

Uttar Pradesh Excise (Settlement Of Licences For Retail Sale Of Beer) (Second Amendment) Rules, 2002

[14 March 2002]

CONTENTS

1. Short title and Commencement
2. Amendment of Clause (b) of Rule 2
3. Amendment of Rule 5 and 6
4. Amendment of Clause (b) and (c) of Rule 7 : Application for grant of licence
5. Amendment of clause (a), (c) and (d) of Rule 8
6. Amendment of Rule 12 and 17
7. Amendment of Forums

Uttar Pradesh Excise (Settlement Of Licences For Retail Sale Of Beer) (Second Amendment) Rules, 2002

[14 March 2002]

In exercise of the powers under section - 41 of the United Provinces Excise Act, 1910 (U.P Act No. IV of 1910), read with section 21 of the Uttar Pradesh, General Clauses Act, 1904 (U.P Act No. 1 of 1904), the Excise Commissioner, Uttar Pradesh with the previous sanction of the State Government, makes the following Rules with a view to amending the Uttar Pradesh (Settlement of Licences for Retail Sale of Beer) Rules, 2001 published with Excise Commissioner Notification No. 12011/ X Licence - 77, dated March 21, 2001 as amended from time to time.

1. Short title and Commencement :-

(i) These Rules may be called the Uttar Pradesh Excise (Settlement of Licences for Retail Sale of Beer) (Second Amendment) Rules, 2002. (ii) They shall come into force at once.

2. Amendment of Clause (b) of Rule 2 :-

In Rule 2 of the Uttar Pradesh Excise (Settlement of Licence for Retail Sale of Beer) Rules, 2001; herein after referred to as the said Rule, for existing clause (b) set out in column - I below, the clauses as set out in column - II shall be substituted namely: Column - I of Existing Rules Column - II Rules as hereby substituted 2 (b) Beer

includes ale, stout, porter, cider and all other fermented liquors made from malt having alcoholic strength from 5% v/v up to 8% v/v 2 (b) Beer includes ale, stout, porter, cider and all other fermented liquors made from malt having alcoholic strength from 3% v/v up to 8% v/v (bb) daily licence fee means the part of consideration which is payable by the grantee of interim licence fee for the shop

3. Amendment of Rule 5 and 6 :-

In the said Rules the existing Rules 5 and 6 set out in Column - I below, the Rules set out in Column - II shall be substituted , namely: Column - I Existing Rules Column - II Rules as hereby Substituted 5. The period of licence shall be for an excise year or part thereof for which the licence has been granted. 6 (1) The licence granted under these rules may be renewed for such period, and on such terms The period of licence shall be for an excise year or part thereof for which the licence has been granted. The licence may be renewed or extended with consent of the licensee for another excise year or part thereof on such terms and conditions as may be decided by the State Government. and conditions as decided by the State Government from time to time. (2) (a) The licence granted to persons, who were selected under Rule 4 of the Uttar Pradesh Excise (Settlement of Licences for Retail Sale of Beer) Rules, 2000 shall be renewed for an excise year on payment of licence fee and fulfillment of such other terms and conditions as may be required. (b) The licences granted to persons under proviso to clause (e) of Rule 2 of Uttar Pradesh Excise (Settlement of Licenses for Retail Sale of Beer) Rules, 2000 shall not be renewed and shall expire on the expiry of their term.

4. Amendment of Clause (b) and (c) of Rule 7 : Application for grant of licence :-

In the said Rules, in Rule 7 for existing clauses (b) and (c) set out in Column - I below, the clauses set out in Column - II shall be substituted namely: Column - I Existing Rule Column - II Rules hereby Substituted 7 (b) A list of the retail shops of Beer for which the Collector proposes to grant licence shall be exhibited along with shop wise licence fee and security at the Collectors Office, Tehsil Offices and the Office of the District Excise Officer and the Deputy Excise Commissioner of the Charge. (c) Applications for grant of licence shall be made on prescribed form as appended to these Rules. 7 (b) A list of the retail shops of Beer for which the Collector proposes to grant licence shall be exhibited along with shop wise

licence fee, security (c) Application for grant of licence shall be made on the prescribed forms to be issued, on payment of application and procession fee, from the offices of District Excise Officer, Deputy Excise Commissioner, Joint Excise Commissioner and Excise Commissioner. (d) The last date to be fixed for the receipt of application shall not be earlier than such number of days as stipulated, in the advertisement in a newspaper.

