

**ANDHRA PRADESH EXCISE (INDIAN LIQUOR AND FOREIGN LIQUOR RETAIL SALE CONDITIONS OF LICENCES) RULES, 1993**

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## **ANDHRA PRADESH EXCISE (INDIAN LIQUOR AND FOREIGN LIQUOR RETAIL SALE CONDITIONS OF LICENCES) RULES, 1993**

In exercise of the powers conferred by Section 72 read with Sections 28 and 29 of the Andhra Pradesh Excise Act, 1968 (Act 17 of 1968), Sections 6 and 11 of the Andhra Pradesh (Regulation of Wholesale Trade and Distribution and Retail Trade in Indian Liquor, Foreign Liquor Wine and Beer) Ordinance, 1993 (Ordinance 5 of 1993) the Governor of Andhra Pradesh hereby makes the following Rules :

### **1. Short title, extent and commencement :-**

(1) These rules may be called the Andhra Pradesh Excise (Indian Liquor and Foreign Liquor Retail Sale Conditions of Licences) Rules, 1993.

(2) They shall extend to all areas where the Andhra Pradesh Excise Act, 1968 is in force.

(3) They shall come into force with effect from 1st April, 1997.

### **2. Application :-**

These Rules shall apply to all licences issued under the Andhra Pradesh Excise Act, 1968 read with Andhra Pradesh Excise (Lease of Right to Sell Indian Liquor and Foreign Liquor in Retail) Rules, 1993 for sale of Indian Liquor and Foreign Liquor in retail and these shall be the general conditions subject to which the licences shall be granted under the Act for the sale of Indian Liquor and Foreign Liquor in retail.

### **3. Definitions :-**

(1) In these rules unless the context otherwise requires, \_

(a) Act means the Andhra Pradesh Excise Act, 1968 ;

(b)

(i) Lease Year means the period of twelve months commencing from the 1st April of the year and ending with the 31st March of the succeeding year;

(ii) Lease Period means actual lease period in the lease year as notified by the auctioning authority;

(c) Foreign Liquor means every liquor imported into India other than Indian Liquor;

(d) Form means a form appended to these rules;

(e) Indian Liquor means liquor produced, manufactured or compounded in India after the manner of Gin, Brandy, Whisky or Rum imported from foreign countries and includes Wine and Beer and Milk Punch and other liquors consisting of or containing any such Spirits, but does not include foreign liquor;

(f) Licensee means a person to whom a licence to sell IL and FL in retail has been granted under the Act ;

(g) Rental means the rent payable in respect of shops of group of IL and FL shops as part of sum in consideration of the grant of lease or licence or both under Section 23 read with Section 17 of the Act besides the Excise duty or countervailing duty payable for IL and FL ;

(h) Retail Licence in relation to the sale of IL and FL means in sealed or capsuled bottles to an individual of quantities not exceeding those specified under Section 14 of the Act at any one time or in one transaction and the word retail shall be construed accordingly;

(i) Sealed in relation to bottles, containers or other receptacles means closed with a capsule and wrapped by a wire or closed with a cork or lid and wrapped with a lining around it ;

(j) Shop means the licensed premises where IL and FL is sold in retail in sealed or capsuled bottles without permitting consumption on the premises.

(2) The words and expressions used but not defined in these rules shall have the meanings assigned to them in the Andhra Pradesh Excise Act, 1968, The APIL and FL Rules, 1970 and the Andhra Pradesh Excise (Lease of Right to Sell Indian Liquor and Foreign Liquor in Retail) Rules, 1993.

#### **4. Period of Licence :-**

The Licence shall be valid for a lease year commencing from the 1st April of the year or such other date, which as may be specified, in the licence and ending with the 31st March of the succeeding year.

#### **5. Commencement of business :-**

The issue of licence can be deferred, if it is subsequently found by the Auctioning Authority that some false documents were furnished or for any other reason affecting the Government revenue. Every licensee shall commence his business from 1st April or such other date as may be specified in the licence and shall keep the shop open every day during the hours fixed till the expiry of the term of licence unless the closure of the shop is ordered by the competent authority for the period specified.

#### **6. Selection of premises :-**

(1) The Auction purchaser, subject to the approval of the Assistant Commissioner of Prohibition and Excise, shall select a suitable premises of the location of the shop within the village or locality, as the case may be notified in the Gazette. It shall be atleast Hundred (100) metres away from the places of Public Worship, Educational Institutions, Hospitals and Highways except in the limits of Municipal Corporations.

