

BENGAL AMUSEMENTS TAX ACT, 1922

5 of 1922

[29th March, 1922]

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BENGAL AMUSEMENTS TAX ACT, 1922

5 of 1922

[29th March, 1922]

Preamble. Whereas it is necessary to make an addition to the public revenue of Bengal and for that purpose to impose ¹[taxes] on entertainments and other amusements and on certain forms of betting; It is hereby enacted as follows

1. Short title, extent and commencement :-

(1) This Act may be called the Bengal Amusements Tax Act, 1922.

(2) It extends to the whole of ¹[West Bengal].

(3) It shall come into force on the first day of April, 1922, in

(a) Calcutta as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899².

(b)

(i) Fort William, excepting the portion thereof included within the ramparts of the Fort;

(ii) the Esplanade; and

(iii) that part of Hastings north of the south edge of Clyde Row and Strand Road to the river bank; and

(c) the Municipalities of Howrah, Cossipore-Chitpore, Maniktola, Garden Reach, Tollygunge, ³* * * and Darjeeling, the Barrackpore Cantonment and the South Suburban Municipality.

(4) The ⁴[State Government] may, by notification in the ⁵[Official

Gazette,] bring this Act or any portion thereof into force in such other areas in ⁶ [West Bengal] at such time as shall be specified in such notification.

1. Words subst. by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.
2. Ben. Act 3 of 1899 was repealed and re-enacted as W. B. Act 33 of 1951 which was again repealed and re-enacted as W. B. Act 59 of 1980.
3. The word "Dacca" omitted by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.
4. Subst. by the Adaptation of Laws Order. 1950.
5. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937.
6. Words subst. by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

CHAPTER 1

Entertainments Tax

2. Definitions :-

In this Chapter, unless there is anything repugnant in the subject or context,

(1) "admission" includes admission as a spectator or as one of an audience, and admission for the purpose of amusement by taking part in an entertainment;

(2) "admission to an entertainment" includes admission to any place in which the entertainment is held;

(3) "agriculture" includes horticulture and live-stock breeding;

¹(3a) "Collector" means the Collector of a district and includes the Collector of Stamp Revenue, Calcutta;

(4) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;

²(4a) "entertainments tax" means a tax levied under section 3;

(5) "live-stock" includes animals of every description;

(6) "notification" means a notification published in the ³[Official Gazette];

(7) "payment for admission" includes any payment made by a person who having been admitted to one part of a place of

entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher rate of tax is required and any payment for seats or other accommodation in a place entertainment;

4(7a) "prescribed" means prescribed by rules made under this chapter;

5(8) "proprietor" in relation to any entertainment includes,

(a) any person,

(b) a licensee of cinematograph exhibition under the West Bengal Cinemas (Regulation) Act, 1954;

(c) a licensee under the West Bengal Gambling and Prize Competitions Act, 1957, and

(d) a society, who is responsible for, or who is for the time being in charge of, the management thereof;

6 (8A) "show tax" means a tax levied under section 3A; and

(9) "society" includes a company, institution, club or other association of persons by whatever name called.

1. Clause (3a) inst. by W. B. Act 40 of 1975.

2. Clause (4a) inst. by W. B. Act 11 of 1949.

3. Words subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

4. Clause (7a) inst by W. B. Act 8 of 1990.

5. Clause (8) first subst. by W. B. Act 40 of 1975. It was against subst. by W. B. Act 8 of 1990.

6. Clause (8A) Inst. by W. B. Act 25 of 1969.

3. Tax on payments for admission to entertainments :-

15(1) Except as otherwise expressly provided in this Act, there shall be charged, levied and paid to the State Government a tax at the rate specified in sub-section (3) on all payments for admission to any entertainment:

Provided that in the case of any admission to

16(a) an entertainment for horse racing, tax shall be charged on all payments for such admission at such rate, not exceeding one hundred per centum of such payments, as the State Government may by notification fix in this behalf, and different rates may be

fixed for different classes of admission, and

(b) a cabaret held in a place other than in a hotel or a restaurant, tax shall be charged at the rate of hundred per centum on all payments for such admission. 17* ***** 17* ***** 17* ***** 17* *****

(2) The entertainments tax shall not be leviable where the payment for admission is not more than 18[nineteen naye paise].

