

Andhra Pradesh (Regulation of Wholesale Trade and Distribution and Retail Trade in Indian Liquor, Foreign Liquor Wine and Beer) Act, 1993

ANDHRA PRADESH

India

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An Act to provide for the taking over of the Wholesale Trade and Distribution in Indian Liquor, Foreign Liquor, Wine and Beer and to Regulate the Retail Trade thereof as a prelude to totally prohibit the consumption of intoxicating liquors. Whereas the Government have taken notice of the evils of consumption of intoxicating liquors and have been thinking of prohibiting the consumption of intoxicating liquors in pursuance of Article 47 of the Constitution of India; And whereas the Government have accordingly imposed ban on the sale of arrack in retail in Nellore District for the Excise Year 1992-1993; And whereas the Government have decided not to lease out the right to sell arrack in retail in any part of the State with effect from the appointed date with a view to totally ban the consumption of arrack; And whereas the Government have been thinking of taking over the wholesale trade and distribution in Indian Liquor, Foreign Liquor, Wine and Beer from the private sector in order to have an effective control over the wholesale supply and distribution in Indian liquor, Foreign liquor, Wine and Beer to facilitate the eventual prohibition of consumption of intoxicating liquors of any kind; And whereas the Government have also been thinking of terminating all the existing licences to sell Indian liquor, Foreign liquor, Wine and Beer in retail and lease the right to sell Indian liquor by way of auction in order to facilitate easy imposition of total prohibition; And whereas the Government have carefully considered the whole matter and have taken a policy decision that in public interest the exclusive privilege of supplying in wholesale the Indian liquor, Foreign liquor, Wine and Beer in the whole of the State of Andhra Pradesh shall be vested in the Andhra Pradesh Beverages Corporation Limited, a Corporation wholly owned and controlled by the Government, and that the right to sell the same in retail shall be auctioned by the State in place of the present practice of granting licences; And whereas the licences already granted in respect of privilege of supplying in wholesale and retail Indian liquor, Foreign liquor, Wine and

Beer under the existing rules will expire on the 30th September, 1997; And whereas the Government have decided to terminate all existing licences for wholesale trade and distribution of Indian liquor, Foreign liquor, Wine and Beer and also the licences for selling the same in retail with effect from the appointed date in order to achieve the aforementioned object in public interest as a prelude to totally prohibiting the consumption thereof in course of time; Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-fourth Year of the Republic of India as follows :-

1. Short title, extent and commencement.-

(1) This Act may be called the Andhra Pradesh (Regulation of Wholesale Trade and Distribution and Retail Trade in Indian Liquor, Foreign Liquor, Wine and Beer) Act, 1993. (2) It extends to the whole of the State of Andhra Pradesh. (3) It shall come into force on such date as the Government may, by notification, appoint and they may appoint different dates for different areas and for different provisions.

2. Definitions.-

In this Act unless the context otherwise requires, - (1) "appointed date" means the date appointed under sub-section (3) of Section 1; (2) "Commissioner" means the officer appointed under Section 3 of the Andhra Pradesh Excise Act, 1968; (3) the words and expression used but not defined in this Act shall have the meanings assigned to them in the Andhra Pradesh Excise Act, 1968 and the rules made thereunder.

3. Termination of licences to sell Indian liquor etc., in wholesale.-

(1) Notwithstanding anything contained in the Andhra Pradesh Excise Act, 1968 and the rules made thereunder, the Indian Contract Act, 1872 or any judgement, decree or order of any Court, Tribunal or other authority or the terms and conditions of any agreement entered into with the licensing authority under the Andhra Pradesh Excise Act, 1968 and a licence prior to the appointed date or any other law for the time being in force, every import permit, export permit, transport permit and licence granted to sell Indian liquor, Foreign liquor, Wine and Beer in wholesale and remaining in force on the appointed date shall stand terminated with effect on and from the appointed date and thereupon the licensing authority shall be free from all obligations arising out of such permit and licence and accordingly no suit or other proceeding shall be entertained or continued in any Court against the licensing authority or any person or authority whatsoever for the enforcement of any terms and conditions of such permit or licence so terminated or for any damages or compensation on the ground that any loss is sustained by the termination thereof before its expiry. (2) Within a period of one month from the date of commencement of this Act the Government shall, takeover the entire stock of Indian liquor, Foreign liquor, Wine and Beer which on the date of such commencement is in the possession of any holder of a permit or licence which stood terminated under sub-section (1) on such terms and conditions as may be prescribed. Explanation. - For the purpose of this sub-section, the expression "stock of Indian liquor, Foreign liquor, Wine and Beer which on the date of such commencement, is in the possession of any holder of a permit or licence

which stood terminated under sub-section (1)" shall include stock in movement on the date of commencement of this Act consequent on the orders place by such holder with the suppliers : in pursuance of permits granted by the competent authority under the Andhra Pradesh Excise Act, 1968 and the rules made thereunder.

