

The Orissa Excise (Exclusive Privilege) Rules, 1970

ODISHA

India

The Orissa Excise (Exclusive Privilege) Rules, 1970

Rule THE-ORISSA-EXCISE-EXCLUSIVE-PRIVILEGE-RULES-1970 of 1970

- Published on 21 December 1970
- Commenced on 21 December 1970
- [This is the version of this document from 21 December 1970.]
- [Note: The original publication document is not available and this content could not be verified.]

The Orissa Excise (Exclusive Privilege) Rules, 1970 Published vide Notification No. S.R.O. 19/70, dated 21st December, 1970, Orissa Gazette Extraordinary No. 1704/23.12.1970 Notification No. S.R.O. 19/70, dated the 21st December, 1970. - Whereas the State Government consider that the following rules should be brought into force at once; Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 89 of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act 2 of 1915) read with proviso to Sub-section (3) of the said section and in supersession of the Orissa Excise (Exclusive Privilege) Rules, 1970 published in this Department Notification No. S. R. O. 610/70, dated the 22nd July, 1970 (vide Orissa Gazette Extraordinary No. 875, dated July 22nd 1970), the State Government do hereby make the following rules, namely :

1. Short title, extent and commencement.

(1) These rules may be called the Orissa Excise (Exclusive Privilege) Rules, 1970. (2) They shall extend to all the areas in the State where the Bihar and Orissa Excise Act, 1915 is in force. (3) They shall come into force at once.

2. Definitions.

- In these rules unless the context otherwise requires-(i) "Act" means the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act 2 of 1915); (ii) "Commissioner" means the Excise Commissioner; (iii) "District" means a district as defined in the Orissa Revenue Administration (Units) Act, 1968; (iv) "Section" means a section of the Act; (v) words and expressions used but not defined in these rules shall have the same meaning as respectively assigned to them in the Act.

3. Public notice and inviting objections.

- A public notice as required by the proviso to Sub-section (1) of Section 22 of the Bihar and Orissa Excise Act, 1915 shall be given by the Collector on behalf of the State Government in Form 'A' appended below and in the manner specified in the Sub-rules (2), (3), (4), (5) and (6) of this rule before granting any exclusive privilege mentioned in Section 22 of the Act.

Form 'A' Public Notice

Whereas the State Government intend to grant exclusive privilege of (name of the intoxicant) at (name of the locality) within the local area mentioned before against each of the period of the grant (from)to..... objections, if any, by any person residing within the said local area, are invited by...(date). The objections, if any, shall be addressed to the undersigned and shall reach him on or before the aforesaid date. Any objection received after the said date will not be taken into consideration.

Collector.....(District){||-| Kind of exclusive privilege| Locality at which the privilege is to be exercised| Local area|-| (1)| (2)| (3)|-|||}{(2)}

The public notice to be issued in Sub-rule (1) shall contain a list of police station limits, grama panchayats, municipal wards, wards of Notified Area Council or village(s) as may be convenient in each case, so as to indicate the local area within which the exclusive privilege is proposed to be granted.

(3) A copy of the public notice shall be conspicuously affixed in the locality at which the exclusive privilege is proposed to be granted.

(4) The contents of the public notice may also be proclaimed by beat of drums or by such other means as may be found convenient.

(5) An extract of the public notice shall be sent to the Chairman of each Municipality, Chairman of each Notified Area Council or Chairman of each Panchayat Samiti reproducing so much of the aforesaid list as relates to his jurisdiction.

(6) An extract of the public notice shall be sent to the Commanding Officer of each of the Cantonments reproducing so much of the aforesaid list as relates to manufacture and or retail sale of country liquor in the area within the limits of the Cantonment.

3A. [[Inserted vide SRO. No 214/2005 dated 29.3.2005, OGE No. 571 dated 6.4.2005]

Notwithstanding anything contained in Rule 3, the Collector of the district shall fix the local area of the Country Spirit shop coterminus with the location of the shop.]

4. Consideration of objections and final decision.

- All objections which are received within the date specified in the public notice issued under Rule 3 shall be considered by the Collector and submitted to Government through the Excise Commissioner for final order along with the list of localities and local areas prescribed for the exercise of exclusive privilege. On receipt of the final order of the State Government, the Collector shall proceed with the settlement of the privileges in the manner as may be specified by the State Government under Sub-section (2) of Section 29 of the Act.

5. Application of other rules.

- The provisions of the Orissa Excise Rules, 1965 shall, so far as they are in consonance with and not inconsistent with these rules, apply to grant of licence and exercise of exclusive privilege under these rules.

