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## **KARNATAKA EXCISE (TAPPING OF TREES) RULES, 1991**

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## **KARNATAKA EXCISE (TAPPING OF TREES) RULES, 1991**

Whereas the draft of the following rules which the Government of Karnataka propose to make in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966) was published in Notification No. FD 14 PES 90, dated 4th May, 1991 in Part IV, Section 2C(i) of the Karnataka Gazette, Extraordinary, dated 4th May, 1991, inviting objections and suggestions from all persons likely to be affected thereby within fifteen days from the date of publication of the Notification in the Official Gazette; And, whereas, the said Gazette was made

available to the public on 4th May, 1991. And, whereas, no objections and suggestions have been received within the period specified above by the State Government. Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Excise Act, 1965 (Karnataka Act 21 of 1966), the Government of Karnataka hereby makes the following rules, namely:

**1. Title, extent and commencement :-**

(1) These rules may be called the Karnataka Excise (Tapping of Trees) Rules, 1991.

(2) They shall extend to the whole of the State of Karnataka.

(3) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions :-**

In the rules, unless the context otherwise requires,

(a) 'Form' means a form appended to these rules.

(b) 'Fenny' means spirit distilled out of toddy or from cashew apples or pineapple and reduced to the alcoholic strength of 25° U.P. or as may be fixed by the Excise Commissioner from time to time.

(c) 'Licence' means a licence issued under these rules.

(d) 'Licensee' means a Co-operative Society to which a licence is issued under these rules <sup>1</sup>[or a person who has taken lease of the right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969 and to whom a licence is granted under these rules] <sup>2</sup> [or a person to whom a distillery licence is granted under the Karnataka Excise (Distillery and ' Warehouse) Rules, 1967 for manufacture of fenny out of toddy and to whom a licence is granted under these rules.]

1. Inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

2. Inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

**3. Tapping Licence :-**

(1) A licence to tap Excise tree (hereinafter called tapping licence) shall be issued only in favour of a Co-operative Society registered under the Karnataka Co-operative Societies Act, 1959 (hereinafter

referred to as a Tappers Society), all the members of which are tappers <sup>1</sup>[or in favour of person to whom a lease is granted for sale of Toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969] <sup>2</sup>[or in favour of a person to whom a distillery licence is granted under the Karnataka Excise (Distillery and Warehouse) Rules, 1967 for the manufacture of fenny out of toddy and to whom a licence is granted under these rules.]

(2) A licence to tap palmyra tree and supply toddy for manufacture of palmgur by a person holding a licence under Rule 4 shall be in Form T.T. I.

(3) A licence to tap any excise tree <sup>3</sup>[and to supply or utilise toddy] for manufacture of Fenny by a person holding a distillery licence under the Karnataka Excise (Distillery and Warehouse) Rules, 1967 shall be in Form T.T. L '

(4) A licence to tap any excise tree and supply toddy to a licence holder for sale to public shall be in Form T.T. III. The sale of toddy to public Shall be made only <sup>4</sup> [in such areas as the Government may, by notification specify from time to time.]

1. Inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

2. Inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

3. Substituted for the words "and supply toddy" by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

4. Substituted for the words "in the district of Dakshina Kannada" by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

#### **4. Licence for manufacture of Palmgur :-**

A licence to manufacture palmgur shall be issued in form 'P G' by the Deputy Commissioner of the concerned district with the prior sanction of the Excise Commissioner.

### **5. Application for tapping licence :-**

(1) The Secretary or Manager of the Tappers' Society or any person entrusted with the management of such society, shall apply for grant of licence in Form AT-I, to the Deputy Commissioner of the District where such society is located. <sup>1</sup>[Provided that any person who has taken a lease of the right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969, shall apply for grant of licence in Form A.T.I. affixing a Court fee stamp of rupees two, to the Deputy Commissioner of the

District where he has taken the right of retail vend of toddy.]  
<sup>2</sup>[Provided further that any person who has taken a distillery licence for manufacture of fenny out of toddy under the Karnataka Excise (Distillery and Warehouse) Rules, 1967 shall apply for grant of licence in form AT 1 affixing a court fee stamp of rupees two to the Deputy Commissioner of Excise of the District where the Distillery is located.]