19(3) In respect of different classes of entertainments, other than cinematograph exhibition, as specified in column I of the Table below, the rate of entertainments tax, upon the value of tickets for admission to such class of entertainments as specified in column 2 of the said Table, shall be as shown in the corresponding entry column 3 of that Table :

TABLE		
Class of entertainments	Value of tickets	Rate of entertainments tax
(a) Musical soiree, magic show and dance (except cabaret)	(i) up to Rs. 25	Nil
	(ii) above Rs. 25	20 per centum of Such value.
(b) Theatrical performance, Jatra and dramatic performance held in a hall, auditorium or building	(i) up to Rs. 25	Nil
	(ii) above Rs. 25	20 per centum of Such value.
(c) Any entertainment other than	(i) up to Rs. 25	Nil
	(ii) above Rs. 25	20 per centum of Such value.
(i) theatrical performance and Jatra and dramatic performance, Held in open air or Any place excluding the Places referred to in item (b);		

(ii) circus, sports and games;		
(iii) horse racing and cabaret Referred to in the proviso to Sub-section (1), and		
(iv) those specified in item (a) or item (b):		

Provided that where the entertainments tax is not a multiple of five paise, such tax shall be rounded off to the next higher multiple of five paise.

1*****

2(3a) The amount of entertainments tax upon the value of each ticket for admission to any cinematograph exhibition shall be 23 [Seventy per centum of such value] :

3Provided that where the amount of entertainments tax is not a multiple of five paise, such tax shall be rounded off to the next higher multiple of five paise :

3Provided further that in the case of cinematograph exhibitions in Bengali or Nepali language, the amount of entertainments tax shall not exceed three-fourths of the value of each ticket as may be specified by the State Government by notification.

5*****

6(3b) Entertainments tax shall be charged, levied and paid on all free or complimentary passes or tickets by whatever name called, issued by the proprietor of a cinematograph exhibition in respect of admissions without payment to a seat or other accommodation therein and every person who is so admitted on a free or complimentary pass or ticket in a cinematograph exhibition shall be liable to pay the same amount of entertainments tax as would be payable by him had he been admitted to such seat or other accommodation on payment:

7 Provided that subject to such conditions and restrictions as may be prescribed, the provisions of this sub-section shall not apply to a proprietor in relation to a cinematograph exhibition in respect of admissions without payment to a seat or other accommodation therein, where such proprietor is a club, society or any other person and holds such exhibition occasionally.

8(3c) Notwithstanding anything contained in sub-section (3a), the entertainments tax shall not be charged, levied or paid on such part of the value of each ticket for admission to any cinematograph exhibition as represents,

(i) in the case of a cinematograph exhibition in a cinema hall, a service charge, if any, not exceeding twenty-five paise, realised separately from any person in respect of his admission to such cinematograph exhibition for maintenance of such cinema hall and providing amenities therein;

(ii) in the case of cinematograph exhibition in an air-conditioned cinema hall, an additional service charge, if any, not exceeding twenty-five paise, realised separately in addition to the service charge referred to in clause (i) from any person in respect of his admission to such cinematograph exhibition for providing air conditioning facilities in such cinema hall :

Provided that no claim for exemption from payment of entertainments tax shall be admissible to any proprietor of cinematograph exhibition on any sum or sums realised by him separately by way of additional service charge referred to in clause (ii) during such months of any year as the State Government may, by notification, specify.

7 (3d) Notwithstanding anything contained in sub-section (3c), no claim for exemption from payment of entertainments tax shall be admissible to any proprietor of cinematograph exhibition in a cinema hall unless he proves to the satisfaction of such authority as the State Government may, by notification, specify that the sum realised separately by way of service charge has been utilised, or that adequate provision has been made in his books of accounts, for maintenance of such cinema hall or for providing air-conditioning facilities therein.

(4) The 28 [State Government] may, on the application of a proprieto: of any entertainment 29[, other than cabaret, horse

racing and cinematograph exhibition in respect of which the entertainments tax is payable under sub-section (1) or sub-section (3a), as the case may be,] allow the proprietor on such conditions as 30[it] may prescribe to pay the amount of the tax due by means of a consolidated payment of twenty per centum of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the tax.

1. The second proviso inst. by W. B. Act 6 of 1991. Then it was omitted by W. B. Act 1 of 1992.
2. Sub-section (3a) subst. by W. B. Act 5 of 1985.
3. Provisos subst. by W.B. Act 5 of 1985.
5. Sub-sec. (3aa) inst. by W. B. Act 21 of 1977. The same omitted by W. B. Act 5 of 1985.
6. Sub-sec. (3b) inst. by W. B. Act 11 of 1949.
7. Proviso ins. by W.B. Act 4 of 1998.
8. Sub-secs. (3c) and (3d) inst. by W. B. Act 4 of 1993.

3A. Additional tax on cinematograph exhibitions and other performances :-

1. 2* * * * * 3* * * * *

4(1a) In respect of any theatrical performance, jatra and dramatic performance held in open air or any place, other than a hall or auditorium or building, to which persons are admitted for payment, there shall be charged, levied and paid to the State Government a show tax at the rate of rupees two hundred for each such performance.

4 (2) The show tax shall be recoverable from the proprietor in the manner prescribed.

