

The Punjab Local Option Act, 1923

PUNJAB

India

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Act 5 of 1923

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The Punjab Local Option Act, 1923 Punjab Act No. 5 of 1923 Statement of Objects and Reasons. - The object of this Bill is to give effect to resolution passed in the Legislative Council on March 18, 1921, to the effect that principle of local option, exercisable by Municipalities and District Boards, be applied as far as practicable to the sale of intoxicating liquors in the Province at an early stage. Published vide Punjab Government Gazette, 1923 Part I. Received the assent of the Governor of the Punjab on the 3rd November, 1923, and that of Governor-General on the 2nd December 1923, and was first published in the Punjab Gazette of the 21st December, 1923. An to provide for restriction on the sale of intoxicating liquor according to the wishes of local bodies. Whereas it is desirable to enable local bodies to restrict the sale of intoxicating liquor within certain areas; and whereas the previous sanction of the Governor-General under sub-section (3) of section 80-A of the Government of India Act has been obtained; It is hereby enacted as follows :-

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Punjab Local Option Act, 1923. (2) It extends to [Punjab.] [Vide Adaptation of Laws Order, 1950.] (3) [It shall come into force] [Vide Adaptation of Laws Order, 1950.] on date as the State Government may by notification appoint in this behalf.

2. Definitions.

- In this Act unless there is anything repugnant in the subject or context- (1) "Liquor" has the meaning assigned to it in the Punjab Excise Act, 1914 (1 of 1914). (2) "Foreign liquor" means -(a) all liquor imported by sea into [the whole of India except Part B States other than rectified spirit, denatured spirit and perfumed spirit] [Substituted for the word 'Province' by the Adaptation of Laws

Order, 1950.];(b)all beer manufactured in India.(3)"Local body" means a district board established under the Punjab District Boards Act, 1883 (20 of 1883) or a municipal committee or notified area committee established or appointed under the Punjab Municipal Act, 1911 (III of 1911), or a small town committee established under the Punjab Small Towns Act, 1921 (II of 1922).(4)"Empowered local body" means a local body concerning which a declaration has been made under section 3 that it may exercise the powers therein specified.(5)"Sale" includes any transfer other than by way of gift.(6)"Licensed shop" means the business premises of a person licensed to sell liquor by retail under the Punjab Excise Act, 1914 (1 of 1914), as specified in the licence, but does not include any of the following places in which only foreign liquor is sold, namely :-(i)a club,(ii)a hotel,(iii)a restaurant bar,(iv)a railway refreshment room except that kept for Hindus and Muhammadans,(v)a railway restaurant car.(7)"Local area" means the area over which a local body has authority.

3. Application by local body for extension of the Act.

- The [State] [Substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.] Government shall, on the application of a local body, within a period not exceeding three months from the date of such application, declare by notification that such local body may exercise the powers conferred under sections 4, 5 and 8.

Chapter II

Powers of an empowered Local Body

4. Restriction on the number of liquor shops in a local area.

(1)An empowered local body may from time to time by resolution passed in accordance with its rules of business prescribe the maximum number of licensed shops at which liquor may be sold within its local area.(2)Such number shall be not less, in the case of a municipal committee, than one-third, and in any other case, than one-half of the total number of shops licensed by the Collector for the retail vend of liquor on 31st March, 1923, within the limits of such local area.(3)Such resolution shall take effect from the 1st day of April in the year next following the date on which it was passed.

5. Referendum

. - (1) An empowered local body may by resolution passed from time to time in accordance with its rules of business -(a)prescribe a maximum number, which may be less than the proportion prescribed in sub-section (2) of section 4, of licensed shops at which liquor may be sold within its local area; or(b)direct that liquor may not be sold at any licensed shop within such local area:Provided that no such resolution shall have effect under this Act until it has been submitted by way of referendum to the registered electors of such empowered local body, and has been confirmed by a two-thirds majority of the total number of such electors.(2)When a resolution has been confirmed under sub-section (1) it shall take effect from the 1st day of April of the year next following the date of such confirmation and shall thereafter remain in force, provided that any time such empowered local body may by further resolution declare that such resolution shall cease to

have effect upon the 1st day of April in the year next following the date of such further resolution, and such resolution shall accordingly cease to have effect from such date.

6. Resolution of empowered local bodies to be binding on Collectors.

- Notwithstanding anything contained in the Punjab Excise Act, 1914, and the rules made thereunder with regard to the powers and functions of the Collector under the said Act a resolution passed under section 4 or passed and confirmed under section 5 shall be binding upon the Collector of the District in which the local area concerned is situated: Provided that if the Collector is of opinion for reasons to be recorded in writing that within such local area illicit distillation or smuggling of alcohol has been carried on or connived at, within the two years preceding the date of the passing of such resolution, by any of the residents of such local area, such resolution shall not be binding upon him unless the Commissioner orders that it shall be so binding.

Chapter III

Power to make Rules

7. Powers of the State Government.

- The State Government may make [rules regulating the procedure for holding a referendum under section 5.] [For rules see Notification No. 17133, dated 5th July, 1924, Punjab Gazette, 1924, Part I, page 552.]

8. Power of local bodies.

- An empowered local body may make rules prescribing-(a)the portions of its local area in which licensed shops may be situated;(b)the hours during which liquor may be sold at such shops;(c)the minimum age, which shall not exceed 18 years, of the persons who may be served with liquor at such shops.

Chapter IV

Foreign Liquor

9. Special provisions concerning foreign liquor.

- Except as hereinafter provided, the provisions of this Act shall not apply to the sale of foreign liquor, but when an empowered local body has prescribed a maximum number of licensed shops under section 4 or section 5 or has prohibited the sale of liquor under section 5, and the [State] [Substituted for the word 'Provincial' by Adaptation of Laws Order, 1950.] Government is satisfied that the object of such prescription or prohibition is being evaded by the sale of foreign liquor in the local area concerned, the State Government shall by rule made under section 58 of the Punjab Excise Act, 1914, prohibit the Collector from granting a licence for the sale of foreign liquor in the

said local area except in accordance with the terms of such resolutions as such empowered local body may have passed or may pass in respect of country liquor, or with the special sanction of the State Govt.

Chapter V

General

10. Penalties.

- Any person who commits a breach of any rule made under section 8 shall be punishable with a fine which may extend to one hundred rupees.

11. Saving of the provisions of the Punjab Excise Act, 1914.

- Subject to the provisions of this Act the provisions of the Punjab Excise Act, 1914 (1 of 1914) and the rules made thereunder, shall have full force and effect in the local areas of all empowered local bodies.