(2) Every application shall be affixed with a court fee stamp of rupees two and shall be accompanied by a Treasury challan in proof of payment of application fee of rupees one hundred and the payment of licence fee of rupees <sup>3</sup>[three thousand] for the entire duration of the licence. <sup>4</sup>[Provided that nothing in this sub-rule shall be applicable to a person who has taken the lease of right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969.] <sup>5</sup> [or to a person who has taken a distillery licence for manufacture of fenny out of toddy under the Karnataka Excise (Distillery and Warehouse) Rules, 1967].

1. Proviso to sub-rule (1) inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

2. Further Proviso to sub-rule (1) inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

3. Substituted for the words "ten thousand" by GSR 126, dated 28-7-1994 and shall be deemed to have come into force w.e.f. 1-7-1994.

4. Proviso to sub-rule (2) inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

5. Inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

## **6. Duration of licence :-**

Tapping licence in Form No. T.T.-I, T.T.-II, or T.T.-III, shall be valid upto 30th June next following the date of issue of such licence.

## **7. Supply of toddy :-**

(1) The licensee shall supply toddy only to a person holding licence to manufacture palmgur or to a person holding a distillery licence under the Karnataka Excise (Distilleries and Warehouse) Rules 1967 for manufacture of Fenny or to the shops approved under Rule 9 at such rate as may be fixed from time to time by the Excise Commissioner with the prior approval of the Government.

<sup>1</sup>[(1A) Notwithstanding anything contained in sub-rule (1), the

licensee who has taken the lease of right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969 shall sell the toddy to the consumers, in the toddy shops for which he has taken licence under these rules.]

**2**[(1B) Notwithstanding anything contained in sub-rule (1) the licensee who has taken a licence for manufacture of fenny out of toddy under the Karnataka Excise (Distillery and Warehouse) Rules, 1967, shall utilise the toddy only for the purpose of manufacture of fenny.]

(2) Alcohol contents in the toddy supplied by a person holding licence in Form TT-I and TT-II, shall not be less than four per cent V/y and in case the percentage of alcohol is less than four per cent V/V, the cost of toddy shall be proportionately reduced.

(3) If there is any dispute about the percentage of alcohol contained in the toddy supplied, the Excise Officer posted to the Tappers' Society concerned shall, after getting a Chemical analysis report from a Government Chemical Examiner, decide the percentage of alcohol in the toddy and his decision shall be final.

**3** [(4) Nothing in sub-rules (2) and (3) shall be applicable to toddy sold by a lessee of the right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969.]

1. Sub-rule (1A) inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

2. Sub-rule (IB) inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

3. Sub-rule (4) inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

## **8. Grant of licence :-**

The Deputy Commissioner may, if he is satisfied that the applicant is eligible for grant of licence applied for, may grant the licence.

## **9. Regulation of sale of toddy :-**

(1) The holder of a licence in Form TT-III may apply to the Deputy Commissioner in Form AT-n for approval of shops for sale of toddy.

**1**[(2) Every application shall be accompanied by a Treasury Challan for having paid the licence fee specified in Rule 11, in respect of each shop.]

(3) The Deputy Commissioner may have regard to the provisions of the Karnataka Excise licenses (General Conditions) Rules, 1967 approve the shops for sale of toddy.

(4) The licensee shall obtain a Nowkarnama from the Inspector of Excise incharge of the range in favour of those who vend toddy in the shop.

(5) No toddy except the toddy obtained from a Tappers' society, shall be sold in the shop.