1. Section 3A inst. by W. B. Act 25 of 1969.
2. Sub-sec. (1) omitted by W. B. Act 18 of 1990.
3. Expln. to sub-sec. (1) inst. by W. B. Act 25 of 1969. Thereafter it was omitted by W. B. Act 18 of 1990.
4. Sub-sec, (1a) inst. and sub-sec. (2) subst. by W. B. Act 5 of 1985.

4. Admission to entertainments :-

No person **1**[liable to pay an entertainment tax] shall be admitted **37* * *** to any entertainment **2* * *** except

(a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the **28**[State Government] for the purpose of revenue and denoting that the proper entertainments tax **38**[has been paid, in which case the

proprietor in relation to any cinematograph exhibition shall furnish a return for such period, in such manner and by such date as may be prescribed by rules made under this Act,]

(b) in special cases with the approval of the ³[State Government through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted unless the proprietor of the entertainment has made arrangement approved by the ³[State Government] for furnishing returns of the payments for admission to the entertainment ⁵[and in the case of cinematograph exhibition, also returns of admission to seats or other accommodations without payment on free or complimentary passes or tickets] and has given security up to an amount and in a manner approved by the ³ [State Government] for the payment of the entertainments tax.

1. Words inst. by W. B. Act 11 of 1949.
2. Words omitted by W. B. Act 11 of 1949.
3. Words subst. by the Adaptation of Laws Order, 1950.
5. Words inst. by W. B. Act 11 of 1949.

4A. Special mode of recovery of dues :-

1.

(1) The Collector or any other officer authorised by the State Government in this behalf may require the proprietor of any cinematograph exhibition to deposit in a Government Treasury an amount not exceeding rupees ten thousand or to furnish Government Promissory Notes or Bank Guarantee of equivalent amount as security pledged with him for due payment of the entertainments tax ²* * * * *.

(2) If the Collector or the officer authorised under sub-section (1) is satisfied that any sums due to the State Government from the proprietor of a cinematograph exhibition on account of the entertainments tax ² * * * * * cannot otherwise be recovered, the Collector or the said officer may forfeit the whole or any part of the security, if any, furnished by the said proprietor under sub-section (1) and adjust the same against the said sums due to the State Government.

(3) The Collector or the officer authorised under sub-section (1) shall, if he is satisfied that the proprietor of any cinematograph exhibition who has furnished any security under sub-section (1) has ceased to be responsible for the management, or is not in charge,

of any cinematograph exhibition and that no sum is due to the State Government from him under this Chapter or the rules made thereunder, refund the security to the said proprietor or, on his death, to his legal heirs.

1. Sees. 4A and 4B inst. by W. B. Act 40 of 1975.
2. Words omitted by W. B. Act 18 of 1990.

4B. Suspension of licence granted under W. B. Act 39 of 1954 :-

1.

(1) If it appears to the Collector or any other officer authorised by the State Government in this behalf that the proprietor of any cinematograph exhibition, being the holder of a licence granted by a licensing authority under the West Bengal Cinemas (Regulation) Act, 1954, admits to a cinematograph exhibition, persons liable to pay entertainments tax, otherwise than in the manner specified in section 4 or defaults in the payment of the entertainments tax 42*
***** under this Chapter, the Collector or the other officer may lodge with the said licensing authority a report containing details of such admission or default and recommending appropriate action against the holder of the licence.

(2) If on consideration of a report lodged under sub-section (1) and after making such enquiries as may be thought fit the licensing authority is satisfied that the holder of the licence admits to cinematograph exhibitions persons liable to pay entertainments tax, otherwise than in the manner specified in section 4 or defaults in the payment of the entertainments tax 2 * * * * * under this Chapter, he may, by an order, declare such holder of the licence disqualified for holding such licence for such period as he may think fit and shall cancel and impound the licence :

Provided that when any order is passed under this sub-section, the licensing authority passing such order shall forthwith forward a copy of the same together with a statement of the reasons therefor, to the Commissioner of the Division having jurisdiction, who shall make an order affirming, modifying or revoking the order passed by the licensing authority :

Provided further that no order shall be passed by the licensing authority or the Commissioner, as the case may be, without giving the holder of the licence an opportunity of showing cause against the proposed order.

(3) The order passed by the licensing authority under sub-section (2) as affirmed or modified by the Commissioner of the Division under the proviso thereof shall take effect from the date on which such order is affirmed or modified by him.

(4) The provisions of this section shall be in addition to and not in derogation of any other provision contained in this Act or in the West Bengal Cinemas (Regulation) Act, 1954.

Explanation. In this section, the expression "licensing authority" means an authority having power to grant licenses under the West Bengal Cinemas (Regulation) Act, 1954.

