

The Punjab Entertainments Duty Act, 1955

HARYANA

India

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Act 16 of 1955

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The Punjab Entertainments Duty Act, 1955 Punjab Act No. 16 of 1955 Statement of Objects and Reasons - "The Punjab Entertainment Duty Act, 1936, has many loopholes. Many of the mal-practices indulged in by the proprietors of entertainment houses at present go unpunished for want of suitable provisions under the existing Act. This is resulting in considerable evasion and loss of revenue to Government. In order to avoid this loss of revenue, it has now become necessary to revise the Punjab Entertainment Duty Act, 1936. The Bill is accordingly designed to met this purpose. Published vide Punjab Government Gazette Extraordinary, dated the 31st March, 1953, page 335. Received the assent of the Governor of Punjab on the 3rd November, 1955, and was first published in the Punjab Government Gazette (Extraordinary, dated the 4th November, 1955) An Act to provide for the levy of an entertainments duty in respect of admission to public entertainments. Be it enacted by the Legislature of the State of Punjab in the Sixth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Punjab Entertainments Duty Act, 1955. (2) [It extends to the whole of the State of [Haryana] [Substituted by Punjab Act No. 32 of 1957, section 2.]] (3) It shall come into force at once [in the principal territories and on the 24th July, 1957, in the transferred territories.] [Inserted by ibid.]

2.

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 the Excise and Taxation Commissioner, [Haryana] [Substituted for the word 'Punjab' by the Haryana Adaptation of Laws Order, 1968.], for the time being; (c) ["Entertainment Tax Officer" means the Deputy Excise and Taxation Commissioner, the Excise and Taxation Officer and the Assistant Excise and Taxation Officer in a district and any other person appointed as such by the

Government.] [Substituted by Haryana Act No. 7 of 1987.](d)'entertainment' includes any exhibition, performance, amusement, game, sport or race to which persons are ordinarily admitted 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 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 cases of free, surreptitious, unauthorised or concessional entry, whether with or without the knowledge of the proprietor, the payment which would have been made if the person concerned had been admitted on payment of the full charges ordinarily chargeable for such admission.] [Substituted for old sub-clause (ii) by Punjab Act 10 of 1965.](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 be 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)'Government' means the Government of the State of [Haryana] [Substituted for the word 'Punjab' by the Haryana Adaptation of Laws Order, 1968.]; and(i)'ticket' means the pass or token for the purpose of securing admission to an entertainment.

3. Duty on payments for admission to.

(1)A person admitted to an entertainment shall be liable to pay an entertainments duty at a rate, [not exceeding one hundred and twenty-five per cent of the amount of payment for admission] [Substituted for the words 'not exceeding the payment for admission' by Haryana Act 5 of 1977.] which the Government may specify, by a notification in this behalf, and the said duty shall be collected by the proprietor 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 it shall take effect only after the Government has considered all objections received within a period of thirty days from the date of such publications, and has notified the same again, with or without modification :Provided that if the Government consider that such an order should be brought into force at once, the final notification may issue without previous publication :Provided further that Government may impose an entertainments duty on complimentary tickets at a rate different from that imposed on other kinds of payment 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.(3A)[Notwithstanding anything in this section, the amount of duty shall be calculated to the nearest multiple of 5 naye paise by ignoring 2 naye paise or less and counting more than 2 naye paise as 5 naye paise.] [Sub-section (3-A) added by Punjab Act 28 of 1963.]

3A. [* * *] [Section (3-A) added by Haryana Act 48 of 1971 and Omitted by Haryana Act 30 of 1973 and shall be deemed to have been omitted from the 1st day of April, 1973.]

(4)The final notification specifying the rate of entertainments duty shall be laid before [the House] [Substituted for the words 'both the houses' by Haryana Adaptation of Laws Order, 1968.] of Legislature at the session immediately following its publication.

3A. [Duty on video shows. [Substituted by Haryana Act No. 3 of 1989.]

(1)Notwithstanding anything to the contrary contained in this Act, the proprietor of a video set exhibiting shows on payment having seating capacity of less than one hundred persons shall be liable to pay entertainments duty at a rate not exceeding two lacs rupees per annum as may be prescribed by the Government from time to time. The duty shall be payable in advance in the manner prescribed.(2)The proprietor of a video set not falling in sub-section (1), exhibiting shows on payment having seating capacity of one hundred or more persons shall be liable to pay entertainments duty at the rate and in the manner prescribed under section 3.]

4. Payment made in a 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 Entertainments Tax Officer is of the opinion that the payment of a consolidated sum or any payment for a ticket includes payment for other privileges, rights or facilities besides admission to an entertainment, or is intended to secure admission to an entertainment, the duty shall be charged on such amount as appears to the Entertainment Tax Officer to represent the right of admission to entertainment for which a duty is payable.

5. Deposit of security by the proprietor.

- The prescribed authority may, in the manner prescribed, require the proprietor of an entertainment to deposit as security for payment of entertainments duty under this Act, an amount not exceeding one thousand rupees in a Government treasury and the same shall be so deposited.

6. Entertainment Tax Officer and other taxing authorities.

- [Omitted of Haryana Act No. 7 of 1987]

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 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 ticket or a pass or a 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 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 Rs. 200 (rupees two hundred) and, in addition, be liable to pay such duty.

9. Admission of persons without payments.

- Nothing in this Act shall apply to bona fide employees, of the proprietor, who are on duty in connection with the entertainment, or to the proprietary when on such duty.

10. Method of levy.

(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 duty except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not used before) issued by the Government for the purposes of revenue and denoting that the proper entertainment 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 a consolidated payment of a percentage not exceeding 50 per centum 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 any mechanical contrivance that automatically registers the numbers of persons admitted.

