

The Orissa Excise (Exclusive Privilege) Foreign Liquor Rules, 1989

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Rule

THE-ORISSA-EXCISE-EXCLUSIVE-PRIVILEGE-FOREIGN-LIQUOR-RULES of 1989

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The Orissa Excise (Exclusive Privilege) Foreign Liquor Rules, 1989Published vide Notification Orissa Gazette Extraordinary No. 1184/14.8.1989-SRO No. 530/89/12.7.1989S.R.O. No. 530/89. - 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 the proviso to Sub-section (3) of the said section, the State Government do hereby make the following rules, namely:

1. Short title and commencement.

(1)These rules may be called the Orissa Excise (Exclusive Privilege) Foreign Liquor Rules, 1989.(2)They shall come into force on the date of their publication in the Official Gazette.

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, 1963;(iv)"Form" means a form appended to these rules;(v)"Section" means a section of the Act;(iv)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 objection.

- [(1) A public notice shall be issued by the Collector on behalf of the State Government in form and in the manner specified hereinafter before granting any exclusive privilege to one person for retail sale of foreign liquor giving 15 days time therein for receiving objections.] [Substituted vide Notification No. 1 Ex-23/05-Ex. dated 17.3.2006.](2)The public notice to be issued under Sub-rule (1) shall contain a list of police station limits, Grama Panchayats, Panchayat Samities, Municipal Wards, Wards of Notified Area Council or village(s) or such other area as may be convenient in each case so as to indicate the specified place within which the exclusive privilege is proposed to be granted.(3)A copy of the public notice shall be conspicuously affixed in the specified place at which the exclusive privilege is proposed to be granted.(4)The contents of the public notice may also be proclaimed by beat of drum or by such other means as may be found convenient.(5)An extract of the public notice shall be sent to the Chairman of the Municipality, Chairman of Notified Area Council, Chairman of Panchayat Samiti or Sarpanch of Grama Panchayat reproducing such portion of the aforesaid list which relates to their jurisdiction.(6)An extract of the public notice shall also be sent to the Commanding Officer of each of the cantonments reproducing such portion of the aforesaid list which relates to retail sale of foreign liquor in the specified place within the limits of such cantonment.

3A. [[Substituted vide O. G. E. No. 572 dated 6.4.2005, SRO No. 215/2005]

Notwithstanding anything contained in Rule 3, the Collector of the district shall fix the local area of the 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 Sub-rule (1) of Rule 3 shall be submitted to the Government through the Commissioner for their consideration and for orders alongwith the list of localities and local areas, if any, prescribed for the exercise of exclusive privilege. On receipt of the 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.[Provided that any objection received beyond the stipulated period given in the Public Notice as provided under Sub-rule (1) shall not be considered by the State Government] [Added vide Notification No. 1 Ex-23/05-Ex. dated 17.3.2006].

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 licence fee.

- [The sum payable under Sub-section (1) of Section 29 of the Act (hereinafter referred to as the consideration money) in consideration of the grant of exclusive privileges for retail sale of India made foreign liquor shall be paid in the manner specified below :The 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 and another 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 shall be paid on the 1st day of every succeeding month thereafter until the consideration money due for the total period of exclusive privilege has been realised.] [Substituted vide Orissa Gazette Extraordinary No. 537/23.4.1990-SRO No. 183/90/23.4.1990.]

6A. [Minimum guaranteed quantity of India-made foreign liquor. [Inserted vide O.G.E.No. 1468, S.R.O.No. 774/97, dated 29.11.1997.]