**2** [(5-A) Nothing in sub-rules (1), (2), (3) and (5), shall be applicable to a lessee of the right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969.]

(6) The licensee may sell toddy at such price not exceeding the maximum price as may be fixed by the Excise Commissioner from time to time.

1. Sub-rule (2) substituted by Notification No. FD 3 PES 94, dated 10-6-1994, w.e.f. 1-7-1994.

2. Sub-rule (5a) inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

**10. Authorised persons only to tap toddy :-**

(1) No person shall tap toddy from any excise tree unless he is a member of the tappers' society to which a licence is granted <sup>1</sup>[or an employee of the lessee of the right of retail vend of toddy under the Karnataka Excise (Lease of Right of the Retail Vend of Liquors) Rules, 1969] <sup>2</sup>[or an employee of the person who has taken a distillery licence for manufacture of fenny out of toddy under the Karnataka Excise (Distillery and Warehouse) Rules, 1967 or] and has obtained authorisation to tap from the Inspector of Excise incharge of the range in which such <sup>3</sup>[society or distillery is located or such lessee resides] <sup>4</sup>[or of the area for which the lease is granted for sale of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969.]

(2) Every application for authorisation under sub-rule (1) shall be affixed with a court fee stamp of rupees two and shall be accompanied by <sup>5</sup>[a treasury challan for having paid an authorisation fee of <sup>6</sup>[rupees one hundred] and] a certificate from any registered Medical Practitioner to the effect that the person

authorised under sub-rule (1) is not suffering from any contagious disease. The certificate shall be valid for a period of <sup>7</sup> [one year] before the expiry of which a fresh certificate shall be produced.

(3) Employees working in a toddy depot shall also produce the certificate referred to in sub-rule (2).

(4) The names and addresses of the 1[persons] to whom authorisation is issued under sub-rule (1) shall be maintained in a register as required by the Excise Commissioner.

(5) The authorisation issued under sub-rule (1) may be suspended or cancelled by the Inspector of Excise for the reasons to be recorded in writing.

1. Inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

2. Inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

3. Substituted for the words "society is located" by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

4. Inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

5. Inserted by Notification No. FD 3 PES 94, dated 10-6-1994, w.e.f. 1-7-1994.

6. Substituted for the words "rupees two hundred" by GSR 126, dated 28-7-1994 and shall be deemed to have come into force w.e.f. 1-7-1994.

7. Substituted for the words "six months" by Notification No. FD 3 PES 94, dated 10-6-1994, w.e.f. 1-7-1994

### **11. Licence Fee :-**

<sup>1</sup>[The licence fee for a toddy shop shall be as follows:

Provided that nothing in this rule shall be applicable to a lessee of the right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969] <sup>2</sup> [or to a person to whom a distillery licence is granted for manufacture of fenny out of toddy under the Karnataka Excise (Distillery and Warehouse) Rules, 1967.]

1. Rule 11 substituted by Notification No. FD 3 PES 94, dated 10-6-1994, w.e.f. 1-7-1994.

2. Inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

### **12. Cost of toddy collected by tappers :-**

(1) Toddy collected by tappers shall be supplied to those holding licence in Form No. TT-I,

(2) Alcohol contents in the toddy so supplied shall not be less than four per cent V/V and in case the percentage of alcohol in the toddy supplied is less than four per cent V/V, the cost of toddy supplied shall be proportionately reduced.

(3) If there is any dispute about the percentage of alcohol contained in the toddy, the Excise officer posted to the tappers' society concerned shall after getting a chemical analysis report from a Government Chemical Examiner, decide the percentage of alcohol in the toddy and his decision shall be final.

<sup>1</sup>[(4) Nothing in this rule shall be applicable to toddy sold by a lessee under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) Rules, 1969] <sup>2</sup> [or to person to whom a distillery licence is granted for manufacture of fenny out. of toddy under the Karnataka Excise (Distillery and Warehouse) Rules, 1967.]