1. Sees. 4A and 4B inst. by W. B. Act 40 of 1975.
2. Words omitted by W. B. Act 18 of 1990.

5. [Penalty for non-payment of tax.] :-

Omitted by W. B. Act 40 of 1975.}

6. 43[Section 4] not to apply in certain cases :-

The provisions of ¹ [section 4] shall not apply to any entertainment in respect of which a consolidated payment is made under section 3, sub-section (4).

1. Word and figure subst. by W. B. Act 40 of 1975.

7. Manner of payment :-

(1) The entertainments tax shall be charged in respect of each person admitted for payment, 44[and in the case of a cinematograph exhibition, 44a(other than a cinematograph exhibition re-ferred to in the proviso to sub-section (3b) of section 3,) also in respect of each person admitted without payment on a free or complimentary pass or ticket] and, in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and, in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

(2) The ¹[entertainments tax, * *] in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor.

² (2a) Where a proprietor in relation to a cinematograph exhibition allows admission to any person with a ticket referred to in clause (a) of section 4, which is not duly stamped in accordance with the provisions of this Act, the proprietor shall be liable for payment to

the extent of the amount of entertainments tax, 47* * * under stamped in such ticket.

(3) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced charge, the entertainments tax shall be paid on the amount of the lump sum, but where the 48[State Government] 49[is] of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the tax has not been in operation, the tax shall be charged on such an amount as appears to the 48[State Government] to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

1. Words subst. and omitted by W. B. Act 15 of 1983 and W. B. Act 5 of 1985, respectively.
2. Sub-sec. (2a) inst. by W. B. Act 15 of 1983.

8. Exemptions :-

1 . The State Government may, for social, educational or scientific purposes, by general or special order, exempt fully or partly the 51 [entertainments tax or show tax] payable under this Act for any entertainment or class of entertainments, subject to such conditions as may be laid down in such order.

1. Sec. 8 subst. by W. B. Act 9 of 1981.

8A. Assessment :-

1 .

(1) If the authority prescribed by rules made under this Act (hereinafter referred to as the prescribed authority) is satisfied that any return submitted under section 4 by a proprietor in relation to a cinematograph exhibition is correct and complete, he shall assess the amount of tax payable, if any, by the proprietor on the basis thereof.

(2) If no return is submitted under section 4 by a proprietor in

relation to a cinematograph exhibition or if the return submitted by such proprietor appears to the prescribed authority to be incorrect or incomplete, he shall, after giving such proprietor a reasonable opportunity of being heard and after making such enquiry as he considers necessary, assess to the best of his judgment the amount of entertainments tax, surcharge or additional surcharge payable under this Act by such proprietor. Where such proprietor fails to submit the return within such date as may be prescribed by rules made under this Act or the date specified in the arrangements approved by the State Government, as the case may be, the prescribed authority may, if he is satisfied that there is not reasonable cause for the default, direct such proprietor to pay by way of penalty in addition to the amount of entertainments tax, surcharge or additional surcharge so assessed a sum not exceeding double that amount. The amount of entertainments tax, surcharge or additional surcharge so assessed and the penalty so imposed shall be paid by such proprietor within the date specified in a notice issued in this behalf by the prescribed authority.

2(3) Where (a) any proprietor in relation to any entertainment, other than horse racing and cinematograph exhibition, has not obtained any prior permission from the prescribed authority before holding any entertainment, or

(b) any proprietor referred to in clause (a) has not furnished any particulars to the prescribed authority as required under the provisions of this Act or the rules made thereunder, or

(c) upon enquiry or information received, the prescribed authority has reasons to believe that the proprietor referred to in clause (a) has furnished incorrect particulars at the time of obtaining permission from the prescribed authority to hold any entertainment referred to in this sub-section, 53a[or]

3 (d) any proprietor referred to in clause (a) has given security under section 4,

the prescribed authority shall, in such manner as may be prescribed, proceed to assess to the best of his judgment the amount of entertainment tax payable by such proprietor after giving such proprietor a reasonable opportunity of being heard, and direct such proprietor to pay the amount of tax so assessed in such manner and by such date as may be prescribed.

1. Sec. 8A inst. by W.B. Act 15 of 1983.

2. Sub-section (3) inst. by W.B. Act 3 of 1998.

3. Clause (d) ins. by W.B. Act 4 of 1998.

8B. Special provision for new cinema hall :-

1 . Notwithstanding anything contained elsewhere in this Act but subject to the rules made thereunder, where a proprietor of a new and permanent cinema hall establishes to the satisfaction of the State Government or any other officer authorised by the State Government in this behalf that the said hall has been commissioned on or after the 1st day of April, 1986, the State Government or such other officer may by an order in writing 55 [permit such proprietor] to collect the entertainments tax, leviable and payable under this Act, wholly or partly in cash and to retain by way of subsidy the amount of entertainments tax so collected in cash or grant such exemption and permission for such period, not exceeding three years, as may be prescribed, commencing from the first day of cinematographic exhibition in such hall.