Explanation For the purpose of sub-rule (1),—

(i) Place of Public Worship means a temple registered with the Endowment Department, Mosque and Church and includes such other religious institutions, as the State Government may by order specify in this behalf;

(ii) Educational Institutions means any Primary School, Middle School and High School recognised by the State Government or Central Government or any college affiliated to any University established by Law;

(iii) Highway means National Highways or State Highways and shall not include the part of the National Highway or State Highway which passes within the limits of Municipal Corporation, Municipal Council or the Gouthan in any village or Panchayat area.

[(iv) Hospital means any hospital which is managed or owned by a local authority, State Government or Central Government or any private hospital having a provision of atleast thirty (30) beds]

(2) The distance referred in sub-rule (1) above shall be measured from the mid-point of the entrance of the shop along with the nearest path by which pedestrian ordinarily reaches to the mid-point of the nearest gate of the institution if there is compound wall and if there is no compound wall to the mid-point of the nearest

entrance of the institution.

(3) The boundaries of the premises shall be indicated in the licence.

(4) There shall be only one entrance to the shop.

## **7. Payment of Licence Fee :-**

The licence fee payable for each IL and FL shop under these rules before the grant of licence in Form IL-I shall be at the following rates : Licence Fee

(a) Municipal Corporation, Selection Grade, Special Grade, Grade-I, Grade-II, Grade-III Municipalities, Notified Industrial and Project area and village means such areas as notified by the Government of Andhra Pradesh from time to time

.

(b) Town means such area as notified in the 1991 Census.

## **8. Sale to be conducted within the licensed premises only :-**

(1) The licensee shall sell the IL and FL only at the premises specified in the licence.

(a) There should be a single door for entry and exit; and sales to be conducted through a grilled counter without giving entry to the customers inside the premises.

(b) There shall be no advertisement of liquor in any manner.

(2) No change or alteration of the licensed premises shall be made nor the licensed premises shifted elsewhere without the prior

approval of the authority who granted the licence and before necessary corrections are carried out in the licence.

**9. Sign Board to be affixed to the shop :-**

The licensee shall affix a sign board written in the regional language in a conspicuous part of the shop displaying prominently the description and number of licence under which sales are effected.

**10. Licence to be exhibited :-**

The licence shall be exhibited in a conspicuous place in the shop.

**11. Sale of other intoxicants prohibited :-**

Any intoxicant other than that to which the licence pertains shall not be sold or kept in the shop.

**12. Dry days :-**

The licenced premises shall be closed and no business shall be transacted on the following days :

(i) 26th January (Republic Day); (ii) 15th August (Independence Day);

(iii) 2nd October (Gandhi Jayanthi);

**13. Hours of business :-**

The licensee in the case of Off Licenses shall business from 11.30 a.m. to 10.30 p.m. or as may be notified by the Government, from time to time.

**14. Licensee to sell Indian Liquor and Foreign Liquor of Specified Strength :-**

No Indian Liquor or Foreign Liquor other than Gin, Beer weaker in strength than 25 degrees UP shall be sold under the licence. In the

case of Gin, the strength shall not be less than 35 degrees UP :

Provided that the Commissioner may, authorise the sale of any special brands of Indian Liquor of Weaker Strength in a particular area if he is satisfied with the wholesomeness or purity of such liquor.

**15. Licensee to lift IL from the A.P. Beverages Corporation**  
:-

The Licensee shall purchase Indian Liquor and Foreign Liquor from the allotted Depot of the Andhra Pradesh Beverages Corporation Limited only on such terms as may be prescribed by the Andhra Pradesh Beverages Corporation Limited. However the Commissioner may permit the licensee to purchase the requirement of Indian Liquor and Foreign liquor from any other Depot of the Andhra Pradesh Beverages Corporation Limited after recording the reasons thereof. The Transport of Indian Liquor and Foreign Liquor from the Andhra Pradesh Beverages Corporation Limited Unit to the licensed premises shall be under a transport permit issued under Rule 16 of the Andhra Pradesh Foreign Liquor and Indian Liquor Rules, 1970.

**16. Licensee not to stock or sell unauthorised IL and FL :-**

(1) The licensee shall stock or sell the IL and FL as supplied by the Andhra Pradesh Beverages Corporation Limited only; he shall not stock or sell in the licensed premises any non-duty paid IL and FL or any kind which he is not authorised to buy, stock or sell under the provisions of Act or Rules, regulations or orders made thereunder.

