the opening portion, after the words "may cancel or suspend it", the words "irrespective of the period to which the licence or permit relates" shall be inserted;

(b) in clause (d),-

(i) for the expression "the Dangerous Drugs Act, 1930", the

expression "the Narcotics Drugs and Psychotropic Substances Act, 1985" and for the expression "Customs Act, 1962; or" the expression "Customs Act, 1962 irrespective of the fact whether such conviction relates to the period earlier or subsequent to the grant of licence or permit; or" shall be substituted;

(ii) in the margin for the expression "Central Act 2 of 1930", the expression "Central Act 61 of 1985" shall be substituted.

11. Amendment Of Section 34 :-

In section 34 of the principal Act, in clause (i), for the words "less than two years but which shall not exceed five years and with fine which may extend to five thousand rupees". the word "less than six months and with fine which shall not be less than five times the value of the duty payable but shall not exceed ten times of such value in case where the value of duty is assessed, and in other cases, with fine which shall not be less than five thousand rupees" shall be substituted.

12. Amendment Of Section 37 :-

In section 37 of the principal Act, in, clause (d), for the words "shall, on conviction, be punished with imprisonment for a term which may extend to three months and with fine which may extend to, five hundred rupees" the following shall be substituted, namely:-

"shall, on conviction, be punished with imprisonment,--

(i) in the case of first offence, for a term which shall not be less than six months and with fine which shall not be less than five times the amount of duty payable but shall not exceed ten times of such duty; and

(ii) in the case of continuing offence for a term which shall not be less than two years, and with fine which shall not be less than ten times the amount of the duty payable.".

13. Amendment Of Section 40 :-

In section 40 of the principal Act,-

(a) for the words "be punished for each such offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.", the following shall be substituted, namely:-

"be punished with imprisonment,-

- (i) in the case of first offence, for a term which shall not be less than three months and with fine which shall not be less than one thousand rupees; and
- (ii) in the case of second and subsequent offences for a term which shall not be less than six months and with fine which shall not be less than two thousand rupees.
- (b) in the marginal heading, the word "Government" shall be omitted.

14. Amendment Of Section 41 :-

In section 41 of the principal Act, for the words "two hundred rupees", the words "five thousand rupees" shall be substituted.

15. Amendment Of Section 43 :-

In section 43 of "the principal Act, the proviso shall be omitted.

16. Insertion Of New Section 43A :-

After section 43 of the principal Act, the following, section shall be inserted, namely:-

43A. "Punishment for allowing premises etc., to be used for commission of an offence.--

Whoever being a licensee under this Act and having the control or use of any house, room, enclosure, space, animal, conveyance knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable in the same manner as if he had himself committed the said offence.

17. Amendment Of Section 47 :-

In section 47 of the principal Act,--

(i) in sub-section (1),--

(a) for the words "The Commissioner, the Collector or any Excise Officer", the words "The Collector or any Excise Officer" shall be substituted;

(b) for the expression "clause (b), clause (c), Clause (d), clause (g), or clause (h) of section 34, section 35", the expression "clause (c), clause (d), clause (g) or clause (h) of section 34" shall be substituted;

(c) for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(ii) in sub-section (2), after the words "as the case may be", the expression "in accordance with the provisions of sub-section (1) or section 47A" and after the words "shall be instituted", the words "or continued" shall be inserted.

18. Insertion Of New Section 47A :-

After section 47 of the principal Act, the following section shall be inserted, namely:-

47A. "Special powers of the Commissioner in regard to compounding of offences.--

(1) Any person who is reasonably suspected of having committed an offence falling under clause (a) of section 34 or section 38 may apply to the Commissioner for compounding the offence before he is convicted.

(2) On receipt of such application, the Commissioner having regard to the circumstances of the case, may in his discretion order for compounding the offence on payment of a sum of money by way of compounding fee or compensation for the offence on such terms and conditions as he deems fit:

Provided that the sum of money fixed as compounding fee or compensation by the Commissioner under this section shall not be less than five times but not more than ten times the duty involved and where no duty is involved not less than rupees fifteen thousand but not more than rupees one lakh:

Provided further that in all cases in which any property has been seized as liable to confiscation under this Act, may be ordered by him to be released on payment of the value thereof as estimated by him or by an officer authorised by him in this behalf:

Provided also that where the property so seized is a liquor manufactured in contravention of this Act, such liquor shall not be released but shall be disposed of in such manner as may be prescribed."

19. Amendment Of Section 53 :-

In section 53 of the principal Act, in sub-section (1), in clause (a) for the expression "section 34", the expression "section 27 or section 34 or" shall be substituted.

20. Amendment Of Section 56 :-

In section 56 of the principal Act, in sub-section (1), for the

expression "section 34", the expression "section 27, section 34" shall be substituted.

21. Amendment Of The Schedule :-

In the Schedule to the principal Act,-

- (i) against item 1, in the entry under column (4), for the words "Rupees eight", the words "Rupees twenty" shall be substituted;
- (ii) against item 2, in the entry under column (4), for the words "Rupees three", the words "Rupees five" shall be substituted;
- (iii) against item 3, in the entry under column (4), for the words "Rupees forty", the words "Rupees eighty" shall be substituted;
- (iv) against item 4, in the entry under column (4), for the words "Rupees forty" the words "Rupees eighty" shall be substituted;
- (v) for item 5 and the entries relating thereto, the following shall be substituted,

| (1) | (2) | (3) | (4) |
|-----|-------|---|----------------------------|
| "5. | Toddy | On each variety of the following excise trees:- | |
| | | Date or Sendhi | .. Rupees twenty per tree. |
| | | Palmyrah | .. Rupees thirty per tree. |
| | | Coconut | .. Rupees fifty per tree. |
| | | Sago | .. Rupees sixty per tree. |
| | | Datepalm | .. Rupees fifty per tree." |

Where, before the 16th September, 1988 any permit has been issued for the transportation of intoxicants and any special powers were exercised, in regard to compounding of offences, by the Commissioner, the permit so issued and the special powers so exercised, shall be deemed to have been validly issued or exercised in accordance with the provisions of the principal Act as amended by this Act, as if the amendments made to the principal Act, by sections 6, 17 and 18 of this Act had been in force at all material times and accordingly, all acts, proceedings or things done or taken by the Government or by any officer of the Government or by any other authority in connection with the issue of such permit or compounding of offences shall for all purposes, be deemed to be and to have always been done or taken in accordance with law.

22. Section 22 :-

23. Repeal Of Ordinance 12 Of 1988 :-

The Andhra Pradesh Excise (Amendment) Ordinance, 1988 is hereby repealed.