6. Payment of consideration money.

- 1[(1) The consideration money determined in respect of exclusive privileges for -(i) manufacture and retail sale of country liquor;(ii) retail sale of country liquor;(iii) retail sale of any intoxicating drug whether by auction of tender or otherwise shall be paid in the manner specified below. Consideration money for two months or for a longer period not exceeding six months as may be specified in each case by the Collector, shall be paid in advance. In addition to the advance, one month's consideration money shall be paid on the date on which the currency of the licence begins and one month's consideration money on the first day of every succeeding month until the total consideration money due for the exclusive privilege has been realised. The Collector may, if he considers necessary, insist upon Bank Guarantee from any bidder whether from outside or inside the State, up to the extent of the consideration money and the duty for the minimum guaranteed quantity for the entire year (2) Any advances remaining unadjusted at the close of the financial year, will be refunded to the exclusive privilege-holder.

6A. Minimum guaranteed quantity of country spirit.

- [(1) 'Minimum Guaranteed Quantity' means the minimum guaranteed quantity of country spirit for the year as accepted by the Collector, that should be guaranteed by the successful tenderer/bidder to be lifted and transported by him from the distillery, warehouse or depot as allotted by the Department, from time to time for retail sale in the notified shop. Every successful bidder of country spirit shop shall, before obtaining licences, guarantee the sale of the minimum guaranteed quantity of country spirit as fixed by the Collector. The bidder shall, before obtaining licences submit monthly distribution statement to the concerned Collector. The licensee before the 30th June, may revise and re-submit the monthly distribution statement for the portion of the Excise Year from August to March. The Collector shall be competent to revise and approve such revised statement.] [Substituted vide Orissa Gazette Extraordinary No. 472/28.3.1989-SRO No. 215/89/2.3.1989.] [* * *] [Deleted vide Orissa Gazette Extraordinary No. 472/28.3.1989-SRO No. 215/89/2.3.1989.](2) The licensee shall lift the monthly minimum guaranteed quantity approved for that month before 5.00 p.m. on the last working day of that month. The right to lift the monthly minimum guaranteed quantity approved for that month and left unlifted, if any, by 5.00 p. m. on the last working day of the month shall be forfeited, unless specially permitted to be lifted in the subsequent month or months by the Collector : Provided that -(i) the Collector, may for any special reasons, permit the licensee to lift the short drawn minimum guaranteed quantity of the previous month in the succeeding month except for the months of February and March. The Collector shall however obtain the orders of the Commissioner of Excise in case of default and for any special reasons if the period exceeds over one month; (ii) the Commissioner, may, wherever if he deems it necessary, permit the licensee to lift the short drawn minimum guaranteed quantity of any month

other than the month of March in any subsequent month or months;(iii)no unlifted quantity of the country spirit shall be permitted to be lifted beyond the last day of February.(3)Subject to provisions of Sub-rule (1) no licensee shall lift less than the specified minimum guaranteed quantity of country spirit in any month. The excise duty of country spirit for the month as approved in the distribution statement under Sub-section (1) shall be remitted in two equal instalments by the licensee into the Government Treasury of the District in which the shop is situated. The first instalment shall be remitted by fifth of the month and the second instalment by fifteenth of that month. Where due date or subsequent day happens to be a holiday, the instalment shall be remitted on the next working day. If in any month, the first or second instalment of the excise duty of country spirit for that month is not remitted as required above, the excise duty to the extent of deficit payment without prejudice to any other mode of recovery shall be deducted first from the Bank Guarantee, if any, and the balance from the advance deposits furnished or paid under Rule 6 and the licensee shall be called upon to indemnify the amounts so adjusted in the case of first instalment by fifteenth of that month and in the case of second instalment by twenty-fifth of that month in which deficit payment of instalment of excise duty had occurred.(4)Where a licensee fails to indemnify the advance amount adjusted under Sub-rule (3) in the case of first instalment of fifteenth of that month and in the case of second instalment by twenty-fifth of that month the licence is liable for cancellation and the right acquired by the defaulting licensee shall be liable for re-disposal subject to provisions of Sub-section (1) of Section 22 of the Act.(5)The licensee shall sell in retail the entire minimum guaranteed quantity of country spirit for the Excise Year before the expiry of the term of the licence. Any balance of country spirit found outstanding and unsold at the expiry of the previous year's licence shall stand forfeited to the Government. The Collector may permit the succeeding licensee to take over the forfeited quantity of country spirit after payment of the excise duty and cost therefor and adjust it against the Minimum guaranteed quantity of the country spirit guaranteed by the succeeding licensee.(6)The licensee shall have no claim for damages or for remission of consideration money in the case of delayed supply or non-supply of country spirit in a particular month which has been subsequently drawn by the licensee in the succeeding months.

6B. Sanction of additional quantity of country spirit.

- [The licensee shall be allowed to lift additional quantity required by the licensee over and above the minimum guaranteed quantity on payment of excise duty by the same way, as he lifts the minimum guaranteed quantity.] [Inserted vide Orissa Gazette Extraordinary No. 1540/2.11.1989-SRO No. 705/89/3.10.1989.]

6C. [Minimum guaranteed quantity of Mahua flower. [Inserted vide Orissa Gazette Extraordinary No.430/25.3.1992-SRO No. 337/92/20.3.1992.]

