

The Jammu and Kashmir Entertainments Duty Act, 1959

JAMMU & KASHMIR

India

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Act 28 of 1959

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The Jammu and Kashmir Entertainments Duty Act, 1959 Act No. 28 of 1959 [Received the assent of the Sadr-i-Riyasat on 29th December, 1959 and Published in Government Gazette dated 8th January, 1960.] An Act to provide for the levy of an Entertainment Duty in respect of admission to Public Entertainments. Be it enacted by the Jammu and Kashmir State Legislature in the Tenth year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Jammu and Kashmir Entertainments Duty Act, 1959. (2) It shall extend to the whole of the Jammu and Kashmir State. (3) [It shall come into force on such day as the Government may, by notification in the Government Gazette, appoint in this behalf.] [Unforced on 1st April, 1960 by Notification No. 6-E/60 dated 19th March, 1960.]

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "Admission to an entertainment" includes admission to any place in which the entertainment is being held or is to be held; (b) ["Commissioner" means any person appointed by the Government to exercise the functions of the Commissioner under this Act;] [Clause (b) substituted by Act XI of 1960.] (c) "Entertainment Tax Officer" means the officer appointed as such under this Act; (d) ["Entertainment" includes- [Clause (d) substituted by Act XI of 1999, Section 18, w.e.f. 29-02-2000.] (i) per any exhibition, performance, amusement, game, sport or race to which persons are ordinarily admitted on payment; and (ii) Satellite Cable T.V. Programmes for which connections are ordinarily provided to individuals or groups on payment,] (e) "Payment for admission" includes :- (i) any payment made by a person admitted to any part of a place of entertainment and in a case where such a person is subsequently admitted to another part thereof, for admission to which an additional payment is required, such

additional payment whether actually made or not;(ii)in case of free, surreptitious, unauthorised or concessional entry, the payment which would have been made if the person concerned had been admitted on payment of the full charge, ordinarily chargeable, according to the assessment of the authority prescribed ;(iii)any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment;(f)"Prescribed" means prescribed by rules made under this Act;(g)"Proprietor" in relation to any entertainment includes the owner, partner or a person responsible for the management thereof;(h)"Ticket" means a pass, token or badge for the purpose of securing admission to an entertainment.

3. Duty on payment for admission to entertainment.

- [(1) (a) A person admitted to an entertainment shall be liable to pay an entertainment duty at a rate, not exceeding [100%] [Sub-section (1) renumbered as clause (a) and thereafter clause (b) inserted by Act XI of 1999, Section 19, w.e.f. 29-02-2000.] of the payment for admission which the Government may specify, by notification in this behalf, and the said duty shall be collected by the proprietor and rendered to the Government in the manner prescribed:[Provided that the Government may specify different rates of duty for different classes of seats in a place of entertainment on the basis of the value of the tickets of admission subject to the maximum specified in this sub-section.] [Proviso to sub-section (1) added by Act XIII of 1969.](b)A person taking Satellite Cable T.V. Connection from the Cable net work operator will be liable to pay Entertainment Duty at a rate which the Government may notify from time to time which duty shall be collected by the operator of the cable the network and rendered to the Government in the manner prescribed.](2)A draft of the proposed order specifying the rate of entertainments duty referred to in sub-section (1) shall be notified for the information of all persons likely to be affected thereby and the order shall take effect only after the Government has considered all objections received within a period of 30 days from the date of such publication and has notified the same again with or without modification:Provided that if the Government considers the case to be one of emergency, it will not be necessary to publish the draft order proof to its enforcement:Provided further that Government may impose an entertainment duty on [complimentary or concessional tickets] [Substituted by Act IV of 1975, Section 3.] at a rate different from that imposed on other kinds of payments for admission subject to the maximum specified in sub-section (1).(3)Until such time as the duty referred to in sub-sections (1) and (2) has been finally notified, the entertainments duty shall be levied at the rates in force in this behalf immediately before the commencement of this Act.

4. Payments made in consolidated sum.

- Where the payment for admission to an entertainment is made in a consolidated sum in the form of a subscription or contribution to any society or a season ticket, or a right of admission to an entertainment or series of entertainments during a specified period, or a privilege, right or facility combined with the right of admission without further payment or a reduced charge, the entertainments duty shall be paid on the amount of the consolidated sum but where the Entertainment Tax Officer is of the opinion that the payment of the consolidated sum or any payment for a ticket includes payment for other privileges, rights or facilities besides the admission

to an entertainment, or is intended to secure admission to an entertainment during a period when the duty has not been in operation, the duty shall be charged on such amounts as appears to the Entertainment tax Officer to represent the right of admission to entertainment for which a duty is payable.