1. Sec. 8B inst. by W. B. Act 1 of 1986.

9. Refunds in certain circumstances :-

1.

(1) Where the ²[State Government] ³[is] satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds not more than twenty-five per cent. of the gross proceeds have been deducted on account of the expenses of the entertainment, ³[it] shall repay to the proprietor the amount of the entertainments tax 59[and the show tax] paid in respect of the entertainment.

5 (2) The prescribed authority shall in the manner prescribed by rules made under this Act refund to a proprietor in relation to a cinematograph exhibition 61[or to a proprietor referred to in sub-section (3) of section 8A] any amount of entertainments tax, surcharge or additional surcharge paid by such proprietor in excess of the amount due from him under this Act by cash payment or by deduction or adjustment of such excess from the amount of entertainments tax, surcharge or additional surcharge due in respect of other period.

1. Sec. 9 renumbered as sub-sec. (1), sub-sec. (2) added and words subst. by W. B. Act 15 of 1983.

2. Words subst. by the Adaptation of Laws Order, 1950.

3. Words subst. by the Government of India (Adaptation of Indian

Laws) Order, 1937.

5. Sec. 9 renumbered as sub-sec. (1). sub-sec. (2) added and words subst. by W. B. Act 15 of 1983.

10. Recoveries :-

(1) Any sum due on account of the 60 [entertainments tax, surcharge, additional surcharge, penalty] 62[or the show tax] shall be recoverable by the 63[State Government] as a public demand.

(2) Any fine imposed under this Chapter shall be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of fines.

10A. Other mode of recovery :-

1 .

(1) Notwithstanding any proceeding being initiated under sub-section (1) of section 10, for recovery of any sum due on account of entertainments tax, surcharge, additional surcharge or penalty as a public demand in respect of cinematograph exhibition, the prescribed authority referred to in section 8A may, at any time or from time to time by notice in the prescribed form require any person from whom money is due or may become due to the proprietor or any person who holds or may subsequently hold money for or on account of such proprietor, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due by such proprietor in respect of the arrears or the whole of the money when it is equal to or less than the amount due.

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for, or on account of, the proprietor jointly with any other person and, for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the proprietor at his last address known to the prescribed authority, and, in the case of a joint account, to all the joint-holders at their last addresses known to the prescribed authority.

(4) Save as otherwise provided in this section, every person to

whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim with respect to any property in relation to which a notice under this section has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the prescribed authority that the sum demanded or part thereof is not due to the proprietor or that he does not hold any money for or on account of the proprietor or that the money demanded or any part thereof is not likely to be due to the proprietor or be held for or on account of, the proprietor, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

(7) The prescribed authority may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

(8) The Treasury or the Bank shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying the amount shall be fully discharged from his liability to the proprietor to the extent of the amount so paid.

(9) Any person discharging any liability to the proprietor after receipt of a notice under this section shall be personally liable to the prescribed authority to the extent of his own liability to the proprietor so discharged or to the extent of the liability of such proprietor for any amount due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be a proprietor in default in respect of the amount specified in the notice, and further proceedings may be taken against him for the recovery of the amount as if it were an arrear due from him and the notice shall have the same effect as attachment of a debt.

(11) The prescribed authority may apply to the court in whose custody there is money belonging to the proprietor for payment to him of the entire amount of such money or, if it is more than the amount of tax, surcharge, additional surcharge or penalty due, an amount sufficient to discharge the liability of the amount of tax, surcharge, additional surcharge or penalty :

Provided that any dues or property exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any payment required to be made under the section.

1. Sec. 10A inst. by W. B. Act 5 of 1997.

11. Inspection, search and seizure :-

(1) The Collector or any other officer authorised by the State Government in this behalf may, subject to such conditions as may be prescribed, require any proprietor

(a) to produce before him any accounts, books, records, registers, unsold tickets and counterfoils of sold tickets or other documents relating to any entertainment,

(b) to furnish any information relating to any entertainment as may be deemed necessary for the purposes of this Chapter.

(2) The Collector or any other officer authorised by the State Government in this behalf may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at all reasonable times with a view to seeing whether the provisions of this Chapter or any rules made thereunder are being complied with.

(3) All accounts, registers, books, records, unsold tickets and counterfoils of sold tickets and other documents relating to any entertainment shall at all reasonable times be open to inspection by the Collector or any other officer authorised by the State Government in this behalf.