10A. [Keeping of accounts, submission of returns, etc. - (1) A proprietor may be required to keep accounts, and submit returns, in the manner prescribed.

(2) If the prescribed authority is satisfied that the entertainments duty has not correctly been levied, collected and paid, he may, within a period of five years from the date the entertainments duty had become due, after giving the proprietor a reasonable opportunity of being heard, proceed to levy the amount of entertainments duty due and recover the same.] [Inserted by Haryana Act 30 of 1973.]

11. Entertainments 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, 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 an academic institution when the proceeds are intended for academic or charitable purposes.(3)The Government may, for promotion of peace and international good will or encouragement of arts and crafts, sports or other public interest, by general or special order, exempt any entertainment or class of entertainments from liability to pay duty under this Act.

11A. [Appeals. - (1) Any person aggrieved by an order made by the prescribed authority under this Act may, within a period of sixty days from the date of such order, in the prescribed manner, appeal to the Deputy Excise and Taxation Commissioner or any other officer (hereinafter referred to as the appellate authority) appointed by the State Government in this behalf :

Provided that no appeal shall be entertained by the appellate authority unless it is satisfied that the amount of duty due and the penalty imposed, if any, on of the person has been paid :Provided further that if the appellate authority is satisfied that the person is unable to pay the duty due or the penalty imposed, if any, or both, it may, for reasons to be recorded in writing, entertain the appeal without the duty or penalty or both having been paid.(2)Subject to such procedure as may be prescribed, the appellate authority may pass on such appeal such orders as it may deem fit.] [Section 11-A inserted by Punjab Act 10 of 1965, section 3 and substituted by Haryana Act 30 of 1973.]

12. Power 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 within a period of sixty days from the date of the order] [Proviso added by Punjab Act 10 of 1965, section 4.] 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 order, and may pass such order in reference thereto as he may deem fit :[Provided that the Commissioner or the other officer may, before deciding such application direct applicant to deposit, in whole or in part, the amount of duty due, and the penalty, if any, imposed on him under this Act.] [Provisio added by Punjab Act 10 of 1965, section 4.]

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 Excise and Taxation Department, not below the rank of [Inspector] [Substituted by Haryana Act 30 of 1973.] as may be prescribed, any accounts or documents, relevant to the sales of tickets and realisation of the entertainments duty due as may be necessary for the purposes 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 attempting to evade the payment of any entertainments duty due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the proprietor, as may be necessary and shall grant a receipt for the same and shall retain the same only for so long as may be necessary for examination thereof.

14. Entry into and inspection of places of entertainments.

(1) Any officer not below such rank as may be prescribed, may enter into, inspect and search 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 may any rule made, order issued, or direction given, thereunder] [Substituted by Haryana Act 30 of 1973.] are being complied with, and while doing, so, such officer shall not be deemed to be a 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). [14A. * * *] [Section 14A inserted by Punjab Act 5 of 1963 and omitted by Haryana Act 30 of 1973.]

15. Offences and penalties.

- [If the proprietor of an entertainment] [Substituted by Haryana Act 30 of 1973.] - (a) fraudulently evades the payment of any duty due under this Act; or (b) obstructs any officer making an inspection, search or seizure under this Act; or (c) act in contravention of, or fails to comply with, any of the provisions of this Act or any rule made, order issued, or direction given, thereunder; he shall be liable to be imposition of a penalty not exceeding two thousand rupees in addition to the duty due, if any : Provided that in the case of free surreptitious, unauthorised or concessional entry, whether with or without the knowledge of the proprietor, the proprietor shall be liable to the imposition of a penalty, in addition to the amount of duty, not exceeding five hundred rupees or twenty-five times the amount of duty found to be due as a result of such entry, whichever is greater : Provided further that before imposing a penalty the prescribed authority shall afford the proprietor a reasonable opportunity of being heard.

16.

[* * *] [Omitted by Haryana Act 30 of 1973.]

17. Recoveries

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

18. Delegation of powers by the Government.

(1) Government may delegate all or any of its powers under this Act except those conferred upon it by sub-section (2) of section I, 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 restriction, limitations or conditions, if any, as may be laid down by the Government and shall also be subject to control and revision by it.

19. Bar of jurisdiction and of action taken in good faith.

- [The liability of a person to pay the duty or the penalty shall not be determined or questioned in any other manner or by any other authority than is provided in this Act or the rules made thereunder, and no prosecution, suit or other proceedings shall lie against Government or any of its officers or servants for any act done or purporting to have been done in good faith under this Act or the rules made thereunder.] [Substituted by Haryana, Act, 30 of 1973.]

20. Power to Make rules.

(1)The State Government may make [rules] [For the rules framed under the Act, see Punjab Government notification No. 389-E & t-56/734., dated the 20th March, 1956.] 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 stamps or stamped tickets if required in connection with the levy of entertainments duty or for the stamping 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 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 payments 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 refund;(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 uniform;(j)for the collection of entertainments duty under this Act and the powers to be exercised by the officers of Government in that behalf;(k)[* * *] [Clause (k) omitted by Punjab Act 10 of 1965.](l)for specifying the authorities who would be competent to compound offences under section 16.(m)[for laying down procedure for the hearing and disposal of appeals under section 11-A and applications under section 12 and all other matters incidental thereto] [Added by Punjab Act 10 of 1965.](3)All rules made under this Act shall be laid before the [the House] [Substituted for the words 'both houses' by Haryana Adaptation of Laws Order 1968.] of the State Legislature during its session next ensuing after the publication thereof and may be confirmed, amended or revoked by it.

21. Repeal and savings.

The Punjab Entertainments Duty Act, 1936 (Punjab Act III of 1936), is hereby repealed.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.[Schedule] [Schedule omitted]

by Punjab Act No. 32 of 1957; section 3.]