

Haryana Imposition and Recovery of Penalty Rules, 2003

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Rule

HARYANA-IMPOSITION-AND-RECOVERY-OF-PENALTY-RULES-2003 of 2003

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Haryana Imposition and Recovery of Penalty Rules, 2003 Haryana Government Excise and Taxation Department, Notification, dated The 31st December, 2003 No. S.O. 154/P.A. 1/1914/S.59/2003. - In exercise of the powers conferred by section 59 of the Punjab Excise Act, 1914 (Punjab Act 1 of 1914), and all other powers enabling me in this behalf, read with Haryana Government, Excise and Taxation Department, notification No. S.O. 64/P.A. 1/14/S. 9/2003, dated the 21st April, 2003, issued under section 9 of the said Act, I, S.N. Roy, Excise Commissioner, Haryana, hereby make the following rules regulating the time, place and manner of imposition and recovery of penalty, namely :-

1. Short title.

- These rules may be called Haryana Imposition and Recovery of Penalty Rules, 2003.

2. Definitions.

- In these rules, unless there is anything repugnant in the subject or context,-(a)"Act" means the Punjab Excise Act, 1914 (1 of 1914);(b)"authorised agent" means a person duly authorized by written authority under the hand of his principal to act on his behalf;(c)"Collector" means an officer appointed under the Act for discharge of functions of a Collector under the Act;(d)"Form" means a form appended to these rules;(e)"penalty" means the penalty imposed under clause (i) of sub-section (1) of section 61 of the Act;(f)"premises" includes any building, part of any building, land, godown, out houses, gardens, lawns or wells;(g)"section" means the section of the Act;(h)"means of transport" means mode of transportation as mentioned under section 78 of the Act;(i) Words and expressions used in these rules but not defined, shall have the meanings

respectively assigned to them in the Act.

3. Detention of offender, liquor and means of transport [Section 59].

- The excise officer shall detain the offender, liquor, means of transport, if any, imported, exported, or possessed in contravention of clause (aaa) of sub-section (i) of section 61 of the Act, and shall prepare a seizer memo.

4. Forwarding of liquor and means of transport to collector [Section 59].

- The Excise Officer shall forward the liquor and the means of transport, if any, along with the necessary documents to the Collector within twenty four hours of such detention.

5. Notice to offender [Section 59].

- On receipt of reference, the Collector shall serve on the offender or persons concerned, who committed an offence including the owner or occupier of any premises and owner of a vehicle where from such liquor has been found, a notice in Form I, requiring him or them of a date (not later than seven days of issuance of notice) and at a place to be specified therein, either to attend in person or through an authorized agent to produce or to a cause to be produced any evidence on which such person or persons may rely in his or their support.

6. Determination of amount of penalty [Section 59].

- The Collector, after taking such evidence as the person may produce and after making such enquiry, as he may deem proper, on being convinced and satisfied that offence was committed under the Act, shall determine the amount of penalty recoverable from the offender or person concerned. Collector shall pass order for confiscation of liquor under section 78.

7. Release of offender [Section 59].

- The offender may be released by the Collector on his furnishing sureties/securities to the satisfaction of the Collector. However, if the offender is willing to pay the amount of penalty to be determined by the Collector, the offender shall be released immediately on realization of such amount of penalty. In case offender fails to disclose his true identity and furnish surety/security, as may be determined by the Collector, then Collector may refer such case(s) to court having jurisdiction for trial.

8. Trial of case [Section 59].

- In case the Collector refers the case to the court for trial, he may direct the Excise Officer to submit a report to the court having jurisdiction to enquire into or try the case as required under clause (ii) of sub-section (1) of section 61 of the Act.

9. Ex parte proceedings [Section 59].

- If the person fails to attend in response to the notices served under rule 5, the Collector shall proceed ex parte and determine the amount of penalty to the best of his judgment.

10. Payment of amount of penalty into Government treasury [Section 59].

- Notice in Form 2 shall be issued by the Collector directing the person concerned to pay into Government treasury the full amount of the penalty due from him and to furnish a copy of receipt of challan, showing the payment of such amount. The date for payment to be so specified in the notice shall be not more than thirty days from the date of service of such notice :Provided that the Collector may extend the date of such payment, for reasons to be recorded in writing :Provided further that when a person aggrieved has presented an appeal under section 61-A of the Act, the Collector may, in his discretion, treat such person as not being in default so long as the appeal remains pending.

11. Discharge of liability [Section 59].

- A person making payment in compliance with a notice issued under rule 10 of these rules shall be deemed to have made the payment and the challan from the Government treasury shall constitute a good and sufficient discharge of the liability of such person.