(4) If the Collector or any other officer authorised by the State Government in this behalf has reason to believe that any person liable to pay any entertainments tax or show tax under this Chapter is attempting to evade such payment he may, for reasons to be recorded in writing, seize such accounts, registers, books, records,

unsold tickets and counterfoils of sold tickets and other documents as may be necessary and shall grant a receipt for the same and shall retain the same for such period as may be necessary for examination thereof.

(5) The Collector and every officer authorised under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

11A. Offences and penalties :-

(1) If the proprietor of any entertainment

(a) admits to any entertainment any person liable to pay entertainments tax except in compliance with the provisions of section 4, or

(b) fraudulently evades the payment of any entertainments tax or show tax due under this Chapter, or

(c) fails to furnish the returns prescribed under this Chapter and the rules made thereunder, or

(d) contravenes any other provisions of this Chapter or the rules made thereunder, he shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which may extend to three thousand rupees or with both and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence.

(2) If any person prevents or obstructs the entry of the Collector or any other officer into any place of entertainment for the purpose of subsection (2) of section 11, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Judicial Magistrate of the first class to a fine not exceeding two hundred rupees.

(3) Such authority as the State Government may specify in this behalf may at any time accept from any person who has committed an offence punishable under this Chapter or the rules made thereunder by way of composition of such offence, a sum of money not exceeding rupees one thousand or double the amount of the tax payable, whichever is greater.

11B. Cognizance of offence :-

1 . No court shall take cognizance of any offence under this Chapter, or under the rules made thereunder, except with the previous sanction of the State Government and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

1. Sees. 11B to 1 ID inst. by W. B. Act 40 of 1975.

11C. Offences to be cognizable and bailable :-

1 . The offences punishable under this Chapter shall be cognizable and bailable.

1. Sees. 11B to 1 ID inst. by W. B. Act 40 of 1975.

11D. Indemnity :-

1 . No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the State Government for anything done or purporting to have been done under this Chapter without the previous sanction of the State Government or for anything which is in good faith done under this Chapter or the rules made thereunder.

1. Sees. 11B to 1 ID inst. by W. B. Act 40 of 1975.

11E. Appeal and review :-

1 . (1) Any proprietor in relation to a cinematograph exhibition 68[or any proprietor referred to in sub-section

(3) of section 8A] may in the manner prescribed by rules made under this Act appeal to such authority as may be prescribed by rules made under this Act against any assessment under section 8A within thirty days from the receipt of a notice of demand issued in this respect:

Provided that no appeal shall be entertained by the said authority unless it is satisfied that such amount of entertainments tax, surcharge or additional surcharge as the appellant may admit to be due from him has been paid.

(2) Subject to such procedures as may be prescribed by rules made under this Act, the appellate authority in disposing of any appeal under subsection (1) may

(a) confirm, reduce, enhance or annul the assessment, or

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be

directed.

(3) Subject to the rules as may be made under this Act, any assessment made under this Act by the prescribed authority may be reviewed by it, upon application made within thirty days from the date of such assessment, or of its own motion, within four years from the date of such assessment, after giving the proprietor concerned an opportunity of being heard.

1. Sec. 11E inst. by W. B. Act 15 of 1983.

11F. Bar of suits in Civil Courts :-

¹ . Except as otherwise provided in this Act, the decision of the prescribed authority shall be final and no civil court shall have jurisdiction to decide or deal with any question which by or under this Act or the rules made thereunder is required to be dealt with by the prescribed authority or to set aside or modify any order made under this Act or the rules made thereunder.

1. Sec. 11F inst. by W.B. Act 8 of 1990.

12. Rules :-

(1) The ¹[State Government] may make rules for securing the payment of the entertainments tax 71[and the show tax] and generally for carrying into effect the provisions of this Chapter, and in particular-Co)

(a) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used;

(b) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon; and for the payment of the tax on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;

(c) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances;

(d) for the checking of admission, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of section 3, sub-section (4), are applied or in respect of which the arrangement approved by ²[State

Government] for furnishing returns are made under section 4;

3(dd) for providing the period for which, the manner in which and the date by which, a return under clause (a) of section 4 shall be furnished;

(e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this Chapter or under the rules made thereunder;

(f) for the keeping of accounts of all stamps used under this Chapter;

(g) for the presentation and disposal of applications for exemption from payment of the entertainments tax, or for the refund thereof, made under the provisions of this Chapter; and for specifying the procedure and other incidental matters relating to assessment, appeal and review. **4** * * * * *

1. Words subst. by the Adaptation of Laws Orders, 1950.

2. Words subst. by the Adaptation of Laws Orders. 1950.

3. Clause (dd) inst. by W. B. Act 15 of 1983.

4. Sub-sec. (2) omitted by W. B. Act 40 of 1975.

13. Power to State Government to delegate certain powers :-

The **1**[State Government] may, by notification in the **2**[Official Gazette], delegate all or any of **3**[its] powers under this Chapter, except those conferred upon **3**[it] by sub-section (4) of section 1, by section 12, and by this section, to any person or to any authority subordinate to the **1** [State Government].