5. [Deposits of security by the proprietor. [Section 5 substituted by Act XXV of 1972 with effect from 1st January, 1973.]

- The prescribed authority may, in the manner prescribed, require the proprietor of an entertainment to deposit into a Government Treasury or a Bank as security. For the payment of entertainment duty under this Act an amount not exceeding one thousand rupees in the case of regular entertainment and not exceeding two thousand rupees in the case of casual entertainments and on the requisition being so made the amount shall be so deposited.]

6. Entertainment Tax Officer and other Taxing Authorities.

- For carrying out the purpose of this Act, the Government may appoint a person as Entertainment Tax Officer and such other persons as it thinks fit to assist the Commissioner.

7. Posting of tables of rates of payments for admission at conspicuous places.

- The proprietor of an entertainment shall, in the manner prescribed, exhibit at the place of entertainment, the rates of payments for admission and the amount of entertainments duty payable on such rates.

8. Penalty for non-payment of duty.

(1) Except as otherwise provided in this act, no person shall enter an entertainment unless he is in possession of a ticket or a [complimentary or concessional ticket] [Substituted by Act IV of 1975, Section 4.] or a pass or badge supplied by the employer under this Act and no person liable to pay entertainments duty shall so enter without having paid, in the manner prescribed, the duty payable under this Act. (2) A person who enters an entertainment without due permission or surreptitiously, with intent to evade the duty payable under this Act, shall, on conviction by a Magistrate, be punishable with fine which may extend to rupees one hundred and in addition be liable to pay such duty.

9. Admission of persons without payment.

- Nothing in this Act shall apply to bona fide employees of the proprietor whose presence there is necessary' in the interest of the entertainment or to the proprietors.

9A. [Prohibition against resale of tickets. [Section 9-A inserted by Act XVII of 1964.]

(1)Notwithstanding anything contained in section 56 of the Jammu and Kashmir Easements Act, Samvat 1977, a ticket for admission to an entertainment shall not be resold for profit by the purchaser thereof.(2)Whoever resells any ticket for admission to an entertainment for profit shall be punishable with a fine not exceeding rupees two hundred.(3)The offence under this section shall be tried summarily notwithstanding anything contained in sub-section (2) of section 23.]

10. Entertainment duty.

(1)save as otherwise provided by this Act, no person shall be admitted on payment to any entertainment where the payment for admission is subject to entertainments except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not used before) issued by the Government for the purpose of revenue and denoting that the proper entertainments duty has been paid.(2)The Government may, on the application of the proprietor of any entertainment, in respect of which the entertainments duty is payable, permit the proprietor on such conditions as the Government may prescribe, to pay the entertainments duty-(a)by consolidated payment of a percentage not exceeding [75%] [Substituted by Act XIV of 1974, Section 11 for '50%'.] of the gross payment for admission to the entertainment at the rate in force during the period concerned; or(b)in accordance with the returns of the payments for admission to the entertainment; or(c)in accordance with the results recorded by mechanical contrivance that automatically registers the number of person admitted.

11. Entertainments and persons exempted from payment of Duty.

(1)No entertainments duty shall be levied on payment for admission to any entertainment where the Commissioner is satisfied on application made in this behalf in the prescribed manner that the whole of the net proceeds of the entertainment will be devoted to philanthropic, charitable, religious, educational or scientific purposes which have been approved as such by the Government.(2)Nothing in this Act shall apply to any entertainment provided by the staff, or students, or both, of academic institutions, when the proceeds as intended for academic or charitable purpose.(3)[The Government may, by notification in the Government Gazette, exempt any entertainment or class of entertainments or any class of persons from liability to pay duty under this Act.] [Sub-section (3) substituted by Act XXXV of 1963.](4)The shows which are of a purely causal nature and where the rate of tickets is below 12 N. P. are exempt from entertainment duty.

12. Powers of revision.

- The Commissioner, or such other officer, as the Government may, by notification, appoint in this behalf, may of his own motion or on application made, call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or orders and may pass such orders in reference thereto as he may

deem fit: Provided that an appeal shall lie within thirty days, to the Minister-in charge of the Department against the orders passed by the Commissioner or the officer appointed in this behalf by the Government whose orders shall be final.

13. Production and inspection of accounts and documents.

(1) The proprietor of an entertainment shall, on being required to do so by an officer authorised by the Government in this behalf, produce before any officer of the [entertainment Duty Department,] [Substituted by Act XI of 1996.] not below the rank of a Sub-Inspector, as may be prescribed, any account or documents, relevant to the sales of tickets including complimentary tickets and realisation of the entertainments duty due as may be necessary for the purpose of this Act. (2) If any officer of Government mentioned in sub-section (1) has reason to suspect that the proprietor of any entertainment is desiring to evade the payment of any entertainments duty due to from him under this Act, he may, for reasons to be recorded in writing and with the previous permission of gazetted officer of the Department, seize such account books, registers or documents in the custody of the proprietor, or held by any other person on his behalf and shall grant a receipt for the same and shall retain the same for such period as may be necessary for the examination thereof.