5. Amendment of clause (a), (c) and (d) of Rule 8 :-

In the said Rules, in Rule 8 for existing clauses (a), (c) and (d) set out in column - I, below the clauses set out in column - II shall be substituted, namely: Column - I Existing Rules Column - II Rules as hereby substituted (a) be a citizen of India or a partnership firm having not more than two partners and their partners are not partners in more than four such firms. Both being citizens of India, No change in partnership shall be allowed after allotment of shop(s). However if a licence is jointly held by two partners, in the event of death of either of them, the survivor along with the successor of deceased shall continue to hold the licence or in the case of death of both parents their successors may continue to hold the licence. No distinction will be made between the liabilities of the two partners who will be jointly and severally responsible. (c) not be a defaulter/ blacklisted or debarred from holding an excise licence under the (a) be a citizen of India or a partnership firm having not more than two partners and in more than two four firms. Both being citizens of India. No change in partnership shall be allowed after allotment of shop(s). Provided that if a licence is held by an individual, in the event of his death, his legal heir(s), if otherwise eligible, may continue to hold the licence for the remaining period of the licence. Provided further that if a licence is jointly held by two partners, in the event of death of either of them, the survivor along with the legal heir(s) of deceased, if otherwise eligible, may continue to hold the licence or in case of death of both parents their legal heir(s), if otherwise eligible, may continue to hold the licence. No distinction will be made between the legal liabilities of the two partners who will be jointly and severally responsible; provisions of any rules made under the Act. (d) submit an affidavit duly verified by notary public as proof of the following namely; (i) that he possesses or has an arrangement for taking on rent a suitable premise in that locality for opening the shop in accordance with the provisions of Uttar Pradesh Number and Location of Excise Shop Rules, 1968 as amended from time to

time. (ii) that his proposed premises of the shop have not been constructed in violation of any law or rules. (iii) that he and his family members possess good moral character and have no criminal back ground nor have been convicted of any offence punishable under United Provinces Excise Act, 1910 or Narcotics Drugs and Psychotropic Substances Act, 1985 or any other cognizable and non bailable offence. (iv) that in case he is selected as licensee he will furnish a certificate issued by Senior Superintendent of Police/Superintendent of Police of the District of which he is the resident, showing that he as well as his family members possess good moral character or criminal record, within thirty days of grant of licence. (v) that he shall not comply any (d) submit an affidavit duly verified by notary public as proof of the following namely; (i) that he possesses or has an arrangement for taking on rent a suitable premise in that locality for opening the shop in accordance with the provisions of Uttar Pradesh Number and Location of Excise Shop Rules, 1968 as amended from time to time. (ii) that his proposed premises of the shop have not been constructed in violation of any law or rules. (iii) that he and his family members possess good moral character and have no criminal back ground nor have been convicted of any offence punishable under United Provinces Excise Act, 1910 or Narcotics Drugs and Psychotropic Substances Act, 1985 or any other cognizable and nonbailable offence. (iv) that in case he is selected as licence he will furnish a certificate issued by Senior Superintendent of Police/Superintendent of Police of the district of which he is the resident, showing that he as well as his family members possess good moral character and have no criminal background or criminal record, within thirty days of grant of licence. (v) that he shall not employ any salesman or representative who has criminal background as mentioned in clause (iii) or who suffers from any infectious or contagious diseases or is below 21 years of age or a woman. (vi) that he is not in arrear of any public dues or Government dues. (vii) that he is solvent and has the necessary funds or has made arrangements for the necessary funds for conducting the business, the details of which shall be made available to licensing authority if required.

6. Amendment of Rule 12 and 17 :-

In the said rules for existing rules 12 and 17 set out in Column - I below the rules as set out in Column - II shall be substituted namely: Column Existing Rule Column- II Rule as here by substituted.