1. Words subst. by the Adaptation of Laws Orders. 1950.

2. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937.

3. Word subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

CHAPTER 2

Taxes on certain forms of betting

14. Definitions :-

In this Chapter

(1) "backer" includes any person who bets at a totalisator or with a licensed book-maker on a horse race or pony race held on a race course within or outside West Bengal;

(2) "bet" includes "wager" and "betting" includes wagering;

(2A) "licensee" means a person or association of persons to whom a licence has been granted under section 2C of the West Bengal Gambling and Prize Competitions Act, 1957;

(3) "licensed bookmaker" means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a license or permit issued by 80[a licensee] to enable him to carry on his business or vocation 81[as such bookmaker or turf commission agent];

(4) "prescribed" means prescribed by this Chapter or by the rules made thereunder;

(4A) "race course" means any ground on which a horse race or a pony race can be held;

(5) "racing club" includes a club, association, society or body of persons, corporate or incorporate

(a) formed for the purpose of promoting horse-racing or ponyracing or for holding race-meetings; or

(b) conducting or controlling such meeting;

(5A) "steward" means a member of a racing club who manages the affairs of such club either as its authorised representative elected in accordance with its rules or nominated by the State Government;

(6) "totalisator" means a totalisator, in an enclosure which the stewards controlling a race-meeting have set apart in accordance with the 83[West Bengal Gambling and Prize Competitions Act, 1957], and includes any instrument, machine, or contrivance known as the totalisator, or any other instrument, machine or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles.

14A. Nomination of stewards by the State Government :-

(1) The State Government may nominate one or more persons (but not exceeding three) to be steward or setwards of a racing club and the steward or stewards so nominated shall have all the powers of an elected steward of the club.

(2) Any dispute arising between a steward elected by the racing club and a steward nominated by the State Government if not

resolved by them shall be referred to the State Government for decision and the decision of the State Government in the matter shall be final.

15. Tax on totalisators and payment thereof :-

(1) There shall be charged, levied and paid to the State Government out of all monies paid into any totalisator by way of stakes or bets, a tax on backer (hereinafter referred to as the totalisator tax) on every sum so paid at such rate, not exceeding twenty per cent, of every such sum, as the State Government may by notification fix in this behalf; and the amount, calculated at the rate so fixed by the State Government, out of every sum so paid into a totalisator shall be deemed to have been paid by the backer on account of the totalisator tax, and shall be received by the stewards of the race- meeting on behalf of the State Government:

Provided that the State Government may by notification fix different rates for different classes of stakes or bets, or may, from time to time, modify the rate, with effect from such date as may be specified in the notification. *****

16. Procedure for making over totalisator tax to Government :-

The steward of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer a return stating the total amount of the monies paid into the totalisator at the meeting, and shall at the prescribed time make over to the prescribed officer the [amount of the totalisator tax * * *] for that meeting.

17. Accounts of totalisator tax :-

(1) The stewards of a race-meeting shall keep accounts in the prescribed form of all monies paid into the totalisator at that meeting.

(2) Every person having the custody or control of any such accounts shall, when required in writing by an officer empowered in this behalf by the 88[State Government], permit such officer, or an officer authorised in writing by him in this behalf, to inspect and take copies of them.

17A. Licensee to furnish copies of accounts of totalisator :-

A licensee shall furnish copies of accounts of totalisator for all the race- meetings throughout the year duly audited by a qualified

auditor by 30th April or by such date as may be extended by the State Government on application.

18. Betting tax :-

(1) There shall be charged, levied and paid to the State Government out of the monies paid or agreed to be paid to a licensed bookmaker by a backer in respect of a bet made in an enclosure set apart under the provisions of the West Bengal Gambling and Prize Competitions Act, 1957, on any race, 92[a tax (hereinafter referred to as the betting tax) at such rate, not exceeding twenty per cent, of such monies, as the State Government may by notification fix in this behalf, and different rates may be fixed for different classes of such bet.] * * ***** ***

(2) The 94[betting tax * * *] shall be collected and paid to the State Government by a licensed bookmaker in such manner as may be prescribed.

18A. Totalisator tax and betting tax in respect of races held outside the State :-

Notwithstanding anything contained elsewhere in this Act, the totalisator tax referred to in section 15 and the betting tax referred to in section 18, to be charged, levied and paid in connection with a race which is held outside the State of West Bengal, shall be at such rates not exceeding twenty-two and a half per cent, upon the monies paid under the said sections, as may be fixed by the State Government by notification in this behalf.