(2) The licensee shall not tamper with the IL and FL as supplied by the Andhra Pradesh Beverages Corporation Limited in any manner so as to alter their quality, strength, nature or quantity.

(3) The licensee shall not allow consumption of liquor at the licensed premises.



## **17. Indian Liquor and Foreign Liquor not to be adulterated**

**:-**

(1) The Indian Liquor and Foreign Liquor offered for sale or stored in the licensed premises shall not be adulterated.

(2) No substandard, adulterated, deteriorated or spurious Indian Liquor and Foreign Liquor of any kind shall be stocked or sold in the shop.

## **18. Adulterated, Deteriorated, Substandard and Spurious Indian Liquor and Foreign Liquor to be seized :-**

It shall be competent for the Inspecting Officer on finding any Indian Liquor and Foreign Liquor adulterated, deteriorated, substandard or spurious to seize the same forthwith and take necessary further action as per rules.

## **19. Licensee not to stock IL and FL at unauthorised places**

**:-**

The licensee shall not stock IL or FL in any place other than the licensed premises. The licensee shall be held responsible for any Indian Liquor or Foreign Liquor unauthorisedly kept outside or nearby the licensed premises, unless a report thereof has been made by him to an Excise Officer having jurisdiction over the place.

## **20. Indian Liquor or Foreign Liquor shall not be sold to certain persons :-**

No Indian Liquor or Foreign Liquor shall be sold to the following persons namely : Lunatics; Persons known or believed to have been drunk; Persons known or suspected to be about to take part in a riot, disturbance of public peace or any other crime; Policemen, Excise Officers, Railway servants or automobile drivers who are on duty or in uniform; Soldiers in uniform or members of their camp in uniform; Persons below the age of 21 years of age.

## **21. Authorisation for servants or agents of a licensee :-**

(1) A licensee who desires to have any person in his employment for acting on his behalf as an agent or servant to carry on the business under the licence shall make an application in that behalf to the Excise Inspector concerned affixing court fee stamp of the value prescribed as per rules and obtain a Nowkarnama in Form IL-2 on payment of a fee of rupees one hundred.

(2) No Nowkarnama shall be granted to the following persons :

(i) Persons below twenty one years of age;

(ii) Women;

(iii) Persons suffering from any infectious or contagious diseases;

(iv) Persons of unsound mind;

(v) Persons who in the opinion of the Excise Superintendent is of a bad character;

(vi) Persons whose Nowkarnama or licence has previously been cancelled within the preceding three years;

(vii) Persons convicted of any offence under the Andhra Pradesh Excise Act (Act 17 of 1968) or the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act 61 of 1985) within the preceding three years;

(viii) Persons convicted under Sections 482 to 489 of the Indian Penal Code, 1860 (Central Act 45 of 1860);

(ix) Defaulters in payment of an amount due to the State Government under the Andhra Pradesh Excise Act or the Rules made thereunder.

(3) The licensee shall keep in the licensed premises an upto date list showing the names of all authorised agents or servants and the Nokarnamas issued to them.

(4) Every act of the authorised agent or servant shall be deemed to be an act of the licensee.

(5) Any notice or order served on an authorised agent or servant shall be deemed to have been duly served on the licensee himself.

(6) All acts done in contravention of the Act and the rules framed thereunder by the authorised agent or servant shall forthwith be reported by the licensee to the Excise Inspector.

(7) The Nowkarnama granted to any person shall be withdrawn or cancelled by the Excise Inspector or any higher authority for contravention of the provision of the Act or the Rules or orders issued thereunder by the authorised Agent or Servant of the licensee.

## **22. Intimation to Excise Officer :-**

The licensee shall give notice of three clear days about the arrival of any consignment to the Excise Officer concerned so that he may have reasonable time and opportunity to inspect the consignment before the seals or packages are opened. If the consignment is not verified within stipulated time mentioned in the rule the licensee can take the stocks into account and sell them.

## **23. Licensee to maintain Accounts :-**

The licensee shall maintain full and day to day accounts of IL and FL received and disposed of in Form IL-3. This register shall be got

authenticated by the Excise Superintendent before use and the pages machine numbered serially.

**24. Licensee to maintain Brand wise Account :-**

The licensee shall also maintain Brand-wise Account in Form IL-4. The register shall be authenticated by the Excise Superintendent before use and the pages machine numbered serially.