(1)(a)Every successful bidder of Foreign Liquor "OFF" shop/licensee of [IMFL/BEER] "ON" shop shall before obtaining licences, guarantee the sale of the minimum guaranteed quantity of Foreign Liquor as fixed by the Excise Commissioner. The bidder/licensee shall, before obtaining licence submit monthly distribution statement to the concerned Collector. The Licensee before the 30th June, may revise and resubmit 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. There shall be no further changes in the distribution statement so approved.](b)M.G.Q. in LPL [I.M.F.L. and BL on Beer] [Inserted vide O.G.E. No. 279 of 1998, SRO No. 83/1998.] and duty thereon will be fixed by the Excise Commissioner from time to time subject to approval of Government.(2)The licensee shall lift the monthly minimum guaranteed quality approved for the month before 5.00 p.m. on the last working day of that month. The right to lift the monthly minimum guaranteed quality 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 [* * *] [Deleted vide O.G.E. No. 279 of 1998, SRO No. 83/1998.] by the Collector :Provided that -(i)The Collector may for any special reasons permit the licensee to lift the short drawn minimum guaranteed quality of the previous month in the succeeding month except for obtaining the orders of the Commissioner of Excise in case of default and for any special reason if the period exceeds one month.(ii)The Commissioner, may, wherever if he deems it necessary permit the licensee to lift the short drawn minimum guaranteed quality of any month other than the month of March in any subsequent month or months.(iii)[No unlifted quantity of Foreign Liquor shall be permitted to be lifted beyond the last day of February except where the Commissioner may, for reasons to be recorded in writing, permit the lifting of the unlifted MGQ up to last day of March.] [Substituted vide O. G. E. No. 763 dated 5.6.2002, SRO No. 476/2002](3)[Subject to the provisions of Sub-rule (1), no licensee shall lift less than the specified minimum guaranteed quantity of Foreign Liquor in any month. Excise duty of Foreign Liquor for the months as approved in the distribution statement under Sub-rule (1) shall ensure lifting of the duty paid stock from the warehouse. In case of failure of the part of the licensee to lift the stock as guaranteed, action may be taken to make good the loss of Excise duty which shall be recovered from the bank guarantee obtained by the Collector before issue of the licence and an agreement has to be executed to that effect. Subject to provisions

of Sub-rule (1) no licensee shall not lift less than the specified minimum guaranteed quality of IMFL/BEER in any month. The Excise duty on IMFL/BEER for the month as approved in the distribution statement under Sub-rule (1) shall be remitted into the Government Treasury of the District in which the shop is situated. In case of default, the Excise duty to the extent of deficit amount without prejudice to any other mode of recovery shall be collected with the licence fee of the succeeding months. In case of further deficit the amount will be collected at the end of the year with 10% fine on the deficit amount or as arrear of land revenue under the provisions of the Orissa Public Demands Recovery Act, 1962.(4)After cancellation of the licence the right acquired by the defaulting licensee shall be liable for redisposal at the loss and risk of such defaulting licensee of E.P. holders subject to provisions of Sub-section (1) of Section 22 and Section 29 of the Act.(5)The licensee shall lift entire minimum guaranteed quantity of foreign liquor for the entire year or portion thereof as fixed by the Excise Commissioner before the expiry of the term of the licence. In case of expiry/surrender/ cancellation of licence the balance stock of the foreign liquor if any shall be disposed of as per law. Balance stock so confiscated and tested suitable for human consumption shall be put to auction for sale as duty free stock. Only the bona fide licensee shall participate in this auction and quantity of stock so received shall not be counted towards the MGQ fixed for the shop for that year. In case of renewal of the licence the balance stock, if any, shall be at the loss and risk of the licensee and shall not be accounted for at the time of fixation of MGQ for the succeeding year.] [Substituted vide O.G.E. No. 279 of 1998, SRO No. 83/1998.](6)The licensee shall have no claim for damage or for remission of consideration money in the case of delayed supply or non-supply of Foreign Liquor in a particular month which has been subsequently drawn by the licensee in the succeeding months.

6B. Sanction of Additional Quantity of Foreign Liquor.

- [The Government shall not be responsible for supply of any particular brand or brands of IMFL/BEER as per the requirement of the retailer. The licensee shall make his own arrangement to lift the required brand from the warehouse.] [Substituted vide O.G.E. No. 279 of 1998, SRO No. 83/1998.]

6C. [* * * *] [Deleted vide O. G. E. No. 1047 dated 6.7.2002, SRQ No. 551/2002]

FormPublic NoticeWhereas the State Government intend to grant exclusive privilege of (name of the foreign liquor) at..... (name of specified place)..... within the local area mentioned below against each for the period of the grant..... (from) (to) objections, if any, by any person residing with the said local area, are invited by..... (date). The objections 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.