(1)Every successful bidder of outstill shop shall before obtaining licences (a) guarantee the utilisation of the minimum guaranteed quantity of Mahua flower as fixed by the Collector, and (b) shall submit monthly distribution statement of minimum guaranteed quantity to the concerned Collector.(2)The licensee may, before the 30th June of any year may revise and re-submit the monthly distribution statement for the portion of the Excise Year from August to March and the Collector shall be competent to revise and approve such revised statement.(3)The licensee shall

utilise the monthly minimum guaranteed quantity approved for that month before 6.00 p. m. on the last working day of that month. The right to utilise the monthly minimum guaranteed quantity approved for that month and not utilised by 5.00 a. m. on the last working day of the month shall be forfeited, unless specially permitted to be utilised in the subsequent month or months by the appropriate authority as empowered hereunder : (i) The Collector may, for any Special reasons, permit the licensee to utilise the short-fall in the minimum guaranteed quantity of the previous month in the succeeding month except for the months of February and March. The Collector shall, however obtain the orders of the Commissioner of Excise in case of default and for any special cases if the period exceeds over one month. (ii) The Commissioner of Excise may, wherever he deems it necessary, permit the licensee to utilise the unutilised minimum guaranteed quantity of any month, other than the month of March in any subsequent month or months. (iii) Permission to utilise the unutilised minimum guaranteed quantity of Mahua flower shall not be given beyond the last day of February. (4) Subject to provisions of Sub-rule (2), no licensee shall utilise less than the specified minimum guaranteed quantity of Mahua flower in any month. The pass fee of Mahua flower as provided in Rule 6 of the Board's Excise (Fixation of Fees on Mahua Flower) Rules, 1976 for the quantity of Mahua flower as approved in the distribution statement for the month shall be remitted in two equal instalments by the licensee into the Government Treasury of the district in which the shop is situated. The first instalment shall be remitted by fifth of the month and the second instalment by fifteenth of that month. Where the due date or subsequent day happens to be a holiday, the instalment shall be remitted on the next working day. If, in any first or second instalment of the pass fee for that month is not remitted as required above, the pass fee to the extent of deficit payment without prejudice to any other mode of recovery, shall be deducted first from the Bank Guarantee, if any, and the balance from the advance deposits furnished or paid under Rule 6 and the licensee shall be called upon to indemnify the amounts so adjusted in the case of first instalment by fifteenth of that month and in the case of second instalment by twenty-fifth of that month in which deficit payment of instalment of pass fee had occurred. (5) Where a licensee fails to indemnify the advance amount adjusted under Sub-rule (4) in the case of first instalment of fifteenth of that month and in the case of second instalment by twenty-fifth of that month, the licence shall be liable for cancellation and the right acquired by the defaulting licensee shall be liable for re-disposal subject to provisions of Sub-section (1) of Section 22 of the Act. (6) The licensee shall utilise the entire minimum guaranteed quantity of Manua flower for the Excise Year before the expiry of the term of the licence. Any balance of Mahua flower found outstanding and unutilised after the expiry of the previous year's licence shall stand forfeited to the Government. Collector may permit the succeeding licensee to take over the forfeited quantity of Mahua flower after payment of the pass fee and adjust it against the minimum guaranteed quantity of the Mahua flower guaranteed by the succeeding licensee. (7) The licensee shall have no claim for damage or for remission of consideration money in the case of non-availability of Mahua flower in a particular month which has been subsequently purchased by the licensee in the succeeding month or months. For sanction of additional quantity of Mahua flower, the licensee shall be allowed to utilise additional quantity required by the licensee over and above the minimum guaranteed quantity, on payment of pass fee, by the same way as he utilises the minimum guaranteed quantity. Explanation - For the purposes of Rules 6-C and 6-D, the expression "minimum guaranteed quantity of Mahua flower" means the minimum guaranteed quantity of Mahua flower to be utilised in each outstill shop for the year which is to be guaranteed by the successful tenderer or bidder.]

6D. [Minimum Guaranteed Quantity on Molasses. [Inserted vide SRO. No 214/2005 dated 29.3.2005, OGE No. 571 dated 6.4.2005]

- The minimum guaranteed quantity for lifting and utilisation of molasses by the distilleries for production of spirit shall be fixed on the basis of highest quantity of molasses lifted and utilised in the last three years.]

7. Consideration money for distillery.

- The consideration money payable for an exclusive privilege to manufacture spirit in a distillery for supply of country spirit therefrom shall be as may be fixed by the State Government and the same shall be paid in advance prior to issue of the licence and no consideration money shall be payable for supply of country spirit to licensed shops from any warehouse and/or any duty paid depot under the distillery.

8. Repeal and savings.

(1) Any order made or action taken or things done under the previous rules, superseded by these rules, shall be deemed to have been made, taken or done under these rules. (2) Notwithstanding such supersession any appeal or any petition for revision pending before the Board or the Commissioner, the Collector or the Additional District Magistrate in respect of or under the said rules so superseded shall be disposed of by the respective authorities as if these rules had not been made.