12. Recovery of penalty [Section 59].

- The amount of penalty which remains unpaid after the date specified in the notice issued under rule 10 of these rules or on the expiry of the date extended subsequently, shall be recoverable by auction, arrest or attachment of the property of the persons from whom the same are due or as an arrears of land revenue.

13. Confiscation of means of transport [Section 59].

- In addition to the above modes of recovery, the Collector may also confiscate the means of transport used in the commission of the offence and the liquor. The Collector shall put to auction the confiscated means of transport and the amount received from such auction shall be adjusted towards the payment of penalty after deducting the expenditure incurred during the process of auction. The excess amount from auction, if any, shall be refunded to the owner of the means of transport. The confiscated liquor shall be destroyed under the supervision of the Deputy Excise and Taxation Commissioner.

14. Appeal [Section 59].

- Any person aggrieved by the order of the Collector may, within thirty days from the date of such order, prefer an appeal to the Excise Commissioner against such order. The memorandum of appeal shall be signed by the appellant or his authorized agent and may be presented in person or by his

authorized agent, before the appellate authority.

15. Verification of Pleadings [Section 59].

- Save as otherwise provided by any law for the time being in force, every pleading shall be verified at the foot by the party or by one of the parties pleading or by some other person who is acquainted with the facts of the case to the satisfaction of the appellate authority.

16. Reference to Pleadings [Section 59].

- The person verifying the pleadings shall specify by reference to the numbered paragraphs of the pleading what he verifies of his own knowledge and what he verifies upon information received and believed to be true. The verification shall be signed by the person making it and shall state the date and place at which it was signed.

17. Rejection of appeal [Section 59].

- If the appeal is not preferred in time or the memorandum is not prepared in accordance with the provisions of these rules, the appellate authority may reject the appeal summarily.

18. Grounds of rejection [Section 59].

- The appeal may also be summarily rejected on other grounds, which shall be recorded in writing by the appellate authority :Provided that before an order rejecting an appeal is passed the appellant shall be provided a reasonable opportunity of being heard.

19. Enquiry by Collector [Section 59].

- The appellate authority may, before disposing of any appeal, make such further enquiry as it may think fit or cause further enquiry to be made by the Collector.

20. Reasonable opportunity [Section 59].

- If the order is likely to affect any person other than the appellant adversely, that other person shall also be given a reasonable opportunity of being heard before passing such an order.

21. Dismissal of appeal [Section 59].

- If on the date fixed for hearing or on any other date to which the hearing may be adjourned, the appellant does not appear either in person or by his authorized agent when the appeal is called on for hearing, the Excise Commissioner may dismiss the appeal or may decide it on merits and pass the order as deem fit.

22. Passing of order [Section 59].

- After hearing of an appeal, the Excise Commissioner shall pass the order in writing. A copy of the order shall be sent to the appellant and the Collector by registered post. Form No. 1 (See rule 5) Before Sh. _____ Collector (X) _____ Notice under Rule 5 To Shri _____ s/o Shri _____

_____ Village _____ Post Office
_____ Tehsil _____ District

Whereas it is alleged that _____ bottle/cases of liquor in vehicle No. _____/Residence No. _____ has been or was being imported, exported, transported or possessed by you in contravention of the provisions of Section 61 (1) of the Punjab Excise Act, 1914, you are hereby directed to appear before the undersigned in person or through authorized agent on or before the _____ day of _____ 2003 at _____ O'clock in the fore/afternoon. To answer the allegations the date is fixed for your appearance for the final disposal of the case. You must produce on that day all witnesses upon whose evidence and all the records and documents upon which you rely in support of your evidence. Take notice that in case of default of your appearance on the said day and time above mentioned, the case will be decided ex parte on merits. Given under my hand and the seal of the office this the _____ day of _____ 2003. Office Seal. Place _____ Signature _____ Date _____ Form No. 2 (See rule 10) Notice under Rule 10 To Shri _____ s/o Shri _____

_____ Village _____ Post Office
_____ Tehsil _____ District

1. Take notice that a sum of Rs. _____ has been determined as the penalty payable by you under the Punjab Excise Act, 1914 (1 of 1914).

2. You are required to pay the above amount into the Government treasury at _____ under the head " _____ " on or before _____ and to produce necessary receipted copy of challan in proof of payment before the undersigned not later than _____ failing which the said sum of Rs. _____ will be recovered from you as an arrear of land revenue.

3. If you are dissatisfied with my order you may present an appeal to the Excise Commissioner within thirty days from the date of receipt by you of the said order.

Office Seal. Place _____ Signature _____ Date _____