4. Taking over of wholesale trade in Indian liquor.-

(1)Notwithstanding anything contained in the Andhra Pradesh Excise Act, 1968, the right to carry on wholesale trade and distribution of Indian liquor, Foreign liquor, Wine and Beer shall on and from the appointed date solely vest in the Government and subject to such rules as may be made in this behalf the Andhra Pradesh Beverages Corporation Limited, a Corporation wholly owned and controlled by the Government shall have the exclusive privilege of importing, exporting and carrying on the wholesale trade and distribution of Indian liquor, Foreign liquor, Wine and Beer on behalf of the Government, for the whole of the State of Andhra Pradesh and no other person shall be entitled to any privilege of importing, exporting and supplying the same in wholesale or distributing the same for the whole or any part of the State.Explanation. - For the removal of doubts it is hereby declared that the Andhra Pradesh Beverages Corporation Limited shall, while carrying on the wholesale trade and distribution of Indian liquor, Foreign liquor, Wine and Beer under this section shall be deemed to be an authority acting on behalf of the Government for purposes of Section 68-A of the Andhra Pradesh Excise Act, 1968.(2)The Andhra Pradesh Beverages Corporation Limited shall open its branches in the State in such place and subject to such conditions as the Commissioner may specify.(3)Until the date on which the Andhra Pradesh Beverages Corporation Limited commences supplying, by wholesale, Indian liquor, Foreign liquor, Wine and Beer to retail dealers or till the date of the expiry of a period of two months commencing on and from the appointed date which ever is earlier, the Government shall as an interim measure, effect supply, by wholesale, of Indian liquor, Foreign liquor, Wine and Beer to Bars, Clubs and Military Canteens and the retail dealers directly through the officers of the Government.

5. Termination of licences to sell Indian liquor in retail.-

Notwithstanding anything contained in the Andhra Pradesh Act XVII of 1968 and the rules made thereunder, the Indian Contract Act, 1872 or any judgement decree or order of any court, Tribunal or other authority or the terms and conditions of any agreement entered into with the licensing authority under the Andhra Pradesh Excise Act, 1968 and the licensee prior to the appointed date or any other law for the time being in force, every licence granted to sell Indian liquor, Foreign liquor, Wine and Beer in retail and remaining in force on the appointed date shall stand terminated with effect on and from the appointed date and thereupon the licensing authority shall be free from all obligations arising out of such licence and accordingly no suit or other proceeding shall be entertained or continued in any Court against the licensing authority or any person or authority whatsoever for the enforcement of any terms and conditions of such licence so terminated or for any damages or compensation on the ground that any loss is sustained by the termination thereof before its expiry:Provided that the licensing authority shall refund any licence fee paid as earnest money or otherwise which is found to be in excess of the amount due to the Government in proportion to the duration of the licensee enjoyed by the licence before its termination under this section.

6. Regulation of retail trade in liquor.-

On and from the appointed date, the retail trade in Indian liquor, Foreign liquor, Wine and Beer shall be regulated by rules made by the Government in that behalf and notwithstanding anything contained in Section 5, it shall be competent for the Government to provide in such rules any transitional arrangements for carrying on retail trade until retail trade as regulated under such rules comes into being and also with regard to the stocks of Indian liquor, Foreign liquor, Wine and Beer remaining on the appointed date with the retail dealers.

7. Prohibition of private trade in Indian liquor etc.-

(1) No person shall import, export or otherwise carry on wholesale trade in Indian liquor, Foreign liquor, Wine and Beer or carry on retail trade in Indian liquor, Foreign liquor, Wine and Beer in contravention of the provisions of this Act. (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment which shall not be less than two years but which may extend upto five years or with fine which shall not be less than ten thousand rupees but which may extend upto twenty five thousand rupees or with both.

8. Offences by Companies.-

(1) If the person committing an offence under this Act is a company, the company as well as every person incharge of and responsible to the Company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purposes of this section, - (a) "Company" means any body corporate, and includes a firm or other association of individuals; and (b) "Director" in relation to a firm, means a partner in the firm.

9. Abatement of applications.-

Notwithstanding anything contained in the Andhra Pradesh Excise Act, 1968 (Act XVII of 1968) or the rules made thereunder or in any judgement, decree or order of any court, tribunal or other authority, every application made for the grant of renewal of any permit or licence of any nature referred to in Sections 3 and 5 and pending before the Commissioner or before the State Government or any other authority on the appointed date and every action taken, or enquiry made, in respect of such application, shall abate and all fees paid in connection therewith (including the

Andhra Pradesh (Regulation of Wholesale Trade and Distribution and Retail Trade in Indian Liquor, Foreign Liquor Wine and Beer) Act, 1993
application fee and licence fee if any) already paid shall be refunded.

10. Act not to apply to bars and clubs.-

Nothing contained in this Act shall apply to Military Canteens, Stores departments dealing in liquor in whole sale or retail and to licenced bars and clubs supplying Indian liquor, Foreign liquor, Wine and Beer to their customers.

11. Overriding effect Act XVII of 1968.-

The provisions of this Act shall have effect notwithstanding anything contained in the Andhra Pradesh Excise Act, 1968.

12. Power to make rules.-

(1)The Government may, by notification make rules for carrying out all or any of the purposes of this Act.(2)Every rule made under this Act shall immediately after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be, comprised in one session or in two successive sessions; and if before the expiration of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. Repeal of Ordinance 5 of 1993.-

The Andhra Pradesh (Regulation of Wholesale Trade and Distribution and Retail Trade in Indian Liquor, Foreign Liquor, Wine and Beer) Ordinance, 1993 is hereby repealed.