**25. Statement of accounts to be furnished :-**

The Licensee shall furnish monthly statements and returns to the Excise Superintendent and the Local Excise Inspector before 5th of the following month in the form prescribed by the Commissioner. The licensee on requisition shall also furnish statistics or any other particulars to the Excise Superintendent or to any other officer of the Excise Department.

**26. Officers authorised to inspect premises :-**

Any Officer not below the rank of an Excise Sub-Inspector may enter and inspect the licensed premises during the working hours and inspect and verify all the accounts, registers and stocks. It shall be competent, for such Inspecting Officer, to take such sample as might be necessary, or to take charge of such records and registers as might be necessary and it shall be incumbent on the licensee to offer reasonable assistance for such Inspecting Officers to inspect, verify and take samples. For any records removed from the premises, the Excise Officer shall give a receipt or in the alternative make an entry in the inspection book in this regard.

**27. Inspection book to be maintained :-**

An Inspection book in Form IL-5 with machine numbered pages shall be kept in the shop for the use of the Inspecting Officer and the licensees shall be responsible for the safe custody of it. The Inspection book shall be the property of the Government and shall be handed over to the Excise Officer concerned on the expiry of the period of licence.

**28. Payment of rental :-**

(1) Lease amount of the shop shall be remitted by the licensee into the Government Treasury of the revenue unit/District in which the shop is situated and the receipted challan shall be submitted to the Prohibition and Excise Inspector concerned soon after the remittance. The lease amount shall be remitted by the licensee in two equal instalments. The first instalment equal to half - of the lease amount having been paid on the date of auction immediately after the acceptance of the tender or bid, as the case may be, in terms of Rule 16 of the Andhra Pradesh Excise (Lease of Right to Sell Indian Liquor and Foreign Liquor in Retail) Rules, 1993. The remaining half of the lease amount shall be paid within three months from commencement of the lease period. Where the due date or the next date of the instalment happens to be a holiday, the instalment shall be remitted a day prior to such holiday(s). In case the second instalment is not remitted by the due date, the licence shall be liable for suspension or cancellation after giving an opportunity to the licensee of making his representation within seven days against the action proposed.

(2) Notwithstanding the suspension or cancellation of a licence, arrears of rental shall bear interest at the rate prescribed in the Andhra Pradesh Excise (Levy of Interest on Government Dues) Rules, 1982 from the date on which the rental becomes due upto the period for which it remains unpaid.

(3) In the event of failure to pay in time any dues by the licensee, without prejudice to the suspension of the licence and the reauction of the lease, the Excise Superintendent shall be competent to get the release of IL and FL from Andhra Pradesh Beverages Corporation Limited in favour of the licensee stopped.

(4) Where the licensee has more than one shop, in the event of failure to pay rental or any other dues in time in receipt of any of the shops, his licence for all the shops, shall be liable for cancellation or suspension irrespective of the fact that there is no default in remittance of rentals or other dues in respect of the other shops.

### **29. Adjustment of deposit :-**

The deposit amounting to one fourth of annual rental made under Rule 17 of the Andhra Pradesh Excise (Lease of Right to Sell Indian Liquor and Foreign Liquor in Retail) Rules, 1993 shall be refunded to the licensee after the expiry of the lease period duly recovering from the deposit any dues payable by the licensee in case the same is not forfeited earlier.

### **30. Suspension of licence :-**

The licence can be suspended without prior notice pending enquiry into an offence committed by the licensee and if the licensing authority is convinced that the lease has been obtained by the licensee by furnishing any false information etc. Where licence is suspended on account of default in the payment of any dues payable by the licensee, the Collector may at his discretion take the shop under his management during the period of suspension. Any revenue loss that may accrue when, in consequence of such default, the shop has been taken under the management of the Collector, shall be recoverable from the defaulting licensee, but the defaulting licensee shall not be entitled to any profit that may result during such management. The suspension of the licence may be revoked at any time, if the defaulting licensee pays the entire dues.