1. Sub-rule (4) inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

2. Inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

### **13. Permission to maintain a depot :-**

Where toddy drawn from different areas is to be collected and stored, the licence shall obtain special permission of the Deputy Commissioner to maintain a depot.

### **14. Assignment of Excise trees :-**

(1) Every licensee who has been granted a licence in Form TT-I, TT-II or TT-III as the case may be, shall make an application in form AT-I to the Deputy Commissioner for assignment of Excise trees <sup>1</sup>[if the trees sought to be assigned are in the district where the licence is granted or to the Excise Commissioner if the Excise trees sought to be assigned are located in the districts other than the district where licence is granted.]

(2) On receipt of the application under sub-rule (1) the Deputy Commissioner <sup>2</sup> [or the Excise Commissioner] shall make assignment of excise trees after ascertaining the requirement of such trees by, the applicant, and the availability of the trees as applied by the licensee.

1. Inserted by GSR 118, dated 19-7-1994, w.e.f. 19-7-1994.

2. Inserted by GSR 118, dated 19-7-1994, w.e.f. 19-7-1994.

### **15. Marking and numbering of excise trees :-**



(1) After obtaining the assignment order under Rule 14, the licensee shall apply to the Inspector of Excise in charge of the range in which the excise trees are located for marking and numbering of Excise trees. On receipt of such application, the Inspector of Excise shall at once take steps for marking and numbering of excise trees and timely issuance of transport permits

(2) No excise tree shall be tapped nor toddy be drawn from them until trees have been marked and numbered.

(3) Where tapping is from excise trees belonging to private persons, a No Objection certificate obtained from the persons to whom such trees belong shall be submitted along with the application.

(4) Consent of the Range Forest Officer concerned shall be obtained in case excise trees are located in forest land belonging to the State Government.

**16. Tapping toddy for manufacture of palmgur :-**

A licensee who has obtained licence to tap excise trees for supply of toddy for manufacture of palmgur shall:

(i) for collecting toddy use pots which are ,coated with lime on the innerside and shall every time when a pot is emptied, use it after it is so coated afresh;

(ii) be bound by such conditions and orders, as may be specified or issued by the Excise Commissioner from time to time.

**17. Tapping period :-**

(1) In case of date trees, tapping period shall be ordinarily be four months but in special cases, the Deputy Commissioner may grant extension, not exceeding one month.

(2) In case of coconut trees, tapping period shall be six months either from 1st July to 31st December or 1st January to 30th June next, but in special cases, the Deputy Commissioner may grant extension which shall not exceed one month.

**18. Tapping of excise trees :-**

(1) Tapping of excise trees shall be subject to the following conditions, namely:

(a) excise trees shall be tapped only by a tapper experienced in

tapping;

(b) no date tree shall be tapped more than once in three years and for more than four months in a year. Provided that the Deputy Commissioner may allow such tapping in alternate years if in his opinion the tapping is necessary for want of other excise trees.

(c) date trees shall not be overtapped or tapped every day, but may be tapped on alternate days during the currency of the licence.

(d) no initial incision shall be made in the case of date trees at any point within two metres from the foot of the trees or fortyfive centimeters from the top of any other incision.

(e) the depth and width of the incision shall not be more than one third of the diameter of the tree at the point of incision and the length of incision shall not exceed twenty centimetres.

(f) the central spike like cluster shall not be touched and not less than eight leaves shall be left excluding the central spike line cluster on the face of the tree on which incision is made, above the top line of the incision.

(g) the licensee shall not cut or injure or permit to be cut or injure the trees licenced to him.

(h) the licensee shall not prepare or make incision into the date tree licensed to him in such a way that may cause its death.

(2) If, as a result of contravention of any -of the conditions specified in clauses (a) to (h), an excise tree dies during the license period or within a period of six months after the expiration of the licence period, the licensee shall be liable to pay such sum not exceeding ten rupees as may be determined by the Deputy Commissioner to the Government or to the person to whom the tree belongs.

