

Tamil Nadu Prohibition (Amendment) Act, 2003**31 of 2003**

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Tamil Nadu Prohibition (Amendment) Act, 2003**31 of 2003**

An Act further to amend the Tamil Nadu Prohibition Act, 1937. BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-fourth Year of the Republic of India as follows: Statement of Objects and Reasons² In order to completely eliminate the sale of contraband, spurious and non-duty paid liquor in licensed premises under the system of retail vending by private persons which can affect the public health of the liquor consuming public and widespread violations of Maximum Retail Price (MRP) of liquor fixed by the Government, both of which also cause loss of revenue to the Government, and in order to curb the organised groups and cartels who act in groups to ensure that applications are not made for substantially large number of shops so as to keep them vacant and thereby to corner the retail vending trade causing loss of revenue to the Government, it is considered necessary to grant the exclusive privilege of retail vending of Indian-made Foreign Spirits to the State owned Public Sector Undertaking TASMAL and through TASMAL to the agency of the Co-operatives. 2. The Government have decided to amend the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) for the above purpose. Accordingly, the Tamil Nadu Prohibition (Amendment) Ordinance, 2003 (Tamil Nadu Ordinance 8 of 2003) was promulgated by the Governor on the 26th October 2003 and the same was published in the Tamil Nadu Government Gazette Extraordinary, dated the 26th October 2003. 3. The Bill seeks to replace the said Ordinance. Financial Memorandum² The Bill when enacted, will involve expenditure from the Consolidated Fund of the State. It is not, however, possible at

this stage to estimate with any degree of accuracy the expenditure to be incurred as a result of the proposed legislation. Memorandum regarding Delegated Legislation² Clause (b) of new sub-section (1-B) of Section 17-C and item (i) of Clause (d) of new Section 22-D sought to be incorporated in the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) by Clauses 2 and 3 of the Bill empower the Government to make Rules for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

1. Received the assent of the Governor on the 14th November, 2003 - Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Page 153, dated 15th November, 2003.

2. Vide L.A. Bill of 2003.

1. Short Title And Commencement :-

- (1) This Act may be called the Tamil Nadu Prohibition (Amendment) Act, 2003.
- (2) It shall be deemed to have come into force on the 26th day of October, 2003.

2. Amendment Of Section 17-C :-

In Sec.17-C of the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) (hereinafter referred to as the Principal Act), after sub-section (1-A), the following sub-section shall be inserted, namely-

"(1-B) (a) Notwithstanding anything contained in this Act, the Tamil Nadu State Marketing Corporation Limited, which is a Corporation wholly owned and controlled by the State Government, shall have the exclusive privilege of selling, by retail, Indian-made foreign spirits, for the whole of the State of Tamil Nadu and no other person shall be entitled to any privilege of selling, by retail, Indian-made foreign spirits for the whole or any part of the State.

(b) Notwithstanding anything contained in this Act, Tamil Nadu State Marketing Corporation Limited shall be granted the licence by the Commissioner for the exercise of the exclusive privilege referred to in clause (a) and such licence shall be subject to the rules made by the State Government in this behalf and to such conditions and restrictions as the Commissioner may, from time to time specify.

(c) (i) The Tamil Nadu State Marketing Corporation Limited shall, as soon as may be, after the grant of the licence under clause (b) for the exercise of the exclusive privilege referred to in clause (a), fix, locate and open as many shops as may be necessary to effectively

carry on the business of sale, by retail of Indian made foreign spirits in the State and the said Corporation in so fixing the shops, shall take into account the population of the locality, the needs of the locality and other relevant factors.

(ii) The Tamil Nadu State Marketing Corporation Limited shall carry on the business of selling, by retail, Indian-made foreign spirits-

(A) either directly by the said Corporation; or

(B) through Co-operative Societies appointed by the said Corporation as agents to act on its behalf and on such terms and conditions as the said Corporation may specify; or

(C) by both the methods specified in sub-items (A) and (B) of this item.

(iii) Any dispute between the said Corporation and the Co-operative Society, appointed as Its agent, in respect of any matter shall be referred to the Commissioner or an officer not below the rank of District Revenue Officer specially empowered by the State Government in this behalf, whose decision thereon shall be final and such decision shall not be called in question in any Court.

Explanation: For the purposes of this Act, a Co-operative Society, appointed as agent by the Tamil Nadu State Marketing Corporation Limited for selling on its behalf, by retail, Indian-made foreign spirits shall not be deemed to be exercising any privilege of selling, by retail, Indian-made foreign spirits and accordingly the provisions of this Act relating to the grant of such privilege and licence for selling, by retail, Indian made foreign spirits shall not apply to such agent.

3. Insertion Of New Section 22-D :-

After Section 22-D of the Principal Act, the following Section shall be inserted, namely:

"22-D. Licence granted for selling, by retail, Indian-made foreign spirits to cease to be valid: (a) Notwithstanding anything contained in this Act or in any judgment decree or order of any Court, every licence granted or renewed in respect of any privilege of selling, by retail, Indian-made foreign spirits (other than the licence granted or renewed for supply in hotels, clubs and stores and depots run by the Defence Department, Government of India) and which is valid on the 26th day of October, 2003 shall cease to be valid on the expiry of the 28th day of November, 2003 on which date the validity of the said licence shall, under the existing rules, expire and any licence renewed for any period beyond 28th day of

November, 2003 shall cease to be valid and in such cases all fees (including the licence fee and the privilege amount) paid for renewal of licence shall be refunded.

(b) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court, every application made for the grant or renewal of licence for selling, by retail, Indian-made foreign spirits and pending before the Commissioner or before the State Government or any other authority on the 26th day of October, 2003 and every action taken, or enquiry made, in respect of such application, shall abate and all fees in connection with such application (including the application fee and the licence fee, if any), already paid shall be refunded.

(c) The Tamil Nadu Liquor (Retail Vending) Rules, 1989 and the Tamil Nadu Liquor (Retail Vending in Bar) Rules, 2002 are hereby repealed with effect from the 29th day of November, 2003:

Provided that such repeal shall not affect any offence committed or any fine, penalty or forfeiture incurred before the 29th day of November, 2003.

(d) (i) Notwithstanding anything contained in sub-section (1-B) of Sec.17-C and without prejudice to the provisions contained in Sec.54, the State Government may make rules for grant of licences to such hotels, clubs and stores and depots run by the Defence Department, Government of India, as may be prescribed and for the purpose of carrying into effect the provision of this Section and sub-section (1-B) of Sec.17-C.

(ii) Within a period of one month commencing on and from the 29th day of November, 2003, the State Government shall, on payment of the price, take over the entire stock of Indian-made foreign spirits, if any, which on the 29th day of November, 2003, is in possession of any holder of a licence which shall cease to be valid under clause (a).

Explanation: For the purposes of item (ii) of this clause, the expression "stock of Indian-made foreign, spirits" shall include stocks in movement on the 29th day of November, 2003, consequent on the orders placed by such holder with the suppliers in pursuance of permits granted by the Competent Authority under this Act."

4. Repeal And Saving :-

(1) The Tamil Nadu Prohibition (Amendment) Ordinance, 2003 (Tamil Nadu Ordinance 8 of 2003) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under Principal Act, as amended by this Act.