### **31. Cancellation of licence :-**

Where a licence is cancelled under the provision of the Act or the rules made thereunder the right to sell shall be re-auctioned subject to the same conditions and liabilities laid down in the Andhra Pradesh Excise (Lease of Right to sell IL and FL in Retail) Rules, 1993. Any resultant loss shall be recovered from the deposit of the defaulting licensee and the balance of dues if any shall be recovered from the properties of the defaulting licensee under the provisions of the Andhra Pradesh Revenue Recovery Act, 1864 (Act No. II of 1864). In case of any gain the defaulting licensee shall have no right to receive it. The cancellation of a licence shall automatically render the lease and all other ancillary permits invalid and they shall stand cancelled :

Provided that in case of cancellation of licence for default of payment of any dues the order of cancellation of licence of the shop

may be revoked by the Collector after satisfying himself that the defaulter has paid the entire dues together with interest payable thereon as per rules on or before the date of reauction of such shop.

### **32. Forfeiture of deposits :-**

Where a licence is cancelled, the deposit made in respect thereof may be forfeited to Government either in whole or part.

### **33. Licensee not entitled to claim compensation :-**

Where a licence is withdrawn or a shop is ordered to be closed by a competent authority under the provisions of the Act, otherwise than by cancellation or suspension, no demand of rental shall be made for the period for closure. But the licensee shall have no right to claim any damages or compensation on that account except the refund of the proportionate licence fee. The Collector may on written application submitted by the licensee, by order reduce or remit rentals for the period of curfew imposed by the competent authority for a period of 3 days or more consecutively on the scale shown below:

(a) for the shops located in areas where curfew has been imposed for more than 18 hours. Full remission of rental for such day.

(b) for shops located in areas where curfew has been imposed for a period from 12 to 18 hours in a day Remission of half of the proportionate rental for each day.

(c) For shops located in areas where curfew has been imposed for periods less than 12 hours but covering the periods 3 p.m. to 9 p.m. Half the proportionate rentals for such day.

### **34. Transfer of Licence :-**

(1) Every licence shall be deemed to have been granted personally

to the licensee named therein and it shall not be transferred to any other person.

(2) Where a licence is granted jointly no licensee shall include or exclude any partner except with the previous permission of the licensing authority. Such permission may be granted by the licensing authority on an application made by the partners together with a fee of Rs.1000/- per shop. On receipt of application the licensing authority may make such enquiry for verification of the details stated in the application and the solvency of the persons concerned or any other matter as he deems fit and where he is satisfied about the solvency and other matters he may permit the inclusion or exclusion of partners; on execution of a fresh counterpart agreement necessary corrections shall be made in the licence accordingly.

### **35. Stock of IL and FL in the shop on expiry of licence :-**

The licensee shall sell in retail the entire Indian Liquor and Foreign Liquor before the expiry of the terms of the Lease and Licence. Any balance of Indian Liquor and Foreign Liquor found unsold at the expiry of the lease and licence, shall be seized by the Assistant Commissioner of Prohibition and Excise or the Officer authorised by him or Commissioner. Such seized Indian Liquor and Foreign liquor shall be given to any licensee for the succeeding lease year.

### **36. Stock of IL and FL on cancellation, withdrawal of Licence :-**

If a licence is cancelled or withdrawn during the currency of the lease period, the whole stock of IL and FL found in the shop shall be seized. The stock so seized shall be sold by the Excise Superintendent to any other licensee (s) and the proceeds of the sale shall after deduction of the expenses and any other sum due to the Government shall be refunded to the licensee.

### **37. Monetary transactions with Officers prohibited :-**

Any kind of monetary transactions unconnected with the Official purpose between the licensee and the personnel of Excise, Police,



Revenue Departments or the personnel of the Andhra Pradesh Beverages Corporation Limited are strictly prohibited.

**38. Licence to be surrendered to the licensing authority on expiry :-**

Every licence granted under these rules shall be deemed to have been granted either jointly or severally to the licensee (s) named therein and shall on its expiry be surrendered by the licensee to the licensing authority.

**39. On death of a licensee :-**

A licence issued under these rules shall be only to the person named therein and on his death, the licensing authority may continue such licence in favour of his legal heir as per rules, if such legal heir expresses his willingness in writing to the licensing authority within thirty days from the date of death of the licensee. In case the legal heir does not express his willingness to continue, the shop(s) shall be re-auctioned after the period of the thirty days aforesaid any loss of revenue incurred by the Government in the re-auction shall be recovered from the property of the deceased licensee under the provisions of the Andhra Pradesh Revenue Recovery Act, 1864 (Act II of 1864).

**40. Interpretation :-**

If there is any doubt or dispute regarding the application or interpretation of any of these rules the decision of the Commissioner thereon shall be final.