12. In case an applicant is selected as licensee, he shall deposit the entire amount of licence fee and half the security amount within 3 days of being informed of his selection and balance amount within next 20 days. If he fails to deposit the amount of licence fee and security amount within prescribed period, his selection shall stand cancelled and his earnest money shall be forfeited in favour of the State Government and the said shop shall be resettled forth with. The defaulter shall be debarred from holding any excise licence in future anywhere in the State. A consolidated list of such defaulters under this rule, along with their complete address shall be forwarded by the District Excise Officers to the Excise Commissioner, who will circulate the consolidated list of the State to all the Licensing Authorities of 12. In case of applicant is selected as licensee, he shall deposit the entire amount of licence fee within 3 working days of being informed of his selection. He shall be required to deposit half the security amount within 10 working days of his selection and balance of security amount within 20 days of his selection. If he fails to deposit the amount of licence fee and security amount within prescribed period, his selection shall stand cancelled and his earnest money as well as the licence fee deposited by him shall be forfeited in favour of the State Government and the said shop shall be resettled forthwith. the State.

17 (1) Licensing authority may suspend or cancel the licence (a) if any bottle is found in licenced premises on which duty has not been paid and which does not carry security hologram duly approved by the Excise Commissioner as a proof of payment of duty 4 (b) if any other kind of liquor or intoxicating drug (for which licence is not granted) is found in the licence premises. (c) if the affidavit submitted by the licensee at the time of application is found incorrect and assertions made therein are found to be false. (d) if the licensee is convicted of an offence punishable under the Act or any other law for the time being in force relating to revenue, or of any cognizable and non ilable offence, or any offence punishable under Narcotics Drugs and Psychotropic Substances Act, 1985 or of any offence punishable under sections 482 to 489 of the Indian Penal Code. (2) The Licensing Authority shall

17. (1) Licensing authority may suspend or cancel the licence. (a) if any bottle is found in licences premises

on which duty has not been paid and which does not carry security hologram duly approved by the Excise Commissioner as a proof of payment of duty 4. (b) if any other kind of liquor or intoxicating drug (for which licence is not granted) is found in the licenced premises. (c) if the affidavit submitted by the licensee at the time of application is found incorrect and assertions made therein are found to be false. (d) if the licensee is convicted of an offence punishable under the Act or any other law for the time being in force relating to revenue, or of any cognizable and nonbailable offence, or any offence punishable under Narcotics Drugs and Psychotropic Substances Act, 1985 or of any offence punishable under sections 482 to 489 of the Indian Penal Code. (e) if any liquor or intoxicating drug is found in the possession of licensee against the provisions of the Acts or Rules. (f) if it is found that the licence has been obtained in a false name and the person is holding the licence on behalf of some other person. (2) The Licensing Authority shall immediately suspend the licence and forfeit security deposit on above mentioned serious grounds. The licensing authority will also serve a show cause notice for cancellation of licence and the licensee shall submit his explanation within 7 days of the receipt of notice. There after the Licensing Authority will pass suitable orders after giving due opportunity of hearing to the licensee. immediately suspend the licence and issue a show cause notice for cancellation of licence and for forfeiture of security deposit the licensee shall submit his explanation within 7 days of the receipt of notice. There after the Licensing Authority shall pass suitable orders after giving due opportunity of hearing to the licensee. (3) The licensee shall not be entitled to claim any compensation or refund for suspension or cancellation of licence under these rule. (4) In case the licence is cancelled the licence fee deposited by him shall stand forfeited in favour of the Government and the licensee shall not be entitled to claim any compensation or refund. Such licensee may also be blacklisted and debarred from holding any other excise licence. 17 In case a licence is suspended, cancelled or surrendered in accordance with the provisions of these rules or if the shop remained unsettled for any other reason the licensing authority may make interim settlement of the shop on payment of daily licence fee, on such rates as notified by the Excise Commissioner with prior sanction of the Government, for a maximum period of 14 days at one stretch or the date of regular settlement, whichever is earlier: Provided that the licensing authority shall not make interim settlement of the shop for more

that two times without taking permission of Excise Commissioner. The amount of daily licence fee so realized during the interim settlement shall be adjusted against the amount of licence fee at the time of regular settlement of the shop.

7. Amendment of Forums :-

In the said Rules for existing form FL 5B ad application form set out in column - I the forms set out in column - II shall be submitted namely: Column - I Existing Forms Column - II Forms hereinafter substituted Deleted Sd/ Pravin Kumar, Excise Commissioner, Uttar Pradesh.