19. Procedure for making over betting tax to Government :-
Omitted by W. B. Act 4 of 1951.]

20. Accounts of betting tax :-

(1) The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer returns setting out the names of the bookmakers licensed or permitted by them to carry on the business or vocation of a bookmaker at that meeting.

(2) All licensed bookmakers shall keep accounts of all sums paid or agreed to be paid 96[to them by backers in respect of bets] in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by the m[State Government], permits such officer, or an officer authorised in

writing by him in this behalf, to inspect and take copies of such accounts.

20A. Interest payable by a steward :-

(1) Where the steward of a race-meeting furnishes a return referred to in section 16 in respect of the race-meeting by the prescribed date but fails to make full payment of the amount of the totalisator tax payable under this Chapter in respect of such race-meeting by the prescribed date, he shall pay a simple interest at the rate of two per centum for each English calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under sub-section (1) of section 21, whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid at the end of each such month.

(2) The amount of interest payable under this section shall be paid by such steward into a Government Treasury or the Reserve Bank of India in such manner and by such date as may be prescribed.

(3) Interest under this section shall be payable in respect of the returns, the prescribed dates for furnishing of which under section 16 are the dates subsequent to the date of coming into force of section 2 of the West Bengal Taxation Laws (Second Amendment) Act, 1990.

(4) Where the prescribed officer is satisfied that the steward of a racemeeting is liable to pay interest under this section, he shall determine the amount of interest payable by such steward. If on such determination, any amount or additional amount is found to be payable by, or any excess amount is found to be refundable to, the steward, the prescribed officer shall issue a notice to such steward directing him to pay such amount or additional amount, as the case may be, into a Government Treasury or the Reserve Bank of India within the date specified in such notice, or informing him of the amount of excess payment, as the case may be.

20B. Interest payable by a licensed bookmaker :-

(1) Where a licensed bookmaker fails to make full payment of the betting tax collected by him as referred to in sub-section (2) of section 18 in respect of any period by the prescribed date, he shall pay a simple interest at the rate of two per centum for each English

calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under sub-section (2) of section 21, whichever is earlier, upon so much of the amount of such tax collected and payable by him as remains unpaid at the end of each such month.

(2) The amount of interest payable under this section shall be paid by such licensed bookmaker into a Government Treasury or the Reserve Bank of India.

(3) Interest under this section shall be payable in respect of payments, the prescribed dates of which under section 18 are the dates subsequent to the date of coming into force of section 2 of the West Bengal Taxation Laws (Second Amendment) Act, 1990.

(4) Where the prescribed officer is satisfied that a licensed bookmaker is liable to pay interest under this section, he shall determine the amount of interest payable by such licensed bookmaker. If on such determination, any amount or additional amount is found to be payable by, or any excess amount is found to be refundable to, the licensed bookmaker, the prescribed officer shall issue a notice to such licensed bookmaker directing him to pay such amount or additional amount, as the case may be, into a Government Treasury or the Reserve Bank of India within the date specified in such notice, or informing him of the amount of excess payment, as the case may be.

20C. Rounding off of the amount of tax payable for calculating interest :-

¹ . In calculating the interest payable under section 20A or section 20B, the amount of tax in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to one hundred rupees and if such part is less than fifty rupees, it shall be ignored.

1. Sees. 20A to 20C inst. by W. B. Act 8 of 1990.

21. Methods of recovery of totalisator tax and betting tax :-

(1)The ¹[totalisator tax * * *] payable ²[under section 15 and section 18A] shall be recoverable as a public demand from the

racing club conducting the meeting, and any portion of ³[such totalisator tax * * *] which is not so recovered shall also be recoverable as a public demand from the stewards of the race-meeting jointly and severally.

(2) All monies which a licensed bookmaker is liable ⁴[to pay to the State Government ⁵ (under section 18 and section 18A)] shall be recoverable from the licensed bookmaker as a public demand.

1. Words subst. and omitted by W. B. Act 8 of 1973 and W. B. Act 11 of 1980, respectively.

2. Words, figures and letter subst. by W. B. Act 8 of 1990.

3. Words subst. and omitted by W.B. Act 8 of 1973 and W.B. Act 11 of 1980.

4. Subst. by W. B. Act 4 of 1951.

5. Words, figures and letter subst. by W. B. Act 8 of 1990.

22. Rules :-

The ¹[State Government] may make rules for securing the payment of ² [the totalisator tax and the betting tax], the production and inspection of accounts kept under this Chapter and generally for carrying into effect the provisions of this Chapter, and for dealing with such matters as are therein directed to be prescribed.

1. Words subst. by the Adaptation of Laws Order, 1950.

2. Words subst. by W. B. Act 11 of 1980.

23. Amendment of definition of gaming :-

Repealed by W. B. Act 28 of 1961.]