

The Small Coins (Offences) Act, 1971

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Act 52 of 1971

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177.

Statement of Objects and Reasons.-For some time past, Government's attention has been drawn to the reports about inconvenience to the public caused by shortage of small coins. An analysis of the possible causes of this shortage has revealed that the main cause of this shortage has been the diversion from circulation of small coins in certain alloys for purposes of melting to take advantage of their metallic value which had risen beyond the face value of the coins. Government have taken various steps to increase the production of small coins in the Mints and to change the alloy of the coins now being minted such that there is no risk of their being diverted for melting whether now or in the future, but further depletion of the small coins in circulation through diversion of coins minted in earlier years had to be stopped. Having regard to the urgency of the matter, Government promulgated the Small Coins (Offences) Ordinance, 1971, on 22nd October, 1971 making melting of small coins and hoarding such coins with an intention of melting an offence in law which they were not previously. The present Bill is intended to replace the Small Coins (Offences) Ordinance, 1971. As the present shortage is expected to be only a temporary phenomenon, it is proposed that the enactment might have a validity period of three years only. Amending Act 49 of 1974-Statement of Objects and Reasons.-The Small Coins (Offences) Act, 1971 makes melting or destruction of small coins and hoarding of small coins for the purpose of melting or destruction thereof an offence in law for a period of three years from 11th December, 1971. While, of late, the acts of melting small coins have come down, its total disappearance in future cannot be assured. Price of metallic alloys, even of aluminium-magnesium, may behave erratically depending on the international demand and supply position. Inducement to melt coins is derived not only from the difference between the metallic value and the face value, but also from the prospective margin of profit in alternative uses to which the metal or its alloy can be put to. It is, therefore, considered desirable that the Small Coins (Offences) Act, 1971 may be made a permanent measure instead of being a temporary one as at present.² The present Bill seeks to achieve the above objectives. An Act to provide for the prevention

of melting or destruction of small coins, hoarding of small coins for the purpose of melting or destruction thereof, and for matters connected therewith or incidental thereto. Whereas acute shortage of small coins has been felt in the country and it is necessary, in the interests of the general public, to take steps to relieve such shortage; Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:

1. Short title and duration

(1) This Act may be called The Small Coins (Offences) Act, 1971. [- - -] [Sub-Section (2) omitted by Act 49 of 1974, Section 2 (w.e.f. 10.12.1974).]

2. Definitions

.In this Act, unless the context otherwise requires, (a) mint means a mint of the Government of India; (b) small coin means any coin of the value of less than one rupee, which is legal tender under the Indian Coinage Act, 1906 (3 of 1906).

3. Prohibition on melting or destruction of small coins

(1) No person shall (a) melt or destroy any small coin, or (b) have in his possession, custody or control (i) any melted coin, whether in the molten state or in a solid state, or (ii) any small coin in a destroyed or mutilated state, or (iii) small coins substantially in excess of his reasonable requirements in such circumstances as to indicate that he is having the possession, custody or control of such small coins for the purpose of melting or destroying such small coins. Explanation. For the purpose of determining the reasonable requirements of small coins of a person, due regard shall be had to (i) his total daily requirements of small coins, (ii) the nature of his business, occupation or profession, (iii) the mode of his acquisition of small coins, and (iv) the manner in which, and the place at which, such small coins are being possessed, held or controlled by him. (2) Whoever is found to be in the possession of any metal, which contains alloys in the same proportions in which they have been used in the manufacture of any small coin, shall be presumed, until the contrary is proved, to have contravened the provisions of sub-section (1). (3) Nothing contained in sub-section (1) or sub-section (2) shall apply to the mint.

4. Penalty for contravention of section 3

.Whoever contravenes any provision of sub-section (1) of section 3 without any reasonable excuse, the burden of proving of which shall lie on such person, shall be punishable with imprisonment for a term of not less than three months but not more than five years.

5. Offences by companies

(1) Where an offence against this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the

conduct of its business, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any person liable to punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence, has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. For the purposes of this section, (a) company means any body corporate and includes a firm, society or other association of individuals; and (b) director, (i) in relation to a firm, means a partner in the firm, (ii) in relation to a society or other association of individuals, means the person who is entrusted, under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

6. Offences to be cognizable, bailable and not compoundable

.Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), offences against this Act shall be cognizable and bailable but shall not be compoundable.

7. Offences may be tried summarily

.Notwithstanding anything contained in section 260 of the [Code of Criminal Procedure, 1898 (5 of 1898)] [Now see the Code of Criminal Procedure, 1973 (2 of 1974).], offences against this Act may be tried summarily by a Presidency Magistrate or a Magistrate of the first class.

8. Forfeiture

.Any small coin or metal in relation to which any offence against this Act has been committed shall be forfeited to Government.

9. Provisions of Act 20 of 1958 not to apply to offences under this Act

.Nothing in the Probation of Offenders Act, 1958 (20 of 1958) shall apply to any offence against this Act.

10. Repeal

.The Small Coins (Offences) Ordinance, 1971, is hereby repealed.