

SIND ACT No. XX OF 1939<sup>1</sup>.

## [THE SIND SALES OF MOTOR SPIRIT TAXATION ACT, 1939.]

[6th July, 1939.]

*An Act to provide for the levy of a tax on the retail sales of Motor spirit in the Province of Sind.*

WHEREAS it is expedient to provide for the levy of a tax on the retail sales of motor spirit in the Province of Sind; It is hereby enacted as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Sind Sales of Motor Spirit Taxation Act, 1939.

(2) It extends to the whole of the Province of Sind.

(3) It shall come into force on such date<sup>2</sup> as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(1) "licence" means a licence granted or renewed under this Act;

(2) "motor spirit" means any liquid or admixture of liquids which is capable of providing reasonably efficient motive power for any form of motor vehicle and which has a flash point below 76° F;

(3) "prescribed" means prescribed by rules made under this Act;

(4) "retail dealer" means any person who, on commission or otherwise, sells or keeps for sale motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased;

(5) "retail sale" means a sale by a retail dealer of motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased.

<sup>1</sup> For Statement of Objects and Reasons, see S. G. G., 1939, Pt. IV, p. 597, for Report of the Select Committee, see *ibid.*, pp. 655-657, for proceedings in Assembly; see S. L. A. Debates, 1939 Vol. IX—Book No. 2, pp. 33-44, Book No. 7, pp. 46-49.

<sup>2</sup> Came into force (w. c. f. 17th August 1939), vide G. N., G. D., No. 3615G/A/39, dated the 14th August 1939, see S. G. G., 1939, Pt. I, p. 1448.

3. (1) There shall be levied and collected from every retail dealer a tax on the retail sales of motor spirit at the rate of <sup>1</sup>[three annas] per gallon. Levy of tax.

(2) If the tax payable under the sub-section (1) is not paid within the time fixed by a notice issued in the prescribed manner, the prescribed authority may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid, or any smaller sum above the amount of the tax, which such authority may think it reasonable to recover.

4. Any sum recoverable under section 3 may be recovered as an arrear of land revenue. Recovery of sums as arrears of land revenue.

5. (1) In cases where accounts are kept and maintained and statements submitted in the manner and at the period prescribed under section 10, the tax leviable under section 3 shall be assessed by the Collector on the quantity of sales as disclosed in such accounts and statements. Assessment of the tax.

(2) In cases where no such accounts are kept and maintained or where no such statements are submitted, or where such accounts or statements are in the opinion of the Collector false or incorrect, the Collector shall make the assessment to the best of his judgment.

6. (1) Every retail dealer shall, within two months of the date on which this Act comes into force or of his starting business as a retail dealer, obtain a licence from the Collector of the district in which his place of business is situate for carrying on business as a retail dealer. Retail dealers to take out licences.

(2) Where a retail dealer has more than one place of business, whether in the same town or village, or in different towns or villages, he shall obtain a separate licence in respect of each such place of business.

(3) Every retail dealer shall get his licence renewed before the date on which it expires.

7. (1) Every licence shall be in such form and subject to such conditions as may be prescribed and shall expire on the last day of the year for which it was granted, but may be renewed from year to year. Expiry and renewal of licence.

<sup>2</sup>[(2) The Collector may impose for the grant or renewal of every licence such fee as may be prescribed which shall not exceed—

(a) rupees two when the application is for the grant of a licence, or for the renewal of a licence and is made before the expiry of the licence ;

<sup>1</sup> The original word "one" was first subs. by Sind 8 of 1947, s. 2 to read as "two" and then amended by Sind 5 of 1948, Pt. V, s. 5 to read as above.

<sup>2</sup> Subs. by Sind 5 of 1945, s. 2, for the original sub-section (2).



(b) rupees ten when the application is for the renewal of a licence and is made after the licence has expired.]

*Explanation* :—In this section 'year' means the financial year.

Prohibition  
of sale with-  
out licence.

8. No person shall carry on business as a retail dealer without holding a licence under section 6.

Penalty for  
contraven-  
tion of  
section 8.

9. Whoever contravenes the provisions of section 8 shall, on conviction, be punishable with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction of such continuous contravention.

Retail deal-  
ers to keep  
and main-  
tain  
accounts.

10. Every retail dealer shall, in respect of each place where he carries on business as a retail dealer, keep and maintain accounts and shall submit to the officer authorised in this behalf by the Collector statements in such form and at such period as may be prescribed.

Penalty for  
failure to  
keep ac-  
counts or  
submit re-  
turns.