14. Entry into and inspection of place of entertainments.

(1) Any Officer, not below such rank as may be prescribed, may enter into, inspect and such any place of entertainment while the entertainment is proceeding at any reasonable time, for the purpose of ensuring that the provisions of this Act or any rules made thereunder are being complied with, and while doing so, such officer shall not be deemed to be person, admitted to the entertainment. (2) The proprietor of every entertainment shall give every reasonable assistance to the aforesaid officer in the performance of his duties under sub-section (1).

15. Offences and penalties.

(1) if the proprietor of an entertainment-(a) fraudulently evades the payment of any duty due under this Act, or (b) obstructs any officer making an inspection, a search or seizure under this act, or (c) acts in contravention, or fails to comply with, any of the provisions of this Act or the rules made thereunder; [he shall, on conviction, be liable in respect of each such offence to rigorous imprisonment which may extend to six months but shall not in any case be less than one month and a fine not exceeding [two thousand rupees] [Substituted by Act VI of 1976, Section 2.]. On a second conviction for the same offence the minimum sentence shall not be less than four months.](2) No Court shall take cognizance of an offence under this Act, or under the rules made thereunder except on a complaint made by person authorised in this behalf by the Government, and no court inferior to that of a [Judicial Magistrate] [Substituted by Act XL of 1966 for 'Magistrate'.] of of the first class shall try any of the offences under this Act.

16. Power to compound offences.

(1)The prescribed authority may, at any time accept from a person, accused of the commission of an offence under this Act, by way of composition of such offence, a sum of money no exceeding [one thousand rupees] [Substituted for 'two hundred and fifty rupees' by Act XI of (1999, Section 21) w.e.f. 29-02-2000.] or double the amount of duty payable under this Act, whichever is greater.(2)On payment of such sum of money as may be determined under sub-section (1), the prescribed authority shall, where necessary, report to the court, that the offence has been compounded and thereafter no further proceedings shall be taken against the offender in respect of the same offence and the said court shall acquit the accused.

17. Recoveries.

- Any sum under this Act shall be recoverable as arrears of land revenue.

18. Delegation of powers by the Government.

(1)The Government may delegate all or any of its powers under this Act except those conferred upon it by section 20 and this section, to any person or authority subordinate to it.(2)The exercise of any power delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions, if any, as may be laid down by the Government and shall also be subject to its control and superintendence.

19. Bar of certain proceedings.

- No action shall lie against Government or any of its officers or servants for any act done or purporting to be done in good faith under this Act.

20. Power to make rules.

(1)The Government may, [after previous publication,] [Inserted by Corrigendum (G.G dated 23-5-1961).] make rules generally for carrying out the provisions of this Act.(2)In particular and without prejudice to the generality of the foregoing power, it may make rules-(a)for the supply and use of stamped or stamped ticket if required in connection with levy of entertainments duty or for the stamps of tickets sent to be stamped, and for securing the defacement of stamps when used;(b)for the use of tickets covering the admission of more than one person and with the calculation of the duty thereon for the payment of the duty on the transfer from one part of a place of entertainment to another;(c)for controlling the use of mechanical contrivances including the prevention of the use of the same mechanical contrivances for payment of a different amount and for securing proper records of admission by means of mechanical contrivances;(d)for the checking of the admission, the keeping of accounts and furnishing of returns by the proprietors of entertainments in respect of which entertainments duty is payable in accordance with the provisions of this Act;(e)for renewal of damaged or spoiled stamps and for the procedure to be followed on

applications for refunds;(f)for the keeping of accounts of all stamps used under this Act;(g)for prescribing the form of a ticket, pass or token authorising admission to an entertainment;(h)for the presentation and disposal of applications for exemption from payment of the entertainments duty or for the refund thereof;(i)for the exemption from the entertainments duty on military personnel in uniforms and students ;(j)for the exemption from entertainments duty on students for the shows of purely educational purposes;(k)for the collection of entertainments duty under this Act and the powers to be exercised by the officers of Government in that behalf;(l)for assessment of payment for admission in case of free and concessional entries by prescribed authorities;(m)for specifying the authorities who would be competent to compound offences under section 15.

21. Repeal and savings.

(1)The Jammu and kashmir Entertainments Duty Act, Svt. 2004 (II of 2004) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken including any orders, notifications or rules made or issued in exercise of the powers conferred by or under the repealed Act shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act.