Provided that no such order shall be made except after giving a reasonable opportunity of being heard to the licensee.

### **19. Powers to withdraw the order of assignment of trees :-**

(1) The <sup>1</sup>[Excise Commissioner, or as the case may be, Deputy Commissioner] may for the reasons to be recorded in writing, withdraw the order assigning excise trees after giving an opportunity of being heard to the licensee in whose favour such

assignment has been made.

(2) The <sup>2</sup> [Excise Commissioner, or as the case may be, Deputy Commissioner] may prohibit the licensee from tapping the excise trees in the groves assigned to him, if there is any dispute between the neighbouring licensees, or for any other valid reasons.

1. Substituted for the words "Deputy Commissioner" by GSR 118, dated 19-7-1994, w.e.f. 19-7-1994.

2. Substituted for the words "Deputy Commissioner" by GSR 118, dated 19-7-1994, w.e.f. 19-7-1994.

**20. Drawing of toddy :-**

Toddy shall not be drawn by the licensee between sunset and sunrise.

**21. Returning of tapping licence and transport permit :-**

The licensee shall return the tapping licence and transport permit to the concerned Excise officer incharge of the range after the expiry of the licence or permit.

**22. Tappers to carry authorisation :-**

(1) No person shall possess toddy without a licence or an authorisation granted under these rules.

(2) A person who is authorised to tap and draw toddy shall invariably carry with him the authorisation issued in his favour and produce the same forthwith on demand by any Excise officer not below the rank of a Sub-Inspector of Excise.

**23. Transportation of toddy :-**

(1) No toddy shall be transported without a valid permit issued by an Excise Officer authorised by the Excise Commissioner in this behalf. The transport permit shall be issued in such form and for such period as may be specified by the Excise Commissioner.

(2) Notwithstanding anything contained in any rules made under the Karnataka Excise Act, 1965, no fee except by way of court fee stamp affixed to the application shall be levied for issue of a permit for transportation of toddy.

**24. Inspection of groves :-**

The licensee shall provide all facilities to an officer not below the rank of a Sub-Inspector of Excise for inspection of the depot or the excise trees groves where toddy is tapped.

## **25. Accounts to be kept :-**

The licensee shall maintain accounts regularly in the forms specified by the Excise Commissioner from time to time and such accounts shall be open for inspection on demand by any Excise Officer not below the rank of a Sub-Inspector of Excise.

## **26. Application of Karnataka Excise Licences (General Conditions) Rules 1967 :-**

The provisions of the Karnataka Excise Licenses (General Conditions) Rules, 1967 except rules 14, 15, 17 and 17A shall mutatis mutandis apply to the sale of toddy under Rule 9 <sup>1</sup>[and all the provisions of the Karnataka Excise Licenses (General Conditions) Rules, 1967 shall apply to the sale of toddy by the lessee of the right of retail vend of toddy under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors), Rules, 1969] <sup>2</sup> [and to a person to whom a licence under the Karnataka Excise (Distillery and Warehouse) Rules, 1967, is granted for manufacture of fenny out of toddy.]

1. Inserted by GSR 45, dated 10-3-1993 and shall be deemed to have come into force w.e.f. 1-7-1991.

2. Inserted by GSR 159, dated 18-12-1995, w.e.f. 18-12-1995.

## **27. Repeal and savings :-**

The Karnataka Excise (Tapping of trees) Rules, 1967 are hereby repealed. Provided that such repeal shall not effect.

(a) previous operation of the said rules or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said rules, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said rules; or

(d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, forfeiture or punishment as aforesaid, and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and such penalty, forfeiture or punishment may be imposed as if these rules had not been made.

Provided further that any licence or permit issued under the said rules shall, unless withdrawn or cancelled, continue in force until the date shown in the license or permit, as if these rules had not

been made.