11. If any retail dealer liable under section 10 to keep accounts or to submit statements fails to keep or submit the same in the manner and at the period prescribed, he shall, on conviction, be punishable with fine which may extend to two hundred and fifty rupees and in the case of a continuing failure with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after conviction for the first such failure.

Suspension  
or cancel-  
lation of  
licence.

12. (1) Subject to such conditions as may be prescribed, the Collector may suspend or cancel a licence given under section 6—

(a) if the tax payable under section 3 is not duly paid by the holder of such licence; or

(b) if there is any breach of any of the conditions subject to which the licence is granted; or

(c) if the holder of such licence contravenes any of the provisions of section 10.

(2) The holder of a licence shall not be entitled to any compensation for its suspension or cancellation under sub-section (1).

Powers of  
entry and  
inspection.

13. Any officer empowered by the Provincial Government in this behalf may, at all reasonable times—

(a) require any retail dealer to produce before him accounts or other documents or to furnish any other information;

(b) inspect the accounts of any such retail dealer and his stock of motor spirit; and

(c) for the purposes of clauses (a) and (b) enter and search any building, vehicle or place where any such retail dealer carries on business or keeps any stock of motor spirit.

in making  
confiscation.

18. (1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 17, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(2) When an offence under this Act has been committed and the offender is not known, or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the Collector may enquire into and decide the case, and may order confiscation :

Provided that no such order shall be made before the expiration of one month from the date of seizure or without hearing the person, if any, who may claim any right thereto and the evidence, if any, which he produces in support of his claim.

Power to  
compound  
offences.

19. (1) The Collector may accept from any person who has committed an offence punishable under this Act, by way of composition of such offence, a sum of money not exceeding five hundred rupees or a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, whichever is greater.

(2) On the payment of such sum of money to the Collector, the accused person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

Jurisdiction  
to try  
offences.

20. No Magistrate below the rank of a Magistrate of Second Class shall try an offence under this Act.

Cognizance  
of offences.

21. (1) No Magistrate shall take cognizance of any offence punishable under this Act—

(i) except upon the complaint or report of the Collector, the officer empowered under section 14, or other prescribed authority, or

(ii) except upon his own knowledge or suspicion.

(2) Except with the sanction of the Provincial Government, no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.



22. Subject to the general or special orders of the Provincial Government, the Collector may delegate any of the powers conferred upon him by or under this Act to any officer not below the rank of a Mukhtiarkar.

The Collector may delegate the power.

XLV  
of  
1860.

23. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the '[Pakistan] Penal Code.

Officers to be public servants.

24. (1) No suit, prosecution or other legal proceeding shall be instituted against any officer of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of persons acting in good faith and limitation of suits and prosecutions.

(2) No suit shall be instituted against the Province and no prosecution or suit shall be instituted against any officer of the Crown in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

25. (1) Any person aggrieved by any order under this Act, not being an order passed by any Court or Magistrate, may appeal—

Appeal and revision.

(a) to the Revenue Commissioner or to such officer as the Provincial Government may appoint in this behalf, if such order is passed by a Collector, and

(b) to the Collector, if such order is passed by any officer other than the Collector.

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (3), be final.

(3) The Provincial Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer and may pass such order in reference thereto as it thinks fit. Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate.

26. (1) The Provincial Government may make rules<sup>2</sup> to carry out all or any of the purposes of this Act not inconsistent therewith.

Power to make rules.

<sup>1</sup> Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind) of 1955, s. 4 (w. eff. 30th May 1951), for "Indian".

<sup>2</sup> For Rules, see S. L. R. & O.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules with reference to—

(a) all matters expressly required or allowed by this Act to be prescribed ;

(b) the time when and the manner in which the tax shall be levied and collected under section 3 ;

(c) the form and conditions of the licence under section 7 and the fee for the grant or renewal thereof ;

(d) the form of statements to be submitted and the periods at which such statements are to be submitted under section 10 ;

(e) the conditions subject to which a licence may be suspended or cancelled under section 12 ;

(f) the rank of officer empowered to investigate offences to be prescribed under section 14.

(3) Any rule made under this section may provide that any person contravening any such rule shall be liable on conviction to a fine which may extend to fifty rupees.

(4) Rules made under this section shall be subject to the condition of previous publication and shall be published in the *Official Gazette*.

(5) All rules made under this Act by the Provincial Government shall be laid for not less than fourteen days before the Sind Legislative Assembly as soon as possible after they are so made and shall be liable to be modified or rescinded by the said Assembly during the session in which they are so laid or the next following session, and shall, after notification in the local *Official Gazette*, be deemed to have been modified or rescinded accordingly.